

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

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**9.**

**ERF 1153 HAWSTON (SITUATED ON THE CORNER OF CHURCH STREET AND WOODLANDS ROAD): WRITE BACK AND WRITE OFF OF AMOUNTS RAISED AND WAIVER OF RENTAL – “CALVYNSE PROTESTANTE KERK VAN SUID AFRIKA HAWSTON”**

**7/2/3/2**

**A le Roux**

**Manager: Property Administration**

**15 October 2019**

**(028) 316-3724**

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**1. Executive Summary**

The purpose of the report is to request Council to approve the:

- (a) writing back of the original balance on the municipal account number 205011530003 in the amount of R8,086.69 (EIGHT THOUSAND AND EIGHTY SIX RAND AND SIXTY NINE CENTS) representing the opening balance of the municipal account of the “Calvynse Protestante Kerk van Suid Afrika Hawston” (hereinafter called “the Church”) when the account was transferred to this Municipality from the previous Overberg Regional Council, being 1 September 1998;
- (b) writing back of the total amount of R73,206.16 (SEVENTY THREE THOUSAND TWO HUNDRED AND SIX RAND AND SIXTEEN CENTS) representing the monthly loan amounts levied on municipal account number 205011530003 of the Church for the period 1 September 1998 until 25 February 2020;
- (c) writing back of the total amount of R1,257.50 (ONE THOUSAND TWO HUNDRED AND FIFTY SEVEN RAND AND FIFTY CENTS) representing historic insurance charge levied on municipal account number 205011530003 of the Church;
- (d) writing back of the total amount of R289.26 (TWO HUNDRED AND EIGHTY NINE RAND AND TWENTY SIX CENTS) representing a services deposit levied on municipal account number 205011530003 of the Church;
- (e) writing back of the total amount of R11,189.47 (ELEVEN THOUSAND ONE HUNDRED AND EIGHTY NINE RAND AND FORTY SEVEN CENTS) representing administrative and collection costs levied on the municipal and handed over accounts of the Church for the period 1 September 1998 until 25 February 2020;
- (f) writing back of the total amount of R28,388.11 (TWENTY EIGHT THOUSAND THREE HUNDRED AND EIGHTY EIGHT RAND AND

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

ELEVEN CENTS) representing interest levied on the municipal and handed over accounts of the Church;

- (g) writing back of all municipal services charges, interest, penalties and loan amounts levied on the municipal and handed over accounts of the Church as from billing on 25 February 2020 until the accounts are closed;
- (h) writing off the amount of R27,971.05 (TWENTY SEVEN THOUSAND NINE HUNDRED AND SEVENTY ONE RAND AND FIVE CENTS), representing the balance municipal services charges on the municipal account after the above is written back and the payments made by the Church is taken into account; and
- (i) waiving of any rental as from 1 September 1998 that could have been regarded as relevant to the use of the property on the reasons discussed in this report;

in relation to Erf 1153 Hawston (herein referred to as “the property”), which property belongs to the Overstrand Municipality, but is occupied by the “Calvynse Protestante Kerk van Suid Afrika Hawston” (herein referred to as “the Church”).

See locality map attached hereto marked Annexure A.

## **2. Service Delivery and Budget Implementation Plan - IGNITE**

Directorate Finance  
Department Revenue

## **3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Provision and maintenance of municipal services

## **4. Delegated Authority**

None

## **5. Legal Requirements**

- Local Government: Municipal Systems Act, Act 32 of 2000
- Customer Care, Credit Control & Debt Collection Policy of the Overstrand Municipality as amended from time to time
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

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

### **Background**

The basis of this report is a deed of sale entered into by the previous Overberg Regional Council (hereinafter called “the Overberg” and the Church in 1993 for the sale of Erf 1153 Hawston, situated on the corner of Church Street and Woodlands Road, Hawston, for church purposes, where the deed of sale was never signed by the previous Overberg Regional Council or subsequent successors in title and where no original deed of sale could be found. See copy of deed of sale attached marked Annexure B.

### PROPERTY DETAILS AND OWNERSHIP

Erf 1153 Hawston is a subdivision of Erf 1147 Hawston (general plan 12590 and SG4568/1989) which general plan was duly registered against the title deed of Erf 1147 Hawston. The latter erf was a consolidation that was registered in the Deeds Office in 1995 under title deed number T68455/1995 with the registered owner being the Western Cape Province. The Western Cape Province alienated the property to the Overstrand Municipality in 2002. The registration of the transfer however only took place in 2013.

