

ITEM NUMBER: C 13/04/16

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 05 APRIL 2016

MC 12/04/16 PROPOSED GRANTING OF IN PRINCIPLE APPROVAL FOR THE SALE BY PUBLIC COMPETITION OF VACANT ERF 69246, CORNER OF MVUMVU AND MHLONTLO STREETS, KHAYELITSHA, FOR COMMUNITY PURPOSES

It is **RECOMMENDED** that:

- (a) in terms of sections 14(2)(a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003:
 - (i) Council resolve that Erf 69246, corner of Mvumvu and Mhlontlo Streets, Khayelitsha, in extent approximately 1 475 m², as shown lettered ABCDEFG on the plan attached as Annexure A to the report on the agenda, not be required for the provision of the minimum level of basic municipal services;
 - (ii) Council confirm that the fair market value of the asset described in (a)(i) above and the economic and community value to be received in exchange for the asset described in (a)(i) above have been considered.
- (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 the disposal of Erf 69246, corner of Mvumvu and Mhlontlo Streets, Khayelitsha, as described in (a)(i) above
- (c) Erf 69246, corner of Mvumvu and Mhlontlo Streets, Khayelitsha, 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) Council confirm that when considering the disposal of the property at less than market value as provided for in terms of clause 15.3 of Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property, the contents of Regulation 13 (2) of the MATR have been duly taken into account
- (e) any gain or loss incurred by the municipality in respect of the transfer of the asset be included on the adjustment budget of the municipality (sections 28 and 87 of the MFMA), if not budgeted for in the approved annual budget.

IPAC 09/03/2016

PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE SALE BY PUBLIC COMPETITION OF VACANT ERF 69246, CORNER OF MVUMVU AND MHLONTLO STREETS, KHAYELITSHA, FOR COMMUNITY PURPOSES

MC 12/04/16

VOORGESTELDE TOEKENNING VAN BEGINSELGOEDKEURING VIR DIE VERKOOP VAN ONBEBOUDE ERF 69246, HOEK VAN MVUMVU- EN MHLONTLOSTRAAT, KHAYELITSHA, VIR GEMEENSKAPSDOELEINDES DEUR MIDDEL VAN OPENBARE MEDEDINGING

ISIPHAKAMISO SOKUNIKEZELWA KWESIPHUMEZO ESINGOKUTHENGISWA NGOKOKHUPHISWANO LOLUNTU KWESIZA ESIVULELEKILEYO ESINGU-69246, KWIKONA YEMVUMVU NOMHLONTLO STREETS, EKHAYELITSHA, KULUNGISELELWA IMIBANDELA YOLUNTU

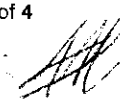
Property Management representative was present to answer any question for clarity

RECOMMENDATIONS

Not delegated: for decision by Council:

It is recommended that:

- a) In terms of sections 14(2)(a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003:
 - i) Council resolve that erf 69246, Corner of Mvumvu and Mhlontlo Streets, Khayelitsha, in extent approximately 1 475 m², as shown lettered ABCDEFG (**annexure A**), not be required for the provision of the minimum level of basic municipal services;
 - ii) Council confirm that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) have been considered;
- 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 the disposal of erf 69246, Corner of Mvumvu and Mhlontlo Streets, Khayelitsha, as described in (a)(i);
- c) Erf 69246, Corner of Mvumvu and Mhlontlo Streets, Khayelitsha, be disposed of by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority;
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- e) Any gain or loss incurred by the municipality in respect of the transfer of the asset be included on the adjustment budget of the municipality (sections 28 and 87 of the MFMA), if not budgeted for in the approved annual budget.



