



## REPORT TO SUBCOUNCIL 19

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**1 ITEM NUMBER** 19SUB17/09/20

**2 SUBJECT:**

**PROPOSED CLOSURE, IN-PRINCIPLE APPROVAL AND APPROVAL FOR TRANSFER OF A PORTION OF ERF 86420 CAPE TOWN (PUBLIC STREET), SITUATED AT GILL ROAD, MUIZENBERG: GLEN ROBIN WAVE BABB**

**2 ONDERWERP:**

**VOORGESTELDE SLUITING, BEGINSELGOEDKEURING EN GOEDKEURING VIR DIE OORDRAG VAN 'N GEDEELTE VAN ERF 86420 KAAPSTAD (OPENBARE STRAAT) GELEË IN GILLWEG, MUIZENBERG: GLEN ROBIN WAVE BABB**

**2 ISIHLOKO:**

**ISIPHAKAMISO SOKUVALWA, UKUPHUNYEZWA NGOKOMTHETHO-SISEKO NOKUPHUNYEZWA KOKUNIKEZELWA KWESIQEPHU SESIZA-86420 ESISEKAPA (ISITAL ATO SOLUNTU), ESISE-GILL ROAD, MUIZENBERG: GLEN ROBIN WAVE BABB**

**TRANSLATION REFERENCE: M0774**

**PTMS No: 130003379**

**File Ref No: S14/3/4/3/832/00/86383**

**Category: 4**

## **3 DELEGATED AUTHORITY**

In terms of delegation, this report is not delegated for decision by Council.

☒ The report is for comment by Subcouncil.

- An in principle approval of the immovable property in terms of Regulation 5 of the Municipal Asset Transfer Regulations;
- Approval that the immovable property is not required for the provision of basic municipal services in terms of Section 14 of the Municipal Finance Management Act;
- Approval of the Closure of the Public Street in terms of the Immoveable Property By-Law.

In terms of the provisions of the Municipal Finance Management Act (MFMA) and the associated Municipal Asset Transfer Regulations (MATR), the City may only transfer or dispose of property after (a) the Council has made a determination that the asset is not required for the provision of basic municipal purposes and has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset, and (b) has as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.

The MATR further stipulates that the City may not commence with the transfer or disposal process or negotiations unless approval in principle has been obtained. For reasons referred to in the report, this transaction relates to a direct deal and not a transfer or disposal via a tender process and the following have therefore already been addressed and further discussed in the body of the report:

- public participation
- valuation determination

The recommendations for final approval will be submitted to the Immovable Property Adjudication Committee (IPAC) in terms of Part 42 of the System of Delegations. This IPAC report will include the comments obtained from Subcouncil on the proposed transfer.

☒ Final decision lies with Council.

#### 4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed closure and transfer of portion of Erf 86420 Cape Town to the owner of adjacent Erf 86383 Cape Town		
Site extent	± 199 m <sup>2</sup>		
Submission date	30 September 2018 being date of updated valuation		
Current zoning	Transport 2		
Current usage	Vacant		
Proposed usage	Gardening, parking and security		
Internal circulation date	23 December 2015		
Internal department comments	Awaited branch comments and then negotiations regarding purchase price had to be finalized. All departments are now in support of the proposal.		
Public participation outcome summary	Advertised in the Cape Argus and Die Burger on 6 December 2019. No objections were received.		
WARD CLLR	NOTICE DATE		WARD
Aimee Kuhl	12 November 2019		64
Viable	Yes	No	X
	The subject property is regarded as being non-viable land which only has value to the abutting landowner/s. This property transaction may be approved without any competitive process having been followed on the basis that no purpose would be served by such a competitive process.		

Recommended decision	Approval	X	Refusal
Factors motivating recommendation:	1. The closure and transfer of the land will relieve Council of the maintenance burden 2. Better utilisation of current vacant City land as the area proposed for transfer is non-viable and no longer needed for Municipal Services. 3. The proposed disposal was circulated for comments to services departments of Council and supported, subject to conditions.		
Strategic intent	<b>SFA 1 : an OPPORTUNITY City of Cape Town</b>		
	Objective 1.1	Positioning Cape Town as forward globally competitive City	
	Programme 1.1(g)	Leveraging the City's assets	

