



BELASTINGSBETALERSVERENIGING
HERMANUS
RATEPAYERS ASSOCIATION

Hermanus Ratepayers (HRA) Response to White Paper on LGE26

1. Introduction

At the outset it is necessary to acknowledge the openness and honesty evident in the assessment of the problems facing local government. The White Paper is detailed and explicit and does not shy away from the realities which we all know to exist. It sets out in an easily readable format and in logical sequence the reality of the situation. This is a refreshing departure from the White Papers which followed LGE98. Most notable is the admission by the compilers that COGTA does not have all the answers and that LGE26 is an honest attempt at finding solutions. However, in considering the White paper one also needs to explore the broader context, as we believe there are systemic challenges that fundamentally impede the functioning of local government, as contextualized in section 2.

2. Context

In commenting on the White paper is important to reflect on some of the broader contextual issues that we contend impede the effective functioning of local government. It is common knowledge that South African local government is faced by a multiple of challenges particularly lack of finance, land and human capacity. There are fundamental underlying structural impediments that contribute to these challenges. In this regard we wish to highlight two fundamental issues, namely:

- the Local government structural context with respect to spheres of government.
- The funding streams for local government

2.1. Structural impediments (Spheres of government)

Local government, municipalities, fit within spheres of government cascading from National, Provincial to District and Local Municipalities. In this regard there is a disjuncture between constitutional and political arrangements, as the constitution considers local government as an equal partner within a non-hierarchical structure of “spheres” This structure has resulted in a weakening of the local government voice with more importance given to the provincial and national spheres of government. As a result, the resourcing of local government is compromised, leaving most municipalities under-resourced and unable to sustain themselves.

Schedules 4 and 5 of the Constitution set out the concurrent and exclusive functions for local government, with the powers and functions allocated and decided by negotiation in the 90’s. In this regard there are some obvious challenges, for example the constitution envisages for

local government to take over, through devolution, some functions such as housing and transport to municipalities that have the capacity to manage them. However, municipalities are not given the necessary resources and funds to enable them to full execute these devolved functions.

Within this structure local municipalities do not report to District Municipalities. District Municipalities have limited roles and functions, with one of the key functions being to support Local Municipalities. In reality very little support is provided to municipalities. This structure provides service responsibility and delivery confusion and even in some cases conflict between the spheres of government.

The District Development Model (DDM), adopted in 2020 aims to transform local government and address these issues and improve intergovernmental relations and promote cooperative governance. There is a concern that in practice the DDM is a centralist approach that contradicts the importance of local government and effectively subordinates that autonomy of local government, as enshrined in the constitution. Section 151(4) of the Constitution explicitly protects municipalities from national or provincial governments compromising their ability to exercise their powers.

We understand that the District Development Model (DDM) is facing legal challenges related to its implementation, particularly concerning the issuance of regulations and the potential infringement on municipal autonomy. Some argue that the regulations, intended to implement the DDM, were not authorized under the relevant legislation and could be subject to administrative review. Furthermore, there are concerns that the DDM, in trying to reduce municipal autonomy, may be violating the Constitution. The only possible caveat is the issue of a rural municipality where there is virtually no effective ratepayer base to provide an income coupled with a shortage of skills to employ in a municipal structure. In this instance a District Municipality model could have a role to play.

In conclusion, we contend that District Municipalities having this District and Municipal local government structure is extremely costly. A rationalization into a single structure would result in significant funds being released from institutional overheads and salaries into operational delivery budgets. Over 20 years into our democracy it is overdue for this structure to be rationalized with the DM and LM being collapsed into a single Local Municipal structure.

2.2. Funding impediments

It should also be emphasized that much of the lack of local government delivery and performance is related to constrained funding. The different categories of municipality (A,B, C) have significant discrepancies in taxable income, per capita spend, grant dependency, skills and capacity. Within this context not all municipalities have the capacity or resources to deliver on their constitutional mandates. This is particularly marked in the dispersed rural municipalities. We have concerns that there are discrepancies and inequalities that arise of the current models, particularly in terms of funding – this is exacerbated by the application of a weak empirical census data base.

Increasing demands are being placed on municipalities to provide basic services with rapidly growing communities that are unable to pay for these services. This requires a cross subsidization from other sources, predominantly the formal ratepayers (rates and service charges). Traditionally a significant portion of municipal funding is derived from the charges levied on electricity, with the resulting charges and tariffs becoming excessive. In addition, the basis for national government allocations (formulars) are based on a census data base that is totally outdated and been shown to be materially incorrect. Generally, in areas that have experience large immigration the base population statistics reflect a major undercount – This is very marked in the Western Cape and our municipality, further overburdening the ratepayers. We contend that the continued increase in these charges is placing an unsustainable burden on ratepayers and that it is imperative that new local government funding models are explored.

