

ITEM NUMBER: C 64/03/15

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 19 MARCH 2015

MC 32/03/15 PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE DISPOSAL BY PUBLIC COMPETITION OF ERF 34027, MITCHELLS PLAIN FOR MIXED USE

It is **RECOMMENDED** that:

- (a) in terms of section 14(2) (a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003, Erf 34027, Mitchells Plain, situated at First Avenue (9 050 m² in extent), be regarded as not required for the provision of the minimum level of basic municipal services and that the market value to be exchanged for the asset be fair for residential purposes
- (b) in terms of regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R. 878 promulgated on 22 August 2008, Council approve in principle of the disposal of Erf 34027, Mitchells Plain, as described in (a) above
- (c) Erf 34027, Mitchells Plain, be disposed of by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority
- (d) any gain or loss incurred by the municipality in respect of the transfer of an asset be included in the adjustment budget of the municipality (section 28 and 87 of the MFMA) if not budgeted for in the approved annual budget.

IPAC 15/02/2015 SUBJECT: PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR
MC 32/03/15 THE DISPOSAL BY PUBLIC COMPETITION OF ERF 34027 MITCHELLS
PLAIN FOR MIXED USE

**ISIHLOKO: ISIPHAKAMISO SOKUPHUNYEZWA NGOKOMTHETHO
SISEKO UKUNIKEZELWA NGOKOKHUPHISWANO LOLUNTU
KWESIZA-34027 ESISE-MITCHELLS PLAIN UKUSETYENZISELWA
IMIBANDELA EYAHLUKENEYO**

**ONDERWERP: VOORGESTELDE TOEKENNING VAN
BEGINSELGOEDKEURING VIR DIE VERVREEMDING DEUR
OPENBARE MEDEDINGING VAN ERF 34027, MITCHELLS PLAIN VIR
GEMENGDE GEBRUIK**

Property Management representative was present to answer any question for clarity

RECOMMENDATIONS

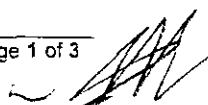
Not delegated: for decision by Council:

- a) In terms of section 14(2) (a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003, erf 34027, Mitchells Plain, situated at First Avenue (9 050 m² in extent), be regarded as not required for the provision of the minimum level of basic municipal services and that the market value to be exchanged for the asset be fair for residential purposes.
- b) In terms of regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R. 878 promulgated on 22 August 2008, Council approve in principle of the disposal of erf 34027, Mitchells Plain, as described in a).
- c) Erf 34027, Mitchells Plain, be disposed of by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority.
- d) Any gain or loss incurred by the municipality in respect of the transfer of an asset be included in the adjustment budget of the municipality (section 28 and 87 of the MFMA) if not budgeted for in the approved annual budget.

IZINDULULO

AziguNyaziswanga: isigqibo seseBhunga:

- a) Ngokwecandelo 14(2) (a) no(b) loRhulumente woMmandla: uMthetho woLawulo lweziMali zikaMasipala (iMFMA), UMthetho 56 wango-2003, kwisiza-34027, esiseMitchells Plain, eBokkeveld Avenue (esibukhulu bumalunga nama-9 050 m²), masithatyathwe njengesingafunekiyo ukuba sibonelele ngomlinganiselo weenkonzo



ezingundoqo zikamasipala kwakhona ixabiso lasemakethi ekufuneka kutshintshiselwene ngalo kufuneka. Iilelobulungisa kulungiselelwa imibandela yoluntu.

343

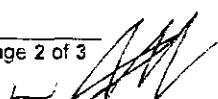
- b) Ngokomgaqo 5(1)(b) weMigaqo yokuTshintshelwa kweMpahla zikaMasipala, (MATR), R. 878 owabhengezwa ngomhla wama-22 Agasti 2008, iBhunga maliphumeze ngokomthetho-siseko ukunikezelwa kwesiza-34027 esise Mitchells Plain, njengoko kuchazwe kumhlathi (a).
- c) Isiza-34027, e-Mitchells Plain, masinikezelwe ngokokhuphiswano lwethenda yoluntu, ngokuxhomekeke kwimiqathango ethe xhaxhe eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo.
- d) Nayiphina ingeniso okanye ilahleko kumasipala ngokujoliswe ekutshintshelweni kwempahla, mayenziwe kulungelelaniso lohlahlo-lwabiwo-mali kamasipala (icandelo-28 nele-87 le-MFMA) ukuba ayibhajethelwanga kuhlahlo-lwabiwo-mali lonyaka oluphunyeziweyo.

