

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

TUESDAY, 20 AUGUST 2019

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ANNOUNCEMENTS**National Assembly****The Speaker****1. Referral to Committees of papers tabled**

- (1) The following papers are referred to the **Portfolio Committee on Basic Education**:

- (a) Agreement between the Republic of South Africa and the Republic of Angola on cooperation in the field of Basic Education in terms of section 231 (3) of the Constitution of the Republic of South Africa, 1996.
- (b) Agreement between the Republic of South Africa and the Republic of Cuba on cooperation in the field of Basic Education 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 Republic of France on cooperation in the field of Basic Education 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 Kenya on cooperation in the field of Basic Education in terms of section 231 (3) of the Constitution of the Republic of South Africa, 1996.

2. Membership of Committees

- (1) The following membership changes have been made by the African National Congress:

Portfolio Committee on Police

Appointed: Faku, Ms P [Alternate]

Portfolio Committee on Human Settlements, Water and Sanitation

Appointed: Seoposengwe, Ms C [Alternate]

Portfolio Committee on Social Development

Appointed: Hlongo, Ms AS [Alternate]

Committee on the Auditor-General

Appointed: Seoposengwe, Ms C

Appointed: van Schalkwyk, Ms SR

Appointed: Peter, Mr ZJ [Alternate]

Portfolio Committee on Public Service and Administration

Appointed: Malomane, Ms VP [Alternate]

Portfolio Committee on Communications

Appointed: Faku, Ms P

Portfolio Committee on Mineral Resources and Energy

Appointed: Mgweba, Ms T [Alternate]

TABLINGS

National Assembly and National Council of Provinces

1. The Speaker and the Chairperson

- (a) Monthly Financial Statements of Parliament – July 2019, tabled in terms of section 54(1) of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No 10 of 2009).

2. The Minister of Public Enterprises

- (a) Integrated Report of Eskom Holdings SOC Limited for 2019.
- (b) Report and Financial Statements of Eskom Holdings SOC Limited for 2018-19, including the Report of the Independent Auditors on the Financial Statements and Performance Information for 2018-19.

National Council of Provinces

1. The Chairperson

- (a) TABLING OF AN INVESTIGATION REPORT IN TERMS OF SECTION 106(4)(b) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 2000 (ACT NO 32 OF 2000), ON ALLEGATIONS OF IRREGULARITIES OCCURRING WITHIN THE MAQUASSI HILLS LOCAL MUNICIPALITY, NORTH WEST PROVINCE.

Referred to the **Select Committee on Cooperative Governance and Traditional Affairs, Water and Sanitation and Human Settlements** for consideration and report.

COMMITTEE REPORTS

National Council of Provinces

1. Report of the Select Committee on Cooperative Governance and Traditional Affairs, Water and 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 Amahlathi Local Municipality, dated 20 August 2019

1. Background and Overview

1.1 The Select Committee on Co-operative Governance and Traditional Affairs, Water and 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 Amahlathi Local Municipality in terms of section 139(1)(b) and (5) 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 Eastern Cape MEC for Cooperative Governance and Traditional Affairs (CoGTA), to the Select Committee for consideration and reporting. On 15 August 2019, the Select Committee conducted a loco inspection in Amahlathi Local Municipality.

2. Objective of the Loco Inspection in Amahlathi 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 K Motsamai (EFF) Gauteng; Hon SE Mfayela (IFP) KwaZulu-Natal; Hon EM Mthethwa (ANC) KwaZulu-Natal; Hon S Shaikh (ANC) Limpopo; Hon MP Mmola (ANC) Mpumalanga; Hon S Zandamela (EFF) Mpumalanga; Hon AB Gxoyiya (ANC) Northern Cape; Hon TSC Dodovu (ANC) North West;
- Hon C Visser (DA) North West; Hon IM Sileku (DA) Western Cape; Mr TM Manele Committee (Secretary: Committee Section); Mr N Mfuku (Content Adviser: Committee Section); Mr B Mahlangeni (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 Amahlathi Local Municipality

- 4.1 On 15 August 2019, the multi-party delegation of the Select Committee interacted with the MEC and Administrator of the Department of CoGTA, representatives of the African National Congress (ANC), Democratic Alliance (DA), Economic Freedom Fighters (EFF), representatives of the South African Local Government Association (SALGA), Organised labour, South African Civic Association (SANCO), Religious Group, Traditional Leaders, Concerned Group, United Youth Movement, South African Youth Council, Provincial Treasury and the Business Forum.
- 4.2 The departmental official made a presentation on the constitutional, procedural and substantive reasons for the intervention. The representatives of the internal and external stakeholder of the Municipality tabled their opinions on the invocation of the intervention in terms of section 139(1)(b) and (5) of the Constitution in the Municipality, as tabled by the MEC for CoGTA.

