## SUPPLEMENTARY AGENDA

CONTINUATION OF THE FINANCE AND GOVERNANCE COMMITTEE MEETING  
Thursday, 25 October 2018

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REPORT FROM THE DIRECTOR: CORPORATE SERVICES

PURPOSE OF THE REPORT

To request the Finance and Governance Committee to recommend to the Municipal Council to consider the application to purchase a portion of Erf 3329, Hornlee, abutting Erf 10933, Knysna, in terms of the Asset Transfer Regulations, 2008 and our Management of Immovable Property Policy.

BACKGROUND

The applicant, Top Up Property Investments (Reg 2017/478608/07) owns Erf 10933, Knysna and borders the portion in question (a portion of Erf 3329, Knysna). The owner has appointed CMAI Architects (Pty) Ltd to assist them to apply to purchase a portion of the public open space on Erf 3329 (see Annexure A).

DISCUSSION

Section 14 of the Local Government: Municipal Finance Management Act, 2003 (act 56 of 2003) deals with disposal of capital assets of municipalities and reads as follows:

“14. disposal of capital assets:

(1) a municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.

(2) a municipality may transfer or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after the municipal council, in a meeting open to the public –

(A) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and

(B) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

(3) a decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the municipality after that asset has been sold, transferred or otherwise disposed of.

(4) a municipal council may delegate to the accounting officer of the municipality its power to make the determinations referred to in subsection 2(a) and (b) in respect of movable capital assets below a value determined by the council.

(5) any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain in terms of section 111…”
It is therefore not anticipated that the subject portion of Erf 3329 is needed to provide the minimum level of basic municipal services as this portion is currently vacant.

Should the Municipal Council resolve, in principle, to alienate a portion of Erf 3329, the Municipal Valuer, DDP Valuers, should be appointed to provide the market value of the relevant portion of the erf.

The alienation of a portion of Erf 3329 must be fair, equitable, transparent, competitive and consistent with the Supply Chain Management Policy of the Municipality as required by the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).

The required portion of Erf 3329, to be alienated is described by the Management of Immovable Property Policy as “non-viable property” as the properties involved owing to urban planning, physical constraints or extent cannot be developed on its own or function as a separate entity and that can therefore become functional only if used by an adjoining owner in conjunction with such owner’s property. It is clear that the required portion involved can only become functional if used by the owner of Erf 10933, Knysna.

The Management of Immovable Property Policy determines that a property transaction may be approved without any competitive process having been followed, thus, a Private Treaty Agreement may be entered into by and between Knysna Municipality and the owner of Erf 10933, Knysna at a market value price to be determined by the Municipal Valuer (DDP Valuers).

After successfully acquiring the portion in question, the owner of Erf 10933, Knysna must amend the general plan, close the portion of the public open space acquired, consolidate the portion acquired with Erf 10933, rezone the subdivided portion from “public open space” to “service station” and register the diagram with the surveyor general.

The owner wants to upgrade its existing operations and buildings that include a significantly more attractive and accessible filling station as well as agreements with OK Mini Mark, Debonairs Pizza, Steers and KFC to be incorporated into the upgrade (see Annexure B).

The upgrade will also improve better traffic flow for public taxis, which are currently informally occupying that portion.

**FINANCIAL IMPLICATIONS**

The Municipal Property, Erf 3329, should be alienated at a market value as determined by the Municipal Valuer. There is no cost to be borne by the Municipality as the applicant must be liable for all the costs relating to the transaction.

**RELEVANT LEGISLATION**

Local Government: Municipal Finance Management Act, 2003
Local Government: Municipal Finance Management Act (56/2003): Municipal Asset Transfer Regulations
Management of Immovable Property Policy
COMMENTS FROM: DIRECTOR: TECHNICAL SERVICES

COMMENTS FROM: DIRECTOR: COMMUNITY SERVICES

COMMENTS FROM: DIRECTOR: PLANNING & DEVELOPMENT

RECOMMENDATION OF THE ACTING MUNICIPAL MANAGER

[a] That the report and annexure’s regarding the application to purchase a portion of Erf 3329, Knysna, abutting Erf 10933, Knysna, submitted to the Finance and Governance Committee, be noted;

[b] That, the Finance and Governance Committee notes that, in terms of Section 14(2)(a) of the Local Government : Municipal Finance Management Act, 2003, and on reasonable grounds, the portion of Erf 3329, is deemed not needed to provide the minimum level of basic municipal services;

[c] That, in terms of Section 14(2)(b) of the Local Government : Municipal Finance Management Act, 2003, the fair market value of the relevant portion of Erf 3329, Knysna, should be determined by the Municipal Valuer, DDP Valuers;

