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# **Presentation to Select Committee on Cooperative Governance and Traditional Affairs (NCOP)**

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Department of Cooperative Governance  
and Traditional Affairs  
FREE STATE PROVINCE

# Reasons for placing Xhariep District Municipality under section 139 of the Constitution



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## **Xhariep District Municipality**

The Free State Executive Council was informed of the lack of capacity of the municipality to perform powers and functions, inadequate budget to perform as a district municipality, support rendered to the municipality, alternatives considered to restore the capacity of the municipality and further possible unauthorised, irregular, fruitless and wasteful expenditure, including possible fraud, corruption and nepotism at the Xhariep District Municipality.

A Task Team Report on the Financial Viability, Institutional Capacity and Sustainability compiled in February 2007 identified the following shortcomings at the Xhariep District Municipality:-



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## **Xhariep District Municipality (Continued)**

- A very low population density of mainly very poor residents rendering a small revenue base and an unsound financial viability for the district as a whole.
- The disestablishment of the RSC levy placing a further strain on the district's financial viability.
- A very poor capacity to render functions and services. Out of a possible 17 district powers and functions the municipality only renders Integrated Development Planning, the Promotion of Local Tourism and the Collection of Outstanding RSC Levies.
- An unsound budget with its main income derived from intergovernmental transfers and conditional grants from government. Its limited revenue base severely constrains and limits the budget to the effect that it is unable to make financial contributions to capital development in local municipalities in its area.

## Xhariep District Municipality (Continued)

- **Assistance rendered by the Department:-**

The Department's assistance rendered in financial and other terms were as follows:-

- Revising Xhariep's 2006/07 Operating Estimates and a shortfall of R 4 728 246.72 identified.
- The Department's 2006/07 budget was targeted for savings and financial assistance to the amount of R4 728 246.72 was provided to the Xhariep District Municipality.
- Other support initiatives from the Department Local Government & Housing over the immediate and short-term included:
  - LED support
  - PMS support
  - Investigating mechanisms for revenue collection and enhancement
  - Soliciting financial administrative and general administrative support from Motheo District Municipality

## Xhariep District Municipality (Continued)

- **Other options considered:-**
  - Reverting back to a joint administration with Motheo District municipality;
  - The Institutional and Legal implications of a Shared Administration;
  - Enhancing institutional capacity of the District to discharge powers and function within the purview of Project Consolidate and the Five Year Local Government Strategic Agenda;
  - Disestablishment of Xhariep District Municipality
- **A follow-up report** was compiled listing possible unauthorised, irregular, fruitless, and wasteful expenditure including possible fraud, corruption and nepotism at the municipality.
- **Intervention**
- The Free State Executive Committee by Cabinet Minute 8.5 of 28 May 2008 approved an intervention in terms of section 139(1)(b) of the Constitution at the municipality.

## **Xhariep District Municipality (Continued)**

### **Xhariep Progress after Intervention**

The EXCO representative for Xhariep District Municipality has achieved the following:-

- Development of the budget for 08/09;
- Development of Budget related policies;
- Development of internal controls (manuals);
- Development of the revised budget for 07/08;
- Compilation of Annual Financial Statement to be concluded by end of September 2008;
- Provision of general financial management since the suspension of the Finance Manager;
- Developed the adjustment budget for 2008 / 09 as indicated;

## **Xhariep District Municipality (Continued)**

- Reviewed financial information for populating the new financial system (Pastel) recently introduced by the Municipality. Checked all the supporting documents and all the balanced sheet items;
- Developed and implemented an internal control manual that outline procedures for processing payment;
- Auditor-general queries have been attended to;
- Dealt with draft budget for 2009/2010 financial year.
- Dealt with all matters raised in the preliminary report alleging possible unauthorised, irregular, fruitless and wasteful expenditure, possible fraud and corruption, possible mal-administration and possible nepotism;
- A municipal manager was also appointed and the EXCO Representative that stayed until the end of the municipal financial year (End of June 2009) to ensure a smooth transition and to assist the Municipal manager with matters.



## **Xhariep District Municipality (Continued)**

### **Recommendations**

- A study of the progress reports by the Exco Representative showed that sufficient progress has been made and it was very likely that the newly appointed municipal manager would be able to continue and deal with all municipal matters after the termination of this intervention.
- It was proposed that the intervention should be terminated on 30 June 2009.

### **Termination of intervention**

The Free State Executive Council on 5 August 2009 per Cabinet Minute 7.12 resolved to terminate the intervention in terms of section 139(1)(b) of the Constitution with effect from 30 June 2009.

