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**ANNOUNCEMENTS, TABLINGS AND COMMITTEE
REPORTS**

WEDNESDAY, 4 SEPTEMBER 2019

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ANNOUNCEMENTS

National Assembly

The Speaker

1. Referral to Committees of papers tabled

- (1) The following paper is referred to the **Joint Standing Committee on Financial Management of Parliament** for consideration and report. Report of the Auditor-General on the Financial Statements and Performance Information is referred to the **Standing Committee on Public Accounts** for consideration:

- (a) Report and Financial Statements of Vote 2 – Parliament of the Republic of South Africa for 2018-19, including the Report of the Auditor-General on the Financial Statements and Performance Information of Vote 2 for 2018-19, tabled in terms of section 60 of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No 10 of 2009).
- (2) The following paper is referred to the **Portfolio Committee on Public Service and Administration** for consideration and report. Report of the Auditor-General on the Financial Statements and Performance Information is referred to the **Standing Committee on Public Accounts** for consideration:
 - (a) Report and Financial Statements of the Brand South Africa for 2018-19, including the Report of the Auditor-General on the Financial Statements and Performance Information for 2018-19.
 - (3) The following papers are referred to the **Portfolio Committee on Sports, Arts and Culture**:
 - (a) Programme of Cooperation for 2017-20 under the Agreement between the Republic of South Africa and the People's Republic of China on Cooperation in the Field of Arts and Culture (signed 24 April 2018), tabled in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996.
 - (b) Programme of Cooperation in the Fields of Arts and Culture between the Republic of South Africa and the Republic of India for the Years 2016-2019 (signed 08 July 2016), tabled in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996.
 - (c) Agreement between the Republic of South Africa and the Kingdom of the Netherlands on Audio-Visual Co-Production (signed 11 December 2015), tabled in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996.
 - (d) Agreement between the Republic of South Africa and the Republic of Panama on Cooperation in the Field of Arts and Culture (signed 31 March 2014), tabled in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996.
 - (e) Agreement between the Republic of South Africa and the Republic of Seychelles on Cooperation in the Field of Arts and Culture (signed 26 October 2018), tabled in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996.
 - (f) Agreement between the Government of the Republic of Suriname and the Government of the Republic of South Africa on Cooperation in the Field of Arts and Culture (signed 25 November 2014), tabled in terms of section 231(3) of the Constitution of the Republic of South Africa, 1996.
 - (g) Agreement between the Republic of South Africa and the Republic of Sahrawi Arab Democratic Republic on Cooperation in the Field of Arts and

COMMITTEE REPORTS

National Council of Provinces

1. Report of the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements Inspection in Loco on Notice of Intervention, issued in terms of section 139(1)(b) of the Constitution (1996), in Mtubatuba Local Municipality, dated 4 September 2019

1. Background and Overview

1.1 The Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements, having considered the request by the National Council of Provinces (NCOP), to consider and report on the intervention notice invoked in Mtubatuba Local Municipality in terms of section 139(1)(b) of the Constitution, the Select Committee reports as follows:

1.2 In terms of NCOP Rule 101, the Office of the Chairperson of the NCOP referred the notice of intervention by the KwaZulu-Natal MEC for Cooperative Governance and Traditional Affairs (CoGTA), to the Select Committee for consideration and reporting. On 03 September 2019, the Select Committee conducted a loco inspection in Mtubatuba Local Municipality.

2. Objectives of the Inspection in Loco to Mtubatuba Local Municipality

2.1 The main objectives were to interact with the internal and external stakeholders of the Municipality, in order to solicit their opinions on the constitutional, procedural and substantive matters related to the invocation of section 139(1)(b) of the Constitution.

3. Composition of the Delegation

- 3.1 The Select Committee delegation was composed of the following Members of Parliament and officials: Hon ZV Ncitha (ANC) Eastern Cape; Hon SE Mfayela (IFP) KwaZulu-Natal; Hon AB Gxoyiya (ANC) Northern Cape; Mr N Mfuku (Content Adviser: Committee Section); Ms J le Roux (Researcher: Research Unit); Mr M Mbebe (Procedural Officer: NCOP) and Mr G Mankay (Committee Assistant: Committee Section).

4. General Overview of the Inspection in Loco at Mtubatuba Local Municipality

- 4.1 On 03 September 2019, the multi-party delegation of the Select Committee interacted with the Department of CoGTA, Administrator, Representatives of the Inkatha Freedom Party (IFP), African National Congress (ANC), African Independent Congress (AIC), Economic Freedom Fighters (EFF), Rate Payers Association, Business Chamber, Amakhosi, South African Local Government Association (SALGA), Representative of Independent Municipal and Allied Trade Union (IMATU) and the South African Municipal Workers Union (SAMWU).

- 4.2 The presentation of the Department focused on the substantive reasons for the intervention, support measures, resolutions of the PEC and terms of reference of the Administrator, and key factors impacting on the intervention. The Administrator tabled a recovery plan of the Municipality. The representatives of the internal and external stakeholders of the Municipality tabled their opinions on the invocation of the intervention in terms of section 139(1)(b) of the Constitution in the Municipality.

5. Presentation by the Provincial Department of CoGTA

- 5.1 It was reported that after the August 2016 Local Government Elections, it emerged that no party had received a clear mandate from the voters, with both the ANC and IFP obtaining 18 seats each, DA 2 seats while the EFF and AIC obtained 1 seat each. The IFP, DA and EFF agreed an arrangement which allowed them to govern the Municipality.
- 5.2 Since 2016, there have been two by elections (Ward 4 and Ward 12) held at the Municipality, of which the outcome of the by-election in Ward 4 was challenged by

one of the parties, and eventually set aside by the Electoral Court. The decision of the court was appealed by one of the parties. The Electoral Court directed the IEC to hold fresh by-elections in Ward 4 of the Mtubatuba Municipality in terms of section 25(1)(b) of the Municipal Systems Act. However, it should be noted that the by-election for Ward 4 has been subject to litigation for a long period of time and to date, such election has not been held, consequently the Ward is operating without an elected Ward Councillor.

- 5.3 Based on the challenges identified, it became abundantly clear that there was a need for yet another constitutional intervention. In the circumstances the PEC took the view that it was necessary to invoke the provisions of section 139(1)(b) of the Constitution, in order to stabilize the Municipality.
- 5.4 The apparent dysfunctionality of the council evident in the failed several council meetings, and meetings of other structures of the council, due to amongst other things, the lack of quorum, staged walk-outs and recently, disagreements around the interpretation of the Electoral Court judgment which set the by-election in Ward 4 aside. Further, the failure by the council to exercise oversight on the management, as it was alleged that decisions purported to have been taken at council meetings were implemented by the municipal administration, which exposed the Municipality to serious financial and governance obligations, and no investigation has been undertaken by the council to date.
- 5.5 On basic service delivery, it was reported that the Municipality failed to effectively deal with the long outstanding proliferation of refuse matter, particularly in the town of Mtubatuba and St Lucia. The Municipality continues to operate an unlicensed refuse dumps, and constant threat of closure from the National Department of Environmental Affairs. The non-fixing of potholes in the entire town, poor maintenance of street lighting, inconsistent provision of services in different wards, particularly water and housing units, prompted the assumption of executive obligations of Mtubatuba Municipality.
- 5.6 On financial management, the substantive reasons that contributed in placing the Municipality under administration included:

- The failure by the council to adopt the annual report, annual financial statements, audit report and audit response plan in accordance with section 127 of the MFMA, by the statutory deadline of 31 January 2019.
- The failure by the Municipality to submit its unauthorised, irregular, fruitless and wasteful register for the period ended 31 December 2018, in accordance with section 32(4) of the MFMA.
- The Municipality's failure to implement consequence management in terms section 32(2) of the MFMA, as the Municipality has written off R192.855 million, including R122,061,842 of irregular expenditure.
- The Municipality's failure to take reasonable steps to prevent irregular expenditure of R122,061,842 in accordance with section 62(1)(d) of the MFMA.

