

**WEDNESDAY, 26 JUNE 2019**

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

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The Council met at 12:07.

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

**ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS** - see col 000.

The CHAIRPERSON OF THE NCOP: I am sure members have had a glance at the Order Paper, which basically indicates the following items: The election of House Chairpersons for Committees; the election of House Chairperson for Oversight and Institutional Support; and the election of the Programme Whip. We will also later on, having concluded the three items, look at the option of Rules of the National Council of Provinces.

Perhaps we should just look at the Order Paper. I just wanted to be sure that I didn't jump the gun and outline all the issues of the Order Paper to you without giving an opportunity for the Secretary to read it. I am told that in terms of tradition, this is how it should happen: Matters are not read by the Secretary.

So, the next step in this process is for us to proceed to the election of the office bearers, namely the House Chairperson for Committees, the House Chairperson for Oversight and Institutional Support and the Programming Whip. I will first call for a nomination and then a seconder to the nomination.

#### **ELECTION OF HOUSE CHAIRPERSON: COMMITTEES**

The CHAIRPERSON OF THE NCOP: There will now be an opportunity for nominations for the House Chairperson of Committees. Are there any nominations?

Ms N NDONGENI: Chair, the Eastern Cape nominates Jomo Nyambi as House Chairperson. Thank you.

The CHAIRPERSON OF THE NCOP: Jomo Nyambi has been nominated. Is there any seconder? Hon member, please proceed.

Ms A D MALEKA: Chair, Mpumalanga seconds the nomination of hon Nyambi.

The CHAIRPERSON OF THE NCOP: Mpumalanga seconds. That being the case, we should then try and find out if hon Nyambi accepts the nomination.

Mr A J NYAMBI: I humbly accept the nomination, Chairperson.

The CHAIRPERSON OF THE NCOP: The nomination is accepted. Order, members! That being the case, can we find out if there is any other nomination? There being no other nominations, we shall move on to declare that hon Jomo Nyambi becomes the House Chairperson for Committees. [Applause.]

#### **ELECTION OF HOUSE CHAIRPERSON: OVERSIGHT AND INSTITUTIONAL SUPPORT**

The CHAIRPERSON OF THE NCOP: We move on to find out if there is any nomination for House Chairperson for Oversight and Institutional Support. We proceed to call upon any nomination by a show of hands. We have a hand up. Hon Landsman!

Mr E R LANDSMAN: Good day, colleagues. I am Eric Landsman from the North West. I hereby nominate Winnie Ngwenya from Gauteng.

The CHAIRPERSON OF THE NCOP: Can you just repeat that again!

Mr E R LANDSMAN: Hon Chair, I am Eric Landsman, the North West Whip. I hereby nominate hon Winnie Ngwenya from Gauteng.

The CHAIRPERSON OF THE NCOP: Hon Winnie Ngwenya has been nominated. Do we have any seconder? Yes, the sound system!

Ms M L MOSHODI: Hon Chairperson, on behalf of the Free State, we support hon Ngwenya as the House Chairperson. Thank you, hon Chair.

The CHAIRPERSON OF THE NCOP: Hon Ngwenya's nomination has been seconded. Can we find out from hon Ngwenya if she is available for this nomination?

Ms W NGWENYA: Chairperson, I am available for the nomination.

The CHAIRPERSON OF THE NCOP: Hon Ngwenya accepts the nomination. That being the case, can we find out if there is any other nomination? There being no other nomination, I will then declare hon Ngwenya as elected as the Chairperson for Oversight and Institutional Support. [Applause.] Thank you very much.

#### **ELECTION OF THE PROGRAMMING WHIP**

The CHAIRPERSON OF THE NCOP: Let's then move over to the question of the Programming Whip. I will do the same call for nominations and then a seconder. Can we find out if there is any nomination? Yes, hon member!

Ms M P MMOLA: Chairperson, I Phindile Mmola from Mpumalanga nominates hon Njadu to be the Programming Whip. I thank you.

The CHAIRPERSON OF THE NCOP: There is a nomination. Is there any seconder? Yes, hon member!

Mr K M MMOEIMANG: I am Kenny Mmoeimang from the Northern Cape.

