

**DEBATES AND PROCEEDINGS OF THE THIRD**  
**KWAZULU-NATAL PROVINCIAL LEGISLATURE**

**FIFTH SESSION**

**THIRD LEGISLATURE**

**THURSDAY, 17 JULY 2008**

**THE HOUSE MET AT 10:04 IN THE LEGISLATIVE CHAMBER,  
PIETERMARITZBURG.**

- 1. SILENT PRAYER OR MEDITATION, OR READING OF THE PRAYER IN  
SCHEDULE 2.**

The Speaker, Mr T W Mchunu, took the Chair and read the prayer.

- 2. OBITUARIES AND OTHER CEREMONIAL MATTERS**

**THE SPEAKER:** Hon members, it is with great sadness that we have to announce the passing away of the following people: Mr Joe Nhlanhla, the former Minister of Intelligence who passed away on 2 July 2008 and who was laid to rest on 12 July 2008.

I also have to announce the passing away of the wife of a former and late Speaker, the hon Mr G H S Mdlalose, and mother of Mr Mphiwa Mdlalose, who is member of staff and the Chairperson of Nehawu in the KZN Legislature. Mrs Mdlalose passed away on 11 July 2008 following a long illness. Her funeral service will be held at the Maduladula Reserve, Nquthu on Saturday at 09h00.

Thirdly, I have to announce the passing away of the three-month old daughter of Mr Cedric Sithole, member of staff, who passed away on the morning of 14 July 2008. The funeral is today. In fact, it started at Oribi Village at 10:00. The procession will proceed to the graveyard at Ethembeni. We encourage hon members to attend. It is always useful to give our staff members support during these difficult times.

I also wish to announce the passing away of the mother of the hon Mr B J Msomi, Chairperson of the UDM. Mr Msomi's mother passed away on the morning of the 16<sup>th</sup> of July 2008. Once funeral arrangements are confirmed, hon members will be notified accordingly. This all happened while Mr Msomi was in Zambia on behalf of this Legislature at the Commonwealth Parliamentary Association meeting.

There is also another member of the Eastern Cape Legislature who passed away. That was the hon Ms Nobantu Buka who passed away during the night of the 15<sup>th</sup> of July 2008 after a long illness at the St Dominic's Hospital in East London.

There was also the passing away of Mrs Yengwa, struggle veteran and wife of Mr Masabalala Yengwa. She passed away and will be buried this coming Saturday.

I have other very sad news under this item. Yesterday the IFP reliably informed us that the hon Rev C J Mtetwa, serving member of this House and former MEC for Works, was in hospital. We were informed that he was critically ill. I now have to inform hon members that he has passed on. This House mourns all these deaths, and we sympathise with all families who are related to these persons.

*Members of the House observed a minute of silence.*

**THE SPEAKER:** May their souls rest in the peace. Hon members, you may resume your seats.

### **3. ANNOUNCEMENTS BY THE SPEAKER**

**THE SPEAKER:** Hon members, I want to take the liberty to announce that we have also been informed, through doctor certificates, that the hon Mr T D Ntombela is unwell. He has therefore been book off.

The hon Mr E S Mbatha is also unwell and has also been booked off.

I have also received a certificate of ill health from the hon Mrs M V Noel, Deputy Chief Whip, who is also unwell and who has been booked off.

I have received apologies from the following persons: The hon S N Mtetwa, Chairperson of Committees; the hon Mrs Swartbooi; the hon Mr Msomi and Ms Naidoo, the Secretary of the Legislature. They are all attending the CPA Africa Region Conference from 10 to 18 July 2008. They are therefore away on official business.

The hon Mr S N Mtetwa and Ms Naidoo will also be attending the National Council of State Legislators Conference in America as from 20 to 28 July 2008.

Again, the hon Mr S N Mtetwa, the hon Mrs G Swartbooi, the hon Mrs J M Downs and Ms Naidoo will be attending the CPA International Conference in Malaysia from 1 to 10 August 2008.

The MEC for Health, the hon Mrs N P Nkonyeni, is away on official business in Japan.

The MEC for Education, the hon Mrs C M Cronjé, is also away conducting schools functions and monitoring the beginning of the second term.

The hon MEC Dr B M Radebe is away on official business in Argentina and will only be back on 20 July 2008.

The hon Mrs J M Downs is unable to attend today's sitting due to the fact that she is attending an ACDP NEC meeting.

Those are the apologies that we have received. I subsequently want to go on to birthday wishes. I hereby take the liberty of wishing the following hon members a belated happy birthday: The hon Mrs H M Blose who was born on 7 July; the hon T Jeebodh who was born on 7 July; the hon Mrs Mncwango who was born on 7 July and the hon Rev A H Mbatha who was born on 13 July.

At this stage I also wish to take this opportunity to wish a happy birthday to one of the greatest statesmen and icon of peace, forgiveness and reconciliation - we can just go on and on, because the list is endless. We want to wish the hon Dr Nelson Rolihlahla Mandela a happy 90<sup>th</sup> birthday for tomorrow. We will miss that opportunity if we do not do it now. I am informed there is a display in the foyer that members of staff have set up.

They claim it is beautiful, and they say it is in honour of Madiba's birthday. If hon members have an opportunity, please take time to look at that display. They did say it is beautiful and I believe them.

At this stage I will make my last announcement. As usual, Mrs Wendy Landsberg will be in Committee Room #1 from 10:00 to 13:00 for consultation purposes for those who have queries on Parmed related issues. Beyond that, I believe I have concluded my announcements under this item.

#### **4. ANNOUNCEMENTS BY THE PREMIER**

**THE SPEAKER:** Hon Premier, is there any announcement or report or statement?

**DR J S NDEBELE (Premier of KwaZulu-Natal):** Mr Speaker, there are no announcements, except to say that I am sure all of us are shocked by the news of the passing away of our colleague, Rev C J Mtetwa. All of us who are here will acknowledge the role he has played in bringing us together. I am sure all of us will prepare an appropriate response. It is a very sad thing that we could not do enough for him while he was alive.

#### **5. TABLING OF REPORTS OR PAPERS**

**MR M A I KUBHEKA (Chairperson of Portfolio Committee on Local Government and Traditional Affairs):** Mr Speaker, I hereby wish to table the Report of the Portfolio Committee on Local Government and Traditional Affairs on the Rationalisation of Planning and Development Laws Bill and the KwaZulu-Natal Town Planning Ordinance Amendment Bill.

**DR J S NDEBELE (Premier of KwaZulu-Natal):** Mr Speaker, I hereby wish to table the Report on the Audit into the Granting of Performance Rewards in the Departments of Education and Social Development at both national and provincial levels, as well as the Citizen Satisfaction Survey (Provincial Agricultural Services) and the Payment of Performance Incentives to Heads of Department without Annual Performance Evaluations Conducted dated March 2008.

## 6. FORMAL MOTIONS AND NOTICES BY THE CHIEF WHIP

**MR V C XABA (Chief Whip of the Legislature):** Mr Speaker, I want to report that we have no formal notices and/or motions. However, arising from the consultation with yourself, Mr Speaker, I want to report that the Whips, at their meeting yesterday, decided that the Legislature must scale down its legislative activities, given that we are not far away from the elections. This is as a result of a request from all parties in this House. I want to report that the Chief Whip and Whips have acceded to that request, and very soon we will come back with a revised programme that will take this request into account, as well as the decision thereon.

THE SPEAKER: We have exceeded our time on this item. In order to accommodate the wishes of hon members, I am stuck now. My watch tells me that I am 10:25. Please do not compare your watch with mine. We will stop at 10:40. We will allow 15 minutes for this item.

## 7. NOTICES OF BILLS OR MOTIONS

**DR Z L MKHIZE (Leader of Government Business):** Mr Speaker, I hereby move the following motion in terms of Rule 93(g):

**This House noting:**

That during the month of July, former President Nelson Rolihlahla Mandela, the first President of our democratic South Africa, celebrates his 90<sup>th</sup> birthday;

That Madiba represents the resilience of our people, the spirit of sacrifice and a lifelong dedication to the struggle to liberate our people from apartheid;

That all people of South Africa honour Madiba for his role in creating peace, for fostering reconciliation and racial harmony, and for promoting national unity and pride in our South African national identity, as well as co-operation between different political parties;

That, together with many of our heroes, he faced torture, long-term imprisonment, forced exile, assassination attempts and execution by the apartheid state;

That, through his freedom, our people enjoy equality before the law, having had their dignity restored, and living in a democratic state whose main task is the creation of a better life for all, and

That, as we celebrate Madiba's life, we pay tribute to all the leaders of our liberation struggle, such as Luthuli, Oliver Tambo, Dr Dube, Helen Joseph, Lillian Ngoyi, Bram Fischer, Yusuf Dadoo, Monty Naicker, Moses Mabhida, Joe Slovo and many others.

**Therefore resolves:**

To join the whole world in celebrating this special occasion with our beloved Madiba;

To salute the founding father of our rainbow nation, our icon and statesman, for his contribution to freedom and the development of mankind, and

To wish Tata Madiba a happy birthday and many happy returns.

*Question put and agreed to.*

**DR L P H M MTSHALI (IFP):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House as follows:

**This House noting:**

The purchase by the KwaZulu-Natal provincial government, via the Office of the Premier, of Vodacom Durban July tickets worth R100 000, and

That R31 200 worth of these tickets was made available to this Legislature.

**Therefore resolves:**

To condemn this blatant waste of taxpayers' money on the part of happy-go-lucky government officials who, in addition, hoarded the tickets that could have been purchased by the wider public.

**MR R M BURROWS (DA):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House as follows:

**This House noting:**

That the Democratic Alliance took a seat from the IFP after a hard-fought campaign in the run-up to the by-election in Endumeni (Dundee), and

That this victory marks the start of a vigorous and lively election season in KwaZulu-Natal which will culminate in a greatly expanded Democratic Alliance in 2009.

**Therefore resolves:**

To congratulate the Democratic Alliance on this stunning victory.

**REV A H MBATHA (NADECO):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House as follows:

**Le Ndlu:**

Ibheka kabusha udaba lwabantu baseMatatiele; futhi

Iyakubona ukuthi lokhu kuphakamisa abantu amaphaphu.

