

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

MEC Mosebenzi Zwane
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and traditional affairs**

Department of Cooperative Governance and
Traditional Affairs
FREE STATE PROVINCE

Intervention in Terms of Section 139(1)(b) and 139(1)(c) of the Constitution of the Republic of South Africa, 1996 , in the following Municipalities:

- **Thabo Mofutsanyana District Municipality;**
- **Masilonyana Local Municipality;**
- **Nala Local Municipality; and Naledi Local Municipality.**

Thabo Mofutsanyana District Municipality Intervention (4 November 2009)



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Summary background

A special report on the status quo of municipalities was made available to the MEC for Cooperative Governance, Traditional Affairs and Human Settlements at the beginning of November 2009.

- The report highlighted challenges identified at the district municipality. From the contents of this report, it was evident that:-
 - The municipality ceased to function effectively as a district municipality to render services to its local municipalities;
 - Most of its section 57 posts are vacant.
 - Does not attend to current municipal financial and other administrative challenges experienced at the municipality;



Summary background cont...

- The council was failing to execute executive obligations due to the failure of the municipality to function properly;
- Conflict existed between the then Municipal Manager and the Chief Financial Officer (CFO) ;and



Municipal Transformation and Institutional Development (Progress...)

- The annual performance report for 2008/2009 has been finalised and tabled before Council sitting of the 14th May 2010
- The Service Delivery and Budget Implementation Plan for the 2008/2009 and 2009/10 exist.
- It is expected that the performance management system will be implemented as soon as the other (4) section 57 managers have been appointed.
- The IDP and Budget Process Plan for the period 2010/11 to 2012/2013 has been developed and adopted during the sitting of the Special Council Meeting



Service Delivery

- The balance on the MIG as at July 2010 was R 2,574 877.43 which will be spent according to the project list below:

Project Name	Budget R	Balance R
Zamani Sewer Reticulation	5, 431 543.00	124 000.00
Zamani Oxidation Ponds	7,530 569.42	2,500 000.00
Arlington/Leratswana Road	7, 199 658.00	0.00

- Road Paving handed over to the local authority on the 28/04/2010
- Zamani sewer network would be completed at the end July 2010 and currently finalising the snag-list.
- Zamani Oxidation Ponds the three ponds would be completed at 14/08/2010.



Local Economic Development

- The post of Strategic Manager not as yet to be filled and it is critical to get external support whilst in the process of appointing relevant personnel in this component.
- Department of Trade and Industry (DTI) through its Tourism Enterprise Support Programme (TEP) and Free State Tourism Authority are assisting in the training of the SMME's in the district.
- The Department of Environmental Affairs and Tourism (National and Provincial) are offering support to the District Municipality in order to achieve its legislative mandate.



Financial management and Viability

- The Municipality has begun to comply with the provision of section 71 of the MFMA.
- The Draft Budget (Medium Term Revenue and Expenditure Framework) for 2010/2011 has been developed and adopted. An action plan to address the issues raised by the Auditor-General for the 2008/2009 financial year has been drawn up and is being currently implemented.
- Service provider under the “Operation Clean Audit Project” implemented by COGTA is assisting the Municipality to address all past audit queries after having drawn up a financial recovery plan. is currently carrying out this recovery plan in an attempt to obtain a clean audit report within the next three years
- COGTA-Provincial has provided the municipality with continuous support and oversight in ensuring the turnaround strategy is implemented according to plan.

Financial management and Viability

- Current procurement / Supply Chain Management (SCM) processes followed by the municipality have been addressed.
- A pilot standard operating process has been developed and rolled out, recommending the correct actions to be taken from initiation of the transaction by SCM department through to payment thereof by finance.
- SCM department and the municipality's finance department are following the current standard operating procedure and will be monitored by the CFO's office for compliance of the standard operating procedure and weakness regarding the process.

Good Governance and Public Participation

- The Public Participation and the Presidential Liaison Officers have been appointed as from the 1st March 2010.
- Coordination of local Public Participation Officers to establish public participation forum was done. Participation Officer has attended various capacity building workshops.
- The office of the Speaker conducted capacity building workshops for Ward Committees and Community Development Workers in Phumelela Local Municipality.
- Public participation and consultation processes for the IDP and the Budget Plan have been successfully rolled out in all the local municipalities. The IDP Representative Forum was conducted on the 7th May 2010.

