

ITEM NUMBER: C 19/03/15

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 17 FEBRUARY 2015

MC 25/02/15 PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED IMMOVABLE PROPERTY BEING PORTIONS OF ERVEN 156913 AND 155540, CAPE TOWN, A PUBLIC STREET, SITUATED AT NEW MILL ROAD, NDABENI: PINELANDS BUSINESS PARK BODY CORPORATE

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 (d) below
- (b) Council resolve in terms of Section 14 of the Local Government Municipal Finance Management Act, Act 56 of 2003, that the property is not required to provide the minimum level of basic municipal services
- (c) in terms of the provisions of Section 6 of the By-law relating to the Management and Administration of the City of Cape Town's Immovable Property, the portions of Erven 156913 and 155540, Cape Town (a public street, situated at New Mill Road, Ndabeni) as indicated on Plan SZC 797 attached as Annexure A to the report on the agenda, be closed
- (d) portions of Erven 156913 and 155540, Cape Town (a public street situated at New Mill Road, Ndabeni) shown lettered ABCDEF on Plan SZC 797 attached as Annexure A to the report on the agenda, in extent approximately 140 m², be alienated to Pinelands Business Park Body Corporate, or their successor(s)-in-title, subject *inter alia* to the following conditions that:
 - (i) a market-related purchase price of R160 000 excluding VAT of 14% where applicable, being R22 400 (in total - R182 400), be payable;
 - (ii) the purchase price is to be adjusted on the basis of 5% per annum compounded annually on a pro rata basis commencing six months after date of valuation (i.e. $5\% \div 12 \text{ months} \times \text{number of months after the six-months period}$). Accordingly the above purchase price is to be adjusted as from 01-06-2014. The valuation is to be reviewed if not implemented within 18 months from date of valuation;
 - (iii) rates and municipal charges, if applicable, be levied;

- (iv) subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including that all incidental costs will be borne by the purchaser;
- (v) compliance with any other statutory requirements;
- (vi) the subject property must be consolidated with the applicant's remainder Erf 155539, Cape Town to form one holding;
- (vii) the existing underground electricity services must be deviated clear of the subject area at the applicant's expense;
- (viii) the applicant will pay the depreciation capital cost of the street lighting and be responsible for the cost of the energy consumed by the street lighting and for the cost of routine maintenance of the street lighting. The appropriate tariff will be levied on a monthly basis. Furthermore, the actual cost of repair necessitate by any will be the responsibility of the applicant. No alterations of any kind may be made to the lighting installation or by the deterioration through ageing will be the responsibility of the applicant. No alterations of any kind may be made to the lighting installation nor may anything be attached to a pole;
- (ix) no excavation may take place on site until the requirements of the Occupational Health and Safety Act, 1993, and Section 141(1) of the Municipal Ordinance have been adhered to;
- (x) the existing Right of Way in favour of Erf 110934, Cape Town must be extended to the new road boundary;
- (xi) Telkom's plant will be affected by the proposal. Telkom has no objection to the proposal provided that a wayleave be obtained prior to any work commencing.

MC 25/02/15

IPAC 11/12/2014 PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED IMMOVABLE PROPERTY BEING PORTIONS OF ERVEN 156913 AND 155540, CAPE TOWN, A PUBLIC STREET, SITUATED AT NEW MILL ROAD, NDABENI: PINELANDS BUSINESS PARK BODY CORPORATE

ISIPHAKAMISO SOKUVALWA NOKUNIKEZELWA KWEPROPATI ELAWULWA SISIXEKO ENGENAKUSUSWA EZIZIQEPHU ZEZIZA-156913 NO-155540, EZISEKAPA, ISITRATO SOLUNTU, ESIKWI-NEW MILL ROAD, ENDABENI: KWABAKWA-PINELANDS BUSINESS PARK BODY CORPORATE

VOORGESTELDE SLUITING EN VERVREEMDING VAN ONROERENDE EIENDOM IN STADSBESIT NAAMLIK GEDEELTES VAN ERF 156913 EN 155540, KAAPSTAD, 'N OPENBARE STRAAT, GELEË TE NUWE MILLWEG, NDABENI: BEHEERLIGGAAM VAN DIE PINELANDS-SAKEPARK

