

ITEM NUMBER: C 17/03/15

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 17 FEBRUARY 2015

MC 23/02/15 PROPOSED DISPOSAL OF A PORTION OF CITY LAND, BEING A PORTION OF CAPE TOWN COMMONAGE (CAPE FARM 920), SITUATED AT QUARTERDECK ROAD, KALK BAY: ANTHONY MICHAEL BUTLER AND ANNE FRANCES JELLEMA

It is **RECOMMENDED** that:

- (a) condonation and ratification be granted for the in principle approval in terms of Regulation 5(1)(b)(ii) together with the final approval in terms of recommendation (c) below
- (b) Council resolve that, in terms of Section 14 of the Local Government Municipal Finance Management Act, No 56 of 2003, the property is not required to provide the minimum level of basic municipal services, and is surplus to the requirements of the municipality;
- (c) the disposal of a portion of City land, being a portion of Cape Town Commonage (Cape Farm No. 920), situated at Quarterdeck Road, Kalk Bay, as shown lettered ABCDEF on Plan No LT1001v0 attached as Annexure A to the report on the agenda, in extent approximately 123 m², to Anthony Michael Butler and Anne Frances Jellema, or their successors-in-title be approved, subject *inter alia* to the following conditions, that:
 - (i) a market-related purchase price of R110 000 excluding VAT of 14%, being R15 400 (in total - R125 400), be payable;
 - (ii) the purchase price will escalate by 5% compounded per annum on a pro rata basis commencing 6 months after date of valuation, being 30 May 2014 to date of transfer;
 - (iii) subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
 - (iv) all costs related to the transaction will be borne by the purchaser;
 - (v) subject to compliance with any other statutory requirements;
 - (vi) the property may only be used for gardening purposes and no structures may be erected thereon;
 - (vii) all invasive alien vegetation to be removed;

- (viii) any redevelopment of the applicants' property must exclude the subject property and the existing building lines in respect of the applicants' property must remain;
- (ix) any alteration to electricity services necessary as a consequence of the proposal, or requested by the applicants, will be carried out at the expense of the applicants;
- (x) no excavation is to take place on the site until the requirements of the Occupational Health and Safety Act No 85 of 1993 and Section 141(1) of the Municipal Ordinance have been adhered to. In this regard the Manager: High Voltage Cabled must be contacted prior to the commencement of any work;
- (xi) the applicants must notify Telkom immediately should any Telkom plant be exposed on the property and any cost for the deviation or removal of such plant due to the proposal will be for the account of the applicant. Telkom will also require access at all times to carry out maintenance.

MC 23/02/15

IPAC 12/11/2014 PROPOSED DISPOSAL OF A PORTION OF CITY LAND, BEING A PORTION OF CAPE TOWN COMMONAGE (CAPE FARM 920), SITUATED AT QUARTERDECK ROAD, KALK BAY: ANTHONY MICHAEL BUTLER AND ANNE FRANCES JELLEMA

ISIPHAKAMISO SOKUNIKEZELWA KWESIQEPHU SOMHLABA WESIXEKO OSISIQEPHU SEFAMA YASEKAPA (IFAMA YASEKAPA ENGU-920), ESE-QUARTERDECK ROAD, KALK BAY: KU-ANTHONY MICHAEL BUTLER NO-ANNE FRANCES JELLEMA

VOORGESTELDE VERVREEMDING VAN 'N GEDEELTE VAN STADSGROND, SYNDE 'N GEDEELTE VAN KAAPSTADSE GEMEENSKAPLIKE GROND (KAAPSE PLAAS 920) TE QUARTERDECKWEG, KALKBAA': ANTHONY MICHAEL BUTLER EN ANNE FRANCES JELLEMA

The committee noted that the Tax Clearance Certificate had expired and that no agreement of sale will be entered into until the applicant provides a valid Tax Clearance Certificate.

The Committee requested that the in principle clause be included in the recommendations.

