



SUPPLEMENTARY AGENDA

**FINANCE AND GOVERNANCE COMMITTEE MEETING
(Corporate Items)
Thursday, 11 May 2023**

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C18/05/23 REPORT BACK ON THE RECTIFYING OF INCORRECTLY BUILT RDP HOUSE ONTO PRIVATE OWNED PROPERTY: ERF 8296, KNYSNA
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REPORT FROM ACTING DIRECTOR: CORPORATE SERVICES

PURPOSE OF THE REPORT

To request the Municipal Council to consider the application to rectify RDP house built over Erf 8296.

BACKGROUND

Mr. Xolani & Mrs. Tutuzelwa Tsese, the owners of erven 8295 and 8296 applied to the Municipality to correct the incorrectly built RDP house of Erf 8297, Knysna onto a portion of Erf 8296, Knysna (**see Annexure A**).

The RDP house for Erf 8297, Knysna was built over the boundary line and onto a portion of Erf 8296, Knysna (**see Annexure B**). The house is wrongly built and is encroaching $\pm 124\text{m}^2$ onto a portion of Erf 8296, Knysna (being the property of Mr. Xolani & Mrs. Tutuzelwa Tsese).

Mr. Xolani & Mrs. Tutuzelwa Tsese have wrongly build on a portion of Erf 5076, Knysna (being Municipal owned property) at the back of their Erf, Erf 8295 (**see Annexure C**).

Mr. Xolani & Mrs. Tutuzelwa Tsese are encroaching with $\pm 559\text{m}^2$ onto Municipal owned property being Erf 5076, Knysna.

PREVIOUS RESOLUTION

The Municipal Council had on the 31 March 2023 resolved as follows;

C23/03/23 REPORT BACK ON THE RECTIFYING OF INCORRECTLY BUILT RDP HOUSE ONTO PRIVATE OWNED PROPERTY: ERF 8296, KNYSNA

UNANIMOUSLY RECOMMENDED

- [a] That the report and annexure's regarding the application to rectify the incorrectly built RDP house on a portion of Erf 8296, Knysna, be noted;
- [b] That in terms of Section 14(2)(a) of the Local Government: Municipal Finance Management Act, 2003, and on reasonable grounds, the Municipal Council hereby confirms that the portion of Erf 5076, Knysna, adjacent to erven 8296 and 8295, is deemed not needed to provide the minimum level of basic Municipal Services;
- [c] The Municipality will have to be liable for the correction of the Surveyor General Diagram for Erf 8297, Knysna only and Mr. Xolani & Mrs. Tutuzelwa Tsese must be liable for all the costs relating to Erf 5076, Knysna;

- [d] That the Municipality be liable for regularising cadastral boundaries by means of subdivisions and consolidation in respect of affected properties;
- [e] That all the expenses in this regard need to be referred to the Section 32 (MFMA) Committee (MPAC) to determine if any of the expenses are fruitless and wasteful;
- [f] That $\pm 435\text{m}^2$ of a portion of Erf 5076, Knysna must be alienated at a price not lower than the market related price, as determined by a professional Valuer to the owners of erven 8295 and 8296, Knysna;
- [g] That the sewage line be rerouted at the cost of the Municipality;
- [h] That the owners of erven 8295 and 8296, Knysna be responsible for all the cost relating to the purchase, subdividing and consolidation of a portion of Erf 5076, Knysna with erven 8295 and 8296, Knysna; and
- [i] That Properties source another quote and that a valuation be done on the encroached upon property and thereafter the item be resubmitted.

File Number : 7/2/1/2

Execution : Acting Director : Corporate Services
Acting Manager : Legal Services

As per the above mentioned Municipal Council Resolution, the following was done:

- a. A market related valuation has been obtained at R45 000.
- b. We received a second quotation to reroute the sewage line at R114 961.85

DISCUSSION

Mr. Xolani & Mrs. Tutuzelwa Tseese wants to correct all the mistakes relating to their erven and have proposed the following:

- i] That the Municipality keep the portion of Erf 8296 (include it with Erf 8297) encroached upon by the RDP house situated on Erf 8297, Knysna;
- ii] Deduct the encroached upon portion land of Erf 8296 (being $\pm 124\text{m}^2$) from the land being encroached upon on Erf 5076 (being $\pm 559\text{m}^2$);
- iii] That the Municipality be liable for the fees relating to the inclusion of the portion of Erf 8296 with Erf 8297; and
- iv] Mr. Xolani & Mrs. Tutuzelwa Tseese be liable for the fees relating to the inclusion of a portion of Erf 5076, with erven 8295 and 8296.

It should however be noted that Mr. Xolani & Mrs. Tutuzelwa Tseese should buy the difference between $\pm 559\text{m}^2$ and $\pm 124\text{m}^2$, being $\pm 435\text{m}^2$.

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 not anticipated that the subject portion, of Knysna Municipality being a portion of Erf 5076, Knysna is needed to provide the minimum level of basic municipal services. The Municipal Valuer, DDP Valuers, should be appointed to provide the market value of the ±435m² of a portion of Erf 5076, Knysna to be purchased by Mr. Xolani & Mrs. Tutuzelwa Tsese.