6. Progress on the Implementation of the Intervention in the Municipality

- 6.1 In the restoration of council and other meetings decorum in respect to the instability caused by constant walk outs and chaos in council meetings, it was reported that there was noticeable governance stability and improvement in council meeting in so far as walk outs.
- 6.2 In respect to public participation in the affairs of the Municipality, St Lucia Ratepayers were met on 17 April 2019 and 14 June 2019, and there were more engagements planned for the month of September 2019.
- 6.3 On the Auditor-General's findings, an action plan dealing with the negative findings and consequence management on managers who might have caused irregular, fruitful and wasteful expenditure has been developed. A progress report in this regard has been reported to council.
- 6.4 In respect to poor expenditure management, an enhanced internal control mechanism to ensure that irregular, wasteful, and unauthorised expenditures do not occur has been developed. Standard operating procedures for approval, authorisation, withdrawal and payments of funds has been reviewed.

7. Opinions of Political Parties and Stakeholders of the Municipality

7.1 During the loco-inspection, the Select Committee interacted and solicited the opinions of the political parties, internal and external stakeholders of the Municipality. Their opinions are tabled below:

8. Opinion of the Inkatha Freedom Party (IFP)

8.1 Although the intervention was supported, the Party contended that it was politically motivated. They argued that if the Municipality was supported in terms of section 154 of the Constitution, there could have been no need for the intervention. They pointed out that uMkhanyakude District Municipality and the Province were failing the Municipality in terms of support.

9. Opinion of the African National Congress (ANC)

9.1 The ANC appreciated the invocation of section 139(1)(b) of the Constitution in the Municipality. They reported that previously, there were walk-outs in council meetings, to avoid wrong decisions being taken by council. However, there is still no political stability in council, hence the call for the intervention period to be extended. Further, they argued that there is a need for a review on job descriptions and salary scales.

10. Opinion of the African Independent Congress (AIC)

10.1 The Congress supported the intervention, and the work of the Administrator. They raised complaints regarding water challenges that should be urgently addressed.

11. Opinion of the Democratic Party (DA)

11.1 The Party tabled an opinion that did not supported the intervention, since they claimed that communities were still complaining about service delivery.

12. Opinion of Organised Labour (SAMWU)

- 12.1 The intervention was supported by the Union. However, concerns were raised on the decision and processes that led to the invocation of section 139 by the Department. They alleged that the intervention was invoked without sufficiently consulting the workers. They raised that some of the issues highlighted in the Administrator's report were misleading, particularly on the operation of dumping site without a license from the National Department of Environmental Affairs.

13. Opinion of the Independent Municipal and Allied Trade Union (IMATU)

- 13.1 The Union supported the intervention. However, they recommended that if there are processes and systems that are not working in the Municipality, the Administrator should consult and engage the representatives of the Unions. They emphasized that on issues that involved workers, cooperatively working together would achieve the objectives of the intervention.

14. Opinion of the South African Local Government Association (SALGA)

- 14.1 It was reported that effective performance against the constitutional mandate of local government requires a coherent and co-ordinated set of support initiatives, from the other two spheres of government. The Association therefore advocated for section 154 of the Constitution. They argued that the aim of the intervention should be restorative rather than punitive, and the turnaround plan of the Administrator should have time frames which are linked to skills transfer.

15. Opinion of the Rate Payers Association

- 15.1 There are challenges of water at St Lucia and that were particularly affecting tourism, including the closing of some lodges. At the time of the meeting, the Association stated that St Lucia has been without a reliable supply of water for 11 days already. If the situation persists, the Association assured that there would be job losses. Further, it was reported that the road infrastructure was collapsing, and residents were not receiving municipal accounts. However, despite all the challenges, the intervention was supported.

16. Opinion of the Department of Human Settlements

- 16.1 There are few challenges encountered within the Municipality, and hamper service delivery in the provision of houses amongst the vulnerable individuals. The process requires the full involvement of the Department of Rural development and Land Affairs in the housing structures conducted in the district. There is a need for proper engagement of the line functional departments or stakeholders in the planning process to ensure integrated development in this Municipality. The Department hoped that the intervention would be of success, to ensure all the human settlement projects are implemented.

17. Opinion of the Department of Water and Sanitation

- 17.1 The Department reported that there are reliability issues currently being experienced in the supply area, particularly during the flow periods, when the Mfolozi River run-off is mainly subsurface flow. It was further reported that the existing water supplies from the Mtubatuba run-of-river abstraction are not adequate to supply the current water requirements of the Mtubatuba scheme, including the extended supply area of Dukuduku. The situation was compounded by a lack of sufficient bulk infrastructure to service the areas of Dukuduku and Khula villages. There is a need to identify potential options for new water supply services, in order to meet the shortfalls.

18. Opinion of Amakhosi

- 18.1 The Amakhosi hoped that the intervention would assist the Municipality, particularly in ensuring that those who are involved in corruption are arrested and charged. If the Intervention Team worked hand in glove with the Amakhosi, particularly on issues affecting their subjects, for example water challenges, so much could be achieved. The intervention was supported.

19. Opinion of the Member of the Portfolio Committee on CoGTA in the Legislature

- 19.1 The Member of the Portfolio Committee in the Legislature emphasized that whenever there was an intervention in a municipality in the Province, the Portfolio Committee

did follow-up and monitor the implementation of those interventions, to facilitate and ensure cooperative governance and intergovernmental relations.

20. The Select Committee Observations and Opinion

- 20.1 In terms of the constitutional and procedural matters, the Select Committee has observed that the Minister for CoGTA, the NCOP, KwaZulu-Natal Provincial Legislature and the Municipality were notified of the intervention. The Minister approved the intervention within 28 days as prescribed by the Constitution. The NCOP has until 09 September 2019, to make a determination on the intervention.
- 20.2 The high number of potholes, neglect of refuse collection, poor maintenance of street lighting, ageing road infrastructure in the Municipality, was a reflection of poorly managed budgets as well as staff and skills shortages, and clearly negatively impacts on the infrastructure condition. The long-term consequence includes, asset stripping and lower service levels that in all likelihood also negatively affect the sustainability and economic investment, and raises the likelihood of service delivery protests.
- 20.3 The Select Committee observed that the Municipality was provided with financial support of R6 million for the electrification in Ward 8 (Mfekayi), and R5 million for the electrification in Wards 8 and 12. The Municipality was provided with hands-on support in the process of developing a credible general valuation-roll, despite this support all the recommendations from CoGTA were not implemented. Further, the Municipality was provided with hands-on support in the appointment of all its current senior managers. The Municipality has also been supported in the appointment of the current Acting Director: Technical Services.
- 20.4 It has been observed that some of the problems facing the Mtubatuba Local Municipality could be a thing of the past if the councillors and political parties, work together to prioritise service delivery, instead of working against each other. It should be remembered that councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the Municipality.

