

**AGENDA of the  
Portfolio Committee: Investment & Infrastructure  
2 February 2022  
(Also the agenda for the Mayoral Committee Meeting: 21 February 2022)**

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**5.  
TRANSFER OF UNREGISTERED ERF 9899 (A PORTION OF ERF 9894)  
HERMANUS (CLOSED ROAD), SITUATED IN ELEVENTH STREET, VOËLKLIP TO  
WL GREEF**

**7/2/3/2**

**A Le Roux**

**Manager: Property Administration**

**7 December 2021**

**(028) 316 - 5623**

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**1. Executive Summary**

To obtain final approval for the transfer of unregistered Erf 9899 (a portion of Erf 9894) Hermanus (Closed Road), situated in Eleventh Street, Voëlklip, 198m<sup>2</sup> in extent, to the owner of Erf 3505 Hermanus, being WL Greef. See the locality plan attached hereto marked "Annexure A".

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning  
Property Administration

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Promotion of tourism, economic and social development

**4. Delegated Authority**

None

**5. Legal Requirements**

- Local Government: Municipal Finance Management Act (Act 56 of 2003)("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality as amended

**6. Background/Discussion/Evaluation/Conclusion**

**Background/Discussion**

Council on 25 November 2020 approved in principle the direct alienation of unregistered Erf 9899 (a portion of Erf 9894) Hermanus (adjacent to Erf 3505 Hermanus) situated in Eleventh Street, Voëlklip, 198m<sup>2</sup> in extent (hereinafter

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referred to as “the Property”) to the owner of the adjoining Erf 3505 Hermanus, WL Greef, (hereinafter referred to as “the Applicant”), at a fair market price for gardening purposes and the erection of a boundary fence or wall. The approval was subject to a public participation process being followed and subject further to gaining the approval for the relaxation of the southern (rear) building line of the consolidated property from 15.58m to 12.58m, subdivision, consolidation, rezoning and all applicable town planning approvals. A fair market value was determined at an amount of R650,000.00 (SIX HUNDRED AND FIFTY THOUSAND RAND) (VAT excluded). The public participation process was followed as discussed in more detail below.

**Evaluation**

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy will apply:

***Paragraph 7: “The transfer of ownership of immovable property must be fair, equitable, transparent, competitive (unless it is not applicable or unpractical e.g. non-viable immovable property) and consistent with the supply chain management policy of the Municipality in accordance with Section 14(5) of the MFMA.”***

Non-viable immovable property is defined in the relevant Policy as “a property that, owing to urban planning, physical constraints or extent, cannot be developed on its own or function as a separate entity and can therefore only become functional if alienated or leased to an adjoining owner for usage in conjunction with the said owner’s property.” The Property can be classified as a non-viable immovable property as the Property is situated next to the bushes with no road leading thereto and can only be used with the Applicant’s property. The only allowed access is through the Applicant’s property and can thus not be of useful purpose to anyone else. Due to the restrictions imposed on the Property no new dwelling may be built on the Property and will mainly be used for gardening purposes.

***Paragraph 9(1)(a): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of section 14(2)(a) and (b) of the MFMA decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services.”***

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Council, when the in-principle approval was obtained, confirmed that the Property is not needed to provide the minimum level of basic municipal services.

***Paragraph 9(1)(b): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the municipal council, in terms of sections 14(2)(a) and (b) of the MFMA considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA.”***

Boland Valuers determined the fair market value on 4 September 2020 at an amount of R650,000.00 (SIX HUNDRED AND FIFTY THOUSAND RAND) (VAT excluded). The valuation was done taking into consideration the size, shape, locality, zoning and proposed use of the Property (restriction imposed).

***Paragraph 9.2: “The Municipality may transfer ownership or otherwise dispose of a non-viable immovable property, as non-exempted immovable property which can be of no practical use to any other person, directly to adjoining property owner(s), only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA:***

- (a) decided on reasonable grounds that the non-viable immovable property is not needed to provide the minimum level of basic municipal services;***
  - (b) considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA, and***
  - (c) has as a consequence to 9.2(a) and (b) above approved in principle that the immovable property may be transferred or disposed, provided that, when giving the in principle approval, it is recorded in the minutes the full reasons for the Municipality preferring such direct transfer.”***
- (a) The comments received from the relevant departments confirm that the Property is not needed for the provision of municipal services.
  - (b) Boland Valuers determined the fair market value on 4 September 2020 at an amount of R650,000.00 (SIX HUNDRED AND FIFTY THOUSAND RAND) (VAT excluded). The valuation

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was done taking into consideration the size, shape, locality, zoning and proposed use of the Property (restriction imposed).

- (d) The reasons for preferred direct sale are discussed above and was recorded in the minutes of the in principle approval granted by the Council on 25 November 2020, which is attached hereto marked as Annexure "B".

