



**ORDINARY MEETING OF THE MAYORAL  
COMMITTEE**

**GEWONE VERGADERING VAN DIE  
BURGEMEESTERSKOMITEE**

**INTLANGANISO YESIQHELO YEKOMITI  
KASODOLOPHU**

**A G E N D A**

**I-AJENDA**

**DATE / DATUM / UMHLA : 27 MAY / MEI / MEYI 2020**  
**VENUE / PLEK / INDAWO : VIRTUAL**  
**TIME / TYD / IXESHA : 10:00**

## **MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND**

Office of the Municipal  
Manager  
Municipal Offices  
HERMANUS

**22 May 2020**

### **NOTICE TO ALL ALDERMEN AND COUNCILLORS**

**NOTICE IS HEREBY GIVEN** that, due to the Covid-19 lockdown, an **ORDINARY MEETING** of the **MAYORAL COMMITTEE** will be held by means of a virtual platform on **WEDNESDAY, 27 MAY 2020 at 10:00** of which the agenda will be available on the Overstrand Website ([www.overstrand.gov.za](http://www.overstrand.gov.za)).

**C GROENEWALD  
MUNICIPAL MANAGER**

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**22 Mei 2020**

### **KENNISGEWING AAN ALLE RAADSHERE EN RAADSLEDE**

**KENNIS WORD HIERMEE GEGEE** dat, weens die Covid-19 inperking, 'n **GEWONE VERGADERING** van die **BURGEMEESTERSKOMITEE** gehou sal word by wyse van 'n virtuele platform op **WOENSDAG, 27 MEI 2020 om 10:00** welke agenda op die Overstrand Webtuiste beskikbaar sal wees ([www.overstrand.gov.za](http://www.overstrand.gov.za)).

**C GROENEWALD  
MUNISIPALE BESTUURDER**

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**22 Mei 2020**

### **ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA**

### **INTLANGANISO YESIQHELO YEKOMITI KASODOLOPHU WE-OVERSTRAND**

**OKU KUKWAZISA** ukuba, ngenxa yokuvalwa okubangelwe yintsolongwane i-Covid-19, intlanganiso **YESIQHELO yeKOMITI KASODOLOPHU**, izakubanjwa ngeqonga elibonakalisayo **NGOLWESITHATHU UMHLA, 27 MEYI 2020 ngeye-10:00** Apho i-ajenda iya kufumaneka kwiwebhusayithi ye-Overstrand.

**C GROENEWALD  
UMPHATHI KAMASIPALA**

**AGENDA/...**

# ORDINARY MAYORAL COMMITTEE MEETING

27 May 2020

## INDEX

PAGE  
NUMBER

1.	Opening	
2.	Applications for Leave of Absence	
3.	Confirmation of Minutes	
4.	Statements and Communications brought forward by the Executive Mayor / Deputy Executive Mayor	
5.	IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 2423 BETTY'S BAY ADJACENT TO ERF 2674 BETTY'S BAY (199 PORTER DRIVE, BETTY'S BAY) TO AFRICA PRO CURE CC	1
6.	HERMANUS: IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 7373 HERMANUS (SITUATED AT 84 ANGELIER STREET, MOUNT PLEASANT) BY MEANS OF A COMPETITIVE PROCESS	9
7.	ERF 2820 SANDBAAI (SITUATED IN JIMMY SMITH STREET): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO THE SANDBAAI HALL MANAGEMENT COMMITTEE	17
8.	A PORTION OF ERF 1772 PRINGLE BAY (SITUATED AT 3 BUFFELS ROAD, PRINGLE BAY): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO PRINGLE BAY RATEPAYERS ASSOCIATION	23
9.	TRANSFER: OVERSTRAND MUNICIPALITY TO AMANDA LIFABA: ERF 440, ZWELIHLE	29
10.	TRANSFER: OVERSTRAND MUNICIPALITY TO MR JONATHAN MORNE STOFFELS: ERF 641, HAWSTON	51
11.	FERNKLOOF NATURE RESERVE PROTECTED AREA MANAGEMENT PLAN: 2020-2025	57
12.	OVERSTRAND: AMENDMENT OF THE OVERSTRAND MUNICIPALITY BY-LAW ON MUNICIPAL LAND USE PLANNING, ADOPTION OF THE OVERSTRAND MUNICIPALITY LAND USE SCHEME AND OVERLAY ZONES AND INCORPORATION INTO THE SAID BY-LAW	247
13.	NATIONAL BUILDING REGULATIONS AND BUILDING STANDARDS ACT NO. 103 OF 1977: APPOINTMENT OF A BUILDING CONTROL OFFICER	623
14.	FRAUD AND RISK MANAGEMENT COMMITTEE TERMS OF REFERENCE	627
15.	RISK MANAGEMENT STRATEGY AND POLICY	638

