

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

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**18.**

**HERMANUS, TRANSFER OF A PORTION OF ERF 4771 (ADJACENT TO ERF 4075), HERMANUS, ±205M<sup>2</sup> IN EXTENT, FOR GARDENING PURPOSES (VOËLKLIP)**

**7/2/3/2**

**D Taljaard**

**(028) 316 - 3724**

**Hermanus Administration**

**10 February 2016**

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**1. Executive Summary**

To obtain final approval for the transfer of a portion of Erf 4771 (adjacent to Erf 4075), Hermanus (Voëlklip), ±205m<sup>2</sup> in extent, for gardening purposes, to Mr Paul Mark and Mrs Beverley Lewin.

**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 in principle the direct alienation of the subject portion of property for gardening purposes on 25 November 2015 as follows:

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*“1. That Council’s resolution dated 29 April 2015 for the alienation of a portion of Erf 4771, Voëlklip, Hermanus, (±205m2 in extent), by means of a competitive process be rescinded;”*

*“2. That the deviation from paragraphs 7 and 15.1 of the Administration of Immovable Property Policy of 2014 be approved;”*

*“3. That the direct alienation of a portion of Erf 4771, Voëlklip, Hermanus, (±205m2 in extent) to Mr Paul Mark and Mrs Beverley Lewin be approved in principle;”*

*“4. That the abovementioned approval in principle be subject to a public participation process being followed due to the non-viability of the property and the costs involved in advertising a tender;”*

*“5. That the costs pertaining to the transaction, e.g. subdivision, consolidation, rezoning, transfer costs, water- and sewer connections, bulk services contribution, advertisements, etc., excluding the valuation costs, be paid by the purchaser; and”*

*“6. That an access servitude be registered over the remainder of Erf 4771, Voëlklip, Hermanus to provide access to the proposed subdivided erf at the cost of the purchaser;”*

*“7. That the subject portion of Erf 4771, Voëlklip, Hermanus, must be consolidated with the adjoining property of the Applicants, being Erf 4075, Voëlklip, Hermanus; and”*

*“8. That it is confirmed that Council has taken cognisance of the fact 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 (Act 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**

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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 market related value of the property was determined by Boland Valuers at an amount of R1,509.00/m<sup>2</sup> (ONE THOUSAND FIVE HUNDRED AND NINE RAND ALONE PER SQUARE METER) (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 subdivision and possible consolidation, Section 14 advertisement, transfer costs, the connection of services and the rezoning of the property.

***Paragraph 29: "Should existing services need to be relocated or secured by means of the registration of 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 clause to this effect will be inserted in the Deed of Sale.

***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 exist which, in the opinion of the Municipality, make such consolidation undesirable."***

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The subject portion of Erf 4771 must be consolidated with the adjoining property of the Purchaser, being Erf 4075 and a clause to this effect will be inserted 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 clause to this effect will be inserted in the Deed of Sale and subsequently registered against the Title Deed of the property 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 a portion of Erf 4771 (adjacent to Erf 4075), Hermanus (Voëlklip), ±205m<sup>2</sup> in extent, was placed in The Hermanus News on 12 January 2016 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

**Conclusion**

It is recommended that the transfer of a portion of Erf 4771 (adjacent to Erf 4075), Hermanus (Voëlklip), ±205m<sup>2</sup> in extent, for gardening purposes to Mr Paul Mark and Mrs Beverley Lewin for the amount of **R1,509.00/m<sup>2</sup> (ONE THOUSAND FIVE HUNDRED AND NINE RAND ALONE PER SQUARE METER) (VAT excluded)** be approved.

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**7. Financial Implications**

The Municipality stands to gain an estimated total income of approximately R309,345.00 (THREE HUNDRED AND NINE THOUSAND THREE HUNDRED AND FORTY FIVE RAND ALONE (VAT excluded) subject to the final approved size 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**

The full extent of Erf 4771, Hermanus (Voëlklip), is currently reflected in the Fixed Asset Register for Property, Plant and Equipment: Land with a carrying value of R4'000'000. The disposal of the portion adjacent to Erf 4075 will have to be accounted for at the selling price in order to adjust the carrying value of the remaining portion of Erf 4771 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 a portion of Erf 4771 adjacent to Erf 4075, Hermanus (Voëlklip), ±205m<sup>2</sup> in extent, for gardening purposes to Mr Paul Mark and Mrs Beverley Lewin for the amount of R1,509.00/m<sup>2</sup> (ONE THOUSAND FIVE HUNDRED AND NINE RAND ALONE PER SQUARE METER) (VAT excluded), **be approved**;
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of a portion of Erf 4771 adjacent to Erf 4075, Hermanus (Voëlklip) to Mr Paul Mark and Mrs Beverley Lewin;
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;

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4. that Mr Paul Mark and Mrs Beverley Lewin be responsible for all the subdivision, consolidation, rezoning, transfer costs, water- and sewer connections, bulk services contribution, advertisements, excluding the valuation costs, the transfer and the registration of the property in the Deeds Office;
5. that an access servitude be registered over the remainder of Erf 4771, Voëlklip, Hermanus to provide access to the proposed subdivided erf at the cost of the purchaser; and
6. that the subject portion of Erf 4771, Voëlklip, Hermanus, be consolidated with the adjoining property of the purchaser, to wit Erf 4075, Voëlklip, Hermanus.

<b>RESPONSIBLE OFFICIAL :</b>	<b>D TALJAARD</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>4 APRIL 2016</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>N/A</b>

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7/2/3/2

D Taljaard  
10 February 2016

(028) 316 - 3724

Hermanus Administration

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**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 a portion of Erf 4771 adjacent to Erf 4075, Hermanus (Voëlklip), ±205m<sup>2</sup> in extent, for gardening purposes to Mr Paul Mark and Mrs Beverley Lewin for the amount of R1,509.00/m<sup>2</sup> (ONE THOUSAND FIVE HUNDRED AND NINE RAND ALONE PER SQUARE METER) (VAT excluded), **be approved;**
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of a portion of Erf 4771 adjacent to Erf 4075, Hermanus (Voëlklip) to Mr Paul Mark and Mrs Beverley Lewin;
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;
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**RESPONSIBLE OFFICIAL :**

**D TALJAARD**

**TARGET DATE FOR IMPLEMENTATION :**

**4 APRIL 2016**

**TARGET DATE TO INFORM APPLICANT :**

**N/A**

