

**ITEM A517**  
**LAND POLICY (PROP.AS.004)**

**2/7/6/1; 7/1/2; 9/1/12**

**RESOLVED (ON 27.05.2004)**

1. That the moratorium on the selling of all Council land be lifted (excluding park land which must be retained for neighborhood parks as mentioned under 2) subject thereto that the sale thereof be in accordance with the approved policies and plans like the Spatial Development Framework;
2. that the moratorium be lifted on the selling of parks subject thereto that a list of all parks in the area of jurisdiction of Emfuleni Local Municipality be compiled by the Parks Division in co-operation with the Town Planning Section to indicate regarding which parks the possibility for development exists and which should be retained as neighborhood parks and that this list be submitted to the Mayoral Committee for approval within four months from date of Council resolution on the Land Policy;
3. that the Policy Guidelines for the lease of Council property be as follows:
  - 3.1 that Council property be leased at a market-related rental, except in cases as mentioned under 3.7 and 3.8;
  - 3.2 that in the case of lease of Council land, all improvements must be removed by the lessee at the expiry of the agreement, should Council require it, at the cost of the lessee, failing which Council will remove the improvements, at the cost of the lessee;
  - 3.3 that in all cases applicants should be encouraged to rather buy the land if the land is available for sale;
  - 3.4 that the standard period of lease be fixed at 5 years but that exceptions can be approved on merit by the Mayoral Committee;
  - 3.5 that leases for 10 years and longer be registered against the Title Deed of the property at the choice of the lessee;
  - 3.6 that a valuation for a market related rental only be obtained from the Council's valuator after a principle decision on the lease of the land to a specific applicant has been taken and that the applicant be responsible for the valuation costs as determined by the sworn valuator which costs must be paid in advance before request of the valuation;
  - 3.7 that the approval of short term lease where a lease amount has been determined and approved by Council be delegated to the Strategic Manager : Development Planning;
  - 3.8 that Council land be leased to welfare organizations with a registration number as well as registered non-profitable organizations, at 50% of the market related lease subject thereto that proof of registration be submitted to Council.
  - 3.9 that Council land be leased to churches at 50% of the market related lease subject thereto that the following information be submitted to Council:
    - Proof of amount of active members
    - Financial statements
    - Indication of the amount which the church can afford;

- 3.10 that short term lease agreements for the erection of a tent for specific events or other functions to be held by churches, registered welfare organizations and registered non-profitable organizations be entered into for a maximum period of three months at a lease amount of R1/m<sup>2</sup>;
- 3.11 that in case where the lease amount exceeds R500 per year rates are payable on the leased property and
- 3.12 that the following conditions will apply when applications for Council land for the purpose of agricultural projects for poverty alleviation are received:
- The land be made available at a nominal rental of R40 per month.
  - No administration and valuation fee will be payable.
  - The applications be approved by the Local Economic Development and Urbanisation Portfolio Councillor and the Strategic Manager: Development Planning;
4. that the Policy Guidelines for the selling of Council land be as follows:
- 4.1 that Council property or land be sold at market value (excluding land sold to registered non-profitable organizations and churches) after the Council has taken a decision in principle to sell to a specific applicant and that the approval of the purchase price, which must be determined per sworn valuation at the cost of the applicant, be delegated to the Mayoral Committee;
- 4.2 that no reduction in purchase price be approved except where provision has been made in terms of the approved incentive policy and unless it can be proved that specific issues were not taken into consideration when the valuation was done for example servitudes which were not taken into consideration;
- 4.3 that in cases where land cannot be developed as an entity on its own without consolidating it with the adjacent property, be sold to the adjacent owner, consideration be given to selling the property at a lower amount, which amount will be determined by the Mayoral Committee; in such case rates will be payable on the consolidated erf;
- 4.4 that in the case of selling of land which cannot be sold as an entity on its own (thoroughfares) as mentioned under 4.3 above, the moratorium on the selling of "public open space"/parkland be lifted with immediate effect;
- 4.5 that it be accepted that individual applications in respect of individual residential stands and small business be considered;
- 4.6 that in cases where two or more applications for the purchasing/leasing of the same piece of land have been received, the land be sold or leased per closed tender and/or development proposals be invited from the interested parties subject thereto that further applications will only be considered if received within thirty days from submission of the first application;
- 4.7 that in cases where an application has been received for only a portion of the land for which another application has also been received, investigations be done whether both applicants can be considered and that each case be handled on merit;
- 4.8 that Council land be sold to churches at 50% of the market value for the purpose of erecting a church and manse at the market value and that a sworn valuation be obtained from the Council's valuator beforehand;