[d] That, the Finance and Governance Committee recommends approval to the Municipal Council, in terms of Section 5(b)(ii) of the Local Government : Municipal Finance Management Act (56/2003) : Municipal Asset Transfer Regulations, that a portion of Erf 3329, Knysna may be disposed of by Private Treaty to the owners of the adjacent Erf 10933, Knysna;

[e] That, in terms of the Knysna Municipality’s Management of Immovable Property Policy, a portion of Erf 3329, Knysna must be sold to the adjacent owner of Erf 10933, Knysna at the market related value determined by the Municipal Valuer, DDP Valuers;

[f] That all costs relating to the alienation mentioned in [e] above be for the account of the applicant, and owners of Erf 10933, Knysna;

[g] That the Acting Municipal Manager be instructed to appoint DDP Valuers to determine the market related value for the portion in question;

[h] That the owner of Erf 10933, Knysna consolidates the relevant portion of Erf 3329, with Erf 10933, Knysna; and

[i] That the Acting Municipal Manager be instructed to conclude the sales agreement of a portion of Erf 3329, Knysna to the owner of adjacent Erf 10933, Knysna; and

[j] That all other required applications, regarding land use in terms of the relevant legislation, be submitted for consideration.
APPENDIX / ADDENDUM

Annexure A - Application and diagrams to purchase a portion of Erf 3329, Knysna;
Annexure B – prospectus.

File Number : 7/2/1/2
Execution: Acting Municipal Manager
Director : Corporate Services
Manager : Administration
Dear Carl and Renwill,

I trust you are both well. Before submitting a formal Pre-Application, CMAI Architects (Pty) Ltd. was mandated by our client, TopUp Property Investments (Reg 2017/478608/07) to act on its behalf in provisionally making a land use or land ownership change application for a portion of Erf 3329 in Hornlee, Knysna. This portion is a small panhandle that leads to Erf 3329 and should our application be successful, it would fundamentally increase the scope of the TopUp Project. (Please see attached maps).

In the absence of a formal Municipal Property Application Template, we hereby initiate this Application Process and look forward to your guidance on the next steps towards engaging with the relevant decision-makers and ultimately towards getting this onto Council’s Agenda for consideration and decision-making.

Project Summary:

- TopUp Property Investments intends to upgrade its existing operation and buildings (the old Lamco) on Erf 19933 in Hornlee, Knysna. They have appointed CMAI Architects to do the Design and Project Coordination of this upgrade. The new upgrade will include a significantly more attractive and accessible filling station as well as agreements with OK Mini Mark, Debonairs Pizza, Steers and KFC to be incorporated into the upgrade. (Please see attached Prospectus).

- With the inclusion of the portion of Erf 3329, it will immensely contribute to the better flow of public taxis, which are currently informally occupying that portion. CMAI had an extensive meeting with the leadership of all three taxi associations to ask for their input, and they have unanimously expressed their happiness and support for the design and potential solution to parts of their dilemma. The Taxi Associations have also indicated their commitment to sign a Code of Conduct with TopUp Management and other relevant stakeholders regarding the upkeep of this new space for them, as well as a better organized flow of taxi traffic. (Please see attached Prospectus accommodating the Taxis).

- With the upgraded filling station and the inclusion of the mentioned new shop and food outlets, it will undoubtedly create approximately 90 - 100 new permanent jobs as well as a significant number of temporary jobs during the construction phase. The local social and economic impact will certainly have a significant enduring value for that community and other neighboring communities. In this regard, we have had very successful meetings to present this plan, with Councillor Pofadder, Deputy Mayor van Aswegen in his capacity as Ward Councillor, together with his Ward Committee and a follow up presentation to his Ward Public Meeting. We have also made a formal presentation to the previous Mayor and some in her team and then had another formal meeting with the new Mayor, Councillor Willemse about this matter. These meetings we had as information sharing.

Given the above, it is our considered view that this project will greatly enhance the quality of life of everybody.

On the Portion of Erf 3329:
• This portion of Erf 3226 is a relatively redundant piece of land and without it, it will not negatively influence access from lower Vigilance Drive onto the rest of the bigger Erf 3226.
• Should an engineering report indicate that there is no presence of any civil works underneath that portion, then it ought to make it very manageable to have a division there.
• Given the relatively small size of this portion (284 square meters), there is very little, in fact probably no commercial or land value, that the Municipality would be getting from this piece of land for the future.
• Furthermore, to the size and potentially current obsolescence of this portion, it is our humble and considered view that this application be viewed as an unsolicited application.

We look forward to hearing from you on this matter.

Kind Regards,

Geoff Brown
Director
Cell: +27 72 799 3537
8. Closure

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