The Committee requested that the in principle clause be included as a) under 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 d) below;
- b) Council resolve in terms of section 14 of the Local Government Municipal Finance Management Act, Act 56 of 2003, that the property is not required to provide the minimum level of basic municipal services.
- c) In terms of the provisions of section 6 of the By-law relating to the Management and Administration of the City of Cape Town's Immovable Property, the portions of erven 156913 and 155540, Cape Town, a public street, situated at New Mill Road, Ndabeni, as indicated on the attached plan SZC 797 marked annexure A, be closed.
- d) Portions of erven 156913 and 155540, Cape Town, a public street situated at New Mill Road, Ndabeni shown lettered ABCDEF on the

attached plan SZC 797 marked annexure A, in extent approximately 140 m², be alienated to Pinelands Business Park Body Corporate or their successor(s) in title, subject inter alia to the following conditions that:

1 4 3

- i. A market-related purchase price of R160 000 excluding VAT of 14% where applicable, being R22 400 (in total R182 400), be payable.
- ii. The purchase price is to be adjusted on the basis of 5% per annum compounded annually on a pro rata basis commencing six months after date of valuation (i.e. $5\% \div 12 \text{ months} \times \text{number of months after the six-months period}$). Accordingly the above purchase price is to be adjusted as from 01-06-2014. The valuation is to be reviewed if not implemented within 18 months from date of valuation.
- iii. Rates and municipal charges, if applicable, be levied.
- iv. Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including that all incidental costs will be borne by the purchaser.
- v. Compliance with any other statutory requirements.
- vi. The subject property must be consolidated with the applicant's remainder erf 155539 Cape Town to form one holding.
- vii. The existing underground electricity services must be deviated clear of the subject area at the applicant's expense.
- viii. The applicant will pay the depreciation capital cost of the street lighting and be responsible for the cost of the energy consumed by the street lighting and for the cost of routine maintenance of the street lighting. The appropriate tariff will be levied on a monthly basis. Furthermore, the actual cost of repair necessitate by any will be the responsibility of the applicant. No alterations of any kind may be made to the lighting installation or by the deterioration through ageing will be the responsibility of the applicant. No alterations of any kind may be made to the lighting installation nor may anything be attached to a pole.
- ix. No excavation may take place on site until the requirements of the Occupational Health and Safety Act, 1993, and section 141 (1) of the Municipal Ordinance have been adhered to.
- x. The existing Right of Way in favour of erf 110934 Cape Town must be extended to the new road boundary.
- xi. Telkom's plant will be affected by the proposal. Telkom has no objection to the proposal provided that a wayleave be obtained prior to any work commencing.

IZINDULULO

- a) Makuvunyelwe ukwamkelwa nokulungiswa kulungiselelwa ukuphunyezwa ngokomthetho-siseko, ngokungqinelana nomgaqo-5(1)(b)(ii) kunye nokuphunyezwa okokugqibela kwesindululo-d) ngezantsi apha;
- b) IBhunga ligqibe ngokweCandelo-14 loMthetho wobuRhulumente boMmandla ongoMthetho woLawulo lweziMali zikaMasipala onguNomb.56 wango-2003, ukuba ipropati ayisafuneki nganto ukubonelela ngomlinganiselo othile weenkonziso ezingundoqo zikamasipala.
- c) Ngokwemimiselo yesolotya-6 loMthetho kaMasipala ophathelene nokuPhathwa nezoLawulo lwePropati kaMasipala engenakususwa, makuvalwe iziqephu zeziza-156913 no- 155540, esiseKapa isitalato soLuntu esikwi-New Mill Road, eNdabeni, njengoko kubonakalisiwe kwiplani engu-SZC 797, ephawulwe kwisihlomelo-A.
- d) Izinqephu zeziza-156913 ne-155540, eziseKapa, isitrato soluntu esikwi-New Mill Road, eNdabeni, esibonakalisiwe ngoonobumba abakhulu u-ABCDEF eziphawulwe kwisihlomelo-A, esibukhulu obumalunga ne-140 m², mazinikezelwe kwabakwa- Pinelands Business Park Body Corporate okanye kwabangena ezihlangwini zabo ngokwetaitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo:
 - i. Ukuba makuhlululwe ixabiso eliphathelene nelasemakethi elili-R160 000, ngaphandle kweRhafu-ntengo eli-14%, engama-R22 400 (apho iyonke ilili-R182 400).
 - ii. Ixabiso lentengo malilungelelaniswe ngokusekelezwe kumyinge we-5% ngonyaka uhlanganiswa rhoqo ngonyaka ukususela kwiinyanga ezindandathu (6) emva komhla woqingqo-maxabiso oko kukuthi. (5% + iinyanga ezili-12 siphinda-phindwe ngeenyanga ezisemva kwesi sithuba seenyanga ezintandathu. Kananjalo le ntengiso ingentla kufuneka ilungelelaniswe ukususela ngomhla woku 01-06-2014 Kufuneka kuphengululwe uqingqo-maxabiso ukuba aluzalekiswa kwisithuba seenyanga ezili-18 ukususela kumhla woqingqo-maxabiso.
 - iii. Makuhlululwe iirhafu neentlawulo zikamasipala, apho kufanelekileyo.
 - iv. Ngokuxhomekeke kwimiqathango ethe xhaxhe eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo, kuquka zonke iindleko eziphathelene noku ziyakuthi zibeluxanduva lomthengi.
 - v. Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo engeminye yomthetho.
 - vi. Ipropati le ichaphazelekayo kufuneka idityaniswe kwintsalela yesiza-155539 esisesomfaki-sicelo, esiseKapa ukuze senze ipropati enye.

