

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
19 November 2019  
(Also the agenda for the Mayoral Committee Meeting: 27 November 2019)**

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**9.  
IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF ERF 6848  
KLEINMOND, ADJACENT TO ERF 7308 KLEINMOND SITUATED IN OVERHILLS,  
TO THE BREAD OF LIFE ASSEMBLY OF SOUTH AFRICA**

**7/2/3/2**

**A le Roux**

**Manager: Property Administration**

**9 October 2019**

**(028) 316-3724**

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**1. Executive Summary**

To obtain approval in principle for the direct alienation of Erf 6848 Kleinmond (162m<sup>2</sup> in extent), adjacent to Erf 7308 Kleinmond, situated at 1 Bergroos Crescent, Overhills, to the owners of Erf 7308 Overhills, being The Bread of Life Assembly of South Africa. See the locality plan attached hereto marked 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  
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**

- Local Government: Municipal Finance Management Act (Act 56 of 2003) ("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

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

**Background/Discussion**

An application was received from Mr James White on behalf of The Bread of Life Assembly of South Africa, hereafter referred to as “the applicant”, for the purchase of Erf 6848 adjacent to Erf 7308 Kleinmond situated in Overhills.

The applicant is the owner of Erf 7308 Kleinmond. According to the applicant the above mentioned municipal property is currently being used as a dump site and creates a bad impression when services and functions take place at the church. If the application is successful, the church intends on building a Parsonage church office on the above mentioned Municipal property to be used for prayer and counselling. It must be noted that the applicant will only be able to build the church office once the properties are consolidated due to the size of the property and building lines applicable. The size of the municipal property in question is 162m<sup>2</sup> in extent.

As this property is a small, triangular shaped portion of property that cannot be developed independently, it can be classified as a non-viable property. Non-viable property can in terms of the current Administration of Immovable Property Policy be alienated directly to the adjoining property owner, subject to certain conditions. Furthermore, as the only adjoining owners to above mentioned municipal property, beside the applicant, is Overstrand Municipality, it is not needed to follow a competitive process for the sale of the subject property.

One of the conditions of the sale will be that Erf 6848 Kleinmond must be rezoned and consolidated with the property of the applicant.

Subsequent costs

The applicant will be liable for the costs of the transaction which will include, but not limited to, the application fee, the cost for the valuation, rezoning and the consolidation of the property, the required Section 14 advertisement in terms of the MFMA and Administration of Immovable Property Policy and the transfer costs.

**Evaluation**

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

The following conditions of the said Policy will apply:

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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.”**

Non-viable immovable property is defined in the relevant Policy as “a property that, owing to urban planning, physical constraints or extent, cannot be developed on its own or function as a separate entity and can therefore only become functional if alienated or leased to an adjoining owner for usage in conjunction with the said owner’s property”. The subject property can be classified as a non-viable immovable property as it is a small, triangular piece of land that cannot be developed independently.

**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:**

- (a) decided on reasonable grounds that the non-viable immovable property is not needed to provide the minimum level of basic municipal services;**
- (b) 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, and**
- (c) has as a consequence to 9.2(a) and (b) above approved in principle that the immovable property may be transferred or disposed, provided that, when giving the in principle approval, it is recorded in the minutes the full reasons for the Municipality preferring such direct transfer.”**

- (a) The comments received from the relevant departments indicate that the subject portion of municipal property is not needed for the provision of municipal services.
- (b) Boland Valuers determined the market related value in September 2019 at an amount of R41,000.00 (FORTY ONE THOUSAND RAND) (VAT excluded). The valuation was done taking into consideration the size, locality, zoning and proposed use of the property.
- (c) The reasons for preferred direct sale are discussed above and will subsequently be recorded in the minutes.

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**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 applicant/purchaser will be liable for the costs of the transaction which will include, but not limited to, the application fee, the cost for the valuation, rezoning and consolidation, Section 14 advertisement and transfer costs.

**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 applicant/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 exists 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 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 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.”**

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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 MFMA will be published after obtaining this in principle decision. The applicant will be liable for the costs of the Section 14 advertisement.

**Conclusion**

Taking the comments of the internal departments, as well as the above discussion into consideration, it is recommended that the direct alienation of Erf 6848 Kleinmond, 162m<sup>2</sup> in extent, to the owner of Erf 7308 Kleinmond, being The Bread of Life Assembly of South Africa, be approved in principle.

