

**AGENDA of the
Portfolio Committee : Planning & Development
7 August 2024
(Also the agenda for the Mayoral Committee Meeting : 14 August 2024)**

**6.
IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 40 ZWELIHLE
SITUATED ON THE CORNER OF LUSIBA STREET AND PONOANI STREET,
ZWELIHLE BY MEANS OF A COMPETITIVE PROCESS**

**A Le Roux
10 July 2024**

Divisional Manager: Property Management

(028) 316 - 5623

1. Executive Summary

To obtain in principle approval for the alienation of Erf 40 Zwelihle (1,272m² in extent) is situated on the corner of Lusiba Street and Ponoani Street, Zwelihle, for Community purposes. See the locality maps attached hereto marked Annexures "A1" and "A2".

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, as amended
- 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

Erf 40 Zwelihle (1,272m² in extent) is situated on the corner of Lusiba Street and Ponoani Street, Zwelihle, hereinafter referred to as “the Property”. It is zoned Community Zone 1: Community Facilities with the following primary uses: clinic, crèche, day care centre, multi-purpose centre, place of assembly, place of instruction and place of worship. The Property is, due to its location and as it is opposite the Pre-primary School, ideally suited to be used and developed as an Early Childhood Development Centre. However, Council will have to decide whether the use should be limited to this specific use, or whether it should be available for churches to bid on also.

Up and until March 2018 a portion of the Property was leased to the South African Police Services, but the lease was cancelled when the building was burnt down during the riots of 23 – 27 March 2018. The other portion of the Property was used by the then Zwelihle Community Development Trust (“Resources Centre”), with no formal agreement being in place.

Currently there are no buildings on the Property as the SAPS building was destroyed in riots and the old Resources Centre was demolished as it was not being used anymore and was not safe for occupation anymore (see Google map photo attached marked Annexure B). There are thus no formal activities on the Property.

There are existing water, sewer, and electricity connections available on the Property. Any required upgrades to the existing services will be for the account of the successful bidder/purchaser.

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 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 Property is 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 Property Valuations determined the market related value of the Property on 1 March 2024 at an amount of R320,000.00 (THREE HUNDRED AND TWENTY THOUSAND RAND) (VAT excluded).

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 a consequence to 9.1(a) and (b) above approved n 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 in principle approval from Council for the alienation of the Property by means of 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 Property 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.”

The successful bidder will be liable for all costs pertaining to the transaction, excluding the cost for the valuation of the Property. 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 and proposed development.

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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 successful bidder shall be liable for all cost in this regard should it be necessary.

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 the deed of sale to be entered into between the Municipality and the successful bidder/purchaser.

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 the deed of sale to be entered into between the Municipality and the successful bidder/purchaser.

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/purchaser.

B: Advertisement/Notification:

The necessary advertisement in terms of Section 14 of the MFMA will be published after the tender is duly authorized. The successful bidder/purchaser will be liable for the cost of the Section 14 advertisement.

Conclusion

It is recommended that the Property be alienated to be developed for community purposes as per the approved zoning by means of a competitive process, at not less than the market related value. However, Council will have

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to give guidance as to whether it should be limited to the use as an Early Childhood Development (ECD) and related community facility purposes.

Furthermore, it is recommended that the successful bidder/purchaser be liable for all costs, excluding the cost for the valuation of the Property.

7. Financial Implications

The Municipality stands to gain a market related purchase price for the Property.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Divisional Manager: Expenditure, Fleet & Asset Management - Mr J Vorster – (028) 313 8046

“Erf 40 Zwelihle (1,272m² in extent) is reflected in the Fixed Asset Register for PPE Land at a carrying value of R6’000-00 (SIX THOUSAND RAND) (VAT included) as on 30 June 2024. There are also improvements on the Erf, reflected in the Fixed Asset register for Community Buildings at a carrying value of R637’188-02 (excluding the provision for impairment due to vandalism) as at 30 June 2023. The eventual disposal of Erf 40 Zwelihle, will have to be accounted for as a disposal in order to remove it from the Fixed Asset Registers for both PPE Land and Community Asset in order to account for the gain/(loss).”

Divisional Manager: Building Control - Mr L Coetzee – (028) 313 8091

“A building plan application is required for any proposed alterations and/or additions to the existing structures, or for any proposed new structures.”

Senior Engineer: Waste Management – Mr C Mitchell – (028) 313 5045

“No objection from Solid Waste Planning.”

Assistant Chief: Fire, Health and Safety – Mr E Solomons – (028) 313 8979

“The Fire Department has no objection subjection to compliance with the provisions of SANS 10400 A:2016, 10400-T:2020 and the By-Law relating fire safety.”

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Principal Technologist Civil – Mr T Marx – (028) 313 8092

“The Department: Operational Services, Hermanus, do not have any objection with regards to this application.”

Principal Technologist: Development Control - Mr R Andrew (028) 313 5073

“The developer will be responsible for all link and bulk services. He/she may be responsible for the payment of bulk services levies.”

Environmental Officer – Ms H Fortune – (028) 316 5614

“Our office has no objection to this application.”

Senior Superintendent: Traffic Operations - Mr P de Gruchy – (028) 313 0999

“The traffic department has no objection towards this application.”

Town Planner – Mr H Boshoff – (028) 313 8102

“In terms of the 2020 GIS of the municipality, the Property is zoned as Community Zone 1: Community Facilities. There is no objection to the alienation of the Property, subject thereto that the future owner/s comply with the relevant requirements as set out in the Overstrand Land Use Scheme and any other applicable legislation.”

10. Annexures

Annexures A1 and A2: Locality maps
Annexure B: Google map photo

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Erf 40 Zwelihle (1,272m² in extent) for community purposes as per the zoning Community Zone 1: Community Facilities by means of a competitive process at no less than the fair market value, **be approved in principle**;
2. that all pertaining to the transaction, including, but not limited to, the transfer costs, water, sewer and electricity connections, the section 14 advertisement, but excluding the valuation costs, where applicable, be paid by the successful bidder/purchaser;

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3. that a condition be registered against the title deed of the Property that it may only be used and developed for community purposes in line with the zoning for Community Zone 1: Community Facilities; and
4. that it is hereby confirmed by Council 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 approved by Council on 25 November 2015 and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

RESPONSIBLE OFFICIAL:

W MURTZ

TARGET DATE FOR IMPLEMENTATION:

6 SEPTEMBER 2024

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**A Le Roux
10 July 2024**

Divisional Manager: Property Management

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**THIS MATTER SERVED BEFORE THE PLANNING & DEVELOPMENT PORTFOLIO
COMMITTEE ON 7 AUGUST 2024, WHICH COMMITTEE RECOMMENDED AS
FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Erf 40 Zwelihle (1,272m² in extent) for community purposes as per the zoning Community Zone 1: Community Facilities by means of a competitive process at no less than the fair market value, **be approved in principle**;
2. that all pertaining to the transaction, including, but not limited to, the transfer costs, water, sewer and electricity connections, the section 14 advertisement, but excluding the valuation costs, where applicable, be paid by the successful bidder/purchaser;
3. that a condition be registered against the title deed of the Property that it may only be used and developed for community purposes in line with the zoning for Community Zone 1: Community Facilities;
4. that it is hereby confirmed by Council 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 approved by Council on 25 November 2015 and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003); and
5. that the in-principle approval be subject to a pre-public participation being followed to inform the public of Council's intention to alienate Erf 40 Zwelihle.

RESPONSIBLE OFFICIAL:

W MURTZ

TARGET DATE FOR IMPLEMENTATION:

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