- vii. Makususwe iinkonzo esele zimiselwe zombane ezingaphantsi komhlaba kummandla lo uchaphazelekayo, kusenziwa oko ngokweendleko zomfaki-sicelo.
- viii. Umfaki-sicelo uyakuthi ahlawule ixabiso elihlileyo lendleko zezimali ezinkulu zombane wasesitratweni kwaye abanexanduva lwamandla ombane athe asetyenziswa zizbane zasesitratweni nendleko zokunonotshelwa kwezibane zasesitratweni. Ixabiso elifanelekileyo liyakuthi lihlawulwe ngokommiselo warhoqo ngenyanga. Kwakhona indleko ezingqalileyo zolungiso ezithe zayimfuneko yalo naliphina iqela, ziyakuthi zibeluxanduva lomfaki-sicelo. Akukho luguqulelo lwalo naluphina uhlobo olungenziwa kufakelelo lombane okanye kukuwohloka kwezixhobo ngenxa yokuguga kwazo okuyakuthi kubeluxanduva kumfaki-sicelo. Akukho luququlelo lwalo naluphina uhlobo olungenziwa kufakelelo lombane (kwizikhanyiso) okanye nayiphina into eqhotyoshelwe epalini.
- ix. Akukho lombiwa luyakuthi luqhubeke kwisiza kude kube kuthotyelwa imimiselo yoMthetho wezeMpilo eMsebenzini noKhuseleko wango-1993 neyecandelo-141 (1) loMmiselo kaMasipala.
- x. Ilungelo lokungena esele likhona kwisiza-110934 esiseKapa kufuneka landiswe ukudlulela kumda omtsha wendlela.
- xi. Iziko labakwa-Telkom liyakuthi lichaphazeleke ngokwesi siphakamiso. Abakwa-Telkom abanasichaso kwesi siphakamiso ngokuxhomekeke ekubeni ukuba kuyakuthi kufunyanwe imvume kuqala phambi kokuba kuqaliswe ngawo nawuphina umsebenzi.

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 d) hier onder;
- b) Ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, Wet 56 van 2003, die Raad bepaal dat die eiendom nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie.
- c) Ingevolge die bepalings van artikel 6 van die Verordening op die Bestuur en Administrasie van die Stad Kaapstad se Onroerende Eiendom, gedeeltes van erf 156913 en 155540, Kaapstad, 'n openbare straat, geleë te Nuwe Millweg, Ndabeni, soos aangedui op die aangehegte plan SZC 797, gemerk bylae A, gesluit word.
- d) Gedeeltes van erf 156913 en 155540, Kaapstad, 'n openbare straat,

geleë te Nuwe Millweg, Ndabeni, aangetoon met die letters ABCDEFG op die aangehegte plan SZC 797, gemerk bylae A, ongeveer 140 m² groot, vervreem word aan die beheerliggaam van die Pinelands-sakepark of hulle regsopvolger(s), onderworpe onder meer aan die volgende voorwaardes dat:


