

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
20 March 2018  
(Also the agenda for the Mayoral Committee Meeting : 28 March 2018)**

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**2.**

**TRANSFER OF A PORTION OF ERF 1 HAWSTON ( $\pm 370\text{M}^2$  IN EXTENT) TO HAWSTON SERVICE STATION (PTY) LTD FOR ADDITIONAL PARKING AND DRIVEWAY PURPOSES**

**7/2/3/2**

**W Murtz**

**(028) 316 - 3724**

**Hermanus Administration**

**12 March 2018**

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**1. Executive Summary**

To obtain final approval for the transfer of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd (registration number 2015/422580/07, for additional parking and driveway purposes.

**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) ("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008)

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

**Background/Discussion**

Council approved in principle on 29 November 2017 the direct alienation of a portion of Erf 1 Hawston (adjacent to Erf 412 Hawston) ( $\pm 370\text{m}^2$ ) in extent, to Hawston Service Station (Pty) Ltd at a market related purchase price subject

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to a public participation process being followed. A market related value was determined and 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 said policy 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.”**

The subject portion of Erf 1 Hawston can be classified as a non-viable immovable property due to the location, size and proposed use thereof.

**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 received from the relevant officials confirmed that the subject property is not needed for the provision of the minimum level of 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:”**

Boland Valuers determined the market related value of a portion of Erf 1 Hawston in December 2017 at an amount of R50.00/m<sup>2</sup> (FIFTY RAND PER SQUARE METRE) (VAT included).

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**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”***

The subject portion of Erf 1 Hawston can be classified as a non-viable immovable property due to its locality, size and proposed use thereof by the adjoining owner.

**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 costs of the application, valuation, the subdivision, closure of public road, consolidation and rezoning of the property as well as the required Section 14 advertisement in terms of the Municipal Finance Management Act and Administration of Immoveable Property Policy. Furthermore, the purchaser will be liable for all cost related to the registration of the transaction in the Deeds Office. It must be noted that the registration of the transfer in the Deed Office will be delayed as the transfer will only be possible after the successful subdivision of the property.

**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.”***

The purchaser shall be liable for all cost in this regard should it be necessary.

**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.”***

A condition to this effect will be 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***

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***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.

**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 will be 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 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 1 Hawston ( $\pm 370\text{m}^2$  in extent) was placed in The Village News on 30 January 2018 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 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd for the amount of R50.00/m<sup>2</sup> (FIFTY RAND PER SQUARE METRE) (VAT included) for additional parking and driveway purposes be approved.

**7. Financial Implications**

The Municipality stands to gain an income of R50.00/m<sup>2</sup> (FIFTY RAND PER SQUARE METRE) (VAT included) for the sale of the property.

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**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 1 Hawston is currently reflected in the Fixed Asset Register for Property, Plant and Equipment: Land with a carrying value of R30,000,000.00. The disposal of the portion adjacent to Erf 412 will have to be accounted for at the selling price in order to adjust the carrying value of the remaining portion of Erf 1 in the Fixed Asset Register.

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

**10. Annexures**

Annexure A: Locality Plan

**RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd (registration number 2015/422580/07) for the amount of R50.00/m<sup>2</sup> (FIFTY RAND PER SQUARE METRE) (VAT included) for additional parking and driveway purposes, **be approved**;
2. that it be noted that a condition for transfer will be that a portion of Erf 1 Hawston must be consolidated with the adjoining property of Hawston Service Station (Pty) Ltd, being Erf 412 Hawston;
3. that the transfer of a portion of Erf 1 Hawston be subject to obtaining the necessary subdivision, closure, rezoning and consolidation approvals;
4. that the costs pertaining to the transaction, e.g. application fee, valuation costs, advertisement, subdivision, consolidation, road closure, rezoning, registration of transfer in the Deed Office and related costs, etc. be paid by the Applicant; and
5. that it be noted that the municipal property envisaged to be transferred 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 (Act 56 of 2003).

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<b>RESPONSIBLE OFFICIAL :</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>31 MAY 2018</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>19 APRIL 2018</b>

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
20 MARCH 2018, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd (registration number 2015/422580/07) for the amount of R50.00/m<sup>2</sup> (FIFTY RAND PER SQUARE METRE) (VAT included) for additional parking and driveway purposes, **be approved**;
2. that it be noted that a condition for transfer will be that a portion of Erf 1 Hawston must be consolidated with the adjoining property of Hawston Service Station (Pty) Ltd, being Erf 412 Hawston;
3. that the transfer of a portion of Erf 1 Hawston be subject to obtaining the necessary subdivision, closure, rezoning and consolidation approvals;
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