## 5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that:

- a) Council resolve that, in terms of section 14 of the Local Government Municipal Finance Management Act 56 of 2003, that the subject property, being portion of Erf 86420 Cape Town, situated at Gill Road, Muizenberg, in extent approximately 199 m<sup>2</sup> as shown hatched and lettered ABCDEF on Plan LT 1268v1 (**Annexure "A"**), is not needed to provide the minimum level of basic municipal services and has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset;
- b) Council grant in-principle approval in terms of regulation 5(1)(b)(ii) of the Municipal Asset Transfer Regulations for the transfer of portion of Erf 86420 Cape Town, situated at Gill Road Muizenberg, in extent approximately 199 m<sup>2</sup> as shown hatched and lettered ABCDEF on Plan LT 1268v1 (**Annexure "A"**);
- c) Council, in terms of section 4 of the City of Cape Town Immovable Property By-law, 2015, approve the closure of portion of the subject public street, being portion of Erf 86420 Cape Town, situated at Gill Road, Muizenberg, in extent approximately 199 m<sup>2</sup> as shown hatched and lettered ABCDEF on Plan LT 1268v1 (**Annexure "A"**);
- d) That the transfer of portion of Erf 86420 Cape Town, in extent approximately 199 m<sup>2</sup> as shown hatched and lettered ABCDEF on Plan LT 1268v1 (**Annexure "A"**) to Glen Robin Wave Babb, or his successor(s) in title, be approved, subject to the following conditions, that:
  - i) A purchase price of R220 000, excluding VAT, be payable;
  - ii) The transfer price shall escalate by 8% per annum compounded annually on a pro-rata basis, commencing 6 months from date of valuation, i.e. from 1 April 2019, until date of registration;

- iii) The market value is to be reassessed if the transaction is not approved by the relevant decision making authority of Council within 18 months from date of valuation, i.e. by 1 April 2020;
- iv) Rates and municipal charges, if applicable, be levied;
- v) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including inter alia the following:
  - aa) That all further statutory and land use requirements be complied with;
  - bb) That the subject portion of Erf 86420 Cape Town be consolidated with the purchaser's Erf 86383 Cape Town;
  - cc) A sewer, water main and electrical services crosses the area in question and the subject area will have to be made subject to a services servitude in favour of the City to protect the underground and overhead municipal services traversing the length of the subject property and with no structures being allowed to be erected on this servitude area;
  - dd) Any alterations or deviations to the electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost and a minimum clearance of 3 meter to any overhead mains conductors shall be maintained at all times;
  - ee) Telkom services are known to exist on the subject property and it is the responsibility of the applicant to notify Telkom should any other Telkom plant be located which might not be indicated on the plan;
  - ff) The pedestrian thoroughfare between PMR106 and Penrose Road is to remain open to the general public;
  - gg) That all costs related and incidental to the transaction be borne by the purchaser.

## **5 AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD**

Daar word aanbeveel dat:

- a) Die raad besluit dat, ingevolge artikel 14 van die wet op plaaslike regering: munisipale finansiële bestuur, wet 56 van 2003, die betrokke eiendom, naamlik 'n gedeelte van erf 86420, kaapstad, geleë in gillweg, muizenberg, ongeveer 199 m<sup>2</sup> groot, aangetoon deur arsering en die letters abcdef op plan It 1268v1 (bylae a), nie benodig word vir die voorsiening van die minimum vlak basiese munisipale dienste nie en dat die billike markwaarde van die bate en die ekonomiese en gemeenskapswaarde wat in ruil vir die bate ontvang sal word, in ag geneem is;
- b) Die Raad beginselgoedkeuring toestaan ingevolge regulasie 5(1)(b)(ii) van die regulasies oor die oordrag van munisipale bates vir die oordrag van 'n gedeelte

van erf 86420 Kaapstad, geleë in Gillweg, Muizenberg, ongeveer 199 m<sup>2</sup> groot, aangetoon deur arsering en die letters ABCDEF op plan LT 1268v1 (bylae A);

