

**MINISTERIAL STATEMENT BY HON. EMERINE KABANSHI, MP, MINISTER OF LOCAL GOVERNMENT AND HOUSING TO THE NATIONAL ASSEMBLY ON THE PROLONGED SUSPENSION OF LIVINGSTONE CITY COUNCIL.**

**Mr Speaker**

In response to your directive to my Ministry to prepare a Ministerial Statement on the prolonged suspension of Livingstone City Council following a point of order raised by the Honourable Member of Parliament for Mwandi Constituency, allow me to deliver the Ministerial Statement to this August House.

A Council is a creature of statute created pursuant to section 3 of the Local Government Act Cap 281 of the Laws of Zambia. Further, a Council is a Government institution which is given duties and functions to perform by the Local Government Act and other pieces of Legislation.

The same Local Government Act Cap 281 under section 88 has provisions which mandates Government through the Minister responsible for Local Government to ensure that any actions which are ultra vires a Council is disciplined to instil harmony and positive performance in terms of delivery of services on behalf of the electorates in the local communities.

**Mr. Speaker**

Government cannot apply this provision arbitrarily but is applied in circumstances which are against the legal provisions and not in favour of the residents a Council is created to serve.

The suspension of Livingstone City Council was invoked by Government through my Ministry in January 2013 by Statutory Instrument No.5 of 2013 The Local Government (Appointment of Local Government Administrator) (Livingstone City Council) Order, 2013 dated 17<sup>th</sup> January, 2013 and appointed Mr. Alex Bwalya, Provincial Local Government Officer for Southern Province as Local Government Administrator to discharge all the functions of the Council.

The circumstances that compelled Government to suspend Livingstone City Council comprise the following:

#### **1.0 Background Leading to the Suspension of the Council**

On Tuesday, 15<sup>th</sup> January, 2013 Council convened a Special Meeting where it was resolved that the Town Clerk, Ms. Vivian Chiwila Chikoti and other Senior Council Officers be suspended. However, as Minister responsible for Local Government I nullified the decision to suspend the officers due to the fact that the Council did not follow laid down procedures as provided for under the Local Government Act Cap 281 which mandated the

Local Government Service Commission to deal with all staff matters.

## **2.0 Training of the United Nations World Tourism Organisation (UNWTO) Delegation from Zambia in the United States of America (6<sup>th</sup> to 16<sup>th</sup> January, 2013)**

It is important for this August House to note that shortly after the Ordinary Council Meeting held on 31<sup>st</sup> December, 2012, the Town Clerk went on a trip to the United States of America from 6<sup>th</sup> to 16<sup>th</sup> January 2013. The Town Clerk was invited by the Ministry of Tourism and Arts to be part of a delegation that went to attend the training in the USA as part of the preparations for the United Nations World Tourism Organisation General Assembly. As you are already aware, the City of Livingstone (Zambia) and Victoria Falls town (Zimbabwe) will co-host the UNWTO General Assembly from 25<sup>th</sup> to 29<sup>th</sup> August 2013.

The Government of the Republic of Zambia has already funded the development of various infrastructures for this landmark Conference. It therefore follows that this tour of duty to the United States of America was important in itself and it helped the delegates from Zambia to learn from the USA's vast experience and compare notes and enhance Zambia's preparedness for the UNWTO General Assembly. The Town Clerk was among other officers suspended illegally when she was abroad on duty.

### **3.0 Management of Town Clerk's Office**

When the substantive Town Clerk left the country on 2<sup>nd</sup> January, 2013, she assigned the Director of Finance, Mr. Muchindu Siasinyanga to perform duties of the Office of Town Clerk.

### **4.0 Events leading to holding of the Special Council Meeting on 15<sup>th</sup> January, 2013 and resulting in the suspension of officers**

#### **(i) Provincial Development Committee Meeting**

At a Provincial Development Coordinating Committee (PDCC) Meeting for Southern Province held in Choma from 27<sup>th</sup> to 28<sup>th</sup> December, 2012 and chaired by the then Permanent Secretary for Southern Province, Dr. Chileshe Mulenga, a number of developmental issues affecting the various Districts in Southern Province were discussed including those relating to garbage collection.