**Ngakho-ke inquma kanje:**

Ukuba kucelwe uMhlonishwa oqondene nalolu daba uMabuyakhulu ukuthi abuyise i-Matatiele kusiFundazwe saKwaZulu-Natali.

***[This House:***

*On reviewing the issue of the people of Matatiele, and*

*Realising that it may cause people's tempers to flare up.*

***Therefore resolves:***

*To request the MEC responsible for this issue, hon Mabuyakhulu, to bring back Matatiele under the Province of KwaZulu-Natal.]*

**MR A RAJBANSI (MF):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House as follows:

**This House noting:**

That the racing fraternity had honoured Mr Peter Miller with life membership of Gold Circle Racing because it believed that Mr Peter Miller will protect their interests in the provincial Legislature.

**Therefore resolves:**

To congratulate the hon Mrs Belinda Scott for the honour bestowed upon her on being allocated a space at a special table in the VVIP Golden Classic Room during the July Handicap to invite some of her guests, notwithstanding the fact that the honour was never extended to the hon Speaker or to the hon Cyril Xaba, former Chairperson of the Portfolio Committee on Finance and Economic Development, as this special honour was bestowed on the hon Mrs Scott in her capacity as Chairperson of the Portfolio Committee on Finance.

I move this motion in the name of truth.

**MRS B F SCOTT (ANC):** Filthy \*\*\* man!

**MR M A TARR (ANC):** Mr Speaker, I rise on a point of order. I rise under Rule 245, where this hon member is deliberately and maliciously misleading this House. I request that in terms of Rule 246 you refer the matter to a Disciplinary Committee to look at the issue of contempt, as provided for in the Rules.

**MR A RAJBANSI (MF):** Mr Speaker, I also request that that submission be referred to the Disciplinary Committee. I have documents to prove what I have said.

**THE SPEAKER:** Hon members, may I take this opportunity to say that the matter will be attended to. The hon Mr Tarr will provide me with a written submission to that effect, stating the facts which are incorrect and therefore misleading so that we can investigate the matter and take whatever action is necessary in terms of the Rules.

**MR T JEEBODH (ANC):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House as follows:

**This House noting:**

That, with the general elections looming in 2009, the wounds of death and violence seem to be awakening at Estcourt (uMtshezi);

The instability of internalism among the IFP in that area, resulting in IFP mayors bringing in people by bus and smashing the Imbabazane Municipal offices, and

That IFP people disrupted a government function in Bergville on Tuesday.

**Therefore resolves:**

To call on the IFP leadership to discipline their members or to accept that the blood of the people who are going to die will be on their hands, and ...

[Interjections]

To call on the MEC of Local Government to institute Section 139 in Imbabazane Municipality.

[Interjections] I so move. [Interjections]

**THE SPEAKER:** **Insert isiZulu** ... but we do not do this in violation of the Rules. **Insert isiZulu**. We do not do it! **Insert isiZulu**. It is not correct. **Insert isiZulu**. It is wrong to disturb another person while he is speaking.

**MR T JEEBODH (ANC):** Sorry, Mr Speaker. Do you want me to start again?

**THE SPEAKER:** Insert isiZulu. I stopped you.

**MR T JEEBODH (ANC):** I finished, Mr Speaker.

**INKOSI B N MDLETSHE (IFP):** **Insert isiZulu**

**Le Ndlu:**

Iphawula ngemiphumela yokhetho lokuchibiyela ephume izolo ebusuku kulesi siFundazwe lapho:

iQembu leNkatha labhulela amasaka uKhongolose phezu kokuba, ubekhiphe oNgqongqoshe noSomlomo behambahamba behla benyuka nesiFundazwe sengathi bathetha idlozi bephendula amasoyi, bekipha izijumbane zokuthekelisa abantu abampofu, futhi beqholosha ngesivinini samalambu a-blue;

uNgqongqoshe uMabuyakhulu uhlangene nezimbila zithutha lapho iNkantolo imtshale ezikabhoqo ukuthi ukuxosha kwakhe iKhansela uKhoza leNkatha eMadlangeni akukho emthethweni.

**Ngakho-ke ixwayisa:**

UKhongolose ukuthi lemiphumela iyinkomba ecace bha ukithi inkulumo kaNdunankulu uNdebele ukuthi uKhongolose uyonqoba ngo 60% kulesi siFundazwe ingamampunge nokuphupha kwesanuse esidle imbumba;

UNgqongqoshe uMabuyakhulu ukuthi isikhuni sizolokhu sibuya nomkhwezi kulemizamo yakhe yokuphendlela umnawakhe isikhundla sobuMeya eMkhandlwini waseMajuba.

***[This House noting:***

*The results of the by-election that were released last night in this Province where:*

*The IFP trounced the ANC, despite the fact that it sent MECs and Speakers all over the Province to take part in sod-turning ceremonies, give hand-outs to the poor and parade in blue lights;*

*The MEC, Mr Mabuyakhulu, came across an unexpected turn of events when he was blatantly told by the court that his dismissal of IFP councillor Mr Khoza from eMadlangeni was unlawful;*

***Therefore warns:***

*The ANC that these results are a clear indication that the talk by the Premier Mr Ndebele that the ANC will win the election by 60% is a pipedream from an untruth-telling sangoma, and*

*The MEC, Mr Mabuyakhulu, that what goes around comes around regarding his attempts to give his brother the position of Mayor for the Majuba District.]*

**MR G MARI (DA):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House as follows:

**This House noting:**

The recent fire which destroyed numerous shacks at the Kennedy Road informal settlement;

That there were numerous other fires that destroyed homes occupied by the poorest of the poor;

The failure of the eThekweni Municipality to provide low-cost housing for residents of this community who have taken to the streets on numerous occasions to vent their frustrations, and

That there is a perception that this community is being victimised by the eThekweni Municipality.

**Therefore resolves:**

To call on the MEC for Housing to investigate the plight of this community, and

To urge the eThekweni Municipality to prioritise a housing project in their area.

**PROF S J MAPHALALA (NADECO):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House as follows:

**Le Ndlu:**

Iyakubabaza ukushetshwa kolimi lwesiZulu nolwesiNgisi emisakazweni esakaza ngolimi lwesiZulu;

Ibona ukushetshwa kolimi lwesiZulu nolwesiNgisi kuyingozi yokusheshisa ukungcwaba ulimi lwesiZulu; futhi

Iphakamisa ukunxusa bonke abasakazi bolimi lwesiZulu ukukugwema ukusheba ulimi lwesiZulu nolwesiNgisi.

**[This House:**

*Expresses its shock at the code-switching between isiZulu and English on isiZulu broadcasting radio stations, and*

*Views this as a danger that might hasten the extinction of isiZulu as a language.*

**Therefore resolves:**

*To request all isiZulu disc jockeys to refrain from mixing isiZulu with English.]*

**MS L X H HLONGWA (ANC):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House as follows:

**This House noting:**

The increasingly disruptive behavior of the Inkatha Freedom Party which has embarked ... [Interjections]

**HON MEMBERS:** Ooooh!

**THE SPEAKER:** **Insert isiZulu.** Do not overdo it!

**MS L X H HLONGWA (ANC):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House ...

**THE SPEAKER:** **Insert isiZulu.**

**MS L X H HLONGWA (ANC):** Mr Speaker, I hereby give notice that I shall move on the next sitting day of the House as follows:

**This House noting:**

The increasingly disruptive behavior of the Inkatha Freedom Party which has embarked on a concerted effort to destabilise the ANC-led government's

programmes to better the lives of our fellow South Africans, and to create a violent environment in which they can thrive.

**Therefore resolves:**

To caution the IFP that violence in this province shall never be tolerated;

To urge the IFP to desist from such behavior, and

To appeal to the MEC of Community Safety and Liaison to bring to book all the culprits who orchestrate disruptions at government functions.

**8. ORDERS OF THE DAY**

**8.1 Questions**

**[QUESTIONS AND ANSWERS WILL APPEAR IN A SEPARATE VOLUME]**

***END OF TAKE RR01 Jax***

**THE SPEAKER:** Shall we then proceed to item 8.1. We start with standing over questions to the Premier, Question number 66. Hon Premier?

**THE PREMIER:** Thank you, Mr Speaker. The question relates to the former Head of the Department of Health. The response is that the Premier issued a press release on this matter and stressed that the Strauss Daly report was in fact a report for the Premier on the breakdown of the relationship between the MEC and the Superintendent-General. It was not a forensic audit or a commission of enquiry into any acts of corruption in the Department.

Therefore the Office of the Premier and Dr Nyembezi have no disagreements on the nature of the report, its original purpose and ownership. No report to the House is necessary.

In terms of the Public Service Amendment Act, 2007, the Premier is responsible for the

appointment and other career incidents of all heads of department of the Provincial Administration. This creates an employer and employee relationship which should be treated with due sensitivity and confidentiality.

The exit of Dr Nyembezi from the public service was handled in terms of the law and it was in the public interest as well as in the interest of service delivery that the Premier sought an amicable resolution of the matter with Dr Nyembezi.

**THE SPEAKER:** Hon Premier, will you then proceed to Question number 68?

**THE PREMIER:** It's known that the recently suspended Head of the Department of Agriculture, Advocate Manny, was expelled from his position as Superintendent-General of the Eastern Cape. In fact the statement issued by the former Premier of the Eastern Cape, had this to say:

*"Investigations were also done on his conduct with his previous employers ..."*

and it goes on and then it asks why we did not take that into account, why did we appoint him with that profile notwithstanding.

Our response is that we did not have the records that suggested Advocate Manny was dismissed from the Eastern Cape Department of Education. To our knowledge and as reflected on the record of the interview, the interview was thorough and beyond reproach. The interview was meant to determine the suitability of the candidate as regards the requirements for appointment to the post advertised and other criteria, that is competency, personal attributes and ability to operate at the post level.

The interview process is different from an investigation. Moreover, all things being normal, if Mr Manny had been charged by the Eastern Cape Government and found guilty of a dismissible offence, such dismissal by the Eastern Cape Government would have reflected on Persal and he would not have been appointed. Discovery of evidence of Mr Manny's alleged dismissal on the Persal would have prompted an investigation by the relevant authorities in KwaZulu-Natal.