Disposal management

Section 40 of the Knysna Municipality Supply Chain Management Policy deals with disposal of capital assets of municipalities and reads as follows:

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets will be subject to Sections 14 of the Act, and asset transfer regulations;*
- (2) Assets may be disposed of by –
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;**

(ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

(iii) selling the asset; or

(iv) destroying the asset

(3) The Accounting Officer must ensure that –

(a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

(b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;

(c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;

(d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;

(e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are reviewed annually;

(f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and

(g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

COMMENTS FROM SENIOR MANAGEMENT

FINANCIAL IMPLICATIONS

Should the Municipal Council agree to the corrections as proposed by Mr. Xolani & Mrs. Tutuzelwa Tseke, the portion to be alienated being ±435m² of a portion of Erf 5076, Knysna must be alienated at a price not lower than the market related price of R45 000, as determined by a professional Valuer.

The Municipality will have to be liable for the correction of the Surveyor General Diagram for Erf 8297, Knysna only and Mr. Xolani & Mrs. Tutuzelwa Tseke must be liable for all the costs relating to Erf 5076, Knysna.

In addition there will be cost implications for the redirection of the sewer line to an amount of R114 961.85

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

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the report and annexure's regarding the application to rectify the incorrectly built RDP house on a portion of Erf 8296, Knysna, be noted;
- [b] That in terms of Section 14(2)(a) of the Local Government: Municipal Finance Management Act, 2003, and on reasonable grounds, the Municipal Council hereby confirms that the portion of Erf 5076, Knysna, adjacent to erven 8296 and 8295, is deemed not needed to provide the minimum level of basic Municipal Services;
- [c] The Municipality will have to be liable for the correction of the Surveyor General Diagram for Erf 8297, Knysna only and Mr. Xolani & Mrs. Tutuzelwa Tsese must be liable for all the costs relating to Erf 5076, Knysna.
- [d] That the Municipality be liable for subdividing a portion of Erf 8296 encroached upon by the RDP House and consolidate it with Erf 8297, Knysna;
- [e] That all the expenses in this regard need to be referred to the Section 32 (MFMA) Committee (MPAC) to determine if any of the expenses are fruitless and wasteful.
- [f] That ±435m² of a portion of Erf 5076, Knysna must be alienated at a price not lower than the market related price of R45 000, as determined by a CDV Waardeerders Valuers to the owners of erven 8295 and 8296, Knysna; and
- [g] That the owners of erven 8295 and 8296, Knysna be responsible for all the cost relating to the purchase, subdividing and consolidation of a portion of Erf 5076, Knysna with erven 8295 and 8296, Knysna.
- [h] That the cost in relation to the redirection of the sewer line be borne by_____.

ANNEXURE A – Application Mr. Xolani & Mrs. Tutuzelwa Tsese

ANNEXURE B – GIS Diagram relating to encroachment of Erf 8297

ANNEXURE C – GIS Diagram house on Erf 5076

ANNEXURE D - Second Quote

References: 7/2/1/2

Execution: Acting Director: Corporate Services
Manager: Legal Servi

**C19/05/23 REPORT BACK ON APPLICATION TO LEASE THE OLD TSIBA
COLLEGE, ON ERF 115 KARATARA**

REPORT FROM ACTING MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To request the Municipal Council to consider the application to lease the old Tsiba College situated on Erf 115 Karatara.

BACKGROUND

After Tsiba University moved out from the Municipal building situated on a portion of Erf 121, Karatara in December 2017 the building stood vacant and members of the community started to illegally occupy the building on 6 October 2018. The Red Ants were called in and these community members was evicted from the building. However, after discussions between the then Acting Municipal Manager Mr. Johnny Douglas, Director Corporate Services Mr Bevan Ellman, the then Executive Deputy Mayor Cllr Elrick van Aswegen and representatives of the evicted occupiers an agreement was reached that with certain conditions that these families may lease the premises for a period of 1 month.

17 lease agreements were signed for the occupation of the building for 1 month. With the occupation date being 8 October 2018, the occupants have been staying in the Building for the last 3 and a half years. However, the occupiers are not paying the agreed upon rental of R100 per month.

The property is still occupied by the families that were displaced and also seemingly a lot more people are occupying the property.

The property has been vandalised and in a dilapidated condition.

PREVIOUS RESOLUTION

The Municipal Council had on the 29 June 2022 resolved as follows;

**18/06/22 REPORT BACK ON APPLICATION TO LEASE THE OLD TSIBA COLLEGE,
ON ERF 115 KARATARA**

UNANIMOUSLY RESOLVED

- [a] That the report and annexure's on the application to lease the Old Tsiba College on Erf 155 Karatara be noted;
- [b] That the Municipal Council instruct the Acting Municipal Manager to commence with the process to identify suitable alternative accommodation for residents in Old Tsiba campus as well as other Karatara residents; and
- [c] That the Acting Municipal Manager approach Western Cape Community Education and Training College to discuss alternative options for lease or disposal of the Old Tsiba College.