***Paragraph 28: "All costs pertaining to a transaction shall be borne by the successful bidder/purchaser, e.g. survey, advertisements, valuation, rezoning, relocation or provision of services where necessary, etc. The Municipality may, however, waive its right to claim the costs should it be to its advantage to bear the costs."***

The Applicant will be liable for the costs of the transaction which will include, but not limited to, the application fee, valuation, rezoning and consolidation, Section 14 advertisement, all cost related to the Town Planning processes and the transfer costs.

***Paragraph 29: "Should existing services need to be relocated or secured by means of the registration of a servitude in favour of the Municipality as a result of the alienation of the immovable property, all related costs shall be for the account of the successful bidder/purchaser."***

A servitude will have to be registered at the cost of the Applicant for the sewerage pipeline that crosses the Property and services the adjoining Erf 10315 Hermanus. The Applicant will be liable for all cost in this regard.

***Paragraph 30: "Small areas of land such as closed roads or portions of public place sold to an adjacent owner must be consolidated with the existing property of the adjacent owner, unless circumstances exists which, in the opinion of the Municipality, make such consolidation undesirable."***

A condition to this effect was included in the deed of sale.

***Paragraph 32: "Save with prior approval, the immovable property alienated may only be used for the purpose for which it was originally sold and purposes permitted by town planning scheme regulations pertaining to such purposes."***

A condition to this effect was included in the deed of sale.

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***Paragraph 33: “The agreement might contain a suspensive condition in respect of immovable property which is sold subject to approval in terms of land use planning legislation.”***

A condition to this effect was included in the deed of sale.

***Paragraph 34: “A 10% deposit of the agreed/tendered purchase price will be due and payable by the purchaser/successful bidder within 10 days of date of request in writing thereof by the Municipality.”***

A condition to this effect was included in the deed of sale.

***Paragraph 35: “Interest on the purchase price, as from date of signature of the deed of sale, must be charged by the Municipality should payment or transfer be delayed due to an action or failure on the part of the successful bidder/ purchaser.”***

A condition to this effect was included in the deed of sale.

**B: Advertisement/Notification**

An advertisement for the transfer of unregistered Erf 9899 (a portion of Erf 9894) Hermanus, 198m<sup>2</sup> in extent, was published in The Village News on 3 September 2021 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

**Conclusion**

It is recommended that the direct alienation of the Property to the Applicant for the amount of R650,000.00 (SIX HUNDRED AND FIFTY THOUSAND RAND) (VAT excluded) for gardening purposes and the erection of a boundary fence or wall be approved.

**7. Financial Implications**

The Municipality stands to gain an income of R650,000.00 (SIX HUNDRED AND FIFTY THOUSAND RAND) (VAT excluded) for the sale of the Property.

**8. Staff Implications**

None

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**9. Comments from other Departments, Divisions and Administrations**

**Senior Manager: Expenditure and Assets, Mr J Vorster - (028) 313 8046**

*“Unregistered Erf 9899, a portion of Erf 9894 Hermanus is currently reflected in the Fixed Asset Register for Property, Plant and Equipment: Land with a carrying value of R89’592-76 (EIGHTY NINE THOUSAND FIVE HUNDRED AND NINETY TWO RAND SEVENTY SIX CENTS) as at 30 June 2021. It forms part of the larger Erf 4771 which is reflected in the Fixed Asset Register with a total carrying value of R3’999’450-42 (THREE MILLION NINE HUNDRED AND NINETY NINE THOUSAND FOUR HUNDRED AND FIFTY RAND FOURTY TWO CENTS) as at 30 June 2021. The disposal of the erf will have to be accounted for at the selling price in order to remove it from the Fixed Asset Register and to account for the gain/ (loss).*

*There is no objection as the application complies with the Administration of Immovable Property Policy.”*

**10. Annexures**

Annexure A: Locality map

Annexure B: Council resolution dated 25 November 2020

**RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of unregistered Erf 9899 (a portion of Erf 9894) Hermanus (adjacent to Erf 3505 Hermanus) situated in Eleventh Street, Voëlklip, 198m<sup>2</sup> in extent, to the owner of the adjoining Erf 3505 Hermanus, WL Greef, at an amount of R650,000.00 (SIX HUNDRED AND FIFTY THOUSAND RAND) (VAT excluded) for gardening purposes and erection of a boundary fence or wall **be approved**;
2. that Council take cognisance of the fact that the direct alienation and subsequent transfer is only approved as the subject unregistered Erf 9899 (a portion of Erf 9894) Hermanus is classified as a non-viable property;
3. that it be noted that a condition for the transfer is that the said unregistered Erf 9899 (a portion of Erf 9894) Hermanus must be consolidated with the adjoining property of WL Greef, being Erf 3505 Hermanus;
4. that a condition be registered against the title deed of the to be consolidated property that the portion of property envisaged to be transferred may only be used for gardening and no structures, excluding a boundary fence or wall, may be erected thereon;