- 4.9 that land be sold at 50% of the market value to registered non-profitable organizations and registered non-profitable organisations as mentioned under Section 79(16)(a) and 79(17)(a) of the Local Government Ordinance (17 of 1939) which makes provision for the possibility of donations;
- 4.10 that in cases where land is sold to organisations at 50% of the market value, a restrictive condition be included in the Title Deed to the effect that a further amount equal to 50% of the market value at that stage, be paid to Council by the applicant, should the property at any stage no longer be utilized for the original purpose, but that the option will exist that the property can revert back to Council at the original purchase price less 15%(deposit) and transfer costs and any other costs be for the account of the applicant;
- 4.11 that the cases where land is sold at 50% of the market value or any reduced price, this amount must be reflected on the budget as income forgone and
- 4.12 that land be sold to schools at market value;
5. that the following requirements for applications for lease and sale of Council land be approved:
  - 5.1 that the administration fee (which will be adjusted annually in accordance with Council Financial By-laws) for the purchase/lease/donation of properties, be for the account of the applicant and that these costs be paid in advance before proceeding with the alienation;
  - 5.2 that an amount of R650 be made payable for administration fees for residential purposes, church purposes, educational purposes, welfare organizations and non-profitable organizations, as well as for small thoroughfares, which amount will be increased annually as approved by Council;
  - 5.3 that an amount of R1 500 be made payable for administration fee for business and commercial stands, which amount will be increased annually by Council;
  - 5.4 that the application must be accompanied by a locality plan which clearly shows the location of the property in relation to the surrounding area and in instance where only a portion of a property is applied for, the said portion must be clearly indicated on the plan as well as the approximate length of each boundary of the portion. This locality plan must be of sufficient quality to be used by officials of the Council to locate the property for the purposes of a site inspection and inclusion in the eventual report to be submitted to Council;
  - 5.5 that a valuation fee be payable by the applicant after a decision in principle has been taken by the Mayoral Committee which fee will be determined in accordance with the agreements entered into between Council and the appointed valuers;
  - 5.6 that the status of the service accounts of applicants applying to obtain Council property, be verified with the Department of Financial Services before an application is considered and
  - 5.7 that in cases where the applicant's service account is in arrears, the application be kept in abeyance until the full amount has been paid or the applicant has come to a satisfactory agreement with Council and that the applicant has be informed that the arrears must be paid within 30 days;
6. that the procedures to be implemented after a decision regarding the selling/leasing of Council land has been taken by Council, be as follows:

- 6.1 that, in the event of the applicant not responding to Council's notification of the Council resolution, which letter must be sent per registered post within 45 days from date of this notification, the applicant be given 14 days written notice per registered mail of lapsing of the Council resolution, whereafter the Council resolution will automatically be cancelled and administratively indicated on the initial resolution;
- 6.2 that all agreements (lease, sale, service, land availability, et cetera) be signed and returned within 30 days' from date of Council's registered letter, accompanying the agreement, failing which the applicants be given 14 days written notice per registered post and should the applicant still not respond the transaction will be cancelled with immediate effect;
- 6.3 that a 15% deposit be paid within 30 days after the applicant/developer has signed the Deed of Sale and that guarantees for the balance of the purchase price be submitted at the same time to the satisfaction of the Chief Financial Officer;
- 6.4 that in exceptional cases permission can be granted by the Strategic Manager: Development Planning for an extension of 30 days after a written request has been received;
- 6.5 that the closing and alienation of Council land be finalized by Council but that the costs for the closing and alienation of a property be for the account of the applicant and that it be taken into consideration by the sworn valuer when the stand is valued, which costs will be payable in advance as soon as the application has been approved;
- 6.6 that the rezoning, subdivision, registration of servitudes, et cetera be finalized by the applicant at his own cost but that the costs to be incurred by the applicant be taken into consideration by the sworn valuer when the stand is valued;
- 6.7 that the applicant be responsible for the application to the Department of Agriculture, Conservation, Environment and Land Affairs and that all costs regarding such application be for the account off the applicant;
- 6.8 that the applicant's attention be drawn to the fact that Council not necessarily support the rezoning application in view of possible valid objections that may be received when the proposed rezoning is advertised for objections in terms of the relevant legislation. However, should the rezoning not be successful, the transaction will be cancelled and the property will revert back to Council at no cost and 15% of the purchase price or R100 000 whichever is less will be forfeited by the applicant;
- 6.9 that the proposed "zoning" be taken into consideration when the valuation is done;
- 6.10 that the Council provide a power of attorney to the applicant to proceed with the rezoning;
- 6.11 that the applicant submit his application/s for, subdivision and rezoning within thirty days from the date of notification by the Council of finalisation of the alienation and closing, provided that in instances where the authorization of the Department of Agriculture, Conservation and Environment is required before the property may be rezoned, the applicant must submit proof in the form of an acknowledgement of receipt of his application by the said Department within the

said thirty days, his application for rezoning must then be submitted to the Council within fourteen days of the date of authorization by the said Department;

