



## **NCOP LOCAL GOVERNMENT WEEK**

**8 SEPTEMBER 2020**

**Cllr. Thembi Nkadimeng**  
**SALGA President**

***“Building a Coherent Approach to Addressing the Interlinked and Interdependent Challenges facing Local Government in South Africa”***

Chairperson and Deputy Chairperson of the NCOP

Honourable Ministers of COGTA and Finance

Deputy Ministers of COGTA and Finance

MECs present

Honourable Members of the NCOP and National Assembly

Members of the SALGA National Executive Committee

Mayors and Executive Mayors

Members of the Public Service

It is a distinct honour to address this 2020 edition of the Local Government Week to give our input as the South African Local Government Association (SALGA).

Honourable Deputy Chairperson, since its launch in 2013 the key objectives of the NCOP Local Government Week has been:-

- i. To facilitate dialogue on local government issues and foster a common understanding on the challenges at hand, as well as to propose short – medium to long – term systemic and/or legislative solutions;
- ii. To showcase general and innovative good practices as part of knowledge sharing;
- iii. To assess the adequacy of the support and intervention framework from national and provincial government, as envisaged by the Constitution thus introduce a mechanism that within a differentiated environment guarantees relative

uniformity; and

iv. To Review relevant legislation affecting local government.

Informed by these noble objectives, we hope that the discussions of the next three days will provide an opportunity to propose lasting, practical and sustainable solutions. We further trust that this platform will provide an opportunity to mobilise all the three spheres of government to plan together, implement jointly, and monitor in the interest of “**Building a Coherent Approach to Addressing the Interlinked and Interdependent Challenges facing Local Government in South Africa**” as per the theme of this gathering.

Honourable Deputy Chairperson, on the 5th of December this year, South Africa we will celebrate 20 years of democratic local government. It is SALGA’s view that government and in particular local government has undergone rapid transition and transformation over the last 20 years. There can be no doubt that local government has had a profound impact on the lives of ordinary South Africans in expanding the provision of services to our people. While it is true that a number of serious and complex challenges persist in some municipalities, by and large local government has delivered quality services and a better life for the majority of our people.

Official statistics show that tremendous progress has been made particularly in historically neglected areas like former homelands, despite the reality that municipalities are continually chasing a moving target due to our population growth and in-migration rapidly giving rise to new settlements. The latest Non-Financial Census of Municipalities, released by the Statistician General in August 2019, confirms that the number of households receiving services from municipalities increased between 2017 and 2018.

It is within this context that our sincere expectation is that this Local Government Week will venture into providing credible solutions. Without pre-empting what will be discussed over the next few days, I would like to kick start the discussions by touching on just some of the vexing issues we as SALGA believe should be debated and reflected upon.

Honourable Deputy Chairperson, by way of **INTRODUCTION**, Local Government has come under a lot of scrutiny recently. Perhaps necessarily so as this is the most visible sphere and closest to the people. Furthermore, our system of wall to wall municipalities means that all developmental work happens within a ward and in a municipality. In one way or another, almost all the services our people get or do not get from government find the most concrete expression at a municipal level.

Despite its most pivotal role, local government was the last sphere to be considered and conceptualized during the negotiation period. As such, the development of its policies, systems, practices and funding has tended to lag behind the other two spheres. This is more aptly demonstrated by the still continuing debate on the Powers and Functions of municipalities, the vertical allocation of finances from the fiscus and the continuing refinement of systems and policies affecting this sphere.

Over the past 20 years, various policy, legislative, regulatory and support program measures have been brought about to stabilize local government and to give it its necessary impetus to operate optimally. Among these support measures has been various interventions which all seem not to have yielded the intended results e.g. Municipal Support Program, Project Viability; Project Consolidate, Local Government Turn Around Strategy, Siyenza Manje and the current Back to Basics. Where to next and how do we bring about stability, capacity, institutional resilience, good governance, better resourcing and improved service delivery?