16.	REMUNERATION OF PUBLIC OFFICE BEARERS ACT, 1998 (ACT 20 OF 1998): DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS	688
17.	BUDGET REPORT FOR THE QUARTER ENDED MARCH 2020	717
18.	MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM) POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR MARCH 2020	771
19.	MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM) POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR APRIL 2020	777
20.	SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT – 2019/2020 : 3 <sup>rd</sup> QUARTER: 01 JANUARY 2020 – 31 MARCH 2020	782
21.	QUARTERLY BANK ACCOUNT WITHDRAWALS IN TERMS OF SECTION 11(4) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO 56 OF 2003 FOR THE QUARTER ENDED MARCH 2020	796
22.	EXTENSION OF VALIDITY PERIOD: MUNICIPAL VALUATION ROLL	799
23.	WRITING OFF OF IRRECOVERABLE DEBT	802
24.	FINAL INTEGRATED DEVELOPMENT PLAN (IDP) REVIEW AND AMENDMENT FOR 2020/21	806
25.	INTEGRATED WASTE MANAGEMENT PLAN FOR 2020/21	823
26.	ADOPTION OF OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK: OVERSTRAND MUNICIPALITY	838
27.	REVISION OF ALL BUDGET RELATED POLICIES OF THE OVERSTRAND MUNICIPALITY	944
28.	FINAL BUDGET FOR OVERSTRAND MUNICIPALITY : 2020/2021 MTREF	1110
29.	COVID-19 RELIEF: <ul style="list-style-type: none"><li>• TEMPORARY AUTO CLASSIFICATION STATUS ADJUSTMENT FOR HOLIDAY ACCOMMODATION ESTABLISHMENTS - APPLICATION OF RESIDENTIAL RATES TARIFF</li><li>• EXTENDED PAYMENT ARRANGEMENTS</li><li>• LEASED PROPERTIES RENTAL EXEMPTION</li></ul>	1176
30.	SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) THIRD QUARTERLY REPORT: JANUARY- MARCH 2020	1181

1. **OPENING**
  
2. **APPLICATIONS FOR LEAVE OF ABSENCE**
  
3. **CONFIRMATION OF MINUTES**
  - 3.1 Minutes of an **Ordinary Meeting** of the **Mayoral Committee** held on **Wednesday, 25 March 2020 at 10:00**
  
4. **STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE EXECUTIVE MAYOR / DEPUTY EXECUTIVE MAYOR**

5.

**IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 2423 BETTY'S BAY ADJACENT TO ERF 2674 BETTY'S BAY (199 PORTER DRIVE, BETTY'S BAY) TO AFRICA PRO CURE CC**

7/2/3/2

A Le Roux

16 March 2020

Manager : Property Administration

(028) 316 - 3724

**1. Executive Summary**

To obtain approval in principle for the direct alienation of a portion of Erf 2423 ( $\pm 53\text{m}^2$  in extent) Betty's Bay, adjacent to Erf 2674 Betty's Bay, situated at 199 Porter Drive, Betty's Bay, to the owner of Erf 2674 Betty's Bay, being Africa Pro Cure CC for parking purposes. See the locality plan attached hereto marked Annexure "A".

**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, as amended

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

An application was received from Mr J Kleinhans on behalf of Africa Pro Cure CC, hereafter referred to as "the applicant", to purchase a portion of Erf 2423 Betty's Bay ( $\pm 53\text{m}^2$  in extent) adjacent to Erf 2674 Betty's Bay for parking purposes.