AANBEVELINGS

0000016

Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Ingevolge artikel 14(2)(a) en (b) van die Wet op Plaaslike Regering: Wet op Munisipale Finansiële Bestuur, Wet 56 van 2003:
 - i) Die Raad bepaal dat erf 69246, hoek van Mvumvu- en Mhlontlostraat, Khayelitsha, ongeveer 1 475 m² groot, met die letters ABCDEFG (**bylae A**) aangedui, nie benodig word vir die voorsiening van die minimum vlak van basiese munisipale dienste nie;
 - ii) Die Raad bevestig dat die billike markwaarde van die bate beskryf in (a)(i) en die ekonomiese en gemeenskapswaarde wat ontvang sal word in ruil vir die bate beskryf in (a)(i) oorweeg is;
- 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 69246, hoek van Mvumvu- en Mhlontlostraat, Khayelitsha, beskryf in (a)(i), in beginsel goedkeur;
- c) Erf 69246, hoek van Mvumvu- en Mhlontlostraat, Khayelitsha, vervreem word deur middel van openbare mededinging, onderworpe aan die voorwaardes wat die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid oplê;
- d) Die Raad bevestig dat, wanneer die vervreemding van die eiendom teen minder as markwaarde oorweeg word soos bepaal in klousule 15.3 van die Raad se beleid oor die bestuur van sekere van die Stad Kaapstad se onroerende eiendom, die inhoud van regulasie 13(2) van die MATR behoorlik in ag geneem is;
- e) Enige wins of verlies wat die munisipaliteit as gevolg van die oordrag van die 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.

IZINDULULO

Aziqunyaziswanga: isigqibo seseBhunga:

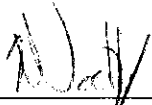
Kundululwe ukuba:

- a) Ngokwamacandelo-14(2)(a) no-(b) oMthetho wobuRhulumente boMmandla ongoLawulo lweziMali zikaMasipala ongunomb.56 wango-2003:
 - i) IBhunga lithabatha isigqibo sokuba isiza-69246, kwiKona yeMvumvu noMhlontlo Streets, eKhayelitsha, esibukhulu obumalunga ne-1 475 m², esibonakaliswe ngoonobumba abakhulu u-ABCDEFG (**isihlomelo-A**), asifuneki nganto ukubonelela ngomlinganiselo weenkonzozo ezingundoqo zikamasipala;

- ii) IBhunga maliqinisekise ukuba kuye kwathathelwa ingqalelo ixabiso lobulungisa lasemakethi njengoko lichazwe ku-(a)(i) nexabiso lezoqoqosho neloluntu eliyakuthi lifumaneke ngokutshintshelwana kweempahla ezicaciswe ku-(a)(i);
- b) NgokoMigaqo-5(1)(b) yeMigaqo engokuTshintshelwa kweMpahla kaMasipala (MATR), R. 878 owamiselwa ngowama-22 Agasti 2008, iBhunga maliphumeze ngokomthetho-siseko ukunikezelwa kwesiza-69246, kwiKona yeMvumvu noMhlontlo Streets, eKhayelitsha, njengoko kukhankanywe ku-(a) (i) ngentla apha.
- c) Isiza-69246, esikwiKona yeMvumvu noMhlontlo Streets, eKhayelitsha, masinikezelwe ngokokhuphiswano loluntu, ngokuxhomekeke kwimiqathango eyakuthi inyanzeliswe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo;
- d) IBhunga maliqinisekise ukuba xa kuthathelwa ingqalelo ukunikezlewa kwepropati engaphantsi Kwexabiso lasemakethi njengoko kubonelelwe ngokwesoloty-15.3 loMgaqo-nkqubo weBhunga omalunga noLawulo lwePropati ezithile ezinganakususwa weSixeko saseKapa, kuthi kuthathelwe ingqalelo iziqulatho zoMgaqo-13(2) we- MATR.
- e) Nayiphina ingeniso okanye ilahleko kumasipala ngokujoliswe ekutshintshelweni kwempahla, mayiqukwe kulungelelaniso lohlahlo-lwabiwo-mali kamasipala (amacandelo-28 nele-87 e-MFMA) ukuba ayibhajethelwanga kuhlahlo-lwabiwo-mali lonyaka oluphunyeziweyo.