- c) Die Raad ingevolge artikel 4 van die Stad Kaapstad: Verordening op Onroerende Eiendom, 2015 die sluiting van 'n gedeelte van die betrokke openbare straat goedkeur, naamlik 'n gedeelte van erf 86420 Kaapstad, geleë in Gillweg, Muizenberg, ongeveer 199 m<sup>2</sup> groot, soos aangetoon deur arsering en die letters ABCDEF op plan LT 1268v1 (bylae A);
- d) Daar word aanbeveel dat die oordrag van 'n gedeelte van erf 86420 Kaapstad, ongeveer 199 m<sup>2</sup> groot, soos aangetoon deur arsering en die letters ABCDEF op plan LT 1268/1 (bylae A) aan Glen Robin Wave Babb of sy regsopvolger(s), goedgekeur word, onderworpe aan die volgende voorwaardes, dat:
  - i) 'n Koopprys van R220 000, BTW uitgesluit, betaalbaar is;
  - ii) Die koopprys met 8% per jaar styg, jaarliks pro rata saamgestel met ingang van ses maande na die waardasiedatum, dus vanaf 1 April 2019, tot die registrasiedatum;
  - iii) Die markwaarde hersien sal word indien die transaksie nie binne 18 maande ná die waardasiedatum (dus teen 1 April 2020) deur die betrokke besluitnemende owerheid van die Raad goedgekeur word nie;
  - iv) Eiendomsbelasting en munisipale gelde, indien van toepassing, gehef word;
  - v) Onderworpe aan die verdere voorwaardes wat die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid oplê, onder andere dat:
    - aa) Daar aan alle statutêre en grondgebruikvereistes voldoen word;
    - bb) Die betrokke gedeelte van erf 86420 Kaapstad met die koper se erf 86383 Kaapstad gekonsolideer word;
    - cc) 'n Riool-, hoofwaterpypleiding en elektriese dienste loop deur die betrokke gebied en die betrokke gebied moet aan 'n dienseserwituut ten gunste van die Stad onderworpe gemaak word om die ondergrondse en oorhoofse munisipale dienste wat oor die lengte van die betrokke eiendom loop te beskerm en geen strukture mag op hierdie serwituutgebied opgerig word nie;
    - dd) Enige veranderings of afwykings aan elektrisiteitsdienste wat nodig is as gevolg van die voorstel, of wat deur die aansoeker versoek word, op die aansoeker se onkoste uitgevoer moet word en 'n minimum oop ruimte van 3 meter vanaf enige oorhoofse hoofgeleiers te alle tye behou moet word;
    - ee) Telkomdienste op die betrokke gebied bestaan en dit die aansoeker se verantwoordelikheid is om Telkom in kennis te stel indien enige Telkom-installasie gevind word wat nie op die plan aangedui is nie;

- ff) Die voetgangerdeurgang tussen PMR106 en Penroseweg vir die algemene publiek oop moet bly;
- gg) Alle koste wat met die transaksie verband hou en daaruit voorspruit, deur die koper gedra moet word.

## 5 IZINDULULO UKUBA ZIQWALASELWE KWAYE KUVAKALISWE ULUVO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba:

- a) IBhunga lithabatha isigqibo sokuba, ngokwecandelo-14 loMthetho ongobuRhulumente boMmandla ongoLawulo lweziMali zikaMasipala ongunomb.56 wango-2003, ipropati echaphazelekayo esisiza-86420 esiseKapa, esikwi-Gill Road, e-Muizenberg, esibukhulu obumalunga ne-199 m<sup>2</sup>, esibonakaliswe ngomzobo nonobumba abakhulu u-ABCDEF kwiplani engu-LT 1268v1 (**isihlomelo-A**), asifuneki nganto ukuba sibonelele ngomlinganiselo ongundoqo weenkonzo zikamasipala; kwakhona liye lathathela ingqalelo ixabiso lobulungisa lasemakethi lempahla nexabiso lezoqoqosho neleloluntu eliyakuthi lifumaneke ngokutshintshelwa kwempahla;
- b) IBhunga malivumele isiphumezo ngokomthetho-siseko, ngokungqinelana nomgaqo-5(1)(b)(ii) weMigaqo engokuTshintshelwa/engoNikezelo lweMpahla kaMasipala, sokunikezelwa kwesiqephu sesiza-86420, esiseKapa, esikwi-Gill Road Muizenberg, esibukhulu obumalunga ne-199 m<sup>2</sup>, esibonakaliswe ngomzobo nangoonobumba abakhulu u-ABCDEF kwiplani engu-LT 1268v1 (**isihlomelo-A**);
- c) IBhunga maliphumeze ukuvalwa ngokwecandelo-4 loMthetho kaMasipala weSixeko saseKapa ongePropati ezingenakususwa wango-2015, kwesiqephu sesitalato esichaphazelekayo, esisiqephu sesiza-86420 esiseKapa, esikwi-Gill Road, e-Muizenberg, esibukhulu obumalunga ne-199 m<sup>2</sup> nesibonakaliswe ngomzobo nangoonobumba abakhulu u-ABCDEF kwiplani engu- LT 1268v1 (**isihlomelo-A**);
- d) Makuphunyezwe ukunikezelwa kwesiqephu sesiza-86420 esiseKapa, esibukhulu obumalunga ne-199 m<sup>2</sup> esibonakaliswe ngomzobo nangoonobumba abakhulu u-ABCDEF kwiplani engu-LT 1268v1 (**isihlomelo-A**), ku-Glen Robin Wave Babb, okanye kongena ezihlangwini zakhe ngokwetayitile, ngokuxhomekeke kule miqathango ilandelayo yokuba:
  - i) Makuhlululwe ixabiso elingama-R220 000, ngaphandle kweRhafu-ntengo;
  - ii) Ixabiso lentengiso malinyuke nge-8% ngonyaka oqukaniswe rhoqo ngonyaka ngokwekota, eliqalise iinyanga ezi-6 ukususela kumhla woqingqo-maxabiso ongowo-1 kuTshaziimpuzi 2019 kude ibengumhla wobhaliso;
  - iii) Ixabiso lasemakethi kufuneka lihlolwe ukuba unaniselwano aluphunyezwa ngugunyaziwe ofanelekileyo weBhunga owenza izigqibo kwiinyanga ezili-18 ukususela kumhla woqingqo-maxabiso ongowo-1 kuTshaziimpuzi 2020;
  - iv) Kufuneka kurhunywe iirhafu neentlawulo zikamasipala, ukuba kufanelekile;