Furthermore the applicant/purchaser will be liable for all cost involved to affect transfer of the property in the deeds office. Subsequently the costs will entail the application fee, valuation costs, rezoning, consolidation, Section 14 advertisement and the transfer costs.

**7. Financial Implications**

The Municipality stands to gain a market related purchase price of R41,000.00 (FORTY ONE THOUSAND RAND) (VAT excluded).

**8. Staff Implications**

None

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

**Senior Town Planner: Mrs H van der Stoep - (028) 313 8900**

*“The property is zoned Residential Zone 1. If purchased by The Bread of Life assembly, the erf needs to be rezoned and consolidated with erf 7308. A site plan indicating the parking on scale must also be submitted with the aforementioned application. The present access to erf 7308 over erf 6848 needs to be resolved with the Operational Department.”*

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**Senior Manager: Expenditure and Assets: Mr J Vorster - (028) 313 8046**

*“Erf 6848 Kleinmond is currently still reflected in the Low-cost Housing Register and will have to be recognized in the Fixed Asset Register for Property, Plant and Equipment: Land. The eventual disposal of Erf 6848 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 Immoveable Property Policy.”*

**Manager: Engineering Services (Hermanus): Mr R Andrew – (028) 313 8972**

*“The Engineering Services Department has no comment.”*

**Senior Operational Manager: Kleinmond: Mr D van Rhodie – (028) 271 8462**

*“As can be seen from the aerial photograph, the church is currently using the erf as entrance to Erf 7308.*

*Operational services Kleinmond have no objection to the application.”*

**Electrical Department: Mr R Buckle – (028) 271 8484**

*“The electrical department of Overstrand Kleinmond has no comment.”*

**Senior Manager: Kleinmond Administration: Mr D Lakey – (028) 271 8413**

*“I support the application.”*

**10. Annexures**

Annexure A: Locality plan

**RECOMMENDATION TO THE COUNCIL:**

1. that the direct alienation of Erf 6848 Kleinmond (adjacent to Erf 7308 Kleinmond), 162m<sup>2</sup> in extent, to the owner of the adjoining Erf 7308 Kleinmond, The Bread of Life Assembly South Africa, at an amount of R41,000.00 (FORTY ONE THOUSAND RAND) (VAT excluded) be **approved in principle**;

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2. that it be noted that the direct alienation is possible as the said portion of Erf 6848 Kleinmond is classified as a non-viable property;
3. that, subject to the approval in 1 above, a public participation process be followed at the cost of the applicant/purchaser;
4. that it be noted that a condition for the alienation will be that Erf 6848 Kleinmond must be consolidated with the adjoining property of The Bread of Life Assembly South Africa, being Erf 7308 Kleinmond;
5. that the alienation of Erf 6848 Kleinmond be subject to a suspensive condition that the applicant/purchaser obtains approval for the rezoning and consolidation of the property;
6. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, consolidation, rezoning, transfer and related costs, advertisements, etc., be paid by the applicant/purchaser; and
7. that it be noted 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).

<b>RESPONSIBLE OFFICIAL :</b>	<b>N LIEBENBERG</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>20 DECEMBER 2019</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>11 DECEMBER 2019</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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**7/2/3/2**

**A le Roux**

**Manager: Property Administration**

**9 October 2019**

**(028) 316-3724**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
19 NOVEMBER 2019, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that the direct alienation of Erf 6848 Kleinmond (adjacent to Erf 7308 Kleinmond), 162m<sup>2</sup> in extent, to the owner of the adjoining Erf 7308 Kleinmond, The Bread of Life Assembly South Africa, at an amount of R41,000.00 (FORTY ONE THOUSAND RAND) (VAT excluded) be **approved in principle**;
2. that it be noted that the direct alienation is possible as the said portion of Erf 6848 Kleinmond is classified as a non-viable property;
3. that, subject to the approval in 1 above, a public participation process be followed at the cost of the applicant/purchaser;
4. that it be noted that a condition for the alienation will be that Erf 6848 Kleinmond must be consolidated with the adjoining property of The Bread of Life Assembly South Africa, being Erf 7308 Kleinmond;
5. that the alienation of Erf 6848 Kleinmond be subject to a suspensive condition that the applicant/purchaser obtains approval for the rezoning and consolidation of the property;
6. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, consolidation, rezoning, transfer and related costs, advertisements, etc., be paid by the applicant/purchaser; and
7. that it be noted 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).

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ANNEXURE A