- 20.5 The intervention approach and outcomes must give effect to the spirit of cooperative governance and intergovernmental relations, as well as sustainability measures beyond the intervention. It was observed that the position of the Chief Financial Officer (CFO) remains vacant. The Municipal Council appointed an Acting CFO. Further, the Municipal Manager resigned in July 2019, therefore, the position of the Municipal Manager (MM) was also vacant. Consequently, the Municipality will rely on acting appointments. The absence of the full time MM and the CFO might result in relentless delays in the implementation of the intervention recovery plan.
- 20.6 The Select Committee is of the opinion that the ultimate exit strategy in the Municipality will have to address the change management imperatives, report all cases of corruption to law enforcement agencies, implement governance systems and procedures, skills transfer, capability of the Municipality to function effectively, implementation of remedial action plans dealing with negative findings from the Auditor-General and institutionalising new standard operating procedures.

21. Recommendations of the Select Committee

- 21.1 Having conducted the oversight visit to Mtubatuba Local Municipality, the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements recommends as follows:

21.1.1 The NCOP approves the intervention in Mtubatuba Local Municipality in terms of section 139(1)(b) of the Constitution.

21.1.2 The Administrator should fast-track the process of appointing and filling of section 57 Managers, in particular the Municipal Manager and the Chief Financial Officer. The absence in filling these positions might result in relentless delays in the implementation of the intervention recovery plan, and the facilitation of skills transfer.

21.1.3 Quarterly progress reports should be tabled to the NCOP and the KwaZulu-Natal Provincial Legislature by the MEC for CoGTA in KwaZulu-Natal, on the implementation of the intervention in the Municipality. These quarterly reports will play an important role in assisting the NCOP review process, and in deciding whether or not the continuation of the intervention is necessary.

21.1.4 The KwaZulu-Natal MEC for CoGTA should table the report on the termination of the intervention in terms of section 139(1)(b) of the Constitution, to the NCOP and the KwaZulu-Natal Provincial Legislature.

21.1.5 The Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements, in co-operation with the relevant Portfolio Committee in KwaZulu-Natal Provincial Legislature, should after the termination of the intervention, conduct a follow-up oversight visit to the Municipality in order to evaluate the impact of the intervention in accordance with the terms of reference of the Administrator.

Report to be considered.

2. Report of the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements Inspection in Loco on Notice of Intervention, issued in terms of section 139(1)(b) and (5) of the Constitution (1996), in Phokwane Local Municipality, dated 4 September 2019

1. Background and Overview

1.1 The Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements, having considered the request by the National Council of Provinces (NCOP), to consider and report on the intervention notice invoked in the Phokwane Local Municipality in terms of section 139(1)(b) and (5) of the Constitution, the Select Committee reports as follows:

1.2 On 15 April 2019, the Northern Cape MEC for Cooperative Governance, Human Settlements and Traditional Affairs tabled to the Office of the Chairperson of the NCOP the notice of intervention in terms of section 139(1)(b) and (5) of the Constitution in Phokwane Local Municipality.

- 1.3 Subsequent to the tabling, the Office of the Chairperson of the NCOP referred in terms of Rule 101 of the NCOP, the notice of intervention by the Northern Cape MEC, to the Select Committee for consideration and reporting. On 2 September 2019, the Select Committee conducted an inspection in loco to the Phokwane Local Municipality.

2. Objective of the Loco Inspection in Phokwane Local Municipality

- 2.1 The main objective was to interact with the internal and external stakeholders of the Municipality in order to solicit their opinions on the constitutional, procedural and substantive matters related to the invocation of section 139(1)(b) and (5) of the Constitution.

3. Composition of the Delegation

- 3.1 The Select Committee delegation was composed of the following Members of Parliament and officials: Hon A Gxoyiya (ANC) Northern Cape; Hon ZV Ncitha (ANC) Eastern Cape; Hon IM Sileku (DA) Western Cape; Hon SE Mfayela (IFP) KwaZulu-Natal; Hon K Motsamai (EFF) Gauteng; Hon TSC Dodovu (ANC) North West; Mr TM Manele (Committee Secretary: Committee Section); Mr N Mfuku (Content Adviser: Committee Section); Mr B Mahlangeni (Researcher: Research Unit); Ms J le Roux (Researcher: Research Unit); Mr M Mbebe (Procedural Officer: NCOP) and Mr F Bulawa (Committee Assistant: Committee Section).

4. General Overview of the Loco Inspection at Phokwane Local Municipality

- 4.1 On 2 September 2019, the multi-party delegation of the Select Committee interacted with the MEC and Administrator, representatives of the African National Congress (ANC), Democratic Alliance (DA), Economic Freedom Fighters (EFF), African Independent Congress (AIC), South African Local Government Association (SALGA), Organised Labour (COSATU, SAMWU and IMATU) Vaalharts Ratepayers Association, Utilities (Sedibeng, Vaalharts Water and Eskom) Council of Churches, and Non- Government Association.
- 4.2 The MEC made a presentation on the procedural and substantive reasons for the intervention. The representatives of the internal and external stakeholders of the

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Municipality tabled their opinion on the invocation of the intervention in terms of section 139(1)(b) and (5) of the Constitution in the Municipality.

5. Presentation by the Northern Cape MEC for Cooperative Governance, Human Settlements and Traditional Affairs

5.1 The MEC made a presentation on the status of intervention in the Municipality. The departmental presentation focused on background, governance and administration, financial management and infrastructure.

6. Background

6.1 On the 27 September 2018, due to the serious financial challenges the municipal council experienced to the extent that it described the situation as “*a financial crisis that paralyzes the Municipality and makes service delivery difficult*” the council requested the intervention of the MEC’s of Finance and Cooperative Governance in terms of section 139 and 140 of the Local Government: MFMA, 56 of 2003.

6.2 The above request for the intervention was due to the financial crisis and was confirmed to the representative of the Vaalharts Ratepayers Association (“VRA”) on the 29 January 2019, by the Acting Municipal Manager Mr. Nikani.

6.3 The letters have been used and submitted on 12 February 2019, as sufficient evidence to the High Court in the litigation by the Vaalharts Ratepayers Association against the Municipality, and other respondents (namely, the Premier of the Northern Cape, Ministers of Cooperative Governance, Energy and Finance), for a direct mandatory intervention as contemplated by section 139(5) of the Constitution read with section 139 of the MFMA.

6.4 That the Premier and CoGHSTA be mandated to provide a report back to the High Court after one week of the Order being granted to confirm that Phokwane Municipality has been declared under financial administration. Provide a report back in three weeks of the Order being made to indicate that section 139 has been complied with.