The title deed of the parent erf (Remainder Erf 1147 Hawston) shows that Erf 1153 Hawston formed part of a batch of several erven that were transferred under the same general plan no. 12590 from Province to Overstrand Municipality in January 2013.

The Municipality had to establish the history of ownership and whether the Overberg Regional Council (“Overberg”) was ever the owner of the property to enable it to sell the property to the Church. The Municipality’s attorneys of record perused the Deeds Office microfilms which revealed the following endorsements against the title deed as to ownership:

- “Afdelingsraad Caledon” - 22 November 1950 [endorsement]
- “Minister van Plaaslike Bestuur in die Raad van Verteenwoordigers” (in terms of s 3 (4)(d) of the Abolition of Development Bodies Act 75 of 1986) – 31 July 1991 [endorsement]
- Western Cape Province (in terms of Article 239(2)(a) of the Constitution of the Republic of South Africa Act 200 of 1993 (“Interim Constitution”)) – 1995

A conveyancer in employment of our attorneys of record pointed out that although Overberg may not have been the “owner” of the property in question at the time the deed of sale was entered into with the Church, there were often ‘arrangements’ or ‘understandings’ between various provincial departments wherein land would be transferred between them and sometimes

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

even at a later date after a sale agreement has been entered to when the provincial entity in question was technically not yet the owner of said property.

It is not clear whether similar arrangements would have been operational with municipalities. It is however possible that there may have been such an agreement in place wherein the Western Cape Province agreed to transfer certain pieces of land to Overberg. Such an agreement would however not be recorded with any of the deeds at the deeds office.

#### DEED OF SALE

Overberg on behalf of the Hawston Management Committee advertised the sale of the property in May 1992. On 29 September 1993 the Church signed a deed of sale with Overberg for the purchase of Erf 1153 on an installment sale basis. The intention of the deed of sale was that the property be transferred to the Church in the Deeds Office and a bond be registered in favour of the Municipality for the payment of the purchase price in installments. This agreement was never signed by Overberg. The purchase price was an amount of R36,154.30 (THIRTY SIX THOUSAND ONE HUNDRED AND FIFTY FOUR RAND AND THIRTY CENTS). After a thorough search, no fully signed deed of sale could be found.

The parties have however been acting as if there is a valid agreement of sale in place in the sense that the Church has been making payments and the Municipality has been allocating these payments to services and the "loan", i.e. the purchase price as per the documents provided available. It must be noted that the Municipality's payment records start in September 1998. Any payments that might have been made before this time would have been to Overberg.

The Municipality has over the years been involved in various litigation matters with the Church in respect of arrears relating to the municipal account linked to the property. The latest litigation involves a rescission of judgment application that is currently before the magistrate's court. This litigation has been pended in the interim until there is clarity in respect of the further conduct of the matter relating to the agreement of sale.

It is common cause that there is no signed agreement of sale, nor has the property been transferred to the Church.

#### **Discussion/Evaluation**

#### LEGAL POSITION

As the Church appointed an attorney to attend to the matter, the Municipality instructed attorneys to provide a legal opinion on the status of the deed of

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

sale and whether the Municipality may proceed with the sale. The Municipality's attorney of record, amongst others, provided the following:

*“Instalment sale agreements*

*Section 2 of the Alienation of Land Act 68 of 1981 (“ALA”) refers to the formalities in respect of the sale of land (subject to the provisions of section 28) which are:*

- a. Reduced to writing; and*
- b. Signed by both parties.*

*Section 28 of the ALA deals with the consequences of deeds of alienation (deed of sale) which are void or are terminated.*

*As the deed of sale was never signed by Overberg, this contract shall be declared void ab initio (Section 24 of the ALA).*

*This section states that the party that performed partially or in full (the church in this circumstance) in terms of the agreement (which is now of no force or effect) is entitled to:*

- (a) recover from the other party (client):*
  - (i) interest at the prescribed rate on any payment that he made in terms of the deed of alienation or contract from the date of the payment to the date of recovery;*
  - (ii) a reasonable compensation for-*
    - (aa) necessary expenditure he has incurred, with or without the authority of the owner or alienator of the land, in regard to the preservation of the land or any improvement thereon; or*
    - (bb) any improvement which enhances the market value of the land and was effected by him on the land with the express or implied consent of the said owner or alienator; and*
- (b) the client may recover from the church:*
  - (i) a reasonable compensation for the occupation, use or enjoyment the alienee (church) may have had of the land;*
  - (ii) compensation for any damage caused intentionally or negligently to the land by the alienee or any person for the actions of whom the alienee may be liable.*
- (2) Any alienation which does not comply with the provisions of section 2 (1) shall in all respects be valid ab initio if the alienee had performed in full in terms of the deed of alienation or contract and the land in question has been transferred to the alienee.*