RECOMMENDED TO COUNCIL that:

- a) Condonation and ratification be granted for the in principle approval in terms of Regulation 5(1)(b)(ii) together with the final approval in terms of Recommendation c) below;
- b) Council resolve that, in terms of Section 14 of the Local Government Municipal Finance Management Act, No 56 of 2003, the property is not required to provide the minimum level of basic municipal services, and is surplus to the requirements of the municipality.
- c) The disposal of a portion of City land, being a portion of Cape Town Commonage (Cape Farm No. 920), situated at Quarterdeck Road, Kalk Bay, as shown lettered ABCDEF on Plan No LT1001v0 attached as **annexure A**, in extent approximately 123m², to Anthony Michael Butler and Anne Frances Jellema or their successors in title be approved subject inter alia to the following conditions, that:
 - i) A market-related purchase price of R110 000 excluding VAT

of 14%, being R15 400 (in total R125 400), be payable;

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- ii) The purchase price will escalate by 5% compounded per annum on a pro rata basis commencing 6 months after date of valuation, being 30 May 2014 to date of transfer;
 - iii) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
 - iv) All costs related to the transaction will be borne by the purchaser;
 - v) Subject to compliance with any other statutory requirements;
 - vi) The property may only be used for gardening purposes and no structures may be erected thereon;
 - vii) All invasive alien vegetation to be removed;
 - viii) Any redevelopment of the applicants' property must exclude the subject property and the existing building lines in respect of the applicants' property must remain;
 - ix) Any alteration to electricity services necessary as a consequence of the proposal, or requested by the applicants, will be carried out at the expense of the applicants;
 - x) No excavation is to take place on the site until the requirements of the Occupational Health and Safety Act No 85 of 1993 and Section 141(1) of the Municipal Ordinance have been adhered to. In this regard the Manager: High Voltage Cabled must be contacted prior to the commencement of any work;
 - xi) The applicants must notify Telkom immediately should any Telkom plant be exposed on the property and any cost for the deviation or removal of such plant due to the proposal will be for the account of the applicant. Telkom will also require access at all times to carry out maintenance.

IZINDULULO

Kundululwe ukuba:

- a) Makuvunyelwe ukwamkelwa nokulungiswa kulungiselelwa ukuphunyezwa ngokomthetho-siseko, ngokungqinelana nomgaqo-5(1)(b)(ii) kunye nokuphunyezwa okokugqibela kwesindululo-c) ngezantsi apha;
- b) IBhunga liggibe ngokweCandelo-14 loMthetho wobuRhulumente boMmandla ongoMthetho woLawulo lweziMali zikaMasipala onguNomb.56 wango-2003, ukuba ipropati ayisafuneki nganto

ukubonelela ngomlinganiselo othile weenkonzong ezizingundoqo zikamasipala.

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- c) Makuphunyezwe ukunikezelwa osisiqephu somhlaba weSixeko osisiqephu sefama yaseKapa (iFama yaseKapa enguNomb.920), ekwi- Quarterdeck Road, e-Kalk Bay, esibonakaliswe ngoonobumba abakhulu u- ABCDEF kwiPlani eghotuyoshelwe kwisihlomelo-A, esibukkhulu obumalunga ne-123 m², ku-Anthony Michael Butler no-Anne Frances Jellema okanye kwabangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango olandelayo, yokuba:
- i) Makuhlawulwe ixabiso eliphathelene nelasemakethi elili-R110 000, ngaphandle kweRhafu-ntengo eli-14% apho kufanelekileyo, engama-R15 400 (apho iyonke lili-R125 400);
 - ii) Ixabiso lentengiso liyakuthi linyuke nge-5% ngonyaka ngokommiselo wexesha elithile apho luyakuthi Oluqalise kwiinyanga ezi-6 emva komhla woqingqo-maxabiso, ongowama-30 Meyi 2014 ukuya kumhla wotshintshelo;
 - iii) Ngokuxhomekeke kwimiqathango ethe xhaxhe eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;
 - iv) Zonke iindleko eziphathelene nonaniselwano ziyakuthi zibeluxanduva lomfakai-sicelo;
 - v) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho engeminye;
 - vi) IPropati ingasetyenziselwa imibandela yezasegadini kwaye akuvumelekanga ukuba kumiselwe izakheko ezingezinye;
 - vii) Kufuneka kususwe lonke utyani olunobungozi;
 - viii) Naluphina uphuhliso ngokutsha lwepropati lomfaki-sicelo kufuneka lungaquki ipropati echaphazelekayo kwaye kufuneka imida esele imiselwe yesakhiwo ingatshintshwa ngokujoliswe kwipropati yomfaki-sicelo;
 - ix) Naluphina uguqulelo okanye utenxo kwiinkonzong zombane olufunekayo ngenxa yesiphakamiso, okanye ngenxa yokuba lucelwe ngumfaki-sicelo, luyakuthi luqhutywe ngokwendleko zabafaki-sicelo;
 - x) Akukho lombiwa oluyakuthi luqhubeke kwisiza kude kube kuthotyelwa imimiselo yoMthetho oneMpilo ngokwaseMsebenzini noKhuseleko onguNomb.85 wangowe-1993 noweCandelo-141(1) loMmiselo kaMasipala. Ke ngoko kufuneka kuqhagamshelwame noMphathi weeKhebhule zoMbane ezinkulu, phambi kokuba kuqaliswe ngawo nawuphina umsebenzi;
 - xi) Umfaki-sicelo kufuneka azise abakwa-Telkom kwangoko ukuba kuthe nalo naliphina iziko labakwa-Telkom lithe

