

SOUTH AFRICAN CHAMBER OF BUSINESS

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**SACOB
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22 October 1993

BY HAND

The Chairperson
Technical Committee on Constitutional Issues
Multi-Party Negotiating Process
World Trade Centre
KEMPTON PARK

Dear Sir

LOCAL GOVERNMENT IN A NEW CONSTITUTIONAL DISPENSATION

The South African Chamber of Business as the largest employer body, representing approximately 40 000 business undertakings in the country, has been consistently addressing the subject of local government in a new constitutional dispensation, and has adopted a number of policy stances during the last few years, in view of the business community's vital stake in the outcome of local government negotiations.

It is our view that a successful new system of local government will largely depend on the emergence of a politically and economically sound division of powers, duties and functions, with necessary entrenchments, between central, regional and local structures.

The central theme throughout our policy documents and position papers is that there should be maximum devolution of power to local levels with the minimum of central control, provided however that Government should and must accept financial responsibility for a minimum level of socio-economic services and basic infrastructure.

Furthermore the business community, as the largest contributor to local coffers, strongly believes that provision for a corporate vote available to juristic persons, must be made in any new local government dispensation.

I enclose herewith copies of the following :-

- [1] Motion on Local Government, adopted in the course of SACOB's 1990 Annual Convention together with background document;

INCORPORATING:

THE ASSOCIATION OF CHAMBERS OF COMMERCE AND INDUSTRY OF SOUTH AFRICA • THE SOUTH AFRICAN FEDERATED CHAMBER OF INDUSTRIES

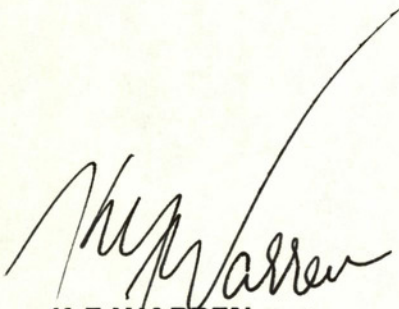
Directors: Mr. J.H. Viljoen, Mr. G.J. Trollope, Mr. S. Sterling

- [2] Discussion document on Local or Metropolitan Government Financing - June 1992;
- [3] Submission to the President's Council - May 1993
- [4] Motions [with accompanying background documents] adopted at the 1993 SACOB Annual Convention on
 - [i] Cost of Local and Regional Government
 - [ii] Local Government Accountability [note that paragraph [iii] originally read "the introduction of a ward or constituency system and not proportional representation...." [my underlining]. The motion was adopted subject to the deletion of the word "not"].

We trust that due consideration will be given to our views in the course of your Committee's deliberations.

Kind regards.

Yours sincerely



K F WARREN
DIRECTOR : LEGAL AFFAIRS

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MOTION ADOPTED AT 1990 SACOB ANNUAL CONVENTION

Local Government

"In welcoming Government's intention to introduce a new system of local government as part of a new political dispensation and to enable local authorities to deal with challenges such as urbanisation

this Convention urges Government to ensure that such system of local government

- [i] offers a wide range of optional models;
- [ii] is open to participation by all, including corporate entities, with equal rights on a non-racial basis;
- [iii] provides for local options to be arrived at through negotiation, involving all in the community, and with the greatest possible measure of consensus;
- [iv] is aimed at the maximum devolution of authority at the local level, with the minimum of central control; provided however that Government should accept financial responsibility for a minimum level of socio-economic services and basic infrastructure;
- [v] promotes administrative rationalisation and greater efficiency in local government; and
- [vi] entails a fair distribution of the local tax burden."

**BACKGROUND DOCUMENT TO THE MOTION ON
LOCAL GOVERNMENT
BY THE CAPE TOWN CHAMBER OF COMMERCE**

AGENDA ITEM 2

The Chamber strongly supports the view that the status quo in local government cannot be maintained and has welcomed the Government's announcement that a new system of local government must be developed which will -

- (i) strengthen the hand of local government to deal with challenges such as urbanisation;
- (ii) move away from the system based solely on colour;
- (iii) be arrived at through negotiation with the involvement of all in the community, and with the greatest possible measure of consensus;
- (iv) be aimed at the maximum devolution of authority to the local level, with the minimum of central control;
- (v) promote administrative rationalisation and greater efficiency.
- (vi) entail a fair distribution of local income sources.