# **Reasons for placing Mohokare Local Municipality under section 139 of the Constitution**

## Mohokare Local Municipality

- The Free State Executive Council was informed of the complete breakdown of the council of Mohokare local municipality and to make recommendations about the further process to be followed.
- At a special council meeting with the council of Mohokare on 10 March 2008 to discuss challenges emanating from the contents of a report by a task team to investigate the financial administration challenges experienced by the municipality, as well as the contents of the Management Letter by the Auditor-General dated 31 January 2008, it became evident:-
  - That the council cannot meet to attend to current municipal financial and other administrative challenges experienced at the municipality, and
  - That the council was failing to execute executive obligations due to the failure to meet and resolve matters.

## Mohokare Local Municipality (Continued)

- Due to the failure of council to meet, the council could not attend to and resolve the following issues:-

### **Institutional Arrangement:-**

- The filling of vacancies of Municipal Manager, Manager Community Services, Manager Technical Services and Chief Financial Officer.

### **Political Impact on the administration:-**

- Political tension in the council has serious impact on the administration.

### **Financial Viability:-**

- **Cash Focus Payment System:-**
- As the Cash Focus constitutes a major risk, the payments on the system must be suspended, pending:
  - The proper cleansing of all creditor data on the system,
  - The filling of the necessary vacancies to effect proper segregation of responsibilities and proper system supervision, and
  - All pass words and previous users had been revoked and properly re-authorized and pass words re-set.

## **Mohokare Local Municipality (Continued)**

### **Segregation of duties & effective internal control after the suspension of key staff:-**

The then staff situation (critical vacancies) and the fact that key personnel have been suspended made the proper segregation of duties and effective internal control virtually impossible.

### **Bank Accounts:-**

The withdrawal funds from secondary bank accounts per cheque had to be terminated immediately and arrangements were made for electronic transfers between banks.

### **Overall financial position:-**

- A call account had to be re-opened for project related funds, and the balance of R 2 373 180.71 at hand had to be invested as such and future project costs had to be defrayed against this, and
- Income and expenditure cash books had to be updated without any further delay and the various bank accounts must be reconciled immediately.

## Mohokare Local Municipality (Continued)

### **Creditor position:-**

A creditor reconciliation exercise had to be performed as a matter of urgency, along with the updating of the expenditure cash book and the bank reconciliations. A search had also to be undertaken for all stale cheques, which needed to be written back.

### **Misappropriation of Project Funds:-**

- An exercise had to be undertaken to reconcile all project funds received and appropriated and to determine Council's loss on the respective projects.
- Project registers had to be opened for each individual project and updated with current available information and henceforth be kept up to date.
- A call account had again to be opened for project related funds, and the balance of R 2 373 180.71 at hand had to be invested as such and in future project costs be defrayed against this.
- The misappropriation of project funds had to be included in an extended scope for the current Forensic Investigation.

## **Mohokare Local Municipality Continued)**

### **Expenditure Control Committee:-**

An expenditure control committee under auspices of the Acting Municipal Manager and remaining officials acting in senior positions had to be promptly established. This committee had to meet on a weekly basis to consider and pre-authorise only the basic, necessary expenditure within the framework of the overall liquidity position.

### **Section 139 Intervention**

The Free State Executive Committee by Cabinet Minute 8.6 of 14 March 2008 approved an intervention in terms of section 139(1)(b) of the Constitution at the municipality.

## Mohokare Local Municipality (Continued)

### Mohokare progress after Intervention

The EXCO representative for Mohokare Local Municipality achieved the following:

- The Reservoir and Water network projects at Smithfield have been completed. Only awaiting water retention test of the reservoir.
- The Smithfield Road Construction Project has been officially launched and the Work is in Progress (WIP stage).
- The site for the New Library at Smithfield has been identified and is in the process of being consolidated.
- The new water pump donated by Sasol for Smithfield has been installed by the Caledon (Mohokare) River.
- A new Connector road linking Roleleathunya and Uitkoms is under construction.



## **Mohokare Local Municipality (Continued)**

- A municipal manager was appointed and the EXCO Representative stayed until the end of the municipal financial year (End of June 2009) to ensure a smooth transition and to assist the Municipal manager with matters.

### **Recommendations**

- A study of the progress reports by the Exco Representative showed that sufficient progress has been made and it was very likely that the newly appointed municipal manager would be able to continue and deal with all municipal matters after the termination of this intervention.
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