AANBEVELINGS

Nie gedelegeer nie: vir besluitneming deur die Raad:

- a) Ingevolge artikel 14(2)(a) en (b) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur (MFMA), Wet 56 van 2003, erf 34027 Mitchells Plain, geleë te Eerste Laan (9 050 m² groot), beskou word as nie vereis vir die voorsiening van die minimum vlak van basiese munisipale dienste nie en dat die markwaarde wat vir die bate geruil sal word, regverdig vir residensiële doeleindes moet wees.
- b) Ingevolge regulasie 5(1)(b) van die regulasies oor die oordrag van munisipale bates (MATR), R.878 gepromulgeer op 22 Augustus 2008, die Raad die vervreemding van erf 34027, Mitchells Plain, beskryf in (a), in beginsel goedkeur.
- c) Erf 34027, Mitchells Plain, vervreem word deur middel van openbare mededinging, onderworpe aan die voorwaardes wat die direkteur: eiendomsbestuur in die uitoefening van haar gedelegeerde bevoegdheid oplê.
- d) Enige wins of verlies wat die munisipaliteit as gevolg van die oordrag van 'n bate ly, ingesluit word by die munisipaliteit se aansuiweringsbegroting (artikel 28 en 87 van die MFMA) indien daar nië in die goedgekeurde jaarlikse begroting daarvoor begroot is nie.

ACTION: A HUMAN; R GELDERBLOEM



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

344



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

DATE: 20/2/15

COMMENT:



DIRECTOR : LEGAL SERVICES
MR LUNGELO MBANDAZAYO

DATE: 25/02/2015

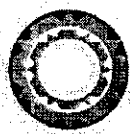
COMMENT:



ALDERMAN JAN NEILSON
MAYORAL COMMITTEE MEMBER : FINANCE

DATE: 25/2/15

COMMENT:



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO IMMOVABLE
PROPERTY ADJUDICATION
COMMITTEE

1. **ITEM NUMBER :** To be reviewed by Executive Council

2. **SUBJECT: PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE DISPOSAL BY PUBLIC COMPETITION OF ERF 34027 MITCHELLS PLAIN FOR MIXED USE**

ONDERWERP: VOORGESTELDE TOEKENNING VAN BEGINSELGOEDKEURING VIR DIE VERVREEMDING DEUR OPENBARE MEDEDINGING VAN ERF 34027, MITCHELLS PLAIN VIR GEMENGDE GEBRUIK

ISIHLOKO: ISIPHAKAMISO SOKUPHUNYEZWA NGOKOMTHETHO SISEKO UKUNIKEZELWA NGOKOKHUPHISWANO LOLUNTU KWESIZA-34027 ESISE-MITCHELLS PLAIN UKUSETYENZISELWA IMIBANDELA EYAHLUKENEYO

LSU E7085

3. **STRATEGIC INTENT**

- SFA 1: Opportunity City

Objective 1.2	Provision and maintenance of economic and social infrastructure to ensure infrastructure-led growth and development
Programme 1.2(b)	Investigation and analysis of all strategic assets
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**

The purpose of this report is to seek Council's in-principle approval for the sale by public competition of City-owned vacant land erf 34027, Mitchells Plain situated at First Avenue, Mitchells Plain in extent approximately 9 050m² zoned Limited Use, shown lettered ABCDEF on Plan LIS1088v2, attached hereto marked annexure A.

5. FOR DECISION BY COUNCIL

- This report is for decision by Council

The legal provision for this non-delegable authority can be found in Section 14 of the Municipal Finance Management Act No.56 of 2003 and Regulation 5 of the Municipal Asset Transfer Regulations of 2008.