There are always two sides to an interview – it is the panel as well as the person who is being interviewed. Normally a person who is being interviewed, the panel asks the question and in this case it did, "Is there any information that this Government needs to

know” and Mr Manuel did not volunteer any information and it is after his own appointment that we then discovered that he had these problems in the Eastern Cape, but in any case he was suspended for problems relating to his performance in KwaZulu-Natal.

**THE SPEAKER:** Thank you. The Premier has answered number 68. Can we then proceed to Question number 78?

**THE PREMIER:** Question 78: Does the Premier seriously believe that the Extended Public Works Programme belongs to the Department of Transport and not to that of Public Works? Now the Premier is always serious and takes decisions. Whether they prove to be right or wrong, but they are taken seriously.

In some other provinces the Department of Transport is made up of Roads, Public Works and Public Transport. There are some provinces where Roads and Public Works are one department and Transport is another department. Zibambele is the key programme that displays Extended Public Works Programme, that is why the provinces are copying from it.

As Head of the Provincial Government I have authority to place whichever programme or project in the Department where it will be better executed. The Extended Public Works Programme is better executed in the Department of Transport because of the institutional experience that is second to none in the Republic of South Africa on this issue. Indeed, the Extended Public Works Programme in the country was copied from what happened in the Department of Transport and why then do we need to reinvent the wheel just at a practical level in the first instance, but at an administrative level it is the Premier that assigns functions to any department? We might actually have adult education being done by Housing and there would be nothing illegal about it, it is just that when you say Housing, just ensure that in each house there is people who can read and write, because you are in Housing and they are located in houses, you can do that, it depends and if you look at how this government was structured in the past, it was always that consideration in the National Department or any government, for that matter.

**THE SPEAKER:** The question has been answered, Question number 78.

END OF TAKE RR2

**RR3**

**THE SPEAKER:** The question has been answered, Question number 78. We will then move over to questions to MECs. We start with the standing over questions. Question number 79 to be answered by the MEC for Transport, Community Safety and Liaison. Magaye?

**MR B H CELE:** [Insert isizulu]

Thank you hon Speaker. Question: What criteria did the Department use to choose the two Municipalities as guinea pigs? Firstly, I did not see guinea pigs, I saw pilot projects. There were no guinea pigs, there were pilot projects.

The MEC for Transport, Community Safety and Liaison, Cele, invited a number of stakeholders to be part of the delegation to Bogota and Curitiba including the following municipalities, namely; Ugu, Zululand, Hibiscus Coast, uMsunduzi and Ethekeeni. Were among the invited municipalities, Zululand refused to join the delegation, so they could not then be part of the pilot project because they refused while everybody was part of it Zululand said no, they cannot join this project.

The project then was piloted in these municipalities because of the interest they have showed in the project while in Bogota and Curitiba. Furthermore, of the municipalities invited, a Cabinet decision was then taken for the project to be piloted in uMsunduzi, Hibiscus Coast and Ethekeeni.

The hon members should also note that by virtue of it being a pilot project, it goes without saying that it would not have been piloted in all municipalities. Pilot project means just that.

Well, there is a question: While the MEC reported about the success in the Hibiscus Coast, he was silent on the uMsunduzi Municipality. Well, answer (a) UMsunduzi are fairly new to the project while Hibiscus Coast has been piloting it for just over a year. It was prudent therefore to use the Hibiscus Coast model as a reference point as opposed to uMsunduzi who at the time of Budget Speech had launched the project a month earlier. (b) The project in uMsunduzi was launched on 12 March 2008 in the Jika Joe informal settlement. There are currently 50 beneficiaries on the project contracted for one year and it is unfolding very well. The impact of the project is the reason that

uMnambithi got excited and they were present at the uMsunduzi launch not only to show support but also to observe first hand the scope and potential of the project in making a better life for all.

Since the MEC reported that they are still piloting the project in the two Municipalities as a question; how did uMnambithi come to know? That has been partially explained above. However, due to the success this pilot project has achieved in the Hibiscus Coast our sister Department of Public Works has undertaken the responsibility of driving this project at a national level by making municipalities in other provinces aware of it. Hence we have had the opportunity to host two local municipalities from Limpopo jointly with Hibiscus Coast during April and June 2000. Furthermore, the municipalities belonging to the Cities' Network Forum, during their conference on 5 & 6 June 2008, requested a special sitting of this body strictly to be briefed on Siyazenzela – not only that, Uganda has sent a delegation to come and find out more about this project.

Mpumalanga Province has sent their delegation. More and more provinces are sending their delegations. It is only Zululand Municipality that did not see the sense, but everybody else even in the SADC region – they see much sense in this. So, that is why it is flying, whether Zululand is on board or not – this project shall fly.

Thank you.

**THE SPEAKER:** The MEC has answered. We therefore proceed to Question 84, to be answered by the MEC for Health. I did report that the MEC for Health is on official business. Is there any MEC that stands in for her? Why do we not say, the Leader of Government Business is with us?

Hon, Leader of Government Business?

**MR Z L MKHIZE:** Thank you. As Speaker has indicated, the MEC for Health is away, so I will read the response. The Department is currently experiencing budget constraints due to over expenditure in the 2007 and 08 Financial Year. Audits have indicated that amongst others, a large proportion of the costs were incurred on staff, paying them subsistence and travel SNT, accommodation for conferences, workshops, courses, meetings and seminars. The moratorium on attendance of accommodation for conferences, workshops, courses, meetings and seminars referred to in the question

was introduced as a measure to put a tight reign on claims for S&T and accommodation.

So, Question (a) and (b): the training of EMRS staff and the training of the nurses are part of the routine training which has not been affected by the moratorium on the attendance of workshops on conferences in this financial year. However, all routine training will be strictly managed. Managers have been instructed to become very circumspect on the utilization of scarce financial resources and to constrict S&T and accommodation costs.

Transport shall be arranged in such a way that delegates will travel together by means of car pooling. The facilities of the Department shall be utilized as much as possible for hosting training events and activities and the external service providers, such as hotels and conference facilities may be utilized only if suitable Departmental venues are unavailable for booking.

Question (c): In keeping with the moratorium, all staff applications to attend International, national, provincial, inter-provincial conferences, workshops, courses, meetings, seminars, will have to pass through the office of the Head of Department for approval and disapproval prior to the attendance.

Thank you very much. I hope there are no questions.

**THE SPEAKER:** Hon members, the MEC has answered and therefore, there being no further questions, we will proceed to Question 86. I have a letter here which requested that I grant extension for Questions 86, 87 and 88. The Department is still awaiting and verifying the information from the municipalities concerned and it also requests that any inconvenience that may be caused be accepted as regretted.

Hon MEC, you seem to want to talk on this issue?

**MR MABUYAKHULU (MEC for HOUSING, LOCAL GOVERNMENT AND TRADITIONAL AFFAIRS):** I was saying hon Speaker, thank you very much; we have subsequently been able to get an answer on Question 86. The other two - we are still following them. But, I would also want to bring to the attention of the Speaker that there is a matter that is still pending in the Office of the Speaker with regard to answering questions for the sphere of Local Government in the sense that one of the members of this House – the Chief Whip of the Democratic Alliance – raised a matter which we have

gone back and in our own view, it is a matter that needs to be resolved because the answers were tabled before this House, on behalf of the Municipalities, are not matters that we deal with on a day to day basis. Those are matters we get as secondary information and you will know speaker that I have requested that a Ruling by the Speaker should be made on that matter in a formal letter to the Speaker. I would still wish to hear how the Speaker would rule on that matter but otherwise, on Question 86, we have an answer. The two are still outstanding as has been said in the letter.

**THE SPEAKER:** Hon MEC, I will make a follow up on that letter because I do remember there is a letter. We will make a follow up on where it is at and therefore make a ruling appropriately. But, in the meantime, if you are ready with answering Question 86 we will accept that and for the two other questions we will accept as well that there is an extension of time granted.

Thank you.

**MR MABUYAKHULU:** Thank you hon Speaker. The response on part one of Question 86, is that a total of 35 Forensic Investigations have been commissioned in terms of Section 106 of the Municipal Systems Act of which eight have been finalised, only two have matters outstanding which are being dealt with in variant degrees by the Municipalities and five are currently still under way.

In respect of part two of Question 86, the answer is yes. In response to question number three, part three of Question number 86, the answer is that there have been two interventions arising from the outcome of Forensic Investigations as follows:

The eMadlangeni Municipality with the Executive **XX11:09:54** of Committee assume the responsibility **XX** matters against Councillors and officials indicated in the report. And, uMzinyathi District, Amajuba District and Newcastle Municipalities where the Provincial Executive Committee Council also assume the responsibility for the water service authority function and consequently the provision of that water serviced by uThukela water Pty Limited.

In response to part four of the question, the answer is that 49 Municipalities have met interventions since the inception of the program and the list of those Municipalities are listed in the answer and I will not read all of them. So, I present the answer.

**THE SPEAKER:** Thank you. Hon Mr Burrows?

**MR R M BURROWS:** Thank you Mr Speaker. Arriving from **XX11:10:58** the hon MEC in connection with sub-section one, when referring to the investigations completed, at what point does the report of that Forensic Investigation become a public document?

**THE SPEAKER:** Hon MEC?

**MR MABUYAKHULU:** Thank you hon Speaker. It is now a matter of common calls that the relationship between the spheres of government with regard to dealing with matters of this nature is that we would then be giving the opportunity to the affected Municipality, the council of the affected municipality. And, it is now also a matter of common calls that each Municipality is given 21 days – within 21 days to have tabled the forensic report before its municipal council. Once the report has been tabled, before a municipal council, it is at that stage that the report becomes a public document. But, it cannot be a public document before it has been tabled.

It has therefore happened in the past hon Speaker, that municipalities have not been able to table those reports within 21 days. Those actually have got their own effects in the sense that because of the corporate governance spirit that we **XX11:12:25** we could not make these documents public until the municipalities had tabled those documents – forensic reports – before their municipal councils.

**THE SPEAKER:** Hon Mr Burrows?

**MR R M BURROWS:** Thank you Mr Speaker. Arising from the comprehensive reply of the hon MEC to the previous question that I posed, can the hon MEC indicate whether the Department requires a local authority that does not table to council within 21 days any other time limit in tabling it before a full council – not an executive?