5. Presentation by the MEC for (CoGTA)

- 5.1 The MEC for CoGTA made a presentation on the status of intervention in the Municipality. The departmental presentation focused on the background, investigation

conducted by the department, protests and violence in the Municipality, developments and changes in the political leadership, executive failures of the Council, procedural steps undertaken by the department and the terms of reference of the Administrator.

6. Background

6.1 The Amahlathi Local Municipality started experiencing upheavals and disruption in service delivery as from March 2017, due to a standoff between the workers and the leadership of the Municipality. The key issues that led to the standoff between the employer and the employees, was due to a disagreement as a result of an unfulfilled obligation in the implementation of a “standardisation” process that involves an exercise of correcting disparities that existed in the task grades of workers. This tension in the institution was followed by the closure of the national road (N6) that passes through the Municipality, which was barricaded by burning of tyres. Subsequent to this, a petition was submitted to the Department of CoGTA for the attention of the MEC, demanding answers to the progress of the process as well as outlining a series of other demands.

6.2 The Department assembled a task team of officials to scope the allegations and concerns. Emanating from the scoping exercise, the MEC held a series of meeting with the political leadership, management and organised labour of the Municipality, with a view to assist the Municipality by developing a work-process plan that will be approved by the Council to address all the issues in the petition.

7. Investigation Conducted by the Department

7.1 In the processes of interrogating the complaints, the Department realised that there were enough reasons to believe that the Municipality has not fulfilled its statutory obligations, and that there were indications of maladministration, fraud, corruption and other serious malpractices occurring in the municipality. The Department initiated an investigation and further requested the Minister of National Treasury to assist, by conducting a forensic investigation into the affairs the Municipality.

7.2 The Department conducted an investigation and on the 22 June 2018, the MEC presented a report to the Municipal Council, outlining the findings and

recommendations of the investigation. The Municipal Council ignored the report in its entirety, and the recommendations were never implemented. The blatant disregard of the report from the Department and continued flouting of various legal process in performing municipal work, resulted in the eruption of new demonstrations that were initiated by the entire community of the Municipality.

8. Protests and Violence at the Municipality

8.1 When violence started, the leadership of the Municipality was not proactive in managing and stabilising the situation. This led to the protesters forcing the Municipality and businesses to close down. The residence recorded their dissatisfaction and loss of faith in the Council, ruling party and entire government in resolving the crisis that was prevailing in the Municipality.

8.2 As water and electricity were cut, the protesters made allegations of undue influence on the administrative municipal process by the councillors, irregular appointment and nepotism, unauthorised, irregular, fruitless and wasteful expenditure, ineffective communication and stakeholder engagement and non-implementation of the findings and recommendations contained in the investigation report conducted by the Department of CoGTA.

9. Developments and Changes in the Political Leadership.

9.1 In light of the new developments, the Department assembled a team and initiated another investigation. Subsequent to this, another report based on the new allegations was developed and was tabled by the MEC to the Council on the 4th February 2019. The result of the reshuffling led to the total change of the troika and changes in the executive committee of the Municipality. The municipality has now a new leadership, and it is under this leadership that the Council in its sitting of February 2019, made an analysis of the state of affairs in the Municipality and resolved to write to the Department acknowledging its failures in executing its executive obligations, and thus requested for section 139(1)(b) and (5) intervention.

- 9.2 The Department received a letter dated 4 February 2019 requesting for the invocation of section 139(1)(b) and (5) intervention from the Municipality. The letter stated “cash flow challenges” that are experienced by the Municipality as the main reason for the request of the intervention, and attributed that to unfavourable decisions that were implemented in the past having a negative impact on the financial viability of the institution.

10. Executive Failures of the Municipal Council

- 10.1 The Municipality is currently operating with an unfunded budget which was approved by the Council. The Council approved a standardisation process that was not well researched, and thus leading to the Municipality having a salary bill that is above the norm of 35%.
- 10.2 The revenue collection of the Municipality is at 80%, instead of the expected level of 98%. The council was not making any efforts towards encouraging community as they are not making any payments towards rates and services. There is a very low spending rate on the grants that are meant for service delivery and as a result, the Municipality is at risk of losing these grants. The Municipality instead of increasing revenue collection, it is depleting its reserves. There is an increase in irregular expenditure which is currently going for R90 million. The Municipality is owing Eskom R2,5 million.

11. Terms and Reference of the Administrator

- 11.1 An Administrator has been appointed by the Department for a period of 6 months to perform the following functions:
- Ensuring implementation of financial systems, policies and procedures, including preparation and implementation of cost-cutting measures in order to reduce and ultimately complete the process of paying prior year creditors, increase revenue collection and related matters.
 - Must be a compulsory signatory on the Municipality’s primary bank account, and other bank accounts that the Municipality may operate.

- Establish and act as a 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.
- Ensuring that the IFC meets regularly to monitor the cash flow position, payments approved and disapproved and commitments made via approved purchased order.
- Ensure the implementation of all projects undertaken by the Municipality, including unblocking projects that have stalled.
- Must opened and conclude negotiations with creditors of the Municipality, including applications of processes envisaged in sections 152 and 153 of the Municipal Finance Management Act, (Act 56 of 2003).