ACTION: A HUMAN; R GELDERBLOEM

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

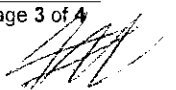


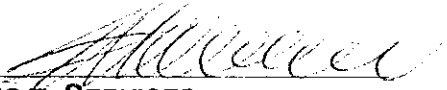
MR RICHARD WOOTTON
 EMPLOYEE No: 10207948
 CHAIRPERSON : IMMOVABLE PROPERTY
 ADJUDICATION COMMITTEE

DATE:

10/3/14

COMMENT:





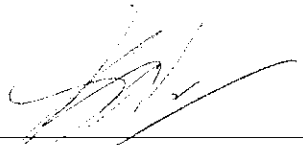
DIRECTOR : LEGAL SERVICES
MR LUNGELO MBANDAZAYO

COMMENT:

018

DATE:

2016 -03- 16



ALDERMAN IAN NEILSON
MAYORAL COMMITTEE MEMBER : FINANCE

COMMENT:

DATE:

16/3/16



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

REPORT TO IMMOVABLE PROPERTY ADJUDICATION COMMITTEE

1. **ITEM NUMBER :**
2. **SUBJECT: PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE SALE BY PUBLIC COMPETITION OF VACANT ERF 69246, CORNER OF MVUMVU AND MHLONTLO STREETS, KHAYELITSHA, FOR COMMUNITY PURPOSES**

ONDERWERP: VOORGESTELDE TOEKENNING VAN BEGINSELGOEDKEURING VIR DIE VERKOOP VAN ONBEOUDE ERF 69246, HOEK VAN MVUMVU- EN MHLONTLOSTRAAT, KHAYELITSHA, VIR GEMEENSKAPSDOELEINDES DEUR MIDDEL VAN OPENBARE MEDEDINGING

ISIHLOKO: ISIPHAKAMISO SOKUNIKEZELWA KWESIPHUMEZO ESINGOKUTHENGISWA NGOKOKHUPHISWANO LOLUNTU KWESIZA ESIVULELEKILEYO ESINGU-69246, KWIKONA YEMVUMVU NOMHLONTLO STREETS, EKHAYELITSHA, KULUNGISELELWA IMIBANDELA YOLUNTU

LSU G2964

3. **STRATEGIC INTENT**

SFA 1: THE 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 obtain Council's in-principle approval to proceed with the sale by public competition of City-owned vacant land being erf 69246, Corner of Mvumvu and Mhlontlo Streets, Khayelitsha, in extent approximately 1 475 m², for community purposes.

5. **FOR DECISION BY**

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, Act 56 of 2003 and regulation 5 of the Municipal Asset Transfer Regulations of 2008.

BT

6. EXECUTIVE SUMMARY

PURPOSE	To obtain Council's in-principle approval for the sale by public competition of City-owned vacant land erf 69246, Corner of Mvumvu and Mhlontlo Streets, Khayelitsha, for community purposes	
Property description	Erf 69246, Khayelitsha	
Site extent	1 475 m ²	
Current zoning	Community Zone 2: Regional (CO2)	
Current usage	Vacant land with various informal structures/metal containers	
Proposed usage	Community Zone 2: Regional (CO2)	
Desktop value discounted in terms of policy	R37 500 excluding VAT	
Public participation outcome summary	No objections	
WARD COUNCILLOR Amos Komeni	NOTICE DATE 16 October 2015	WARD 93

7. RECOMMENDATIONS

Not delegated: for decision by Council:

It is recommended that:

- a) In terms of sections 14(2)(a) and (b) of the Local Government: Municipal Finance Management Act (MFMA), Act 56 of 2003:
 - i) Council resolve that erf 69246, Corner of Mvumvu and Mhlontlo Streets, Khayelitsha, in extent approximately 1 475 m², as shown lettered ABCDEFG (**annexure A**), not be required for the provision of the minimum level of basic municipal services;
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- e) Any gain or loss incurred by the municipality in respect of the transfer of the asset be included on the adjustment budget of the municipality (sections 2B and 87 of the MFMA), if not budgeted for in the approved annual budget.

