

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
22 November 2016  
(Also the agenda for the Mayoral Committee Meeting : 2 December 2016)**

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6.

**GANSBAAI: RESCISSION OF CONDITIONS 2, 3 AND 4 OF COUNCIL RESOLUTION DATED 29 SEPTEMBER 2010 FOR THE ALIENATION OF A PORTION OF ERF 611 GANSBAAI AS WELL AS OBTAINING IN PRINCIPLE APPROVAL FOR THE ALIENATION OF TWO PORTIONS OF ERF 611 GANSBAAI BY MEANS OF A COMPETITIVE PROCESS**

**7/2/3/2/**

**Anja Kotze**

**(028) 316 - 3724**

**Hermanus Administration**

**14 October 2016**

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**1. Executive Summary**

To obtain approval for the rescission of conditions 2, 3 and 4 of Council resolution dated 29 September 2010 for the alienation of a portion of Erf 611 Gansbaai. The main reason for the rescission is due to further conditions that are going to be imposed on the alienation and to make provision for a new valuation of the property.

To obtain approval in principle for the alienation of two portions of Erf 611 Gansbaai ( $\pm 2.25$ ha in extent), being unregistered Erf 3905 (a portion of Erf 611) Gansbaai ( $\pm 1$ ha in extent) and Portion A (a portion of Erf 611) Gansbaai ( $\pm 1.25$ ha in extent) by means of a competitive process.

**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  
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, Act 56 of 2003

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- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Overstrand Municipality Supply Chain Management Policy, as amended

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

### **Background/Discussion**

#### Council approval:

Council resolved on 29 September 2010 as follows:

- “1. *that the application for the partial amendment of the Overstrand Integrated Spatial Development Framework in order to change the reservation of Portion A mentioned in resolution 1 of the Mayoral Committee dated 29 September 2010 under item 4, from community facility purposes to commercial- and institution purposes, **be approved** in terms of the provisions of the Local Government Act: Municipal Systems, 2000 (Act 32 of 2000);*
2. *that the sale of Portion A mentioned in resolution 1 of the Mayoral Committee dated 29 September 2010 under item 4, ±1ha in extent, by means of a public tender process at a reserve price of R2 000 000 (exclusive of VAT) being the market value of the property in terms of the provisions the National Municipal Asset Transfer Regulations dated 22 August 2008 and Council’s Administration of Immovable Property Policy, **be approved**;*
3. *that **cognisance be taken** of the fact that the subject municipal property is not required for the provision of basic municipal purposes in terms of the provisions of paragraph 6(4) of Council’s Administration of Immovable Property Policy and Section 14 of the Local Government : Municipal Finance Management Act, 2003 (Act 56 of 2003);*
4. *that the **approval in 2 above** be subject to the following conditions:*
  - (a) *that the relevant requirements contained in the National Municipal Asset Transfer Regulations dated 22 August 2008, the policy of council with regard to the Administration of Immovable Property dated 27 May 2009 and Section 14 of the Municipal Finance Management Act, 2003 (Act 56 of 2003), be followed when considering the public tenders for the development, and*

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- (b) *the successful tenderer must pay the tender price which price must exceed the reserve price of Portion A above as determined by a professional property valuer, take all actions pertaining to the registration of the land at his costs, and transfer the property into his name at his costs, prior to the submission of the building plans for the development.”*

Property:

Erf 611 Gansbaai was initially subdivided in unregistered Erf 3905 Gansbaai (±1ha) and the remainder for the purpose of alienating it for the development of a hospital. A diagram for this portion was prepared and registered at the Surveyor-General's Office as indicated on the diagram attached hereto marked Annexure A. At that stage the tender, although prepared, was not advertised as it could not be established if there was viable interest in the property.