3. Observations and opinions

In response to the questions on PP 12 relating to the appropriateness of LGE98

1. **Yes, we were overoptimistic** about building an all-encompassing system. However, optimism is what fuels creativity and at least a statement of intent was made and this was positive.
2. **No, we didn't do everything we could.** We overestimated the capabilities of those who we entrusted with a hugely complex task and just let them get on with it. There was also a failure to monitor and hand hold the process so as to identify issues early enough to intervene.
3. **We have learned that the road to hell is paved with good intentions.** All the aims and objectives listed are good and noble and appropriate but we failed in the execution. The intentions must remain but the execution must be adequate.
4. **The changes in material conditions are not as a result of a failure of the legislative or the regulatory framework.** If anything, the legislative framework is so complex as to be impossible to achieve by all but the very best. The failure has been at leadership level and at a political level. Citizens have been disrespected and left to fend for themselves in many areas by a leadership and a political milieu where personal financial and political considerations have prevailed over service delivery and decent job performance. Anecdotal evidence indicates that young people aspire to jobs in the public sector because the opportunity to “make money” is better than in the private sector. The system is fit for purpose but many of the people are not.

In response to the question on page 15 relating to the appropriateness or otherwise of constitutional provisions in LGE98.

The constitutional provisions of LGE 1998 are appropriate and are not in need of review. All requirements flow from the constitution and its intention to provide a better life for all. The

requirements are both realistic and workable based on the evidence that they are municipalities which fulfill them as intended and as reported on by the Auditor General. Much of the difficulty lies in the fractious nature in the political sphere.

In response to the questions on page 17 relating to core concepts in LGE98 our view is that:

1. The core concepts are sound and should remain intact.
2. All available evidence is that the core concepts are implementable but that such implementation is not common practice
3. The main reason for lack of implementation is a lack of leadership on the part of those responsible for overseeing implementation. Secondly there is a lack of skills. The combination of a lack of skills and ineffective leadership is that standards have fallen and service delivery has not happened. Coupled with the aforementioned is a poor work ethic where staff are interested only in pay day and this stems from a lack of leadership. A further and possibly the most destructive aspect is plain criminality.

In response to the questions on page 22 relating to the effectiveness of legislation subsequent to LGE98. With the exception of the promulgation of the various acts such as the Municipal Systems Act, the Municipal Structures Act etc.

1. Local Government legislation based on the outcomes of White papers subsequent to WPLG98 has been spectacularly ineffective in implementation. The basic issue is that it tried, with the best intentions, to provide legislative remedies to what have been human behavioral problems. We can legislate until blue in the face but if there is a lack of compliance then the legislation is irrelevant. We believe that there was an understanding of the true nature of the problems but a lack of political will to acknowledge them or to address them.
2. There is no evidence of any effective oversight and certainly no enforcement of the legislative and procedural requirements in those municipalities which are dysfunctional. Responsibility must be laid at the feet of the Mayors, MECs and Premiers.
3. In the absence of leadership, coaching, training and adequate consequence management the poor performance has been reinforced.
4. A further factor in the demise of municipalities has been the high turnover of councilors at each election. This has the effect of stripping away the benefits of institutional knowledge and experience.

The statement in bold type below, taken from page 26 and following the questions responded to above is cause for great concern and for the following reason:

Throughout the LGE26 document in the exposition of the problems faced in local government there are 2 themes.

- The first is the obvious evidence that legislative amendments have not had their desired effect.
- The second is the subtle inference that more and new amendments will succeed where others have failed.

With reference to the challenges listed above, the debate, therefore, is not about whether the system of local government needs to be reformed. The focus needs to be on 'by how much,' 'how quickly,' and 'by who.'

How can we assume that more of the same treatment is going to make one iota of difference? It was Einstein who said that trying to do the same thing over and over and to expect different outcomes each time is the definition of insanity. We need to disabuse ourselves of the notion that procedures will fix behavioural problems.

This point of view is borne out by the statements made on pages 32 and 33 listed below that important contributory factors include the following:

- **Item e) on page 32:** Manipulative conduct, culture and behaviour, unethical practices and poor accountability
- **and f) on page 33:** Overpoliticisation of municipalities and instruments of governance and delivery

These two phenomena encapsulate quite eloquently the two most important factors affecting the performance of municipalities. This is where the interventions need to happen. This does not imply that there are no amendments which need to be made to the legislative or procedural framework but rather that they are of lesser importance than the human factors

4. Proposed solutions

At local level all existing components of a municipality need to work in sync with one another if it is to be effective. This implies that there will be sufficient numbers of adequately qualified people in key positions in both the Administration and in Council fulfilling their responsibilities to an appropriate standard. In addition, Ward Committees need to be effective.

- It is self-evident then that **Municipal Managers** must be qualified and competent. Anecdotal evidence suggests that there are simply not enough qualified individuals of required standard available to fill vacant posts. Given that the Key Performance Areas are known, a national initiative to recruit and train prospective managers should be initiated. Each year there are hundreds, if not thousands of individuals graduating from our universities who wish to enter the job market who could qualify for selection.
- In the same vein **Speakers** of councils should only be eligible for election following successful completion of a training course which could be defined and conducted by SALGA.