In dealing with the current state of local government and the challenges attendant to, consideration has to be given to political, institutional, and financial aspects as a package instead of wanting to deal with them in isolation.

Honourable Deputy Chairperson, allow me to summarise some issues that require further detail and elaboration over the next few days and beyond:-

With regard to **POLITICAL GOVERNANCE MATTERS** it is our observation that a key outcome of the 2016 municipal elections is that two-thirds of the elected councillors comprised of new deployees to the sector. This huge change of leadership resulted in a loss of institutional memory and imposed on the sector a need for escalated induction and other training/capacity building programs. Despite numerous interventions to increase the capacity of Councillors in the first four (4) years of the term of office, the gaps are blatant and the recent developments around COVID-19 have further exposed serious weaknesses in the leadership of many councillors. Every five years, the high turn-around in local government, exacerbated by lack of proper screening of candidates, sets the sector back in terms of leadership, governance and oversight stability.

It is therefore our proposal that a new arrangement for the identification, deployment and capacitation of councillors has to be found.

With regards to **LEADERSHIP AND OVERSIGHT** it is our observation that the Auditor General's 2018/19 Municipal Audit

Outcomes confirms that Mayors provide 25%; Municipal Councils provide 26% and Municipal Public Accounts Committees provide 27% independent assurance and oversight at municipal level. With the exception of the attempts made by opposition parties in Councils, there is very little oversight played by Mayors over what happens in the municipal administration and similarly very little oversight by Municipal Councils over the Mayor and Mayoral Committees or Executive Committees.

Whereas almost all municipalities have established MPACs, they in most instances are however under-capacitated, under-resourced, junior councillors are deployed to lead them and most of their oversight recommendations have no binding effect with very little to no follow through or execution. The MPACs don't carry the weight of SCOPA, hence they have not been able to refer their findings to investigative agencies, table forensic reports or hold the executive leadership of the municipality accountable. By and large they have tended to be partisan and have lost their strategic intent and significance.

It is our proposals that though Parliament is currently processing amendments to the Structures Act that hopes to legislate the role of MPACs, the political assurance providers must play a more active role in ensuring that preventative controls are implemented. In particular, the legislative process should be fact-

tracked to formalise the role of MPACs, so that they can play an effective oversight role.

With regards to **CONSEQUENCE MANAGEMENT** it is our observation that one of the key findings of the Auditor General over the past years has been that cases of violations and transgressions in municipalities are not pursued and those responsible are not sufficiently held accountable. While the amendments to the Audit Act seeks to remedy some elements of this, the focus is mainly on individuals, neglecting the systemic issues that may pervade the entire municipality.

Whereas SALGA has done some work towards a Consequence and Accountability Framework, it is proposed that a Consequence Management Framework that will focus on both individual and institutional dimensions of poor management at local government level should be developed. Without creating a duplication with the AG proposals, this framework could, for example, entail elements such as the grading of municipalities based on performance levels and the awarding of salary increases and bonuses based on overall institutional performance, etc. These elements would cover both the political leadership and administration and could be based on agreed upon performance indices emanating from AG Audit Outcomes,

StatsSA municipal non-financial census reports, and other such municipal performance rating instruments.

Honourable Deputy Chairperson, as it relates to **INSTITUTIONAL MATTERS** the current regulatory framework puts a limit on the salary scale of municipal managers based on the grading and category of a municipality. This has had the unintended consequence of depriving small, rural and poor municipalities of the high calibre skills necessary to turn them around. The quality of life and salary levels at these municipalities has been such that well capacitated and qualified individuals would come at a premium. Unlike in the health sector where there is an incentive for doctors who work in rural hospitals, this same logic has not been considered for municipalities.