12. Presentation by the Administrator on the Implementation of the Intervention in the Municipality

12.1 The Administrator presented a report on the implementation of section 139(1)(b) and (5) of the Constitution in the Municipality. The presentation focused on the introduction, existing challenges, progress and areas in the terms of reference:

13. Introduction

13.1 The intervention was done in terms of section 139(1)(b) and (5) of the Constitution of the RSA. The intervention was done following unsuccessful section 154 support by the Provincial CoGTA. There were serious issues of instability in the Municipality whose root cause are: Depleted financial resources; Community protest which resulted in the torching of the Municipality; Service delivery shutdown; Closure of municipal offices and political instability.

14.1 Existing Challenges

14.1 There are serious financial problems, as a result the Municipality was unable to pay May and June 2019 salaries. There is a likelihood that in September to November 2019, there will be no cash to pay salaries. The Municipality is unable to meet its immediate financial commitments with the majority of its creditors. The workspace remains a serious challenge for the Municipality.

- 14.2 The billing for July 2019 has been delayed by the shutdown of the Amathole District Municipality. The approved budget is not funded. There is a serious lack of tools of trade for staff and councillors. There are continued break-ins in the existing municipal buildings. Further, there was no sitting of the Local Labour Forum and MIG funds were not fully utilised and major projects were brought into a standstill. This led to unspent funds taken back to the national revenue fund.

15. Progress on the Implementation of Intervention

- 15.1 Management of critical stakeholders has been done and meetings are sitting on a regular basis. Council meetings and Committees are sitting as scheduled, Management Committee and statutory committees sit as scheduled, as well as the Local Labour Forum.
- 15.2 The IDP and budget were approved, and the SDBIP was signed by the Mayor and submitted, and 2019/20 Strategy Training of Councillors on Rules of Order has been conducted, Work streams with the CoGTA Support team were sitting.

16. Areas in the terms of reference

- 16.1 To ensure that the Labour Forum is established and is functional; identification of employee cost drivers and determine best ways to lower the costs; development of a functional structure to determine an effective organogram, and to review policies.
- 16.2 Cost-containment measures are currently being reviewed to take into account the Regulations issued by National Treasury in April 2019; Financial Turnaround Plan was tabled with the MTREF Budget for 2019/22 debt incentive scheme has been approved by Council to boost revenue collection; Revision of the Tariffs was going to be conducted in the current financial year and the development of a financial recovery plan was in progress.

16.3 The Administrator was also task to establish the possibility for the reversal of standardisation, to review the organisational structure and future packages of middle management and supervisors and to have a new indigent register.

17. Opinions of Political Parties and Stakeholders of the Municipality

17.1 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:

18. Opinion of the African National Congress (ANC)

18.1 The representative of the ANC welcomed and supported the PEC's decision to invoke the intervention in the Municipality and the progress made by the Administrator. The representative acknowledged the existence of factions with the party and the determination and commitment to deal with factions and all those implicated in the SIU Report.

19. Opinion of the Democratic Alliance (DA)

19.1 The representative of the DA tabled an opinion that supported the intervention. However, concerns were raised with late payment of ESKOM account. The representative emphasised the need for the investigation report conducted by the Provincial Department of CoGTA to be released.

20. Opinion of Economic Freedom Fighters (EFF)

20.1 The representative of the EFF tabled an opinion that supported the intervention, and further raised concerns on the lack of financial support to the municipality, political factions, use of non-governmental organisations by political factional group, misuse of municipal vehicles councillors and officials, SIU investigation and the requirement for the Municipality to pay for the release of investigation report.

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

21.1 The representative of SALGA supported the intervention in the Municipality. The representative indicated that the Association has been instrumental in providing support to municipalities in the Province including the Amahlathi, on matters related good governance, professionalism and capacity building to the elected leadership of the municipalities. SALGA advised that the divisions within the Municipality should be contained, and the intervention should be accompanied by financial support.

22. Opinion of the South African National Civic Organisation (SANCO)

22.1 SANCO tabled an opinion that supported the intervention in the Municipality, and welcomed the deployment of the Administrator by the MEC for CoGTA. The representative stressed the importance of developing a sober political approach to ensure municipal stability. Concerns were raised with regard to promotion of chaos and the sabotaging of municipal meetings. The representative appealed to the political party whose councillors were implicated in the investigation conducted by the Department of CoGTA, to act against those councillors implicated. Noting the municipal challenge of office spaces, the representative emphasised the need to decentralize municipal offices and consider the vacant offices at Cathcart.

22.2 In its written submission, SANCO indicated that Keiskammahoek has got a high rate of crime and they recommended that the police station must be extended and must have big holding cells and also believe this will employ more police officers and they also recommended that the need for high mast lights.