6. EXECUTIVE SUMMARY

PURPOSE OF REPORT	The purpose of this report is to seek Council's in-principle approval for the sale of a City-owned vacant land by public competition in respect of erf 34027, Mitchells Plain for mixed use.	
Property description	erf 34027, Mitchells Plain	
Site extent	9 050m ²	
Current zoning	Limited Use	
Current usage	Vacant Land	
Proposed usage	Mixed Use	
Public participation outcome summary	No objections	
Ward Councillor Solomon Philander	NOTICE DATE 17 October 2014	WARD 79

7. RECOMMENDATIONS

Not delegated: for decision by Council:

For reasons set out in the report it is recommended that:

- a) In terms of section 14(2) (a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003, erf 34027, Mitchells Plain, situated at First Avenue (9 050 m² in extent), be regarded as not required for the provision of the minimum level of basic municipal services and that the market value to be exchanged for the asset be fair for residential purposes.
- b) In terms of regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R. 878 promulgated on 22 August 2008, Council approve in principle of the disposal of erf 34027, Mitchells Plain, as described in a).
- c) Erf 34027, Mitchells Plain, be disposed of by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority.

- d) Any gain or loss incurred by the municipality in respect of the transfer of an asset be included in the adjustment budget of the municipality (section 28 and 87 of the MFMA) if not budgeted for in the approved annual budget.

7. AANBEVELING

Nie gedelegeer nie: vir besluitneming deur die Raad:

Om die redes in die verslag uiteengesit, word daar aanbeveel dat:

- a) Ingevolge artikel 14(2)(a) en (b) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur (MFMA), Wet 56 van 2003, erf 34027 Mitchells Plain, geleë te Eerste Laan (9 050 m² groot), beskou word as nie vereis vir die voorsiening van die minimum vlak van basiese munisipale dienste nie en dat die markwaarde wat vir die bate geruil sal word, regverdig vir residensiële doeleindes moet wees.
- b) Ingevolge regulasie 5(1)(b) van die regulasies oor die oordrag van munisipale bates (MATR), R.878 gepromulgeer op 22 Augustus 2008, die Raad die vervreemding van erf 34027, Mitchells Plain, beskryf in (a), in beginsel goedkeur.
- c) Erf 34027, Mitchells Plain, vervreem word deur middel van openbare mededinging, onderworpe aan die voorwaardes wat die direkteur: eiendomsbestuur in die uitoefening van haar gedelegeerde bevoegdheid oplê.
- d) Enige wins of verlies wat die munisipaliteit as gevolg van die oordrag van 'n bate ly, ingesluit word by die munisipaliteit se aansuiweringsbegroting (artikel 28 en 87 van die MFMA) indien daar nie in die goedgekeurde jaarlikse begroting daarvoor begroot is nie.

7. IZINDULULO

Asigunyaziswanga: Isigqibo seseBhunga:

Ngokwezizathu eziqulunqwe kwingxelo, kundululwe ukuba:

- a) Ngokwecandelo 14(2) (a) no(b) loRhulumente woMmandla: uMthetho woLawulo lweziMali zikaMasipala (iMFMA), UMthetho 56 wango-2003, kwisiza-34027, esiseMitchells Plain, eBokkeveld Avenue (esibukhulu bumalunga nama-9 050 m²), masithatyathwe njengesingafunekiyo ukuba sibonelele ngomlinganiselo weenkonzozo ezingundoqo zikamasipala kwakhona ixabiso lasemakethi ekufuneka kutshintshiselwene ngalo kufuneka lilelobulungisa kulungiselelwa imibandela yoluntu.
- b) Ngokomgaqo 5(1)(b) weMigaqo yokuTshintshelwa kweeMpahla zikaMasipala, (MATR), R. 878 owabhengezwa ngomhla wama-22 Agasti 2008, iBhunga maliphumeze ngokomthetho-siseko ukunikezelwa kwesiza-34027 esiseMitchells Plain, njengoko kuchazwe kumhlathi (a).

