

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
4 October 2023
(Also the agenda for the Mayoral Committee Meeting : 11 October 2023)**

7.

IN PRINCIPLE APPROVAL FOR THE ALIENATION OF UNREGISTERED ERF 6289 (A PORTION OF ERF 3374) GANSBAAI, 410M² IN EXTENT AND UNREGISTERED ERF 6290 (A PORTION OF ERF 3374) GANSBAAI, 567M² IN EXTENT, SITUATED IN HIGHWAY STREET, MASAKHANE, BY MEANS OF A COMPETITIVE PROCESS

**A Le Roux
1 August 2023**

Manager: Property Administration

(028) 316-5623

1. Executive Summary

To obtain in principle approval for the alienation of unregistered Erf 6289 (a portion of Erf 3374) Gansbaai, 410m² (FOUR HUNDRED AND TEN SQUARE METRES) in extent and unregistered Erf 6290 (a portion of Erf 3374) Gansbaai, 567m² (FIVE HUNDRED AND SIXTY-SEVEN SQUARE METRES) in extent (the "Properties"), by means of a competitive process at a market related price for church purposes.

The locality of the Properties is indicated on locality plans attached per "Annexure A" and "Annexure B".

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

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

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- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

Many applications were received for the purchase of property for church purposes. After an investigation was done, Erf 3374 Gansbaai, situated in Highway Street in Masakhane, was identified. Discussions were held with the various interested groups in the community, and it was decided to subdivide Erf 3374 Gansbaai into 3 (THREE) portions namely the 2 (TWO) portions for church purposes and the Remainder of Erf 3374 Gansbaai for a public park as there is already playpark equipment situated on the portion of the property.

The Properties are vacant and situated in Highway Street in Masakhane. Erf 3374 was recently subdivided to create Erf 6289 (a portion of Erf 3374 Gansbaai) which is 410m² (FOUR HUNDRED AND TEN SQUARE METRES) in extent and Erf 6290 (a portion of Erf 3374 Gansbaai) which is 567m² (FIVE HUNDRED AND SIXTY-SEVEN SQUARE METRES) in extent. The Remainder of Erf 3374 is 1,429m² (ONE THOUSAND FOUR HUNDRED AND TWENTY-NINE SQUARE METRES) in extent and will remain a public open space with a playpark. The Properties are zoned Community Zone 1: Community Facilities and includes a place of worship as a primary right. The Properties are not serviced but services are available in the vicinity of the Properties.

As there is a need for church properties and as these Properties are suited for church purposes, it is recommended that it be made available in the open market by means of a competitive process at a market related price.

Evaluation

- A. Evaluation in terms of the Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply to this report:

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.”*

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The comments received from the relevant officials confirmed that the 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 has, 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.”*

HCB Valuation and Services (Pty) Ltd determined the market related value of the Properties on 1 December 2022 at an amount of R180.00/m² (ONE HUNDRED AND EIGHTY RAND PER SQUARE METRE) (VAT excluded) which amounts to a total value of R73,800.00 (SEVENTY-THREE THOUSAND EIGHT HUNDRED RAND) (VAT excluded) for unregistered Erf 6289 (a portion of Erf 3374) Gansbaai and a total value of R102,060.00 (ONE HUNDRED AND TWO THOUSAND AND SIXTY RAND) (VAT excluded) for unregistered Erf 6290 (a portion of Erf 3374) Gansbaai.

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.”*

The purpose of this report is to request the in principle approval from Council for the sale of the Properties by means a competitive process.

Paragraph 15.1: *“The transfer of immovable property must, except in the case of non-viable immovable property, be affected by means of competitive process, which may include a public or closed tender, auction or proposal call.”*

It is recommended that the Properties be alienated 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.”*

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The successful bidders will be liable for all costs pertaining to the transaction, excluding the cost for the valuation of the Properties. Costs for the successful bidder will include, but is not limited to, a Section 14 advertisement, transfer costs, connection of services and any other costs pertaining to the transaction.

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.”

No services need to be relocated and no servitude needs to be registered.

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 clause to this effect will be included in any deed of sale to be entered into between the Municipality and the successful bidder.

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 clause to this effect will be included in any deed of sale to be entered into between the Municipality and the successful bidder.

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 clause to this effect will be included in the deed of sale to be entered into between the Municipality and the successful bidder.

B. Advertisement/Notification

The necessary advertisement in terms of Section 14 of the MFMA will be published after the tender is duly awarded. The successful bidder will be liable for the costs of the Section 14 advertisement.