- 6.12 that a period of six months be granted to the applicant to obtain approval from the Department of Agriculture, Conservation, Environment and Land Affairs and that further extension can be granted by the Strategic Manager: Development Planning;
- 6.13 that a period of six months be granted to the applicant after obtaining the approval of the Department of Agriculture, Conservation and Environment and Land Affairs to finalise the rezoning of the property and that further extension can be granted by the Strategic Manager Development Planning and
- 6.14 that land transactions be registered within four months from date of instruction to the attorney, but that an extension of 30 days can be granted by the Strategic Manager: Development Planning after receipt of a written request;
7. that the standard conditions of Sale be as follows:
  - 7.1 that all Council properties be sold "voetstoots" subject to all conditions stipulated in the Title Deed, the applicable Town Planning Scheme or Conditions of Establishment, et cetera and that the Council not be held liable for any possible defect of whatsoever nature on the property and or for any damage suffered as a result of such defect, and that the applicant familiarize herself/himself with the electrical cables, water and sewerage pipes which may cross the property;
  - 7.2 that the property not be alienated to a third party prior to the development of the property according to the development proposal to be submitted to the Strategic Manager: Engineering Services without the consent of the Council and that this condition be registered against the title of the property;
  - 7.3 that the developer proceed with his development within two years from the date of registration and to be completed in accordance with the development plan failing which the property will be transferred back to Council at the cost of the applicant and less 15% (deposit) or R100 000 (one hundred thousand rand) whichever is less;
  - 7.4 that should the buyer fail to comply with the conditions of sale, the property will revert back to Council at the original purchase price less 15% deposit or R100 000 whichever is less, at the cost of the applicant or the alienation will not be proceeded with and that the reversionary clause be registered against the title of the property;
  - 7.5 that the applicant will be responsible for the costs regarding upgrading of services and a separate services agreement will be entered into between Council and the developer in the case where a Land Availability Agreement is entered into;
  - 7.6 that specific conditions regarding the responsibilities of the applicant towards the Council regarding the upgrading of external and internal services be determined when the application is submitted;
  - 7.7 that all service connection costs and transfer costs in all cases be for the account of the applicant;

- 7.8 that, should the moving of services be required, the costs thereof be for the account of the applicant;
- 7.9 that all rates and taxes be payable from date of registration of the property or in a case where occupation can be granted at an earlier stage, from date of occupation and
- 7.10 that an indemnity clause be added when a property is leased, to indemnify Council against any claim of whatsoever nature for damages, which the lessee may incur as result of leasing the property;
8. that options can be granted subject to the following conditions:
- For a maximum period of one year;
  - that the option be granted on a pre-determined price and that the valuation fee;
  - be immediately paid by the applicant;
  - A non-refundable deposit equal to 10% of the purchase price must be paid which amount will be deducted from the purchase price with registration of transfer;
  - in a case where the applicant is not proceeding with the application, the deposit will not be refunded;
  - each application must be handled on merit and must be submitted to Council for approval and
  - the applicant/company's details (for example shareholders, directors) must be availed to Council;
9. that the character of each residential area be kept in mind when applications for the alienation of land are considered and that the Committee take care that erven in certain residential areas not be diminished to such an extent that the character of the area and the Council's rates and taxes system be influenced, which can cause the reduction of the valuations of the surrounding properties;
10. all applications for the purchase of park land in residential areas should be in line with the policy on non-residential uses in residential areas which was approved on 26 October 2000 item 30;
11. that the selling of park stands in residential areas be in accordance with the policy on non-residential uses in residential areas as approved by Council on 26 October 2000 item 30;
12. that in case of the alienation of industrial, business and agricultural land, the following information be availed:
- total investment
  - number of jobs during construction stage
  - number of permanent jobs
  - impact on the approved Spatial Development Framework;
13. that the new land policy be implemented immediately after approval but that existing applications be finalized in terms of the interim land policy due to costs and processes already incurred by the applicants;
14. that it be noted that a further report on incentive policy will be submitted to the Mayoral Committee;

15. that in case where an application for the purchase/lease of land has been received from the public, applications received from officials and Councillors, for the same land, not be considered and preference be given to the applications received from the public, in order to prevent that council officials and Councillors use inside information to benefit from this situation and
16. that a valuation be obtained whenever a servitude must be registered.