A follow up meeting was later held in Livingstone on 29<sup>th</sup> December, 2012 at which a consultative meeting was held to deal with garbage collection. In recognizing the challenges facing the Council especially on the lack of equipment for garbage collection, the meeting resolved that a Weekly Waste Management Day be launched and be held every Wednesday of the week during which all stakeholders comprising Government and corporate institutions, as well as individuals in the city would

participate by providing equipment and any other necessary materials to be used on the waste management activities.

**(ii) Preparations for the Launch of the Weekly Waste Management Day - 9<sup>th</sup> January, 2013**

The Acting Director of Public Health, Housing and Social Services, Mr. George Kumoyo was tasked to prepare for the launch of the Weekly Waste Management Day which was scheduled for 9<sup>th</sup> January, 2013 starting at 08:00 hours. The programme as stated in 4 (1) above, was designated to help clean the city and collect garbage that had piled up in the residential areas. The stakeholders, including government institutions, private sector and individuals would play a part in the cleaning of the City of Livingstone in readiness for its co-hosting of the United Nations World Tourism Organisation (UNWTO) General Assembly in August 2013. This activity was to be launched by the then Permanent Secretary for Southern Province.

However, on the material day of the launch of the Weekly Waste Management Day, it transpired that there was a delay in commencing the programme because the Acting Director of Public Health, Housing and Social Services failed to prepare for the function timely. This resulted in the programme starting at 08:50 hours instead of the scheduled time of 08:00 hours. Thus the then Permanent Secretary, who was the Guest of Honour recommended to Council to

further recommend to the Local Government Service Commission (LGSC) for the suspension of the Acting Director of Public Health, Housing and Social Services, Mr. George Kumoyo.

- (iii) **Acting Town Clerk sought guidance from the Local Government Service Commission on instruction to suspend Mr. George Kumoyo**

On 11<sup>th</sup> January, 2013 the Acting Town Clerk wrote to the Chairman Local Government Service Commission seeking guidance, advice and the way forward as regards the letter from the Permanent Secretary for Southern Province in which a recommendation was made to suspend the officer.

#### **5.0 Convening of the Special Council Meeting to consider the Recommendation from the Permanent Secretary to suspend Mr. George Kumoyo**

On 14<sup>th</sup> January, 2013 His Worship the Mayor wrote to the Office of the Town Clerk to convene a Special Council Meeting on 15<sup>th</sup> January, 2013 to look at the recommendation from the then Permanent Secretary to suspend the Acting Director of Public Health, Housing and Social Services.

Subsequently the Council sought permission from the Provincial Local Government Officer to hold a Special Council Meeting on

Tuesday 15<sup>th</sup> January, 2013 to consider the matter concerning the Acting Director of Public Health, Housing and Social Services.

Authority to hold a Special Meeting was granted by the Provincial Local Government Officer on 14<sup>th</sup> January, 2013 for Council to hold a Special Meeting to consider the matter concerning the Acting Director of Public Health, Housing and Social Services.

## **6.0 Proceedings of the Special Council Meeting**

A Notice of Meeting was sent to all Councillors and Chief Officers on the 14<sup>th</sup> January with the following Agenda items:

- (i) Prayer
- (ii) National Anthem
- (iii) Apologies (if any)
- (iv) To consider the Report of the Town Clerk (if any)

The Special Council Meeting held on 15<sup>th</sup> January, 2013 to consider the recommendation by the then Permanent Secretary, Southern Province, to suspend the Acting Director of Public Health, Housing and Social Services was scheduled to start at 08:30 hours. However, His Worship the Mayor Councillor Aggrey Njekwa arbitrarily directed that the meeting starts at 10:00 hours to enable Councillors have ample time to study the matter at hand.

