



1<sup>ST</sup> ORDINARY COUNCIL

Certified Extract of Minutes of the Council virtual meeting

held

at

09:00

on

MONDAY, 13 DECEMBER 2021

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Present:	Clr ZP Mzindle	Speaker & Councillors (as per attached attendance register)
Leave of absence:	Clr NJ Mngoma Clr HS Nyawose Mr MB Ndwalane	HOD Community Services
Also in present:	Mr SM Mbili Mr A Zuma Mr KJ Zulu Mr M Qwabe Mr SC Zama Ms NB Thabatha Mr SC Zama Mr S April Ms R Davenarain Ms Y Mhlamvu Ms N Bhengu Ms W Mbili Ms G Malishe Mr B Ngobese Ms B Hlongwa Ms T Sithole Ms T Mabika	Municipal Manager HOD: Treasury HOD Development Planning Services HOD Technical Services HOD Strategic Planning & Governance Head of Department Corporate Services HOD Strategic Planning Senior Manager Mayoralty & Communication Manager Legal & Compliance Manager Office of the MM Manager PM & E Manager Office of the Speaker Snr Committee Officer Committee Officer Committee Officer Committee Officer Intern

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1<sup>ST</sup> ORDINARY COUNCIL – 13 DECEMBER 2021

**GRANTING OF RIGHTS TO USE, CONTROL OR MANAGE MUNICIPAL CAPITAL ASSET: DEVELOPMENT OF HIBBERDENE SMALL CRAFT HARBOUR AND OTHER ASSOCIATED DEVELOPMENT INITIATIVES ON THE LAND CO-OWNED BY UGU DISTRICT MUNICIPALITY AND RAY NKONYENI MUNICIPALITY (REMAINDER OF FARM WOOD GRANGE NO.17133)**

17.7 GRANTING OF RIGHTS TO USE, CONTROL OR MANAGE MUNICIPAL CAPITAL ASSET: DEVELOPMENT OF HIBBERDENE SMALL CRAFT HARBOUR AND OTHER ASSOCIATED DEVELOPMENT INITIATIVES ON THE LAND CO-OWNED BY UGU DISTRICT MUNICIPALITY AND RAY NKONYENI MUNICIPALITY (REMAINDER OF FARM WOOD GRANGE NO.17133) (7/3/2/2/3) (DDPS2021)

The report which appeared on page 198 of the agenda was considered.

**C114/12/2021**

**RESOLVED**

1. THAT the report dated 23 November 2021, submitted by the Head of Department Development Planning Services, regarding the request for granting of right to use, control or manage the municipal immovable asset: Development of Hibberdene Small craft Harbour and other associated Development Initiatives on the land co-owned by Ugu DM and RNM (Remainder of Farm Woodgrange No. 17133), be and is hereby received and noted;
2. THAT it be noted that the background paragraph of the report submitted and is deemed to be part of the resolution;
3. THAT approval, be and is hereby **granted** to rescind the Council previous resolution insofar as granting USFDA to undertake all necessary activities required in processing this proposed development due to the processes of merger which are currently underway as well as due to legal limitation wherein a Municipal entity cannot on its own institute certain procurement processes and procedures;
4. THAT the Municipal Manager, be and is hereby **authorised** to undertake or cause the undertaking of the market related property valuation on the above-mentioned property to determine its latest land value;
5. THAT it be noted that Section 33(3)(c)(ii) of the Municipal Asset Transfer Regulations issued in terms of the Municipal Finance Management Act, provide that the granting of right to use, control or manage of the municipal capital asset, must be dealt with in terms of the Chapter 2 (instead of Chapter 4), where such right confers on the person to whom the right is granted, the power to use, control or manage the capital asset as if that person is the beneficial (but not legal) owner of the asset;
6. THAT Council hereby makes the following determinations in line with the provisions of Section 14(2), (3) and (5) of the Municipal Finance Management Act (Act No. 56 of 2003) read together with the Municipal Asset Transfer Regulations issued in terms of the aforesaid Act:
  - 6.1.1 Council on reasonable grounds, is hereby granting approval that the identified municipal asset (being (being Remainder of Farm Woodgrange No. 17133) is not needed for the duration of the contemplated long-term lease to provide the minimum level of basic municipal services;

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- 6.1.2 The land use allowed on this identified Municipal Asset is limited to the establishment of harbour and associated development initiatives as per its conditions of Title.
- 6.1.3 Council further note and record that its decision that the identified municipal immovable asset will not be required for the provision of the minimum level of basic municipal services may not be reversed for the duration of the contemplated long-term lease unless it is due to breaches committed by the prospective Developer;
- 6.1.4 Council hereby acknowledges that notwithstanding, the value of R2.8 million depicted on the current Municipal Property Valuation roll, the latest land value of the subject property is to be determined by an independent property valuer;
- 6.1.5 Council hereby acknowledges that the economic and community value to be received in exchange for the asset are still to be determined after the due processes and the determination mentioned herein above are concluded; and
- 6.1.6 Council hereby further note though that the granting of right to use, control or manage of the identified municipal asset will be subject to a process of public participation to adhere to the principles of procurement as provided for in Section 217 of the RSA Constitution (Act 108 of 2006). Accordingly, it can be concluded therefore that adherence to the principles of fairness, equity, transparency, and competitiveness will be adhered to.
7. THAT the Municipal Manager, be and is hereby **authorised** to undertake the granting of right to use, control or manage the municipal immovable asset: Development of Hibberdene Small craft Harbour and other associated Development Initiatives on the land co-owned by UGu DM and RNM (Remainder of Farm Woodgrange No. 17133), subject to the UGu District Municipality Council resolution enabling the resolution since the property was jointly owned;
8. THAT the Municipal Manager and Head of Department Development Planning Services, be and is hereby **tasked** to pursue other avenues to source for land to avoid delays; and
9. THAT Management must ensure that the lease agreement favours Ray Nkonyeni Municipality, also local community be given priority.