Litigations and Legal Costs

- The Podbielski Mhlambi Inc is still continuing with legal action against the remaining +/- 7 200 cases.
- 40 of these remaining cases relate to Transnet. 2 of them are registered operations (Transnet Housing and Transnet PX-courier services), and the rest not registered.
- As Transnet is an organ of state, the provisions of the Intergovernmental Relations Framework Act are applicable.
- Subsequently Transnet opposed the action taken by Podbielski Mhlambi Inc, and ultimately won the case as Judge Mocumie gave judgment against TMDM.
- Podbielski Mhlambi Inc applied for Leave to Appeal, which will be heard on 27 August 2010. Indication has been given that an estimated period of 2 years will elapse before final judgment will be made in the presence of a full bench in the High / Supreme Court.

Litigations and Legal Costs

- The amount estimated to be recovered from the registered businesses was R29 million, and R32 million from unregistered businesses. This adds up to a total of R61 million estimated to be recovered.
- Subsequently the total debtors balance needs to be impaired, as it is not probable that TMDM will receive future benefits from these businesses (this is a requirement of GRAP for recognition of an asset).
- As at 30 June 2010 TMDM owes Podbielski Mhlambi Inc for rendering their services an amount of R16 386 428.76.
- TMDM hasn't budgeted for making these major legal payments, and therefore doesn't have the funds at the moment to settle their debt.
- The current agreement between the two parties requires TMDM to pay monthly instalments of R1 million.

Conclusion

- We are fast-tracking the appointment of section 57 managers as interviews have already been held in the last week for Corporate Manager and the CFO .
- There is a possibility of withdrawing the intervention by the end of August 2010 .

Masilonyana Local Municipality Intervention (8 December 2009)



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Summary background

A special report on the status quo of municipalities was made available to the MEC for Cooperative Governance, Traditional Affairs and Human Settlements at the beginning of November 2009.

The report highlighted challenges identified at the local municipality. From the contents of this report, it was evident that:-

- The overall financial management of the municipality is in disarray given the inability of the municipality to pay salaries of personnel and third parties;
- The inability to collect revenue which has resulted in the debtors escalation of R129 million as at the end of October 2009;



Summary background cont...

- - Their creditors book has escalated to R10 million at the end of October 2009;
 - The inability to spend municipal infrastructure grant (MIG) funds where expenditure is at 12% by the end of November 2009, whereas the target was supposed to be 50%. The municipality is facing a risk that a portion of the conditional grant may be withheld;
 - The municipality has never complied with the Municipal Systems Act by submitting section 46 reports for two consecutive years;



Summary background cont...

- Failure to develop and adopt performance management framework to regulate the performance of staff;
- The inability to provide quarterly reports in compliance with the Municipal Finance Management Act; and
- The request by Council (Masilonyana) for section 137 of (MFMA) intervention indicates the inability of the municipality to prudently manage their finances.

Municipal Transformation and Institutional Development (Progress.....)

- The municipality through the support of the District have developed a Performance Management System policy, compiled section 46 reports for 2006/07, 2007/08 and 2008/09.
- Budget and IDP consultations were held on the 12-13 May 2010 with stakeholders.
- Budget and IDP with all relevant policies were approved on the 31 May 2010

Service Delivery

- A revised MIG action plan and proper cash flow was submitted on the 21st January 2010. All MIG project payments certificates are verified and certified prior to payment. Expenditure improved tremendously since the intervention.
- In December 2009 the expenditure was 12% of the transferred MIG amount and to date it is 65% as on the 31st June 2010.
- The Municipality has spent MIG funds on the following projects during 2009/10 and **complete list is contained** in the report:-