lasesichengini kwipropati kwakhona naziphina iindleko zotenxo okanye ukususwa kwelo ziko ngenxa yesi siphakamiso, luyakuthi ibeluxanduva lomfaki-sicelo. Abakwa-Telkom kwakhona kuyakufuneka ukuba baqhube umsebenzi wonophelo ngalo lonke ixesha.

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AANBEVELING

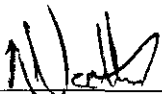
Daar word aanbeveel dat:

- a) Kondonering en bekragtiging toegestaan word vir goedkeuring in beginsel ingevolge regulasie 5(1)(b)(ii), tesame met die finale goedkeuring in ooreenstemming met aanbeveling c) hier onder;
- b) Die Raad ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, no. 56 van 2003, besluit dat die eiendom nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie, en oorbodig vir die munisipaliteit se behoeftes is.
- c) Die vervreemding van 'n gedeelte van Stadsgrond, synde 'n gedeelte van Kaapstadse gemeenskaplike grond (Kaapse plaas no. 920), geleë te Quarterdeckweg, Kalkbaai, aangetoon deur die letters ABCDEF op plan no.LT1001v0 aangeheg as **bylae A**, ongeveer 123 m² groot, aan Anthony Michael Butler en Anne Frances Jellema of hul regsopvolgers, goedgekeur word, onderworpe aan onder andere die volgende voorwaardes, naamlik dat:
 - i) 'n Markverwante koopprys van R110 000, 14%-BTW ingesluit waar van toepassing, synde R15 400 (altesaam R125 400), betaal word;
 - ii) Die koopprys teen 5% per jaar sal styg, jaarliks pro rata saamgesteld, vanaf ses maande na die waardasiedatum, d.w.s. 30 Mei 2014, tot die datum van oordrag;
 - iii) Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid;
 - iv) Die aansoeker alle koste verbonde aan die transaksie sal dra;
 - v) Onderworpe aan die nakoming van enige ander statutêre vereistes;
 - vi) Die eiendom slegs vir tuinmaakdoeleindes gebruik mag word en geen strukture hoegenaamd daarop opgerig mag word nie;
 - vii) Alle uitheemse indringerplantegroei verwyder moet word;
 - viii) Enige herontwikkeling van die aansoekers se eiendom die onderhawige eiendom moet uitsluit, en die bestaande boulyne vir die aansoekers se eiendom behoue moet bly;

- ix) Enige verandering aan elektrisiteitsdienste wat as gevolg van die voorstel nodig is of deur die aansoekers versoek is, sal op koste van die aansoekers gedoen word; 104
- x) Geen uitgrawings op die perseel gedoen mag word voor die vereistes van die Wet op Beroepsgesondheid en -veiligheid, Wet 85 van 1993, en artikel 141(1) van die Munisipale Ordonnansie nagekom is nie. Kontak die bestuurder: hoëspanningskabels in hierdie verband voor daar met enige werk begin word.
- xi) Die aansoekers Telkom onmiddellik in kennis moet stel as enige Telkom-installasie op die eiendom blootgestel word, en enige onkoste vir die afwyking of verwydering hiervan as gevolg van die voorstel, deur die aansoekers gedra moet word. Telkom sal ook te alle tye toegang verlang om instandhouding te kan doen.