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5. that the transfer of unregistered Erf 9899 (a portion of Erf 9894) Hermanus be subject to a suspensive condition that the applicant obtains approval for the relaxation of the southern (rear) building line, consolidation and rezoning and all applicable town planning approvals applicable;
6. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, rezoning, consolidation, application for relaxation of the southern (rear) building line, transfer and related costs, advertisements, etc. be paid by the applicant; and
7. that it be noted that the municipal property envisaged to be transferred is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

<b>RESPONSIBLE OFFICIAL:</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>26 MARCH 2022</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>12 MARCH 2022</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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**5.  
TRANSFER OF UNREGISTERED ERF 9899 (A PORTION OF ERF 9894)  
HERMANUS (CLOSED ROAD), SITUATED IN ELEVENTH STREET, VOËLKLIP TO  
WL GREEF**

**7/2/3/2**

**A Le Roux**

**Manager: Property Administration**

**7 December 2021**

**(028) 316 - 5623**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
2 FEBRUARY 2022, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of unregistered Erf 9899 (a portion of Erf 9894) Hermanus (adjacent to Erf 3505 Hermanus) situated in Eleventh Street, Voëlkliip, 198m<sup>2</sup> in extent, to the owner of the adjoining Erf 3505 Hermanus, WL Greef, at an amount of R650,000.00 (SIX HUNDRED AND FIFTY THOUSAND RAND) (VAT excluded) for gardening purposes and erection of a boundary fence or wall **be approved**;
2. that Council take cognisance of the fact that the direct alienation and subsequent transfer is only approved as the subject unregistered Erf 9899 (a portion of Erf 9894) Hermanus is classified as a non-viable property;
3. that it be noted that a condition for the transfer is that the said unregistered Erf 9899 (a portion of Erf 9894) Hermanus must be consolidated with the adjoining property of WL Greef, being Erf 3505 Hermanus;
4. that a condition be registered against the title deed of the to be consolidated property that the portion of property envisaged to be transferred may only be used for gardening and no structures, excluding a boundary fence or wall, may be erected thereon;
5. that the transfer of unregistered Erf 9899 (a portion of Erf 9894) Hermanus be subject to a suspensive condition that the applicant obtains approval for the relaxation of the southern (rear) building line, consolidation and rezoning and all applicable town planning approvals applicable;
6. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, rezoning, consolidation, application for relaxation of the southern (rear) building line, transfer and related costs, advertisements, etc. be paid by the applicant; and
7. that it be noted that the municipal property envisaged to be transferred is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

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<b>RESPONSIBLE OFFICIAL:</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>26 MARCH 2022</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>12 MARCH 2022</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>



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**MINUTES : ORDINARY MEETING OF THE COUNCIL 25 NOVEMBER 2020**

**5.10**

**IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF UNREGISTERED ERF 9899 (A PORTION OF ERF 9894) HERMANUS, SITUATED IN ELEVENTH STREET, VOËLKLIP TO WL GREEFF**

**(ITEM 8, PAGE 242 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2020)**

**RESOLVED (SUPPORTED BY 24 COUNCILLORS):**

1. that the direct alienation of unregistered Erf 9899 (a portion of Erf 9894) Hermanus situated at Eleventh Street in Voëlkliip, 198m<sup>2</sup> in extent, to the owner of the adjoining Erf 3505 Hermanus, WL Greeff, at an amount of R650,000.00 (SIX HUNDRED AND FIFTY THOUSAND RAND) (VAT Excluded) be **approved in principle**;
2. that it be noted that the direct alienation is possible as unregistered Erf 9899 (a portion of Erf 9894) Hermanus can be classified as a non-viable property;
3. that, subject to the approval in 1 above, a public participation process be followed at the cost of the Applicant;
4. that it be noted that a condition for the alienation will be that unregistered Erf 9899 (a portion 9901) Hermanus must be consolidated with the adjoining property of WL Greeff, being Erf 3505 Hermanus;
5. that no structures of any kind (excluding a boundary wall or fence) may be erected on unregistered Erf 9899 (a portion of Erf 9894) Hermanus, which condition must be registered against the title deed of the consolidated property;
6. that the alienation of unregistered Erf 9899 (a portion of Erf 9894) Hermanus be subject to a suspensive condition that the Applicant obtains approval for the Town Planning processes, including the relaxation of the southern (rear) building line of the consolidated property from 15.58m to 12.58m;
7. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, rezoning, consolidation, application for relaxation of the southern (rear) building line, transfer and related costs, advertisements, etc. be paid by the Applicant, WL Greeff; and
8. that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

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**MINUTES : ORDINARY MEETING OF THE COUNCIL 25 NOVEMBER 2020**

<b>RESPONSIBLE OFFICIAL:</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>18 DECEMBER 2020</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>31 DECEMBER 2020</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>