- c) Isiza-34027, e-Mitchells Plain, masinikezelwe ngokokhuphiswano lwethenda yoluntu, ngokuxhomekeke kwimiqathango ethe xhaxhe eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo.
- d) Nayiphina ingeniso okanye ilahleko kumasipala ngokujoliswe ekutshintshelweni kwempahla, mayenziwe kulungelelaniso lohlahlo-lwabiwo-mali kamasipala (icandelo-28 nele-87 le-MFMA) ukuba ayibhajethelwanga kuhlahlo-lwabiwo-mali lonyaka oluphunyeziweyo.

8. DISCUSSION/CONTENTS

8.1 Background

Erf 34027 Mitchells Plain has been identified and selected as being an underutilised City property that possess development potential and a relatively high probability of obtaining the necessary approvals in the short to medium term, i.e.: it is best suited to further the City's Integrated Development Plan in the shortest possible time. The criteria for the identification and selection of the property included a number of strategic development goals, for example, does it lend itself to the intensification of urban development and economic activity and will its disposal satisfy community demand.

This property is marked as ABCDEF and in extent 9 050m², zoned Limited Use and is bound by Imperial Street (to the North East), First Avenue (to the West) and AZ Berman Drive (to the West) as shown on Disposal Plan LIS 1088v2 (Annexure A). It is intended to rezone and then dispose of the subject property through an open and competitive process for mixed-use purposes. The disposal plan also indicates affected services that require servitudes to be registered over it.

It is proposed that Erf 34027 should be developed in accordance with the City's long term vision for the Mitchells Plain town centre. The site is the gateway to the town centre and should be developed for mixed-use purposes.

8.2 Public Participation

In accordance with the authority obtained from the Director: Property Management on 22 September 2014, Council's intention to dispose of the subject property was advertised as follows:

Advertising	Cape Times & Burger	17 October 2014
	Provincial & National Treasury	17 October 2014
	Ward councillor	17 October 2014
	Subcouncil Chair & Manager	17 October 2014
	Community organisation(s)	17 October 2014
Outcome	Objections	No
	Ward Councillor's support	Yes



8.3 Consultation With Service Branches

The proposed sale of the property was circulated to the relevant departments of the City and to external departments for comment. No objections were received. However the following disposal conditions were prescribe by and illustrated on the Disposal Plan (Annexure A):

- Water & Sanitation: A 5m wide services servitude should be registered over the existing stormwater pipe and foul sewer pipe and no permanent structures will be permitted within the services servitude area.
- Heritage: the site is bigger than 5 000m² therefore a Notification of Intent to Develop must be submitted to City Heritage and then Heritage Western Cape.
- Spatial Planning: The Condition of Sale should include compliance with the Urban Design Policy 2013 for any future development.

8.4 Constitutional And Policy Implications

8.4.1 Chapter B of Council's policy relating to the Management of Certain of the City of Cape Town's Immovable Property, as approved by Council on 26 August 2010 (C 54/08/10), permits the disposal of immovable property.

8.4.2 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 until repealed.

8.4.3 A resolution to proceed with the disposal of this property is supported by the applicable legislation and policies.

8.5 Legal Implications

8.5.1 The proposal complies with Section 14 of the Municipal Finance Management Act No.56 of 2003.

8.5.2 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 permits the disposal of immovable property.

8.5.3 The disposal of municipal capital assets is governed by Chapter 2 of The Municipal Asset Transfer Regulations (R.878) in effect from 1 September 2008 (the MATR).



8.5.4 Council may in terms of **Reg 5(1)(b)(i) of the MATR** transfer or dispose of non-exempted capital assets after it has - in a meeting open to the public - made the determinations required by Sec 14(2)(a) and (b) of the MFMA:

- the erf (asset) is not needed for basic municipal services;
- considered the fair market value of the assets and the economic and community value to be received in exchange for the assets.

8.5.5 In terms of **Reg 7 of the MATR**, Council must take into account a number of factors (highlighted in bold) when considering any proposal to transfer or dispose of non-exempted capital assets, and it is herewith confirmed that:

Factor A: Whether asset is required for municipality's own use at later date (also Sec 14(1), Sec 14(2)(a) and Sec 90(1) of MFMA)

The City's service branches confirmed that the asset is not required for its own purposes.