**MR MABUYAKHULU:** Thank you hon Speaker. In all respect to the hon member, this would have been a separate question because it is a battle with the process and the procedures of tabling of the Forensic reports because it is dealing with detailed matters. Bear with me, we have a provision that the council should table and **XX11:13:44** within 21 days. After that, if a council is unable to do so, for whatever reasons that may be legitimate that that council should actually be able to come back to us and indicate as early as possible to the time for it to table but also advancing the reasons of plan tabling

of the report. We have therefore approached this matter not from a mechanical point of view, but we have approached it from being reasonable and flexible, dealing with situations which may vary from one particular set of circumstances to the other.

**THE SPEAKER:** Hon members that has concluded the question and answer session by the MECs. But, it has also concluded the debate on this matter. The next matter that we will be going into on the Order Paper is the debate on the Rationalisation of Planning and Development Bill. We first introduced the Bill **XX11:15:14** the MEC – hon MEC Mabuyakhulu who will have 10 minutes to be followed by the chairperson of the Local Government, Traditional Affairs Portfolio Committee hon MAI Kubheka who will also have 10 minutes.

I take this opportunity to hand over to the Deputy Speaker who will preside whilst I am attending to formal business of this House. Hon MEC?

**MR MABUYAKHULU:** Hon Speaker, in view of the fact that I have a very serious flu, I would like to request that before my voice dessert me that I am able to present the introduction of both Bills simultaneously and therefore respond to the debates into both Bills, separately. So therefore take my time for both Bills and present both of them in stead of trying to separate them. I am trying to conserve the little that I have of my voice, otherwise, it may actually dessert me before it is **XX11:16:35**. Hon Speaker...

**THE SPEAKER:** Hon members, I see no infringement on rules on that provided that the Bills out vote the tabled, as the MEC speak. Therefore, please staff who are responsible for distribution ensure that both these Bills are tabled Thursday – the MEC's table.

We then move to up to the **XX11:17:13**

**MR MABUYAKHULU:** Thank you hon Speaker, hon Premier, hon members, the Coucil and members of the Legislature on all protocol. Hon Speaker, it gives us as the Department of Local Government and Traditional Affairs pleasure to table before this House the KwaZulu-Natal Rationalization of Planning and Development in our Bill and the KwaZulu-Natal Town-Planning and Ordinance Amendment Bill. Before we make other remarks we wish to join the people of South Africa and this august House, and indeed the rest of the world in saluting the first President of a Democratic Republic of South Africa and the Freedom fighter extraordinaire, Comrade President Nelson

Mandela who will be celebrating his 90<sup>th</sup> birthday tomorrow. It is at the back of a colossus such as Madiba that in his speech a stingily hope of a just prosperous and non sexist and non racial world rights. Through his selfless sacrifice Madiba continues to inspire all of us to continue to strive for this course for indeed, we know that ours is just a course. I am therefore convinced hon Speaker, that all of us are unanimous when proclaiming “Long live life Madiba! Long live Madiba!”

The Department of Local Government and Traditional Affairs is charged with a deeply humbling but highly rewarding duty of ensuring that our snatching all inclusive system of Local Government is stable, sustainable and critically able to fulfil its mandate of reconstruction and development of our country. The freedom we ushered in, in 1994 find it practically thrashing at Local Government Level. The sphere of XX is a mirror which should reflect progress, or lack thereof, or that we have made in transforming our society in a just equitable and prosperous one precisely because our Constitutional Democracy – all our actions, even to this sphere of government – are governed by legal prescripts. The objective reality of our situation however, is that democratic states inherited pragmatic administrations with contradictory and inconsistent legal frameworks. The result of this was that after the realignment process some areas that we governed were governed by specific sets of legal prescripts suddenly fell into jurisdictions that applied a different set of laws. As a uniformity which guaranteed a non discriminatory nature of the law was therefore lost as different laws regarding the same thing applied differently to citizens of the same province. This normally had to be corrected in order to ensure uniformity and equality before the law and to ensure that development happened at an equal level irrespective of where one is located within the Province.

It is also because of our commitment to structured and sustainable development that we are tabling these two Bills before this House. In doing this, we are also hinting the advice of one of the world’s respected philosophers, Aristotle, who said; “Even when laws have been written down, they ought not always to remain unaltered.” Indeed it would be in the midst of our government not to alter laws which are everyday working against the very principles of equality and uniformity that we strive for - laws that ultimately hamper development.

The Provincial Planning and Development Legislation is being rationalized in two phases: in the first phase of Rationalization Process, the Town-Planning Ordinance of

1949 (Ordinance Number 27 of 1949) will be made applicable to the whole territory of the Province and all other existing Provincial Planning and Development Laws will be repealed. References in the Town-Planning Ordinance to authorities and laws which no longer exist will also be updated and public participation in decisions on planning development matters will also be increased. However, the Town-Planning Ordinance is itself an outdated law which the Province inherited from the former Province of Natal. And, in the second phase of the Rationalization process it will be replaced with a new Provincial Planning and Development Law which should be in operation by July 2009 and we add with the caveat, provided this House can be able to pass this in time by then.

The extension of the Town-Planning Ordinance will in the meantime in the meanwhile, provide much needed relief from municipalities who would like to extend their land-using skills to their whole area of jurisdiction and in particular, for the municipalities of uPhongolo and uMzimkhulu where development is severely hampered by outdated Ordinances from other provinces which are still applicable.

The KwaZulu-Natal Rationalization of Planning and Development **ClauseXX11:23:34** Bill, will repeal the following Laws that the Province inherited from other provinces and National Government and will also provide for transactional arrangements. We will therefore repeal;

- The Cape Townships Ordinance of 1934 (Ordinance Number 33 of 1934)
- The Transvaal Town-Planning and Townships Ordinance of 1986 (Ordinance number 15 of 1986)
- The regulations in relation to the Townships in land-use of 1986 (Proclamation R1897 of 1986)
- The Township Development Regulations for Towns of 1990 (Proclamation R1886 of 1990)
- The Land-use and Planning Regulations of 1990 (Proclamation R886 of 1990) and,
- The KwaZulu Land Affairs Act of 1992 (Act number 11 of 1992).

Prior to 1992, the former Natal Provincial Administration had no jurisdiction over towns set apart in terms of Section 30 of the Black Administration Act of 1927 (Act number 38 of 1927) as well as towns set apart in terms of Section 33 of the Black Communities Development Act of 1984 (Act number 4 of 1984).

Typical examples of towns set apart in terms of Section 30 of the Black Administration Act of 1927 are Claremont, Edendale, Edendale East, Imbali, parts of Inanda and KwaDabeka. Township establishment in these towns was regulated by the Township Development Regulations for towns of 1990 and the Town-Planning was regulated by the Land-use and Planning Regulations of 1990. Although the abolition of nationally based Land Measures Act of 1991 (Act number 108 of 1991) repeal Section 30 of the Black Administration Act of 1927, the two sets of regulations were retained and now require rationalization. Typical examples of towns set apart in terms of Section 33 on the Black Communities Development Act of 1984 are: Bramville, Sibongile and Sobantu.

Township Establishment and Town-Planning were regulated by the regulations relating to Township Establishment and Land-use of 1986, whilst the abolition of rationally based Land Measures Act of 1991 repealed Section 33 of Black Communities Development Act of 1984, however, the Regulations were retained. While the Natal Provincial Administration as it was known then, became responsible for the administration of towns set apart in terms of section 30 of the Black Administration Act of 1927 and the towns set apart in terms of Section 33 of the Black Communities Development Act of 1984, in 1992 that administration was **XX11:27:13**

Now, fought within the mandate of the Municipalities in the Province, the regulations referred to were drafted within the context of a National Government Department performing Local Government functions and are no longer appropriate with the new Constitutional Dispensation – as we all know that our Constitution now has discreet spheres of government and in terms of Section 5 of the Constitution, it clearly outlines some of the areas which are competencies of Local Government. They provide only a limited role for Municipal Government in decision-making and have only been applied in a limited number of cases. By comparison, hon Speaker, Municipalities are extensively involved in decision-making under the Town-Planning Ordinance and it has been

extensively used since it came into operation in 1951.

It is therefore, proposed that the KwaZulu-Natal Legislature repeals Regulations and makes the Town-Planning Ordinance of 1949 applicable to these areas. The KwaZulu-Natal Provincial Administration became responsible for the administration of the former Natal and the former KwaZulu in 1994. The KwaZulu-Natal land, the KwaZulu Land Affairs act of 1992 (Act number 11 of 1992) regulated planning and development within former KwaZulu. The Act and its regulations were drafted within the context of a National State performing Local Government functions and are also no longer appropriate within the new Constitutional Dispensation. The Act and its Regulations provide only a limited role for the Municipal Government in decision-making and has only been applied in a limited number of places because of uncertainty of our competent authorities within the context of the new Provincial Government and a lack of delegation.

Similarly, hon Speaker, it is therefore proposed in a set of Bills before this House that the KwaZulu-Natal Legislature makes the Town-Planning Ordinance applicable to land which formed part of the territory of the former KwaZulu. Phongolo and Simdlangentsha, were included in KwaZulu-Natal when the new Provincial Administrations were created. Although the Transvaal Town-Planning and Township Ordinance of 1986 (Ordinance number 15 of 1986) is still applicable to the two areas, this Ordinance has not been assigned to a competent authority within KwaZulu-Natal and is administered by a competent authority within the National Government.

It is therefore proposed that the KwaZulu-Natal Legislature makes the KwaZulu-Natal Town-Planning Ordinance applicable to oPhongolo and Simdlangentsha. And, the Transvaal Town-Planning and Township Ordinance will therefore be repealed once the functions under the KwaZulu-Natal Ordinance have been assigned to a competent authority that is within Kwazulu-Natal. It is important here that you cannot repeal an undersigned piece of legislation which may be with the National Government because we have no competent authority within it – we have no jurisdiction – so we would not have a **XX11:31:07**

As uMzimkhulu has recently been included in KwaZulu-Natal, and the Township Ordinance of 1934 is still applicable to the area, it is proposed that the KwaZulu-Natal Legislature make the Town-Planning Ordinance of 1949 applicable to uMzimkhulu as

well and a similar process be followed as with the Transvaal Town-Planning and Township Ordinance of 1986 that I have alluded to area. Once this process has been completed, the first goal of uniformity within KwaZulu-Natal would have been achieved and, for the first time in nearly 40 years – if not 400 years – every citizen in the Province will fall under the same uniform framework as far as planning and development is concerned.