Further to this there are currently many vacancies at senior management levels in municipalities. When recruitment is done, this tend to be a messy and tedious process resulting in allegations of poor appointments, inappropriate 'cadre-deployment', process manipulation to suit dominant factional outcomes, etc. While we acknowledge the role of each municipality as an employer, we propose that a legislative reform be considered and canvassed with the Unions and other role

players so that a transversal panel comprising of SALGA, Provincial Treasury, Provincial COGTA and Union representatives be established to process all senior municipal appointments. This mechanism will ensure uniformity of process, considerations, and outcomes. This mechanism will also avoid the current unnecessary dispute between municipalities and COGTA about the need for the MEC of COGTA's concurrence in the appointment of municipal managers.

As it relates to the **Costs of reforms**, various reforms have been brought about in the past couple of years to improve the local government sector. The most recent of these has been the introduction of mScoa (municipal standard chart of accounts) by national Treasury. A couple of other regulations and reforms are in the pipeline, for example from DPSA. Most often these reforms are not properly costed nor are municipalities given sufficient technical, personnel and financial resources to execute them. This tends to cause a huge financial and compliance burden on municipalities and does need to be resolved urgently.

Honourable Deputy Chairperson, as it relates to TECHNICAL MATTERS, the White Paper on Local Government intended a developmental role for local government. The intended role, was

accompanied by certain policy assumptions including the focus of the new local government system and how the system will be resourced and supported. Towards 20 years of democratic local government the following questions should be answered:-

Do the assumptions still hold?

Is the current two-tier system as prescribed in the Municipal Structures Act still relevant and necessary?

What is to be done with the one-third dysfunctional and unviable municipalities?

Where next with the demarcation instrument?

SALGA is of the view that central to addressing local government challenges is a **REVIEWAL OF THE VERTICAL ALLOCATION OF RESOURCES**. We hold this view in the context that over the past 20 years the financial resources available to municipalities have fallen short of the demands on municipalities for services and infrastructure delivery needs and this has been worsening over time. This is further complicated by the current state of the economy, especially limited tax revenues, retracted economic growth and rising debt levels.

Although local government is responsible for 46% of the constitutional functions, local government still gets about 9.1% as a sphere from the national fiscus. The current LGES formula,

based on a very loose assumption of costs of providing services at a horizontal level, affects the vertical distribution to such an extent that LG is completely underfunded for primarily Basic services but also other components. In many instances Cost of providing basic services exceeds the Equitable share based on the following key factors

- Topography (flat, rolling or mountainous terrain);
- Location (coastal or inland);
- Distance from economic centers;
- Development status referring to number of settlements and densities; and
- Loss of economy of scale.

It should further be noted that in some instances consumption of indigents exceeds basic services, particularly in instances of yard connections.

A proposal was accepted for the Minister of Finance to convene a Special Lekgotla, to amongst others, consider a review of the equitable share formula.

Honourable Deputy Chairperson, further to the solutions for local government is to **DEAL WITH MUNICIPAL FINANCIAL HEALTH CHALLENGES.** The Auditor General 2018/19

Municipal Audit Outcomes confirms that the financial statements show increasing indicators of a collapse in local government finances. The AG further confirms that the financial woes of local government also weighed heavily on municipal creditors.

As it relates to **DEBTS OWED TO MUNICIPALITIES** it is a well-known fact that an average of 59% of municipal debtors are not recoverable; in 55 municipalities more than 80% cannot be recovered; and debt collection at 99 municipalities was more than 90 days.

In light of the realities we are tabling the following for consideration:-

1. Put together measures to write-off the ever increasing household debts to municipalities, including the introduction of a national Bill for the writing off of these household debts in exchange for the installation of prepaid water and electricity metres;
2. Improve municipal revenue collection instruments through measures such as:-
  - a. Amending the Tax Administration Act so that before SARS pays tax refunds, they first check is the particular tax payer does not have monies due to

his/her municipality. If the tax payer owes, the amount due to the municipality will be paid first before a refund is deposited to the tax pay account.