ACTION: R SCHNACKENBERG; R GELDERBLOEM

It is noted that this resolution is in line with Supply Chain Management Policy.



MR RICHARD WOOTTON
EMPLOYEE NO: 10207948
CHAIRPERSON : IMMOVABLE PROPERTY
ADJUDICATION COMMITTEE

DATE: 15/1/15

COMMENT:

[Handwritten Signature]

**DIRECTOR : LEGAL SERVICES
MR LUNGELO MBANDAZAYO**

DATE: 21/01/2015

SUPPORTED FOR ONWARD SUBMISSION TO
MAYOR / MAYCO / COUNCIL

NOT SUPPORTED

REFERRED BACK

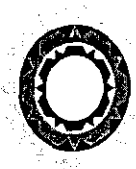
COMMENT:

[Handwritten Signature]

**ALDERMAN IAN NEILSON
MAYORAL COMMITTEE MEMBER : FINANCE**

COMMENT:

DATE: 28/1/2015



LCP676

REPORT TO IMMOVABLE PROPERTY ADJUDICATION COMMITTEE

DATE:

1. ITEM NUMBER:

2. SUBJECT:

PROPOSED DISPOSAL OF A PORTION OF CITY LAND, BEING A PORTION OF CAPE TOWN COMMONAGE (CAPE FARM 920), SITUATED AT QUARTERDECK ROAD, KALK BAY: ANTHONY MICHAEL BUTLER AND ANNE FRANCES JELLEMA

2. ONDERWERP:

VOORGESTELDE VERVREEMDING VAN 'N GEDEELTE VAN STADSGROND, SYNDE 'N GEDEELTE VAN KAAPSTADSE GEMEENSKAPLIKE GROND (KAAPSE PLAAS 920) TE QUARTERDECKWEG, KALKBAA': ANTHONY MICHAEL BUTLER EN ANNE FRANCES JELLEMA

2. ISIHLOKO:

ISIPHAKAMISO SOKUNIKEZELWA KWESIQEPHU SOMHLABA WESIXEKO OSISIQEPHU SEFAMA YASEKAPA (IFAMA YASEKAPA ENGU-920), ESE-QUARTERDECK ROAD, KALK BAY: KU-ANTHONY MICHAEL BUTLER NO- ANNE FRANCES JELLEMA

[LSU E2997]
S14/3/4/3/599/00/89656
PH 2014/0588 (Category 4)

3. STRATEGIC INTENT

SFA 1 : an OPPORTUNITY CITY

Objective 1.5	Leverage the City's assets to drive economic growth and sustainable development
Programme 1.5(a)	City strategic assets investigation

4. PURPOSE

To consider an application received from Anthony Michael Butler and Anne Frances Jellema to purchase a portion of Cape Town Commonage (Cape Farm No. 920), situated at Quarterdeck Road, Kalk Bay, as shown lettered ABCDEF on Plan No LT 1001v0 attached as **annexure A**, in extent approximately 123 m² for gardening and security purposes.

5. FOR DECISION BY

This report is for consideration by

- the Immovable Property Adjudication Committee (IPAC)

6. EXECUTIVE SUMMARY:

PURPOSE OF REPORT	To consider an application received from Anthony Michael Butler and Anne Frances Jellema to purchase a portion of City land, being a portion of Cape Town Commonage (Cape Farm No. 920), situated at Quarterdeck Road, Kalk Bay, as shown lettered ABCDEF on Plan No LT1001v0 attached as annexure A , in extent approximately 123m ² for gardening and security purposes.			
Property description	A portion of Cape Town Commonage (Cape Farm No. 920)			
Applicant	A M Butler and A F Jellema			
Site extent	±123m ²			
Current zoning	Single Dwelling			
Current usage	Gardening			
Proposed usage	Gardening and security			
Application description	Disposal, Subdivision and Consolidation			
Submission date	Request for re-valuation submitted on 22 January 2014			
Circulation date	Updated valuation received on 8 May 2014			
Comments [RE nature of delays]	Ownership of property changed and negotiations had to be undertaken with new owners			
Public participation outcome summary	Advertised on 22 February 2013. No objections were received			
WARD COUNCILLOR D Dalton	NOTICE DATE	08-02-2013	WARD	64
Outcome of Sub-Council consideration	This matter served before Sub-Council 19 at the meeting held on 15 September 2014 under Item No 19SUB28/09/14 and was supported (annexure B)			
Viable	Yes		No	X
Recommended decision	Approval	X	Refusal	