Ke a dumela Modulasetilo! (*Translation of Setswana sentence follows.*)

[I am seconding Chairperson!]

The CHAIRPERSON OF THE NCOP: Thank you very much!

O a tlatsa moo! [Ditsheho.] (*Translation of Sesotho sentence follows.*)

[He is seconding the nomination! [Laughter.]]

We should then move on and find out if the hon member accepts the nomination.

Mr E Z NJADU: Chairperson, I humbly accept the nomination.

The CHAIRPERSON OF THE NCOP: The hon member accepts the nomination. That being the case, can we find out if there is any other nomination? There is no other nomination. That being the case, I then declare that the hon member has been accordingly elected as Programming Whip. [Applause.]

The next item is an item that members should assist us to deal with. This is a question that relates to the Rules. In order for us to do the work that we are supposed to do in this Council, we do need to

have the rules in place. This does not disadvantage members in any way whatsoever. Once we have dealt with this matter, there will be space and opportunity for members to amend or remove part of the Rules, or to add on the Rules, so that we are on a sound footing going forward.

However, the prerequisite is that we must have the Rules in place in order for us to do and handle all the business that will be put before us. So, hon members, I therefore put the question: Are the Rules ... Ja, sorry! Maybe what I should do, having introduced the issue, is to call on the Secretary to read the Order of the Day.

Ms C LABUSCHAGNE: Chair, I am not so sure about what is going on now. We didn't vote on any of the members that were proposed. Aren't we supposed to vote in the members? It cannot just be proposed; we should have voted per province. Did I miss that, before we go into the Rules? Sorry!

The CHAIRPERSON OF THE NCOP: Hon member, if I may just clarify so that we move on. Members were nominated or their names were nominated. They were duly seconded. The members did indicate the acceptance of their individual nomination. We then went on to try and find out if there were any other nominations. There were no other nominations and the members were declared then duly elected. So, I guess that is standard but they may be some wisdom that you want to give to the House.

Ms C LABUSCHAGNE: I rise on a point of order. Any question in the NCOP needs to be addressed by a vote: Whether that is one province that nominated for it or against, we cannot just interpret Rules the way we want. The person is being elected. Election means a vote has to take place whether there is no opposition vote or not. There are two questions. The one question is: Did another party put another person? No, another party didn't put the other person. The other question is: Do all the provinces vote and agree? No, all the provinces do not agree. Therefore, a vote has to be carried. Thank you.

Mr M E NCHABELENG: Hon Chairperson, I think we are in the process of conducting business of Parliament in a serious manner and if we are to do that, logic will also have to help us in the process. If there were any contending views, we would have picked them up with people raising counter nominations. The fact that there were no counter nominations means that the people seated in this House agree unanimously on the names that were raised. If anyone has got an issue, even if they have not nominated, elected or appointed, they would have raised those matters so that they can be put on record. Thank you, Chair.

Ms N P KONI: Point of order, Chair.

The CHAIRPERSON OF THE NCOP: Ja, let's hear the point of order.

Ms N P KONI: I thought when this hon member was standing on a point of order he was going to give clarity or a way forward but he is now confusing things even more. Just because we didn't participate, he must not take it for granted that it means we agree. No, maybe I should put it on record that the EFF abstained from the process. Abstained! Thank you.

The CHAIRPERSON OF THE NCOP: Nyambose, let's just open a discussion slightly. Hon members, I am just going to allow two members to speak and thereafter I will make a ruling. Yes, Nyambose! Please speak to the microphone.

Mr J M MTHETHWA: Chair, I hear what the member is raising, but she should have raised the issue when we started the process of nominations, from beginning. So, if she starts challenging these nominations now at the end of the process, then that is where I felt that the member is wrong. Therefore, we propose that let us go forward with what we are discussing because if she had any objections, she should have raised them on the first instance when we started doing this nomination process. The elections go like that. You can't challenge at the end of the process. That is my take.

The CHAIRPERSON OF THE NCOP: The DA wants to comment as well. Okay!

