



FRIENDS OF STELLENBOSCH MOUNTAIN

Chairperson: H Koekemoer
hanneskoekemoer@proton.me

Secretary: HC Eggers
076-785-3514 heggers@pm.me

P.O. Box 3218, 7602 Matieland
11 Grandiceps Rd, 7600 Stellenbosch

Public Benefit Organisation No. 930049434
fsmountain.org

Comments on IDP meeting of 2022-09-22 in Town Hall

29 September 2022

On behalf of FSM, Prof HC Eggers attended the IDP meeting held at the Town Hall on 22 September 2022 and submitted FSM's formal comments and questions in paper form to the IDP staff in attendance there. FSM questions submitted on 12 January 2022 from the previous IDP round were never answered and were also resubmitted in paper form on 22 September 2022. We here present further comments based on the Town Hall meeting.

1 The Town Hall meeting was not proper public participation

- 1.1 The IDP meeting of 22 September was billed as the official IDP public participation meeting for Wards 7, 8, 9, 10, 11, 22, and 23. It was among the worst ever held in this venue. Only low-ranking municipal staff were present in the Town Hall itself, while an unknown number of senior municipal officials and councillors gathered separately in the Council Chambers. Only one councillor was physically present in Town Hall.
- 1.2 The separation into two venues was unnecessary and a serious hindrance to public participation. Covid restrictions are long gone, and it would have been technically easy to have officials, councillors and the public all in Town Hall. The public had no insight into what was going on behind closed doors in Council Chambers; it was not even clear who was in attendance there. This separation into two separate venues can be interpreted as disdain of the town council and administration towards the public. That is unacceptable.
- 1.3 The IDP "presentation" consisted of more than an hour of reading off, word for word, a few simplistic slides and the Ward Priorities which are in any case available and can easily be obtained and reviewed separately. Only minimal information on major projects and issues was provided. The "presentation" was so boring that many people left.
- 1.4 While the so-called "presentation" took more than an hour with minimal value to the public, questions and debate were strictly controlled and limited to two minutes per submission. This IDP meeting therefore did not give proper time and opportunity for genuine public participation while wasting a lot of time on unnecessary reading of slides.

2 Submission and re-submission of FSM IDP comments and questions

- 2.1 This submission of 29 September 2022 is accompanied by the two previous submissions. At the IDP meeting of 22 September, FSM submitted in paper form detailed comments and questions on matters related to municipal financial management of nature areas and related court cases (Deon Garden & Construction vs Stellenbosch Municipality, Leon Lourens Labour Court case); they are also submitted electronically today. The earlier FSM submission dated 12 January 2022 is also hereby re-submitted for answering since there has been no response from the municipal administration so far.

- 2.2 Councillors, Mayco and the Mayor should be demanding answers from the municipal administration with regard to **the 2019 NRM contract and its termination**, the **court case 9140/2021** and the **Leon Lourens disciplinary and Labour Court cases**, as set out by FSM in the submissions of 12 January and 22 September and many related previous communications since 2019.
- 2.3 The IDP itself makes clear that Stellenbosch Municipality has bound itself to **Clean, accountable and responsive local government**; see for example Table 43 and Mayoral Outcome 1 in the March 2022 IDP draft.