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

*Section 24 deals with the relief that court may grant in respect of contracts and states that*

- (1) *a court within whose area of jurisdiction the land referred to in the contract is situated, is (if appropriate proceedings are instituted by the purchaser within a period of two years from the date upon which the contract was concluded) competent-*
  - (a) *to reduce the rate of interest payable by the purchaser in terms of the contract to such rate as it may deem just and equitable in the circumstances;*
  - (b) *to grant an order for rectification of the contract;*
  - (c) *to declare the contract to be void ab initio; or*
  - (d) *to grant such alternative relief as it may deem fit.*
  
- (2) *A court within whose area of jurisdiction land sold under a contract is situated, may, on the application of the purchaser who, by reason of the fact that any person failed to sign a document relating to the transfer of or the payment of transfer duty in respect of such land, is unable to obtain transfer of such land, order the deputy sheriff or messenger of the court concerned, as the case may be, to sign on behalf of any such person any such document, subject to such conditions as the court may determine.*
  
- (3) *A magistrate's court shall, notwithstanding the value of the land or claim concerned, have jurisdiction to grant any relief contemplated in subsection (1) or (2).*

*Section 14 of the MFMA*

*The questions arises whether the Municipality can at this stage conclude a new deed of sale and proceed to transfer the property to the Church without following a competitive bidding process as is required in terms of section 14 of the Municipal Finance Management Act. ("the MFMA") The Municipality is in possession of the opinion of Adv Breitenbach (SC) in this regard and it is clear from the opinion that a competitive bidding process will have to be followed in the event that a decision is made to sell the property. We are not going to set out the detail of the opinion in this advice.*

*Enrichment*

*The church may have a claim against the Municipality for unjustified enrichment.*

*The church attended to tranche payments over the last several years in terms of the sale agreement concluded between the parties, under the mistaken belief that, at the time of the conclusion of the sale agreement, the*

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

*municipality already had the requisite capacity to sell said property and fulfil the necessary obligations relating therein in relation to transfer.*

*As such, when the church performed to make tranche payments, this was mistaken performance under the contract (sale agreement) and the performance may be reclaimed with the *condictio indebiti*. If it is the case that the contract will not be fulfilled, then the contract is regarded as not having existed and is deemed to be void *ab initio*.*

*This interpretation was asserted and later confirmed by a full bench in **Melomed v BP Southern Africa (Pty) Ltd 2000 (2) SA 614 (W)** stating that a 'debt subject to a condition which was paid pending fulfilment of the condition may be recovered'. As such, the Municipality will be liable to repay the money (with interest) to the church.*

*The term "common mistake" is used to describe the case where both parties to a contract make the same mistake. In such a situation, each party knows the intention of the other and accepts it. There is consequently complete agreement between the parties, but each makes the same erroneous supposition or assumption about some existing or past fact (that the agreement of sale had been duly signed by both parties) or about the present or past legal position.*

*Although the question of lack of consensus does not arise in the case of a mistaken common assumption, the contract is nevertheless **void** if the parties elevated the correctness of their assumption to a term of the contract, that is to say, if they tacitly agreed that the validity of the contract would depend on the factual or legal position being as they supposed and, accordingly, that the contract would be void should this not be the position.*

*The fact that an incorrectly recorded contract is one that legislation requires to be in writing or signed (such as a sale of land in the present case) is not necessarily a bar to rectification of the written record.*

*However, rectification is possible only if the document, on the face of it, complies with the formal requirements. Conversely, rectification is not competent if, *ex facie*, the document does not comply with the formal requirements.*

*This is the situation in the present case because, in reality, the sale agreement was never signed by the Municipality. Additionally, rectifying the writing so as to make it reflect the true identity of the party concerned will not rescue the agreement from invalidity if that party is required to sign and has not done so. This position was confirmed in **Osborne v West Dunes Properties 178 2013 6 SA 105 (WCC)**.*

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

*As this is a common mistake, it does not result in a breach of contract (the contract never came into existence and is void ab initio), the parties are required to restore the status quo ante (as if the sale agreement never existed). If the Municipality fails to reimburse the church the monies it paid over the years (in the mistaken belief that the property would be transferred to the church), then the church will have a claim against the Municipality for unjustified enrichment as the Municipality is maintaining ownership of said property whilst simultaneously has received funds in lieu of the sale of said property from the church.*