- v) Ngokuxhomekeke kweminye imiqathango eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyazisiweyo, kuquka oku kulandelayo:
- aa) Yonke imimiselo yomthetho nengokusetyenziswa komhlaba kufuneka ithotyelwe;
  - bb) Isiqephu esichaphazelekayo sesiza-86420 esiseKapa masidityaniswe kwisiza somthengi esingu-86383, esiseKapa;
  - cc) Umbhobho wogutyulo, umjelo omkhulu wamanzi neenkonzo zombane zithi zinqumle ummandla lo kuthethwa ngawo nommandla ochaphazelekayo, kufuneka wenziwe ngokuxhomekeke kwilungelo leenkonzo ngakwicala leSixeko ukuba sikhusele iinkonzo ezingaphantsi komhlaba nezangaphezulu komhlaba zikamasipala ezinqumla ngokobude bepropati le ichaphazelekayo kwaye akukho zakheko eziyakuthi zivunyelwe ukwakhi kulo mmandla welungelo;
  - dd) Naluphina uguqulelo okanye utenxo kwiinkonzo zombane olufunekayo ngenxa yesi siphakamiso, okanye ngenxa yesicelo sabafaki-sicelo, ziyakuthi zibezindleko zabafaki-sicelo nomlinganiselo wokukhululelwa ozimitha ezi-3 wemijelo engaphezulu ehambisa iinkonzo apho uyakuthi ugcinwe ngawo onke amaxesha;
  - ee) Akukho zinkonzo zabakwa-Telkom ezikhoyo kwipropati le ichaphazelekayo kwaye luxanduva lomfaki-sicelo lokuba azise abakwa-Telkom kwangoko, xa kuthe nalo naliphina iziko labakwaTelkom lamiselwa, ukuba lungabe alubonakaliswanga kwisicwangciso (kwiplani);
  - ff) Indawo yokudlula abo bahamba ngenyawo ephakathi kwe-PMR106 ne-Penrose Road kufuneka ihlale ivuliwe ukuze uluntu ngokubanzi likwazi ukuyisebenzisa;
  - gg) Zonke iindleko ezimalunga nezinxulumene nonaniselwano ziyakuthi zibeluxanduva lomthengi.

## **6 DISCUSSION/CONTENTS**

### **6.1 BACKGROUND:**

#### **Application context**

An application was made by Glen Robin Ware Babb, the owner of erf 86383 Cape Town, to purchase a portion of Erf 86420 Cape Town (Public Street), situated at Gill Road, Muizenberg in extent approximately 199 m<sup>2</sup> for better access, gardening and security purposes.

The verge next to the applicants property is currently used by vagrants who are sleeping, defecating and gaining easy access to burgle the applicants property. The proposal will thus improve the security of applicants property as it will do away with a hiding place and escape route which is currently being used by criminal elements. The subject property is already planted and cared for by the applicant.

The subject property is an isolated piece of land regarded as being non- viable land which only has value to the abutting owner in light of the fact that it cannot be developed or function as a separate entity.

The subject property is registered in the names of the Colonial Orphan Chamber and Trust Company by Deed of Transfer CPF 27-29 dated 11 October 1912 and vests in the City by virtue of it being a portion of a Public Street.

### **Closure of Public Place**

The proposed closure of the subject property was duly advertised in terms of the stipulations of section 4 of the City of Cape Town Immovable Property By-law, 2015, and no objections were received.

It is further confirmed that, in terms of Section 4.2(c) of the said Bylaw, notices were served on abutting land owners on 22 November 2019, which is more than 30 days before objections were required to be lodged, i.e. by 06 January 2020.

A copy of the advertisement is attached as **Annexure B**.

## **6.2 CONSULTATION WITH INTERNAL BRANCHES**

The application was circulated to the relevant branches of Council. The transfer of the property is supported by internal departments, subject to applicable conditions which will be included in the Agreement of Sale.

It was further confirmed that the property is not required to provide the minimum level of basic municipal services.

## **6.3 VALUATION**

The City's Professional Valuers on 30 September 2018 assessed the value of the subject property at R220 000 excluding VAT, with escalation at 8% per annum compounded annually on a pro rata basis commencing 6 months from date of valuation i.e from 01 April 2019 until date of registration.