3 Incorrect statements made on the 2019 NRM contract termination

- 3.1 In response to the FSM questions and statements regarding the 2019 NRM contract and grant of R14,426 million (see Items 2 and 4 of the FSM 2022-09-22 submission) and related matters, the relevant official claimed at the IDP meeting of 22 September that **the termination of this contract was initiated by the national Department of the Environment, Forestry and Fisheries (DFFE) or DEA**, as it was known at the time.
- 3.2 **That claim by the municipal official is untrue.** As explained below, **the contract was terminated on initiative and urging by Stellenbosch Municipality (SM), not by DFFE.**
- 3.3 Appendix A below contains a copy of minutes of a meeting held on 25 October 2019 between the Municipal Manager and DFFE, which clearly indicate that SM asked for termination, not DFFE. Items 1 and 4 of those minutes make clear that the termination was the result of Stellenbosch Municipality “issuing a termination letter to cancel the NRM Project with immediate effect” (Item 1), while in Item 4 the DFFE official Mr Ngcobo “accepted the termination letter”.
- 3.4 The minutes shown in Appendix A are also remarkable because items 2 and 3 have been deleted. *What was there to hide which the public is not allowed to know about this meeting?*
- 3.5 **Stellenbosch Municipality has from the start been very secretive, uncooperative and misleading with regard to this termination of the NRM contract and the reasons for it.**
- On 26 August submitted a formal PAIA request to SM, but SM did not provide the information requested, even after requesting an extension of 30 days (see Appendix B). SM did not respond to FSM’s correspondence shown in Appendix C.
- 3.6 The crucial (but redacted) minutes of 25 October 2019 plus the full 2019 NRM contract and appendices were provided by DFFE to FSM; see Appendix D. DFFE has been transparent and accountable, but Stellenbosch Municipality has been secretive and unaccountable.
- 3.7 Stellenbosch Municipality is also accountable to the public in its Duty of Care with respect to the nature areas owned and/or controlled by it; see eg NEMBA Section 73 and Article 24 of the SA Constitution. Municipal nature areas management is at its worst in over twenty years. Stellenbosch Municipality is been failing badly to comply with this accountability and duty of care even while wasting scarce human resources and money amounting to an estimated R20 million or more.
- 3.8 Municipal officials are accountable to the Municipal Manager, and the municipal administration is accountable to Council. It is the duty of all Councillors, including the ward councillors and ward committees of Wards 7, 8, 9, 10, 11, 22, and 23 to take up the matter raised by FSM and to get to the bottom of these incorrect statements and all the secrecy.

A Minutes of termination meeting of 2019-10-25



**MINUTES OF NRM MEETING
COMMUNITY SERVICES DEPARTMENT
FRIDAY, 25 OCTOBER 2019**

OFFICIAL	JOB TITLE
Mrs Geraldine Mettler	Municipal Manager
Mr Gary Boshoff	Director: Community and Protection Services
Mr Kevin Carolus	Director: Chief Financial Officer
Mrs Tammy Leibrandt	Superintendent: Urban Forestry
Mr Nceba Ngcobo	DEFF- Director
Mr Colln Sharp	DEFF- Project Manager
Mrs Aadiela Moerat	DEFF- Area Manager
Mr Wessel Wentzel	DEFF-NRM

CONCERN/ISSUE	COMMENT/S FROM DEPARTMENT
1. NRM Project Closure Discussion	<ul style="list-style-type: none"> Stellenbosch Municipality submitted a termination letter to cancel the NRM Project with immediate effect on the 8 October 2019. Department of Environmental Affairs (DEA) acknowledged receipt of the termination letter. It must be noted the Working for Water concept no longer exists but the has been replaced by NRM <p>Item 1 shows that the 2019 NRM contract was terminated on the initiative of Stellenbosch Municipality. The statements made at the IDP meeting of 2022-09-22 are therefore incorrect. This termination resulted in loss of R14,426 million in grant money to Stellenbosch and its nature areas. WHY was the contract terminated?</p>
2.	<p>Item 2 of these minutes was deleted. Who deleted it? What was so sensitive and/or important about the contract termination that required this deletion before release to FSM and the public?</p>



**MINUTES OF NRM MEETING
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3.		<p>Item 3 was also deleted. What was so important or sensitive that the right of the public to access to information held by the state (Article 32 of the SA Constitution) was violated? What is being hidden from the public?</p>
4.	Way forward	<ul style="list-style-type: none">• Mr Ngocobo stated that he understands the reasons why the Stellenbosch Municipality terminated the NRM contract and accepts the termination letter. He also stated that the NRM Project is difficult to implement at



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		<p>municipalities because all municipalities are governed by the MFMA that dictates who municipalities must function in terms of processes and procedures.</p> <ul style="list-style-type: none">• Aadleia mentioned that DEA is looking at a new NRM model that will be aimed specifically at municipalities and aligned with the MFMA.
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Geraldine Mettler
Municipal Manager

01 / 11 / 2019
Date

The Municipal Manager has signed these minutes. The municipal administration is well aware that the NRM contract was terminated by the Municipality.

