

**AGENDA of the  
Portfolio Committee : Investment, Infrastructure and Tourism  
8 November 2023  
(Also the agenda for the Mayoral Committee Meeting : 15 November 2023)**

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17.

**TRANSFER OF UNREGISTERED ERF 3560 (A PORTION OF ERF 1) HAWSTON (CLOSED ROAD RESERVE) ADJACENT TO ERF 412 HAWSTON, SITUATED IN GEORGE VILJOEN STREET, HAWSTON, TO HAWSTON SERVICE STATION (PTY) LTD**

**A Le Roux  
9 October 2023**

**Manager: Property Administration**

**(028) 316 5623**

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**1. Executive Summary**

To obtain final approval for the transfer of unregistered Erf 3560 (a portion of Erf 1) Hawston (372m<sup>2</sup> in extent) adjacent to Erf 412 Hawston, situated in George Viljoen Street, Hawston (hereinafter referred to as “the Property”), to the owner of Erf 412 Hawston, being Hawston Service Station (Pty) Ltd (hereinafter referred to as “the Applicant”. The locality maps are attached hereto as “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  
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)

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

**Background/Discussion**

Council on 21 February 2022 approved the following:

- “1. *that the direct alienation of a portion of Remainder Erf 1 Hawston (adjacent to Erf 412 Hawston) situated in George Viljoen Street, Hawston, ±370m<sup>2</sup> in extent, to the owner of the adjoining Erf 412 Hawston, Hawston Service Station (Pty) Ltd, at an amount of R170.00/m<sup>2</sup> (ONE HUNDRED AND SEVENTY 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 Remainder Erf 1 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 Remainder Erf 1 Hawston must be consolidated with the adjoining property of Hawston Service Station (Pty) Ltd, being Erf 412 Hawston;*
5. *that no structures of any kind may be erected on the said portion of Remainder Erf 1 Hawston, which condition must be registered against the title deed of the consolidated property;*
6. *that the alienation of said portion of Remainder Erf 1 Hawston be subject to a suspensive condition that the Applicant obtains approval for the closure of portion of public road, subdivision, consolidation and rezoning;*
7. *that all the costs pertaining to the transaction, e.g. application fee, valuation costs subdivision and consolidation, closure of portion of public road, rezoning, transfer and related costs, advertisements, etc. be paid by the Applicant, Hawston Service Station (Pty) Ltd; 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).”*

The public participation was followed as discussed in more detail below.

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The required Town Planning processes have been completed and all necessary approvals have been granted. With the subdivision of Remainder Erf 1 Hawston, the portion being alienated, was allocated its own erf number, namely, Erf 3560 (a portion of Erf 1) Hawston, 372m<sup>2</sup> in extent. See the approved SG Diagram attached hereto as “Annexure B”.

**Evaluation**

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

The following conditions of the said Policy will apply:

**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 Property can be classified as a non-viable immovable property due to the location, shape, size and proposed use thereof. The Property is part of a road reserve, which is not of useful purpose to anyone else than the owner of the adjoining property after consolidation. The Property can thus not be developed on its own and there is a further restriction that no structures may be erected on the Property.

**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 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**

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***and the economic and community value to be received in exchange for the immovable property in accordance with section 14(2) of the MFMA.”***

Boland Valuers determined the fair market value on 3 December 2021 at an amount of R170.00/m<sup>2</sup> (ONE HUNDRED AND SEVENTY RAND PER SQUARE METRE) (VAT excluded). The valuation was done taking into consideration the size, shape, locality, zoning and proposed use (restriction) of the Property. The purchase amount will thus be an amount of R63,240.00 (SIXTY-THREE THOUSAND TWO HUNDRED AND FORTY RAND) (VAT excluded).

**Paragraph 9.2: “The Municipality may transfer ownership or otherwise dispose of a non-viable immovable property, as nonexempted 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 indicated that the Property is not needed for the provision of municipal services.
  - (b) Boland Valuers determined the fair market value on 3 December 2021 at an amount of R170.00/m<sup>2</sup> (ONE HUNDRED AND SEVENTY RAND PER SQUARE METRE) (VAT excluded). The valuation was done taking into consideration the size, shape, locality, zoning and proposed use (restriction) of the Property. As the exact size of the Property is now determined at 372m<sup>2</sup> the purchase amount will be R63,240.00 (SIXTY-THREE THOUSAND TWO HUNDRED AND FORTY RAND) (VAT excluded).

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- (c) The reasons for the preferred direct sale are discussed above and was recorded in the minutes of the in-principle approval granted by Council on 21 February 2022, which is attached hereto marked as “Annexure C”.

**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 will be liable for the costs of the transaction which will include, but not limited to, the application fee, valuation, closure of portion of public road, subdivision, consolidation, rezoning, 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 shall be liable for all cost in this regard should it become necessary. The comments received indicate that it will not be necessary to register a servitude or move services.