7. RECOMMENDATIONS:

Not delegated : for decision by Council:

It is recommended that:

- a) Council resolve that, in terms of Section 14 of the Local Government Municipal Finance Management Act, No 56 of 2003, the property is not required to provide the minimum level of basic municipal services, and is surplus to the requirements of the municipality.
- b) The disposal of a portion of City land, being a portion of Cape Town Commonage (Cape Farm No. 920), situated at Quarterdeck Road, Kalk Bay, as shown lettered ABCDEF on Plan No LT1001v0 attached as **annexure A**, in extent approximately 123m², to Anthony Michael Butler and Anne Frances Jellema or their successors in title be approved subject inter alia to the following conditions, that:
 - (i) A market-related purchase price of R110 000 excluding VAT of 14%, being R15 400 (in total R125 400), be payable;
 - (ii) The purchase price will escalate by 5% compounded per annum on a pro rata basis commencing 6 months after date of valuation, being 30 May 2014 to date of transfer;
 - (iii) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
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 - (vii) All invasive alien vegetation to be removed;
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 - (ix) Any alteration to electricity services necessary as a consequence of the proposal, or requested by the applicants, will be carried out at the expense of the applicants;

- (x) No excavation is to take place on the site until the requirements of the Occupational Health and Safety Act No 85 of 1993 and Section 141(1) of the Municipal Ordinance have been adhered to. In this regard the Manager: High Voltage Cabled must be contacted prior to the commencement of any work;
- (xi) The applicants must notify Telkom immediately should any Telkom plant be exposed on the property and any cost for the deviation or removal of such plant due to the proposal will be for the account of the applicant. Telkom will also require access at all times to carry out maintenance.

7. AANBEVELINGS:

Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Die Raad ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, no. 56 van 2003, besluit dat die eiendom nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie, en oorbodig vir die munisipaliteit se behoeftes is.
- b) Die vervreemding van 'n gedeelte van Stadsgrond, synde 'n gedeelte van Kaapstadse gemeenskaplike grond (Kaapse plaas no. 920), geleë te Quarterdeckweg, Kalkbaai, aangetoon deur die letters ABCDEF op plan no.LT1001v0 aangeheg as **bylae A**, ongeveer 123 m² groot, aan Anthony Michael Butler en Anne Frances Jellema of hul regsopvolgers, goedgekeur word, onderworpe aan onder andere die volgende voorwaardes, naamlik dat:
 - (i) 'n Markverwante koopprys van R110 000, 14%-BTW ingesluit waar van toepassing, synde R15 400 (altesaam R125 400), betaal word;
 - (ii) Die koopprys teen 5% per jaar sal styg, jaarliks pro rata saamgesteld, vanaf ses maande na die waardasiedatum, d.w.s. 30 Mei 2014, tot die datum van oordrag;
 - (iii) Onderworpe aan enige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid;
 - (iv) Die aansoeker alle koste verbonde aan die transaksie sal dra;
 - (v) Onderworpe aan die nakoming van enige ander statutêre vereistes;
 - (vi) Die eiendom slegs vir tuinmaakdoeleindes gebruik mag word en geen strukture hoegenaamd daarop opgerig mag word nie;
 - (vii) Alle uitheemse indringerplantegroei verwyder moet word;