- b. Amend schedule 2 section 10 of the Municipal System Act so that it is not only municipal councillors and employees who may not be in arrears with their municipal bills for a period more than three months. This requirement should be extended to all state employees and elected and appointed representatives in other spheres.
- c. Establish a District Revenue Collection Agency. This will achieve better collection efficiencies and will free up municipal personnel to focus on more pressing service deliver efforts. SARS systems and processes would be considered in putting this together after due diligence is done.
- d. Amending the Procurement Regulations to make it compulsory for any potential service provider to produce a Municipal Services Rates compliance certificate, prior to being awarded a government contract.

### 3. Resolve the Constitutional Issue relating to Electricity Reticulation;

4. Resolve Municipal Debts to Eskom: The municipal debt to Eskom continues to rise without any improvement, the debt owed to municipalities by customers including organs of state is also still rising sharply, and this will worsen under the current COVID-19 impact. Observations are that the adherence to Payment Arrangements is still problematic for a number of municipalities while the historical debt is still also accumulating interests. Generally the Municipalities with overdue balances also struggle to pay their current account resulting in overdue balance increasing. When Equitable Share is received, payments to Eskom improve by a small margin but this also affect the other services that were meant to be covered by the equitable share.

Eskom exerts pressure through the PAJA process which also allow it to disconnect the municipalities owing them, SALGA still views this as not a sustainable solution but only brings unrest and yields temporary improvements in overdue amounts, signing of unsustainable payment arrangements and unrest in the local economies. Eskom concessions which were dealing with resolving some of the systematic issues which includes the interests and penalties from Eskom, as well as challenges with Eskom credit control policies on municipalities have been withdrawn for metros and also for those that are not adhering to payment arrangements. It is SALGA's view that

the systematic issues affect all municipalities and not just those that owe municipalities. Implementation of these concessions needs time, the improvement will be seen gradually.

SALGA recommends that Government take this situation as a matter of urgency and act decisively. The findings of the National Treasury in-depth study to finances of the owing municipalities is not just limited to the notion out in the public of corruption, lack of leadership and political will but there is a number of municipalities who genuinely cannot come back from this situation due to their economic situation. This needs pragmatic solutions from government.

Honourable Deputy Chairperson, lastly it would be important to resolve matters related to the **DEVOLUTION OF POWERS AND FUNCTIONS AND UNFUNDED MANDATES** at local government level. The National Development Plan (NDP) indicates that the trend with powers and functions in South Africa, has been a greater differentiation in the treatment of municipalities. The Constitution itself allows for differentiation in the assignment of powers and functions to municipalities through the distinction between local and metropolitan municipalities. There has also been a differentiation in the powers assigned to

local and district municipalities for example the provision of bulk infrastructure and network services such as water and sanitation.

The following have been of concern to SALGA that the last 19 years of the democratic local government system:-

- The lack of clarity on the current allocation of powers and functions is problematic and hinders on service delivery with municipalities often unable to make the kind of developmental impacts they are responsible for as they do not have the necessary policy making and financial authority in certain critical areas; and
- For quite some time now there has been much debate about the functionality and the effectiveness of the two tier system. In particular the role and place of district municipalities vis-à-vis local municipalities have been questioned because their functioning has been fraught with confusion, conflicts and uncertainty.

Mindful of the new District Development Model approach, it should also be noted that municipalities perform functions on behalf of provinces and bears significant costs for the delivery of these unfunded and underfunded mandates, as also confirmed by the Financial and Fiscal Commission's Technical Report.

As SALGA we therefore suggest that:-

- The revision of existing Powers and Functions is imperative towards creating an ideal municipal functionality model after which funding should follow; and
- Transfers for assigned functions should not be dependent on the Minister or MEC's discretion but must be directly transferred to municipalities.

As I conclude Honourable Deputy Chairperson, whereas I have highlighted some of the key issues, it is by no means exhaustive. It is our proposal that, unlike the previous LG Weeks that concluded on very useful outcomes, very few, if any, has found expression through implementation, the LG Week must assign specific people to work with us in driving these initiatives and in processing recommendations through the government system, cabinet committees and other such approval structures.

I thank you.