Since obtaining approval for the alienation of the said portion of Erf 611 Gansbaai several applications for the alienation of this subject property was received. Two of the applications are in line with the intended use of the property as the one application is for the establishment of a sub-acute unit and medical care centre (impaired care and rehabilitation) and the other for the establishment of a day hospital and a frail care centre. Both applicants have however indicated that the size of unregistered Erf 3905 Gansbaai is not adequate for the proposed developments and subsequently it was requested that a larger property be made available. Town Planning was thus requested to attend to a further subdivision of Erf 611 Gansbaai (as indicated on the locality plan attached hereto marked Annexure B). The proposed subdivision (Portion A on the attached locality plan) will be consolidated with unregistered Erf 3905 Gansbaai to create a larger erf of approximately 2.25ha.

Valuation:

Valuations for unregistered Erf 3905 Gansbaai and Portion A of Erf 611 Gansbaai will be obtained once the rezoning of Portion A is finalized. The valuations will be obtained from Boland Valuers.

**Evaluation**

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

The following conditions of the said Policy will apply to both or either of the two portions:

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**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 properties will be sold by means of a competitive process.

**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.”**

Council has already decided that unregistered Erf 3905 Gansbaai is not needed to provide the minimum level of basic municipal services. The subsequent comments received from the relevant officials confirmed that the both properties are not needed for the provision of 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 purchase price for the properties will be obtained once the zoning rights of Portion A of Erf 611 Gansbaai is finalized.

**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 and consolidation costs and the connection and possible upgrading of services.

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**Paragraph 31: “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 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 condition to this effect will be 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 condition to this effect will be included in the Deed of Sale.

**B: Advertisement/Notification**

The necessary advertisement in terms of Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003) will be placed after the tender is awarded by the Bid Adjudication Committee. The successful bidder will be liable for the costs of the Section 14 advertisement.

**Conclusion**

It is recommended that conditions 2, 3 and 4(a) and (b) of the Council resolution dated 29 September 2010 be rescinded.

It is further recommended that the subject properties, to wit unregistered Erf 3905 (a portion of Erf 611) Gansbaai (±1 ha in extent) and Portion A (a portion of Erf 611) Gansbaai (±1.25ha in extent), be alienated by means of a competitive process at market related value subject to further conditions.

**7. Financial Implications**

The Municipality stands to gain a market related purchase price for the properties.

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**8. Staff Implications**

None

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

**Senior Manager: Expenditure and Assets, Mr. J Vorster**

The full extent of Erf 611 Gansbaai, is currently reflected in the Fixed Asset Register for Property, Plant and Equipment: Land with a carrying value of R855'000. The disposal of portions of Erf 611 Gansbaai will have to be accounted for at the selling price in order to adjust the carrying value of the remaining portion of Erf 611 in the Fixed Asset Register.

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

**Senior Manager: Operational Services (Gansbaai), Mr J de Villiers**

No objection, subject to conditions.

**Senior Town Planner, Mr S W van der Merwe**

The property has been earmarked for development of a day hospital / clinic as well as hotel. Accordingly a 1ha portion was subdivided (Erf 3905, an unregistered portion of Erf 611, Gansbaai) was rezoned to Central Business with consent for an Institution. These approvals are valid for a five year period, calculated from the approval of the PGWC, dated 4 February 2013. The proposal is thus in line with the aforementioned. Should the successful bidder require more than 1ha, the onus would be on the successful bidder to obtain the necessary additional development rights if applicable. The successful bidder will prior to commencement of the development be required to submit a detailed site development plan, provide a traffic impact statement / assessment (engineers to confirm) and complete a services agreement prior to the submission of building plans.

Comment by Property Administration: It was decided that the subdivision and rezoning of the additional portion of Erf 611 Gansbaai to enlarge the property to ±2.25ha will be done in-house. This will ensure that we obtain a higher offer on the properties as the rights will be in place.

**Senior Manager: Engineering Services, Mr D Hendriks**

I have no objections towards the proposed application; however the following information is needed to compile a detailed services report should the

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application be considered: Water and Sewer GLS Report, TIA report and a Storm water (SW) according to the master plan by the Developer. The bulk services levy contribution will be determined once the extent of the development is available. A services agreement will be compiled to address any outstanding issues pertaining to the internal and external services for the developments.