23. Opinion of Traditional Leaders

23.1 The representative of the traditional leaders welcomed the visit of the Select Committee to the Municipality and engagement with the stakeholders. The representative appealed that there should be consequences on all wrong doing and people implicated in acts of corruption in the Municipality.

24. Opinion of the South African Municipal Worker Union (SAMWU)

24.1 The representative of the Union tabled an opinion the supported the invocation of section 139(1)(b) and (5) of the Constitution. The Union representative indicated that they have played a key role in mobilizing and calling for the intervention in the Municipality. Since then, 40 of its members were arrested for exposing corruption. The Union was of the opinion that some of the councillors were working towards collapsing the Municipality.

25. Opinion of the Religious Group

25.1 The representative of the religious group welcomed intervention and the visit of the NCOP Select Committee. However, concerns were raised about the establishment of the municipal Crisis Committee, burning of police station, hospital, schools, drugs within the community and non-provision of basic services such as water and electricity.

26. Opinion of the United Youth Movement

26.1 The representative of the Youth Movement raised concerns about political factions within the Municipality, the interference of the Crisis Committee in the Council, and alleged that the Mayor was inciting violence and dividing the community.

27. Opinion of the South African Youth Council (SAYC)

27.1 The representative of the SAYC indicated that they are not in a position to argue whether or not the decision to intervene in the Municipality was necessary, because of their limitation of knowledge regarding what necessitated that decision. However, they confidently argued that the intervention has not made any strides towards progress and financial recovery of the Municipality. SAYC believed that the contributing factor to the bloated organisational structure, was because everyone wanted to have their relatives employed, hence the illegal decision to re-instate the suspended 8 workers who were being investigated

27.2 The written submission of SAYC argued that the Municipality finds itself in crisis because of an illegal and irresponsible decision of standardisation, which was taken by the council, and continues to cripple municipal finances has not been reviewed until

now. The submission further argued that whether the NCOP approves or not the intervention, the Municipality has dysfunctional and incompetent Council that can no longer be trusted with the function of playing oversight to the Municipality. Hence SAYC recommended that the council should be dissolved.

28. Business Forum

- 28.1 The representative of the Business Forum raised concerns about the problem of security, closure of the Traffic Department, non-supply of electricity, poor service delivery, poor rubbish collection and the possibility of losing investors.

29. Rate Payers Association

- 29.1 The representative of the Association raised concerns on the non-payment of Eskom, illegal employment of municipal employees, non-collection of rubbish in the community, and non-visibility of traffic officials

30. Concerned Group

- 30.1 The representative of the concerned group raised concerns about the municipal council failure to implement plans, lack of reporting on the implementation plan by CoGTA, level of corruption with the Municipality, failure to deal with issues raised in the youth petition. The representative stressed the importance of the Municipality in convening a meeting of sector departments to discuss issues contained in the youth petition.

31. Select Committee Observations and Opinion

- 31.1 The Select Committee has noted on procedural and constitutional matters, that the Minister for CoGTA was notified within 14 days of the invocation of intervention in terms of section 139 of the Constitution in Amahlathi Local Municipality. The Minister approved the intervention within 28 days as prescribed by the Constitution in a letter to the Eastern Cape MEC for CoGTA dated 1st April 2019.

- 31.2 The Eastern Cape MEC for CoGTA tabled the notice of intervention issued in terms of section 139(1)(b) and (5) of the Constitution to the Chairperson of the NCOP on 1st April 2019.
- 31.3 The Select Committee has generally observed and noted that all statutory bodies (Minister, NCOP, Eastern Cape Provincial Legislature, SALGA and the Executive Mayor of the District), were notified about the intervention at the Amahlathi Local Municipality within the legislated time frame.
- 31.4 Furthermore, the Select Committee has observed that MEC for CoGTA has appointed an Administrator for a period of six months, subject to review with clear terms of reference and the Administrator has assumed duties on 04 March 2019 and was introduced to the municipal council and stakeholders on the same day of resumption of duties.
- 31.5 The Select Committee condemned the burning of municipal property and the allegations of some councillors doing business with the Municipality. Regardless of the grievances people may have, violent protests only aggravate the challenges communities face and has no place in a democratic South Africa.
- 31.6 The Select Committee has however noted and welcomed the intervention progress made by the Administrator in respect of the establishment of Labour Forum, identification of the employees cost driver, determination of organogram, tabling of financial turnaround plan with the MTREF Budget for 2019 and the approval by the Council of debt incentive scheme to boost municipal revenue collection.

32. Recommendations

- 32.1 Having conducted the oversight visit to Amahlathi Local Municipality and interacted with internal and external stakeholders, the Select Committee on Cooperative Governance and Traditional Affairs recommends as follows:
- 32.1.1 The NCOP approves the intervention in Amahlathi Local Municipality in terms of section 139(1)(b) and (5) of the Constitution.

