

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

**6.
TRANSFER OF ERF 1886 FRANSKRAALSTRAND (SITUATED IN FOUCHE
STREET, FRANSKRAALSTRAND), TO STARCROW 111 CC**

**A Le Roux
2 November 2023**

Manager: Property Administration

(028) 316 5623

1. Executive Summary

To obtain final approval for the transfer of Erf 1886 Franskraalstrand (1,5447 Hectare in extent), situated in Fouche Street, Franskraalstrand (hereinafter referred to as “the Property”), to Starcrow 111 CC (hereinafter referred to as “the Purchaser”) for purposes of a town housing development. The locality maps of the Property are attached hereto marked “Annexure A1” and “Annexure A2”.

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
Creation and maintenance of a safe and healthy environment

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)
- Municipal Supply Chain Management Regulations (Notice 868 of 30 May 2005)
- Overstrand Municipality Supply Chain Management Policy, as amended

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6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

Council on 24 August 2021 approved in principle the alienation of the Property for a town housing development by means of a competitive process at a market related purchase price.

The Property was promoted on 23 and 24 June 2022 at the Investment Conference held by the Municipality.

Tenders were duly invited in September 2022 for the sale of the Property for the purpose of a town housing development.

The Bid Adjudication Committee resolved on 20 January 2023 that the tender be awarded to the Purchaser for the amount of R2,600,000.00 (TWO MILLION SIX HUNDRED THOUSAND RAND) (VAT included) which was higher than the indicative value of R2,530,000.00 (TWO MILLION FIVE HUNDRED AND THRITY THOUSAND RAND) (VAT included) as indicated in the tender document.

The indicative value of the Property was determined by a professional valuer taking into consideration the current zoning of the Property (a rezoning had to be done), the development parameters as well as the restrictions imposed.

Subsequent to the award and subject to several suspensive conditions, a deed of sale was signed. This enabled the Purchaser to proceed with the necessary land use applications to accommodate the town housing development as stipulated in the tender document. This process is in an advanced phase.

Evaluation

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

The following conditions of the said Policy will apply:

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 section 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, when the in-principle approval was obtained, confirmed that the

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Property is not needed to provide the minimum level of basic municipal services.

Paragraph 9(1)(b): *“The Municipality may transfer ownership or otherwise dispose of 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 indicative value of the Property was R2,530,000.00 (TWO MILLION FIVE HUNDRED AND THIRTY THOUSAND RAND) (VAT included), which price was determined by a professional valuer taking into consideration the current zoning of the Property, the development parameters as well as the restrictions imposed. The Purchaser offered R2,600,000.00 (TWO MILLION SIX HUNDRED THOUSAND RAND) (VAT included), which is R70,000.00 (SEVENTY THOUSAND RAND) more than the indicative value of the Property.

Paragraph 9.1(c): *“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 has as a consequence to 9.1(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.”*

Council on 24 August 2021 approved in principle the alienation of the Property for a town housing development by means of a competitive process.

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 the costs of the transaction which will include, but is not limited to, the section 14 advertisement, transfer costs, relocation of services, registration of servitudes for services, connection of services and any other costs pertaining to the transaction and proposed development.

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,*

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all related costs shall be for the account of the successful bidder/purchaser.”

The Purchaser will be liable for the cost of relocating the municipal water pipeline located on the Property.

The Purchaser will further, simultaneous with the registration of the transfer, be liable for the cost to register a servitude against the title deed of the Property to accommodate the main electrical service lines.

Paragraph 31: “Where immovable property is alienated for development, a condition, taking into consideration the nature of the development, might be included in the Deed of Sale stipulating that such development must be completed within two years from date of registration. Likewise a condition may be included in the agreement to provide for forfeiture in the event that the development has not been completed within the required time period, unless a written extension has been granted by the Municipality.”

A condition to this effect was included in the Deed of Sale as it was a condition of the tender also.

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 was included in the Deed of Sale. The Property may only be used for development of town housing complex and related purposes, which can be applied for in terms of the Overstrand Zoning Scheme Regulations provided that the primary development is town housing, and no other usage will be allowed on the Property and/or any structure erected thereon.

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 was 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 was included in the Deed of Sale. Payment of the deposit will be requested once the transferring attorney is appointed.

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 was included in the Deed of Sale.