The Chamber fully supports the proposals of the Thornhill Technical Committee of Investigation into a New System of Local Government which provide for autonomous, democratically elected local authorities with maximal powers and functions, and an emphasis on the need for a process of negotiation involving all elements of local communities to decide the best option for their area.

The time is most appropriate for a total review of the local government structure throughout the country. The present structure is based on historical developments over time, and is a highly complex and fragmented one, that is complicated by the involvement of higher levels of government in decision-making that directly affects development at the local level. The present structure is, moreover, fundamentally flawed in that it is not open to participation by all, with equal rights on a non-racial basis, with the result that is totally unacceptable to the majority of citizens in South Africa.

LOCAL OPTION

The Technical Committee has proposed an open-ended and wide range of optional models for local government, and has

recommended that each community be given the right to determine the structure of this local authority by way of an inclusive local negotiation process in each town and city.

While we certainly commend the flexibility offered to local communities in terms of this proposal, and support the need to involve all elements of the community in the negotiation process on a non-racial basis, we believe it to be equally important to focus on the metropolitan as well as the local level. One of the major defects of the present local government system in metropolitan areas is that it is fragmented and allows a proliferation of local authorities, resulting in considerable duplication of effort and inequitable distribution of responsibility for regional social and amenity expenditure. Unless geographic boundaries are determined for the negotiation process to arrive at new systems of local government for metropolitan areas, a danger exists that smaller local areas within a metropolitan region, will seek to avoid their responsibility toward the region on the one hand, while the objective of greater administrative rationalisation and efficiency will not be achieved on the other.

We would accordingly recommend that the negotiation process to arrive at appropriate structures of local government in metropolitan areas, be conducted at the metropolitan level initially. Just as in the case of regional Services Councils where the need for local governments within RSC areas is recognised to handle local issues, there will undoubtedly be a need for smaller local government entities within the metropolitan context, but the important thing is to involve them all at the metropolitan level initially.

DEVOLUTION OF AUTHORITY

The Chamber supports the view that the maximum devolution of authority to local levels is essential in any new local government dispensation, and would stress the need for entrenched Constitutional provisions to guarantee the devolution of real powers to government at the local level. The objective should be to provide for smaller government structures that are closer to the needs of the electorate and that are responsive to local priorities.

At the same time it must be recognised that the central government has a responsibility to provide all the country's inhabitants with a minimum level of socio-economic services and basic infrastructure. Although it will probably be necessary to phase in equal levels of service and infrastructure for all inhabitants over a period of time, central Government must accept financial responsibility for eliminating backlogs caused as a result of apartheid policies in the past. For instance the cost of urban transport subsidies to offset the high fares that indigent people would otherwise have to pay to reach their places of employment, as well as the basic infrastructural and social service costs associated with low income housing areas, must

be borne by the central fiscus, and not transferred to regional authorities. It is important to recognise the necessity for continued State support for the vital infrastructure that presently underpins regional employment centres that represent important engines for growth.

RATIONALISATION AND EFFICIENCY

The Chamber fully supports the view of the Technical Committee that "any new system of local government must be efficient and cost-effective, and contribute towards administrative rationalisation, improve manpower utilisation and savings for the public and government". Although a major objective of Regional Services Councils has been to rationalise the provision of bulk services in metropolitan areas, so as to achieve economies of scale, the fact of the matter is that these Councils have only served to channel funds into more needy areas, and they have not succeeded to any significant extent in eliminating the duplication of services and structures within the metropolitan area. On the contrary in the Cape Province, they have taken over the functions of former Divisional Councils which has given rise to growing bureaucracies that are not subjected to the discipline of government by way of the electoral process.

The opportunity must be taken in the forthcoming review of the local government system -

- (i) to consolidate and rationalise local government bureaucracies into more efficient and effect local government structures;
- (ii) to shift the emphasis in local government structures away from being direct providers of services, toward being facilitators of services which should be provided by the private sector wherever more efficient and economic services will result, and
- (iii) to involve a metropolitan level of government in the provision of the various bulk services that Regional Services Councils ought to provide.

FRANCHISE

As business concerns are major contributors to the coffers of local government, we certainly support the view of the Technical Committee that "democratic local government in South Africa has to provide for local franchise for natural owners and occupiers, as well as fictitious persons such as companies and close corporations".