The market value is to be reassessed if the transaction is not approved by the decision making authority of Council within 18 months from the date of valuation, i.e. by 1 April 2020. The valuation has become out of date and a fresh Valuation has been requested. The valuation synopsis in respect of the expired valuation is attached to the report as **Annexure C**.

This report is only for comment and the fresh valuation will be submitted with the Report for final approval. At such time the new escalation rates will also be updated in such final approval report.

## **6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS**

- 6.4.1 The proposal complies with Section 14 of the Municipal Finance Management Act No.56 of 2003 in that the relevant branches of Council have confirmed that the land is not required for the provision of the minimum level of a basic municipal service.



- 6.4.2 Council's Immovable Property By-Law as published on 11 December 2015 (Section 4) allows for the closure of public places and public roads.
- 6.4.3 Chapter B of Council's Policy relating to the Management of certain of the City of Cape Town's Immovable Property (approved 26 August 2010), permits the transfer or disposal of immovable property;

## 6.5 FINANCIAL IMPLICATIONS

All costs related or incidental to the transaction will be for the Applicant's account.

The price will be adjusted by the percentage (8%) determined by the City Valuer compounded annually on a pro-rata bases which will commence at a particular date until registration of transfer and which adjustment shall be consistent with open market parameters and norms.

## 6.6 TAX COMPLIANCE

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 98.3 stipulates the City may not consider a bid or quote unless the bidder who submitted the bid or quote has submitted a valid tax clearance certificate certifying that the provider's tax matters are in order.

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 99 stipulates "Irrespective of the procurement process, the City may not make any award above R15 000,00 to a person whose tax matters have not been declared by the SARS to be in order."

Paragraphs 372 – 375 of the afore-mentioned policy deal with the sale and letting of City owned immovable property and are silent on the SARS requirement. Property Management adopted the principle as per paragraph 99 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City owned immovable property. Except for tariff based rentals, which do not exceed R15 000,00 all applicants need to submit a SARS clearance or exemption certificate for the leasing of City owned immovable property.

A valid Tax Clearance Certificate will be furnished when a report is submitted for final approval.

## 6.7 FINANCIAL DUE DILIGENCE

The applicant's debt profile has been verified and it is confirmed that the debt profile is not in arrears.

## 6.8 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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## 6.9 LEGAL IMPLICATIONS

### Regulation 7 of the Municipal Asset Transfer Regulations (MATR)

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed transfer or disposal of non-exempted capital assets:

**Factor A: Whether the capital asset may be required for municipality's own use at a later date.**

This proposal complies with Section 14 of the Local Government Municipal Finance Management Act No. 56 of 2003 in that the relevant branches of Council have confirmed in writing that the asset is not needed to provide the minimum level of basic municipal services.

**Factor B: The expected loss or gain that is expected to result from the transfer or proposed disposal.**

The expected gain to result from proposed transfer is fair market value and future rates and taxes.

**Factor C: The extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to municipality.**

Council will receive a financial benefit in the form of a market related purchase price as well as rates and taxes following the development of the property. The market value of the property has been determined to be R220 000 excluding VAT, escalating at 8% per annum compounded on a pro rata basis commencing from 1 April 2019 until date of registration.

**Factor D: The risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the municipality's interests.**

No operational or control risk to the City.

**Factor E: The effect that the proposed transfer or disposal will have on the credit rating of the municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow.**

None.

**Factor F: Any limitations and conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions.**

The sale agreement will contain terms and conditions as imposed by the Director: Property Management in terms of her delegated authority.

**Factor G: The estimated cost of the proposed transfer or disposal.**

The purchaser will be responsible for the transfer costs as well as all costs related or incidental to the transaction.

**Factor H: The transfer of liabilities and reserve funds associated with the capital asset.**

No liabilities and reserve funds are associated with the capital asset.

**Factor I: Any comments or representations on the proposed transfer or disposal received from the local community and other interested persons.**

The Director: Property Management, in terms of her delegated powers, approved the public participation process as required, resulting in the proposed transfer being advertised in the Cape Argus and Die Burger on 6 December 2019 and the closing date for objections was 6 January 2020. Copies of the advertisement were served on abutting land owners via registered mail, and copies were further sent to the Ward Councillor, Chairperson and Manager of the relevant Subcouncil, who in return had to forward copies to relevant community organizations or any other interested or affected parties. No objections were received.

**Factor J: Any written views and recommendations on the proposed transfer or disposal by National Treasury and the relevant Provincial Treasury.**

The asset considered for transfer is not a “high value” asset, as defined in the MATR. Copies of the advertisement and plan were forwarded to both National and Provincial Treasury on 22 November 2019. No objections / comments were received.

