**UNREVISED HANSARD**

**NATIONAL COUNCIL OF PROVINCES**

**WEDNESDAY, 5 OCTOBER 2022**

***PROCEEDINGS OF THE NATIONAL COUNCIL OF PROVINCES***

The Council met at 09:00.

The Chairperson took the Chair and requested members to observe a moment of silence for prayers or meditation.

The CHAIRPERSON OF THE NCOP: Hon delegates, before we proceed I would like to take this opportunity to remind you of the following:

That the virtual sitting constitutes a sitting of the National Council of Provinces.

That the place of the sitting is deemed to be Cape Town where the seat of the National Council of Provinces is.

That delegates in the virtual sitting enjoy the same powers and privileges that apply in a sitting of the National Council of Provinces.

That for the purpose of the quorum, all delegates who are logged on to the virtual platform shall be considered present.

That delegates must switch on their videos if they want to speak. That delegates should ensure that the microphones on their gadgets are muted and must always remain muted.

The interpretation facility is active.

That permanent delegates, members of the executive, special delegates and the SA Local Government Association, SALGA, representatives are requested to ensure that the interpretation facility on their gadgets are properly activated to facilitate access to the interpretation services.

That any delegate who wishes to speak must use the ‘raise your hand’ function. And of course, that by now almost all members are familiar with the icon and its use.

Hon delegates, I’m also been informed that there’ll be no notices of motion or motions without notice.

So, before we proceed I would to welcome all the Members of Executive Council, MECs, permanent delegates, all special delegates and the SALGA representatives to the House.

Hon delegates, we’ll now proceed to the Order of the day.

**CONSIDERATION OF REPORT OF THE SELECT COMMITTEE ON CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, WATER,**

**SANITATION AND HUMAN SETTLEMENTS ON CONSIDERATION ON THE NOTICE OF INTERVENTION IN TERMS OF SECTION 139(1)(c) OF THE CONSTITUTION IN THE DITSOBOTLA LOCAL MUNICIPALITY, DATED**

**3 OCTOBER 2022**

Mr T S C DODOVU: Hon Chairperson of the NCOP, hon Amos Masondo, all permanent and special delegates who are present in this session, all Members of Parliament, MPs.

Allow me this morning to present a report of the committee in terms of the intervention of 139(1)(c) of the Constitution in the Ditsobotla Local Municipality.

Hon Chairperson and members of the House, our municipalities and some of them, in this case, in the post 2021 local government elections are again facing historical, continuous

and unacceptable challenges of poor service delivery, political instability, financial mismanagement, weak municipal performance management, dysfunctional councils, poor intergovernmental support and oversight, slow implementation of recommendations of section 106, forensic investigations, corruption, factionalism, political interference and manipulation in the administration, lack of administrative professionalism, lack of servant and ethical leadership including unprincipled politics and unholy man political marriages of local coalition government across the country.

Chairperson, last month in September 2022 the NCOP committee received a notice of intervention after it was submitted by the Chair of the NCOP in terms of section 139(1)(c) of the Constitution in the Ditsobotla Local Municipality for consideration and reporting.

The referral by the Chairperson of the NCOP of the notice, in terms of section 139(1)(c) in the Ditsobotla Local Municipality, has been in line with the constitutional provision that requires the collective in this House to pronounce within 14 days whether to approve or disapprove the dissolution of the dysfunctional and criminally captured local municipality.

Hon Chairperson, subsequent to the tabling by the North West MEC for Co-operative Governance and Traditional Affairs, CoGTA, of the notice of intervention in terms of section 139(1)(c) of the Constitution and the NCOP referral of the notice of intervention, a multiparty delegation of the select committee, guided by the constitutional requirement of public participation in the process of Parliament generally and specifically in the NCOP, consulted and engaged on the 29th of September 2022 with the internal and external stakeholders of the Ditsobotla Local Municipality.

Hon members of the House, our main objective of conducting public participation was to consult, engage and solicit the views and opinions of the stakeholders on constitutional, procedural, substantive and extraordinary circumstantial matters relating to the dissolution of the Ditsobotla Local Municipality.

In line with our public participation objectives, we as the collective of the select committee engaged with the MEC for CoGTA and MEC for Finance, representatives of political parties in the municipality, SALGA, SA Municipal Workers’ Union, SAMWU, external stakeholders such as the school governing bodies, women’s forum, business chamber, Community

Policing Forum, CPF, the Dutch Reformed Church, SA National Civic Organisation, SA National Civic Organisation, SANCO, The Trade and Wholesale Association, car wash and shine as well as the Medical Practitioners’ Association.

In the spirit of openness, what became apparent during the process of consultation with the stakeholders were the opinions not supporting the dissolution and the opinions on whether the decision of the NCOP that it will take the interest of the community at heart and ensure that service delivery, good governance and fighting corruption was going to happen.

Hon members of the House, as the collective of the select committee we have observed and noted during the engagement with stakeholders a phenomenon within the Ditsobotla Local Municipality that could be characterized as a class municipal capturing project of criminals, mafias, gangsters and unethical leaders and senior officials with committed interest of misappropriating public resources allocated for the provision of basic services such as water, electricity, roads, sanitation and the safety of the local community.

The criminal phenomenon in our people’s municipality like Ditsobotla is against the values committed by our forefathers in 1955 when they adopted the Freedom Charter and said the people shall govern.

Hon Chairperson, we have, as members of the committee, noted that the MEC for CoGTA has complied with the constitutional requirement of notification and the Minister of CoGTA of the approval of the notice of dissolution of Ditsobotla Local Municipality in terms of section 139(1)(c) of the Constitution.