**Senior Manager: Electro Technical Services (Gansbaai), Mr D Maree**

The applied for portion of erf 611 currently has no electricity. A complete network investigation will have to be done by our consulting engineers to ensure sufficient capacity. All investigation fees as well as any upgrades deemed necessary by the investigation will be for the client's account. The client will also be responsible for paying all applicable Bulk Infrastructure levies as per approved council tariffs.

**Senior Manager: Environmental Services, Ms L de Villiers**

Overstrand Environmental section does not have any objection regards above application.

**10. Annexures**

- Annexure A: Diagram of unregistered Erf 3905 (a portion of Erf 611) Gansbaai
- Annexure B: Locality map of proposed Portion A (a portion of Erf 611) Gansbaai

**RECOMMENDATION TO THE COUNCIL:**

1. that conditions 2, 3 and 4(a) and (b) of Council resolution dated 29 September 2010, **be rescinded**;
2. that the alienation of unregistered Erf 3905 (a portion of Erf 611) Gansbaai ( $\pm$  1ha in extent) and Portion A (a portion of Erf 611) Gansbaai ( $\pm$ 1.25ha in extent) by means of a competitive process at a market related purchase price **be approved in principle**;
3. that unregistered Erf 3905 (a portion of Erf 611) Gansbaai be consolidated with Portion A (a portion of Erf 611) Gansbaai at the cost of the purchaser;
4. that all the costs pertaining to the transaction, e.g. subdivision, consolidation, rezoning, transfer and related costs, water- and sewer connections (if applicable), bulk services contribution (if applicable), etc., excluding the valuation costs, be paid by the purchaser;

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5. that the costs relating to the necessary advertisement in terms of Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003) be paid by the purchaser;
6. 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 Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003); and
7. that the Municipal Manager be authorised to sign all documents relating to the alienation and transfer of unregistered Erf 3905 (a portion of Erf 611) Gansbaai (± 1ha in extent) and Portion A (a portion of Erf 611) Gansbaai (±1.25ha in extent).

<b>RESPONSIBLE OFFICIAL :</b>	<b>A KOTZE</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>IN PROCESS</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>N/A</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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APPROVAL FOR THE ALIENATION OF TWO PORTIONS OF ERF 611 GANSBAAI  
BY MEANS OF A COMPETITIVE PROCESS**

**7/2/3/2/**

**Anja Kotze**

**(028) 316 - 3724**

**Hermanus Administration**

**14 October 2016**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
22 NOVEMBER 2016, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that conditions 2, 3 and 4(a) and (b) of Council resolution dated 29 September 2010, **be rescinded**;
2. that the alienation of unregistered Erf 3905 (a portion of Erf 611) Gansbaai ( $\pm$  1ha in extent) and Portion A (a portion of Erf 611) Gansbaai ( $\pm$ 1.25ha in extent) by means of a competitive process at a market related purchase price **be approved in principle**;
3. that unregistered Erf 3905 (a portion of Erf 611) Gansbaai be consolidated with Portion A (a portion of Erf 611) Gansbaai at the cost of the purchaser;
4. that all the costs pertaining to the transaction, e.g. section 14 advertisement, consolidation, transfer and related costs, water- and sewer connections (if applicable), bulk services contribution (if applicable), etc., excluding the valuation costs, be paid by the purchaser;
5. that the costs relating to the necessary advertisement in terms of Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003) be paid by the purchaser;
6. 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 Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003); and
7. that the Municipal Manager be authorised to sign all documents relating to the alienation and transfer of unregistered Erf 3905 (a portion of Erf 611) Gansbaai ( $\pm$  1ha in extent) and Portion A (a portion of Erf 611) Gansbaai ( $\pm$ 1.25ha in extent).

