

Keeping river of hope alive

Vusi Xaba

ONCE a flowing stream before interference from human activity, the Magalies River in western Johannesburg is now a shadow of its former self.

Now the river, part of the greater Crocodile West catchment area on Steenkoppies farm, also known as Happy Acres Conservancy in Krugersdorp, is under construction.

An environmental initiative – Working for Wetlands – is putting up gabion structures to stop the soil erosion affecting the Magaliesberg Wetlands River System.

A gabion is a technique in terms of which rocks are piled up alongside each other and held together with wire buckets to prevent erosion of the soil.

If no intervention is applied, the degradation caused by land use will result in the collapse of the wetlands ecosystem.

Joseph Nkomo is proud to be part of the endeavour to save the Magaliesberg Wetland River System.

Nkomo has worked on various wetlands projects for the past five years and emphasises the importance of the preservation of wetlands.

"I did not know anything about the wetlands before I started working in the wetlands projects," Nkomo said. "I have learnt that South Africa has a water shortage problem and a need to preserve wetlands for future generations."

"There is a lot of education around wetlands. In some instances you find

MAGALIES GETS SECOND CHANCE



SHIFTING SANDS: Project workers Brenda Nemasetoni, Emily Motsoaedi, Kedibone Sithole and Joseph Nkomo helping to rehabilitate the Magaliesberg Wetland River System.

PHOTOS: MABUTHI KALI

people building houses very close to the wetlands and those houses get submerged during floods."

Project coordinator William Mabothe of the Rand Water Foundation said the project had, thanks to the Expanded Public Works Projects, employed 24 people.

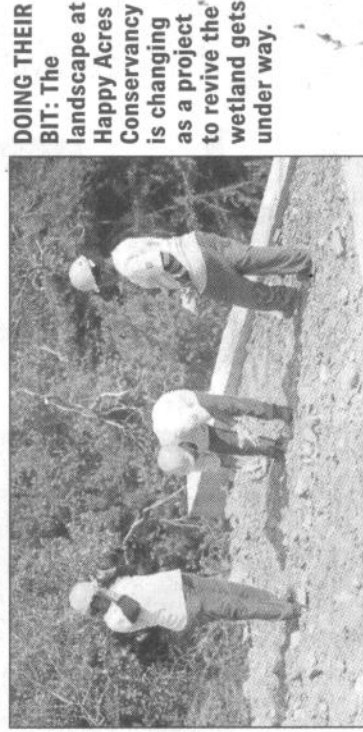
"While employed on the project, these people are empowered with skills they can in future use in the construction industry. They are trained in personal finance and first aid and can become safety officers,"

Mabothe said.

"It is important that the wetlands are preserved because they provide water for local people and their livestock. Churches hold baptisms there and people use it for other rituals. It is also a habitat for certain animals."

The initiative will once again be in the spotlight on World Wetlands Day tomorrow.

The day follows the signing of the Convention on Wetlands on February 2 1971 in the Iranian City of Ramsar. – rabaiv@sowetan.co.za



DOING THEIR BIT: The landscape at Happy Acres Conservancy is changing as a project to revive the wetland gets under way.

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Departments owe billions

Municipalities have not been paid for services

SIYABONGA MKHWANAZI

GOVERNMENT departments are still struggling to pay billions of rands they owe to municipalities.

While the government had promised to sort out the issue, it emerged yesterday that departments were still owing municipalities for services.

Nghamula Nkuna, the spokesperson for Cooperative Governance and Traditional Affairs Minister Richard Baloyi, said that there were outstanding fees.

While Nkuna could not immediately say how much was still outstanding, the department said last year that the debt was at R3,5bn.

However Nkuna said "there has been some movement" in paying off the debt but he would not say how much had been paid.

Nkuna said the reason for the delay in the debt not being settled was that departments were questioning the figures.



CLEARING DEBT: The Cabinet decided that Corporate Governance Minister Richard Baloyi's department should look into the backlog in payments to municipalities. PICTURE: KHULUMANI

He said the money owed to various departments to deal with the problem.

The issue of municipal debt was discussed by the cabinet last year and a decision was taken that the Department of Cooperative Governance would have to follow up the matter

He said Baloyi had met with departments concerned, Nkuna said.

He said following the intervention of the cabinet, there had been some movement.

Cooperative Governance officials had fingered the Public Works, Human Settlements,

Health and Education departments as being responsible for most of the debt.

Officials would however not say how much these four departments owed to municipalities.

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Comment & Analysis

Key Points Act a flimsy cover for Nkandla

THE LAW

Dario Milo & Ben Winks

One of the foremost academic architects of our Constitution, the late Professor Etienne Mureinik, described our Bill of Rights as "a compendium of values empowering citizens affected by laws or decisions to demand justification".