6.5 The Minister of Finance be ordered to implement the provisions of section 139 of the MFMA and to report to Court in two months. However, on 22 March 2019 the

High Court interdicted and restrained Eskom from taking a decision to interrupt the bulk power supply to the Municipality, and postponed the matter to 14 June 2019, pending the exchange of pleadings by the parties.

7. Governance and Administration and reasons for the intervention in the Municipality

- Non-compliance with the provisions of section 49(3) of the Municipal Structures Act, in the designation of an Acting Mayor during the recent leave of absence of the Mayor.
- The Municipality's persistent configuration and operation of the portfolios and/or committees that assist the Executive Committee in contravention of the provisions of section 80(3)(a) of the Structures Act.
- The non-compliance with the provisions of section 41 of the Municipal Structures Act, in the designation of an Acting Speaker.
- The contravention of the Systems Act in respect of the filling and/or extension of contracts of senior manager posts, which includes all the senior manager posts, Municipal Manager, CFO, Directors of Human Settlements, Technical Services and Corporate Services.
- The Municipality's fundamental posture of ignoring the MEC's request to provide support and advice premised on intergovernmental cooperation between the spheres by declining the offer of an official to be seconded to the Municipality (at its request) as the Acting Municipal Manager to assist with the restoration of the effective functioning of the Municipal Council and management of the administration.
- The Municipal Council's failure to appoint the CFO and/or an acting CFO from amongst the managers in the Municipality, since the resignation of the CFO in December 2017. Notwithstanding the fact that it has requested the intervention due to its serious financial crisis, but yet becomes comfortable to appoint a "Financial Task Team" to turn the financial situation of the Municipality around. No terms of reference of the Task Team nor a report of such a structure has ever been tabled.

- The Municipal Council has failed to implement the outcome of the section 106 investigation, which was presented to the Municipal Council on 22 January 2019. The delay is the outstanding legal opinion which was sought at the end of January 2019.

8. Financial management and reasons for the intervention in the Municipality

- Annual Financial Statements (AFS) for 2016/17 were submitted late, resulting in the audit outcome thereof being released only in February 2019, and the AFS for 2017/18 are still outstanding.
- Management has not compiled an audit action plan of the 2016/17 FY audit and had experienced low revenue collection rate.
- The Municipality is not sustainable due to poor cash flow management.
- Management's failure to introduce effective financial management systems to deal with "uncontrollable expenditure on overtime."
- The budget was unfunded and unsustainable for the past three financial years. Effective steps were not taken to prevent fruitless and wasteful expenditure amounting to R7,299 633 million. The municipality does not have any financial misconduct to report on (However the Municipal Manager was suspended for alleged financial misconduct).
- The Municipal manager is currently on suspension, the CFO's position has been vacant for over a year since December 2017 and the Municipal Council has not appointed any unit manager to act in the position.

9. Infrastructure and reasons for the intervention in the Local Municipality

- In respect of infrastructure, the Municipality is experiencing high water and electricity losses.
- Roads that need maintenance – lots of potholes; and ageing infrastructure including, municipal office building.
- There has been a lack of provision of water in Pampierstad for over three (3) months, without any intervention by the Municipal Council.

- The Municipality applied for a rollover of the balance of the 2017/18 FY, but the request for R14,4 million (including the R11,290,000.00 ring fenced for the Ganspan Sport Complex (MIG 1483) was rejected.
- From all the above factors, it was evident that the Municipal Council has persistently taking uninformed, irregular and/or unlawful decisions on its own and/or without being properly advised by management to its own detriment and of the community.
- The cumulative effect of the above actions and/or omissions resulted in the “Failure by the Municipal Council to execute Executive obligations and/or functions.”
- As part of providing support and assistance, the Department communicated with the municipality regarding the poor state of governance and administration and the lack of responses thereto and/or cooperation with the intention to amicably find a sustainable solution to the challenges.
- In view of the absence of the Head of Administration and/or Accounting Officer with the Acting appointment of the Municipal manager having expired, the Department again offered the Municipality to second an official, albeit at the Municipality’s request, to be appointed an acting municipal manager to assist the council to restore good governance and administration. This offer was never accepted.

10. Opinions of Political Parties and Stakeholders of the Municipality

- 10.1 During the loco-inspection, the Select Committee interacted and solicited opinions of the political parties, internal and external stakeholders of the Municipality. Their opinions are tabled below:

11. Opinion of the African National Congress (ANC)

- 11.1 The representative of the ANC welcomed and supported the PEC’s decision to invoke section 139(1)(b) and (5) of the Constitution in the Municipality. The representative raised concerns on the non-tabling of forensic investigation report conducted in terms of section 106 of the Municipal System Act, denying that the Municipality owes

Sedibeng Water Services. The representative called for the investigation of the claims made by the Sedibeng Water about the water debt of the Municipality.

12. Opinion of the Democratic Alliance (DA)

- 12.1 The representative of the DA tabled an opinion that did not support the merits of the imposition of intervention. The representative raised concerns with regard to the escalation of Sedibeng Water billing, allegations of irregular expenditure, abuse of overtime, Administrator not properly implementing cost containment measures, allocation of R70 million to the municipal sports committee, Municipal Manager failing to apply for rollover of R14,4 million and the failure to submit section 71 reports.

13. Opinion of the Economic Freedom Fighters (EFF)

- 13.1 The representative of the EFF tabled an opinion that did not support the intervention. The representative raised concerns with regard to the non-submission of the forensic investigation report in terms of section 106, corruption, lack of service delivery and the Sedibeng Water billing system looting the Municipality.

14. Opinion of South African Municipal Worker Union (SAMWU)

- 14.1 The representative of the Union tabled an opinion that did not support the intervention. The Union representative however, raised concerns with regard to the divisions amongst the municipal workers, failure to follow proper procedures on issuing of notice of intervention in terms of section 139, the Department lacking human capital to implement the financial recovery plan, the failure of the former Municipal Manager to provide written documents, disruption of council meetings by some councillors.

15. Opinion of the Skema Shutdown

- 15.1 The representative of the Skema Shutdown tabled the opinion that did support the intervention. The main concerns raised included the non-implementation of projects within the community, allegation that the intervention is aimed at accessing municipal bank accounts, Administrator surrounded by body guards, allegation of the former Mayor corrupting the community members and failure of the councillors to consult the

community on the implementation of projects. The representative called for the need to charge the former Municipal Mayor and the Speaker for allegations of corruption.

16. Opinion of the Business Forum

16.1 The representative of the forum did not support the intervention. The representative raised concerns on matters related to the lack of support and assistance to the Municipality. The representative called for the screening of the appointed Administrator, the deployment of the Administrator who has surrounded by allegations of scandals, and investigation in terms of section 106 of Municipal System Act on allegations of corruption.

17. Opinion of Utilities Sedibeng Water

17.1 The representative of the utilities raised concerns about the Municipality water debt of R14 million which started in 2014, and now was R85 million. The representative argued that the Municipality was responsible for collecting the source of service but not transferring to the utilities. The representative indicated that despite the failure to transfer, the utilities had no intention of closing down the provision and supply of water to the communities.

18. Council of Churches

18.1 The representative of the Council of Churches tabled an opinion that did not support the intervention. The representative raised concerns with regard to the procedural incorrectness of the notice of intervention and lack of consultation.