The meeting started at 10:00 hours and the Director of Finance who was the Acting Town Clerk read the Notice convening the

meeting after a prayer. Thereafter, all officers (except for the Acting Town Clerk and the Acting Chief Committee Clerk) were requested to leave the Council Chamber by His Worship the Mayor, alleging that the Special Council Meeting had been called to review the performance of all senior officers and the recommendation by the then Permanent Secretary, directing Council to suspend the Acting Director of Public Health, Housing and Social Services.

To that effect, after due debate and upon a proposal duly seconded, the agenda was amended to read: **“to scrutinize the performance of all senior officers and the recommendation by the Permanent Secretary, Southern Province to suspend the Acting Director of Public Health, Housing and Social Services”**.

The Acting Town Clerk proceeded to report on the contents of the letter dated 9<sup>th</sup> January, 2013 received from the Permanent Secretary, in which he had directed the Council to recommend for the suspension of the Acting Director of Public Health, Housing and Social Services for alleged failure to prepare for the launch of the weekly “Waste Management Day” which was officially launched on 9<sup>th</sup> January, 2013.

## **7.0 Suspension of Officers**

After due debate, Councillors resolved to suspend;



- i. The Town Clerk for alleged gross mismanagement, misconduct and incompetence in absentia while on tour of duty on UNWTO preparations in the USA.
- ii. The Acting Director of Public Health, Housing and Social Services for the failure to perform as agreed on the Waste Management Day and;
- iii. The Acting Assistant Director of Engineering Services, Mr. Rennie R. Shindelele be put on forced leave for refusal to implement the Honourable Councillors' assignments and that his language was sometimes unpalatable.

The Provincial Local Government Officer, Southern Province advised the Livingstone City Council in writing against their decision to suspend the Town Clerk and Acting Director of Public Health, Housing and Social Services as the decision was illegal since the mandate to deal with human resource matters is vested in the Local Government Service Commission (LGSC) but the Council did not act on the advice to reverse their illegal decision.

#### **8.0 Communication of the Proceedings of the Special Council Meeting to the Local Government Service Commission**

On 15<sup>th</sup> January, 2013 after the Special Council Meeting, the Mayor issued a press briefing which came out as a news item on the Zambia National Broadcasting Corporation (ZNBC) Television (Main News) at 19:00hours that Council had suspended the Town

Clerk for alleged gross mismanagement, misconduct and incompetence. The news item was also aired on Muvi TV and the Local Radio Stations in Livingstone.

On 16<sup>th</sup> January, 2013 the Local Government Service Commission (LGSC) requested the Acting Town Clerk to provide information on the suspension of the Town Clerk and other officers to enable the Commission study the matter.

The Minutes of the proceedings of the Special Council Meeting held on 15<sup>th</sup> January, 2013 were availed to the Local Government Service Commission and My Ministry.

#### **Mr. Speaker**

Independent investigations conducted by the Government through my Ministry revealed and confirmed the report of the Council as follows:

- a) The initial notice circulated to hold the Special Council Meeting indicated on the agenda only one item of the Acting Director of Public Health, Housing and Social Services but the Council illegally altered the agenda to include the Town Clerk and other officers before the meeting started.
- b) Despite being advised by other Councillors not to alter the agenda the Chairman (the Mayor) of the meeting ignored and included illegally other items to consider the matter of the Town Clerk and other senior officers to achieve his hidden motive.

- c) The Council ignored the quick advice rendered by the Provincial Local Government Officer, Sothern Province to rescind the wrong decision to suspend the Town Clerk and other Management staff as it was ultra vires.
- d) The Councillors displayed lack of necessary leadership skills.
- e) Some Councillors were fond of bull-dozing matters disregarding the provision of the Law in the conduct of Council Meetings.
- f) The Mayor failed to provide required leadership necessary as demanded by the provisions of the Local Government Act and Council Standing Orders to ensure harmony and peace in the conduct of Council Meetings.
- g) The Council altered the agenda which set out the business to be considered during the Special Council Meeting against Standing Order No. 38 which forbids such action rendering the Special Council Meeting illegal.
- h) The decision made by the Council was contrary to Standing Order No. 38 and illegal.