- i. 'n Markverwante koopprys van R160 000, BTW van 14% uitgesluit waar van toepassing, naamlik R22 400 (R182 400 in totaal), betaalbaar is.
- ii. Die koopprys aangepas word teen 5% per jaar, jaarliks pro rata saamgestel, vanaf ses maande na die waardasiedatum (d.w.s. $5\% \div 12$ maande \times aantal maande na die tydperk van ses maande). Die bogenoemde koopprys moet gevolglik van 01-06-2014 aangepas word. Die waardasie moet hersien word as dit nie binne 18 maande na die waardasiedatum geïmplementeer word nie.
- iii. Eiendomsbelasting en munisipale gelde hef word indien van toepassing.
- iv. Onderworpe aan sodanige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid, asook dat alle bykomende koste deur die koper betaal moet word.
- v. Die nakoming van enige ander statutêre vereistes.
- vi. Die onderhawige eiendom met die aansoeker se restant erf 155539 Kaapstad gekonsolideer word om een standplaas te vorm.
- vii. Die bestaande ondergrondse elektrisiteitsdienste op die aansoeker se onkoste heeltemal weg van die betrokke gebied herlei moet word.
- viii. Die aansoeker die depresiasie-kapitaalkoste van die straatbeligting sal betaal en verantwoordelik sal wees vir die koste van die kragverbruik van die straatligte en vir die koste van roetine-instandhouding van die straatligte. Die toepaslike tarief sal op 'n maandelikse grondslag hef word. Verder sal die werklike koste van herstelwerk ook die verantwoordelikheid van die aansoeker wees. Geen verandering van enige aard mag aan die liginstallasie gemaak word nie of deur die agteruitgang deur veroudering sal die verantwoordelikheid van die aansoeker wees. Geen verandering van enige aard mag aan die liginstallasie gemaak word nie en niks mag aan 'n paal aangeheg word nie.
- ix. Geen opgrawing mag op die terrein plaasvind totdat daar voldoen is aan die vereistes van die Wet op Beroepsgesondheid en Veiligheid, 1993, en artikel 141(1) van die Munisipale Ordonnansie nie.
- x. Die bestaande reg-van-toegang ten gunste van erf 110934 Kaapstad tot die nuwe padgrens verleng moet word.

- xi. Telkom se aanleg sal deur die voorstel geraak word. Telkom het geen beswaar teen die voorstel nie, mits 'n deurgangsreg verkry is voordat daar met enige werk begin word.

147

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

COMMENT:

DATE: 15/11/15



DIRECTOR : LEGAL SERVICES
MR LUNGELO MBANDAZAYO

COMMENT:

DATE: 21/01/2015



ALDERMAN IAN NEILSON
MAYORAL COMMITTEE MEMBER : FINANCE

COMMENT:

DATE: 28/1/2015



REPORT TO IMMOVABLE PROPERTY ADJUDICATION COMMITTEE

DATE:

1. **ITEM NUMBER :** To be inserted by Executive Support

2. **SUBJECT**

PROPOSED CLOSURE AND ALIENATION OF CITY-OWNED IMMOVABLE PROPERTY BEING PORTIONS OF ERVEN 156913 AND 155540, CAPE TOWN, A PUBLIC STREET, SITUATED AT NEW MILL ROAD, NDABENI: PINELANDS BUSINESS PARK BODY CORPORATE

2. **ONDERWERP**

VOORGESTELDE SLUITING EN VERVREEMDING VAN ONROERENDE EIENDOM IN STADSBESIT NAAMLIK GEDEELTES VAN ERF 156913 EN 155540, KAAPSTAD, 'N OPENBARE STRAAT, GELEË TE NUWE MILLWEG, NDABENI: BEHEERLIGGAAM VAN DIE PINELANDS-SAKEPARK

2. **ISIHLOKO**

ISIPHAKAMISO SOKUVALWA NOKUNIKEZELWA KWEPROPATI ELAWULWA SISIXEKO ENGENAKUSUSWA EZIZIQEPHU ZEZIZA-156913 NO-155540, EZISEKAPA, ISITRATO SOLUNTU, ESIKWI-NEW MILL ROAD, ENDABENI: KWABAKWA-PINELANDS BUSINESS PARK BODY CORPORATE

LSU: E4078

L7/7/345

PH 2014/0625 (Category 1)

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 the proposed closure and disposal of City-owned immovable property being portions of Erven 156913 and 155540, Cape Town, a public street, situated at New Mill Road, Ndabeni to Pinelands Business Park Body Corporate.



5. FOR NOTING BY / FOR DECISION BY

This report is for consideration by

- the Immovable Property Adjudication Committee (IPAC)
- the Executive Mayor together with the Mayoral Committee
- Council

6. EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed closure and disposal of City-owned immovable property being portions of Erven 156913 and 155540, Cape Town, a public street, situated at New Mill Road, Ndabeni to Pinelands Business Park Body Corporate.			
Property description	Erven 156913 and 155540, Cape Town			
Applicant	Pinelands Business Park Body Corporate			
Site extent	140 m ²			
Current zoning	Public Street			
Current usage	Access			
Proposed usage	Access and security			
Application description	Purchase			
Submission date	7 October 1998			
Circulation date	22 October 1998			
Comments	Protracted negotiations regarding purchase price			
Public participation outcome summary	The proposed disposal was advertised in the press on 27 August 2010. No objections were received.			
WARD Cllr Brian Watkyns	NOTICE	DATE	WARD	
		27-08-2010		53
Viable	Yes		No	X
Recommended decision	Approval	X	Refusal	

7. RECOMMENDATIONS

Not delegated: for decision by Council:

It is recommended that:

- a) Council resolve in terms of section 14 of the Local Government Municipal Finance Management Act, Act 56 of 2003, that the property is not required to provide the minimum level of basic municipal services.