The subject property applied for is zoned as Road which will have to be closed as a public road, subdivided, rezoned and consolidated with the applicants property should the approval be obtained. The property is not yet registered in the name of the Overstrand Municipality, but vests in the Overstrand Municipality in terms of Section 37 of the Western Cape Land Use Planning Act 3 of 2014 as it represents public road.

The applicant is the current owner of Erf 2674 Betty's Bay. According to the applicant the above mentioned municipal property has been used for the past 21 years by the previous owners of Erf 2674 Betty's Bay for parking purposes for the Camelot Restaurant situated on Erf 2674 Betty's Bay. The applicant purchased Erf 2674 Betty's Bay and upgraded the property. To comply with the latest Town Planning scheme, a site development plan was submitted. It was during this time that it came to applicant's attention that the parking bays of the Camelot Restaurant were in fact encroaching onto municipal property, being a portion of Erf 2423 Betty's Bay. Therefore the applicant hopes to consolidate the above mentioned municipal property, if approved, with their own to legalize the parking bays and to comply with the Town Planning scheme. The size of the portion of municipal property in question is  $\pm 53\text{m}^2$  in extent.

As the portion of property is located next to the road, has an odd shape that cannot be developed independently and is a very small portion and further taking the intended use into consideration the portion of property can be classified as a non-viable property. Non-viable property can in terms of the current Administration of Immovable Property Policy be alienated directly to adjoining property owner, subject to certain conditions.

One of the conditions to the alienation will be that no structures of any kind (excluding a boundary wall or fence) may be erected thereon.

#### Subsequent costs

The Applicant will be liable for the costs of the transaction which includes, but not limited to, the application fee, valuation cost, closure of a portion of public road, subdivision and consolidation, rezoning of the property, the required Section 14 advertisement in terms of the MFMA and Administration of Immovable Property Policy and transfer costs, the latter to include the transfer of Erf 2423 Betty's Bay to the Municipality as discussed above.

#### **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.”

As the portion of property is located next to the road, has an odd shape that cannot be developed independently and is a very small portion and further taking the intended use into consideration the portion of property can be classified as a non-viable property.

**Paragraph 9.2: “The Municipality may transfer ownership or otherwise dispose of a non-viable immovable property, as non-exempted 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 indicate that the subject portion of municipal property is not needed for the provision of municipal services.
- (b) Boland Valuers determined the market related value in February 2020 at an amount of R150.00/m<sup>2</sup> (ONE HUNDRED AND FIFTY RAND PER SQUARE METRE) (VAT excluded). The valuation was done taking into consideration the size, shape, locality, zoning, proposed use of the property and the restrictions that will be registered against the property.
- (d) The reasons for preferred direct sale are discussed above and will subsequently be recorded in the minutes.



***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/purchaser will be liable for the costs of the transaction which will include, but not limited to, the the application fee, valuation cost, closure of a portion of public road, subdivision and consolidation, rezoning of the property, the required Section 14 advertisement in terms of the MFMA and Administration of Immovable Property Policy and transfer costs (the latter including the transfer of Erf 2423 Betty’s Bay to the Overstrand Municipality).

***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/purchaser shall be liable for all cost in this regard should it be necessary.

***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 will be 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 will be 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.”***

A condition to this effect will be 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.”***

A condition to this effect will be included in the Deed of Sale.

***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 will be included in the Deed of Sale.

**B: Advertisement/Notification**

The necessary advertisement in terms of Section 14 of the MFMA will be published after obtaining this in principle decision. The applicant will be liable for the costs of the Section 14 advertisement.

**Conclusion**

Taking the comments of the internal departments, as well as the above discussion into consideration, it is recommended that the direct alienation of a portion of Erf 2423 Betty's Bay, ±53m<sup>2</sup> in extent, adjacent to Erf 2674 Betty's Bay, to the owner of Erf 2674 Betty's Bay, being Africa Pro Cure CC, be approved in principle.

