

12.

**PARTIAL ADMENDMENT OF RESOLUTION DATED 21 FEBRUARY 2022 FOR THE ALIENATION OF A PORTION OF ERF 2672 HAWSTON (ROAD RESERVE) ADJACENT TO ERF 2823 HAWSTON SITUATED ON THE CORNER OF CATTLE AND STAFFORD STREET****A Le Roux  
18 December 2024****Divisional Manager: Property Management  
(028) 316 5623****1. Executive Summary**

To obtain approval for the partial amendment of Council Resolution dated 21 February 2022 for the alienation of a portion of Erf 2672 Hawston, to the owner of the adjacent Erf 2823 Hawston, being Megan Andrews. The amendment will entail the incorporation of occupational rental within the sale conditions. See the locality plan attached hereto marked as "Annexure A".

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

Planning and Development  
Property Management

**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 Financial Management Act (Act 56 of 2003) ("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

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

An application was received from MN Andrews (the owner of Erf 2823 Hawston), hereafter referred to as "the Applicant", for the purchase of a portion of Erf 2672 Hawston ( $\pm 71\text{m}^2$  in extent) adjacent to Erf 2823 Hawston situated on the corner of Cattle and Stafford Street, Hawston, hereafter

referred to as “the Property” for gardening purposes and to retain a boundary wall.

According to the Applicant when purchasing Erf 2823 Hawston from the previous owner she was brought under the impression that the Property formed part of Erf 2823 Hawston and she was unaware that the Property was municipal property.

The Applicant wants to purchase the Property to consolidate with her own property as the Property is already enclosed together with her property, Erf 2823 Hawston, with a vibracrete wall as a boundary wall.

Council at a Council Meeting held on 21 February 2022 resolved as follows:

- “1. that the direct alienation of a portion of Erf 2672 Hawston (adjacent to Erf 2823 Hawston) situated on the corner of Cattle and Stafford Street, Hawston, ±71m<sup>2</sup> in extent, to the owner of the adjoining Erf 2823 Hawston, MN Andrews, at an amount of R365.00/m<sup>2</sup> (THREE HUNDRED AND SIXTY FIVE RAND PER SQUARE METRE) (VAT excluded) be approved in principle;*
- 2. that it be noted that the direct alienation is possible as the said portion of Erf 2672 Hawston can be 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 said portion of Erf 2672 Hawston must be consolidated with the adjoining property of MN Andrews, being Erf 2823 Hawston;*
- 5. that no structures of any kind (excluding a boundary wall or fence) may be erected on the said portion of Erf 2672 Hawston, which condition must be registered against the title deed of the to be consolidated property;*
- 6. that the alienation of said portion of Erf 2672 Hawston be subject to a suspensive condition that the applicant obtains approval for the closure of the public road, subdivision, rezoning and consolidation;1*
- 7. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, subdivision and consolidation, closure of portion of public road, rezoning, transfer and related costs, advertisements, etc. be paid by the applicant, MN Andrews; and*
- 8. 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).*

## Evaluation

The previous owner had a lease agreement with the Municipality to utilise the Property for gardening purposes and to erect a boundary wall/fence, but the lease agreement was never ceded to the Applicant when the sale agreement was concluded. Being the new owner of the adjacent property, the Applicant should be liable for the payment of occupational rent until the sale transaction has been finalised, as the Applicant is in possession of the Property.

The rental amount as per the lease agreement with the previous owner was established through a valuation which was done in 2015 to determine the market related monthly rental of a portion of Erf 3011 Onrustrivier (a lease for similar purposes). The valuation was determined at an amount of R4.52/m<sup>2</sup> (FOUR RAND AND FIFTY-TWO CENTS PER SQUARE METRE) (VAT excluded) per month and it is proposed that this amount, escalated up to date in accordance with the prevailing consumer price index (all items), be used to determine the current monthly occupational rent.

