

PORTFOLIO COMMITTEE :
INFRASTRUCTURE & PLANNING

**This item was considered
during the Portfolio Committee
meeting of 22 June 2021**

Refer to Pages 106a &106b

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 June 2021
(Also the agenda for the Mayoral Committee Meeting : 30 June 2021)**

6.

TRANSFER OF ERF 1153 HAWSTON (SITUATED ON THE CORNER OF CHURCH STREET AND WOODLANDS ROAD, HAWSTON), 1980M² IN EXTENT, FOR CHURCH PURPOSES

7/2/3/2

A Le Roux

Manager: Property Administration

10 May 2021

(028) 316-5623

1. Executive Summary

To obtain final approval for the transfer of Erf 1153 Hawston, 1980m² (one thousand nine hundred and eighty square meters) in extent, (the "Property") to David Solomon Fisher and Camee Lesley Liezel Fisher for church purposes. A locality map of the Property is attached as per "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

- 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

On 25 March 2020 Council approved in principle the alienation of the Property for church purposes by means of a competitive process at a market related purchase price. A copy of the Council decision is attached as per "Annexure

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B". Tenders were duly invited in October 2020 for the sale of the Property for church purposes.

On 12 February 2021 the Bid Adjudication Committee awarded the tender to David Solomon Fisher. Although the tender was awarded to Mr Fisher, he is married in community of property to Ms Camee Lesley Liezel Fisher and accordingly both are contractual parties to the deed of sale and they are hereinafter jointly referred to as the "Purchaser".

The indicative value of the Property was R130,000.00 (ONE HUNDRED AND THIRTY THOUSAND RAND (VAT Inclusive), which price was determined by a professional valuer taking into consideration the current zoning of the Property as well as the restrictions imposed. The amount tendered by the Purchaser, R150,000.00 (ONE HUNDRED AND FIFTY THOUSAND RAND)(VAT Inclusive), is higher than the indicative value of the Property, and hence the tender was awarded accordingly.

Evaluation

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

The following paragraphs of the Administration of Immovable Property Policy are applicable:

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 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 Property is not needed for basic municipal services. On 25 March 2020 when the in principle approval was obtained Council 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 has, 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 indicative price for the Property was R130,000.00 (ONE HUNDRED AND THIRTY THOUSAND RAND VAT INCLUSIVE) which price was determined by a professional valuer taking into consideration the current zoning of the Property as well as the restrictions imposed. The Purchaser's offered purchase price is R20,000 (TWENTY THOUSAND RAND) more than the indicative price.

Paragraph 9.1(c): *“The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA has as a consequence to 9.1(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.”*

On 25 March 2020 Council approved in principle that the Property may be alienated by means a competitive process.

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 is liable for all costs including, but not limited to, the costs of the section 14 advertisement as well as all the costs involved with the registration of the transfer in the Deeds Office. The purchaser will also be liable for the costs relating to the provision of services.

Paragraph 31: *“Where immovable property is alienated for development, a condition, taking into consideration the nature of the development, might be included in the Deed of Sale stipulating that such development must be completed within two years from date of registration. Likewise a condition may be included in the agreement to provide for forfeiture in the event that the development has not been completed within the required time period, unless a written extension has been granted by the Municipality.”*

A condition to this effect was included in the deed of sale as it was a condition of the tender also.

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.”*

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The Property's zoning is Community Zone 1: Community Facilities which allows for a place of worship (church purposes). A condition that the Property may only be used for church purposes was included in the deed of sale and will be registered against the title-deed of the Property.

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 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 clause to this effect was included in the deed of sale.

B: Advertisement/Notification

An advertisement for the transfer of the Property to the Purchaser was published in The Village News on 21 April 2021 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

Conclusion

Taking the above into consideration, it is recommended that the transfer of Erf 1153 Hawston, 1980m² (one thousand nine hundred and eighty square meters) in extent, for church purposes to David Solomon Fisher and Camee Lesley Liezel Fisher at an amount of R150,000.00 (ONE HUNDRED AND FIFTY THOUSAND RAND) (VAT included) be approved.