Project ID	Project Name	Project Status
MIG/FS/0720/W/08/09	Winburg/ Makeleketla: Upgrading of the water reticulation network (asbestos)	Project Progress 24% Expenditure-38%
MIG/FS/0382/W/08/09	Winburg/Makeleketla: Upgrading of the water reticulation network isolation Valves & a new pipeline	Site handover will be done on 29/07/2010
MIG/FS/0586/S/07/08	Soutpan/Ikgomotseng: Eradication of 400 Buckets	Contractor on site and Expenditure -38% Project Progress-10% Available budget insufficient Budget maintenance report compiled and submitted to COGTA for approval and subsequent registration.
MIG/FS/0597/S/07/09	Theunissen/Masilo:Eradication of 2265 Buckets	Project complete save for 50 stands that are not reticulated with water Budget maintenance done on this project and there is R4,328,014.5 available

Financial management and Viability

- The Financial Recovery Plan Steering Committee meetings are consistently convened every Tuesday to discuss progress by all stakeholders as the roles and responsibilities.
- Activities performed under the following focus areas to date are :-
 - ✓ Finalisation of the Annual Budget for 2010/11.
 - ✓ Implementation of the valuation roll in accordance with the MPRA.
 - ✓ Managing the conversion from IMFO to GRAP and preparation of the AFS for June 2010 in GRAP format
 - ✓ Implementation of the Revenue Enhancement Strategy
 - ✓ Bank Reconciliation
 - ✓ Management of salaries
 - ✓ Investment reconciliation
 - ✓ Audit Queries

Conclusion

- Mobilization of additional funding to complete incomplete project to the value of R36 million
- Section 139 intervention may still continue till 31 December 2010 .

Nala Local Municipality Intervention (8 December 2009)



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Summary background

A special report on the status quo of municipalities was made available to the MEC for Cooperative Governance, Traditional Affairs and Human Settlements at the beginning of November 2009.

- The report highlighted challenges identified at the local municipality. From the contents of this report, it was evident that:-
 - The municipality has never complied with the Municipal Systems Act by submitting section 46 reports for two consecutive years;
 - Failure to develop and adopt a Performance Management Framework to regulate the performance of staff;

Summary background cont...

- The inability to spend Municipal Infrastructure Grant (MIG) funds where expenditure is at 25% as at the end of November 2009, whereas the target was supposed to be 50%;
- The inability to provide quarterly reports in compliance with the Municipal Finance Management Act;
- The overall financial management of the municipality is in disarray given the inability of the Auditor General to access documentation for audit purposes;

Summary background cont...

- The recent suspension of municipal manager and the appointment of a non-section 57 manager as the Acting Municipal Manager;

Municipal Transformation and Institutional Development (Progress....)

- PMS framework has been adopted by Council
- The municipality has developed annual reports for 2006/2007; 2007/2008 providing an account on the municipal performance for those years under review
- The draft reviewed IDP for 2010/2011 and the draft Medium Term Revenue Expenditure Framework for 2010/2011 - 2012/2013 were adopted by Council on 29 June 2010
- The municipality has adopted its Integrated Development Plan (IDP) and corresponding Service Delivery and Budget Implementation Plan (SDBIP) for 2009 /2010 financial year.
- The municipality does not have an IDP manager, but has identified an employee to act as an IDP manager while the placement process unfolding ,and is now at 95%.



Service Delivery

- As at the end of the financial year, the municipality has achieved a capital expenditure rate of 81.5%. Out of the allocated R37, 7 million, Municipal Infrastructure Fund (MIG) the municipality has expended R 30.7 million.
- Through the implementation of the infrastructure projects the municipality has created 258 jobs.
- The under-expenditure of 18.5% on capital projects arose primarily due to the pace of implementation by appointed contractors. A number of proactive remedial measures were implemented by the municipality. These were:
 - ✓ Terminating a contract with a contractor enlisted to construct Kgotsong Multi-Purpose Community Centre due to non-performance;
 - ✓ Enhanced supervision of consulting engineers contracted by the municipality, meticulously processing of payment certificates and doing periodic site visits to assess progress on the ground;

Service delivery challenges

- Leveraging additional R12 million to complete the mentioned incomplete sanitation project at Monyakeng that is a health hazard;
- Refurbishment and retooling of yellow fleet of the municipality to ensure uninterrupted service delivery and training of operators;
- Leveraging additional R10 million to complete phase two of Monyakeng Waste Water Treatment Plant;
- Enhancing forward planning and contract management to ensure effective and efficient implementation of projects in the municipality;
- Ageing service delivery infrastructure that compound water and electricity line losses;
- Service delivery backlogs especially roads and storm-water, services at informal settlements, housing, sanitation, etc.