In terms of Statistics S.A the consumer price index's annual increases from July 2016 to July 2024, were as follows:

**Table B2 - CPI headline year-on-year rates**

Year	Jan	Feb	Mar	Apr	May	Jun	Jul
2015	4,5	4,0	4,0	4,5	4,6	4,7	5,0
2016	6,2	7,0	6,3	6,2	6,2	6,3	6,0
2017	6,6	6,3	6,1	5,3	5,4	5,1	4,6
2018	4,4	4,0	3,8	4,5	4,4	4,6	5,1
2019	4,0	4,1	4,5	4,4	4,5	4,5	4,0
Year	Jan	Feb	Mar	Apr	May	Jun	Jul
2020	4,5	4,6	4,1	3,0	2,1	2,2	3,2
2021	3,2	2,9	3,2	4,4	5,2	4,9	4,6
2022	5,7	5,7	5,9	5,9	6,5	7,4	7,8
2023	6,9	7,0	7,1	6,8	6,3	5,4	4,7
2024	5,3	5,6	5,3	5,2	5,2	5,1	4,6

The escalated rental of the valuation amount is determined as follows:

Year	CPI%	Rental (VAT Excl)
2015		R4,52
2016	6,0%	R4,79
2017	4,6%	R5,01
2018	5,1%	R5,27
2019	4,0%	R5,48
2020	3,2%	R5,65
2021	4,6%	R5,91
2022	7,8%	R6,37
2023	4,7%	R6,67
2024	4,6%	R6,98

In terms of the above, the occupational rent will be set at an amount of R6.98/m<sup>2</sup> (SIX RAND AND NINETY-EIGHT CENTS PER SQUARE METRE) (VAT excluded) which calculates to an amount of R495.58 (FOUR HUNDRED AND NINETY-FIVE RAND AND FIFTY-EIGHT CENTS) (VAT excluded) per month.

If the agreement of the previous owner was ceded to the Applicant, the rental payable would have been in line with the above. It is proposed that his occupation rental not be paid backdated, but to assist the Applicant, from 1 April 2025.

### **Conclusion**

It is recommended that the resolution taken by Council at the Ordinary Council Meeting on 21 February 2022 be amended by including paragraph 9 into the resolution as follows and that the deed of sale be amended accordingly:

9. that MN Andrews pays occupational rent at an amount of R6.98/m<sup>2</sup> (SIX RAND AND NINETY-EIGHT CENTS PER SQUARE METRE) (VAT excluded) for the use of a portion of Erf 2672 Hawston (±71m<sup>2</sup> in extent) adjacent to Erf 2823 Hawston, until the transfer of the property is registered in the Deeds Office.

### **7. Financial Implications**

The Municipality stands to gain an income of R6.98/m<sup>2</sup> (SIX RAND AND NINETY EIGHT CENTS PER SQUARE METRE) (VAT excluded) which calculates to an amount of R495.58 (FOUR HUNDRED AND NINETY FIVE RAND AND FIFTY EIGHT CENTS) (VAT excluded) per month for occupational rent for the use of the Property until the sale transaction is finalized, and R365.00/m<sup>2</sup> (THREE HUNDRED AND SIXTY FIVE RAND PER SQUARE METRE) (VAT excluded) for the sale of the Property.

### **8. Staff Implications**

None

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

The comments from other Departments were obtained when the initial in principle approval was obtained.

### **10. Annexures**

Annexure A: Locality map

**RECOMMENDATION TO THE COUNCIL:**

that the amendment of the resolution taken by Council at the Ordinary Council Meeting on 21 February 2022 by including paragraph 9 into the resolution as follows and that the deed of sale be amended accordingly, **be approved:**

9. that MN Andrews pays occupational rent at an amount of R6.98/m<sup>2</sup> (SIX RAND AND NINETY-EIGHT CENTS PER SQUARE METRE) (VAT excluded) for the use of a portion of Erf 2672 Hawston (±71m<sup>2</sup> in extent) adjacent to Erf 2823 Hawston, until the transfer of the property is registered in the Deeds Office.

<b>RESPONSIBLE OFFICIAL :</b>	<b>R OCTOBER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>9 APRIL 2025</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 APRIL 2025</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