Whatever system of franchise is decided upon, the Chamber believes it to be important that the principle of fiscal accountability should be recognised, and that a direct link should exist between taxpayers and the electorate. Spending decisions at local government levels should be made by

persons who are elected by voters that are direct contributors to the tax base, and therefore have a vital interest in the way in which their taxes are spent.

LOCAL TAXES

The traditional local government tax form of assessment rates meets the criterion of fiscal accountability in that by far the majority of adult inhabitants are contributors to the Rates Fund, either as property owners or tenants.

The RSC levies, on the other hand, do not meet this criterion in that they are perceived as taxes on business and on employers. Although they are certainly passed on to voters as end-consumers in the form of increased prices for goods and services, this linkage is not generally apparent, with this tax form and spending decisions.

The Chamber has pointed out that the RSC levy system is in any event inefficient and administratively burdensome tax mechanism that further extends the bureaucratic collection process, and has proposed that it be substituted by a regional surcharge on VAT. We certainly support the view that higher levels of government should not exercise control over the spending decisions of local government, and to that end have proposed that a regional VAT be returned, together with the national VAT, but the regional VAT be paid over to the governing authority in the region in which it is paid. This approach would have the advantage of rationalising the tax collection process while affording a productive and broadly-based taxing mechanism to raise funds for metropolitan government.

MOTION ADOPTED AT THE 1993 SACOB ANNUAL CONVENTION

Cost of Local and Regional Government

"Believing that the cost of public administration, especially in local government, is too high and adds unnecessarily to the cost structure of the country, and recognising that a lower cost structure is vitally important to achieve economic growth and to create jobs in the new South Africa, Convention calls on the parties concerned in the restructuring of local and regional government, to rationalise and streamline public administration so as to improve efficiency."

BACKGROUND DOCUMENT TO THE MOTION ON THE COST OF LOCAL AND
REGIONAL GOVERNMENT BY THE CAPE TOWN CHAMBER OF COMMERCE

We are standing on the brink of a new dispensation in respect of local and regional government. At this very moment, forums around the country are involved in negotiations in order to create second and third tier levels of government in a way, unprecedented in this country, which will ensure proper representation and effective administration at regional and local government levels.

At the national level it has been recognised that in a future South Africa the role of regional government will be more autonomous and its devolution of power to third tier levels will be more meaningful. It is in this context that the new structures at second and third tier level need to be designed in such a way as to incorporate checks and balances which will ensure a cost-effective and dynamic public administration.

Accountability and Transparency

Weaknesses in the current structure are in the areas of accountability and transparency. Maladministration, inefficiency, corruption in the public sector in South Africa has been hidden away from public scrutiny by using a system which did not make provision for general transparency.

The new structures which are being contemplated at present should be constructed in such a way that public scrutiny can penetrate into all the levels of administration. Transparency eliminates suspicion and enhances co-operation in that all parties concerned will feel part of the running of a public authority.

Accounting Practices

It is essential that the public sector adopts the process of normal accountancy practices as applied in the private sector.

Every department and government function must be subject to the discipline of receiving allocated funds and accounting for the manner in which those funds are expended, in such a way that value-for-money may be assessed and corruption avoided. When deciding whether to perform a function "in-house", or to contract out to the private sector, the principle of total costing should be adhered to, rather than the marginal costing principle which many local authorities apply at present.

Remuneration

Immediate steps must be taken to review the present system of remuneration which, in effect, allows the senior executive in the public sector, in terms of the Remuneration of Town Clerks Act, 1984, to determine his own level of remuneration.

Jobs in the public sector should be evaluated in accordance with acceptable private sector principles using established evaluation packages such as Pattersons, Hay or Peronne. By applying these neutral criteria, civil administrators will not be tempted to build their own "in-house" empires but will be encouraged to look for greater cost-efficiency.

Value-for-money Auditing

A number of years ago, Assocom Congress urged government to accept and implement a system of value-for-money auditing. We have learned that some pilot projects within the Department of Finance have been very successful and we urge the creators of the new local and regional government structures to incorporate regular value-for-money auditing procedures in order to ensure that cost-efficiency remains a priority.

Zero-Based Budgeting

Inflationary expectation has fuelled inflation. It is essential that the principle of zero-based budgeting be applied, not only in capital budgets, but also in operating budgets. As local and regional government authorities spend taxpayers' money, we believe that those who spend such monies must provide proper and acceptable explanations in advance on how they intend to spend that money. The new structures should ensure proper report-back and transparency in respect of explanations.