- b) In terms of the provisions of section 6 of the By-law relating to the Management and Administration of the City of Cape Town's Immovable Property, the portions of erven 156913 and 155540, Cape Town, a public street, situated at New Mill Road, Ndabeni, as indicated on the attached plan SZC 797 marked annexure A, be closed.
- c) Portions of erven 156913 and 155540, Cape Town, a public street situated at New Mill Road, Ndabeni shown lettered ABCDEF on the attached plan SZC 797 marked annexure A, in extent approximately 140 m², be alienated to Pinelands Business Park Body Corporate or their successor(s) in title, subject inter alia to the following conditions that:
- i. A market-related purchase price of R160 000 excluding VAT of 14% where applicable, being R22 400 (in total R182 400), be payable.
 - ii. The purchase price is to be adjusted on the basis of 5% per annum compounded annually on a pro rata basis commencing six months after date of valuation (i.e. $5\% \div 12 \text{ months} \times \text{number of months after the six-months period}$). Accordingly the above purchase price is to be adjusted as from 01-06-2014. The valuation is to be reviewed if not implemented within 18 months from date of valuation.
 - iii. Rates and municipal charges, if applicable, be levied.
 - iv. Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority, including that all incidental costs will be borne by the purchaser.
 - v. Compliance with any other statutory requirements.
 - vi. The subject property must be consolidated with the applicant's remainder erf 155539 Cape Town to form one holding.
 - vii. The existing underground electricity services must be deviated clear of the subject area at the applicant's expense.
 - viii. The applicant will pay the depreciation capital cost of the street lighting and be responsible for the cost of the energy consumed by the street lighting and for the cost of routine maintenance of the street lighting. The appropriate tariff will be levied on a monthly basis. Furthermore, the actual cost of repair necessitate by any will be the responsibility of the applicant. No alterations of any kind may be made to the lighting installation or by the deterioration through ageing will be the responsibility of the applicant. No alterations of any kind may be made to the lighting installation nor may anything be attached to a pole.



- ix. No excavation may take place on site until the requirements of the Occupational Health and Safety Act, 1993, and section 141 (1) of the Municipal Ordinance have been adhered to.
- x. The existing Right of Way in favour of erf 110934 Cape Town must be extended to the new road boundary.
- xi. Telkom's plant will be affected by the proposal. Telkom has no objection to the proposal provided that a wayleave be obtained prior to any work commencing.

7. AANBEVELINGS

Nie gedeleger nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, Wet 56 van 2003, die Raad bepaal dat die eiendom nie vir die voorsiening van die minimum vlak van basiese munisipale dienste benodig word nie.
- b) Ingevolge die bepalings van artikel 6 van die Verordening op die Bestuur en Administrasie van die Stad Kaapstad se Onroerende Eiendom, gedeeltes van erf 156913 en 155540, Kaapstad, 'n openbare straat, geleë te Nuwe Millweg, Ndabeni, soos aangedui op die aangehegte plan SZC 797, gemerk bylae A, gesluit word.
- c) Gedeeltes van erf 156913 en 155540, Kaapstad, 'n openbare straat, geleë te Nuwe Millweg, Ndabeni, aangetoon met die letters ABCDEFG op die aangehegte plan SZC 797, gemerk bylae A, ongeveer 140 m² groot, vervreem word aan die beheerliggaam van die Pinelands-sakepark of hulle regsopvolger(s), onderworpe onder meer aan die volgende voorwaardes dat:
 - i. 'n Markverwante koopprys van R160 000, BTW van 14% uitgesluit waar van toepassing, naamlik R22 400 (R182 400 in totaal), betaalbaar is.
 - ii. Die koopprys aangepas word teen 5% per jaar, jaarliks pro rata saamgestel, vanaf ses maande na die waardasiedatum (d.w.s. $5\% \div 12$ maande \times aantal maande na die tydperk van ses maande). Die bogenoemde koopprys moet gevolglik van 01-06-2014 aangepas word. Die waardasie moet hersien word as dit nie binne 18 maande na die waardasiedatum geïmplementeer word nie.
 - iii. Eiendomsbelasting en munisipale gelde gehef word indien van toepassing.