**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 was 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 was 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.”**

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A condition to this effect was included in the Deed of Sale. The necessary approvals were obtained.

**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 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 The Village News on 25 November 2022 for a 30 (THIRTY) day objection/comment period. No objection/comments were received.

**Conclusion**

It is recommended that the transfer of Erf 3560 (a portion of Erf 1) Hawston (372m<sup>2</sup> in extent), to Hawston Service Station (Pty) Ltd at a market related amount of R63,240.00 (SIXTY-THREE THOUSAND TWO HUNDRED AND FORTY RAND) (VAT excluded) for the purpose of additional parking and a driveway, be approved.

**7. Financial Implications**

The Municipality stands to gain an income of R63,240.00 (SIXTY-THREE THOUSAND TWO HUNDRED AND FORTY RAND) (VAT excluded) for the sale of the Property.

**8. Staff Implications**

None

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

**Senior Manager: Expenditure and Assets - Mr J Vorster**

*“The full extent of Erf 1 Hawston is currently reflected as Commonage in the fixed asset register for PPE: Land at a carrying value of R2’806’140-30 as at 30 June 2023. Once the proposed transfer of the ±372m<sup>2</sup> portion 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.*

**10. Annexures**

Annexure A1 and A2:	Locality Plan
Annexure B:	SG Diagram
Annexure C:	21 February 2022 Council in principle approval

**RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of unregistered Erf 3560 (a portion of Erf 1) Hawston (adjacent to Erf 412 Hawston) situated in George Viljoen Street, Hawston, 372m<sup>2</sup> in extent, to the owner of the adjoining Erf 412 Hawston, Hawston Service Station (Pty) Ltd, at an amount of R63,240.00 (SIXTY-THREE THOUSAND TWO HUNDRED AND FORTY RAND) (VAT excluded) for the purpose of additional parking and a driveway, **be approved**;
2. that Council take cognisance of the fact that the direct alienation and subsequent transfer is only approved as unregistered Erf 3560 (a portion of Erf 1) Hawston is classified as a non-viable property;
3. that it be noted that a condition of the alienation will be that unregistered Erf 3560 (a portion of Erf 1) Hawston must be consolidated with the adjoining property of Hawston Service Station (Pty) Ltd, being Erf 412 Hawston;
4. that a condition be registered against the title deed of the to be consolidated property that no structures of any kind may be erected on the portion of property envisaged to be transferred;
5. that all costs pertaining to the transaction, e.g. application fee, valuation cost subdivision and consolidation, closure of portion of public road, rezoning, transfer and related costs, advertisements, etc. be paid by the applicant/purchaser; and

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6. that it be noted that the municipal property herewith envisaged to be transferred 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>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>15 DECEMBER 2023</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>29 DECEMBER 2023</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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17.

**TRANSFER OF UNREGISTERED ERF 3560 (A PORTION OF ERF 1) HAWSTON (CLOSED ROAD RESERVE) ADJACENT TO ERF 412 HAWSTON, SITUATED IN GEORGE VILJOEN STREET, HAWSTON, TO HAWSTON SERVICE STATION (PTY) LTD**

**A Le Roux  
9 October 2023**

**Manager: Property Administration**

**(028) 316 5623**

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**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 transfer of unregistered Erf 3560 (a portion of Erf 1) Hawston (adjacent to Erf 412 Hawston) situated in George Viljoen Street, Hawston, 372m<sup>2</sup> in extent, to the owner of the adjoining Erf 412 Hawston, Hawston Service Station (Pty) Ltd, at an amount of R63,240.00 (SIXTY-THREE THOUSAND TWO HUNDRED AND FORTY RAND) (VAT excluded) for the purpose of additional parking and a driveway, **be approved**;
2. that Council take cognisance of the fact that the direct alienation and subsequent transfer is only approved as unregistered Erf 3560 (a portion of Erf 1) Hawston is classified as a non-viable property;
3. that it be noted that a condition of the alienation will be that unregistered Erf 3560 (a portion of Erf 1) Hawston must be consolidated with the adjoining property of Hawston Service Station (Pty) Ltd, being Erf 412 Hawston;
4. that a condition be registered against the title deed of the to be consolidated property that no structures of any kind may be erected on the portion of property envisaged to be transferred;
5. that all costs pertaining to the transaction, e.g. application fee, valuation cost subdivision and consolidation, closure of portion of public road, rezoning, transfer and related costs, advertisements, etc. be paid by the applicant/purchaser; and
6. that it be noted that the municipal property herewith envisaged to be transferred 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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<b>RESPONSIBLE OFFICIAL :</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>15 DECEMBER 2023</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>29 DECEMBER 2023</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>