AANBEVELINGS

Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Ingevolge artikel 14(2)(a) en (b) van die Wet op Plaaslike Regering: Wet op Munisipale Finansiële Bestuur, Wet 56 van 2003:
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 - ii) IBhunga maliqinisekise ukuba kuye kwathathelwa ingqalelo ixabiso lobulungisa lasemakethi njengoko lichazwe ku-(a)(i) nexabiso lezoqoqosho neloluntu eliyakuthi lifumaneke ngokutshintshelwana kweempahla ezicaciswe ku-(a)(i);

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- e) Nayiphina ingeniso okanye ilahleko kumasipala ngokujoliswe ekutshintshelweni kwempahla, mayiqukwe kulungelelaniso lohlahlo-lwabiwo-mali kamasipala (amacandelo-28 nele-87 e-MFMA) ukuba ayibhajethelwanga kuhlahlo-lwabiwo-mali lonyaka oluphunyeziweyo.

8. DISCUSSION/CONTENTS

8.1 Background

Erf 69246, Corner of Mvumvu and Mhlontlo Streets, Khayelitsha has been identified for sale and included in the Property Management Disposal Programme for the 2015/16 financial year.

The property is zoned Community Zone 2: Regional (CO2) and measures approximately 1 475 m² in extent as shown on the attached plan (**annexure A**). It is intended to dispose of the property in terms of its current zoning. Various informal structures/metal containers are present on the property.

8.2 Public Participation

In accordance with the authority obtained from the Director: Property Management on 5 October 2015, Council's intention to dispose of the subject property was advertised as follows:

Advertising	Cape Times & Burger	16 October 2015
	Provincial & National Treasury	16 October 2015
	Ward Councillor	16 October 2015
	Subcouncil Chair & Manager	16 October 2015
	Community organisation(s)	16 October 2015
Outcome	Objections	No
	Ward Councillor's support	Yes

8.3 Constitutional and Policy Implications

- (i) 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 (C54/08/10), permits the disposal of immovable property.
- (ii) A resolution to proceed with the disposal of the property is supported by the applicable policies.

8.4 Sustainability Implications

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

8.5 Legal Implications

- (i) The proposal complies with section 14 of the Municipal Finance Management Act, Act 56 of 2003.
- (ii) 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 (MATR).

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 section 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 asset and the economic and community value to be received in exchange for the asset.

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 assets are required for municipality's own use at later date (also Sec 14(1), Sec 14(2)(a) and Sec 90(1) of MFMA)

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

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

Council will not make a loss, but will gain on receipt of discounted market value, future rates and taxes, and the sales will facilitate social support infrastructure and social returns.

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

Council will receive a financial benefit in the form of the sales price as well as future rates and taxes in respect of the property. A desktop valuation (**annexure B**) carried out by Property Management's Market Valuations Branch estimates the Market value of the property to be in the region of R150 000, exclusive of VAT and transfer costs. Since it is intended to sell the site for community purposes, it is recommended it be sold at 25% of market value i.e. R37 500, excluding VAT, as provided for in Council's Policy on the Management of Certain of the City's Immovable Property (Chapter B, section 15.3) which allows for the disposal of social care sites at purchase price of between 10% and 25% of fair market value, subject to a suitable reversionary clause being registered against the title deed of the property.

