

ITEM NUMBER: C 32/05/16

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 03 MAY 2016

MC 11/05/16 PROPOSED CLOSURE AND GRANTING OF APPROVAL FOR THE SALE, BY PUBLIC COMPETITION, OF VACANT ERF 13556, MILNERTON AT WATERFORD ROAD, BLOUBERG RISE FOR RESIDENTIAL PURPOSES

It is **RECOMMENDED** that:

- (a) in terms of sections 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003:
 - (i) Council resolve that Erf 13556, Milnerton, situated at Waterford Road, Blouberg Rise, in extent approximately 5 116 m², zoned Open Space 2: Public Open Space (OS2), lettered ABCD on Plan LIS 1457v0 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) 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 13556, Milnerton, as described in (a)(i) above
- (c) in terms of Section 4 of the Council's Immovable Property By-law 2015, Council approve the public place closure of Erf 13556, Milnerton
- (d) Erf 13556, Milnerton, be disposed of by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority
- (e) any gain or loss incurred by the municipality in respect of the transfer of the asset be included in the adjustment budget of the municipality (sections 28 and 87 of the MFMA), if not budgeted for in the approved annual budget.

IPAC 41/03/2016 PROPOSED CLOSURE AND GRANTING OF APPROVAL FOR THE SALE, BY
PUBLIC COMPETITION, OF VACANT ERF 13556, MILNERTON, AT
WATERFORD ROAD, BLOUBERG RISE FOR RESIDENTIAL PURPOSES

MC 11/05/16 VOORGESTELDE SLUITING EN TOESTAAN VAN GOEDKEURING VIR DIE
VERKOOP, DEUR OPENBARE MEDEDINGING, VAN ONBEOUDE ERF
13556, MILNERTON, GELEË TE WATERFORD ROAD, BLOUBERG RISE,
VIR RESIDENSIEËLE DOELEINDES

ISIPHAKAMISO SOKUVALWA NOKUNIKEZELWA KWESIPHUMEZO
SOKUTHENGISWA, NGOKOKHUPHISWANO LOLUNTU, KWESIZA-13556
ESISE-MILNERTON, WATERFORD ROAD, E-BLOUBERG RISE
KULUNGISELELWA IMIBANDELA YENDAWO YOKUHLALA

*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 Municipal Finance Management Act (MFMA), Act 56 of 2003:
 - i) Council resolve that erf 13556, Milnerton, situated at Waterford Road, Blouberg Rise, in extent approximately 5 116 m², zoned Open Space 2: Public Open Space (OS2), shown lettered ABCD on Plan LIS 1457v0, not be required for the provision of the minimum level of basic municipal services;
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- 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 13556, Milnerton, as described in (a)(i);
- c) In terms of Section 4 of the Council's Immovable Property By-law 2015, Council approve the public place closure of erf 13556, Milnerton;
- d) Erf 13556, Milnerton, be disposed of by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority;
- e) Any gain or loss incurred by the municipality in respect of the transfer of the asset be included in the adjustment budget of the municipality (sections 28 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:

029

- a) Ingevolge artikel 14(2)(a) en (b) van die Wet op Munisipale Finansiële Bestuur (MFMA), Wet 56 van 2003:
 - i) Die Raad besluit dat erf 13556, Milnerton, geleë te Waterfordweg, Blouberg Rise, ongeveer 5 116 m² groot, oop ruimte 2: openbare oop ruimte (OS2) gesoneer, aangetoon met die letters ABCD op plan LIS 1457v0, nie vir die voorsiening van die minimum vlak van basiese dienste benodig word nie;
 - ii) Die Raad bevestig dat die billike markwaarde van die bate beskryf in (a)(i) en die ekonomiese en gemeenskapswaarde wat verkry 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 13556, Milnerton, soos beskryf in (a)(i) in beginsel goedkeur;
- c) Ingevolge artikel 4 van die Stad Kaapstad se Verordening op Onroerende Eiendom, 2015, die Raad die openbare plek sluiting van erf 13556, Milnerton, goedkeur;
- d) Erf 13556, Milnerton, deur openbare mededinging vervreem word, onderworpe aan voorwaardes wat die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid sal opleë;
- e) Enige wins of verlies vir die munisipaliteit as gevolg van die oordrag van die bate, ingesluit word by die munisipaliteit se aansuiweringsbegroting (artikel 28 en 87 van die MFMA), indien daar nie in die goedgekeurde jaarlikse begroting daarvoor voorsiening gemaak is nie.