This is however, not the end of the journey as far as **XX11:32:08** is concerned. As indicated earlier, we have therefore taken another task as a Department and I have been studying the Department some time ago to rationalize all order planning and development legislation in the Province and, this process is near completion. The Bills which are being presented before this House are intended to provide innovative, uniform and cohesive planning and development legislation for the Province of KwaZulu-Natal which will survive any constitutional scrutiny and which will lead to the other eight Provinces in the public, in their rationalization process. In other words, we are the pioneers of this process.

When future generations look back at this time in our history, they will be amazed by the heroism of our freedom fighters. They will draw their strengths from our ability to transfer party political differences in order to rebuild our country. They will marvel at our Constitution and they will also honour our ingenuity in turning the fortunes of our country around. These Bills that are before this august House, which we are tabling before this House today, will also be added to the illustrious list of decisive actions by this current generation of leaders to complete the unfinished task of removing all apartheid statutes and Laws aesthetic books.

Indeed we must say that our country and our Province will be considered to have led South Africa in a particular way. Ultimately, we believe Laws are there to guide the citizens including the administrations in pursuit of constitutional applications. We have no doubt that after this House has communicated with Education the lives of our people will improve for the better.

With these words, we present the two Bills from the Department of Local Government and Traditional Affairs for this House's consideration and adoption at the end of the day. I thank you Mr Speaker.

**DEPUTY SPEAKER:** Thank you hon MEC. Our next speaker will be the hon MAI Kubheka for ten minutes.

**END OF TAKE RR3**

**THE SPEAKER:** Thank you. Hon Mr Burrows?

**MR R M BURROWS (DA):** Thank you, Mr Speaker. Arising from the reply of the hon MEC in connection with sub-section (1), when a forensic investigation is completed, at what point does the report of the forensic investigation become a public document?

**THE SPEAKER:** Hon MEC?

**MR M MABUYAKHULU (MEC for Housing, Local Government and Traditional Affairs):** Thank you, hon Speaker. It is now a matter of common cause that the relationship between the spheres of government with regard to dealing with matters of this nature, is that we would then first give the opportunity to the affected municipality, the Council of the affected municipal and it is now also a matter of common cause that each municipality is given 21 days to have tabled the forensic report before its Municipal Council and once the report has been tabled before the Municipal Council, it is at that stage that the report becomes a public document, but it cannot be a public document before it has been tabled.

It has happened in the past, hon Speaker, that municipalities have not been able to table those reports within 21 days and those actually have their own effect in the sense that because of the corporate government spirit that we actually espouse, we could not make those document public until the municipalities have tabled those documents, forensic reports, before the Municipal Councils.

**THE SPEAKER:** Hon Mr Burrows?

**MR R M BURROWS (DA):** Thank you, Mr Speaker. Arising from the comprehensive reply of the hon MEC to the previous question that I posed, can the hon MEC indicate whether the Department requires a local authority that does not table to Council within 21 days, any other time limit in tabling it before a full Council, not an Executive?

**MR M MABUYAKHULU (MEC for Housing, Local Government and Traditional**

**Affairs):** Thank you, hon Speaker. With all respect to the hon member, this would have been a separate question, because it would have dealt with the process and the procedures of tabling of forensic reports, because it was dealing with detail matters, but be that as it may, we have a provision that the Council should table a report within 21 days and therefore if a Council is unable to do so, for whatever reasons that may be legitimate, that that Council should actually be able to come back to us and indicate at the best, earliest possible time for it to table, but also advancing the reasons of non-tabling of the report.

We have therefore approached this matter not from a mechanical point of view, but we have approached it from being reasonable and flexible, dealing with situations which may vary from one particular set of circumstances to the other.

**THE SPEAKER:** Hon members, that has concluded the Question and Answer session by the MECs. It has also concluded the debate on this matter and the next matter that we will be going into on the Order Paper is the debate on the Nationalisation of Planning and Development Bill. The first to introduce the Bill will be the MEC, hon MEC Mabusyakhulu, who will have 10 minutes, to be followed by the Chairperson of the Local Government and Traditional Affairs Portfolio Committee, hon M A I Kubheka, who will also have 10 minutes.

I take this opportunity to hand over to the Deputy Speaker who will preside whilst I am attending to some other business of this House. Hon MEC, will you please proceed?

**MR M MABUYAKHULU (MEC for Housing, Local Government and Traditional Affairs):** Hon Speaker, in view of the fact that I have a very serious bout of flu, I would like to request that before my voice deserts me, that I am able to present the introduction of both Bills simultaneously. I will therefore respond to the debates in both Bills, instead of separating them. I am trying to conserve the little that I have left of my voice, otherwise it may actually desert me before it is too...

**THE SPEAKER:** Hon members, I see no infringement on Rules on that, provided that the Bills are both tabled as the MEC speaks. Therefore please, staff who are responsible for distribution, ensure that both these Bills are tabled as the MEC has tabled them.

I will then hand over to the Deputy Speaker at this stage.

**MR M MABUYAKHULU (MEC for Housing, Local Government and Traditional Affairs):** Thank you, hon Speaker. Hon Speaker, hon Premier, hon Members of the Executive Council, hon Members of the Legislature, normal protocol, it gives us as the Department of Local Government and Traditional Affairs, pleasure to table before this House the KwaZulu-Natal Rationalisation of Planning and Development Laws Bill and the KwaZulu-Natal Town Planning Ordinance Amendment Bill.

Before we make our remarks, we wish to join the people of South Africa in this august House and indeed the rest of the world, in saluting the first President of a democratic Republic of South Africa and a freedom-fighter extraordinaire, Comrade President Nelson Mandela, who will be celebrating his 90<sup>th</sup> birthday tomorrow. It is at the back of a colossus such as Madiba that the inextinguishable hope for a just, prosperous, non-sexist and non-racial world, rides. Through his selfless sacrifice, Madiba continues to inspire all of us to continue to strive for this cause, for indeed, we know that ours is a just cause. I am convinced, hon Speaker, that all of us are unanimous in proclaiming : "Long live Madiba, long live Madiba!"

Hon Speaker, our Department of Local Government and Traditional Affairs is charged with a deeply-humbling but highly-rewarding duty of ensuring that our fledgling, all-inclusive system of local government is stable, sustainable and, critically, able to fulfil its mandate of reconstruction and development of our country. The freedom we ushered in, in 1994, finds its practical expression at local government level. This sphere of government is a mirror which reflects the progress, or lack thereof, that we have made in transforming our society into a just, equitable and prosperous one.

Precisely because we are a constitutional democracy, all our actions, even at this sphere of government, are governed by legal prescripts. The objective reality of our situation, however, is that the democratic state inherited fragmented administration with contradictory and inconsistent legal frameworks. The result of this was that after the realignment process, some areas that were governed by a specific set of legal prescripts, suddenly fell into jurisdictions that applied a different set of laws.

Cohesion and uniformity, which guarantee the non-discriminatory nature of the law, was therefore lost, as different laws regarding the same thing applied differently to citizens of

the same province. This anomaly had to be corrected in order to ensure uniformity and equality before the law and to ensure that development happened at an equal level, irrespective of where one is located within the province. It is also because of our commitment to structured and sustainable development that we are tabling these two Bills before this House. In doing this, we are also heeding the advice of one of the world's respected philosophers, Aristotle, who said:

*“Even when laws have been written down, they do not always remain unaltered.”*

Indeed, it would be remiss of our government not to alter laws which are every day working against the very principles of equality and uniformity that we strive for, laws that ultimately hamper development.

Hon Speaker, the provincial planning and development legislation is being rationalised in two phases:

In the first phase of the rationalisation process, the Town Planning Ordinance of 1949 (Ordinance No. 27 of 1949) will be made applicable to the whole territory of the province and all other existing provincial planning and development laws will be repealed. References in the Town Planning Ordinance to authorities and laws, which no longer exist, will also be updated and public participation in decisions on planning and development matters will be increased.

However, the Town Planning Ordinance is itself an outdated law, which the province inherited from the former province of Natal and in the second phase of the rationalisation process, it will be replaced with a new provincial planning and development law, which should be in operation by July 2009, provided this House is able to pass it by then.

The extension of the Town Planning Ordinance will in the meanwhile provide much needed relief for municipalities who would like to extend their land-use schemes to their whole area of jurisdiction and, in particular, for the municipalities of uPhongolo and Umzimkhulu, where development is severely hampered by outdated ordinances from other provinces, which are still applicable.

The Kwazulu-Natal Rationalisation of Planning and Development Laws Bill will repeal the following laws that the province inherited from other provinces and National

Government and will also provide for transitional arrangements: We will therefore repeal the Cape Townships Ordinance, 1934 (Ordinance No. 33 of 1934); the Transvaal Town Planning and Townships Ordinance, 1986 (Ordinance No. 15 of 1986); the Regulations Relating to Township Establishment and Land Use, 1986 (R.1897 of 1986); the Township Development Regulations for Towns, 1990 (R.1886 of 1990); and the KwaZulu Land Affairs Act, 1992 (Act No. 11 of 1992).

Prior to 1992, the former Natal Provincial Administration had no jurisdiction over towns set apart in terms of Section 30 of the Black Administration Act, 1927 (Act No. 38 of 1927), as well as towns set apart in terms of Section 33 of the Black Communities Development Act, 1984 (Act No. 4 of 1984).

Typical examples of towns set apart in terms of Section 30 of the Black Administration Act, 1927, are Claremont, Edendale, Edendale East, Imbali, parts of Inanda, and Kwadabeka. Township establishment in these towns was regulated by the Township Development Regulations for Towns, 1990, and town planning was regulated by the Land Use and Planning Regulations, 1990. Although the Abolition of Racially Based Land Measures Act, 1991 (Act No. 108 of 1991), repealed Section 30 of the Black Administration Act, 1927, the two sets of regulations were retained and now require rationalisation.