Mr M A NHANHA: I was elected, Chair, and I have got every right to do so. Chair, you see, I do follow the argument from my colleagues. One of my colleagues puts forward logic as the basis for his argument. Now, let's be clear: This is not a branch meeting; we don't allow logic to govern this kind of a setting. It has to be Rules. Your responsibility is to apply the Rules to the letter. The second part is that hon Labuschagne should have raised the issue at first. It is not her responsibility to apply the Rules. Two wrongs do not make a right. The fact that she did not rise initially does not actually nullify the point she made. Therefore, Chairperson, my plea to you: Logic aside; apply the Rules. Thank you.

The CHAIRPERSON OF THE NCOP: Can I make a plea, hon members? A plea really is that we should apply the Rules. Anyone else, who wants to say that there has been a flaw in the process, must use the Rule as the basis. In other words, please point us where the Rules say we shouldn't have handled the matters the way we have. Is there anyone else who can point us to the specific Rules that say that we shouldn't have gone with the process the way we have done? Hon Labuschagne.

Ms C LABUSCHAGNE: Hon Chairperson, through you, I just want to say that in Chapter 2, Rule 6: Election of Chairperson and Deputy Chairpersons: Whenever it is necessary to elect a Chairperson or a Deputy Chairperson of a Council, the Secretary must inform the Council of that fact and the Council must summarily or at time

announced by the Secretary proceed to elect according to section 64, Part A of Schedule 3.

Now, I just want to say the following: The Rule also says we have to make a decision on any question that is put before the NCOP. This is a question and I clearly stated it. First of all, there were nominations. There were no questions raised about that. Another person was not nominated. Therefore, nobody raised anything on that.

Then this question should be put before the House. The House has to accept. The minutes must reveal that the House voted on this because it elects a person according to the Rules. The question should be put. We should say yay or nay. And then we should proceed. So, only when the question is put to the House, when we are busy with other things like reports and legislation, only at that point, will the Chairperson say, it is now time for provinces to raise their declarations, to declare whether they agree or not. Then you raise and put your point forward.

So, I put up my hand at the right moment to say that we didn't vote according to that process. What would it take for this Council to do the correct thing? We don't need to fight. It's not a fight; the people will be elected and we all know they will be elected. Let us just do the right thing from the beginning. Don't look like people who don't know what they are doing. That is all I am asking for: To

be professional and to portray that we are following the Rules that we have. Thank you.

The CHAIRPERSON OF THE NCOP: Let's have hon Landsman and hon Rayi to make comments and I will try to make a ruling afterwards. Okay, hon Landsman, then hon Rayi!

Mr E R LANDSMAN: Hon Chair, I believe in the wisdom of this Secretary, who is also an advocate, and I believe that the advice he has given you is fair. I am not saying that we must not follow procedures. If the Secretary, who is an advocate that knows the Rules, says what we have done so far is according to procedure, I believe you can continue. On the same Rule which my colleague was just clarifying, there is a clause that says, "If necessary ..."

So, by virtue of the process you have followed when you opened it for all of us to say, 'Any other person ...' You gave it back to the House and the House kept quiet. The House was given a chance by the Chairperson. So, based on those facts - which are not a perception but a fact that happened today - you gave us a choice to nominate any other name from the House and we all kept quiet. Chair, there is nothing more. After your advice from the Secretary, please make a ruling.

The CHAIRPERSON OF THE NCOP: Hon Rayi.

Mr M I RAYI: Hon Chairperson, it is not the first time that we are electing in this House. On 23 May, we elected the Presiding Officers, the Chairperson, the Deputy Chairperson and the Council Whip. We used the same procedure that we are using today. That procedure which we used on 23 May was never questioned. So, this process should be treated the same way that we treated the nomination of the Chairperson of the Council, the Deputy Chair of the Council and the Whip of the Council.

The same procedure that was used then should be used on this one as well. So, I would like to request that we should go to the Order of the Day because we have already dealt with all these three positions. They were nominated, seconded and none of the three positions had a counter nomination. So the procedure that has been used is the same procedure that was used on 23 May when we elected the Chairperson, the Deputy Chairperson and the Chief Whip of the Council. Thank you very much.

The CHAIRPERSON OF THE NCOP: I guess that will really settle the matter, hon members. We have undergone the election process on the first day of the sitting of the NCOP and exactly the same procedure was followed. There is therefore no need to go back and redo the process. That being the case, I am making a ruling that we should proceed to the next item. [Applause.]

