

**EMS  
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**Tuesday 30<sup>th</sup> May 2023**

**OPEN LETTER OF CONCERN AND REQUEST FOR TRANSPARENCY AND ACCOUNTABILITY WITH REGARD TO  
THE OVERSTRAND STRATEGIC BABOON MANAGEMENT PLAN AND ITS IMPLEMENTATION**

**For the urgent consideration of Overstrand Municipality Representatives and Ward Councillors**

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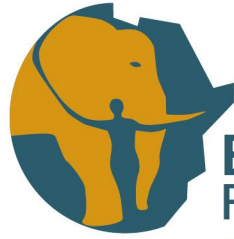
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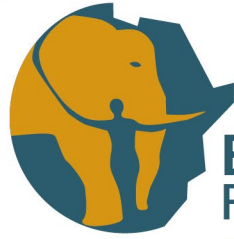
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The EMS Foundation is a South African social justice NGO. Driven by dedication their key purpose is to alleviate and end suffering, raise public awareness, empower, provide dignity and promote the interests of vulnerable groups, particularly youth, the elderly and wild life. We support the five interrelated principles of social justice, namely: equity, access, diversity, participation and rights.

The EMS Foundation is cognisant of the entanglements of oppression and they are committed to the promotion of inclusive justice, showing compassion across species and working to build a better future for all through campaigns, research, analysis, advocacy and holding government to account. The EMS Foundation sees access to information, openness, accountability and transparency as the 'oxygen of democracy'.

The Minister of Forestry, Fisheries and Environment, Barbara Creecy, recently suggested that there was a need for roundtable engagement on the question of baboon management and also to make sure that civil society organisations are brought in so that everyone could be on the same page.



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*“Civil society has an important role to play as well as the three levels of government and there needs to be a developed agreement on an approach to human wildlife conflict as well as an agreement on best practise and a way forward.”*

Minister Creecy asked the City of Cape Town to fast track this process as there was a considerable amount of commitment from the citizens of Cape Town to be actively involved in the process and if that it would be a priority to listen to and involved the communities in the Western Cape.

**Stakeholders have numerous questions and concerns relating to:**

1. **the public participation process with regard to the Overstrand Strategic Baboon Management Plan; and**
2. **the tender process for the appointment of Human Wildlife Solutions as a Service Provider**

The *Constitution of the Republic of South Africa* provides that organs of state must comply with five principles when procuring goods or services: procurement procedures must be fair, equitable, transparent, competitive and cost-effective. In short, this means that organs of state should make use of competition when procuring goods or services. They should shop around and attract the maximum number of contractors who will participate in such competition. The aim should be the attainment of value for money, meaning, public money should be spent in an effective and efficient manner. Those who participate in competitions should also be treated fairly and without bias.

In principle, no preferences should be afforded to different contractors; all contracting parties should have equal access to competition; some contractors should not be afforded more time for the preparation and submission of quotes or tenders than others; and the same information should be made available to all contracting parties. Government procurement procedures should further be transparent, meaning public or open. Thus, organs of state should not contract behind closed doors – government contracts should, as a rule, be advertised.

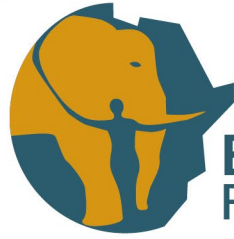
### **Concerns and Questions**

1. Tenders and the appointment of service providers are subject to the Standard Conditions of Tender, the Preferential Procurement Regulations of 2001 and its Supply Chain Management Policy.
  - a) In order to comply with its constitutional and statutory obligations, did the Overstrand Municipality comply with their constitutional and statutory obligations?
  - b) Was the tender for the appointment of a service provider for the implementation of the Overstrand Baboon Management Strategy from 2019 until 2023 advertised?
  - c) Did the Municipality employ a third party to evaluate all the tender application?
2. The Overstrand Municipality appointed HWS Holdings CC. as the service provider through various **deviation processes**. The scope of the work refers to the management of baboons across the Overstrand Municipal area from 1 July 2020 to June 2023. The value of these tenders to HWS Holdings CC are R22 839 862,50 and R8 158 051.00, i.e. a total of R30,997 913.50.

According to the Overstrand Municipality Supply Chain Management Policy Approved by Council 26 June 2019 Implementation date 1 July 2019:

36. *Deviation from, and ratification of minor breaches of procurement processes*

1) *The Accounting Officer may –*



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(a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –  
(i) in an emergency;

(a) Circumstances that warrant emergency dispensation, includes but are not limited to:

(i) the possibility of human injury or death;

(ii) the possibility of damage to property;

(iii) failure to take necessary action may result in the municipality not being able to render an essential community service;

(iv) the interruption of services related to communication facilities or support services critical to the effective functioning of the municipality as a whole; or

(v) the eminent possibility of serious damage occurring to the natural environment.

**(b) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow for the formal tender process**

(c) Procurement in the case of emergencies must be tactically approved by the relevant director or his delegate to incurring the expenditure before issuing an instruction to the supplier and must be reported in writing to the Accounting Officer or delegated official within three business days.

(ii) if such goods or services are produced or available from a single provider only;

As set out above, these are the reasons specified on the official deviation documents.

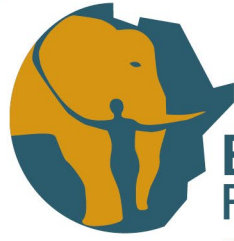
What are the specific reported, investigated and proven details that this was an *emergency* and that *the prevailing situation, or imminent danger*, was of such a scale and nature that it *could not readily be alleviated by interim measures, in order to allow for the formal tender process*?

We have prepared an information document that addresses and contradicts all the other reasons provided by the Overstrand Municipality representatives for the deviations. This document is appended as Annexure 1.

3. The Baboon Liaison Group membership comprises of all stakeholder organisations and groups with a direct interest in the management of baboons and the implementation of the Strategic Baboon Management Plan. The overarching purpose of the Baboon Liaison Group is to serve as a platform for the Overstrand Municipality to engage constructively with all stakeholders, specifically organised civil society and local businesses, in matter regarding the implementation of the Strategic Baboon Management Plan.

**We hereby request that the following information is made publicly available:**

- a) The details of the process and Overstrand community involvement with the drafting of the Overstrand Strategic Baboon Management Plan.
- b) A Copy of the Draft Overstrand Strategic Baboon Management Plan.
- c) Copies of the Advertisement and instructions for the public participation process for commentary on the Draft Overstrand Strategic Baboon Management Plan.
- d) Copies of the Comments Received for the Draft Overstrand Strategic Baboon Management Plan.
- e) The details of all the public engagements with the presentations from all the invited baboon management service providers.
- f) The details of all public notifications and advertisements for all the BLG meetings.



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We look forward to your urgent attention to this matter and your response.

Yours Sincerely,

Michele Pickover  
Executive Director

cc.

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