Typical examples of towns set apart in terms of Section 33 of the Black Communities Development Act, 1984, are Bruntville, Sibongile and Sobantu. Township establishment and town planning were regulated by the Regulations Relating to Township Establishment and Land Use, 1986, and whilst the Abolition of Racially Based Land Measures Act, 1991, repealed Section 33 of the Black Communities Development Act, 1984, however the regulations were retained.

Whilst the Natal Provincial Administration (as it was known then) became responsible for the administration of towns set apart in terms of Section 30 of the Black Administration Act, 1927, and towns set apart in terms of Section 33 of the Black Communities Development Act, 1984, in 1992, the administration of such towns now falls within the mandate of municipalities in the province.

The regulations referred to were drafted within the context of a national government department, performing local government functions and are no longer appropriate within

the new constitutional dispensation. As we all know, our Constitution now has got three spheres of government and in terms of Schedule 5 of the Constitution, it clearly outlines some of the areas which are competencies of local government. They provide only a limited role for municipal government in decision making and have only been applied in a limited number of cases. By comparison, municipalities are extensively involved in decision making under the Town Planning Ordinance and it has been extensively used since it came into operation in 1951. It is therefore proposed that the KwaZulu-Natal Legislature repeals the regulations and makes the Town Planning Ordinance of 1949 applicable to these areas.

The KwaZulu-Natal Provincial Administration became responsible for the administration of the former Natal and the former KwaZulu in 1994. The KwaZulu Land Affairs Act of 1992 (Act No. 11 of 1992) regulated planning and development within former KwaZulu. The Act and its regulations were drafted within the context of a national state, performing local government functions and are also no longer appropriate within the new constitutional dispensation. The Act and its regulations provide only a limited role for municipal government in decision making and have only been applied in a limited number of cases because of uncertainty over competent authorities within the context of the new provincial government and a lack of delegation. Similarly, it is therefore proposed in a set of Bills before this House that the KwaZulu-Natal Legislature makes the Town Planning Ordinance applicable to land which formed part of the territory of the former KwaZulu.

Pongola and Simdlangentsha were included in KwaZulu-Natal when the new provincial administrations were created, although the Transvaal Town Planning and Townships Ordinance of 1986 (Ordinance No. 15 of 1986) is still applicable to the two areas. This Ordinance has not been assigned to a competent authority within KwaZulu-Natal and is administered by a competent authority within the National Government. It is therefore proposed that the KwaZulu-Natal Legislature makes the KwaZulu-Natal Town Planning Ordinance applicable to Pongola and Simdlangentsha and the Transvaal Town Planning and Townships Ordinance will therefore be repealed once the functions under the KwaZulu-Natal Ordinance have been assigned to a competent authority within KwaZulu-Natal. Now it is important here that we cannot repeal an unassigned piece of legislation which may be with National Government, because we have no competent authority within it, we have no jurisdiction.

As Umzimkhulu has recently been included in KwaZulu-Natal, and as the Cape Townships Ordinance, 1934, is still applicable to the area, it is proposed that the KwaZulu-Natal Legislature makes the Town Planning Ordinance of 1949 applicable to Umzimkhulu as well and that a similar process be followed as with the Transvaal Town Planning and Township Ordinance of 1986, as alluded to earlier.

Once this process has been completed, the first goal of uniformity within KwaZulu-Natal will have been achieved and for the first time in nearly 40 years, if not 400 years, every citizen in the province will fall under the same, uniform framework as far as planning and development is concerned.

This is however not the end of the journey as far as this legislation is concerned, hon Speaker. As indicated earlier, we have therefore taken another task as the Department and I have instructed the Department some time ago to rationalise all old-order planning and development legislation in the province and this process is nearing completion.

The Bills which are being presented before this House, are intended to provide innovative, uniform and cohesive planning and development legislation for the province of KwaZulu-Natal, which will survive any constitutional scrutiny and which will lead to the other eight provinces in the Republic in their rationalisation process. In other words, we are the pioneers of this process.

Hon Speaker, when future generations look back at this time in our history, they will be amazed by the heroism of our freedom fighters, they will draw strength from our ability to transcend party-political differences in order to rebuild our country, they will marvel at our Constitution and they will also honour our ingenuity in turning the fortunes of our country around. These Bills which we are tabling before this House today, will also be added to the illustrious list of decisive actions taken by this current generation of leaders to complete the unfinished task of removing all apartheid laws in our statute books and indeed we must say, in our country and our province, that we consider to have led South Africa in a particular way.

Ultimately, we believe laws are there to guide the citizens, including the administration, in pursuit of their Constitutional obligations. We have no doubt that after this House has promulgated this legislation, the lives of our people will improve for the better. Hon Speaker, with these words we present the two Bills from the Department of Local

Government and Traditional Affairs for this House's consideration and adoption by the end of debate. I thank you, Mr Speaker.

**THE DEPUTY SPEAKER:** Thank you, hon MEC. Our next speaker will be the hon M A I Kubheka, for 10 minutes.

END OF TAKES RR4-RR5

**RR6&7**

**MR M A I KUKHEKA:** Thank you hon Speaker. Although I do not necessarily have regret or face regret of my voice dissenting me, but I will make a similar request that the hon MEC has made - of presenting this report which represents the work that the Committee has done on both Bills so that on the next debate we do not necessarily present another report

**DEPUTY SPEAKER:** The request is grounded.

**MR M A I KUBHEKA:** Thank you very much Mr Speaker. The two Bills as referred to above – that is, the Rationalization of Planning and Development Laws Bill, and the Town-Planning Ordinance Amendment Bill - were referred to the Committee on 18 March 2008. Accordingly, the Portfolio Committee was briefed on the objects and actual contents of the Bills by the drafters from the Department's Legal services on 10 April 2008.

On the Objects of the Bills; arising from the briefing and as stipulated on the explanatory memoranda accompanying the Bills, the objects of the Bills are as follows in brief

- The KZN Rationalization of Planning and Development Laws Bill – as noted by the MEC - will repeal and provide for transitional arrangements for laws that the Province inherited from other provinces and national government as listed in the memorandum.
- The Town-Planning Ordinance Amendment Bill aims at extending the application of the Town-Planning Ordinance to the whole territory of the Province, updating references to authorities and Laws which no longer exist as well as improving public participation processes.

On public Participation, the Committee thereafter receiving briefing from the drafters, resolved to facilitate Public Participation in terms of section 118(1) (a) of the Constitution of the Republic of South Africa to allow interested members of the public to make their inputs on the Bills.

Public hearings which were preceded by public education on the Bills were held as indicated. We held them at uMhlathuze Municipality and uThungulu on 20 May 2008; iLembe District Municipality at KwaDukuza on 20 May 2008; uMgungundlovu District in uMsunduzi Municipality on 21 May 2008; Amajuba District at Newcastle on 22 May 2008; uThukela District at uMnambithi Municipality on 22 May 2008 and Ugu District in the Hibiscus Coast Municipality on 23 May 2008.

In all hearings conducted, participants expressed support for the objects and contents of the Bills without reservations. And, on its meeting of 15 July 2008, the Committee resolved to approve of the Bills as tabled in this House and as such, recommends their approval by the House.

I thank you Mr Speaker.

**DEPUTY SPEAKER:** Thank you very much hon Kubheka. The next Speaker is hon M Z N Madlala. Ndabezitha, you have six minutes.

**INKOSI M Z N MADLALA:** [Insert isiZulu]

#### **END OF TAKE RR6&7**

**MR M A TARR (ANC):** Thank you, Mr Speaker. After we have listened to the hon MEC explaining the need and the purpose of these Bills, it is extremely difficult to add anything new to the debate.

The hon member who has just spoken debated at some length, but he said very little relating to the actual Bills themselves with all due respect. Henry, I listened my friend. Anyway, the long and the short of it is that this province inherited a number of laws relating to planning and development for example there were different laws which covered Pongolo, which use to be part of Transvaal. There were different laws which

covered the areas in KwaZulu. Then, of course, we recently taken over Umzimkhulu and there were laws relating to planning and development for Umzimkhulu. Then, of course, there were the laws relating to Natal as it was and then the so-called "R293-townships", which used to be in the black townships in Natal. These are all now going to be repealed and all planning and development will come under the Town Planning Ordinance of 1945, but that also has been amended to bring it up to date to fit in with the present circumstances and that is the purposes of the debate which is going to actually follow this one.

The only other thing, and it is important, there will be a whole series of applications that are in the pipeline, so to speak, in terms of the existing laws as they are right now. So, it is obviously necessary that we make transitional arrangements to deal with those applications, which are currently in the pipeline. That is precisely what the Bill before us does as well.

Mr Speaker, with those few words, I support the Bill on behalf of the ANC. I am looking at Mr Brooks over there, I am not sure if he is nodding his head or not, but it certainly is legislation which is long overdue and I am glad that we are passing it in the House today. [Hear! Hear!]

**THE DEPUTY SPEAKER:** Thank you, hon Tarr for your contribution. The next speaker is hon G Mari, for seven minutes.

***END OF TAKE RR8***

**MR G MARI (DA):** Thank you, Mr Speaker. At the outset the DA wishes to record its disappointment firstly at the number of organisations and members of the public that attended these public hearings. In some cases the Committee had to wait for a decent attendance and in some cases no fewer than 10 people were present at these hearings.

It was only at KwaDukuza, Stanger where food was provided before the meeting, we seemed to have a decent attendance, but it seemed that many of them came for lunch rather than to make meaningful contribution on the Bill.

Nevertheless we can say we met our constitutional obligations in having public hearings.

The Bill before us repeals six pieces of old order legislation, which were inherited from

other provinces and national government who performed local government functions previously. The Bill now provides for transitional arrangements and provide for the province to be governed by the Town Planning Ordinance. This must be welcomed. This Bill must be welcomed, because the province will now have one ordinance applicable to all planning and developmental proposals and not different pieces of legislation which was cumbersome and time consuming for applicants, who found it very difficult to comply with.

What we should be looking forward to, is the second phase which will see the the remaining provincial planning and development laws being replaced with a new planning and development law, which will govern the entire province.

Previously the old Natal Provincial Administration had no jurisdiction over town s set apart in terms of section 30 of the Black Administration Act, 1927 (Act No. 38 of 1927) and other racially based legislation, which resulted in areas like Clermont, Hiddendale, Imbali, parts of Inanda, Kwadebeka where uncontrolled and disjointed planning and development took place resulting itoday in municipalities struggling to regularise them.

