

NEWS

Why the secrecy, Mr Mayor?

Buyeye, acting city boss photographed after clandestine talks with service provider

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BY MICHAEL KIMBERLEY AND NOMAZIMA NKOSI - 22 October 2020



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THE EVIDENCE: Nelson Mandela Bay acting city manager Mandla George is photographed in Knysna holding a file which he received from Access Facilities and Leisure Management after a

secret meeting with the company's CEO, Riaan Oberholzer

Image: SUPPLIED



A secret meeting in Knysna at the weekend discussed the possible withdrawal of the Nelson Mandela Bay municipality's R208m lawsuit against controversial company Access Facilities and Leisure Management.

Acting mayor Thsonono Buyeye and acting city manager Mandla George were photographed leaving the clandestine talks with Access CEO Riaan Oberholzer on Saturday.

This raised concerns that the company was trying to convince the two officials to withdraw the case.

Concerns have also been raised about Access potentially getting an unfair advantage when the tender to manage the Nelson Mandela Bay Stadium is advertised.

The municipality confirmed to The Herald yesterday that Oberholzer had requested the meeting to see if the court case could be expedited.

However, Port Elizabeth lawyer Danie Gouws, who represents Access, said his clients had no intention of engaging with the municipality on the matter – raising further questions about the veil of secrecy around Saturday's meeting.

Buyeye and George were photographed leaving the meeting with the acting city boss carrying a file.

The Herald understands that Oberholzer had complained at the meeting that the litigation had dragged on for almost five years, resulting in his business being negatively affected.

Before the Mandela Bay Development Agency took control of the stadium, it was managed by Access, with the contract ending in June 2016.

The municipality's contract with Access has been mired in controversy amid allegations that the facility management company had been used as a vehicle to launder money feared stolen from the city's beleaguered Integrated Public Transport System (IPTTS).



HAPPY COINCIDENCE? Nelson Mandela Bay acting mayor Thsonono Buyeye, right, in the blazer and green and gold jersey, with a man believed to be municipal official Thembinkosi

Nante, in Knysna, at the weekend

Image: SUPPLIED

Five people, including former Access CEO Stephan Pretorius, are standing trial in the Port Elizabeth Commercial Crimes Court in a multimillion-rand fraud case linked to the alleged siphoning off of funds given to the municipality by the National Treasury for the IPTS.

Also photographed in Knysna was budget and treasury official Thembinkosi Nante, who confirmed being in the Garden Route town, but not at the meeting.

Though Buyeye told The Herald on Wednesday he had gone to Knysna on holiday with his wife, municipal spokesperson Mthubanzi Mniki confirmed that George and Buyeye met with the company.

When asked why they met with Access and what was on the agenda, Buyeye stonewalled.

“I am not going to comment on that,” he said.

Pressed further, Buyeye would only say: “I went to Knysna for a holiday with my wife.

“That’s what I can say.”

So how did he then meet Access bosses?

“No, no, let me not comment.”

Nante said he was in Knysna at the weekend for a short break but had bumped into Buyeye and George at the town’s waterfront by accident.

“I was in Knysna for the weekend with my girlfriend.

“However, I was not part of that meeting.”

He said just before being captured on camera he had booked a table at a restaurant.

“Somebody is being mischievous by sending these pictures around.

“I have seen these pictures and I don’t know what she is trying to achieve by this.

“But I know who it is.”

He said any claim that he was part of the meeting was an “outright lie”.

“I came across Buyeye and George at the entrance to the waterfront.

“Yes, it was a coincidence,” Nante said.

However, he said even if he had met Buyeye in Knysna there would be nothing wrong with that.

“We have been friends for a long time,” he said.

Mniki confirmed the meeting took place on Saturday.

“The meeting was requested by the Access Management CEO to submit a request that the case between his company and the metro be expedited as the case has been in existence for close to five years.

“The request for the meeting was to the acting city manager and [acting] executive mayor and the matter was immediately reported to the attorneys of record (Gray Moodliar Attorneys) and the file received from the Access Management company was also submitted to our attorneys on Monday, October 19.

“It must also be noted that the municipality is and will not interfere with any legal process that relates to Access Management and any interaction with them or any company is and will be dealt with within the legal

frameworks and guidance,” Mniki said.



PRIVATE CHAT: Nelson Mandela Bay acting city manager Mandla George, right, front, acting mayor Thsonono Buyeye, right, behind, and a man believed to be Thembinkosi Nante photographed in Knysna, where George and Buyeye met Access Management CEO Rian Oberholzer

Image: SUPPLIED

Asked if the meeting would not put Access Management at an unfair advantage should the city decide to appoint an external service provider to run the stadium, Mniki said no.

“If and when the municipality, through the appropriate legislative provisions and through a council resolution, decides to run the stadium through an external service provider, that will be done through a competitive bidding process,” he said.

The municipality claims in court papers that it was forced to pay Access R200m more than it should have over a six-year period while the company managed the stadium.

It has accused Oberholzer, former Access CEO Chantal du Pisani and municipal assistant director of finance Nadia Gerwel of fraudulent misrepresentation.

The municipality accused Access of either over-claiming on expenses incurred by the Nelson Mandela Bay Stadium, or under-declaring its profits.

In terms of the agreement, Access was obliged to pay all turnover and income generated from the stadium to the municipality.

Access was, meanwhile, entitled to claim payment from the metro for certain costs incurred, such as authorised events, capital expenses, fixed operating expenses, management fees and variable event expenses.

Between February and March 2012, Access submitted several invoices to the municipality for nearly R12m in total, the papers say.

Gerwel, in turn, allegedly ensured that the municipality paid R8.9m to Access, and a further R2.9m to the EP Rugby Union.

It is further alleged that between March 1 2009 and February 28 2010, Access claimed that in operating the stadium during that period, it had incurred expenses totalling R15.8m, when in fact its expenses were in the region of R12.3m.

It is also alleged that Access shortchanged the municipality by under-declaring its income by more than R1m for the same period.

The allegedly fraudulent misrepresentations are said to have continued, with similar claims being made between August 2010 and July this year.

But in a document seen by The Herald dated October 15 with the Access Management logo, Oberholzer demanded that the city withdraw its civil case against the company.

The file, which was handed over to George and Buyeye, paints a detailed timeline of repeated requests by the company to discuss the R208m the municipality is trying to recoup from it.

In the document, Oberholzer said the municipality alleged that his company had failed to account and pay over the R208m.

He said that numerous invitations had been extended to the city's legal representatives to meet and debate the matter to reach an agreement on the amount owing, if any.

"The claim by the municipality is essentially an accounting exercise.

"It needs to be mentioned that the municipality has previously accepted and signed off on all the reconciliations presented by Access in respect of its management of the stadium on a monthly basis and upon presentation of its annual audit," Oberholzer said.

Oberholzer claimed that as a result of the civil claim, his company had been maligned in the media and its clients' reputation tarnished.

"Under the circumstances, the correct and proper approach, with respect, is for the municipality to withdraw the action," he said.

After Saturday's meeting, George wrote a letter to attorneys Gray Moodliar and asked for advice on the file he had received from Oberholzer, including details on the delays on finalising the case.

Contacted for comment yesterday, Gouws said: "My client has no interest in engaging with the city or any third parties relating to this matter as Access Management remains vilified by the press."

Gray Moodliar Inc is representing the municipality in the case.

The law firm's director, Wayne Gray, referred all questions to George.

"I am referring you to the acting city manager for any comment on this issue.

"We have not been instructed to speak to the media."

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