File Number :7/2/1/2

Execution : Acting Director : Corporate Services

Manager : Legal Services

Head : Properties

As per the above mentioned Municipal Council Resolution, the following was done:

- (a) The IHS Directorate has started with the process of allocating sites for the residents of Tsiba College and anticipated to be concluded at the end of May 2023.

MOTIVATION

The Properties Section received an application from the Western Cape Community Education and Training College which form part of the Department of Higher Education and Training (**Annexure A**).

The institution wishes to establish a college that will be targeting the youth and adults that have left school and wish to further their education.

The proposed programmes will be Plant Production, Animal Production, Mix Farming, Horticulture, Hospitality and New Venture Creation.

They are proposing a lease tenure of 20 years at a rental of R1000 per annum.

They also proposed to upgrade the facility at their own cost and also be liable for all Municipal Service charges.

It is recommended that the Municipal Manager engage with the Department with the aim to fast track the process to enter into a long-term lease agreement.

CURRENT ZONING

The identified properties are all zoned "Community Zone 1" in terms of the Knysna Municipality Zoning Scheme Regulations (2020).

CURRENT USAGE OF PROPERTY (VIABLE OR NON VIABLE MUNICIPAL LAND)

The property is a viable municipal property which is suitable for the proposed usage.

CURRENT VALUE OF THE PROPERTY AS PER GENERAL VALUATION ROLL

The subject properties are currently valued at R4 000 000 as follows on the general valuation roll of 2017 – 2022.

INTENDED FUTURE USAGE OF PROPERTY

There is no other intended use other than the proposed usage.

FINANCIAL IMPLICATIONS

The Municipality has been incurring services costs since the occupation of Tsiba College.

RECOMMENDATION OF THE MUNICIPAL MANAGER

- [a] That the report and annexure's on the application to lease the Old Tsiba College on Erf 155 Karatara be noted,
- [b] That the Municipal Manager advertise the intended leasing of the Old Tsiba College, on Erf 115 Karatara for public comments;
- [c] That the Municipal Council approve in principle the proposed leasing of the Old Tsiba College to the Western Cape Community Education and Training College for a period of 9 years and 11 months with an option to renew for a further 9 years and 11 months, at a rental of R1000 per annum;
- [d] That the Municipal Council approve immediate occupation by the Western Cape Community Education as there is a high risk of illegal invasion and lack of funds to monitor Tsiba College;
- [e] That the Western Cape Community Education and Training College be liable for all costs related to the leasing of the Old Tsiba College;
- [f] That a follow up item be submitted after the public participation process is completed.

ANNEXURES

ANNEXURE A – APPLICATION FROM THE WESTERN CAPE COMMUNITY EDUCATION AND TRAINING COLLEGE

References: 7/2/1/2

Execution: Municipal Manager
Acting Manager: Legal Services
Head: Properties



**WESTERN CAPE COMMUNITY
EDUCATION AND TRAINING
COLLEGE**

22 Bowler Street, AVON, ELSIES RIVER
P. O. Box 4 ELSIES RIVER 7490
Phone: 021 180 1010
e-mail: Abrahams.s@dhet.gov.za



Nonhlanhla Mndebela
The Head of Properties
Knysna Municipality
P O Box 21
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**WESTERN CAPE COMMUNITY EDUCATION AND TRAINING COLLEGE PROPOSAL
TO KNYSNA MUNICIPALITY – TSIBA COLLEGE, KARATARA**

The College Council and Management of the Western Cape Community Education & Training College (hereinafter the WC CETC) wish to express gratitude to the political and administrative leadership for receiving and considering this partnership proposal.

Community Colleges are education and training institutions that targets the youth and adults who have left school and wish to further their learning, improve their skills for employability.

Community Colleges are known as Community Education and Training Colleges (CETCs). These colleges do not only provide learning opportunities for those who have left school but also provide an education to those people whose learning was negatively impacted by past and current social inequalities and poverty through various skills programmes. The target group includes unemployed people, people who have lost their jobs and those who don't have skills that are in demand in the labour market. The skills that people develop from the programmes in these colleges help them to become more employable and helps them to create their own employment so that they can better their socio-economic positions in life.

Proposed programmes

The following skills and learnership programmes are proposed through this partnership:

- Plant production
- Animal production
- Mix Farming

- Horticulture
- Hospitality
- New Venture Creation

Benefit to the community

Besides the education and training benefits for the beneficiaries, there is a direct benefit to the community in the form of fresh produce that can be purchased. The WCCETC will also make donations of produce to local Soup kitchens.

Marketing

The WCCETC will market the Karatara campus on all our social media platforms as well as all stakeholders in the Garden Route. The idea is to have onsite accommodation for students who resides far away but want to attend programmes in Karatara.

Proposed Investment

The WCCETC will upgrade facility at our costs to make it student friendly. We will also do the ongoing maintenance of the facility.

The lease tenure required and proposed lease amount

We are proposing a tenure of 20 years at a cost of R1000 per year. The WCCETC will also pay the monthly utilities including water and electricity.

We hope that this partnership proposal will be accepted by the Knysna Municipality.

Yours truly



Phumezo Zita

Principal (acting)

Western Cape Community Education and Training College

18/08/2021

8. Closure