In response to revelations over the past few months that more than R200-million of public funds would be spent on security upgrades to the private residence of President Jacob Zuma at Nkandla, many South Africans have indeed demanded justification. In a country blighted by the apartheid legacies of inequality, indignity and deprivation, the reasons for the state spending such a staggering sum on one home are clearly of profound public interest.

In refusing to furnish a full explanation of why, on what and to whom so much money was paid out of the public purse, the executive — principally Public Works Minister Thulas Nxesi, whose department is funding the project — has repeatedly relied on the National Key Points Act of 1980. This Act was passed in the aftermath of the notorious Information Scandal, which implicated senior officials of the then information department in a scheme to misappropriate defence funds to wage an apartheid propaganda war.

The Act provides, among other things, that any place may be declared a national key point if, in the "opinion" of the defence minister, it "is so important that its loss, damage, disruption or immobilisation may prejudice the republic" or it is "necessary or expedient for the safety of the republic or in the public interest".



The huge spending on Jacob Zuma's Nkandla home flouted the parameters of the Act. Photo: Madelene Cronjé

The defence minister may require the owner of such a place to take steps, at the owner's own expense, to improve its security (on pain of a five-year imprisonment or a fine), or the defence minister may, "on behalf of and with the consent of the owner", take those steps on his own and may determine to what extent the owner will bear the cost.

A special account is created for this purpose and it is envisaged that the funds appropriated for a specific key point must be deposited in this account, with the concurrence of the finance minister. The defence minister has discretion to render "financial assistance, including loans" to an owner from this account.

Nxesi denied that the president had ever approved, or was even aware of, these public works at Nkandla. This is curious, because the Act requires the owner not only to consent to security measures but to pay for them, potentially with "financial assistance, including loans" from the special account. It is also alarming that the "irregularities" (mentioned in the vaguest of terms by Nxesi) were not detected or deterred much earlier, given the scrutiny the statute requires to be exercised over security measures at any national key point, let alone what appears to be the nation's most valuable one.

So it seems that the very same statute invoked by Nxesi to withhold the report, as well as any other information about Nkandla, may already have been breached in several respects, namely the requirements

that the owner must consent, the owner must primarily pay and any public contribution must be determined by the defence minister and paid for from the special account.

Then there is the publication ban. Any person who "furnishes in any manner whatsoever information relating to the security measures applicable at or in respect of any national key point ... without being legally obliged or entitled to do so, or without the disclosure ... being by or on the authority of the [defence] minister" commits a crime punishable by three years' imprisonment or a R10 000 fine.

It was to this publication ban that Nxesi was presumably referring last Sunday, when he declined to release a report by an unidentified task

team on the expenditure at Nkandla. Instead, he offered the public a nine-point summary of the task team's findings, among them that the state had spent more than R200-million at Nkandla to date (about R70-million on "security upgrades" and R135-million on "operational needs for state departments") and that "there were a number of irregularities" in the procurement process.

Now, even assuming that the publication ban in the Act would survive constitutional scrutiny, on its own terms, the ban cannot be used to keep the entire Nkandla report secret. Only those aspects of the report that relate to "security measures" can be kept from public view. Yet, in Nxesi's own version, more than 65% of the public spending related to "operational needs for state departments" and not "security upgrades" and the report also contains details of irregularities relating to service providers.

There can be no justification whatsoever for keeping this information from the public.

Perhaps more glaring than Nxesi's secrecy is that of the defence minister (previously Lindiwe Sisulu, now Nosiviwe Mapisa-Nqakula). It is she who decides whether to declare a place a national key point, what security steps will be taken, to what extent the state will subsidise those steps and what information may be made public. But she has yet to account for the exercise of her sweeping powers under the Act in relation to Nkandla.

The view that the Act exempts the executive from accounting for public funds is as outdated as the Act itself.

Dario Milo is a partner and Ben Winks a candidate attorney at Webber Wentzel

Nkandla cash came from other projects

The decision to upgrade security was made after Zuma's 2009 inauguration

Stefaans Brümmer

The R206-million spent on security at President Jacob Zuma's Nkandla estate was not budgeted for, and "funds were sourced from other prestige projects that were underutilising the funds that had been allocated to them", the department of public works said in court papers this week.

The extraordinary claim — that the most expensive known security upgrade for a South African dignitary was not planned in an affidavit answering an M&G Centre for Investigative Journalism court application for access to details of the public spending at Nkandla.

It suggests the upgrade came as an afterthought after Zuma's May 2009 inauguration and raises new questions about the decision to secure the president's private residence when he has the use of several official residences.