- (viii) Enige herontwikkeling van die aansoekers se eiendom die onderhawige eiendom moet uitsluit, en die bestaande boulyne vir die aansoekers se eiendom behoue moet bly;
- (ix) Enige verandering aan elektrisiteitsdienste wat as gevolg van die voorstel nodig is of deur die aansoekers versoek is, sal op koste van die aansoekers gedoen word;
- (x) Geen uitgrawings op die perseel gedoen mag word voor die vereistes van die Wet op Beroepsgesondheid en -veiligheid, Wet 85 van 1993, en artikel 141(1) van die Munisipale Ordonnansie nagekom is nie. Kontak die bestuurder: hoëspanningskabels in hierdie verband voor daar met enige werk begin word.
- (xi) Die aansoekers Telkom onmiddellik in kennis moet stel as enige Telkom-installasie op die eiendom blootgestel word, en enige onkoste vir die afwyking of verwydering hiervan as gevolg van die voorstel, deur die aansoekers gedra moet word. Telkom sal ook te alle tye toegang verlang om instandhouding te kan doen.

7. ISINDULULO:

Aziqunyaziswanga: Isiqqibo seseBhunga:

Kundululwe ukuba:

- a) IBhunga ligqibe ngokweCandelo-14 loMthetho wobuRhulumente boMmandla ongoMthetho woLawulo lweziMali zikaMasipala onguNomb.56 wango-2003, ukuba ipropati ayisafuneki nganto ukubonelela ngomlinganiselo othile weenkonzozo ezingundoqo zikamasipala.
- b) Makuphunyezwe ukunikezelwa kwesiqephu somhlaba weSixeko osisiqephu sefama yaseKapa (iFama yaseKapa enguNomb.920), ekwi- Quarterdeck Road, e-Kalk Bay, esibonakaliswe ngoonobumba abakhulu u- ABCDEF kwiPlani eqhotuyoshelwe **kwisihomelo-A**, esibukhulu obumalunga ne-123 m², ku-Anthony Michael Butler no-Anne Frances Jellema okanye kwabangena ezihlangwini zabo ngokwetayitile, ngokuxhomekeke ekuthotyelweni kwale miqathango olandelayo, yokuba:
 - i) Makuhlawulwe ixabiso eliphathelene nelasemakethi elili-R110 000, ngaphandle kweRhafu-ntengo eli-14% apho kufanelekileyo, engama-R15 400 (apho iyonke lili-R125 400);
 - ii) Ixabiso lentengiso liyakuthi linyuke nge-5% ngonyaka ngokommiselo wexesha elithile apho luyakuthi Oluqalise kwiinyanga ezi-6 emva komhla woqingqo-maxabiso, ongowama-30 Meyi 2014 ukuya kumhla wotshintshelo;
 - iii) Ngokuxhomekeke kwimiqathango ethe xhaxhe eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;



- iv) Zonke iindleko eziphathelene nonaniselwano ziyakuthi zibeluxanduva lomfakai-sicelo;
- v) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho engeminye;
- vi) IPropati ingasetyenziselwa imibandela yezasegadini kwaye akuvumelekanga ukuba kumiselwe izakheko ezingezinye;
- vii) Kufuneka kususwe lonke utyani olunobungozi;
- viii) Naluphina uphuhliso ngokutsha lwepropati lomfaki-sicelo kufuneka lungaquki ipropati echaphazelekayo kwaye kufuneka imida esele imiselwe yesakhiwo ingatshintshwa ngokujoliswe kwipropati yomfaki-sicelo;
- ix) Naluphina uguqulelo okanye utenxo kwiinkonzo zombane olufunekayo ngenxa yesiphakamiso, okanye ngenxa yokuba lucelwe ngumfaki-sicelo, luyakuthi luqhutywe ngokwendleko zabafaki-sicelo;
- x) Akukho lombiwa oluyakuthi luqhubeke kwisiza kude kube kuthotyelwa imimiselo yoMthetho oneMpilo ngokwaseMsebenzini noKhuseleko onguNomb.85 wangowe-1993 noweCandelo-141(1) loMmiselo kaMasipala. Ke ngoko kufuneka kuqhagamshelwame noMphathi weeKhebhule zoMbane ezinkulu, phambi kokuba kuqaliswe ngawo nawuphina umsebenzi;
- xi) Umfaki-sicelo kufuneka azise abakwa-Telkom kwangoko ukuba kuthe nalo naliphina iziko labakwa-Telkom lithe lasesichengini kwipropati kwakhona naziphina iindleko zotenxo okanye ukususwa kwelo ziko ngenxa yesi siphakamiso, luyakuthi ibeluxanduva lomfaki-sicelo. Abakwa-Telkom kwakhona kuyakufuneka ukuba baqhube umsebenzi wonophelo ngalo lonke ixesha.