Corruption

Much has been said and heard about the enormous levels of corruption which have been uncovered in the public sector. Although generally accepted that the uncovered cases only form the tip of the iceberg, the monetary loss to the country has already been alleged to amount to multitudes of the annual National Budget.

Fertile ground for corruption existed in the dark ages of apartheid and international isolation, when covert action was rewarded and nepotism was not frowned upon.

Corruption must be eliminated and in this respect the new authorities are urged to ensure that independent audits are carried out early and made public unconditionally. Acceptable but tight timeframes should be agreed upon in respect of the completion of an audit and South Africa's judicial system should be used extensively to penalise any perpetrators of corrupt practices.

Rationalisation

Extensive co-operation is required between local authorities individually and the regional authority to rationalise services and functions and to reduce duplication of functions to the minimum.

Functions and services need to be identified which are provided by all, and innovative ways of avoiding duplication need to be developed, while the rationalisation of such functions ought to be encouraged.

One such function is the collection of rates, taxes, levies, licence fees, service fees. All local and regional authorities have developed large bureaucracies for the purpose of collecting their income.

It is proposed that the issue of revenue collection be investigated with a view to allocating such function to a specialist body. Greater autonomy for the regions in a future South Africa could open the way to a centralised regional collecting agency which would collect income on

behalf of regional/...

behalf of regional functional authorities and local authorities, and distribute such revenues in accordance with instructions by the geographical or functional authority for which the revenue has been collected. Such a centralised administration would slim down regional and local bureaucracies by the removal of the collection departments and it would remove anomalies in the collection and administration process between the various authorities.

Conclusion

No person doubts the need for public administration at various levels of government. South Africa's new dispensation will bring into life new local and regional authorities that will represent all the people of our country. Proper representation is crucial to ensure adequate accountability of the public administration. Here is a unique opportunity for those who are involved in the creation of these new structures, to start off on the right footing.

The cost of public administration at both regional and local levels of government is too high. In order to reduce these costs, local and regional authorities should become leaner by subcontracting to the private sector; by improving their financial management; by applying private sector principles in respect of accounting practices and job evaluations; and by creating a culture within their own environment of honesty, transparency and efficiency.

ACS/eaw
20 September 1993

MOTION ADOPTED AT THE 1993 SACOB ANNUAL CONVENTION

Local Government Accountability

"In view of the current debate taking place in the Local Government Negotiating Forum, regarding a new and fully representative system of local government, this Convention urges SACOB to propose to that Forum on which SACOB has observer status, that provision be made in a new local government dispensation for

- [i] the establishment of regional and local government consultative committees representative of the private sector, to interact with and advise local authorities on matters of concern, including local government budgets, the optimum utilisation of scarce financial and other resources, and the impact on the community of proposed legislation;
- [ii] the introduction of a juristic or corporate vote available to business as the major contributor to local coffers and the sector most directly affected by revenue collection and expenditure decisions; and
- [iii] the introduction of a ward or constituency system and proportional representation for the election of representatives in primary local authorities, in the interests of accountability to voters as a fundamental prerequisite for the success of a new local government dispensation."

BACKGROUND DOCUMENT TO THE OFS/NORTHERN CAPE REGIONAL CONGRESS MOTION ON ACCOUNTABILITY IN LOCAL GOVERNMENT

1.0 INTRODUCTION

- 1.1 SACOB's basic stance on local government reform is encapsulated in the following motion, adopted in the course of the Annual Convention held in Johannesburg during October 1990:-

"In welcoming Government's intention to introduce a new system of local government as part of a new political dispensation and to enable local authorities to deal with challenges such as urbanisation

This Convention urges Government to ensure that such system of local government

- (i) offers a wide range of optional models;
- (ii) is open to participation by all, including corporate entities, with equal rights on a non-racial basis;
- (iii) provides for local options to be arrived at through negotiation, involving all in the community, and with the greatest possible measure of consensus;
- (iv) is aimed at the maximum devolution of authority to the local level, with the minimum of central control; provided however, that Government should accept financial responsibility for a minimum level of socio-economic services and basic infrastructure;
- (v) promotes administrative rationalisation and greater efficiency in local government; and
- (vi) entails a fair distribution of the local tax burden."