Local Economic Development

- The municipality has made provision for the establishment of the LED unit through the ongoing Staff Placement process.
- In the meantime, an application requesting technical assistance for the development of an LED strategy has been lodged with this Department

Financial Management and Viability

- With a financial grant obtained from Provincial COGTA, the municipality had enlisted CFO Support services that had assisted the municipality in achieving the following:
- Developed the Mid-Year Budget and Performance Assessment Review Report;
- Developed Budget Related Policies (Investment, Banking, Internal Controls, Adjustment budget, Reconciliation of Government Debts, for the draft Medium Term Revenue Expenditure Framework for 2010/2011 -2012/2013 that was adopted on 08 April 2010 as a draft and subsequently approved by Council on 29 June 2010
- Audited current files to lay a solid foundation for the upcoming Audit, developed a lay-out of asset register etc.



Financial Management and Viability

Specifically, the municipality has done the following:

- Conducted a reconciliation exercise on property rates of government properties. Out of the reconciled accounts totalling R5.1 million submitted to the Department of Public Works and Rural Development, the municipality has received payment of R2.25 million to-date.
- Have engaged with the farming communities and business to deal with property rates and payment of service. The negotiation with the farming community has borne fruit and an agreement to be ratified by the ensuing Council meeting has been reached in relation to the outstanding property rates dating from 2004/2005 financial year as the farming community had challenged accuracy and validity of the developed municipal valuation roll;
- Developed a draft adjustment budget, however, this was not processed through Council as the financial system of the municipality was not functioning;
- Developed internal control and payment manual that is en-route to Council for adoption;

Good Governance and Public Participation

- The Administrator has conducted an extensive review of the applicable policy and legislative framework governing local government to determine the legality or otherwise of Council's decision to place Mr. DK Shongwe on precautionary suspension. Based on the report, the Nala Local Municipality Council at a *meeting held on 04 February 2010, Council resolved to lift the suspension of the municipal manager with immediate effect.*
- Pending the outcome of a forensic audit that is being conducted by SERVICE PROVIDER at the municipality, the Administrator has placed the municipal manager on a special leave.

Conclusion

- Reviewing the organogram of the municipality to ensure that it will execute its Constitutional mandates within obtaining financial resources.
- Expeditious filling of the CFO vacant and appointment of additional five interns to resource the financial unit.
- Reconstitution of the Supply Chain Institutional Arrangements and empowering those that will be servings in the varied committees of Supply Chain;
- Rigorous implementation of credit control and revenue enhancement plan to place the municipality on a financial sustainability path; and
- Engendering the practice of being conscious of internal control and inculcating the culture of accountability to enhance productivity and ensure optimal use of personnel.
- The section 139 intervention may remain in place untill 31 December 2010

Naledi Local Municipality Intervention (5 May 2010)



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Summary background

- On 5 May 2010 the EXCO intervened in the Naledi Local Municipality by dissolving the council of Naledi in terms of section 139(1) (c) of the Constitution.
- Mr. MW Tukane was appointed as Administrator until a new council has been declared elected by the IEC.

Naledi Progress

- The status report outlines the developments in the municipality since the dissolution of the council on 06 May 2010 in terms of Section 139 (1) (c) of the Constitution.
- The report will reflect on the progress since the beginning of the intervention by COGTA in order to bring stability in the municipality and prepare the way for the by-election on the 21st of July 2010.

....Progress

Workforce

- The administrator took over the divided employees whereby others were viewed to be supporting Mr. Mojela Mokgoke (CFO) and Mr. Ephraim Motsoane (Technical Director) , while other group is viewed to be supporting Me. Caroline Mokgothu (Director Corporate Services) and Martin Lerata (Municipal Manager).
- It was very clear that the Administrator had full responsibility to unite employees and give direction so that service delivery is not compromised.