**ADOPTION OF THE RULES OF THE NCOP**

The CHAIRPERSON OF THE NCOP: The next item is the item on the Rules of the National Council of Provinces. I have given an explanation that in order for us to proceed with the business in front of us, we do need to have the Rules in place. As there is no Speaker's List, I shall now put the question that the Rules be adopted. Are there any comments from members perhaps before we go ahead. Yes, at the back!

Ms N P KONI: Chairperson of the NCOP, I just want to put it on record that the main reason that these Rules are being adopted today is to forcefully amend that Rule which says EFF members must be beaten in this House. That is the main reason you are dealing with Rules today. Others are just by the way ... But, the main reason today - it must be put on record - is that you want to legally beat us because you have been beating us illegally. So, it is okay, continue. We are not part of it; we are abstaining again. Thank you.

Ms C LABUSCHAGNE: Hon Chairperson, I just would like to know which edition of the Rules we are adopting. Are we adopting the Standing Rules - the ninth edition of March 2008? Do we adopt the existing Rules?

The CHAIRPERSON OF THE NCOP: Colleagues and hon members, the Rules are the ones that were used at the induction. Every member got a copy thereof. On the front page of these Rules, it says, "Ninth edition - March 2008". Can we proceed, members?

We shall now proceed to the voting on the question. Heads of delegation will vote by indicating whether they vote in favour, against or abstain.

Question put: That the Rules be adopted.

I now call upon the provinces in alphabetical order to indicate their vote.

Eastern Cape?

Mr M A NHANHA: Hon Chair, the Eastern Cape rises to vote in favour of the Rules.

The CHAIRPERSON OF THE NCOP: Free State?

Mr I NTSUBE: Chairperson, the province of Free State vote in favour of the Rules. Thank you very much.

The CHAIRPERSON OF THE NCOP: Gauteng?

Mr M DANGOR: Gauteng moves with the Rules.

The CHAIRPERSON OF THE NCOP: KwaZulu-Natal?

Ms L C BEBEE: Chair, KwaZulu-Natal votes in favour.

The CHAIRPERSON OF THE NCOP: Limpopo?

Ms M L MAMAREGANE: Chairperson, Limpopo votes in favour of the Rules.

The CHAIRPERSON OF THE NCOP: Mpumalanga?

Ms M P MMOLA: Chairperson, Mpumalanga votes in favour.

The CHAIRPERSON OF THE NCOP: Northern Cape?

Ms D C CHRISTIANS: Chairperson, Northern Cape votes in favour. I thank you.

The CHAIRPERSON OF THE NCOP: North West? No, re tla o bona. [we'll see you.] ... because I didn't hear.

Mr E R LANDSMAN: Chairperson, North West supports and votes in favour. Thank you.

The CHAIRPERSON OF THE NCOP: Western Cape?

Ms C LABUSCHAGNE: Western Cape supports and votes in favour.

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

The question is accordingly approved and adopted.

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

Thank you very much, members. [Applause.] This brings us to the conclusion of all of these matters. Before we close here ... Hon member!

Mr D R RYDER: Chair, now that the Rules have been adopted, I know that we were given a copy and a binder like this at the induction. In the interest of portability, can I request that all members get a nice portable copy similar to the one that you have, please?

The CHAIRPERSON OF THE NCOP: Yes, that is noted. I am sure it can be facilitated. Why don't you ... Chief Whip!

The DEPUTY CHAIRPERSON OF THE NCOP: The Chief Whip just wants us to remind members to sign the slip, please?

The CHAIRPERSON OF THE NCOP: Please sign the attendance slip. Yes, morena! [Chief.]

Mr I NTSUBE: Chairperson, Che Guevara says that, "True revolutionary is driven by a true feeling of love." As the most revolutionary militant radical progressive force of the left, the ANC in the

province of the Free State wishes to congratulate all the Chairpersons and the Programming Whip that were elected today. We wish that the elected Chairpersons and the Programming Whip will serve this House with diligence and honour. Thank you very much. [Applause.]

The CHAIRPERSON OF THE NCOP: As we move towards concluding ... Jah!