- 32.1.2 The Eastern Cape MEC for CoGTA should table the departmental investigation report, implementation plan and the forensic investigation report in terms of section 106 of the Local Government: Municipal System Act (Act 32 of 2000) to the NCOP, after tabling it to the Municipal Council of Amahlathi Local Municipality.
- 32.1.3. The Eastern Cape MEC for CoGTA in collaboration with the National Minister for CoGTA should provide continuous support in terms of section 154 of constitution and other relevant prescript to the Local Municipality
- 32.1.4. In respect to those councillors who are not attending Council meetings in Amahlathi Local Municipality, the Speaker of the Municipality should enforce the Code of Conduct for councillors, contained in the Municipal Systems Act, to ensure accountability.
- 32.1.5. The Administrator should fast-track the process of reviewing the reversal of the standardisation process, as stipulated by the Terms of Reference appointing the Administrator; review the organisational structure and future packages of middle management and supervisors, as well as the indigent register.
- 32.1.6. The Administrator should focus on the implementation of terms of reference and facilitate visits to performing municipalities in order to learn best practices and sharing of knowledge.
- 32.1.7. The administrator should provide quarterly reports to the select committee on progress made in respect of the implementation of the intervention in the municipality.
- 32.1.8. The Eastern Cape MEC for CoGTA should facilitate the process of sharing with all the internal and external stakeholders of the Municipality, this report of the Select Committee, immediately after the National Council of Provinces has considered it.

32.1.9. The Select Committee on Co-operative Governance and Traditional Affairs, in co-operation with the relevant Portfolio Committee in Eastern Cape Provincial Legislature, should after 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 and Sanitation and Human Settlements Inspection in Loco on Notice of Intervention issued in terms of section 139(1)(b) of the Constitution (1996), in Richmond Local Municipality, dated 20 August 2019

1. Background and Overview

1.1 The Select Committee on Cooperative Governance and Traditional Affairs, Water and 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 Richmond 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 14 August 2019, the Select Committee conducted a loco inspection in Richmond Local Municipality.

2. Objective of the Loco Inspection in Richmond 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's delegation was composed of the following Members of Parliament and officials: Hon K Motsamai (EFF) Gauteng; Hon SE Mfayela (IFP) KwaZulu-Natal; Hon S Shaikh (ANC) Limpopo; Hon M P Mmola (ANC) Mpumalanga; Hon S Zandamela (EFF) Mpumalanga; Hon AB Gxoyiya (ANC) Northern Cape; Hon TSC Dodovu (ANC) North West; Hon C Visser (DA) North West; Hon IM Sileku (DA) Western Cape; Mr TM Manele (Committee Secretary: Committee Section);

Mr N Mfuku (Content Adviser: Committee Section); Mr B Mahlangeni (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 Richmond Local Municipality

4.1 On 14 August 2019, the multi-party delegation of the Select Committee interacted with the MEC and senior officials of the Department of CoGTA in KwaZulu-Natal, representatives of the African National Congress (ANC), Democratic Alliance (DA), Economic Freedom Fighters (EFF); and the representative of the South African Local Government Association (SALGA), South African Municipal Workers Union (SAMWU), the Department of Human Settlements, the Department of Water and Sanitation, uMgungundlovu District Municipality, Amakhosi, Farmers Association, and the Business Chamber.

4.2 The departmental official made a presentation on the constitutional, procedural and substantive reasons for the intervention. The representatives of the internal and external stakeholder of the Municipality tabled their opinions on the invocation of section 139(1)(b) of the Constitution in the Municipality, as tabled by the MEC for CoGTA.

5. Presentation by Department of CoGTA

5.1 The Department of CoGTA made presentation on the status of intervention in the local Municipality. The presentation focused on the background, substantive reasons for the

intervention, support measures prior to the invocation of section 139, resolution of the Provincial Executive Council (PEC) including the terms of reference, procedural matters and key factors impacting on the intervention.

6. Background

- 6.1 As far back as December 2017, allegations of maladministration, fraud and corruption surfaced against the Director Technical Services, while criminal charges were brought against the Chief Financial Officer (CFO) who were suspended by the Municipality in February and May 2018 respectively. In July 2018 the Municipal Council sought to suspend the Municipal Manager (the MM) who turned to the courts.
- 6.2 Labour protests and work stoppages, primarily against the MM, took place during August 2018 lasting until January 2019. The Auditor-General (the AG) was unable to complete the 2017/18 financial year audit, citing safety concerns arising from the instability at the Municipality and protracted legal disputes between the MM and the Council. The Council and the MM were communicating conflicting messages to the AG. Furthermore, allegations of maladministration, fraud and corruption were brought to the attention of the Department, and an investigation in terms of section 106 of the Local Government: Municipal Systems Act (Act 32 of 2000) was instituted by the MEC.
- 6.3 The Municipality's financial management deteriorated as a result of poor leadership and governance, with the Municipality regressing to an adverse audit opinion in the 2017/18 financial year. The Department supported and facilitated various mediation meetings with numerous stakeholders over a period of one year including, meetings with officials, councillors/council itself, the AG, whistle-blowers and law enforcement agencies, amongst others. Despite guidance, advice and support in terms of section 154 of the Constitution by the Department, the Municipality remained dysfunctional and regressed in financial management, oversight and governance.
- 6.4 There were failures at the Municipality which warranted drastic steps because they remained uncorrected by the Municipality, which was resorting to legal battles to deal with personal and political differences within the Municipality. As the result, 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.