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<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>IN PROCESS</b>
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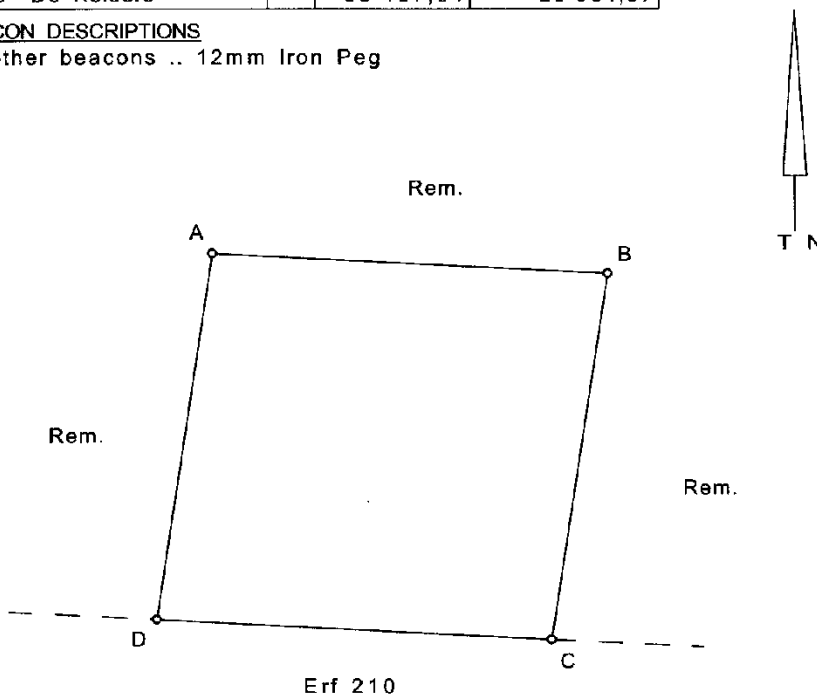
OFFICE COPY

Town & Country, Pr. Land Surveyors, Bredasdorp

SIDES metres	ANGLES OF DIRECTION	CO-ORDINATES System: WG 19° X		SG No. 1096/2013		
		Y	X			
		Constants	0,00	+3 800 000,00		
A B	100,00	273.05.40	A	-32 337,44	+27 742,43	Approved <i>E. van der Berg</i> for SURVEYOR-GENERAL 05 JUN 2013
B C	100,41	8.14.00	B	-32 437,29	+27 747,83	
C D	100,00	93.05.50	C	-32 422,91	+27 847,21	
D A	100,40	188.14.10	D	-32 323,06	+27 841,80	
TR7 Danger Point			Δ	-34 795,51	+29 420,48	
TR128 De Kelders			Δ	-33 437,61	+25 964,07	

BEACON DESCRIPTIONS

All other beacons .. 12mm Iron Peg



Scale: 1/ 1500

The figure A B C D

represents 1,0000 hectare~~s~~ of land being

**ERF 3905, portion of Erf 611 GANSBAAI**

situate in the Overstrand Municipality  
Administrative District of Caledon  
Province of Western Cape  
Surveyed by me in May 2013

PLS 1141 F. Truter  
Professional Land Surveyor

This Diagram is annexed to No.	The original diagram is S.G. No. 5139/1972	File No.: S/2326 Vol 6
Dated	Transfer No. 1973- -13773	S.R. 509/2013
Registrar of Deeds		Comp. AI-5BC/W51(499)
		LPI C0130009

Gansb Erf 3905  
Gansbaai

TO BE APPROVED IN TERMS OF SECTION 26 OF ACT 107 OF 1976  
 SUBJECT TO SECTION 27 OF ACT 107 OF 1976  
 SECTION 27 OF ACT 107 OF 1976

APPROVED IN TERMS OF SECTION 26 OF ACT 107 OF 1976  
 REF. Erf 611, Gansbaai  
 DATE 8 October 2010

SECTION 27 OF ACT 107 OF 1976  
 (6)

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