Recommendation

*It is our recommendation that the money paid by the church in lieu of the purchase price under the mistaken belief that there was a valid agreement be refunded to the Church with interest.*

*Should the Municipality be of the view that it wants to sell the property, it will have to do so in terms of section 14 of the MFMA.”*

WRITE-BACK

The main municipal account and all handed over accounts were calculated, and to give effect to the legal opinion obtained, the following amounts will have to be written back:

- (a) a total amount of R8,086.69 (EIGHT THOUSAND AND EIGHTY SIX RAND AND SIXTY NINE CENTS) representing the opening balance of the municipal account of the Church when the account was transferred to this Municipality from the previous Overberg Regional Council, being 1 September 1998;
- (b) a total amount of R73,206.16 (SEVENTY THREE THOUSAND TWO HUNDRED AND SIX RAND AND SIXTEEN CENTS) representing the monthly loan amounts levied on municipal account number 205011530003 of the Church for the period 1 September 1998 until 25 February 2020;
- (c) a total amount of R1,257.50 (ONE THOUSAND TWO HUNDRED AND FIFTY SEVEN RAND AND FIFTY CENTS) representing historic insurance charge levied on municipal account number 205011530003 of the Church;
- (d) a total amount of R289.26 (TWO HUNDRED AND EIGHTY NINE RAND AND TWENTY SIX CENTS) representing a services deposit levied on municipal account number 205011530003 of the Church;

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

- (e) a total amount of R11,189.47 (ELEVEN THOUSAND ONE HUNDRED AND EIGHTY NINE RAND AND FORTY SEVEN CENTS) representing administrative and collection costs levied on the municipal and handed over accounts of the Church for the period 1 September 1998 until 25 February 2020;
- (f) a total amount of R28,388.11 (TWENTY EIGHT THOUSAND THREE HUNDRED AND EIGHTY EIGHT RAND AND ELEVEN CENTS) representing interest levied on the municipal and handed over accounts of the Church;
- (g) all municipal services charges, interest, penalties and loan amounts levied on the municipal and handed over accounts of the Church as from billing on 25 February 2020, until the account is closed.

**WRITE OFF**

As all the loan instalments are being regarded as not valid/payable and thus not incurring any interest in this regard, it leaves only the municipal services charges relevant to the account to deal with.

The total municipal services charges with regard to the period 1 September 1998 to 25 February 2020, recognised in terms of the use of the property by the Church, amounts to R145,033.70 (ONE HUNDRED AND FORTY FIVE THOUSAND AND THIRTY THREE RAND AND SEVENTY CENTS).

All the payments received at any stage from the Church (since 1 September 1998) on the municipal account will thus be allocated to the municipal services charges up to 25 February 2020 (before billing), amounting to R117,062.65 (ONE HUNDRED AND SEVENTEEN THOUSAND AND SIXTY TWO RAND AND SIXTY FIVE CENTS) (R116,526.38 payments + R536.27 donation).

From the above it is established that the Church is still indebted to the amount of R27,971.05 (TWENTY SEVEN THOUSAND NINE HUNDRED AND SEVENTY ONE RAND AND FIVE CENTS) for municipal services charges. Taking into account the history and accompanying challenges with the finalisation of the legal status of the supposed deed of sale, it is now recommended that Council consider writing off the amount of R27,971.05 (TWENTY SEVEN THOUSAND NINE HUNDRED AND SEVENTY ONE RAND AND FIVE CENTS).

**COMPENSATION**

In terms of Section 28 of the Alienation of Land Act (as mentioned above) the Municipality can request that compensation be paid for the period the Church

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

was in occupation of the property prohibiting the Municipality to deal with the property. It is recommended, taking into consideration the circumstances as discussed in this report, any rental that could be regarded as relevant to the use of the property be waived.

**PAYMENT IN LIEU OF PURCHASE PRICE**

It is recommended by our attorneys of record that all payments made by the Church in lieu of the purchase price under the mistaken belief that there was a valid agreement be re-considered. In this regard it is recommended that all payments made by the Church be allocated to the amounts related to municipal services charges levied against the account.

**OCCUPATION**

It is recommended that occupation of the property be given back to the Municipality on 31 March 2020 and that no charges, loan amounts, interest, etc. be levied on the account as from 1 April 2020. Any amounts levied or to be levied for the months as from billing on 25 February 2020 will also have to be written back as only Council can approve that accounts not be levied.