- iv. Onderworpe aan sodanige verdere voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid, asook dat alle bykomende koste deur die koper betaal moet word.
- v. Die nakoming van enige ander statutêre vereistes.
- vi. Die onderhawige eiendom met die aansoeker se restant erf 155539 Kaapstad gekonsolideer word om een standplaas te vorm.
- vii. Die bestaande ondergrondse elektrisiteitsdienste op die aansoeker se onkoste heeltemal weg van die betrokke gebied herlei moet word.
- viii. Die aansoeker die depresiasie-kapitaalkoste van die straatbeligting sal betaal en verantwoordelik sal wees vir die koste van die kragverbruik van die straatligte en vir die koste van roetine-instandhouding van die straatligte. Die toepaslike tarief sal op 'n maandelikse grondslag gehef word. Verder sal die werklike koste van herstelwerk ook die verantwoordelikheid van die aansoeker wees. Geen verandering van enige aard mag aan die liginstallasie gemaak word nie of deur die agteruitgang deur veroudering sal die verantwoordelikheid van die aansoeker wees. Geen verandering van enige aard mag aan die liginstallasie gemaak word nie en niks mag aan 'n paal aangeheg word nie.
- ix. Geen opgraving mag op die terrein plaasvind totdat daar voldoen is aan die vereistes van die Wet op Beroepsgesondheid en Veiligheid, 1993, en artikel 141(1) van die Munisipale Ordonnansie nie.
- x. Die bestaande reg-van-toegang ten gunste van erf 110934 Kaapstad tot die nuwe padgrens verleng moet word.
- xi. Telkom se aanleg sal deur die voorstel geraak word. Telkom het geen beswaar teen die voorstel nie, mits 'n deurgangsreg verkry is voordat daar met enige werk begin word.

7. IZINDULULO

Azigunyaziswanga: isiggibo seseBhunga:

Kundululwe ukuba:

- a) IBhunga liggibe ngokweCandelo-14 loMthetho wobuRhulumente boMmandla ongoMthetho woLawulo lweziMali zikaMasipala onguNomb.56 wango-2003, ukuba ipropati ayisafuneki nganto ukubonelela ngomlinganiselo othile weenkonzo ezingundoqo zikamasipala.



- b) Ngokwemimiselo yesoloty-6 loMthetho kaMasipala ophathelene nokuPhathwa nezoLawulo lwePropati kaMasipala engenakususwa, makuvalwe iziqephu zeziza-156913 no- 155540, esiseKapa isitalato soLuntu esikwi-New Mill Road, eNdabeni, njengoko kubonakalisiwe kwiplani engu-SZC 797, ephawulwe kwisihlomelo-A.
- c) Iziqephu zeziza-156913 ne-155540, eziseKapa, isitrato soluntu esikwi-New Mill Road, eNdabeni, esibonakalisiwe ngoonobumba abakhulu u-ABCDEF eziphawulwe kwisihlomelo-A, esibukhulu obumalunga ne-140 m², mazinikezelwe kwabakwa- Pinelands Business Park Body Corporate okanye kwabangena ezihlangwini zabo ngokwetaitile, ngokuxhomekeke ekuthotyelweni kwale miqathango ilandelayo:
- i. Ukuba makuhlawulwe ixabiso eliphathelene nelasemakethi elili-R160 000, ngaphandle kweRhafu-ntengo eli-14%, engama-R22 400 (apho iyonke ilili-R182 400).
 - ii. Ixabiso lentengo malilungelelaniswe ngokusekelezwe kumyinge we-5% ngonyaka uhlanganiswa rhoqo ngonyaka ukususela kwiinyanga ezindandathu (6) emva komhla woqingqo-maxabiso oko kukuthi. (5% + iinyanga ezili-12 siphinda-phindwe ngeenyanga ezisemva kwesi sithuba seenyanga ezintandathu. Kananjalo le ntengiso ingentla kufuneka ilungelelaniswe ukususela ngomhla woku 01-06-2014 Kufuneka kuphengululwe uqingqo-maxabiso ukuba aluzalekiswa kwisithuba seenyanga ezili-18 ukususela kumhla woqingqo-maxabiso.
 - iii. Makuhlawulwe iirhafu neentlawulo zikamasipala, apho kufanelekileyo.
 - iv. Ngokuxhomekeke kwimiqathango ethe xhaxhe eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo, kuquka zonke iindleko eziphathelene noku ziyakuthi zibeluxanduva lomthengi.
 - v. Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo engeminye yomthetho.
 - vi. Ipropati le ichaphazelekayo kufuneka idityaniswe kwintsalela yesiza-155539 esisesomfaki-sicelo, esiseKapa ukuze senze ipropati enye.
 - vii. Makususwe iinkonzo esele zimiselwe zombane ezingaphantsi komhlaba kummandla lo uchaphazelekayo, kusenziwa oko ngokweendleko zomfaki-sicelo.