7. Substantive Reasons for Intervention in terms of section 139(1)(b) of the Constitution

7.1 The Department of CoGTA presented the substantive reasons for intervention in the Municipality. The reasons for the intervention focused on service delivery, good governance, institutional matters and sound financial management

8. Service Delivery and Reasons for the Intervention

8.1 The Municipality was identified as a candidate for stopping of the Municipal Infrastructure Grant (MIG) in December 2018, having failed to expend 40% of their 2018/19 MIG allocation by 31 December 2018. It was required to submit representations to the National Treasury in January 2019, and the Municipality's remedial action plan was accepted and the MIG funds were not stopped.

8.2 The submission of claims and commitments for 2019/20 in January 2019, alleviated concerns over Richmond's MIG implementation. However, the Municipality still experienced delays in grant related payments to service providers (< 60 days) and submission of "Proof of Payment" to the Provincial MIG office. Despite support, the municipality still struggled due (in the main) to internal political and administrative squabbles.

8.3 The municipality's INEP programme was littered with allegations and counter allegations of maladministration fraud and corruption which negatively impacted the ability of the municipality to spend its allocated funding. The machinery and plant that the municipality had been using to maintain streets in the town of Richmond and access roads in rural areas ground to a halt due to lack of maintenance.

9. Good Governance and Institutional Matters

- 9.1 The Mayor suffered a major illness in January 2018 and the Municipal Council resolved in March 2018, to grant the Mayor sick-leave until he had fully recovered to return to his duties. The Municipal Council also resolved at that same meeting that the Deputy Mayor would fulfil the duties of the Mayor while he was on sick-leave. It was established that even though the Mayor had not recovered satisfactorily, he would come to the office on an *ad hoc* basis.
- 9.2 The Mayor presented himself at one of the meetings convened by CoGTA to attempt to resolve disputes, and disputed the fact that there was an Acting Mayor and contradicted the decisions of Council on the suspension of the MM. He also indicated in writing that he was still the Mayor and was never consulted about the decisions of Council in respect of the purported suspension of the MM. This precipitated a crisis where the Deputy Mayor was unsure whether she was empowered to perform Mayoral duties while the Mayor was unavailable.
- 9.3 The MM lodged court papers in July 2018 disputing her suspension as well as the fact that the Mayor was not in a position to fulfil his Mayoral duties. The court heard the matter in July, as well as in August and October 2018 where the court issued an interim court order barring the suspension of the MM as well as the alleged “side lining” of the Mayor. In October 2018, the MEC sought to intervene in the court matter and the court gave the MEC the opportunity until the 30th of November 2018 to mediate the disputes in Richmond, failing which the parties would return to court for the matter to be ventilated. The mediation failed and the MEC filed an affidavit to that effect.
- 9.4 By December 2018, the Municipal Council took a decision to remove the Mayor citing the fact that he was unavailable to perform his duties. The decision was subsequently reversed and to date the Deputy Mayor is performing the functions of the Mayor whilst the Mayor is recuperating. The Council sought to suspend the MM in July 2018. However, CoGTA intervened in the matter, because the process that was followed by the Municipal Council was flawed. The flaw was that the Speaker, instead of the Mayor, tabled the allegations against the MM in Council.
- 9.5 Another meeting was held where the Municipal Council rescinded its earlier decision and resolved to again put the MM on notice of intention to suspend, with the Deputy

Mayor presenting the allegations against the MM in line with the requirements of section 49(2) of the Municipal Structures Act, due to the absence of the Mayor. The allegations against the MM ranged from intimidation of staff, to failure to perform her duties as Accounting Officer, as well as alleged acts of maladministration, fraud and corruption.

10. Sound Financial Management

- 10.1 The AG issued an adverse opinion on the 2017/18 Annual Financial Statements (AFS), which was indicative of a regression when compared to the previous financial years. The regression of the audit opinion was due to the key positions being challenged, particularly that of Municipal Manager. The 2017/18 financial statements indicates that the unauthorised, irregular and fruitless and wasteful expenditure increased by 501%, when compared with the previous financial year. Irregular expenditure increased from R286,334 to R80 million. Unauthorised expenditure increased from R27 million to R67 million, and there was no fruitless and wasteful expenditure reported. The contracted services as a percentage of operating expenditure was calculated at 24%, which is above the National Treasury norm of 2% - 5%.
- 10.2 The consumer debtors increased by 42% when compared with the previous financial year. Debtors outstanding for more than 90 days' amounts to 92% of the total debt, which was an indication that the Municipality failed to collect its outstanding debt. The Municipality's operating performance had regressed significantly, evidenced by a reduction in cash and reserves by a total of R50 million, with the Municipality closing on a deficit as reported in the audited annual financial statements for 2017/18. This was determined when comparing financial performance for 2016/17 and 2017/18 financial years, reflecting that the Municipality regressed from a surplus of R22 million to a deficit of R28 million.