....Progress

Labour Matters

The following staff were suspended or put on special leave:-

- Mr Martin Lerata, Municipal Manager
- Me. Caroline Mokgothu, Director Corporate service
- Me. Ntswaki Foko, Human Resource Officer
- Mr. Sammy Ramatshabane, Senior Expenditure Clerk
- Me. Nomthandazo Zwane, Local Economic Development Officer

With the exception of Mr. Sammy Ramatshabane, a Chairperson and Prosecutor have been appointed, a charge sheet has been issued and dates of hearings have been set.

....Progress

INTERNAL AUDIT

An audit committee has been appointed and the Motheo district municipalities audit committee has been availed to be utilised by the Naledi Local Municipality.

An action plan to address queries raised in the Audit report has been drafted.

FINANCIAL MATTERS

✓ The Bloemwater account is in arrears. Naledi Local Municipality negotiated with Bloemwater to suspend the disconnection.

✓ Eskom issued statement that on 20 July 2010 there will be electricity cut-off in Naledi because of Areas. Centlec confirmed that there will be no electricity cut-off because Naledi account was settled

....Progress

Technical Services

- Paving of road 2.98km in Dewetsdorp, Morajaneng to provide improved access to Morojaneng Township. The project is about 90% on construction. Quality of the work is up to standard and the project has employed 67 local labours.
- Upgrading of 710 metres Martinus Road in Van Stadensrus The project is about 90% on Construction. Project has employed 25 local labours.
- Construction of 1400m Paving of Internal Street in Van Stadensrus The project is about 70% on Construction. Project has employed 30 local labours
- 100 Housing Project in Van Stadensrus (Operation Hlasela)
 - 86 Houses completed
- Naledi Transport centre in Wepener (Taxi rank)
 - The project is about 40% on Construction. Project has employed 27 local labours

....Progress

New Council

A by-election was held in Naledi on 21 July 2010.

The ANC has won 2 ward seats and 3pr Seat, The DA has won 1 ward and 1 Pr seats and COPE has won 1 ward.

The result of the election has been declared by the IEC.

The Administrator will preside over the process of the constitution of council ,including the election of the Speaker/Mayor.

The Department will direct the new council to appoint the current administrator as acting municipal manager to stabilise council operations for \pm 6months .

NCOP Report's recommendations(Progress....)

- The Provincial Executive Council of Free State Legislature approved the following recommendations:
Both administrators fast-track the process of appointing section 57 managers and municipal manager has been appointed and the other manager will appointed before the end of July 2010;
- That NCOP may the summon the former Municipal Manager of Thabo Mofutsanyana DM, accompanied by the MEC, to appear before it (NCOP) in order to explain and give details on the allegations of maladministration and misappropriation of funds during his term as Municipal Manager of Thabo and that the Premier Honourable ES Magashule will interact with the National Minister Honourable Sicelo Shiceka;

NCOP Report's recommendations (Progress...)

- That independent forensic audit to be conducted by the National Minister, to allow the department to submit the scoping investigation exercise report on both municipalities to the National Minister and NCOP. Such scoping exercise has been completed and will be shared with the National minister and NCOP.
- Encourage Department, SALGA and LGSETA foster relations between all structures that deals with capacity building in this sector and also ensure that there is a single window of coordination thereby providing political and administrative leadership capacity to assume their rightful responsibility. The report has been shared with both institutions and concerted effort will be implemented in supporting both municipalities' leadership according to the recommendation.

NCOP Report's recommendations (Progress...)

- Additional funding made available for incomplete bucket eradication projects in Masilonyana LM to the value of R36 million and for Thabo Mofutsanyana DM to deal with legal costs in relation with collection of municipal debt and that this funding has not been secured. Encouraged financial support going forward of these municipalities by Provincial Treasury.
- That intervention to continue at this stage in Thabo Mofutsanyana DM, Masilonyana LM and Nala LM.

RECOMMENDATIONS

- NCOP takes note of the contents of the progress reports in respect of the Thabo Mofutsanyana District Municipality, Masilonyana Local Municipality, Nala Local Municipality and Naledi Local Municipality;
- NCOP to support the continuation of interventions at Thabo Mofutsanyana, Masilonyana and Nala at this stage;
- The NCOP should take note of additional funding of R74 million needed to continue supporting these municipalities;

THANK YOU!



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