- viii. Umfaki-sicelo uyakuthi ahlawule ixabiso elihlileyo lendleko zezimali ezinkulu zombane wasesitratweni kwaye abanexanduva lwamandla ombane athe asetyenziswa zizbane zasesitratweni nendleko zokunonotshelwa kwezibane zasesitratweni. Ixabiso elifanelekileyo liyakuthi lihlawulwe ngokommiselo warhoqo ngenyanga. Kwakhona indleko ezingqalileyo zolungiso ezithe zayimfuneko yalo naliphina iqela, ziyakuthi zibeluxanduva lomfaki-sicelo. Akukho luguqulelo lwalo naluphina uhlobo olungenziwa kufakelelo lombane okanye kukuwohloka kwezixhobo ngenxa yokuguga kwazo okuyakuthi kubeluxanduva kumfaki-sicelo. Akukho luququlelo lwalo naluphina uhlobo olungenziwa kufakelelo lombane (kwizikhanyiso) okanye nayiphina into eqhotyoshelwe epalini.
- ix. Akukho lombiwa luyakuthi luqhubeke kwisiza kude kube kuthotyelwa imimiselo yoMthetho wezeMpilo eMsebenzini noKhuseleko wango-1993 neyecandelo-141 (1) loMmiselo kaMasipala.
- x. Ilungelo lokungena esele likhona kwisiza-110934 esiseKapa kufuneka landiswe ukudlulela kumda omtsha wendlela.
- xi. Iziko labakwa-Telkom liyakuthi lichaphazeleke ngokwesi siphakamiso. Abakwa-Telkom abanasichaso kwesi siphakamiso ngokuxhomekeke ekubeni ukuba kuyakuthi kufunyanwe imvume kuqala phambi kokuba kuqaliswe ngawo nawuphina umsebenzi.

8. DISCUSSION/CONTENTS

8.1. BACKGROUND:

An application was made by Pinelands Business Park Body Corporate, the registered owner of Remainder Erf 155539 Cape Town, to purchase portions of Erven 156913 and 155540 Cape Town (a Public Street) situated at New Mill Road, Ndabeni, in extent approximately 140m².

The subject property is situated at the entrance to the applicant's property. The design of the current entrance and a nearby turning circle is too restrictive for heavy duty vehicles to safely negotiate the access to the business park. This has resulted in kerb damage, an electricity pole being knocked down and damage to the gates and kerbs inside the business park. The applicant intends to redesign the front entrance to the business park to eliminate any further unnecessary damage to their own and Council property.

Due to the small extent of the subject property it is regarded as being non-viable land which cannot be sold by public competition and only has value to the abutting landowners.



The application to purchase was circulated to all the relevant Branches for comment. No objections were raised by the Branches to the proposed closure and disposal of the subject property.

The proposed disposal of the subject property was duly advertised in terms of the stipulations of the By-Law relating to the Management of the City of Cape Town's Immovable Property in two local newspapers on 27 August 2010, inviting the public to lodge written comments. A notice in this regard was also served on the relevant ward councillor and sub-council. No objections were received to the proposed closure and disposal.

The recommendation was considered by sub-Council 15 on 22 October 2014 and it was unanimously resolved to support the recommendation to approve the application. The extract from the minutes of the sub-Council meeting is attached hereto marked **Annexure "B"**.

8.2. CONSULTATION WITH BRANCHES:

The application was circulated to the relevant branches of Council. The alienation of the property is supported subject to the following conditions:

i) Electricity:

The existing underground electricity services must be deviated clear of the subject area at the applicant's expense.

The applicant will pay the depreciation capital cost of the street lighting and be responsible for the cost of the energy consumed by the street lighting and for the cost of routine maintenance of the street lighting. The appropriate tariff will be levied on a monthly basis. Furthermore, the actual cost of repair necessitate by any shall be the responsibility of the applicant. No alterations of any kind may be made to the lighting installation or by the deterioration through ageing shall be the responsibility of the applicant. No alterations of any kind may be made to the lighting installation nor may anything be attached to a pole.

No excavation is to take place on site until the requirements of the Occupational Health and Safety Act, Act 1993 and Section 141 (1) of the Municipal Ordinance have been adhered to.