Factor B: Loss or gain expected to result from proposed transfer

The City will not make a loss, but gain in receipt of fair market value, future rates and taxes, and will stimulate local economic growth.

Factor C: Significant economic or financial cost or benefit to municipality/ compensation

The City will receive a financial benefit in the form of the sales price as well as rates and taxes following the development of the property. A desktop valuation estimates the market value of the property to be **R6 800 000 exclusive of VAT** (Annexure B).

Factor D: Management of risk

No operational and control risk to the City.

Factor E: Impact on credit rating, financial position, cash flow of municipality

No impact on the credit rating, financial position or cash flow of the municipality.

Factor F: Limitations and conditions attached to capital assets

Construction of an approved dwelling may be required within a mutually agreed period.

Servitudes will be registered against the erf in order to protect and secure access to the municipal infrastructure that is in the South-East of the erf as indicated on Annexure A.

Factor G: Cost of transfer or disposal

The normal costs related to advertisements and land surveying if applicable, will be incurred by the City. The purchasers will be responsible for the transfer and other related costs.

Factor H: Transfer of liabilities and reserve funds associated with the asset

None

Factor I: Stakeholder comments and recommendations

The City's intention to alienate Erf 34027 Mitchells Plain was duly advertised to the public in the Cape Times and Die Burger on 17 October 2014. The relevant Sub-Council Chairperson, Sub-Council Co-ordinator, Ward Councillors, National and Provincial Treasury, ratepayers associations and Regional Offices were notified for comment and notification purposes. No objections were received to the intended alienation.

Factor J: Views from National and Provincial Treasury

No comments were forthcoming from National and Provincial Treasury respectively.

Factor K: Strategic, legal, and economic interests

None of these interests will be compromised through alienation of the assets in fact they will be supported.

Factor L: Compliance with legislative regime that is applicable to proposed transfer or disposal

Alienation of these assets is compliant with the MFMA, Municipal Asset Transfer Regulations, Reg 12(1), and Council's Policy on Immovable Property.



8.6 Financial Implications

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

8.7 Sustainability Implications

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

8.8 Staff Implications

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

No

Yes

(if yes, please indicate whether or not it is part of the approved staffing structure, whether the posts are budgeted for etc.)

8.9 Risk Implications

None

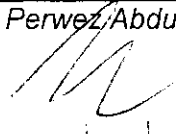
9. SUBCOUNCIL 12 RECOMMENDATIONS

On the 22 January 2015, Subcouncil 12 (See Annexure C) resolved to endorse the disposal of erf 34027 Mitchells Plain for general residential use as per the recommendations stipulated in this report.

10. ANNEXURES

Annexure A	Disposal Plan 1088v2
Annexure B	Valuation report dated 30 September 2014
Annexure C	Minutes of Subcouncil 12 meeting held on 22 Jan 2015 Minutes 12SUB17/01/15

FOR FURTHER DETAILS CONTACT:

NAME	Perwez/Abdullah 
	Date: 10/02/2015
CONTACT NUMBERS	(021) 400-2721
E-MAIL ADDRESS	perwez.abdullah@capetown.gov.za
DIRECTORATE	Finance
FILE REFERENCE	HO 14/3/4/3/397/A22
SUBCOUNCIL	12
WARD COUNCILLOR	Solomon Philander (Ward 79)

4
2




**MANAGER: PROPERTY DEVELOPMENT
 ANDRE HUMAN**

Tel. 021 400 2366

Date: 10.02.2015

Comments:



**DIRECTOR: PROPERTY MANAGEMENT
 RUBY GELDERBLOEM**

Tel. 021 400 1361

Date: 2015-02-12

Comments:





EXECUTIVE DIRECTOR : FINANCE
KEVIN JACOBY

Tel. 021 400 3265

Date 16.02.2015

Comments:

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



LEGAL COMPLIANCE

NAME: Sarah van Zyl

Tel. 021 400 5446

Date: 16.02.2015

Comments:

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