The Ministry studied the matter and suspended the Council on 16<sup>th</sup> January, 2013 for illegally suspending the Town Clerk and other officers.

On 17<sup>th</sup> January, 2013, the Acting Town Clerk received the letter with a Gazette Notice communicating the suspension of the Council and conveyed the Government's decision to all the Honourable Councillors.

Prior to the expiry of the initial suspension period of ninety (90) days my Ministry was availed a status report by the Local Government Administrator which revealed unremorsefulness by most Councillors in particular the Mayor who was antagonizing Management particularly the Town Clerk.

The report by the Local Government Administrator to my Ministry revealed the following findings:

- i) When the Council is in place it does not work in harmony with Council Management despite the orientation process which the Councillors and Officers went through which my Ministry organised and implemented in all Councils including Livingstone City Council after the September, 2011 Tripartite Elections.

The Councillors at the City Council do not understand their roles and responsibilities as policy makers and do not appreciate the roles and responsibilities for officers as implementers of policies and decisions at local level.

- ii) Councillors do not fully understand the roles and responsibilities of the Local Government Service Commission (LGSC) regarding human resource functions.

iii) Councillors do not understand and appreciate the role of the Principal Officer and Chief Officers in rendering professional advice in Council Meetings.

iv) Councillors as policy makers are involved in negative remarks against their own decisions in the operations of the Council.

**Mr. Speaker**

After carefully considering the report on the findings of the Local Government Administrator, Government through my Ministry and powers vest in my office under section 88 of the Local Government Act Cap 281 of the Laws of Zambia decided to extend the suspension of the Livingstone City Council in accordance with **Statutory Instrument No. 30 of 2013 dated 19<sup>th</sup> April, 2013**, The Local Government (Appointment of Local Government Administrator) (Livingstone City Council) Order, 2013.

**Mr. Speaker**

In conclusion, the suspensions of both the Town Clerk and other officers were contrary to the provisions of the Local Government (Amendment) Act No. 6 of 2010 which mandates the Local Government Service Commission (LGSC) as a Government Agency to handle all human resource matters.

The Special Council Meeting which was held on Tuesday, 15<sup>th</sup> January, 2013 was convened to consider a specific agenda item of the Acting

Director of Public Health, Housing and Social Services pursuant to the provisions of section 23 (a) of the Local Government Act Cap 281 which stipulates that no business shall be transacted at a Special Meeting of Council other than that specified in the notice of meeting relating thereto. However, the meeting went on and illegally amended the Agenda to include the Town Clerk and other senior officers.

It is also important to note that the Provincial Local Government Officer granted Livingstone City Council authority to convene a Special Meeting to consider the matter concerning Mr. George Kumoyo the Acting Director of Public Health, Housing and Social Services and NOT the substantive Town Clerk and other senior officers.

#### **Mr. Speaker**

The Government through my Ministry is closely monitoring the activities of the councillors at Livingstone City Council currently on suspension and shall review the extended suspension before it expires for consideration to lift it.

My Ministry will also ensure that the following recommendations by the Local Government Administrator are implemented by re-orienting the Councillors and Officers:

- 1) Ensure that the Council fully understand the roles and responsibilities of the Local Government Service Commission;

- 2) Advise the Councillors to understand and appreciate the role of the Principal Officer and Chief Officers in advising and implementing decisions of the Council;
- 3) Sensitise the Councillors as policy makers on the Principle of Collective Responsibility to avoid contradicting themselves against the Council operations;
- 4) Ensure that Councillors and Officers of the Council work as a team to deliver efficient and effective services for the benefit of the residents in the City of Livingstone and;
- 5) Ensure that harmony and co-existence exist between the two offices of the Mayor and the Town Clerk to ensure effective performance of the Council.

I thank you, Sir.