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Conclusion

It is recommended that the Properties be alienated for church purposes by means of a competitive process, at not less than the market related value.

Furthermore, it is recommended that the successful bidders be liable for all costs, excluding the costs for the valuation of the Properties. Subsequent costs will entail the aforementioned Section 14 advertisement, transfer costs and connection of services.

7. Financial Implications

The Municipality stands to gain a market related purchase price to the minimum amount of R73,800.00 (SEVENTY-THREE THOUSAND EIGHT HUNDRED RAND) (VAT excluded) for Unregistered Erf 6289 (A portion of Erf 3374) Gansbaai and a total value of R102,060.00 (ONE HUNDRED AND TWO THOUSAND AND SIXTY RAND) (VAT excluded) for Unregistered Erf 6290 (A portion of Erf 3374) Gansbaai.

8. Staff Implications

None.

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets - Mr J Vorster

“Erf 3374 Gansbaai (situated in High Street in Masakhane) is currently reflected in the fixed asset register for IP: Land at a carrying value of R110’000-00 as at 30 June 2023. Once the proposed alienation has been concluded the erf will have to be proportionally written out of the fixed asset register at the applicable selling prices in order to account for actual gain / (loss) on the disposal of the asset.

There is no objection against the alienation.”

Manager: Engineering Services - Mr R Andrew

“If the application is approved:

- 1. The existing municipal services have to stay intact and can't be compromised. If any of the existing services need to be relocated, it will be done by the applicant's at his cost, and to the satisfaction of the Director: Infrastructure and Planning.*
- 2. The developer will only utilized the existing roads/accesses and no new additional roads/accesses will be created without the written approval of*

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the Senior Manager: Engineering Services.

3. *The developer may be the responsible for the payment of bulk contributions levies in line with the relevant policy and approved tariffs:*
4. *The developer will be responsible for the construction and provision of all municipal services to the proposed development including all connection fees and investigation levies for municipal services."*

Senior Manager: Operational Services - Mr J Solomons

"2.1 With regard to the application for the sale/alienation of unregistered Erf 6289 & 6290, Masakhane, the Department: Operational Services has no objections to the application, subject to the following conditions:

2.1.1 That Erf 6289 & Erf 6290 be provided with municipal water- and sewer connections as per detail and requirements stipulated..."

10. Annexures

- Annexure A: Locality Map 1
Annexure B: Locality Map 2

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of unregistered Erf 6289 (a portion of Erf 3374) Gansbaai, 410m² (FOUR HUNDRED AND TEN SQUARE METRES) in extent by means of a competitive process at a market related price for church purposes, **be approved in principle;**
2. that the alienation of unregistered Erf 6290 (a portion of Erf 3374) Gansbaai, 567m² (FIVE HUNDRED AND SIXTY-SEVEN SQUARE METRES) in extent by means of a competitive process at a market related price for church purposes, **be approved in principle;**
3. that all the costs pertaining to the transactions, for example the transfer costs, water, sewer and electricity connections and the section 14 advertisement, but excluding the valuation costs, be paid by the successful bidders/purchasers; and
4. that it is hereby confirmed by Council that the municipal properties herewith envisaged to be alienated are not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy approved by Council on 25 November 2015 and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

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RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	31 NOVEMBER 2023
TARGET DATE TO INFORM APPLICANT :	N/A
TARGET DATE TO INFORM OBJECTOR :	N/A

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8 November 2023
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7.

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**A Le Roux
1 August 2023**

Manager: Property Administration

(028) 316-5623

THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE PORTFOLIO COMMITTEE ON 8 NOVEMBER 2023, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of unregistered Erf 6289 (a portion of Erf 3374) Gansbaai, 410m² (FOUR HUNDRED AND TEN SQUARE METRES) in extent by means of a competitive process at a market related price for church purposes, **be approved in principle**;
2. that the alienation of unregistered Erf 6290 (a portion of Erf 3374) Gansbaai, 567m² (FIVE HUNDRED AND SIXTY-SEVEN SQUARE METRES) in extent by means of a competitive process at a market related price for church purposes, **be approved in principle**;
3. that all the costs pertaining to the transactions, for example the transfer costs, water, sewer and electricity connections and the section 14 advertisement, but excluding the valuation costs, be paid by the successful bidders/purchasers; and
4. that it is hereby confirmed by Council that the municipal properties herewith envisaged to be alienated are not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy approved by Council on 25 November 2015 and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

13 DECEMBER 2023

TARGET DATE TO INFORM APPLICANT :

N/A

TARGET DATE TO INFORM OBJECTOR :

N/A