19. Lebone Youth Organisation

19.1 The representative of the Youth Organisation supported the intervention, subject to the condition that it will address the municipal problems. The representative indicated that the Municipality has failed to comply with the provisions of the Municipal Structures Act, Systems Act, MFMA and that the intervention has been long needed since 2013/14. The representative however, raised concerns with regard to the municipal financial situation, captured in the progress report of the Administrator.

20. Findings and Observations of the Select Committee

- 20.1 The Select Committee has found, noted and acknowledged that the Northern Cape PEC resolved to invoke section 139(1)(b) and (5) of the Constitution in Phokwane, on 08 April 2019.
- 20.2 The Select Committee has noted that the MEC has complied with the procedural requirements as stipulated in the Constitution to notify within 14 days, the Minister for CoGTA of the decision of the PEC to place the Municipality under intervention in terms of section 139(1)(b) and (5) of the Constitution.
- 20.3 The Minister's approved the intervention in terms of section 139(2) of the Constitution on 24 April 2019, on conditions which include a Financial Recovery Plan, led by the National Treasury.
- 20.4 The Select Committee has also observed and noted that the MEC has notified the Municipality on the substantive matters of intervention on 6 May 2019, and introduced the Intervention Teams and terms of reference to the Municipality during a council sitting dated 16 July 2019.
- 20.5 The Select Committee has further noted that the MEC has been authorised to intervene in terms of section 139(1)(b) and (5) of the Constitution by assuming the functions related to the recruitment of senior managers, the uninterrupted provision of the water services to the community and ensure financial accountability and compliance with the MFMA.
- 20.6 Furthermore, the Select Committee noted that the MEC was authorised by the PEC to appoint an administrator and three technical experts, to assist in resolving the governance and administrative challenges prevalent at the Municipality.
- 20.7 The Select Committee has further noted that the MEC has never tabled a notice of intervention in terms of section 106 of the Municipal System Act to the NCOP, to

investigate any allegation of maladministration, corruption and fraud and table the report on findings to it.

- 20.8 On procedural compliance, the Select Committee has noted that the PEC took a decision to invoke section 139(1)(b) and (5) of the Constitution on 27 March 2019, the Office of the NCOP wrote to the MEC for CoGTA on 26 April 2019, acknowledging receipt of the notice of intervention to the Phokwane Local Municipality.
- 20.9 The Select Committee has found during the stakeholder engagement, that the majority of internal and external stakeholders did not supported the intervention, and argued that the invocation was procedurally incorrect. That the MEC did not provide support in terms of section 154 of the Constitution and had imposed the Administrator in the administration of the Municipality.

21. Recommendations of the Select Committee

- 21.1 Having conducted the oversight visit to Phokwane Local Municipality and interacted with internal and external stakeholders, the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements, recommends to the House as follows:

21.1.1 The NCOP approves the intervention in Phokwane Local Municipality in terms of section 139(1)(b) and (5) of the Constitution.

21.1.2 The Northern Cape MEC for Cooperative Governance, Human Settlements and Traditional Affairs should upon approval of this intervention, table quarterly reports on the implementation of the Financial Recovery Plan. Further, consider replacing the current Administrator and appoint a credible, ethical, qualified and competent Administrator.

21.1.3 The Administrator should focus on the approved terms of reference that are time framed, produce and table quarterly reports to the NCOP.

- 21.1.4 The Administrator's report should be accompanied by a monthly Internal Audit Report, reflective of the state of performance and compliance of the Municipality across all functional units.
- 21.1.5 The Municipal Council should conduct an oversight of performance and compliance of the Municipality, including implementation of consequence management for wrong-doing.
- 21.1.6 The Administrator should ensure the tabling of all outstanding reports, including forensic investigations to the Municipal Council, within a period of fourteen (14) days.
- 21.1.7 The Administrator should fast-track the process of filling all vacant senior management positions, including all those in key skill areas.
- 21.1.8 The Select Committee should, in collaboration with the relevant Portfolio Committee in the Northern Cape Provincial Legislature, conduct a follow-up visit within a period of sixty (60) days on the status of implementation of the recommendations and resolutions of the NCOP.
- 21.1.9 The Northern Cape MEC for Cooperative Governance, Human Settlements and Traditional Affairs should, in collaboration with the Minister for CoGTA provide continuous support to the Municipality in terms of section 154 of the Constitution, and show demonstrable portfolio of evidence of the quality support and capacity.
- 21.1.10 The Northern Cape MEC for Cooperative Governance, Human Settlements and Traditional Affairs should fast-track the process of tabling the forensic investigation report conducted in terms of section 106 of the Municipal System Act to Phokwane Municipal Council, and then after to the NCOP.

Report to be considered.

3. Report of the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements Inspection in Loco on Notice of Intervention issued in terms of section 139(1)(b) of the Constitution (1996), in Msunduzi Local Municipality, dated 4 September 2019

1. Background and Overview

1.1 The Select Committee on Co-operative Governance and Traditional Affairs, Water, Sanitation and Human Settlement, having considered the request by the National Council of Provinces (NCOP), to consider and report on the intervention notice invoked in Polokwane Local Municipality in terms of section 139(1)(b) of the Constitution, the Select Committee reports as follows:

1.2 On 15 April 2019, the Northern Cape MEC for the Department of Cooperative Governance, Human Settlement and Traditional Affairs tabled to the Office of the Chairperson of the National Council of Provinces the notice of intervention in terms of section 139 (1) (b) of the Constitution in Msunduzi Local Municipality.

1.3 Subsequent to the tabling, the NCOP, the Office of the Chairperson of the NCOP referred in terms of Rule 101 of the NCOP, the notice of intervention by the North West MEC for Local Government and Human Settlement (CoGTA), to the Select Committee for consideration and reporting. On 3 September 2019, the Select Committee conducted inspection in loco to Msunduzi Local Municipality

2. Objective of the Loco Inspection in Msunduzi Local Municipality

2.1 The main objective was to interact with the internal and external stakeholders of the Municipality in order to solicit their opinions on the constitutional, procedural and substantive matters related to the invocation of section 139(1)(b) of the Constitution.

3. Composition of the Delegation

- 3.1 The Select Committee delegation was composed of the following Members of Parliament and officials: Hon S Seleku, (DA) Western Cape, Hon K Motsamai,(EFF) Gauteng, Hon T S C Dodovu (ANC) North West, Mr TM Manele, Committee Secretary (Committee Section). Mr B Mahlangeni, Researcher, Research Unit, Mr F Bulawo, Committee Assistant, Committee Section

4. General Overview of the Loco Inspection at Msunduzi Local Municipality

- 4.1 On 3 September 2019, the multi-party delegation of the Select Committee interacted with Senior Official and Administrator of the Department of CoGTA, representatives of the African National Congress (ANC), Democratic Alliance (DA), Economic Freedom Fighters (EFF); Inkatha Freedom Party (IFP), AIC, ACDP, Al-Jam IAh, South African Local Government Association, Organised Labour (SAMMU & IMATU), Business Chamber, Department of Human Settlement, Department of Water and Sanitation, and Amakhosi
- 4.2 The Senior Officials of the department of CoGTA made presentation on the procedural and substantive reasons for the intervention. The representatives of the internal and external stakeholder of the municipality tabled their opinion on the invocation of the intervention in terms of section 139 (1) (b) of the constitution in the local municipality as tabled by the MEC for CoGTA.