B Municipality requests extension for FSM PAIA application



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

23 September 2020

Our Ref: MC Williams
Tel: (021) 808 8991

For Attention: Prof Hans Eggers

Email: eggers@sun.ac.za

Dear Sir

Stellenbosch Municipality received the FSM PAIA request and even asked for extension, as shown here. There never was any reply.

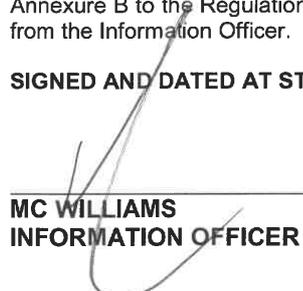
NOTICE IN TERMS OF SECTION 26(1)(a) OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000

KINDLY TAKE NOTICE that your request for access to information in terms of the Promotion of Access to Information Act 2 of 2000 (hereinafter referred to as "the Act"), as submitted by you, has been extended for a further period of 30 days:

NO.	REASON FOR EXTENSION OF PERIOD
1.	<p>The request is for a large number of records or requires a search through a large number of records and compliance with the original period would unreasonably interfere with the activities of the public body concerned; and</p> <p>Consultation among two divisions of the public body is necessary or desirable to decide upon the request that cannot reasonably be completed within the original period.</p>

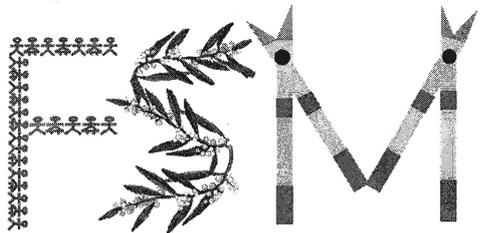
KINDLY TAKE FURTHER NOTICE that you are entitled to submit an internal appeal or lodge an application to a Court as the case may be, against the extension of the original period for a further 30 days. In the event that you wish to lodge an internal appeal, kindly ensure that this is delivered to the Information Officer within 60 (sixty) days of the date hereof in the prescribed form (Form B, Annexure B to the Regulations to the Act). A copy of the prescribed form is available upon request from the Information Officer.

SIGNED AND DATED AT STELLENBOSCH ON THIS THE 23RD DAY OF SEPTEMBER 2020.


MC WILLIAMS
INFORMATION OFFICER

C Stellenbosch Municipality refused to provide the requested documents

After the two-month period for a PAIA reply expired, FSM sent this letter to the municipal manager. Again there was no reply.



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Chairperson: HC Eggers
076-785-3514 eggers@sun.ac.za
Secretary: JZ Turnbull
082-382-4367 jzt1710@gmail.com
P.O. Box 3218, 7602 Matieland
11 Grandiceps Rd, 7600 Stellenbosch
Public Benefit Organisation No. 930049434
<http://www.physics.sun.ac.za/~eggers/fsm/>

PAIA deemed refusal of request: Stellenbosch NRM Contract



BY HAND AND EMAIL

To the Municipal Manager
Stellenbosch Municipality

2020-11-12

Dear Advocate Mettler,

1. On 2020-08-26, FSM had submitted, by email to Stellenbosch Municipality ("SM"), a *Request for Access to Record of Public Body* in terms of the Promotion of Access to Information Act (PAIA) and a similar request to Department of Environment, Forestry and Fisheries ("DEFF"). A S26(1)(a) notice of extension by 30 days was received from SM on 2020-09-25. However, when the second 30-day period lapsed on 2020-10-24, SM had still not provided any records or commented in any way on the failure to do so. Earlier on 2020-10-21, DEFF had provided nine records to FSM.
2. FSM hereby records that (a) SM did not provide any requested records to FSM as per the PAIA request dated 2020-08-25 within the statutory time limits, and (b) that, even while the documents referred to in items 1(a) to 1(f) of the 2020-10-24 FSM Request were provided independently by DEFF, the additional requested items as per item 1(g) of the PAIA request were not provided by SM. Item 1(g) of the FSM request reads: *1(g) A complete record of any agendas, minutes and pertinent supporting documents (whether classified secret or not) of one or more meetings held by the Stellenbosch Municipality Council and/or Mayoral Committee and/or the municipal Portfolio Committee on Parks, Open Spaces and the Environment on the topic of the NRM Contract.*
3. FSM therefore records that the 2020-10-24 PAIA request in general and Item 1(g) in particular must be deemed as refused by SM in terms of Section 28 of PAIA.