IZINDULULO

Ayiqunyaziswanga: isiqqibo seseBhunga

Kundululwe ukuba:

- a) Ngokungqinelana namacandelo 14(2)(a) no (b) oMthetho ojongene neeMali zikaMasipala (MFMA), uMthetho 56 wango-2003:
 - i) Ibhunga liggibe kwelokuba isiza 13556, esiseMilnerton, eWaterford Road, eBlouberg Rise, esinobukhulu obumalunga nama-5 116 m², sibe yiNdawo eVulekileyo 2: Isithuba Esivulekileyo SikaWonke Wonke (OS2), ezibonise zinoonobumba ABCD kwiPlani LIS 1457v0, masithathwe njengekungafunekiyo ukuba sibonelelwe ngeenkonzo ezingundoqo zikamasipala;
 - ii) Ibhunga liqinisekisa ukuba ixabiso elithengiswa ngalo iasethi lihambelana namaxabiso afanelekileyo eemarike ngokuchazwe ku (a)(i) nangexabiso lwezoqoqosho nelasekuhlaleni oza kulithengisa ngalo iasethi ngokuchazwe ku (a)(i) kuye kwaqwalaselwa;
- b) Ngokungqinelana noMgaqo 5(1)(b) weMigaqo yokuHanjiswa kwee-Asethi zikaMasipala (MATR), i-R.878 yabhengezwa ngomhla wama-22 Agasti 2008, iBhunga maliphumeze ngengqiqo ukuthengiswa kwesiza 13556, esiseMilnerton, njengoko kuchaziwe ku (a)(i);
- c) Ngokwecandelo-4 loOphathelene Neepropati Ezinkulu ka-2015, iBhunga



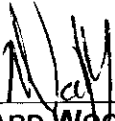
maliphumeze ukuvalwa kweNdebe voluntu esiquka iziza-13556, esiseMilnerton;

030

- d) Isiza 13556, esiseMilnerton, masinengiswa ngendlela yokhuphiswano loluntu, ngokuxhomekeke kwimiqathango emiselwe nguMlawuli: UmLawuli wePropati ngokuvumelana negunya alinikiweyo;
- e) Nayiphi na ingeniso okanye ilahleko eyenziwe ngumasipala ngokuphathelele unikezelo lwe-asethi mayifakelwe kuhlalo-lwabiwo-mali lolungelelwaniso lukamasipala (icandelo 28 nele 87 leMFMA), ukuba azifakwanga kuhlalo-lwabiwo-mali lonyaka olugunyazisiweyo.

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: 7/4/16

COMMENT:



DIRECTOR : LEGAL SERVICES
LUNGELO MBANDAZAYO

DATE: 2016 -04- 11

COMMENT:



ALDERMAN IAN NEILSON
MAYORAL COMMITTEE MEMBER : FINANCE

DATE: 14/4/2016

COMMENT:

031

LCP 928

**REPORT TO IMMOVABLE PROPERTY
ADJUDICATION COMMITTEE**



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

Making progress possible. Together.

1. **ITEM NUMBER:** 2016/03/001 - 001 (by Executive Support)

2. **SUBJECT**

PROPOSED CLOSURE AND GRANTING OF APPROVAL FOR THE SALE, BY PUBLIC COMPETITION, OF VACANT ERF 13556, MILNERTON, AT WATERFORD ROAD, BLOUBERG RISE FOR RESIDENTIAL PURPOSES

ONDERWERP

VOORGESTELDE SLUITING EN TOESTAAN VAN GOEDKEURING VIR DIE VERKOOP, DEUR OPENBARE MEDEDINGING, VAN ONBEOUDE ERF 13556, MILNERTON, GELEË TE WATERFORD ROAD, BLOUBERG RISE, VIR RESIDENSIËLE DOELEINDES

ISIHLOKO

ISIPHAKAMISO SOKUVALWA NOKUNIKEZELWA KWESIPHUMEZO SOKUTHENGISWA, NGOKOKHUPHISWANO LOLUNTU, KWESIZA-13556 ESISE-MILNERTON, WATERFORD ROAD, E-BLOUBERG RISE KULUNGISELELWA IMIBANDELA YENDAWO YOKUHLALA

[G4489]

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 approval from Council to proceed with the closure and sale by public competition of erf 13556, Milnerton, in extent 5 116 m², situated at Waterford Road, Blouberg Rise, zoned Open Space Zone 2: Public Open Space (OS2), shown on plan LIS 1457v0 (**Annexure A**).