**Conclusion**

Taking the above in consideration, it is recommended that Council approves the:

- (a) writing back of the original balance on the municipal account number 205011530003 in the amount of R8,086.69 (EIGHT THOUSAND AND EIGHTY SIX RAND AND SIXTY NINE CENTS) representing the opening balance of the municipal account of the “Calvynse Protestante Kerk van Suid Afrika Hawston” (hereinafter called “the Church) when the account was transferred to this Municipality from the previous Overberg Regional Council, being 1 September 1998;
- (b) writing back of the total amount of R73,206.16 (SEVENTY THREE THOUSAND TWO HUNDRED AND SIX RAND AND SIXTEEN CENTS) representing the monthly loan amounts levied on municipal account number 205011530003 of the Church for the period 1 September 1998 until 25 February 2020;
- (c) writing back of the total amount of R1,257.50 (ONE THOUSAND TWO HUNDRED AND FIFTY SEVEN RAND AND FIFTY CENTS) representing historic insurance charge levied on municipal account number 205011530003 of the Church;

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

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- (d) writing back of the total amount of R289.26 (TWO HUNDRED AND EIGHTY NINE RAND AND TWENTY SIX CENTS) representing a services deposit levied on municipal account number 205011530003 of the Church;
- (e) writing back of the total amount of R11,189.47 (ELEVEN THOUSAND ONE HUNDRED AND EIGHTY NINE RAND AND FORTY SEVEN CENTS) representing administrative and collection costs levied on the municipal and handed over accounts of the Church for the period 1 September 1998 until 25 February 2020;
- (f) writing back of the total amount of R28,388.11 (TWENTY EIGHT THOUSAND THREE HUNDRED AND EIGHTY EIGHT RAND AND ELEVEN CENTS) representing interest levied on the municipal and handed over accounts of the Church;
- (g) writing back of all municipal services charges, interest, penalties and loan amounts levied on the municipal and handed over accounts of the Church after 25 February 2020 until the accounts are closed;
- (h) **writing off** the amount of R27,971.05 (TWENTY SEVEN THOUSAND NINE HUNDRED AND SEVENTY ONE RAND AND FIVE CENTS), representing the balance municipal services charges on the municipal account after the above is written back and the payments made by the Church is taken into account; and
- (i) waiving of any rental that could have been regarded as relevant to the use of the property on the reasons discussed in this report.

## 7. Financial Implications

The following amounts will be written back

(a) original balance on the municipal account	R 8,086.69
(b) total loan amount levied on municipal account	R 73,206.16
(c) interest levied on municipal and handed over accounts	R 28,388.11
(d) administrative and collection costs levied on the municipal and handed over accounts	R 11,189.47
(e) services deposit levied on the municipal account	R 289.26
(f) historic insurance charge levied on the municipal account	R 1,257.50
<b>Total</b>	<u><u>R122,417.19</u></u>

The amount of R27,971.05 (TWENTY SEVEN THOUSAND NINE HUNDRED AND SEVENTY ONE RAND AND FIVE CENTS), representing the balance

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

on the municipal account (municipal services charges) after all the other amounts are written off, waived and payments allocated, **will be written off.**

**8. Staff Implications**

N/A

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

Annexure A: Locality map

Annexure B: Deed of sale

**RECOMMENDATION TO THE COUNCIL:**

that Council **approves** the:

1. writing back of the original balance on the municipal account number 205011530003 in the amount of R8,086.69 (EIGHT THOUSAND AND EIGHTY SIX RAND AND SIXTY NINE CENTS) representing the opening balance of the municipal account of the “Calvynse Protestante Kerk van Suid Afrika Hawston” (hereinafter called “the Church) when the account was transferred to this Municipality from the previous Overberg Regional Council, being 1 September 1998;
2. writing back of the total amount of R73,206.16 (SEVENTY THREE THOUSAND TWO HUNDRED AND SIX RAND AND SIXTEEN CENTS) representing the monthly loan amounts levied on municipal account number 205011530003 of the Church for the period 1 September 1998 until 25 February 2020;
3. writing back of the total amount of R1,257.50 (ONE THOUSAND TWO HUNDRED AND FIFTY SEVEN RAND AND FIFTY CENTS) representing historic insurance charge levied on municipal account number 205011530003 of the Church;
4. writing back of the total amount of R289.26 (TWO HUNDRED AND EIGHTY NINE RAND AND TWENTY SIX CENTS) representing a services deposit levied on municipal account number 205011530003 of the Church;