11. Support Measures by Department of CoGTA Before the Intervention

- 11.1 The Department mediated labour strikes with the support of SALGA (the strikes commenced as far back as December 2017). The Department met with the unions, management and the council on numerous occasions, in an attempt to facilitate the resolution of the differences.

- 11.2 The Department mediated the dispute between the MM and Council even before it landed in court. When the dispute between the MM and the Council landed in court, the Department sought court permission to intervene in the court matter and held numerous meetings with the parties.
- 11.3 The Department facilitated the return of the AG to site, following their pull-out citing safety concerns. The Department was on-site on several occasions to assist the Municipality when it was facing several public protests on service delivery and in respect of the MM matter.
- 11.4 The Department, together with the 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
- 11.5 The Department facilitated the secondment of the current Acting-Municipal Manager, who is an employee of uMgungundlovu District Municipality. The MEC authorised the investigation of allegations of maladministration, fraud and corruption when such were brought to the attention of the Department.
- 11.6 Both the Department and the Provincial Treasury conducts monthly and quarterly assessments of the finances of the Municipality, and feedback is provided. The Department supported the Municipality in turning around its MIG expenditure, thus averting the stoppage by the National Treasury.

12. Resolutions of the PEC and Terms of Reference of the Administrator

- 12.1 On the basis of the serious challenges prevailing at the Municipality at the time, the PEC resolved to intervene in terms of section 139(1)(b) of the Constitution, at Richmond Municipality on 13 March 2019, by assuming the functions specified in terms of sections 51, 54A and 56 of the Municipal Systems Act. The PEC also authorized the MEC for CoGTA to appoint a suitably qualified person to implement the following terms of reference:

- Ensuring the implementation of financial systems, policies and procedures including preparation and implementation of cost-cutting measures.
- Implement governance systems and procedures, including oversight over the administration, ratification of decisions taken by the Municipal Council, the Executive Committee, Committees, MM and section 56 Managers in terms of delegated or original authority.
- Ensuring the implementation of findings arising from any investigations into fraud, maladministration or corruption.
- Ensuring implementation of remedial action plans dealing with negative findings from the AG, including consequence management against managers and officials found to have caused unauthorized, irregular, fruitless and wasteful expenditure.
- Being a compulsory signatory on the Municipality's primary bank account and any other bank accounts that the Municipality may hold.
- Establishing, and serving as chairperson of an Interim Finance Committee (IFC) to monitor and manage the cash flow of the Municipality, approve or disapprove purchase requisitions and to ensure that the Municipality's cash position is not overdrawn and ensure that the IFC meets regularly and reports fortnightly to the Executive Committee of Council.

13. Presentation on the Financial Recovery Plan by the Administrator

- 13.1 The Administrator presented the financial recovery plan to the delegation of the Select Committee and the stakeholders of the Municipality. The presentation focused on the progress made in respect of the invocation of section 139(1)(b) of the Constitution in the Municipality.

14. Opinions of Political Parties and Stakeholders of the Municipality

14.1 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:

15. Opinion of the African National Congress (ANC)

15.1 The representative of the ANC welcomed and supported the PEC's decision to invoke section 139(1)(b) of the Constitution in the Municipality, and the progress made by the Administrator. The representative however, raised concerns with regard to municipal financial crisis, allegations of fraud by the CFO, intimidation of junior officials by the MM, protests actions within the municipality, using of consultants to over-charge the municipality and Municipal Manager misleading the Council.

16. Opinion of the Democratic Alliance (DA)

16.1 The representative of the DA tabled an opinion that supported the intervention. However, concerns were raised with regard to non-implementation of projects, recurrence of vandalism, non-implementation of council decisions, appointments of officials without qualifications. The representative then stressed the need to conclude allegations of corruption cases within the municipality.

17. Opinion of the Economic Freedom Fighters (EFF)

17.1 The representative of the EFF tabled an opinion that supported the intervention, and further raised concerns about unemployment with the local municipality, non-completion of projects at ward levels, misuse of municipal vehicle by the children of the Mayor who is on sick leave. The representative further emphasized to importance of fast-tracking the process of the disciplinary hearing of the suspended MM.

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

18.1 The representative of SALGA tabled an opinion that supported the intervention in the Municipality, and welcomed the financial recovery plan developed by the Administrator. The representative however, stressed the importance of ensuring that the

financial recovery plan addresses the findings of the AG on the performance audit of the municipality and the oversight role of the Municipal Council. An observation was made on the Municipality's tolerance towards wrong doing and inadequate control systems in place.