On substantive matters we have, however, noted with great concern the triggers leading to the dissolution of the municipality which include poor performance, poor service delivery, political infighting, corruption, lack of consequence management, existence of criminal elements within the municipality, noncompliance with legislation and supply chain management policy, leadership squabbles between the offices of the Mayor and the Speaker, municipal council failure to carry out its executive and other legislative mandate as stipulated in the Constitution, especially ... [Inaudible.] ... of the Constitution.

Hon members of the House, as members of the select committee we are of the opinion that the substantive matters raised by the internal and external stakeholders, generally, require the NCOP to approve a resolution that will ensure municipal good governance, sound financial management, organizational development, effective public participation and service delivery in the Ditsobotla Local Municipality in accordance to the Constitution and the existing legislation.

While noting the objection of members of the DA in terms of the recommendation, who are serving in our select committee, having considered the constitutional, procedural and substantive as well as extra-circumstantial matters relating to the dissolution, there was unanimous decision during the adoption of our report to recommend to this House the following:

That the NCOP approves the invocation of section 139(1)(c) of the Constitution in the Ditsobotla Local Municipality.

That the Administrator appointed in terms of section 139(1)(c) of the Constitution must also conduct a skills audit to ascertain the kind of skills available within the local municipality and the areas needing augmentation.

That the select committee should, within a month, call the MEC for CoGTA and the MEC for Finance to explain their section 139(5) interventions in all municipalities in the North West.

Calling law enforcement agencies such as the Special Investigating Unit, SIU, to investigate all allegations of corruption and appointment of unqualified staff within the Ditsobotla Local Municipality.

In compliance with the conditions of ministerial approval of the intervention in terms of section 139(1)(c), the MEC for CoGTA, through the Administrator and the Municipal Manager, should liaise with the Independent Electoral Commission, IEC, to alert it on the dissolution of the Ditsobotla Local Municipality.

Hon members of the House, the select committee has noted with great concern that the MEC for CoGTA in the North West has taken an unprocedural step to appoint the Administrator for the municipality before the committee has deliberated, adopted and even tabled this report to this House this morning for approval or disapproval of the dissolution.

The steps taken by the MEC to appoint the Administrator before the decision of the NCOP are not procedural and thus invalid, and undermines the legal process and perpetuate the unfounded perception that the NCOP process is merely a rubberstamp process.

As a result, the select committee has resolved to invite the MEC within a month to appear before the select committee itself to give clear reasons for her actions.

Hon members of the House, to deliver quality services to the people will require the successful implementation of recommendation of Public Protector’s municipal audit outcomes, investigation of forensic investigations conducted in terms of section 106 of the Municipal Systems Act, and more importantly, a local government cadre of a special tide.

These must be skilled and competent cadres capable of delivering. It must be cadres who are servants of the people and who work selflessly and diligently for the cause of the people.

We really need administrative cadres who would account to the people at all material times, while at the same time they

would be committed to rooting out corruption and ensuring good governance.

The professionalization of local government administration had to become more critical in what they are doing in order to stabilize the municipality and make it functional.

Local government should be everybody’s business, business including members of this House irrespective of their political and ideological ...

The CHAIRPERSON OF THE NCOP: As you conclude, hon Dodovu.

Mr T S C DODOVU: ... and in that sense I wish to present this report before the House for consideration and adoption. I thank you very much, hon Chair of the session.

*Declaration of vote*:

Mr I M SILEKU: Hon Chair, hon members, and special delegates, good morning, again, we missed the elephant in the room. For more than 20-years, we are acknowledging that section 139 of the Constitution intervention, do not restore sound financial management or improve on the absence of delivering services.

On 26th of October 2021 Minister, Enock Godongwana wrote to the Premier of the Northwest, about interventions to address municipalities in crisis. Ditsobotla is unfortunately one of the municipalities mentioned in the letter recommending the right mode of intervention. As a result, on the 24th of November 2021, the North West Provincial Government invokes section 139 subsection 5(a) and (c). Due to incompetence, the North West Provincial Government failed to submit a written notice of intervention as per section 139(6)(b) of rendering it unconstitutional.

We as the committee also failed to call the North West Provincial Government to deal with unconstitutionality of the intervention when it was referred to us as a committee in March 2022. The only interaction we had about Ditsobotla was when the North West Provincial Government wanted to invoke section 139(1)(c).

What is of concern is that provinces continued to invoke section 139(1) when there is already persistent financial problems and crisis in a municipality. When these matters were raised during our deliberation, the Chairperson was unfortunately annoyed.

To evoke section 139(1)(c) intervention in Ditsobotla will only be a political punitive action by the ANC to discipline factionalism amongst their councillors causing political instability by disruptive and destructive behaviour.

Furthermore, Ditsobotla had a total of seven failed section

139 interventions but regressed to a point where Ditsobotla Local Municipality under the ANC governance visibly Ditsobotla economy, causing lives and livelihoods in Ditsobotla to be challenged. Chair, the question we need to ask is, how was this regression and collapse of Ditsobotla allowed by the North West Provincial Government ignoring the red flags of mismanagement and maladministration? Why did the North West Provincial Government not take steps to address and resolve and accountability with stringent consequence management measures? The province clearly failed to render support as per section 154 of the Constitution.

We cannot tolerate systemic fraud, corruption and looting of municipalities anymore by dissolving councils while accounting officers, top management and middle management remains untouchable. The Democratic Alliance votes against this report because dissolving the council will not solve Ditsobotla while

governance is captured by a fraudulent and corrupt ANC administration. Thank you, Chair.

Debate concluded.

Question put: That the Report be adopted.

Declarations of vote made on behalf of the Western Cape.

IN FAVOUR: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, Northern Cape and North West.

AGAINST: Western Cape.

Report accordingly adopted in accordance with section 65 of the Constitution.

The Council adjourned at 09:24.