**Factor K: The interests of any affected organ of state, the municipality’s own strategic, legal and economic interests and the interests of the local community.**

None of these interests will be compromised as a result of the alienation of the asset; in fact, it will be supported.

**Factor L: Compliance with legislative regime applicable to the proposed transfer or disposal.**

Council’s Immovable Property By-Law as published on 11 December 2015 (Section 4) permits the closure of Public Streets and Public Places.

The proposal complies with Section 13.1 of the Council’s Policy on the Management of Certain of the City of Cape Town’s Immovable Property, approved by Council on 26 August 2010, which allows for the direct sale of non-viable property which can only be utilized by one or more adjacent landowners, without any competitive process

having been followed, on the basis that no purpose would be served by a competitive process.

The proposal complies with the provisions of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and the Municipal Asset Transfer Regulations published in Government Gazette No R. 878 dated 22 August 2008

**Should the recommendation contained in this report be adopted by Council, the following statutory processes will need to be undertaken:**

- A. It will be necessary for the portions of Public Street to be closed in order to transfer the subject property.
- B. After closure, the portions of land must be consolidated with the applicant's Erf 86383 Cape Town to form one single holding.
- C. It will be necessary for the property to be subdivided in order to transfer the subject property.

## **6.10 STAFF IMPLICATIONS**

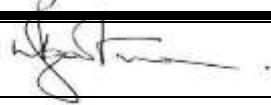
Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No ☒  
Yes ☐

## **ANNEXURES**

Annexure A: Plan LT 1268v1  
Annexure B: Copies of advertisements and registered notices.  
Annexure C: Valuation Synopsis

**FOR FURTHER DETAILS CONTACT:**

<b>NAME</b>	PRINCESS MBUKWANA	
<b>CONTACT NUMBERS</b>	021 444 2589	
<b>E-MAIL ADDRESS</b>	PRINCESS.MBUKWANA@CAPETOWN.GOV.ZA	
<b>DIRECTORATE</b>	ECONOMIC OPPORTUNITIES AND ASSET MANAGEMENT	
<b>FILE REF No</b>	S14/3/4/3/832/00/86383	
<b>PTMS CASE No</b>	130003379	
<b>MANAGER: PROPERTY HOLDING</b> RACHEL SCHNACKENBERG		

**DIRECTOR : PROPERTY MANAGEMENT IN HER  
CAPACITY AS EXECUTIVE DIRECTOR :  
ECONOMIC OPPORTUNITIES AND ASSET  
MANAGEMENT NOMINEE**

NAME RUBY GELDERBLOEM

DATE \_\_\_\_\_

Comment:

\_\_\_\_\_  
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**LEGAL COMPLIANCE**



REPORT COMPLIANT WITH THE PROVISIONS OF  
COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS  
AND ALL LEGISLATION RELATING TO THE  
MATTER UNDER CONSIDERATION.