19. Opinion of Traditional Leaders

19.1 The representative of the traditional leaders tabled an opinion that supported the intervention, and welcomed the progress made by the Municipality more especially with regard to the participation of the traditional leaders in the municipal programmes and the Council. Emphasis were made on cooperation and working together, in order for the Municipality to move forward.

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

20.1 The representative of the Union tabled an opinion the supported the invocation of section 139 (1) (b) of the constitution. The representative further raised concerns with regard to the intimidation of junior officials due to the presence of the body guards of the municipal manager, lack of salary parity, nepotism, and unequal treatment of the employees within the administration. The representative then emphasised the importance of fast-tracking the process of job evaluation and engagement with the senior management of the municipality.

21. Opinion of Farmers Association and Agricultural Society (FAAS)

21.1 The representative of the Farmers' Association and Agricultural Association supported the intervention. However, concerns were raised with regard to poor service delivery, safety and security, dysfunctionality of the robots, non-implementation of waste management programmes and lack of traffic officials.

22. Select Committee Observations and Opinion

22.1 The Select Committee has noted on procedural and constitutional matters that the Minister for CoGTA was notified within 14 days of the invocation of intervention in

terms of section 139(1)(b) Constitution in Richmond Local Municipality. The Minister approved the intervention within 28 days as prescribed by the Constitution. The Chairperson of the NCOP was notified of the intervention on 29 March 2018.

- 22.2 In terms of the Back to Basics Programme, the Municipality is categorised as financially dysfunctional. These are municipalities that are struggling to deliver on a number of their mandates and which are financially distressed. The CoGTA MINMEC resolved to prioritise the Financially Distressed and Dysfunctional municipalities and to identify practical and sustainable support and intervention measures.
- 22.3 The Select Committee has further noted that the MEC for CoGTA in KwaZulu-Natal met with the Municipal Council on 20 March 2019, to advise the Municipal Council of the decision of the PEC to intervene at the Municipality.
- 22.4 Furthermore, the Select Committee has observed that the MEC for CoGTA has appointed a Ministerial Representative who has prepared a Recovery Plan, which was approved by the Municipal Council. The Recovery Plan focuses on the three critical areas namely: Governance including Institutional Matters, Financial Recovery & Service Delivery Matters.
- 22.5 On implementation matters, the Select Committee has noted that the Department of CoGTA coordinates monthly Steering Committee meetings to monitor the implementation of the resolution of the PEC and to coordinate support to the Municipality. Members of the Steering Committee includes representatives from National Department of Cooperative Governance, Provincial Treasury, SALGA amongst other representatives.
- 22.6 Despite the progress made in respect of the implementation of the intervention, the Select Committee has noted with concerns the allegations of corruption, fraud, misuse of municipal vehicle, slow pace with the process of disciplinary cases, misleading of Council by the senior officials, non-completion of projects as well as non-implementation of Council decisions.

23. Recommendations

23.1 Having conducted the oversight visit to Richmond Local Municipality and interacted with internal and external stakeholders, the Select Committee on Cooperative Governance and Traditional Affairs recommends as follows:

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

23.1.2 The KwaZulu-Natal MEC for CoGTA should table the forensic investigation report in terms of section 106 of the Local Government: Municipal System Act (Act 32 of 2000) to the NCOP, after tabling it to the Municipal Council of the the Municipality.

23.1.3 In respect to consequence management, all cases of unauthorised expenditure incurred by the Municipality should be investigated to determine if any person is liable for the expenditure, as required by section 32(2)(a) of the MFMA. Equally, all cases of irregular expenditure incurred by the Municipality, should be investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA.

23.1.4 The KwaZulu-Natal MEC for CoGTA should conduct an investigation on the allegation of the misuse of the municipal mayoral vehicle, and ensure disciplinary measures are taken to whoever is responsible.

23.1.5. The KwaZulu-Natal MEC for CoGTA in collaboration with the national MEC for CoGTA should provide continuous support in terms of section 154 of constitution and other relevant prescript to the local municipality

23.1.6 The Administrator should review the municipal financial recovery plan and ensure that there is alignment of the finding and concerns raised by the Auditor-General with the municipal audit findings.

23.1.7 The Administrator should ensure the fast-tracking of the process of the disciplinary hearing of the suspended Municipal Manager on allegations of fraud and corruption.

23.1.8. The Administrator should focus on the implementation of terms of reference and facilitate visits to performing municipalities in order to learn best practices and sharing of knowledge.

23.1.9 The administrator should provide quarterly reports to the select committee on progress made in respect of the implementation of the intervention in the municipality.

23.1.10. The Richmond Station Commander should provide a list to the NCOP, of all the cases that are opened by the Municipality, as well as their status.

23.1.11. The Select Committee on Cooperative Governance and Traditional Affairs, in co-operation with the relevant Portfolio Committee in KwaZulu-Natal Provincial Legislature, should in future conduct a follow-up oversight visit to the Municipality in order to evaluate the progress made in respect of the intervention in the Municipality.

Report to be considered.