8. DISCUSSION/CONTENTS:

8.1 BACKGROUND:

- 8.1.1 The previous owner of the Remainder of Erf 89656 Cape Town at Kalk Bay was granted an encroachment permit on 25 June 1996 in respect of a portion of the adjacent City owned property, being Cape Farm No 920, for gardening purposes, such permit being valid for 10 years with an option to renew (**Annexure C**).
- 8.1.2 During 2007 the previous owner indicated his interest to purchase the property instead of renewing the encroachment permit and submitted an application to this end.
- 8.1.3 The application was circulated to the respective service branches and no objections were received, subject to the conditions as set out in paragraph 7.



- 8.1.4 Before this transaction could, however, be concluded, the previous owner sold his property to A M Butler and A F Jellema who indicated their intention to proceed with the application to purchase the subject property.
- 8.1.5 To this end, an application was thus received from Anthony Michael Butler and Anne Frances Jellema, the registered owners of Erf 89656 Cape Town, to purchase a portion of abutting City owned land, being a portion of Cape Town Commonage (Cape Farm 920) situated at Quarterdeck Road, Kalk Bay, in extent approximately 123 m², as shown by the figure ABCDEF on Plan No LT1001v0, attached as **annexure A**, for gardening and security purposes.
- 8.1.6 The proposed disposal was advertised in the press on 22 February 2013. Notice of the intention to dispose of the subject property was also sent to abutting owners, the Councilor and the relevant community organizations. No objections were received against the proposed disposal. The Kalk Bay St James Ratepayers Association advised that they have no objection to the proposed disposal, provided that no construction may take place on the property, either in the form of structures or fencing that may obstruct the view and have an impact on the scenic quality of Quarterdeck Road. The requirement from Branches that a "no building" clause be inserted in the deed of sale of this disposal will, however, address the concerns of the Ratepayers Association.
- 8.1.7 The subject property vests in the City of Cape Town as commonage and ownership thereof will be formalized in terms of Section 31 of the Deeds Registries Act No 47 of 1937 prior to disposal thereof to the applicants.
- 8.1.8 The application served before Sub-Council 19 at the meeting held on 15 September 2014 under Item 19SUB28/09/14 and was supported, as contained in the resolution attached as **annexure B**.

8.2 CONSULTATION WITH BRANCHES:

The application was circulated to the relevant service branches of Council and no objections were received to the proposed disposal, subject to the conditions as set out in paragraph 7 above.

8.3 FACTORS MOTIVATING RECOMMENDATION:

- 8.3.1 The land is no longer required for Municipal purposes.
- 8.3.2 The City will receive a market related purchase price of R110 000, excluding VAT, in respect of the disposal of the subject property.
- 8.3.3 The alienation will allow for better utilization of the property and alleviate the City's maintenance burden.
- 8.3.4 The property is non-viable and can only be disposed of to the applicants as abutting landowners.



8.4 PUBLIC PARTICIPATION

		Comments
Advertising	Cape Times & Burger	Date: 22 February 2013
	Prov & Nat Treasury	This asset referred in not a "high value" asset, as defined in the MATR
	Notices to adj owners	Date: 8 February 2013
	Ward councillor	Date: 11 February 2013
	Subcouncil Chair & Manager	Date: 11 February 2013
	Community organisation(s)	Date: 11 February 2013
Outcome	Objections	No objections were received
	Support / No objection	Disposal supported
	Comments	No building clause to be inserted in the deed of sale
	Ward Councillor response	No response

8.5 VALUATION

The City's Professional Valuers on 30-05-2014 assessed the market value of the Subject Property at R110 000 excluding VAT, the purchase price to escalate at 5% per annum compounded annually on a pro rata basis as from 6 months after the date of valuation to date of transfer. The valuation synopsis is attached to the report as **annexure D**.