NON-COMPLIANT

NAME \_\_\_\_\_

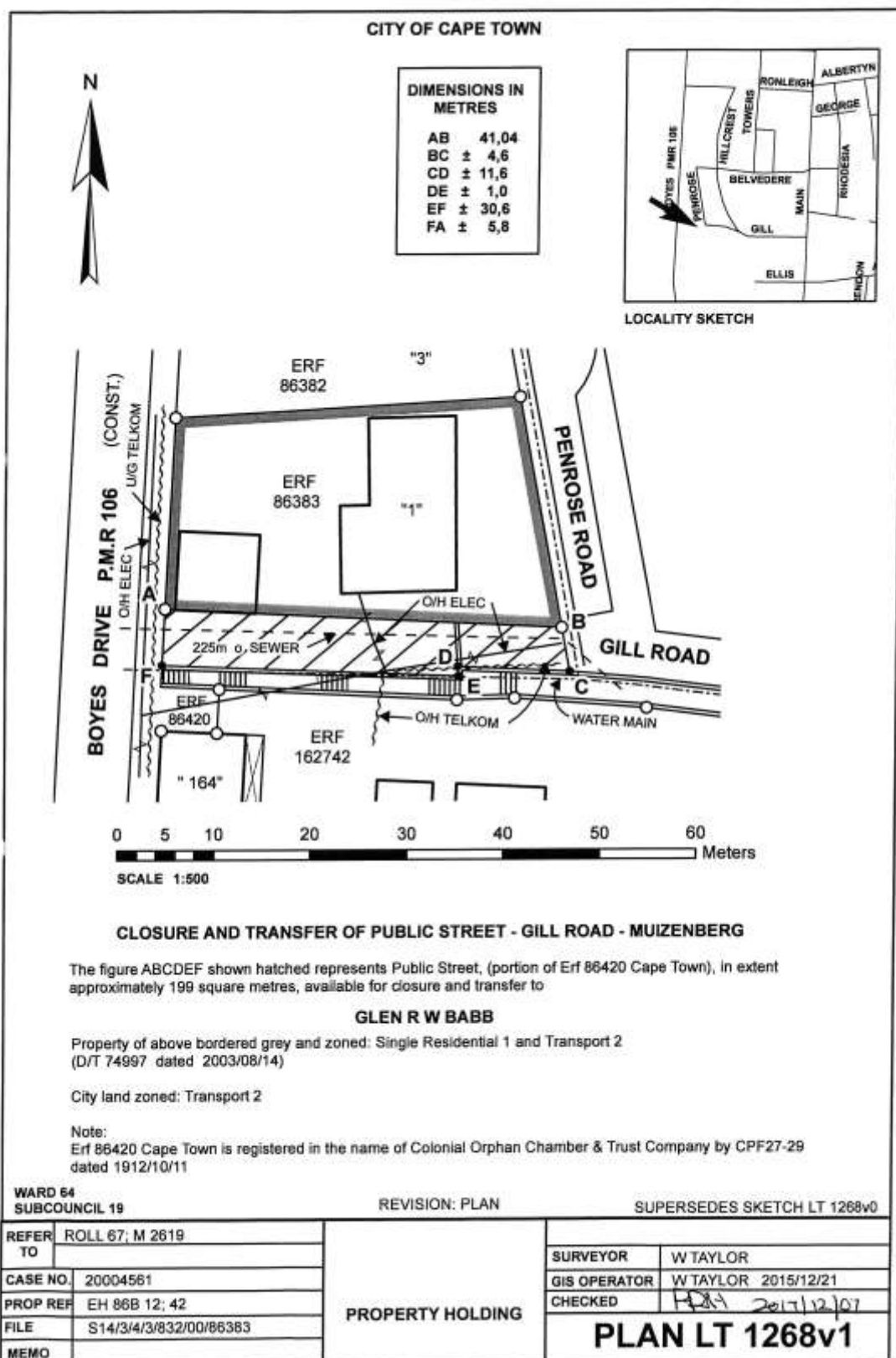
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DATE \_\_\_\_\_

Comment:

Certified as legally compliant based on the contents of the report

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## SOUTHERN DISTRICT

### Closure and transfer

#### • Portion of Erf 86420, Cape Town to the Adjacent Owner of Erf 86383 Cape Town (Glen R W Babb)

Notice is hereby given that the Council is, in terms of the Policy on the Management of Certain of the City of Cape Town's Immovable Property (promulgated on 26 October 2010), considering an application for the closure and transfer of a portion of Erf 86420 Cape Town in extent approximately 199 m<sup>2</sup>, to the owner of adjacent Erf 86383 Cape Town, at a purchase price of R220 000 plus VAT. The purchase price will escalate at a rate of 8% per annum from 2019-04-01 until date of transfer.

#### Information Statement:

- The valuation of the capital asset to be transferred or disposed of is R220 000 exclusive of VAT and cost. The sales comparable method of valuation was used to determine the value.
- The reason for the proposal to close and transfer the capital asset is that the City received an application to purchase the subject property. After due consideration, the subject property is regarded as being non-viable land which only has value to the abutting landowner in light of the fact that it cannot be developed or function as a separate entity. The proposal was circulated to the relevant branches of Council, no objections were received. It is therefore concluded that the property is not required to provide a minimum basic service.
- The expected benefits to the Municipality of the proposed closure and transfer is to be relieved of the maintenance burden in terms of the subject property and it will also allow for better utilisation of the property.
- The expected proceeds to be received by the Municipality from the closure and transfer or disposal are a market related purchase price of R220 000 escalating at 8% per annum plus VAT.
- The expected gain or loss that will be realised or incurred by the Municipality arising from the closure and transfer is fair market value and future rates and taxes.

For further details of the transaction contact Princess Mbukwana, tel 021 444 2589, Property Holding, South Region, Plumstead Administrative Offices, weekdays between 08:30-15:00 by appointment. Any comments/objections must be submitted in writing, together with reasons therefor, to Princess Mbukwana, Private Bag X5, Plumstead 7801, or e-mailed to [princess.mbukwana@capetown.gov.za](mailto:princess.mbukwana@capetown.gov.za) on or before 6 January 2020.

### Annexure

#### VALUATION SYNOPSIS: PORTION OF ERF 86420 CAPE TOWN, AT MUIZENBERG, EARMARKED FOR TRANSFER TO MR GLEN ROBIN WARE BABB

##### Brief and Background

We were requested by South Region to determine the market value of a portion of Erf 86420 Cape Town, at Muizenberg (hereafter 'the subject property'), proposed for transfer to Mr Glen Robin Ware Babb (hereafter 'the applicant'), who owns abutting Erf 86383 Cape Town.