5. Presentation by the Department of Cooperative Governance and Traditional Affairs (CoGTA)

- 5.1 The Department of CoGTA made presentation on the status of intervention in the local Municipality. The departmental presentation focused on background, substantive reasons prior to the invocation of section 139 of the Constitution of the Republic of South Africa, resolution of the Provincial Executive Council including terms of reference and, procedural matters

6. Basic service delivery and motivation for intervention in terms of section 139 (1) (b) of the Constitution

- 6.1. In terms of MIG as at end of January 2019, the municipality was below the Provincial Target of 40%. The Msunduzi Local municipality is one of the municipalities that were called by National Treasury to motivate why a portion of their MIG allocation should not be stopped because of poor performance. National Treasury eventually decided not to stop their funds but the very fact that such a high capacity municipality is counted among poor performing municipalities was a cause for concern. The municipality remains the third lowest performing municipality on MIG in the Province
- 6.2. This financial year (2018/2019), the planning of the municipality was very poor and resulted in the late appointment of contractors. The municipality also reprioritized projects outside of the IDP process or MIG Framework. There was also the question of the late appointments of service providers to plan and implement MIG projects in line with DCoG Implementation Plan and Municipal Procurement Plan.
- 6.3. The Department does not have a Head of the Department. The municipality has allocated insufficient resources to its Project Management Unit which is decentralised to various Business Units. This situation persists despite the fact that there is a MIG allocation of 5% which is designed to help municipalities fund their Project Management Units. This is one of the factors contributing to poor performance by the municipality in relation to its built programme
- 6.4. The municipality is a Water Services Authority (WSA) in its own right. It thus receives direct funding from the Department of Water and Sanitation (DWS) to perform various functions such as water related planning and has for this purpose completed its Water and Sanitation Master Plans by 2016. The total costs show that R2,354 billion is required over the next 25 years to eradicate backlogs and to replace aging infrastructure. Currently, the municipality loses over R150m per annum in non-revenue water. This is the fourth highest loss among the 14 Water Service Authorities in the Province.
- 6.5. The municipality received a letter from the DWS notifying the municipality of its intention to withhold a portion of Water Services Infrastructure Grant (WSIG) owing to poor performance by the municipality. The municipality had been allocated R40m

for the 2018/2019 financial year of the municipality had spent only R12.8m (32%) by the end of February 2019

- 6.6. Msunduzi municipality has been experiencing intermittent unplanned outages over the past few years affecting its customers including business communities. Residents were also losing hope in the capabilities of the City to supply reliable and stable power. A study on the state of the electricity network was conducted and a Network Development Plan (NDP) was developed as a result. The NDP was eventually approved. Projects were identified for implementation and funds were made available to implement the projects as and when funds were made available. The electricity supply has largely stabilized although there are areas such as Hilton that still experience electricity supply challenges outside of the recent load shedding.
- 6.7. Over the past 12 months there have been numerous reports regarding the failure of the Waste Management Department of the municipality. This has been characterised by labour strikes, failing Waste Disposal including several environmentally damaging fires at the Waste Disposal site in Willowton. The city and peripheral nodal areas are visibly dirty and full of grime. The situation is repulsive to both visitors and potential investors.
- 6.8. MISA offered support to the municipality particularly with reference to the Project Management Unit of the municipality which support was rejected by the municipality, which branded it as unnecessary. This was also a cause for concern. The municipality is performing poorly on the EPWP programme and in creating job opportunities. The full time employment was sitting at 141(16%) as at the end of the third quarter (October-December 2018) against the target of 859. At the end of the second quarter (July-Sept 2018) the municipality was at 12%. Thus the annual target was not achieved.

7. Governance and Administration and reasons for intervention in the Local Municipality

- 7.1. Between June 2018 and March 2019, the Speaker convened 26 council meetings of which 5 were aborted due to lack of quorum. It was reported that councillors deliberately abandoned attendance of these council meetings due to controversial tender awards, municipal manager's suspension, and lack of payment of creditors on time among other things.

- 7.2. Several meetings of Committees of Council had to be abandoned because of lack of quorum. Each of the following committees have had to abandon one or more meetings because of the lack of quorum over the same period: Sustainable Development and City Enterprises Portfolio Committee, Financial Services Portfolio Committee, Corporate Services Portfolio Committee and the Municipal Public Accounts Committee.
- 7.3. There have been wide ranging public protests by various communities surrounding service delivery and labour related challenges. Recurrent protests were recorded in Copesville, Edendale, and Snathing areas. Communities have targeted road infrastructure and schools. The protests were driven largely by alleged poor service delivery in respect water, electricity and roads which are functions for which Msunduzi municipality is responsible.
- 7.4. Due to persistent challenges related to poor functionality of ward committees in the municipality a meeting with ward committees and municipal officials was held in August 2018 and in February 2019.
- 7.5. The following issues were raised as reasons for poor functionality of ward committees: Ward councillors were reportedly not attending or chairing ward committee meetings in some wards; Some ward councillors were not compiling reports when required to do so; Ward assistants (employed in each ward to provide secretariat to councillors) were failing the ward councillors because they do not submit portfolio of evidence to the municipality which ultimately render most ward committees non-functional.
- 7.6. The municipality did not provide responses to ward committees on community issues raised through reports from members; There was lack of access to municipal information by ward committees; Ward committee meetings were not structured in some wards (no schedule of meetings); The amount of R300-00 which was paid to ward committees as reimbursement for out of pocket expenses incurred was considered to be insufficient to cover the costs incurred by members; and there was a serious communication breakdown between ward committees and municipality.
- 7.7. Numerous allegations of improper practices occurring at the municipality were received over the past twenty-four months from at least eight (8) different sources, being the

Municipal and Allied Trade Union of South Africa (MATUSA), a number of whistle-blowers who chose to remain anonymous and Senior Managers within the Municipality who made allegations against the Municipal Manager. It is also a matter of public knowledge that a councillor of the municipality reported certain matters to the Public Protector. Information in this regard was received from the Integrity Management Unit of the Office of the Premier

- 7.8. The municipality had unlawfully designated 8 councillors as full-time without the necessary determination of the positions they occupy as full time. The municipality had thus breached the requirements of section 12 and section 18 of the Municipal Structures Act. Despite numerous requests for the municipality to remedy the situation, it was only in December 2018 that this matter was authorized. The municipality remains exposed to a serious audit query from the Auditor General. The municipality has not held anyone accountable for this omission.
- 7.9. The municipality suspended the Municipal Manager on 2 August 2018 on allegations of gross misconduct. In terms of regulation 6(6)(a) of the Disciplinary Regulations for Senior Managers, the disciplinary hearing must commence within 3 months of the date of the precautionary suspension, failing which it will automatically lapse. The Municipal Manager had not been charged by the municipality at the expiry of the 3 months period. However, on 09 November 2018, a disciplinary tribunal was held. The disciplinary inquiry is still ongoing
- 7.10. The CFO acted as Municipal Manager from the commencement of the suspension of the Municipal Manager. She was later seconded by the MEC for CoGTA to continue acting pending the finalization of the disciplinary process of the Municipal Manager. The municipality appointed an Acting CFO, which acting appointment was not supported by the MEC owing to the designated employee not meeting the experience requirements for the post. Despite advise from the MEC, the municipality persisted with the acting appointment. On 4 March 2019, the municipality was supported with the submission of names of qualified persons from whom the municipality could appoint an acting CFO. Currently, the municipality does not have the Head of its Technical Services Department. The previous incumbent was dismissed in June 2018. The position remains unfilled, which is a cause for concern.