Yours respectfully,



Hans C Eggers
Chairperson: Friends of Stellenbosch Mountain

D NRM contract provided to FSM by DFFE, 19 October 2020



environment, forestry
& fisheries

Department: Environment, Forestry
and Fisheries
REPUBLIC OF SOUTH AFRICA

14 Loop Street, Cape Town, 8001 Tel: 021 441 2749

Ref. PAIA 196922

Enquiries: Mr Nceba Ngcobo

Tel: 0834512125 Email: Nngcobo@environment.gov.za

Mr Hans Eggers

Friends of Stellenbosch

Via Email: eggers@sun.ac.za

By contrast, the national Department of Environment, Forestry and Fisheries was transparent and helpful. The FSM PAIA request was granted, but the minutes of 25 October 2019 were partially deleted.

Dear Sir

REQUEST FOR INFORMATION IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 (PAIA): STELLENBOSCH MUNICIPALITY

1. Your request for access to information in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) ("PAIA"), dated 26 August 2020 and for which payment was received on 26 August 2020 refers.
2. You have requested access to copies of the following documentation:
 - 1(a) A PDF copy of the initialised and signed Natural Resources Management Memorandum of Agreement concluded in the first part of 2019 between the Department of Environmental Affairs (DEFF) and the Municipality of Stellenbosch (the "NRM Contract").
 - 1(b) A PDF copy of each and every Annexure of the NRM Contract.
 - 1(c) A PDF copy of each and every Addendum of the NRM Contract, as and when such were concluded.
 - 1(d) A PDF copy of each of the agendas and minutes of any one or more meetings, held between March 2019 and August 2020, between authorised representatives of DEFF and the Municipality pertaining to any variation or termination of the NRM Contract.
 - 1(e) A complete record of any funds transferred by DEFF to Stellenbosch Municipality since the conclusion of the NRM Contract.

1(f) A complete record of any funds repaid by Stellenbosch Municipality to DEFF and/or of any remaining liabilities of Stellenbosch Municipality pertaining to any purported variation or termination of the NRM Contract.

- 3 Upon due consideration of your request for information and taking into account the relevant provisions of the PAIA, I have decided to grant you **full access** to the information as per paragraph 2 above and as outlined in your request form.
4. The access fee for the information will be calculated at 60 cents per A4 size page, R40 per compact disk and R15 per hour for each hour of search and preparation of the information, where applicable. On payment of the access fee, copies of the records requested may be collected on prior appointment at 14 Loop Street, Cape Town or emailed to your email account as indicated. The Office of the Chief Director: Natural Resource Management Programmes will contact you when the records are available.
5. Should you wish to appeal against the form of access granted, you are referred to sections 74 and 75 of PAIA, which allows you to lodge an internal appeal together with the prescribed fee, in the prescribed form to the Information Officer of the Department within sixty (60) days. The subject and reasons for the internal appeal must be clearly indicated.
6. A second copy of your appeal should simultaneously be lodged with the Director: Appeals and Legal Review, Mr Mokete Rakgogo at MRakgogo@environment.gov.za.

Yours sincerely



NAME: DR CHRISTO MARAIS
DEPUTY DIRECTOR-GENERAL (ACTING)
BRANCH: ENVIRONMENTAL PROGRAMMES
DEPUTY INFORMATION OFFICER
DATE: 19 October 2020