

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 March 2016
(Also the agenda for the Mayoral Committee Meeting : 30 March 2016)**

**19.
HERMANUS, TRANSFER OF ERF 640 (A PORTION OF ERF 560) ZWELIHLE,
852M² IN EXTENT, FOR CHURCH PURPOSES**

7/2/3/2

**D Taljaard
28 February 2016**

(028) 316 - 3724

Hermanus Administration

1. Executive Summary

To obtain final approval for the transfer of Erf 640 (a portion of Erf 560) Zwelihle, 852m² in extent, for church purposes, to the Church of Christ Mission.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure & Planning
Property Administration

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
The encouragement of structured community participation in the matters of the municipality
Promotion of tourism, economic and social development

4. Delegated Authority

None

5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality, as amended
- Local Government: Municipal Finance Management Act, No 56 of 2003
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Overstrand Municipality Supply Chain Management Policy, as amended

6. Background/Evaluation/Conclusion

Background

Council resolved on 30 September 2015 as follows:

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*“1. that the deviation from paragraph 15.1 of the Administration of Immovable Property Policy **be approved;**”*

*“2. that the alienation of Erf 640, (a portion of Erf 560) Zwelihle, Hermanus, (852m² in extent) to the Church of Christ mission be **approved in principle** to rectify this archaic matter subject to a public participation process being followed;”*

“3. that all costs pertaining to the transaction be paid by the purchaser;”

“4. that the application costs be waived on grounds that the transaction is an archaic matter; and”

*“5. that it **be** noted that the municipal property herewith 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, No. 56 of 2003.”*

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

Paragraph 9(1)(a): “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: decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services:”

The comments from the relevant officials confirmed that the said property is not needed for basic municipal services. Council, when the in principle approval was obtained, confirmed that the subject 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:”

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The market related value of the property was determined by Boland Valuers at an amount of R47,000.00 (FORTY SEVEN THOUSAND RAND ONLY) (VAT excluded).

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 purchaser will be liable for the final transfer advertisement, transfer costs and other costs as may be stipulated.

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 clause to this effect will be inserted in the Deed of Sale and subsequently registered against the Title Deed in the Deeds Office.

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 clause to this effect will be inserted 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 clause to this effect will be inserted in the Deed of Sale.

B. Advertisement/Notification

An advertisement for the transfer of Erf 640 (a portion of Erf 560) Zwelihle, 852m² in extent, was placed in The Hermanus News on 26 January 2016 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

Conclusion

It is recommended that the transfer of Erf 640 (a portion of Erf 560), Zwelihle, 852m² in extent, for church purposes to the Church of Christ Mission for the

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amount of R47,000.00 (FORTY SEVEN THOUSAND RAND ONLY) (VAT excluded) be approved.

7. Financial Implications

The Municipality stands to gain an income of R47,000.00 (FORTY SEVEN THOUSAND RAND ALONE) (VAT excluded).

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

The full extent of Erf 640 Zwelihle is currently reflected in the Fixed Asset Register for Property, Plant and Equipment Land as a portion of Erf 560. The disposal will have to be accounted for at the selling price in order to adjust the carrying value in the Fixed Asset Register.

There is no objection as the application complies with the Administration of Immoveable Property Policy.

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of Erf 640 (a portion of Erf 560), Zwelihle, 852m² in extent, for church purposes to the Church of Christ Mission for the amount of R47,000.00 (FORTY SEVEN THOUSAND RAND ALONE) (VAT excluded), **be approved;**
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of Erf 640 (a portion of Erf 560), Zwelihle to the Church of Christ Mission;
3. that cognisance be taken of the fact that the subject portion of Municipal property is **not required** for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immoveable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003; and

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4. that Church of Christ Mission be responsible for all the costs pertaining to the advertisement of the transfer and the registration of the property in the Deeds Office.

RESPONSIBLE OFFICIAL : D TALJAARD

TARGET DATE FOR IMPLEMENTATION : 4 APRIL 2016

TARGET DATE TO INFORM APPLICANT : N/A

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Hermanus Administration

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 22 MARCH 2016, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of Erf 640 (a portion of Erf 560), Zwelihle, 852m² in extent, for church purposes to the Church of Christ Mission for the amount of R47,000.00 (FORTY SEVEN THOUSAND RAND ALONE) (VAT excluded), **be approved**;
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of Erf 640 (a portion of Erf 560), Zwelihle to the Church of Christ Mission;
3. that cognisance be taken of the fact that the subject portion of Municipal property 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, No 56 of 2003; and
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