B: Advertisement / Notification:

An advertisement for the transfer of the Property, was published in Gansberg News on 18 August 2023 for a 30 (THIRTY) day objection/comment period. No objection/comments were received.

Conclusion

It is recommended that the transfer of Erf 1886 Franskraalstrand (1,5447 hectares in extent), to Starcrow 111 CC for the amount of R2,600,000.00 (TWO MILLION SIX HUNDRED THOUSAND RAND) (VAT included) for the purpose of a town housing development, be approved.

7. Financial Implications

The Municipality stands to gain an income of R2,600,000.00 (TWO MILLION SIX HUNDRED THOUSAND RAND) (VAT included) for the sale of the Property. In addition to this income, Council will further gain from rates and taxes to be levied on the Property.

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 1886 Franskraalstrand is currently reflected as Vacant Land in the fixed asset register for PPE: Land at a carrying value of R310'000 as at 30 June 2023. Once the proposed alienation of the ±1,5447 hectares has been concluded, it will have to be written out of the fixed asset register at the applicable selling price in order to account for the actual gain / (loss) on the disposal of a portion of an asset. There is no objection against the alienation."

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10. Annexures

Annexures A1 and A2: Locality Plans

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of Erf 1886 Franskraalstrand (1,5447 Hectare in extent), for the purpose of a town housing development to Starcrow 111 CC at an amount of R2,600,000.00 (TWO MILLION SIX HUNDRED THOUSAND RAND) (VAT included), **be approved**;
2. that the Purchaser be required to obtain the necessary Town Planning and associated approvals, at its own cost, to be able to develop the Property for town housing purposes;
3. that the water service pipeline located on the Property be relocated at the cost of the Purchaser;
4. that the Purchaser register a 5 (FIVE) metre service servitude, on both sides of the electrical service lines on the outer boundary of the Property in favour of the Municipality, against the title deed of the Property, at its own cost, simultaneously with the registration of the transfer. If not possible the Purchaser undertakes not to build anything within 5 (FIVE) metres from the centre of the electrical cable;
5. that all costs pertaining to the transaction, including but not limited to, the transfer cost, water, sewer and electricity connections, the section 14 advertisement, service relocation costs and servitude registration cost, but excluding the valuation cost, be paid by the Purchaser;
6. that a condition be registered in the title deed of the Property that it may only be used for the purpose of a town housing development;
7. that a condition be registered in the title deed of the Property that the Purchaser shall complete the development of the Property, in the form of a building or other acceptable structure, within a period of 2 (TWO) years, starting from the date of registration of transfer of the Property in the Deeds Office. Should it become apparent that the Purchaser shall not be able to complete the development within the aforementioned 2 (TWO) year period, the Purchaser shall be entitled to request an extension of the time period within which to complete the development; and

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8. that it is confirmed that Council has taken cognisance of the fact that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy (2015) and section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003.

RESPONSIBLE OFFICIAL :	W MURTZ
TARGET DATE FOR IMPLEMENTATION :	15 MARCH 2024
TARGET DATE TO INFORM APPLICANT :	29 MARCH 2024
TARGET DATE TO INFORM OBJECTOR :	N/A

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FRANSKRAALSTRAND), TO STARCROW 111 CC**

**A Le Roux
2 November 2023**

Manager: Property Administration

(028) 316 5623

**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE
PORTFOLIO COMMITTEE ON 7 FEBRUARY 2024, WHICH COMMITTEE
RECOMMENDED AS FOLLOWS:**

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2. that the Purchaser be required to obtain the necessary Town Planning and associated approvals, at its own cost, to be able to develop the Property for town housing purposes;
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4. that the Purchaser register a 5 (FIVE) metre service servitude, on both sides of the electrical service lines on the outer boundary of the Property in favour of the Municipality, against the title deed of the Property, at its own cost, simultaneously with the registration of the transfer. If not possible the Purchaser undertakes not to build anything within 5 (FIVE) metres from the centre of the electrical cable;
5. that all costs pertaining to the transaction, including but not limited to, the transfer cost, water, sewer and electricity connections, the section 14 advertisement, service relocation costs and servitude registration cost, but excluding the valuation cost, be paid by the Purchaser;
6. that a condition be registered in the title deed of the Property that it may only be used for the purpose of a town housing development;
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