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.

6. EXECUTIVE SUMMARY

This report is submitted in order to obtain authority from Council to proceed with the closure and sale by public competition of vacant erf 13556, Milnerton at Waterford Road, Blouberg Rise, shown on the attached plan LIS 1457v0 (**Annexure A**).

The subject property has been included in the Property Disposal Programme as it has been found to be surplus to Council's requirements and available for sale by public competition.

7. RECOMMENDATIONS

Not delegated: for decision by Council

It is recommended that:

a) In terms of sections 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003:

- i) Council resolve that erf 13556, Milnerton, situated at Waterford Road, Blouberg Rise, in extent approximately 5 116 m², zoned Open Space 2: Public Open Space (OS2), shown lettered ABCD on Plan LIS 1457v0, 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 13556, Milnerton, as described in (a)(i);
- c) In terms of Section 4 of the Council's Immovable Property By-law 2015, Council approve the public place closure of erf 13556, Milnerton;
- d) Erf 13556, Milnerton, be disposed of by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority;
- e) Any gain or loss incurred by the municipality in respect of the transfer of the asset be included in the adjustment budget of the municipality (sections 28 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 Munisipale Finansiële Bestuur (MFMA), Wet 56 van 2003:
 - i) Die Raad besluit dat erf 13556, Milnerton, geleë te Waterfordweg, Blouberg Rise, ongeveer 5 116 m² groot, oop ruimte 2: openbare oop ruimte (OS2) gesoneer, aangetoon met die letters ABCD op plan LIS 1457v0, nie vir die voorsiening van die minimum vlak van basiese dienste benodig word nie;
 - ii) Die Raad bevestig dat die billike markwaarde van die bate beskryf in (a)(i) en die ekonomiese en gemeenskapswaarde wat verkry sal word in ruil vir die bate beskryf in (a)(i) oorweeg is;
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- c) Ingevolge artikel 4 van die Stad Kaapstad se Verordening op Onroerende Eiendom, 2015, die Raad die openbare plek sluiting van erf 13556, Milnerton, goedkeur;
- d) Erf 13556, Milnerton, deur openbare mededinging vervreem word, onderworpe aan voorwaardes wat die direkteur: eiendomsbestuur in die uitvoering van haar gedelegeerde bevoegdheid sal opleë;

- e) Enige wins of verlies vir die munisipaliteit as gevolg van die oordrag van die bate, ingesluit word by die munisipaliteit se aansuiweringsbegroting (artikel 28 en 87 van die MFMA), indien daar nie in die goedgekeurde jaarlikse begroting daarvoor voorsiening gemaak is nie.

IZINDULULO

Ayigunyaziswanga: isigqibo seseBhunga

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 - ii) Ibhunga liqinisekisa ukuba ixabiso elithengiswa ngalo iasethi lihambelana namaxabiso afanelekileyo eemarike ngokuchazwe ku (a)(i) nangexabiso lwezoqoqosho nelasekuhlaleni oza kulithengisa ngalo iasethi ngokuchazwe ku (a)(i) kuye kwaqwalaselwa;
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- c) Ngokwecandelo-4 loOphathelene Neepropati Ezinkulu ka-2015, iBhunga maliphumeze ukuvalwa kweNdawo yoLuntu esiquka iziza-13556, esiseMilnerton;
- d) Isiza 13556, esiseMilnerton, masithengiswe ngendlela yokhuphiswano loluntu, ngokuxhomekeke kwimiqathango emiselwe nguMlawuli: UmLawuli wePropati ngokuvumelana negunya alinikiweyo;
- e) Nayiphi na ingeniso okanye ilahleko eyenziwe ngumasipala ngokuphathelele unikezelo lwe-asethi mayifakelwe kuhlalho-lwabiwo-mali lolungelelwaniso lukamasipala (icandelo 28 nele 87 leMFMA), ukuba azifakwanga kuhlalho-lwabiwo-mali lonyaka olugunyazisiweyo.

