

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
17 September 2019  
(Also the agenda for the Mayoral Committee Meeting : 25 September 2019)**

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**7.  
RESCISSION OF COUNCIL'S IN PRINCIPLE DECISION FOR THE DIRECT  
ALIENATION OF AND COUNCIL'S APPROVAL FOR THE 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

31 July 2019

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**1. Executive Summary**

To obtain approval for the rescission of the in principle decision by Council dated 29 November 2017 in respect of the direct alienation 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.

To obtain approval for the rescission of Council's final approval dated 28 March 2018 for the 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.

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

Infrastructure & Planning  
Property Administration

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance

**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)

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

**Background/Discussion**

An application was received from Hawston Service Station (Pty) Ltd (hereinafter referred to as the Applicant), the owner of the adjoining property, being Erf 412 Hawston, to purchase a portion of road reserve being a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) in George Viljoen Street, Hawston for the purposes of additional parking and driveway to the service station on its property.

On 29 November 2017 Council resolved as follows:

- “1. *that the direct alienation of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent), to the owner of the adjoining erf, Hawston Service Station (Pty) Ltd, at a market related purchase price as determined by a registered valuer be **approved in principle**;*
2. *that it be noted that the direct alienation is possible as the subject portion of Erf 1 Hawston 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;*
4. *that it be noted that a condition for the alienation will be that the subject portion of Erf 1 Hawston be consolidated with the adjoining property of Hawston Service Station (Pty) Ltd, being Erf 412 Hawston;*
5. *that the alienation of a portion of Erf 1 Hawston furthermore be subject to a suspensive condition that the Applicant obtains approval for the road closure, subdivision, consolidation and rezoning of the portion of property;*
6. *that all costs pertaining to the transaction, e.g. application fee, valuation costs, road closure, subdivision, consolidation, rezoning, transfer and related costs, advertisements, etc., be paid by the Applicant; 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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On 28 March 2018 Council further resolved as follows:

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)."*

**Discussion**

The formal non-refundable application fee in the amount of R2,718.90 (TWO THOUSAND SEVEN HUNDRED AND EIGHTEEN RAND AND NINETY CENTS) was paid by the Applicant on 8 September 2017.

After the in principle approval was obtained for the direct alienation of the portion of property, Boland Valuers determined the market related value of a portion of Erf 1 Hawston at an amount of R50.00/m<sup>2</sup> (FIFTY RAND PER SQUARE METRE) (VAT included). The Applicant paid the valuation costs in the amount of R2,280.00 (TWO THOUSAND TWO HUNDRED AND EIGHTY RAND) on 3 January 2018.

The Section 14 advertisement for the transfer of the property was placed in The Village News on 30 January 2018 for a 30 (THIRTY) day objection/comment period and the Applicant paid the advertisement costs in the amount of R3,009.60 (THREE THOUSAND AND NINE RAND AND SIXTY CENTS) on 19 March 2018.

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After receiving the final approval for the transfer of the property from Council on 28 March 2018, the Deed of Sale was compiled and forwarded to the Applicant for signature. Numerous correspondences were sent to the Applicant requesting that the Deed of Sale be signed by their appointed representative. On 26 May 2019 the Applicant indicated that they are no longer able to purchase the said portion of property as they are unable to proceed with their plans to re-develop the site as was envisaged initially.

None of the above costs will be refunded to the Applicant as the application fee is non-refundable and the other costs were direct expenses paid to third parties for services rendered (valuation and advertisement).

### **Evaluation**

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

**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 was liable for the costs of the application, valuation, as well as the required Section 14 advertisement in terms of the Municipal Finance Management Act and Administration of Immovable Property Policy and payment were received for the above mentioned in full.

### **Conclusion**

It is recommended that the in principle decision by Council dated 29 November 2017 in respect of the direct alienation 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 be rescinded.

It is recommended that Council’s final approval, dated 28 March 2018, for the 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 be rescinded.

## **7. Financial Implications**

None.

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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**

There is no objection as the process complies with the Administration of Immoveable Property Policy and no transfer has been captured in the Fixed Asset Register in this regard.

**10. Annexures**

Annexure A: Locality Plan

Annexure B: Council resolution dated 27 November 2017

Annexure C: Council resolution dated 28 March 2018

**RECOMMENDATION TO THE COUNCIL:**

1. that the entire Council resolution dated 27 November 2017 in respect of the in principle approval for the direct sale of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd, **be rescinded**; and
2. that the entire Council resolution dated 28 March 2018 in respect of the approval for transfer of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd, **be rescinded**.

**RESPONSIBLE OFFICIAL :**

**W MURTZ**

**TARGET DATE FOR IMPLEMENTATION :**

**31 OCTOBER 2019**

**TARGET DATE TO INFORM APPLICANT:**

**17 OCTOBER 2019**

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7/2/3/2

W Murtz

(028) 316 - 3724

Hermanus Administration

31 July 2019

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

**RECOMMENDATION TO THE COUNCIL:**

1. that the entire Council resolution dated 27 November 2017 in respect of the in principle approval for the direct sale of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd, **be rescinded**; and
2. that the entire Council resolution dated 28 March 2018 in respect of the approval for transfer of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd, **be rescinded**.

**RESPONSIBLE OFFICIAL :**

**W MURTZ**

**TARGET DATE FOR IMPLEMENTATION :**

**31 OCTOBER 2019**

**TARGET DATE TO INFORM APPLICANT:**

**17 OCTOBER 2019**



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**MINUTES : ORDINARY MEETING OF THE COUNCIL****29 NOVEMBER 2017****5.9**

**HERMANUS: IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 1 HAWSTON ( $\pm 370\text{M}^2$  IN EXTENT) TO HAWSTON SERVICE STATION (PTY) LTD**

**(ITEM 5, PAGE 92 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)**

**RESOLVED (SUPPORTED BY 20 COUNCILLORS):**

1. that the direct alienation of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$ ) in extent, to the owner of the adjoining erf, Hawston Service Station (Pty) Ltd, at a market related purchase price as determined by a registered valuer be **approved in principle**;
2. that it be noted that the direct alienation is possible as the subject portion of Erf 1 Hawston 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;
4. that it be noted that a condition for the alienation will be that the subject portion of Erf 1 Hawston be consolidated with the adjoining property of Hawston Service Station (Pty) Ltd, being Erf 412 Hawston;
5. that the alienation of a portion of Erf 1 Hawston furthermore be subject to a suspensive condition that the Applicant obtains approval for the road closure, subdivision, consolidation and rezoning of the portion of property;
6. that all the costs pertaining to the transaction, e.g. application fee, valuation costs, road closure, subdivision, consolidation, rezoning, transfer and related costs, advertisements, etc., be paid by the Applicant; 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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**MINUTES : ORDINARY MEETING OF THE COUNCIL****29 NOVEMBER 2017****RESPONSIBLE OFFICIAL :****W MURTZ****TARGET DATE FOR IMPLEMENTATION:****28 FEBRUARY 2017****TARGET DATE TO INFORM APPLICANT:****22 DECEMBER 2017****TARGET DATE TO INFORM OBJECTOR:****N/A**

**5.4**

**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**

**(ITEM 2, PAGE 45 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 28 MARCH 2018)**

**RESOLVED (SUPPORTED BY 23 COUNCILLORS):**

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).

**RESPONSIBLE OFFICIAL :**

**W MURTZ**

**TARGET DATE FOR IMPLEMENTATION :**

**31 MAY 2018**

**TARGET DATE TO INFORM APPLICANT :**

**19 APRIL 2018**