Moh N P KONI: Ga go itsiwe gore a ke ka re dira ... (*Translation of Setswana sentence follows.*)

[Ms N P KONI: Are we busy with the ...]

... complementary messages? All parties must be told. It must not only be the ANC that stands up and make a statement here. Thank you very much. [Laughter.]

The CHAIRPERSON OF THE NCOP: I have just been advised by the Table here that perhaps what we should do as we move towards closing is to ask those members who have been elected to make comments. Not really a state of the nation address; very brief comments. Can we start with the members? The first will be the Chairperson of Committees. Morena [Chief.] is there any comment that you want to make?

Mr A J NYAMBI (House Chairperson: Committees): Chair, it is a humbling experience for hon members to give us the responsibility

once again to lead the committees and oversight, as we are aware that the committees are an engine of the Parliament work. What is happening here at the plenary is everything that is coming from the committees. So, we are looking forward to working with dedication, discipline and commitment from the members.

I promise that at all times we will be efficient, disciplined and making sure that we treat all committees and expect them to attend their meetings. Five years can be long and cannot be long. As long as we prioritise and make sure that the provinces that we are representing will be proud of what we are doing. So, we are looking forward to a fruitful five years that will make the people that made us to be here to be proud of our contribution in making South Africa to be a better place. Thank you, Chairperson. [Applause.]

Ms W NGWENYA (House Chairperson: Oversight and Institutional Support): Hon Chairperson, hon Deputy Chairperson, hon Chief Whip, hon members and special delegates present, ladies and gentlemen, it is with a great sense of appreciation and pride that I accept my appointment as the House Chairperson of this esteemed House. It is a huge privilege and honour, and a great responsibility to take on this task. I will strive to do it with everything I have to the best of my ability for my party and my country. I hope, believe and pray to God that my best is enough to help this House to execute its mandate.

I have been advised and have seen through programmes such as Taking Parliament to the People and Provincial Week that this House is a House of action. I therefore want to affirm that in line with this, I will be a House Chairperson of action who talks less and does more.

Of course, this will be as part of the collective leadership, presiding under the leadership of the NCOP Chairperson, the hon Amos Masondo. I therefore want to thank my organisation the ANC and my Gauteng province for having first sent me to be a permanent delegate in this huge House of Parliament; secondly, for bestowing me with the responsibility of being one of the House Chairpersons of this House.

I want to promise both my organisation and province that I will not disappoint. I want them at the end ...

... babone ukuthi abazisoli ngokungikhetha ukuthi ngenze lo msebenzi. Kodwa kukho konke lokhu Sihlalo, kuzokwenzeka kuphela uma sisebenzisana namalungu ePhalamende aleNdlu. (*Translation of isiZulu paragraph follows.*)

[...not to regret having chosen me to do this work. However, having said all this, Chairperson, this will be possible when we work together as Members of Parliament of this House.]

Therefore, I want to call on all hon members to co-operate and support me. I am here to serve them and I can only execute my responsibilities with their help and co-operation.

I want to also thank all stakeholders and I am looking forward to a fulfilling relationship with all of them.

The CHAIRPERSON OF THE NCOP: I am sure the hon member is nearing towards closing here.

Ms W NGWENYA: Thank you, Chair. [Applause.]

The CHAIRPERSON OF THE NCOP: Thank you very much. We will then move over to the Programming Whip. Morena. [Chief.]

Mr E Z NJADU (Programming Whip): Chairperson, let me use this opportunity first to thank the members for the confidence they have in me. Programmes of committees are very important and therefore for us, working together will ensure proper co-ordination, effective and efficient implementation. Therefore, I thank ... and I will give my full commitment to make sure that the business of the day is executed. Thank you very much. [Applause.]

The CHAIRPERSON OF THE NCOP: Hon members, do the parties also wish to make comments?

No. Everybody is happy. Thank you very much. [Applause.]

Just a reminder, the Select Committee on Land Reform reconvenes immediately after the House adjourns. This is the message that is very, very important that comes from the Chief Whip. That being the case, hon members, at this point we conclude the business of the day. Members are requested to remain standing until the procession has left the House. Thank you very much.

The Council adjourned at 12:47.

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