The department turned down a request from the journalism centre under the Promotion of Access to Information Act in August, saying all information about state procurement at the estate was protected

under the National Key Points Act and other secrecy measures.

After an appeal to Public Works Minister Thulas Nxesi went unanswered, the centre turned to the North Gauteng High Court in November, arguing that "there is a significant public interest in the disclosure of the records".

In his answering affidavit, filed on January 29, public works director general Mziwonke Dlabantu reiterated the refusal, arguing that "the records sought are so replete with security-related information that they cannot be disclosed".

And, although he quotes Nxesi's admission at a press conference on January 27 that a task team found irregularities in the procurement, he denies that the public interest "clearly outweighs the harm" that would flow from disclosure.

Dlabantu says that experts reviewed Zuma's security after his inauguration. "As part of this process, new security capacity was requested for the Nkandla residence and its [immediate surroundings]."

From previously leaked public works records it appears that the project was initiated during the third quarter of 2009, but that it was largely stalled until mid-2010.

The scale of the transfer of funds to Nkandla from the department's other prestige projects can be deduced from figures the department released to a National Council of Provinces committee in May.

They showed a R138-million cash flow at Nkandla in 2011-2012. This is a significant amount — 38% — of the R360-million cash flow for all prestige projects during that period.

At his press conference, Nxesi said the total spent "to date" at Nkandla was R206-million, lower than the R238-million allocated the M&G previously reported using the figures given to the committee. But Nxesi's figures may still escalate.

Of the total, Nxesi said R71-million went to actual security upgrades and R135-million went to "the operational needs" of state departments providing the security-related services. This appears to refer to the construction of guard accommodation, medical facilities and the like.

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Amabhungane, the investigators of the M&G Centre for Investigative Journalism, produced this story. All views are ours.

amabhungane.co.za

Who paid for it, and what did JZ know?

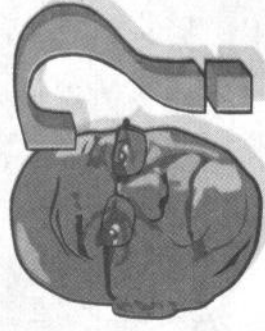
Two critical questions about Nkandla

A public statement made by government last week revealed that more than R200-million has been spent upgrading Jacob Zuma's residence near Nkandla

1 Was Jacob Zuma aware of the scale of the spending at Nkandla?

What we know

In November 2010 Gwen Mahlangu-Nkabinde, then minister of public works, sent a letter to Zuma at his Pretoria office to update him on the status of the development because he was frustrated by the slow pace of work. The letter and attached documents did not specify rand amounts. This week Public Works Minister Thulas Nxesi claimed Zuma did not know the details of the development and never expressed interest in such details.



What was said

"Public Works Minister Thulas Nxesi is on record that he has not seen this correspondence nor is it in possession of DPW (dept of public works)." Phillip Masilo, January 2013

"[The Zuma family] were not involved with the design and installation of security measures." Syabonga Cwele, January 2013

"The president was not involved and no money was used for the upgrade of the residence." Jeff Radebe, January 2013

"These are matters that the government ... don't ask me, don't ask me ... I do not know how much [the upgrades] cost..." Jacob Zuma, November 2012

Graphic: JOHN MCCANN Research: PHILLIP DE WET

2 Who paid for the residences used by the Zuma family, and was state money involved?

What we know

First National Bank granted Zuma a home loan of R900 000 in 2002. He says he is still paying off a bond but it is not clear whether that is the loan he is referring to. Businessman Vivian Reddy stood surety for that loan and repaid part of it. Businesswoman Nora Fakude-Nkuna also made some payments towards the construction, as did at least one unknown party.

What was said

"... the family started the extensions out of their own pockets ... the Zuma family will continue to pay for all the upgrades in Nkandla which are not linked to state security imperatives." Presidency statement, October 2012

"... there is no evidence that public money was spent to build the private residence of the president or that any house belonging to the president was built with public money." Thulas Nxesi, January 2013

"... clear separation must be made of expenses that are for the private account of the principal and that which arose from the state's duty to provide appropriate security ... we have taken special care to allocate expenses to private and public entities, as appropriate." Thulas Nxesi, October 2012

"My residence in Nkandla has been paid for by the Zuma family. All the buildings and every room we use in that residence, was built by ourselves as family and not by government." Jacob Zuma, November 2012

"We have noted requests for proof of the evidence of a mortgage bond for the first phase of the Nkandla residence ... the evidence will be readily made available to an authorised agency or institution empowered by the law of the land." Presidency statement, November 2012