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting: 25 March 2020)**

---

5. writing back of the total amount of R11,189.47 (ELEVEN THOUSAND ONE HUNDRED AND EIGHTY NINE RAND AND FORTY SEVEN CENTS) representing administrative and collection costs levied on the municipal and handed over accounts of the Church for the period 1 September 1998 until 25 February 2020;
6. writing back of the total amount of R28,388.11 (TWENTY EIGHT THOUSAND THREE HUNDRED AND EIGHTY EIGHT RAND AND ELEVEN CENTS) representing interest levied on the municipal and handed over accounts of the Church;
7. writing back of all municipal services charges, interest, penalties and loan amounts levied on the municipal and handed over accounts of the Church as from billing on 25 February 2020 until the accounts are formally closed;
8. writing off the amount of R27,971.05 (TWENTY SEVEN THOUSAND NINE HUNDRED AND SEVENTY ONE RAND AND FIVE CENTS), representing the balance municipal services charges on the municipal account after the above is written back and the payments made by the Church is taken into account; and
9. waiving of any rental that could have been regarded as relevant to the use of the property on the reasons discussed in this report.

<b>RESPONSIBLE OFFICIAL :</b>	<b>A LE ROUX E HOONEBERG</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>29 APRIL 2020</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>15 APRIL 2020</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting : 25 March 2020)**

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**9.**

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**7/2/3/2**

**A Le Roux**

**15 October 2019**

**Manager: Property Administration**

**(028) 316-3724**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 17 MARCH 2020, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

that Council **approves** the:

1. writing back of the original balance on the municipal account number 205011530003 in the amount of R8,086.69 (EIGHT THOUSAND AND EIGHTY SIX RAND AND SIXTY NINE CENTS) representing the opening balance of the municipal account of the “Calvynse Protestante Kerk van Suid Afrika Hawston” (hereinafter called “the Church) when the account was transferred to this Municipality from the previous Overberg Regional Council, being 1 September 1998;
2. writing back of the total amount of R73,206.16 (SEVENTY THREE THOUSAND TWO HUNDRED AND SIX RAND AND SIXTEEN CENTS) representing the monthly loan amounts levied on municipal account number 205011530003 of the Church for the period 1 September 1998 until 25 February 2020;
3. writing back of the total amount of R1,257.50 (ONE THOUSAND TWO HUNDRED AND FIFTY SEVEN RAND AND FIFTY CENTS) representing historic insurance charge levied on municipal account number 205011530003 of the Church;
4. writing back of the total amount of R289.26 (TWO HUNDRED AND EIGHTY NINE RAND AND TWENTY SIX CENTS) representing a services deposit levied on municipal account number 205011530003 of the Church;
5. writing back of the total amount of R11,189.47 (ELEVEN THOUSAND ONE HUNDRED AND EIGHTY NINE RAND AND FORTY SEVEN CENTS) representing administrative and collection costs levied on the municipal and handed over accounts of the Church for the period 1 September 1998 until 25 February 2020;

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
17 March 2020  
(Also the agenda for the Mayoral Committee Meeting : 25 March 2020)**

---

6. writing back of the total amount of R28,388.11 (TWENTY EIGHT THOUSAND THREE HUNDRED AND EIGHTY EIGHT RAND AND ELEVEN CENTS) representing interest levied on the municipal and handed over accounts of the Church;
7. writing back of all municipal services charges, interest, penalties and loan amounts levied on the municipal and handed over accounts of the Church as from billing on 25 February 2020 until the accounts are formally closed;
8. writing off the amount of R27,971.05 (TWENTY SEVEN THOUSAND NINE HUNDRED AND SEVENTY ONE RAND AND FIVE CENTS), representing the balance municipal services charges on the municipal account after the above is written back and the payments made by the Church is taken into account; and
9. waiving of any rental that could have been regarded as relevant to the use of the property on the reasons discussed in this report.

<b>RESPONSIBLE OFFICIAL :</b>	<b>A LE ROUX E HOONEBERG</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>29 APRIL 2020</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>15 APRIL 2020</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

ANNEXURE A



Overstrand Municipality logo and name at the bottom left.

ERF 1153 HAWSTON

Date: 2019/10/25

## KOOPKONTRAK

OOREENKOMS VAN KOOP EN VERKOOP aangegaan en gesluit deur en tussen:

### OVERBERG STREEKSDIENSTERAAD

hierin verteenwoordig deur ~~WILHELM EKERMANS~~ *GHR*

(hierna die "Overberg Streeksdiensteraad" genoem)  
as VERKOPER, aan die een kant

en

CALVYN PROTESTANTSE KERK HAWSTON  
(hierin verteenwoordig deur)

B J KAMPER (SCRIBA)  
G TEMMERS (KONSULENTLEERAAR)

(hierna die "KOPER" genoem)

Die VERKOPER erken en verklaar hiermee dat hy aan die KOPER verkoop het wat op sy beurt weer erken en verklaar dat hy van die VERKOPER gekoop het die volgende eiendom:

ERF 1153 HAWSTON

GROOT 1990 m<sup>2</sup>

(hierna genoem die "EIENDOM")

*Vir Annelies gegee  
an vir wy te kuf  
konvokulle chud.  
10/4/2008  
Jubrec.*

en wel op die volgende voorwaardes en bepalinge, naamlik:

1.