8. DISCUSSION/CONTENTS

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8.1. Background

The purpose of this report is to obtain authority for the closure and sale of vacant erf 13556, Milnerton at Waterford Road, Blouberg Rise, by public competition, in order to allow the development of the property for residential purposes.

Erf 13556, Milnerton is a large, flat, square site situated in the upper-income area of Blouberg Rise. It has an Open Space 2: Public Open Space (OS2) zoning and will need to be closed and rezoned to residential use, in line with the surrounding properties.

8.2 Public Participation

In accordance with the authority obtained from the Director: Property Management on 6 October 2015, Council's intention to close and dispose of the subject property was advertised as follows (see attached the statutory advert – **Annexure B**):

Advertising	Cape Times & Burger	16 October 2015
	Provincial & National Treasury	16 October 2015
	Ward Councillor	16 October 2015
	Subcouncil Chair & Manager	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 (approved 26 August 2010), permits the disposal of immovable property.
- (ii) A resolution to proceed with the disposal of this 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 MATR;
- (iii) Section 4 of the Council's Immovable Property By-law 2015 permits the closure of public place;

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 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)

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 a gain on receipt of market value, future rates and taxes, and the sale will stimulate economic growth.

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

Council will receive a financial benefit in the form of the sales proceeds as well as rates and taxes following the development of the property. A desktop valuation estimates the market value of the property to be R2 625 000 (see **Annexure C**).

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 asset

None

Factor I: Stakeholder comments and recommendations

The Council's intention to alienate erf 13556, Milnerton at Blouberg Rise, was duly advertised to the public in the Cape Times and Die Burger on 16 October 2015. The relevant subcouncil Chairperson, subcouncil co-ordinator, Ward Councillors and Regional Offices were notified. No objections to the intended alienation 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 this asset is compliant with the MFMA, Municipal Asset Transfer Regulations, Reg. 12(1) and Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property (2010).

8.6 Staff Implications

Does your 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 proposal was circulated to all relevant planning and service branches of the City for comment. All branches are in support of the proposal, but conditions of transfer were stipulated by the following departments:

- Environmental Resource Management: The rezoning of the site will trigger section 38 of the National Heritage Act, Act 25 of 1999, consequently any prospective developer will have to submit a Notice of Intent to Develop (NID) to Heritage Western Cape (HWC) prior to the commencement of any development;
- Spatial Planning and Urban Design: Any development of the site must take cognisance of the open space and the overlooking and active interface with the open space and the street;
- City Health: This department may require the purchaser to conduct a noise impact assessment or prepare a noise management plan on receipt of building plans or an application for change of land use.

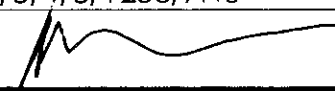
9. **SUBCOUNCIL RECOMMENDATION**

Subcouncil 1 on 21 January 2016 (See Item 01SUB24/01/16 attached as **Annexure D**) resolved to recommend the sale of vacant erf 13556, Milnerton at Blouberg Rise.

ANNEXURES

Annexure A:	Plan LIS 1457v0
Annexure B:	Statutory advert for closure and disposal of property
Annexure C:	Valuation report dated 16 September 2015
Annexure D:	Subcouncil recommendation (Item 01SUB24/01/16)

FOR FURTHER DETAILS CONTACT:

NAME	JASON TOAY
CONTACT NUMBERS	(021) 400 4981
E-MAIL ADDRESS	jason.toay@capetown.gov.za
DIRECTORATE	FINANCE
FILE REF NO	14/3/4/3/1258/A46
SIGNATURE : MANAGER PROPERTY DEVELOPMENT	 08. 03. 2016

Comment:


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

NAME RUBY LEONI GELDERBLOEMDATE 2016-03-11

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 ARENOSETEL 021 400 1265DATE 15 - 03 - 2016

Comment:

Certified as legally compliant:

Based on the contents of the report. 