The subject property is shown by the hatched figure ABCDEF on plan LT 1268v1, in extent approximately 199m<sup>2</sup>, which is a portion of unmade road being a passage located along the southern boundary line of the applicant's property.

Our date of valuation is as at 2018-09-30.

##### Utility of the subject property

Once consolidated with the applicant's property, benefits associated with an increase in applicable town planning rights such as additional building coverage, building extension, parking, increase in yard space, etc., are realised. Notwithstanding this, the utility of the subject property is encumbered by an underground sewer line and water main traversing it's full length over which a servitude will need to be registered. Accordingly, an adjustment of 50% of the full market value rate is deemed to be reflective of its market value.

##### Method of valuation

We applied the comparable sales method, which entails the following steps:

- o Identifying sales transactions of similar properties in the same neighbourhood (or further afield if need be) for which information is available.
- o Comparing the comparable properties' value-forming characteristics with those of the subject property, viz. location, stand size, view, etc.
- o Adjusting the sale's prices of the comparable properties for effluxion of time between their sale's date and valuation date.
- o Deducing the value of the subject property after taking due cognisance of all incomparable characteristics and their potential influence on the transfer price.

##### Findings

The following land sales were used to deduce the market value of the subject property:

Erf No	m <sup>2</sup>	Sale's information	Comments
Erf 86384 Cape Town 182 Boyes Drive Muizenberg	1 487	R3 100 000 (R2 085/m <sup>2</sup> ) 2018-02	Located similar to the applicant's property below Boyes Drive in close proximity and offers panoramic views. City Viewer indicates three separate erven, but no

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Erf No	m²	Sale's information	Comments
			details on DAMS. This is a good comparable in terms of location, but for the fact that it is notably larger than the applicant's property.
Erf 150151 Cape Town Bryn Street Lakeside	1 100	R1 850 000 (R1 682/m²) 2017-03	Located similar to the applicant's property, situated just below Boyes Drive. Panhandle-shaped site with good geometry that allows for wide-angle views. No vehicular access is possible although building plans indicate a garage to be built off Bryn Street, ±50 meters lower down from the stand.
Erf 87014 Cape Town 196 Main Road Muizenberg	395	R1 350 000 (R3 418/m²) 2016-09	Located at the foot of the slope near main road, behind street fronting buildings. Very steep site with top half (very steep) that offers good views but highly unlikely to be developed. A part of the mid-section allows for sea views level with roofline of buildings in front of the property. Site is partially excavated / brick paved and improved with dilapidated building (±72m²). Much smaller extent and has vehicular access.

### Conclusion

Based on the evidence, we deem the market value of the applicant's stand (836m²) to be in order of R1 850 000 (excluding VAT) or roughly R2 200/m². Using the latter figure as basis, the market value of the subject property is estimated at:

$$199\text{m}^2 \times R2\ 200/\text{m}^2 \times 50\% \approx R220\ 000$$

### Recommendations

It is recommended that portion of Erf 86420 Cape Town, at Muizenberg, shown by the hatched figure ABCDEF on sketch LT 1268v1, in extent approximately 199m², be sold to Glen Robin Ware Babb (or his successors-in-title) for **R220 000 (excluding VAT)**, subject to:

- The transfer price shall escalate at 8% per annum compounded annually on a pro rata basis commencing 6 months after date of valuation (i.e. as from 2019-04-01) until date of registration.
- The market value is to be reassessed if the transaction is not approved by the relevant decision making authority of Council within 18 months from date of valuation (i.e. by 2020-04-01).
- The sale is to be subject to the registration of a servitude in favour of Council in order to protect underground services traversing the length of the subject property.

[http://seamless.cape.gov.za/submit/proprietor/valuation/valuation/appraiser/2019/Muizenberg/0604\\_prc/86420\\_Prcs064\\_Babb\\_Syn.docx](http://seamless.cape.gov.za/submit/proprietor/valuation/valuation/appraiser/2019/Muizenberg/0604_prc/86420_Prcs064_Babb_Syn.docx)

  
Anton Opperman (Pretoria - 21/04/2019)  
Principal Professional Valuer

  
Garth Johnson  
Principal Professional Valuer  
2018.09.28

[http://seamless.cape.gov.za/submit/proprietor/valuation/valuation/appraiser/2019/Muizenberg/0604\\_prc/86420\\_Prcs064\\_Babb\\_Syn.docx](http://seamless.cape.gov.za/submit/proprietor/valuation/valuation/appraiser/2019/Muizenberg/0604_prc/86420_Prcs064_Babb_Syn.docx)