The various pieces of legislation that is being repealed clearly show how a piece of legislation or regulation was drafted within the context of national government performing the functions of local government previously, which is not appropriate with the new constitutional dispensation. Here I am also referring to the KwaZulu Land Affairs Act, 1992 (Act No. 11 of 1992).

Another example is Umzimkhulu, which has been incorporated into KwaZulu-Natal recently. This area is governed by the Cape Townships Ordinance of 1934.

Similarly, these amendments in the Bill looks at six different pieces of legislation and seeks to rationalise them into one piece of legislation, which will be applicable to the entire province including land under the Ingonyama Trust Board . I am not going to draw attention to other old legislation as the hon MEC has also done that.

What the Province requires, and this Bill seeks to achieve, is a single simplified planning and development system, which will be accessible and expedite the implementation of land use management by municipalities.

Finally, the DA has a concern that the municipalities in the province do not have capacity

and will continue to rely on the Department's MAP programme to cope with the additional work that this may generate. I think earlier on the MEC did indicate in his response to my Question that currently there are 35 municipalities under investigation and 49 out of 60 municipalities that have the MAP programme implemented in respect of that. By that one can actually see the state of municipalities out there and whether they have the capacity to cope with the additional work.

What this Bill is going to do now is that all development is going to be channelled through municipalities, who will have to look at this and they need to have the capacity to deal effectively with or we still going into a situation where applicants going to be frustrated in that their plans and proposals are not going to be approved timeously so that development can take place which we all want to see in the different areas.

Mr Speaker, the good news is that the DA supports this Bill. Thank you.

**THE DEPUTY SPEAKER:** Thank you, hon Mari. The next speaker will be hon MZ Mthuli, for six minutes.

**END OF TAKE RR9**

**INSERT TAKE RR10 (Nomvyula)**

**RR11,12&13**

**MR T M MTHEMBU:** Thank you hon Speaker. I would like to support and second the approval of the Rationalization of Planning and Development Laws Bill which is before us. But before I do that, I would like to commend the MEC and the Department for the excellent work that they are doing in this Province under the leadership of the hon Ndebele and the ANC.

Actually, we are witnessing a history that is taking place because as we are speaking we have two bills before us which shows that this Department is really working hard to improve the lives of our people in this Province. Through the KZN rationalization and of Planning and Development Laws Bill, we repeal and provide for the transition arrangement for Laws that the Province inherited from other provinces and National Government.

As other speakers alluded earlier on, areas like uPhongolo – which had been governed by the Laws that belonged to Transvaal - and uMzimkhulu which used to fall under Cape Town, now belong to this Province. So therefore, it will make sense for this House to support these two Bills before us. As the Freedom Charter says, the land belongs to all of us equally.

[Insert isiZulu]

**DEPUTY SPEAKER:** Proceed hon member.

**MR T M MTHEMBU:** We therefore support the Bill which is before us. I thank you hon Speaker.

**DEPUTY SPEAKER:** The next speaker is hon A Rajbansi – MEC for sports. You have five minutes.

**MR A RAJBANSI (MEC for SPORTS):** Thank you Mr Speaker. I also want to express my congratulations to the very hard-working and youthful MEC for Local Government – supported by a very, very able administration.

From 1994 I, and other hon members of the House, will remember when we actually came in here – have been engaged in a war against the Town-Planning Ordinance of 1949 which was outdated in 1994. And, it was outdated long before that. The purpose of this Legislation as highlighted by other hon members is not only uniformity but also removing certain racially discriminatory aspects of the existing Legislation right up to a time we are going to irrationalize this legislation. So, uniformity is one thing rationalization is another thing and bringing every piece of legislation under this Legislation on an equal basis. But of course there is another short one that existed within the boundaries under the jurisdiction of the former Provincial Administration was that certain municipalities had special extended powers.

If you drive around Ethekwini, for example, you will find the former Pinetown area – you can develop your property quite high not restricted to two-stories outside the CBDs. But when you go outside the Durban CBD area which was under the jurisdiction of the former Durban City Council, there was a restriction on development.

The hon Mr George Mari referred to capacity. You know, Planning and Development

also has a human aspect to it and XX12:03:07 to study how long does it take for an ordinary plan to be passed because of capacity. I mean, not only the municipalities XX12:03:18 you have got XX, you have got the wildlife structures and you have got also the component. I was listening to a lecture by the hon National Minister in Environmental Affairs and he said that the improvement of those regular Laws dealing with EIA means while you predict them by reminisce you are fast tracking EIA. But in the Province the average EIA XX12:03:42.

I want to suggest to the hon MEC there is another aspect of Durban's (shall I say) building restrictions which require attention because there has been discrimination, there has been differentiation. Even now, a person in La Lucia wants a building racially lacks XX12:04:04, it is not easy. If a person wants a building racially lacks in uMlazi or Chatsworth, he has extreme difficulty. So the treatment fact still comes in.

In spite of the fact that we are busy making all out Town-Planning Regulations and Registrations uniform, Town-Planning Ordinance of 1949 still creates problems. I know the hon MEC is attending to this matter of a new Development Legislation because we have been dealing with development facilitation in this particular Province and nationally for a considerable period of time and we must make development easy to make sure that every area, every citizen in KwaZulu-Natal is treated equally because in terms of the condition everyone is equal.

So, the Minority Front supports this Legislation. But, please keep an eye on officials - when you get an application from uMlazi you do it differently; you get an application from Queensburgh, you approve it; from La Lucia, Durban North – you approve it. I do not want to say that they make building by-laws different in all former DP areas because the DP comprise the City Council – they make different buildings by right – which they did. But then, I do not want to start with that today, I had enough fighting in the House today.

Thank you.

**DEPUTY SPEAKER:** Thank you hon Rajbansi. The next speaker is hon Downs - I do not see the member in the House. We then proceed to hon Msomi – not in the House. Then we proceed to the next speaker hon M E Sithebe for seven minutes.

**MR M E SITHEBE:** Thank you hon Deputy Speaker for giving one the opportunity to

speak on this important political issue. Basically, the ANC supports this particular Bill and it is quite important to commend the MEC for having come up with this particular Bill.

I think the Bill seeks to create a developmental state in the Local Government in all Local Government in the Province because we inherited a fragmented type of local Government which was racially biased. This Bill seeks to say let us have a type of Local Government with clear developmental plans which are going to be influenced and informed by the provisions that are there in the pieces of Legislation emanating from the Constitution of 1996 Act 108. And also, your Municipal Systems Act which then seeks to say we should actually provide a service to municipalities which would be proving that we are nurturing a developmental and caring state. It is in that reason that we are saying, if we **XX12:07:48** Apartheid Laws, we need to take out all these Laws because they were not in keeping with the current pieces of Legislation that we are having and, I think as the ANC it is in that reason that we are saying in order for us to realise, at least our effort to do away with these very oppressing and repressive types of Ordinances or Laws, we need to come up with this one here.

I think it is important also to mention that in terms of our founding provision of our Constitution - amongst other things that we have committed ourselves to as the ANC Government - is that we have said the Republic of South Africa is a Sovereign State/Democratic State which is founded amongst other things on a non-racial type of society. So, it is in that reason that we are saying, as the ANC, we support this one because it seeks to say your plan must talk to the people that are in KwaNongoma. The plan should also speak to the same thing that is in uMzimkhulu so that you have got this type of a coordination so that you are able to come up with IDPs that are more or less coming up with some frameworks that are actually common, so that at least the people of this Province are actually benefiting out of this.

I think the area that is of concern is an area of the monitoring of this type of Act Billed immediately after it had been elected to be an Act. It is for us as this Legislature to really say let us have a very close way of monitoring that they are being implemented because if we are not really coming up with a vehicle or mechanism that would actually enable those municipalities to follow and implement these things here, we might have these very pieces of Legislation being there but not being implemented. I think that is a challenge that we are faced with and, I think the ANC supports this particular Bill here.

We would actually like to commend the MEC for having managed to elect and come up with this Section 75 Bill which shows that we are in fact, providing leadership as the ANC, in all spheres of Government – even in Local Government. It is in that reason that at least we are realising that in all parties there seem to be agreement in supporting this particular Bill here. It is therefore **XX12:11:03** upon all of us that we go back and educate our municipal counterparts so that they also come on board in terms of implementing this type of pieces of Legislation.

I thank you hon Speaker – thank you very much.

**END OF TAKES RR11,12&13**

**INSERT TAKE RR14 (Nomvyula)**

**INSERT TAKE RR15 (Nondomisa)**

**RR16**

**MR G B BHENGU (IFP):** Thank you Speaker and hon members. I must congratulate the Portfolio Committee. They conducted sheerings – though it was similar to what was said – debated on the first Bill. The poor attendance was a phenomenon that was explaining that both these Legislations are technical – are ordinary people even some Councillors were unable to understand except those who are dealing with the Town-Planning. I would also support a request to the Department that once it is promulgated to be an Act there is going to be a need for training and giving workshops not only to the staff but also to the Councillors.

Inkatha Freedom Party as an official opposition is happy to support the Town-Planning Ordinance Amendment Bill in as much as its content brings the number of town-planning issues up to date and reflect the will of the wider public as presented during the relevant public hearings. The latter point of special significance since popular support to specific measures voiced in the context of the public hearing has not always resulted in legislation but promoted the will of the community concerned.

The Law that effectively incorporated – as you will remember, we have conducted a well and overwhelming attendance at Matatiele. Unfortunately, I pity our colleagues on the other side because they received an e-mail from a certain powerful point that, “forget

about hearing the feelings of the people,” but a power that he was exerted up to this House to support the incorporation of Matatiele to the Eastern Cape. **If only a fool that cannot say what is happening hiding up to now,** is proof that you can say is part of the will of the people yet it is part of the will of an individual. We utilise thousands and thousands of Rands in conducting those hearings [*Inkosi Mdletshe chips in, “ngangikhona mina lapho”*]. Even now it is a thorn issue but fortunately I foresee that Polokwane is going to solve the problem. That is the only thing I congratulate Polokwane for because seemingly they have gone to the North-West to prove that we are changing things within a Party. That is what upset me with Polokwane – if you do not listen to Polokwane still, hoo! Unfortunately [laughter] you are crying a last cry of a dying cat! [Cat! Not even a horse!] [laughter].