8. Sound Financial Management and reasons for intervention in the Local Municipality

- 8.1. The municipality obtained negative audit outcomes for two consecutive financial years (2016/2017 and 2017/2018). The findings reflect poor record keeping and systems challenges as well as poor management of key financial processes. Some of the key findings include: Property, plant and equipment - The municipality did not appropriately account for property, plant and equipment in accordance with SA STANDARD OF GRAP 17, PROPERTY, PLANT AND EQUIPMENT.
- 8.2. The municipality did not calculate impairments on consumer debtors in accordance with SA STANDARD OF GRAP 104, FINANCIAL INSTRUMENTS. Interest was not charged on all overdue accounts and where interest was charged on consumer accounts it was incorrectly computed.
- 8.3. The AG was unable to obtain sufficient appropriate audit evidence and confirm by alternative means the Independent Development Trust receivable. Consequently, the AG was unable to determine whether any adjustment was necessary to receivables from exchange transactions stated at R81,97m
- 8.4. The municipality did not prepare and disclose the cash flow statement on a cash basis as required by SA STANDARD OF GRAP 2, CASH FLOW STATEMENTS. The AG was unable to obtain sufficient appropriate audit evidence as the amount disclosed for unauthorised expenditure differed from the underlying records. Consequently, the AG was unable to determine whether any further adjustment was necessary to unauthorised expenditure stated at R361,22m (2017: R361,22m) in the financial statements.
- 8.5. The municipality did not include irregular expenditure in the notes to the financial statements, as required by section 125(2)(d) of the MFMA. The municipality made payments in contravention of the supply chain management (SCM) regulations, resulting in irregular expenditure of R11,68m. Consequently, irregular expenditure disclosed in the financial statements was understated by R11,68m.

- 8.6. The municipality did not correctly disclose pension and medical aid deductions, as required by section 125(1)(c) of the MFMA due to the poor status of the accounting records. The amount relating to pension and medical aid deductions differed from the supporting documents by R50,12m. Consequently, the amount relating to pension and medical aid deductions disclosed in the financial statements was understated by R50,12m.
- 8.7. During the course of the 2017/18 audit, the AG employees were allegedly ill- treated at the municipality to the extent that they had to be removed from the municipality. An amicable resolution of the problem was brokered by Cogta and Provincial Treasury resulting in the return of the employees to complete the audit. Nonetheless there were undue delays and thus the audit outcome at Msunduzi Municipality was issued later than the prescribed timeframe of 30 November
- 8.8. As at December 2018 the municipality indicated cash and cash equivalents, including short-term investments of R274 337 045 and unspent grants of R251 059 335. Grants were thus cash backed, however the remaining R23 277 710.00 would not be sufficient to pay operational costs and creditors.
- 8.9. As at the end of June 2018 the municipality reflected gross consumer debtors of R3 019 534 605. Of the total debtors 78% were over 90 days, indicating the inability of the municipality to collect on old debt. As at June 2018, household debt comprised of R2,3 billion, commercial debt R472 million and Government debt of R202 million. As at December 2018 the total debt increased by R138 078 395.00, an increase of 4, 5%.
- 9. Support measures provided by provincial government prior the invocation of section 139**
- 9.1. KZN Cogta, Provincial and National Treasury have all interacted with the municipality in an effort to assist the municipality resolve its challenges.
- 9.2. The Department of Water and Sanitation (DWS) notified the municipality of its intention to withhold a portion of Water Services Infrastructure Grant (WSIG) owing

to poor performance by the municipality in an effort to assist the municipality to have appropriate interventions.

- 9.3. A study on the state of the electricity network was conducted and a Network Development Plan (NDP) was developed and approved. Provincial government kick started clean-up programmes to assist the municipality in respect of its waste management function.
- 9.4. Municipal Infrastructure Support Agency offered support to the municipality particularly with reference to the Project Management Unit of the municipality, which support was rejected by the municipality which branded it as unnecessary.
- 9.5. In July 2018 the National Treasury drafted a recovery plan to turnaround the unfavourable governance, finance and service delivery position of the municipality. CoGTA and Provincial Treasury provided consolidated input into the recovery plan. In February 2019 the National Treasury conducted a mid-year performance assessment
- 9.6. The Department met with the unions, management and the council on numerous occasions in an attempt to facilitate the resolution of differences. The Department facilitated the return of the Auditor General to site following their pull out citing safety concerns.
- 9.7. The Department, together with Provincial Treasury assisted the municipality in respect of its financial management matters and by recommending suitable personnel when the CFO was arrested and subsequently suspended.
- 9.8. The MEC authorised the investigation of allegations of maladministration, fraud and corruption when such were brought to the attention of the Department. Both the Department and Provincial Treasury conducts monthly and quarterly assessments of the finances of the municipality and feedback is provided

10. Terms of References of the Appointed Administrator

- 10.1. Establishing and acting as chairperson of the Interim Finance Committee (IFC) to monitor and manage the cash flow of the municipality, approve or dis-approve purchase requisitions and to ensure that the municipality's cash position is not overdrawn;
- 10.2. Ensuring that the IFC meets regularly and reports fortnightly to the Executive Committee of Council on the cash flow position, payments approved and disapproved and commitments made (via approved purchase orders);

- 10.3. Implementing governance systems and procedures including oversight over the administration including ratification of decisions taken by the Municipal Council, the Executive Committee, Committees, Municipal Manager and Section 56 Managers in terms of delegated or original authority;
- 10.4. Ensuring implementation of remedial action plans dealing with negative findings from the Auditor General;
- 10.5. Ensuring the implementation of all projects undertaken by the municipality including unblocking projects that have stalled.
- 10.6. Ensuring that the municipality implements measures to urgently improve its operations and maintenance programme with particular reference to waste management, roads and electricity maintenance;
- 10.7. Ensuring that the requirements of the Local Government Disciplinary Regulations for Senior Managers, 2010 are met timely by the municipality.
- 10.8. Ensuring the implementation of findings arising from any investigations into fraud or maladministration or corruption

11. Progress Report on the implementation of the intervention in the local municipality.

- 11.1. Technical Steering Committee has been formed to guide the intervention and the inception meeting received a methodological approach and timeframes for the diagnosis report and development of recovery plan
- 11.2. Diagnosis Report and Recover Plan was finalised in June after consultations and engagement with internal and external stakeholders throughout the city
- 11.3. All bank requirements to make Administrator a signatory to bank account met but awaiting bank approvals, cashflow monitored weekly
- 11.4. All management and Council decisions ratified by Administrator
- 11.5. Approval of all payments within one month after invoice except those awaiting further details or subject of investigations

- 11.6. Daily collection of waste has been prioritised but constrained by fleet availability as 4 out of 17 compactors are functional
- 11.7. CBD clean-up plan completed and prioritized in terms of implementation as more resources have also been approved by Cogta
- 11.8. Law enforcement hampered by the fact that all guns in the municipal armoury were taken for ballistic testing by the National Trask Team investigating political killings
- 11.9. Interim Finance Committee has been set up to prioritize billing; meter reading; revenue collection, implementation of General Valuation Roll, compliance with Municipal Standards of Accounts (mSCOA); and Effectiveness of municipal oversight strengthened from simply noting of reports to thorough considerations and deliberations on reports.