- 1.2 This motion was also SACOB's basic point of departure in its Memorandum of Comment to the President's Council concerning the Investigation of the Development of an Efficient and Representative System of Third-tier Government in a New Constitutional Dispensation, and in other submissions made to relevant forums.

- 1.3 Implicit in SACOB's views concerning a new local government dispensation is the principle of accountability, fiscal and otherwise, to all sectors of the community.
- 1.4 Notwithstanding the present turbulence surrounding local government negotiations in the respective forums, present indications are that emerging new third-tier structures are likely to substantially conform to most of the principles enumerated earlier.
- 1.5 However, certain aspects of vital concern to business are in danger of being either ignored or overlooked, and these are accordingly addressed in this motion before Convention.

2.0 CONSULTATION WITH THE PRIVATE SECTOR

- 2.1 Paragraph (i) of the motion calls for the establishment of regional and local government consultative committees representative of the private sector, to interact with and advise local authorities on matters of concern.
- 2.2 In most major "white" local authorities, such consultative mechanisms, comprising representatives of organised business and councillors, meet at regular intervals to discuss important issues, including local government budgets, projects proposed to be undertaken which may directly or indirectly have an impact on business, and legislative proposals likely to affect local communities.
- 2.3 In its report released earlier this year before its dissolution, the President's Council recommended formalised consultative mechanisms insofar as rate-payers and civic associations were concerned, but no mention was made of forums for interaction with organised business. Business feel strongly that, as the major contributor to local coffers, appropriate consultative bodies should be established at local and regional levels as commerce and industry can, and should, play an important part in influencing third-tier decisions.

3.0 CORPORATE VOTE

- 3.1 In 1990 the Thornhill Technical Committee of Investigation into a New System of Local Government stated that "democratic local government in South Africa has to provide for local franchise for natural owners and occupiers, as well as fictitious persons such as companies and close corporations".

- 3.2 The Local Government Bodies Franchise Act No 117 of 1984 attempted to provide for a corporate vote, proposing that a natural or juristic person owning rateable immovable property of a value equal to or higher than that prescribed by the Minister, should have a vote in every ward where such a rateable property is situated. However, implementation of this Act, applicable to ethnically-based local authorities, was still-born as two Houses of the tricameral Parliament subsequently refused to pass legislation to give effect to the necessary electoral mechanisms.
- 3.3 In 1987 organised business made strong representations for the necessary further legislation to be passed to enable the corporate vote to be available in time for the October 1988 municipal general elections. This initiative was not however successful, but the business community has nevertheless persisted in its endeavours to secure this franchise.
- 3.4 Business strongly subscribes to the view that the principle of fiscal accountability must be recognised in any new dispensation, and that a direct link should exist between taxpayers and the electorate. Spending decisions at local government levels should be made by persons who are elected by voters that are direct contributors to the tax base, and therefore have a vital interest in the way in which their taxes are spent. Organised business believes that commerce and industry can play a major role in facilitating a successful new third-tier system, and that the corporate vote could be an important vehicle to encourage the business community to play a greater role and have a larger say in local government affairs, particularly if as expected, more powers and responsibilities are likely to be devolved to local levels.

4.0 ELECTORAL SYSTEMS

- 4.1 The fundamental question to be addressed in regard to voting or electoral systems at local levels in a new dispensation, is whether or not there should be a ward (or constituency) system or a system of proportional representation or a combination of both.
- 4.2 In line with its belief that the best local authority system is that which makes individual councillors or representatives directly accountable to the people who elect them, organised business accordingly supports a ward system for the election of representatives of particular constituencies. In other words there should be one or more representatives elected for each ward on the basis of a popular vote.

- 4.3 Business does not regard a system of proportional representation as appropriate for the election of primary local government representatives, as it would presuppose elections on party or group lines which would not necessarily be in the best interest of local residents. This is borne out by experiences of the past, when for example local government elections in 1988 mainly along party political lines resulted in purely ideological decisions being taken to the detriment of local communities.
- 4.4 In fact we could go so far as to say that at local level a constituency representative of the people is fundamental to the success of local government.

5.0 CONCLUSION

Business believes that acceptance and implementation of principles, (being complementary to those accepted by Convention in 1990) will contribute greatly to the establishment of a fully democratic and accountable local government system in South Africa.