Matatiele moved into the Eastern-Cape which was incorporated of its residents was a case in point, as I have mentioned. We in the official opposition, particularly appreciate the revised definition of development because you must note, we had so many legislation that are currently being used. When we go to Matatiele as it was under KwaZulu – now we have got uMzimkhulu – certain parts of uMzimkhulu when it comes to the planning, had to utilise the Transkei Legislation and other parts utilise the Cape Province and when we go up again to areas like uPhongolo, uSimdlanenja, **XX12:41:29** and even here, you know what happened with 1976 Riots that pupils in Lamontville were forced to learn in Afrikaans, whereas those at uMlazi... and uMlazi could not accommodate all the pupils so that they could benefit out of English. So, we are still sitting with the same... We criticize apartheid but still we have got this problem. And I know, the hon MEC has mentioned that he does not want to mention the time when this should have been affected, but you know in 1994 with the Government of National Unity, he was part of that **XX12:42:21**. In 1999, when IFP should have been by itself but because it is an inclusive it incorporated them and they were part – I fortunately was not part of that executive ...

**DEPUTY SPEAKER (PROF J S MAPHALALA):** *Umzuzu usumunye. Umzuzu usumunye.*

**MR G B BHENGU:** I cannot be **XX12:42:46** but unfortunately the good member of the executive has got that benefit of the doubt.

I thank you all XX12:42:54

## **END OF TAKE RR16**

**MRS B F SCOTT (ANC):** Mr Speaker, hon members, I want to congratulate the MEC for Local Government and Traditional Affairs and his department in the tabling of this legislation. I think that this legislation, as already mentioned by my colleague, the hon Mike Tarr, is really welcomed and long overdue.

It is absolutely critical for this province to rationalise planning legislation because we need to make the whole planning land use management framework useable, accessible and easy to implement and I think that this legislation takes us that next step in the province in order to achieve those goals.

The current legislation is no longer applicable. The role of municipalities since 1994 and the emergence of the new democracy in South Africa, have made municipalities an autonomous sphere of government that have exclusive powers of its own. Current planning legislation as old as the ones that we are repealing now, does not recognise those roles of municipalities, whereas this legislation and the Town Planning Ordinance Amendment Bill will recognise it. So we need to look at regulations that are applicable to the here and now.

The other really critical issue that this legislation faces is that it includes all areas of KwaZulu-Natal, including townships that were formally formed in terms of Section 30 of the Black Administration Act. These are all very old pieces of legislation. We have to modernise, we have to rationalise, we have to make new.

This legislation goes extremely far in increasing public participation in land use management so that municipalities have a greater scope in which to advertise any land use plans to the broader community and to all affected stakeholders, whereas the public participation in the past was much more limited.

Also, the land use plans and management in the past was racially based. This legislation, in repealing old legislation, gets rid of all those racially based principles that were in land use planning and it also has specific clauses which provides assistance to

low capacity municipalities.

As I have said before, we are looking at a simplified planning and development system which enables much greater access by the ordinary citizen of KwaZulu-Natal and also for a much greater improved land use management.

These being the premises of the Bill, I do not know who in their right mind could not support this legislation. I think it is highly welcomed, I am glad that we are seeing the near closure of this term of office on a positive office and without anything else, because the Minister has said it all, I want to again congratulate the Minister in tabling this legislation. I thank you.

**THE DEPUTY SPEAKER:** Siyabonga ilungu elihloniphekile Scott sizolalela manje ilungu elilandelayo le Democratic Alliance hon G Mari imizuzu eyisikhombisa.

**MR G MARI (DA):** Thank you, hon Speaker. The DA welcomes this amendment to the Town Planning Ordinance, which was long overdue, and I want to agree with the MEC when he earlier on said it is indeed outdated and we needed a new piece of legislation that would encompass the entire province.

What this amendment does is to provide interim relief to municipalities and I think he has clarified that, and not to update all the provisions of the Town Planning Ordinance that are outdated, which will follow later in another Bill.

Mr Speaker, the Amendment Bill also extends the application of the Town Planning Ordinance to the whole territory of the province, including the land under the Ngonyama Trust.

During our public hearing there was some concern expressed by quite a number of people that said that there was a problem in respect of development on Ngonyama Trust land, where the traditional leaders were not giving permission for housing, for instance, to be built on that and I hope this will actually go towards alleviating some of those problems that are being experienced out there, because people require development in the rural areas.

In the first phase of this rationalisation process, the number of provincial planning and development laws will be reduced and the application of Ordinance 27 of 1949 will be

extended. The Bill is one of two Amendment Bills that will seek to achieve this objective, the other being the KZN Rationalisation of Planning and Development Laws Bill which we have debated a little earlier today.

The positive side of this Bill is that once promulgated, all planning and development within the province will be governed by the Town Planning Ordinance and not a plethora of old outdated pieces of legislation that the province inherited from other provinces and National Government. These old pieces of legislation were drafted within the context of National Government performing Local Government functions and are not appropriate within the context of our new constitutional dispensation and therefore should be welcomed. Municipalities will not have more powers to oversee development within their areas of jurisdiction as they are involved in decision making under the Town Planning Ordinance as it existed before.

The DA hopes that municipalities will find the capacity to deal with this additional work and I think the MEC earlier on alluded to the fact that there are mechanisms in place that will put in capacity to deal with this and I hope that becomes a reality so that people do not have to wait very long to have their applications approved timeously so that development can take place.

This is not the final amendment, this is the first phase which will bring some interim relief to municipalities to get more involved in decision making. In the second phase of the rationalisation process, the remaining laws will be replaced with one new Provincial Planning and Development Law which will be applicable again to the whole province.

One of the important aspects of this Bill will now recognise other forms of ownership like Deeds of Grant which is the prevailing form of ownership in towns set apart in terms of Section 30 of the Black Administration Act 27. The proposed amendments can also accommodate any new forms of ownership also, which is also welcome because that was also a problem in the past.

Mr Speaker, with respect to public participation, the Committee had input from members of the public that the publication of notices in English and Afrikaans in local newspapers and the Gazette was a costly and time-consuming process and does not reach especially the rural communities and areas where there is no delivery or readership of these newspapers. This Bill now gives municipalities a wider choice of methods of

public participation, including written notices to neighbours who in many cases are affected by a development of the neighbours. In many instances small notices are not readily picked up in the newspapers and what happens is the application gets approved and here I am referring to taverns that are in areas that are being applied for, where you have a little notice appearing in the newspaper where a neighbour applies for a tavern licence and then it is actually granted because there was no objection. Nobody actually looks at the small notices that appear in the newspapers, so by giving alternative forms of notice to neighbours in a written letter, will actually create an awareness within that neighbourhood that there is an application made for such a tavern to actually be established in those areas.

The Committee also heard about lengthy delays in planning and development approvals due to applicants being required to follow different procedures for developmental approval in different areas. It also increased the administrative burden on undercapacitated municipalities and here again I think the MEC has already responded to capacities within municipalities.

Speaking of undercapacitated municipalities, the DA is concerned that with the Town Planning Ordinance now being applicable to all areas of the province, including the land under the Ngonyama Trust, the DA believes that the municipalities will not be able to cope with all the developmental proposals that are going to be forwarded to it for approval. It is like the Pounds Bill that we recently approved, I think it was some time early last year that we approved the Pounds Bill, and to date nothing seems to have changed because we are putting the legislation in place, the municipalities do not have the capacity to establish pounds and manage pounds and you see nothing changes, you see cattle roaming everywhere still, without being attended and there have been numerous accidents once again in respect of that.

Therefore the hon MEC must ensure that capacity actually exists and prepare for this eventuality that is going to come into being. The DA hopes that the Department's MAP programme will be able to provide the additional resources and I know the Department is stretched to capacity. Already, as the Minister has indicated earlier on, we have 49 municipalities on the MAP programme, you know, the issue around whether the Department itself will have that capacity to actually continue in a manner which is actually being required in respect of that.

Finally, Mr Speaker, there are other clauses in this Bill that are amended to bring it in line with our new constitutional dispensation and it corrects some terminology and clarifies and redefines definitions, which is also welcomed, this will actually bring it in line with our new constitutional dispensation.

The DA supports this Bill, hon Speaker.

END OF TAKES RR17-RR18

**INSERT TAKE RR19 (Nondumiso)**

**INSERT TAKE RR20 (Nomvula)**

**INSERT TAKE RR21 (Nomvula)**

**THE ACTING SPEAKER (PROF J S MAPHALALA):** [Insert isiZulu](#)

**MR G B BHENGU (IFP):** We in the official opposition, particularly appreciate the revised definition of development, which in the context of town planning significantly cuts the red tape associated with the original Bill.

Individual farmers as well as municipalities are sure to benefit having been giving a free hand to cater for their needs. One particular aspect of amendment is its generous provision for the individual's development needs of our traditional community. Here again red tape has been effectively eliminated by allowing traditional communities to build dwellings and outbuildings outside of the formal town planning structures. On the whole the proposed amendment allows town planning to be what is by definition: a structured and orderly use of land for the benefit and enhancement of the built and social environments of urbanised municipalities and their respected communities.

The definitions for those who might not be able to be on the Portfolio Committee is showing that where they speak of the "Administrator", now we have got a relevant "Member of the Executive" and where they used to speak of a "local authority" it is now a "municipality" and the "Deeds transfer" or certificate of it speaks now of just the "ownership" and where it use to speak of a "private township register" it speaks of a Deeds registry. Where it speaks of a local authority area, now it is a "township area". Again it gives the power to the MEC delegate certain powers to the municipality and

when there are new things to be affected to give an opportunity to the public for comments on what they intend doing which is the participation of the community and to end when we are dealing with this technical Bills, they are there to structure our operation as a province so that we do not use different legislative institutions, but we use one which is for KwaZulu-Natal. I thank you.

**THE ACTING SPEAKER (PROF J S MAPHALALA):** [Insert isiZulu](#)

***END OF TAKE RR22***

**INSERT TAKE RR23 (Nomvula)**

**INSERT TAKE RR24 (Nondumiso)**