7. Financial Implications

The Municipality stands to gain an income of R150,000.00 (ONE HUNDRED AND FIFTY THOUSAND RAND) (VAT included) for the sale of the Property. In addition to this direct income, Council will further gain from rates and taxes to be levied on 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

Erf 1153 Hawston, is currently reflected in the fixed Asset Register for Property, Plant and Equipment: Land with a carrying value of R30'000 as at 30 June 2020. 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 Decision 25 March 2020

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of Erf 1153 Hawston, 1980m² (one thousand nine hundred and eighty square meters) in extent, for church purposes to David Solomon Fisher and Camee Lesley Liezel Fisher at an amount of R150,000.00 (ONE HUNDRED AND FIFTY THOUSAND RAND) (VAT included), **be approved**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water, sewer and electricity connections, the section 14 advertisement, etc., but excluding the valuation costs, be paid by David Solomon Fisher and Camee Lesley Liezel Fisher;
3. that a condition be registered in the title deed of the Property that the Property may only be used for church purposes (place of worship) and no other usage will be allowed on the Property and/or in any structure erected thereon;
4. that a condition be registered in the title deed of the Property that the Purchaser shall complete the development of the Property, in the form of a building or other acceptable structure, within a period of 2 (TWO) years, starting from the date of the registration of transfer of the Property in the Deeds Office;
5. that a condition be registered in the title deed of the Property that should the Purchaser fail to complete building the church or obtain an extension within the required 2 (TWO) year time period or any extended period, ownership of the Property thereof shall revert back to the Municipality at the cost of the Purchaser; and

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6. that it is confirmed that Council has taken cognisance of the fact that the 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.

RESPONSIBLE OFFICIAL :	R MARINUS
TARGET DATE FOR IMPLEMENTATION :	PROCESS
TARGET DATE TO INFORM APPLICANT :	9 JULY 2021
TARGET DATE TO INFORM OBJECTOR :	N/A

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(Also the agenda for the Mayoral Committee Meeting : 24 August 2021)**

**6.
TRANSFER OF ERF 1153 HAWSTON (SITUATED ON THE CORNER OF CHURCH
STREET AND WOODLANDS ROAD, HAWSTON), 1980M² IN EXTENT, FOR
CHURCH PURPOSES**

7/2/3/2

A Le Roux

10 May 2021

Manager: Property Administration

(028) 316-5623

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 JUNE 2021, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of Erf 1153 Hawston, 1980m² (one thousand nine hundred and eighty square meters) in extent, for church purposes to David Solomon Fisher and Camee Lesley Liezel Fisher at an amount of R150,000.00 (ONE HUNDRED AND FIFTY THOUSAND RAND) (VAT included), **be approved**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water, sewer and electricity connections, the section 14 advertisement, etc., but excluding the valuation costs, be paid by David Solomon Fisher and Camee Lesley Liezel Fisher;
3. that a condition be registered in the title deed of the Property that the Property may only be used for church purposes (place of worship) and no other usage will be allowed on the Property and/or in any structure erected thereon;
4. that a condition be registered in the title deed of the Property that the Purchaser shall complete the development of the Property, in the form of a building or other acceptable structure, within a period of 2 (TWO) years, starting from the date of the registration of transfer of the Property in the Deeds Office;
5. that a condition be registered in the title deed of the Property that should the Purchaser fail to complete building the church or obtain an extension within the required 2 (TWO) year time period or any extended period, ownership of the Property thereof shall revert back to the Municipality at the cost of the Purchaser; and
6. that it is confirmed that Council has taken cognisance of the fact that the 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.

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RESPONSIBLE OFFICIAL :	R MARINUS
TARGET DATE FOR IMPLEMENTATION :	PROCESS
TARGET DATE TO INFORM APPLICANT :	11 SEPTEMBER 2021
TARGET DATE TO INFORM OBJECTOR :	N/A

ANNEXURE A



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MINUTES : ORDINARY MEETING OF THE COUNCIL**25 MARCH 2020****5.8****IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 1153 HAWSTON (SITUATED ON THE CORNER OF CHURCH STREET AND WOODLANDS ROAD, HAWSTON) BY MEANS OF A COMPETITIVE PROCESS****(ITEM 8, PAGE 258 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 MARCH 2020)****RESOLVED (SUPPORTED BY 21 COUNCILLORS):**

1. that the alienation of Erf 1153 Hawston (1,980m² in extent) for church purposes by means of a competitive process at a market related purchase price be **approved in principle**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water-, sewer and electricity connections, the section 14 advertisement, etc., but excluding the valuation costs, be paid by the successful bidder/purchaser; and
3. that it is confirmed that Council has taken cognisance of the fact 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).

RESPONSIBLE OFFICIAL :**M ERASMUS****TARGET DATE FOR IMPLEMENTATION :****24 APRIL 2020****TARGET DATE TO INFORM APPLICANT :****N/A****TARGET DATE TO INFORM OBJECTOR :****N/A**