CERTIFIED COPY FOR REGISTRATION  
FOR SURVEYOR-GENERAL  
DATE: 01 AUG 2023

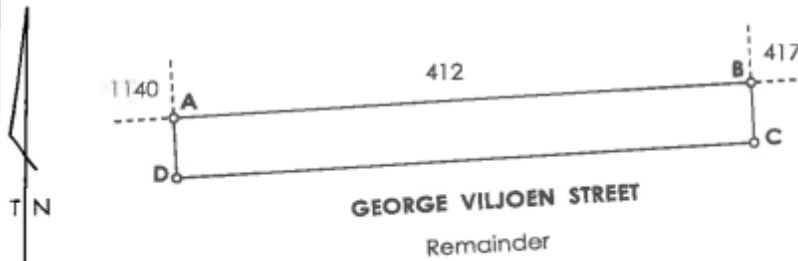
SIDES Metres	ANGLES OF DIRECTION	CO-ORDINATES Y System: WG19° X		S.G. No.  1230/2023
		Constants:	± 0,00	
AB 59,94	266 21 40	A	-12 060,42	+3 806 484,38
BC 6,20	356 21 40	B	-12 120,24	+3 806 480,58
CD 59,94	86 21 40	C	-12 120,63	+3 806 486,77
DA 6,20	176 21 40	D	-12 060,81	+3 806 490,57
	3AC13 ⊕		-12 019,41	+3 806 504,23
	5AC13 ⊕		-12 160,74	+3 806 495,51

Approved  
*[Signature]*  
for  
SURVEYOR-  
GENERAL  
31-07-2023

Description of Beacons

A - wall corner  
B - not beacons  
C,D - 12mm iron peg

Included in consol  
vide Dgrr. 1231/2023  
Erf 3561



Scale 1:600

The figure **A B C D**  
represents 372 square metres of land being  
**ERF 3560 (A PORTION OF ERF 1) HAWSTON**

Situate in Overstrand Municipality  
Administrative District of Caledon  
Province of Western Cape  
Surveyed in June 2023 by me

*[Signature]*

**NA Clark**  
Professional Land Surveyor  
Registration Number PLS1072

EXEMPT FROM PROVISIONS OF ACT  
70 OF 1970  
SECTION 1(a)

Approved i.t.o. Section 61  
of Municipal Land Use Planning Bylaw  
Ref. Case ID: 4268/2022  
Date: 02/05/2023

This diagram is annexed to	The original diagram is	File : S/7257 v.5
No.	S.G. No. 3917/1949	S.R. : 844/2023
d.d. :	Transfer	G.P. :
i.f.o.	Grant : 224/1950	Comp. AI-3CB/V13(434)
Registrar of Deeds		LPI C0130012

FOR DEPOSIT ONLY  
SEE BACK OF DIAGRAM

Erf 3560 Hawston

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**MINUTES : ORDINARY COUNCIL MEETING****21 FEBRUARY 2022****5.3**

**IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF REMAINDER ERF 1 HAWSTON (ROAD RESERVE) ADJACENT TO ERF 412 HAWSTON SITUATED IN GEORGE VILJOEN STREET, HAWSTON, TO HAWSTON SERVICE STATION (PTY) LTD**

**(ITEM 6 PAGE 473 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 21 FEBRUARY 2022)**

**RESOLVED (SUPPORTED BY 24 COUNCILLORS):**

1. that the direct alienation of a portion of Remainder Erf 1 Hawston (adjacent to Erf 412 Hawston) situated in George Viljoen Street, Hawston, ±370m<sup>2</sup> in extent, to the owner of the adjoining Erf 412 Hawston, Hawston Service Station (Pty) Ltd, at an amount of R170.00/m<sup>2</sup> (ONE HUNDRED AND SEVENTY 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 Remainder Erf 1 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 Remainder Erf 1 Hawston must be consolidated with the adjoining property of Hawston Service Station (Pty) Ltd, being Erf 412 Hawston;
5. that no structures of any kind may be erected on the said portion of Remainder Erf 1 Hawston, which condition must be registered against the title deed of the consolidated property;
6. that the alienation of said portion of Remainder Erf 1 Hawston be subject to a suspensive condition that the Applicant obtains approval for the closure of portion of public road, subdivision, consolidation and rezoning;
7. that all the costs pertaining to the transaction, e.g. application fee, valuation costs subdivision and consolidation, closure of portion of public road, rezoning, transfer and related costs, advertisements, etc. be paid by the Applicant, Hawston Service Station (Pty) Ltd; 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).

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**MINUTES : ORDINARY COUNCIL MEETING****21 FEBRUARY 2022****RESPONSIBLE OFFICIAL:****W MURTZ****TARGET DATE FOR IMPLEMENTATION:****26 MARCH 2022****TARGET DATE TO INFORM APPLICANT:****12 MARCH 2022****TARGET DATE TO INFORM OBJECTOR:****N/A**