Factor D: Management of risk

No operational or control risk to the City

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

No impact

Factor F: Limitations and conditions attached to capital assets

None

Factor G: Cost of transfer or disposal

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

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

None

Factor I: Stakeholder comments and recommendations

The City's intention to alienate erf 69246, Corner of Mvumvu and Mhlontlo Streets, Khayelitsha, was duly advertised to the public in the Cape Times and Die Burger on 16 October 2015. The relevant Sub-Council Chairperson, Sub-Council Co-ordinator, Ward Councillors, ratepayers associations and Regional Offices were notified for comment and notification purposes. No objections were received.

Factor J: Views from National and Provincial Treasury

No comments were received.

Factor K: Strategic, legal, and economic interests

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

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

Alienation of the asset is compliant with the MFMA, and the Municipal Asset Transfer Regulations, Reg. 12(1).

In terms of **Reg 13 (2) 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 at less than fair market value, and it is herewith confirmed that:

Factor A: The interests of (i) The State and (ii) the local Community have been taken into account:

- (i) It is in the interest of the City to dispose of the land at less than fair market value.
- (ii) It is in the interest of the Community that the capital asset be made available to it at less than fair market value.

Factor B: The (i) strategic and (ii) economic interests of the City including the long-term effect of the decision on the City:

- (i) The disposal fulfils two of the City's Strategic goals, being a City of Opportunity and a Caring City.
- (ii) This disposal is not intended to generate economic returns for the City, but it is intended to generate a social return for the community.
There is expected to be a positive long-term effect on the City in that sites for social purposes should result in more stable communities with fewer social problems, thereby

saving the City's resources. The asset will be lost to the City, but should they not be used for social purposes, they will revert to the City.

Factor C: The Constitutional rights and legal interests of all affected parties:

None of these rights and interests will be compromised through the disposal of the capital asset at less than market value - in fact they will be supported.

Factor D: whether the parties to the transfer should carry more weight than the interest of the local community and how individual interests are weighed against the collective interest:

The disposal will not prejudice the local community - it will in fact be in their interest as the capital asset will be used for community/social purposes. The interests of the community take precedence over those of the individuals in that the asset will be required to be used to serve the community in perpetuity.

Factor E: whether the local community would be better served if the capital assets are transferred at less than fair market value, as opposed to a transfer of the assets at fair market value.

The transferee and community's interests are aligned - if the capital asset is not disposed of at less than fair market value, it would severely reduce the ability of NPO's/NGO's to purchase the asset in order to develop and use them in terms of their intended land use rights i.e. Community Zone 2: Regional (CO2).

8.6 Staff Implications

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

No

8.7 Risk Implications

No operational or control risk to the City

8.8 Other Services Consulted

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.


9. SUBCOUNCIL RECOMMENDATION

Subcouncil 10 on 18 January 2016 resolved to recommend the sale of vacant land erf 69246, Corner of Mvumvu and Mhlonfho Streets, Khayelitsha, for community purposes. (See Item 10SUB 13/1/2016) attached as **annexure C**).

ANNEXURES

Annexure A: Plan LIS 1415v0
 Annexure D: Desktop Valuation Report dated 2015-09-23
 Annexure C: Subcouncil minutes (item 10SUB 13/1/2016)

FOR FURTHER DETAILS CONTACT:

NAME	Angelene Kelland
CONTACT NUMBERS	(021) 400 1076
E-MAIL ADDRESS	angelene.kelland@capetown.gov.za
DIRECTORATE	FINANCE
FILE REF No	HO14/3/4/3/1047/A37
SIGNATURE : MANAGER PROPERTY DEVELOPMENT	 17-02-2016

Comment:


 DIRECTOR: PROPERTY MANAGEMENT IN HER
 CAPACITY AS NOMINEE FOR THE EXECUTIVE
 DIRECTOR: FINANCE
 RUBY GELDERBLOEM

NAME Ruby Gelderbloem
 DATE 2016-02-18

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

NON-COMPLIANT

LEGAL COMPLIANCE

NAME CHARLYNNE ARENDE
 TEL 021 400 1265
 DATE 24/02/2016

Comment:

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