8.6 VAT

VAT will be levied at the standard rate.

8.7 BLACK ECONOMIC EMPOWERMENT (BEE) STATUS:

The applicants' are not from a previously disadvantaged group.

8.8 CONSTITUTIONAL AND POLICY IMPLICATIONS:

8.8.1 The 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 that the land is not needed to provide the minimum level of basic municipal services.

8.8.2 Council's By-Law (LA 12783) relating to the Management and Administration of the City of Cape Town's Immovable Property as published on 28 February 2003 (Section 4) allows the alienation of immovable property.

8.8.3 Chapter B of Council's policy relating to the Management of certain of the City of Cape Town's Immovable Property permits the alienation of immovable property.

8.8.4 Policy on the management of Council's Immovable Property, approved 20 June 2005 (MC 29/06/05) , amended 19 October 2005 (MC 31/10/05), promulgated 3 February 2006 (PG 6340: LA 32323) applies.

8.9 FINANCIAL IMPLICATIONS:

All costs involved in the transaction will be for the account of the applicant.

8.10 TAX COMPLIANCE

The applicants' have complied. See Tax Certificates attached hereto as annexure E.

8.11 FINANCIAL DUE DILIGENCE

The applicants' debt profiles have been verified and it is confirmed that they are not in arrears.

8.12 SUSTAINABILITY IMPLICATIONS:

Does the activity in this report have any sustainability implications for the City	No X	Yes
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8.13 LEGAL IMPLICATIONS

8.13.1 As required in terms of Regulation 7 of the Municipal Asset Transfer Regulations (MATR), Council must take into account the following **factors** 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 the proposed disposal 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 market related purchase price as well as rates and taxes following the development of the property. The market value of the portion of the subject property has been determined to be R110 000, 00 excluding VAT.

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 delegated authority.

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

The purchaser will be responsible for the transfer costs.

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 disposal being advertised in the Cape Times and Die Burger on 22 February 2013. Closing date for objections was 22 March 2013. Copies of the advertisement were sent to the Ward Councillor, Chairperson of the relevant Sub-Council and registered local community organisations. 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 disposal is not a "high value" asset, as defined in the MATR. No objections / comments were received from National and Provincial Treasury.

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 By-Law (LA.12783) relating to the Management and Administration of the City of Cape Town's Immovable Property as published on 28 February 2003 (Section 4) permits the sale of Immovable Property.
- 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

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

- The subject property vests in the City of Cape Town and will have to be registered as such in terms of Section 31 of the Deeds Registries Act No 47 of 1937.
- The subject property will need to be subdivided once Council agrees to the disposal.
- The portion of land will need to be consolidated with the applicants' adjacent Erf 89656 Cape Town to form a single land holding.

8.14 STAFF IMPLICATIONS

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

No X

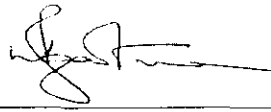

Yes

ANNEXURES

- Annexure A : Plan No LT 1001v0
- Annexure B : Sub-Council 19 Resolution No 19SUB28/09/14
- Annexure C : Encroachment Permit
- Annexure D : Valuation Synopsis
- Annexure E : SARS Tax Clearance Certificate



FOR FURTHER DETAILS CONTACT:

NAME	W Baartman (Gerda du Plessis)	
CONTACT NUMBERS	021 710 8382	
E-MAIL ADDRESS	Susarah.duplessis@capetown.gov.za	
DIRECTORATE	FINANCE	
FILE REF NO	S14/3/4/3/599/00/89656	N2011d2014
SIGNATURE : DIRECTOR	 2014-10-29	



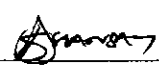
CHIEF FINANCIAL OFFICER
[Kevin Jacoby]

Comment:

NAME

DATE

03.11.2014



LEGAL COMPLIANCE

NAME

TEL

DATE

A.S. Dlamini

(021) 400 9586

7-11-14

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

Certified as legally compliant:
Based on the contents of the report

Comment:

KINDLY NOTE: TAX CLEARANCE CERTIFICATE
OF AM BUTLER HAS EXPIRED.