Die KOPER word gebind deur die voorwaardes genoem in of verwys na in die Transportakte wat betrekking het op die EIENDOM. Die VERKOPER is nie aanspreeklik vir 'n verskil of tekort in grootte wat by heropmeting van die EIENDOM aan die lig kom nie en doen afstand van enige oorskot.

2.

- 2.1 Die koopprys van die EIENDOM beloop die som van R 36 154,30 (Dertien duisend ses honderd vier en vyftig Rand dertig sent) waarvan R 11 880,00 (Elf duisend agthonderd en agtig Rand) betaalbaar is by die ondertekening van hierdie ooreenkoms wat 'n balans laat van R 24 274,30 (Twee en twintig duisend twee honderd vier en sewentig Rand dertig sent) synde die koste van diensie soos bereken tot op JUNIE 1993 en wat sal toeneem teen 'n rentekoers van 6% per jaar bereken vanaf 30 JUNIE 1993 tot datum van ondertekening van hierdie OOREENKOMS.
- 2.2 Die balans van die koopprys soos bepaal in paragraaf 2.1 hierbo is betaalbaar in 360 gelyke maandelikse paaiemente en sal rente dra teen die rentekoers wat bepaal word deur die Nasionale Behuisingskommissie of enige liggaam of kommissie wat hom opvolg.
- 2.3 As sekuriteit vir betaling van die balans van die koopprys onderneem die KOPER om 'n eerste verband oor die EIENDOM wat hiermee verkoop word ten gunste van die VERKOPER te registreer. Registrasie van die verband sal geskied deur die VERKOPER se prokureurs en die KOPER sal aanspreeklik wees vir die registrasiekoste.

*J.C. [Signature]*  
*[Signature]*  
*[Signature]*

-3-

- 2.4 Die koopprys en alle ander betalings wat betaalbaar is ingevolge hierdie ooreenkoms is deur die KOPER betaalbaar vry van bankkoste te HERMANUS.
- 2.5 Die maandelikse paaieimente is betaalbaar vanaf nie later nie as die SEWENDE DAG van die maand wat volg op die datum van ondertekening van hierdie OOREENKOMS deur beide partye en daarna nie later nie as die SEWENDE DAG van elke daaropvolgende maand totdat al die kapitaal en rente en enige ander bedrae wat ingevolge hierdie OOREENKOMS verskuldig is, ten volle betaal is, met dien verstande dat niks in hierdie klousule vervat, die KOPER sal belet om die balans wat ingevolge hierdie OOREENKOMS verskuldig is, te enige tyd ten volle aan die VERKOPER te betaal nie.
- 2.6 Die rente word bereken op die saldo van die kapitaal, plus rente en enige bedrae wat ingevolge hierdie OOREENKOMS verskuldig is en wat op die sewende dag van die daaropvolgende maand nog onbetaal is, en word in die eerste instansie bereken vanaf die datum van hierdie OOREENKOMS.
- 2.7 Elke voornoemde maandelikse paaieiment word in die eerste instansie ter vereffening van die rente plus enige ander bedrae wat ingevolge hierdie OOREENKOMS verskuldig is, aangewend, terwyl die saldo ter vermindering van die onbetaalde kapitaal aangewend word.



3.

Die KOPER is vanaf datum van ondertekening hiervan aanspreeklik vir betaling van alle eiendomsbelasting en diensgelde ten opsigte van die EIENDOM .

4.

Daar word geag dat besit en okkupasie van die EIENDOM op die datum van hierdie OOREENKOMS deur die KOPER geneem word, en met ingang van daardie datum gaan alle risiko's rakende die EIENDOM op die KOPER oor.

5.

Die oordragskoste sowel as die koste in verband met die opstel van hierdie OOREENKOMS word deur die KOPER gedra. Alle formaliteite in verband met hierdie OOREENKOMS en die registrasie, van die oordrag word deur die VERKOPER se prokureurs ondemeem.

Handwritten signatures and initials, including 'JQ', 'JH', and 'D'.

6.

