



Province of the
EASTERN CAPE
COOPERATIVE GOVERNANCE
& TRADITIONAL AFFAIRS

STATE OF AFFAIRS AT NMBMM

SERVING OUR COMMUNITIES BETTER



PRESENTATION OUTLINE

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- SUMMARY OF GOVERNANCE CHALLENGES**
- ADMINISTRATIVE AND MANAGEMENT CHALLENGES**
- ISSUES RAISED BY NATIONAL TREASURY AND IMPENDING INVOCATION OF SECTION 216(2) OF THE CONSTITUTION**
- COURT CASES ASSOCIATED WITH GOVERNANCE INSTABILITY**
- CONCLUDING REMARKS**

INTRODUCTION

- ❑ Since the beginning of the term of the current Municipal Council, the municipality has encountered instability;
- ❑ The municipality has already seen two Executive Mayors removed by way of vote of no confidence;
- ❑ After the removal of the former Executive Mayor, Councillor Bobani, the municipal council failed to fill a vacancy for the position of the Executive Mayor and instead resolved that the Deputy Executive Mayor must be an “Acting” Executive Mayor;
- ❑ The Eastern Provincial Executive Council took a resolution to invoke the provisions of section 139(1)(a) of the Constitution, it must be said for the 2nd time;
- ❑ The Deputy Executive Mayor purportedly acting on behalf of the municipality instituted an application in the Grahamstown High Court challenging the intervention. The application was dismissed;
- ❑ The Deputy Executive Mayor has now made an application for leave to appeal. The application for leave to appeal is opposed by the provincial government and has also filed a counter application in this regard.

SUMMARY OF GOVERNANCE CHALLENGES

- ❑ Council meetings are not held in terms of the schedule. In instances where meetings are eventually held, they are either adjourned because of disagreements on the council agenda and those that sit are reduced to nothing other than rowdy and disorderly meetings;
- ❑ In the previous and current financial year Council had to be reminded of the consequences before they approved budget. Adoption was done just before the deadline date;
- ❑ The Speaker ignores petitions to call Council meetings. She is so determined to abdicate her responsibility of calling council meetings to the extent of unnecessarily opposing court applications instituted to ensure that she performs her legislated duty;
- ❑ Political office bearers do not account to Council and do as they wish purporting to act on behalf of the Municipal Council. For example the Deputy Executive Mayor can simple respond to section 139(1)(a) directives without having first presented them to Council. Deputy Executive Mayor appoints acting City Managers. He has even challenged section 139(1) intervention in court and purport to represent the Municipal Council.

ADMINISTRATIVE AND MANAGEMENT CHALLENGES

- ❑ The Municipal Council initiated disciplinary proceedings against the City Manager Mr Mettler and he was placed into a precautionary suspension. The disciplinary proceedings commenced but parties have reached a settlement and terminated employment relationship. The position has now been advertised;
- ❑ The absence of the City Manager poses a serious Strategic Risk. The municipality has been appointing Acting City Managers who are not qualified. Initially it was it was Ms Nobuntu Mgogoshe a Deputy Director from Legal Services of the municipality and later Mr Mapu who have since been arrested and released on bail. Mr Qhaba was appointed to act following the arrest of Mr Mapu, however, in less than two months he was also given a “special” leave. There is now a new acting City Manager;
- ❑ There are no regular sittings of the Municipal Public Accounts Committee;
- ❑ The last Audit Committee was in March 2020.

ISSUES RAISED BY NATIONAL TREASURY AND IMPENDING INVOCATION OF SECTION 216(2) OF THE CONSTITUTION

- ❑ Municipality has to date failed to develop a clear plan with set dates on the process to implement all that has been recommended by Deloitte & Touche and National Treasury for mSCOA implementation;
- ❑ Grant funds amounting to R753,8 million in respect of the last quarter of the 2019/2020 financial year and R498 million in respect of the first quarter of the 2020/2021 financial year are being withheld by National Treasury due to the non-compliance of the Municipality with National Treasury requirements;
- ❑ The United Front has now instituted an application in the Grahamstown High Court seeking an order declaring the impending action of national treasury to withhold the municipality's equitable share unlawful and unconstitutional.

COURT CASES ASSOCIATED WITH GOVERNANCE INSTABILITY

❑ DEMOCRATIC ALLIANCE v THE SPEAKER OF NMBMM AND OTHERS

The DA successful made an application for an order directing the Speaker to convene a Council meeting to elect the Executive Mayor. The Speaker is appealing the judgment.

❑ NMBMM AND THSONONO BUYEYE v THE PREMIER AND 6 OTHERS

The Deputy Executive Mayor purporting to act on behalf of the municipality, instituted an application to resist section 139(1)(a) intervention in the Grahamstown High Court. The application was dismissed with costs on the basis that the Deputy Executive Mayor did not have the authority to institute an application on behalf of the municipality. The Deputy Executive Mayor is now appealing judgment. Provincial government is opposing the application and has also instituted a counter application.

❑ UNITED FRONT v NATIONAL TREASURY AND 9 OTHERS

The United Front has instituted an application in the Grahamstown High Court seeking an order declaring the impending action of national treasury to withhold the municipality's equitable share unlawful and unconstitutional.

CONCLUDING REMARKS

- The political office bearers of NMBMM instead of responding to corrective measures are now resorting to abuse Court process;
- The resistance or court challenge for invocation of section 139(1)(a) is a hopeless case with no prospects of success;
- The counter application by provincial government will hopefully put a halt on the abuse of court process.



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BACK TO BASICS
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