12. Opinions of Political Parties and Stakeholders of the Municipality

- 12.1 During loco-inspection, the Select Committee interacted and solicited opinions of the political parties, internal and external stakeholders of the Municipality. Their opinions are tabled below:

13. Opinion of the African National Congress (ANC)

- 13.1 The representative of the ANC welcomed and supported the PEC's decision to invoke section 139(1)(b) of the Constitution in the Municipality indicating that the municipality was placed under Section 139(1) (b) of the Constitution by the KZN Provincial Government in April 2019.
- 13.2. He further indicated that the ANC welcomes and fully supports the decision by the Provincial Government, adding that the intervention is not meant to fight any individual nor any political party but to change material conditions in the City in favour of the entire residents but most importantly the poorest of the poor.

14. Opinion of the Democratic Alliance (DA)

- 14.1 The representative of the DA welcomed the process and the merits of the imposition of intervention in terms of section 139 (1) (b) of the Constitution, however, indicating that the challenges have been ongoing since August 2016 and it was a process and not an even, starting with the secondment and the appointment of the current and suspended Municipal Manager.

15. Opinion of African Christian Democratic Party (ACDP)

- 15.1 The representative of the ACDP tabled an opinion that support the intervention. The representative made allegation that some municipal officials are assisting the car washers to steal municipal water and electricity. The representative raised concerns with regard about the stealing of municipal resources due to political division within the ruling party

16. Opinion of Inkatha Freedom Party

- 16.1. The representative of the IFP tabled an opinion that supported the intervention. The representative raised concerns that the administrator was not properly introduced to the council, confusing within the ruling party, acknowledging that the presence of the administrator provides hope in the municipality and made allegation that the former MEC of CoGTA was biased towards the local municipality

17. Opinion of AL JAMAA

- 17.1. The representative of the Al Ja Maa submitted opinion that supported the invocation of the intervention. The main concerns raised related to slow down of service delivery and roads construction.

18. Opinion of Traditional Leaders.

- 18.1. The representative of the traditional leaders welcomed the intervention in terms of section 139 (1) (b) of the constitution and the visit of the NCOP Select Committee. The

representative emphasised the need to provide support to the municipality, and hoping the that the intervention will yield good results.

19. Opinion of South African Municipal Worker Union (SAMMU)

19.1. The representative of the Union tabled an opinion the supported the issuing of intervention in terms of section 139 (1) (b) of the constitution.

19.2. The union representative however, raised concerns with salary disparities, poor leadership and management, lack of promotion, unfair remuneration system, divisions among the municipal workers, non-functionality of local labour forum. the union representative then appealed to the administrator to deal with internal problems within the municipality without biasness and prioritizing service delivery within the communities

20. Opinion of Independent Municipal Allied Trade Union (IMATU)

20.1. The representative of the Union supported the invocation of section 139 (1) (b) of the constitution in the local municipality and the appointment of the Administrator. The union representative then called for the extension of the time frame or period of the administrator within the municipality

21. Opinion of the Business Chamber

21.1. The representative of the forum raised concerns that repeat of the invocation of section 139 (1) (b) of the constitution. The main concerns raised included non- connection of electricity, poor property evaluation, loss of jobs and selling of properties, inaccurate billing system. The representative then called for recovery of money misappropriated, and need to work together with the municipality

22. Findings and Observations of the Select Committee

22.1. The Select Committee has observed that the MEC for CoGTA has complied with the procedural requirement as stipulated in the constitution to notify within 14 days the Minister of the Department of Cooperative Governance and Traditional Affairs of the

decision of the Provincial Executive Committee to place the local municipality under intervention in terms of section 139 (1) (b) Constitution. The Minister for CoGTA was notified on 5 May 2019 and approved the intervention notice 30 May 2019.

- 22.2. The Select Committee has also observed and noted that the MEC of the Department of Local Government and Human Settlement notified the local municipality on the substantive matters of intervention on 6 May 2019 and introduced the Intervention Teams and Terms of Reference to the local municipality during a Council Sitting dated 16 July 2019.
- 22.3. The Select Committee has further noted that the MEC for CoGTA has notified per constitutional requirement, the National Council Provinces and the KwaZulu-Natal Provincial Legislature of the notice of intervention in the Local Municipality on 5 April 2019
- 22.4. The Select Committee observed and notes that the Department has provided support to the municipality in terms of Section 154 of the Constitution prior to the invocation of Section 139 (1) (b) of the Constitution.

23. Recommendations of the Select Committee

- 23.1. Having conducted the oversight visit to Msunduzi Local Municipality and interacted with internal and external stakeholders, the Select Committee on Co-operative Governance and Traditional Affairs, Water, Sanitation and Human Settlement, recommends to the House as follows:
- 23.1.1. The NCOP approves the intervention in Msunduzi Local Municipality in terms of section 139(1)(b) and 139 95) of the Constitution.
- 23.1.2. The KZN MEC for CoGTA should upon approval of this intervention, table quarterly reports on the implementation of the Financial Recovery Plan as well as Section 139 (1) (b) of the Constitution.

- 23.1.3. The Administrator should focus on the approved Terms of Reference that are time framed, produce and table quarterly reports.
- 23.1.4. The Administrator's report should be accompanied by a monthly Internal Audit Report reflective of the state of performance and compliance of the municipality across all functional units.
- 23.1.5 The Municipal Council should conduct oversight of performance and compliance of the municipality including implementation of consequence management for wrong-doing and where necessary, report all elements of criminality to the SAPS.
- 23.1.6 The appointed Administrator should ensure the tabling of all outstanding reports including forensic investigations to the Council within a period of fourteen (14) days.
- 23. 1.7. The Administrator should fast-track the process of filling of all vacant senior management positions including all those in key skills areas
- 23.1.8. The Select Committee should in collaboration with the Portfolio Committee in the KZN Province, conduct follow-up visits within a period of sixty (60) days on the status of implementation of its recommendations and resolutions of the National Council of Provinces (NCOP).
- 23.1.9. The KZN MEC for CoGTA should in collaboration with the Minister of the Department of Cooperative Governance and Traditional Affairs provide continuous support to the Local Municipality in terms of section 154 of the Constitution and show demonstrable portfolio of evidence of quality support, capacity as well as strengthen its oversight capacity and monitoring.
- 23.1.10. The KZN MEC for CoGTA should fast-track the process of tabling the forensic investigation reports conducted in terms of Section 106 of the Municipal System Act at Umsunduzi Municipality and thereafter to the National Council of Provinces.

Report to be considered