Die EIENDOM word onderhewig aan alle voorwaardes en Serwitute wat in die huidige en/of vorige titelaktes van die EIENDOM omskryf word, of na verwys word, die bepalinge van enige Dorpsbeplanningskema wat nou of in die toekoms op die EIENDOM van toepassing mag wees, asook alle ander voorwaardes en serwitute wat in verband daarmee mag bestaan, verkoop.

## 7.

Waar die VERKOPER ingevolge hierdie OOREENKOMS aan die KOPER kennis moet gee, word dit geag voldoende en behoorlik gegee te wees as dit aan die KOPER geadresseer en aan of by die EIENDOM gepos of afgelewer is en vir die doeleindes van hierdie OOREENKOMS en enige geregtelike stappe wat ingevolge daarvan ingestel word, kies die KOPER *domicilium citandi et executandi* by Highburyweg 88, Kuilsrivier.

## 8.

As die KOPER enige van die voorwaardes en verpligtings wat by hierdie OOREENKOMS opgelê word, nie nakom nie, het die VERKOPER die reg om die EIENDOM te betree en in besit te neem en hierdie OOREENKOMS te kanselleer deur middel van 'n skriftelike kennisgewing aan die KOPER gerig en in die geval van sodanige kansellasië, is die KOPER gebind en verplig om die EIENDOM onmiddellik te ontruim. Hierbenewens verbeur die KOPER as roukoop en/of vooruitherekende skadevergoeding alle betalings wat hy tot op datum van die kansellasië gemaak het aan die VERKOPER en sal hy geen reg hê op terugbetaling van enige gedeelte daarvan nie. Kansellasië van hierdie OOREENKOMS kragtens die bepalings hiervan, benadeel of raak geensins die VERKOPER se reg om verskuldigde paaieente, gelde wat bestee is en rente wat verskuldig is op die paaieente en/of enige verlies of skade wat die VERKOPER mag ly of koste wat hy mag aangaan as gevolg van die KOPER se kontrakbreuk, op die KOPER te verhaal nie en by sodanige kansellasië sal die KOPER nie geregtig wees op enige vergoeding vir verbeterings wat hy op die EIENDOM aangebring het nie ongeag of dit met of sonder die VERKOPER se goedkeuring geskied het.

9.

Die KOPER is verplig om sonder die betaling van vergoeding toe te laat dat hoofgasleidings, elektrisiteits-, telefoon- en televisiekabels en/of -drade, hoof- en ander waterpype, rioolvuil en dreinerings, insluitende stormwater van enige ander erf of erwe binne die Munisipale gebied van Hermanus, oor die EIENDOM gevoer word en dat bopgrondse installasies soos mini-substasies, meterkiosks en dienspale daarop geïnstalleer word indien dit deur die VERKOPER nodig geag word en wel op die wyse van en plek waar van tyd tot tyd redelikerwys vereis word. Dit sluit die reg op toegang te alle redelike tye tot die EIENDOM in met die doel om enige werke met betrekking tot bogenoemde aan te lê, te wysig, te verwyder of te inspekteer.

10.

Die EIENDOM mag alleenlik gebruik word vir doeleindes van die oprigting van 'n Kerkgebou en Kerksaal en vir geen ander doeleindes hoegenaamd nie. Bouwerk aan die Kerkgebou of Kerksaal moet binne twee jaar na die datum van ondertekening van hierdie OOREENKOMS voltooi word by gebreke waaraan hierdie EIENDOM sal terugval na die VERKOPER. Ingeval van sodanige terugvalling, sal die VERKOPER verplig wees om dieselfde koopprys wat die KOPER betaal het, terug te betaal aan die KOPER tesame met alle gelde ten opsigte van dienste soos in paragraaf 2.2 gemeld wat deur die KOPER tot op datum van terugvalling betaal is.

Die KOPER sal verplig wees om alle transportdokumente te onderteken ten einde registrasie van die transport aan die VERKOPER te laat geskied en sal ook aanspreeklik wees vir die koste van die registrasie van sodanige transport.

GETEKEN TE *Heurden* hierdie *29* de dag van *September* 1993.

AS GETUIES

- 1. *[Handwritten signature]* .....
- 2. *[Handwritten signature]* .....

*[Handwritten signature]*  
 \_\_\_\_\_  
*[Handwritten signature]*

KOPER

GETEKEN TE hierdie dag van 1993.

AS GETUIES

- 1. ....
- 2. ....

\_\_\_\_\_  
 HOOF UITVOERENDE BEAMPTER  
 OVERBERG STREEKS DIENSTERAAD

VERKOPER

*JAN ROOVEN*