The existing Right of Way in favour of Erf 110934 Cape Town must be extended to the new road boundary.

ii) Telkom

Telkom's plant will be affected by the proposal. Telkom has no objection to the proposal provided that a wayleave be obtained prior to any work commencing.

It has been confirmed that the land in question is no longer required for any Municipal purposes. The proposal therefore complies with Section 14 of the Municipal Finance Management Act, No 56 of 2003.

8.3. FACTORS MOTIVATING RECOMMENDATION:

- i) The closure and disposal of the land will relieve Council of the maintenance burden.
- ii) Market related compensation in the amount of R160 000, excluding VAT, will accrue to the City.
- iii) Due to the small extent of the subject property it cannot be sold by public competition and only has value to the abutting land owners.
- iv) No objections were received against the sale of the land.
- v) The alienation will allow for better utilisation of the property.

8.4. PUBLIC PARTICIPATION

Advertising	Cape Times & Burger	27 August 2010
	Prov & Nat Treasury	30 October 2013
	Notices to adj owners	27 August 2010
	Ward councillor	27 August 2010
	Subcouncil Chair & Manager	27 August 2010
	Community organisation(s)	27 August 2010
Outcome	Objections	No objection received
	Ward Councillor's support	Supported

8.5. VALUATION

8.5.1 The application category does not fit within the tariff structure of the City approved on 28 May 2014;

8.5.2 The City's Professional Valuers on 30 November 2013 assessed the value of the Subject Property at R160 000.00 excluding VAT (if applicable). Valuation synopsis is attached to the report as Annexure C.



8.6. VAT

VAT will be levied at the standard rate.

8.7. BLACK ECONOMIC EMPOWERMENT (BEE) STATUS

The applicant is not from a previously disadvantaged group.

8.8 CONSTITUTIONAL AND POLICY IMPLICATIONS

8.8.1 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.

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 disposal 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 (approved 26 August 2010), 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).

8.9 FINANCIAL IMPLICATIONS

All costs involved in this transaction will be for the Applicant's account.

8.10 TAX COMPLIANCE

In terms of the City's Supply Chain Management Policy, approved by Council on 31 July 2013, paragraph 85 stipulates "Irrespective of the procurement process, the City may not make any award above R15 000, 00 to a person who's tax matters have not been declared by the SARS to be in order".

Paragraphs 359 - 361 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 85 above and applicants need to submit a SARS clearance or exemption certificate for the sale of all City owned immovable property.

The applicant has complied with the aforesaid provisions of paragraph 85. See Tax Clearance attached hereto as Annexure D.



8.11 FINANCIAL DUE DILIGENCE

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

8.12 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City? No Yes

8.13 LEGAL IMPLICATIONS**8.13.1 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 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 property has been determined to be R160 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 27 August 2010. Closing date for objections was 27 September 2010. 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.
- Council's By-Law (LA.2783) relating to the Management and Administration of the City of Cape Town's Immovable Property as published on 28 February 2003 (Section 6) permits the closure of Public Streets and Passages.
- 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:

- 8.13.2.1. The subject property vests in the City of Cape Town and must be registered as such in terms of Section 31 of the Deeds Registries Act No 47 of 1937.
- 8.13.2.2. The subject property must be subdivided once Council agrees to the disposal.
- 8.13.2.3. The portion of land must be consolidated with the applicant's adjoining Remainder Erf 155539 Cape Town to form a single holding.



8.14 STAFF IMPLICATIONS

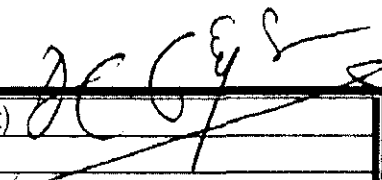
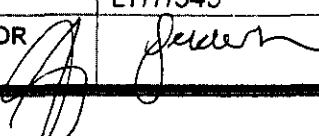
Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No

ANNEXURES

- A – Plan SZC 797
- B - Extract from Subcouncil 15 Minute
- C – Valuation Synopsis
- D – Tax Clearance Certificate

FOR FURTHER DETAILS CONTACT:

NAME	Donavon Geysman (Charlain Swart)	
CONTACT NUMBERS	021 400 6557	
E-MAIL ADDRESS	charlain.swart@capetown.gov.za	
DIRECTORATE	FINANCE	
FILE REF No	L717/345	
SIGNATURE : DIRECTOR		2014-12-02 27-11-2014

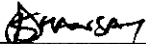
Comment:

CHIEF FINANCIAL OFFICER
[Kevin Jacoby]

NAME

DATE

03.12.2014



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

TEL

DATE

A.S. Dhanoo

(021) 400 6536

5-12-14

Comment:

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