Furthermore the applicant/purchaser will be liable for all cost involved to affect transfer of the property in the deeds office. Subsequently the costs will entail the application fee, valuation costs, closure of a portion of public road, subdivision and consolidation, rezoning, Section 14 advertisement and the transfer costs (the latter including the transfer of Erf 2423 Betty's Bay to the Overstrand Municipality).

**7. Financial Implications**

The Municipality stands to gain a market related purchase price of R150.00/m<sup>2</sup> (ONE HUNDRED AND FIFTY RAND) (PER SQUARE METRE) (VAT excluded).

**8. Staff Implications**

None

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

**Manager: Operational Services Kleinmond: Mr D van Rhodie – (028) 271 8431**

*"Operational Services Kleinmond has no objection to the application."*

**Manager: Engineering Services: Mr R Andrew – (028) 313 5073**

*“The Engineering Services Department has no objection to the proposed purchase.”*

**Senior Town Planner: Ms H van der Stoep – (028) 313 8900**

*“There is no objection in this regard, since it has been used as such for many years. It is zoned Road and an application for rezoning, consolidation and road closure will be applicable. This will enable the applicant to legalize an existing situation.”*

**Senior Manager: Kleinmond Administration: Mr D Lakey – (028) 271 8413**

*“I support the application, provided that it will have no impact on municipal service.”*

Comments from Property Administration Department: The relevant Manager of Operational Services has indicated that he supports the application and has not indicated that any services will be affected.

**Manager: Building Services: Mr L Coetzee – (028) 313 8091**

*“Supported”*

**Senior Superintendent: Operations: Traffic Department: Mr X Titus – (028) 316 8255**

*“We have no objection toward the application as this will not have any impact on traffic flow or any safety measures. Guidelines w.r.t. the entrance to and from this proposed area needs to be strictly adhered to, based on final approval. The application recommendation is also based solely on the intended use as mentioned.”*

**Senior Manager: Expenditure and Assets: Mr J Vorster - (028) 313 8046**

*“As Erf 2423 Betty’s Bay is not yet registered in the name of the Overstrand Municipality, but vests in the Overstrand Municipality in terms of Section 37 of the Western Cape Land Use Planning Act 3 of 2014, it is not recorded in the fixed asset register of the Overstrand Municipality yet. This partial alienation of Erf 2423 Betty’s Bay will have to be taken into account when ownership is eventually transferred and recorded in the fixed asset register.*

*There is no objection as the application complies with the Administration of Immovable Property Policy.”*

**10. Annexures**

Annexure A: Locality Map

**RECOMMENDATION TO THE COUNCIL:**

1. that the direct alienation of a portion of Erf 2423 Betty's Bay (adjacent to Erf 2674 Betty's Bay),  $\pm 53\text{m}^2$  in extent, to the owner of the adjoining Erf 2674 Betty's Bay, Africa Pro Cure CC, at an amount of R150.00/m<sup>2</sup> (ONE HUNDRED AND FIFTY 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 2423 Betty's Bay 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/purchaser;
4. that it be noted that a condition for the alienation will be that the said portion of Erf 2423 Betty's Bay must be consolidated with the adjoining property of Africa Pro Cure CC, being Erf 2674 Betty's Bay;
5. that no structures of any kind (excluding a boundary wall or fence) may be erected on the said portion of Erf 2423 Betty's Bay, which condition must be registered against the title deed of the consolidated property;
6. that the alienation of said portion of Erf 2423 Betty's Bay be subject to obtaining the necessary Town Planning approvals;
7. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, closure of a portion of public road, subdivision and consolidation, rezoning, Section 14 advertisement and transfer and related costs (including the transfer of Erf 2423 Betty's Bay to the Overstrand Municipality), etc. be paid by the applicant/purchaser, Africa Pro Cure CC; 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).

**RESPONSIBLE OFFICIAL:****N LIEBENBERG****TARGET DATE FOR IMPLEMENTATION:****19 JUNE 2020****TARGET DATE TO INFORM APPLICANT:****30 JUNE 2020****TARGET DATE TO INFORM OBJECTOR:****N/A**

ANNEXURE A

