

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 May 2017
(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

19.

HERMANUS: TRANSFER OF UNREGISTERED ERF 11456 (A PORTION OF ERF 243) HERMANUS, ±838M² IN EXTENT, FOR RESIDENTIAL PURPOSES

7/2/3/2

M Erasmus
11 April 2017

(028) 316 - 3724

Hermanus Administration

1. Executive Summary

To obtain final approval for the transfer of unregistered Erf 11456 (a portion of Erf 243) Hermanus, ±838m² in extent, for residential purposes, to TL & EH Havenga.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure & Planning
Property Administration

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Creation and maintenance of a safe and healthy environment
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/Discussion/Evaluation/Conclusion

Background/Discussion

Council approved in principle the alienation of the subject portion of property by means of a competitive process on 29 October 2014. Subsequently tenders were invited in April 2015 for the sale of unregistered Erf 11456 (a portion of Erf 243) Hermanus, ±838m² in extent, for residential purposes.

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The tenders were evaluated and initially awarded to Ms. L Minnaar for the purchase price of R789,473.69 (SEVEN HUNDRED AND EIGHTY NINE THOUSAND FOUR HUNDRED AND SEVENTY THREE RAND AND SIXTY NINE CENTS) (VAT excluded). An objection/appeal was lodged by Mr. Havenga, the second highest bidder. A thorough investigation followed and the Accounting Officer confirmed the following findings to Ms. Minnaar in a letter dated 7 September 2016:

- that the appeal lodged in terms of Section 62 of the Local Government: Municipal Systems Act 32 of 2000 was dismissed as the documents before him set out conflicting versions of the events, which meant that he was unable to make a substantive finding either way;
- that an investigation in terms of Paragraph 38 of the Overstrand Municipality's Supply Chain Management Policy regarding the allegations of abuse of the Supply Chain Management Policy was launched;
- that he was of the view that the Certificate of Independent Bid Determination signed by Ms. Minnaar was not true and thus constituted a fraudulent misrepresentation, abuse of the Supply Chain Management Policy and/or corrupt and collusive conduct, and
- that in terms of Paragraph 38 of the Overstrand Municipality's Supply Chain Management Policy the award and any subsequent contract in this regard is cancelled.

It was resolved by the Bid Adjudication Committee on 30 October 2015 that if the contract with Ms. Minnaar is cancelled, the tender is to be awarded to the second highest bidder, namely Mr. Havenga, for the bid amount of R747,000.00 (SEVEN HUNDRED AND FORTY SEVEN THOUSAND RAND) (VAT excluded). The tender was subsequently awarded to Mr. Havenga. The amount tendered is equal to the indicative value of R747,000.00 (SEVEN HUNDRED AND FORTY SEVEN THOUSAND RAND) (VAT excluded) as indicated in the tender document.

The property will be used for residential purposes in terms of the Overstrand Zoning Scheme.

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*

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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:"

The original indicative value of the property was determined as R747,000.00 (SEVEN HUNDRED AND FORTY SEVEN THOUSAND RAND) (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 all costs, excluding the costs for the valuation. Subsequently the costs will entail the Section 14 advertisement, transfer costs, etc.

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

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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 unregistered Erf 11456 (a portion of Erf 243) Hermanus, ±838m² in extent, was placed in The Village News on 28 February 2017 for a 30 (THIRTY) day objection/comment period. No objections/ comments were received.

Conclusion

It is recommended that the transfer of unregistered Erf 11456 (a portion of Erf 243) Hermanus, ±838m[±] in extent, for residential purposes to TL & EH Havenga for the amount of R851,580.00 (EIGHT HUNDRED AND FIFTY ONE THOUSAND FIVE HUNDRED AND EIGHTY RAND ALONE) (VAT included) be approved.

7. Financial Implications

The Municipality stands to gain an income of R747,000.00 (SEVEN HUNDRED AND FORTY SEVEN THOUSAND RAND) (VAT excluded) for the sale of the property.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

Erf 11456 Hermanus is currently reflected in the Fixed Asset Register for Investment Property: Land and Buildings with a carrying value of R734,000.00. The disposal of Erf 11456 Hermanus will have to be accounted for at the selling price in the Fixed Asset Register.

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

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10. Annexures

Annexure A: Locality Plan

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of unregistered Erf 11456 (a portion of Erf 243) Hermanus, ±838m² in extent, for residential purposes to TL & EH Havenga for the amount of R747,000.00 (SEVEN HUNDRED AND FORTY SEVEN THOUSAND RAND) (VAT excluded), **be approved**;
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of unregistered Erf 11456 (a portion of Erf 243) Hermanus to TL & EH Havenga;
3. that cognisance be taken of the fact that the subject portion of Municipal property is **not required** for the provision of the minimum level 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
4. that TL & EH Havenga be responsible for all the costs pertaining to the advertisement of the transfer and all costs involved with the registration of the transfer in the Deeds Office and other costs as may be stipulated.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	30 JUNE 2017
TARGET DATE TO INFORM APPLICANT :	N/A

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M Erasmus

(028) 316 - 3724

Hermanus Administration

11 April 2017

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 22 MAY 2017, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of unregistered Erf 11456 (a portion of Erf 243) Hermanus, ±838m² in extent, for residential purposes to TL & EH Havenga for the amount of R747,000.00 (SEVEN HUNDRED AND FORTY SEVEN THOUSAND RAND) (VAT excluded), **be approved**;
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of unregistered Erf 11456 (a portion of Erf 243) Hermanus to TL & EH Havenga;
3. that cognisance be taken of the fact that the subject portion of Municipal property is **not required** for the provision of the minimum level 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
4. that TL & EH Havenga be responsible for all the costs pertaining to the advertisement of the transfer and all costs involved with the registration of the transfer in the Deeds Office and other costs as may be stipulated.

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

30 JUNE 2017

TARGET DATE TO INFORM APPLICANT :

N/A