- **Ward Committees**, by definition, represent the electorate in the municipal triangle. The Municipal Systems Act effectively neutralises them from any effective role as they act only in an advisory capacity. Anecdotal evidence suggests that in some municipalities Ward Committees don't even exist, effectively neutralizing public participation. Unless this situation is remedied through the revision and amendment of Ward Committee Rules, public participation will not be achieved.
- Taking the bigger picture into account and considering the circus that is evident in the functioning of both local and metropolitan councils it is evident that the **Municipal Structures Amendment Bill** promulgated in 2024 and which is yet to be approved by Parliament needs to be enacted. The threshold clause which seeks to exclude the fringe parties as well as the guarantee of the terms of coalitions will go a long way in bringing much needed stability to Councils. This is a matter of urgency.
- Anecdotal evidence as well as a detailed review of the statistics provided in LGE26 suggest that **smaller municipalities** lacking in the financial means to fulfill their mandates because of their demographics must receive preferential treatment in both financial and operational terms. The possibility of operating in clusters and with greater input from the District Municipality is appropriate.
- Given the mountain of available evidence regarding patronage networks, fronting and the resulting crime and corruption in dealing with procurement, the **Public Procurement Amendment Bill and ALL BBEEE provisions** related to supply chains in municipalities must be scrapped forthwith. This will ensure that there is better value for money.
- **On the subject of leadership.** In the world of Commerce and Industry CEOs and boards of directors are accountable to shareholders for the performance of the enterprises which they lead. They are also accountable to their subordinates for the health and continued prosperity of the organisation in order to preserve and enhance employment and economic growth. In the municipal context and taking the bigger picture into account the Premiers of provinces and their respective MECs should be the main drivers of service delivery through the effective functioning of municipalities. Their continued employment and political fortunes should rest on their performance. There should be zero tolerance on this issue. With some notable exceptions this is not happening.
- The example of Singapore comes to mind as an example of how leadership of a country should be approached. In a YouTube video interview, the Prime Minister articulated how he approached the question of leading his country. He based it on the principles encapsulated in the acronym MPH. This represents **Meritocracy, Pragmatism and Honesty**. This means the best person for the job being employed, the most suitable solution for the situation be applied and a zero tolerance to any dishonesty no matter the circumstances.

5. Conclusion

The problems with municipalities are so huge and so pervasive that they seem to be almost impossible to resolve. As we have worked through the documents and as we watch the news daily, we often feel a sense of despair at the extent and complexity of the situation. We wish we had more confidence that somehow somewhere there is an individual or a group of individuals who care enough and who are ethical enough and patriotic enough to roll up their sleeves and get involved in turning the situation around. There is no shortage of skilled individuals in our country who could make a difference but there are obstacles which preclude them from getting involved. Demographics, ideology, apathy and denial are just some of them.

Following World War 2 the Marshall Plan was launched by the USA in order to rebuild economic and agricultural production in Europe. In China the Cultural Revolution, despite the evils it perpetrated, transformed that country from a feudal system and opened the doors to modernization and industrialization. South Africa needs an intervention of similar proportions to break the logjam of mediocrity and political shenanigans in order to fulfil its potential. Something like a national convention where all interested parties are able to contribute and where petty party politics are put aside in the national interest. Are we even capable of doing this?

The following measures which if taken would significantly contribute to an improvement in the lived experience of the citizens in our country who currently live in poorly run municipalities:

- Effective local government should be the key deliverable of the Premier and failure to perform should result in removal from office
- Local Government MECs should be qualified professionals with the requisite skills and, as with Premiers, failure to perform should result in removal from office
- Administrative appointments, particularly in the financial roles, should be made strictly on merit, require relevant qualifications and be free from political interference.
- Limits of authority in terms of procurement should be set and managed in order to stop tender fraud and price gouging
- Preferential procurement in terms of BEE should be scrapped
- Consequence management based on appropriate performance measures should be strictly and impartially applied
- Patronage networks and gatekeeping of jobs for friends and family and connected individuals must be identified and removed
- An effective system of accountability to the electorate over and above the Ward Committee system should be introduced. The American system of “Town Hall” meetings on a regular basis comes to mind

This list is not exhaustive as it goes without saying that honest, open and ethical leadership is at the heart of any organisation or system of government which genuinely seeks to serve.

We all live in a municipality somewhere in South Africa. The more fortunate live in one where there is effective and accountable local government. Those less fortunate live in miserable

often hopeless conditions brought about by incompetence, corruption and a callous disregard for the plight of those they are intended to serve. Efforts to remedy the problems 1998 have been singularly ineffective. The White Paper WPLG26 aims to initiate a review process which unlike its predecessors is openly and sincerely asking the right questions about what is wrong and how to fix it. A new and equitable funding model for local government is also a fundamental imperative.

Unless there is an acknowledgement that the problems are overwhelmingly people problems rather than legislative ones the White Paper is doomed fail just as its predecessors have. For a country which is widely perceived to be on the brink of collapse the stakes have never been higher.

Hermanus Ratepayers Association
K.A. Briggs (Chairman)

Drafted by B Wridgway with input from K. Briggs
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