

# NDLAMBE MUNICIPALITY



## 2<sup>ND</sup> ADDENDUM

### OPEN NDLAMBE COUNCIL MEETING

**DATE: WEDNESDAY, 31 OCTOBER 2018**

**TIME: 10H00**

**VENUE: COUNCIL CHAMBERS,  
CAMPBELL STREET,  
PORT ALFRED.**

**2<sup>ND</sup> ADDENDUM TO THE OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON WEDNESDAY, 31 OCTOBER 2018 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

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**2<sup>ND</sup> ADDENDUM to the AGENDA of the OPEN NDLAMBE COUNCIL MEETING to be held IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED, on WEDNESDAY, 31 OCTOBER 2018 AT 10H00.**

PORT ALFRED  
30 October 2018

  
DIRECTOR: CORPORATE SERVICES  
for: **MUNICIPAL MANAGER**

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TO: Councillor N V Maphaphu (In the Chair)

Councillors: P Faxi, K Daweti, N Gamlashe, J P Guest, C B James, Y P Kani, A L Marasi, M Mateti, T Mazana, T M Mbunge, T D Mbekela, M E Njibana, N A Ngqosha, M Raco, R L Schenk, L Shahzad, S Venene, N E Xhasa, M W Yali.

Municipal Manager, Directors: Financial Management, Corporate Services, Infrastructural Development, Community / Protection Services.

Deputy Directors: Financial Management, Infrastructural Development (Port Alfred), Community/Protection Services, Manager: Local Economic Development, Manager: Human Resources, Manager: Town Planning, Manager: Housing, Manager: Integrated Development Plan, Manager: Internal Audit Unit, Manager: Administration, Communication Officer, SAMWU and IMATU.

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**NCA036/10/2018**

**REPORT DATED 30 OCTOBER 2018 FROM THE MUNICIPAL MANAGER TO COUNCIL: RESCINDMENT OF COUNCIL RESOLUTION NO. NCM022/01/2018 ON BUILDING KNOWN AS THE "LOUNGE" SITUATED ON PORTION OF REMAINDER ERF 361, PASCOE CRESCENT ROAD, PORT ALFRED**

**PURPOSE**

For Council to rescind its decision to use the "Lounge" Building for Municipal Office and for Council to consider calling for tenders from interested persons / organizations for the lease of the facility known as the "Lounge".

**BACKGROUND**

The property is situated on Remainder Erf 361, Pascoe Crescent, Port Alfred of which ownership which in the Ndlambe Municipality under Deed of No. T3965/2006.

Item NCA022/01/2018 "*Report dated 23 January 2018 from the Municipal Manager to Council: Expression of interest: building known as the "lounge" situated on portion of remainder erf 361, Pascoe Crescent Road, Port Alfred.*" dated 30<sup>th</sup> of January 2018 was submitted to Council.

**2<sup>ND</sup> ADDENDUM TO THE OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON WEDNESDAY, 31 OCTOBER 2018 AT 10H00 IN THE COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED.**

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**See Annexure C.20**

Resolution NCM022/01/2018 ***“Report dated 23 January 2018 from the Municipal Manager to Council: Expression of interest: building known as the “lounge” situated on portion of remainder erf 361, Pascoe Crescent Road, Port Alfred.”*** dated 30<sup>th</sup> of January 2018 emanated from the item, which states inter alia, the following:-

- “a) That it **BE APPROVED** that the facility (The Lounge) be renovated and partitioned in order to be utilized for more municipal office space which is currently lacking and in dire need”.

**LEGISLATIVE COMPLIANCE & ADHERANCE TO POLICY FRAMEWORKS**

In terms of legislation pertaining to Government Gazette Notice No. 31346; Municipal Supply Chain Management Policy and Municipal Finance Management Act, No. 56 of 2003.

**DISCUSSION**

On the 30<sup>th</sup> of January 2018 a recommendation was made to Council with **two alternatives**, first being to use the building known as the Lounge building for municipal offices and the second option to call for tenders to lease out the building. Council chose the option to renovate and use the buildings for office purposes. Subsequent to that, at the Executive Committee meeting of May 2018, in the Mayor’s statement it was suggested that an ideal use of the property would be for community development and to lease the building to benefit the community, that is the reason this item to rescind the resolution of Council is being resubmitted.

Numerous applications have been submitted by interested parties wishing to lease the facility for various purposes, and therefore it is suggested as per the prescribed legislation that the facility be put out on public tender and considered accordingly.

Section 12(1)(d) of the Municipal Supply Chain Management Regulations (“Supply Chain Regulations”) made in terms of the Municipal Finance Management Act, No. 56 of 2003 (“MFMA”) further provides that a competitive bidding process must be followed in the event of:-

- a) Procurements above a transaction value of R100 000,00 (VAT included); and
- b) The procurement of long term contracts.

RECOMMENDATIONS TO COUNCIL

- a) THAT, Council Resolution NCM022/01/2018 "*Report dated 23 January 2018 from the Municipal Manager to Council: Expression of interest: building known as the "lounge" situated on portion of remainder erf 361, Pascoe Crescent Road, Port Alfred.*" dated 30th of January 2018, BE RESCINDED.
- b) THAT it BE NOTED that Council does not anticipate that the property shall be required for purposes of providing a basic municipal service as the necessary services already exist in the surrounding area.
- c) THAT it BE APPROVED that an Expression of Interest be invited from interested persons / organizations to lease the facility known as the "Lounge" situated on a portion of Erf 361, Pascoe Crescent, Port Alfred, as depicted on Locality Plan No. PTN ERF 361/PORT ALFRED, subject to the following conditions:-
- i. Tenders are invited in terms of the applicable legislation and specifically the Preferential Procurement Policy Framework Act.
  - ii. A nine (9) year eleven (11) months lease agreement is applicable.
  - iii. A valuation is obtained to determine the monthly market rental chargeable.
  - iv. All costs associated with the transaction is for the account of the successful tenderer.

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**OPEN NDLAMBE COUNCIL MEETING**  
**HELD ON WEDNESDAY, 31 OCTOBER 2018**

**REPORT DATED 30 OCTOBER 2018 FROM THE  
MUNICIPAL MANAGER TO COUNCIL:  
RESCINDMENT OF COUNCIL RESOLUTION NO.  
NCM022/01/2018 ON BUILDING KNOWN AS THE  
"LOUNGE" SITUATED ON PORTION OF  
REMAINDER ERF 361, PASCOE CRESCENT ROAD,  
PORT ALFRED**

**ANNEXURE C.20**

**AGENDA OF AN OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON  
TUESDAY, 30 JANUARY 2018 AT 10H00 IN THE COUNCIL CHAMBERS,  
CAMPBELL STREET, PORT ALFRED.**

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**NCA022/01/2018**

**REPORT DATED 23 JANUARY 2018 FROM THE MUNICIPAL MANAGER TO  
COUNCIL: EXPRESSION OF INTEREST: BUILDING KNOWN AS THE "LOUNGE"  
SITUATED ON PORTION OF REMAINDER ERF 361, PASCOE CRESCENT ROAD,  
PORT ALFRED**

**PURPOSE**

For Council to consider calling for tenders from interested persons / organizations for the lease of the facility known as the "Lounge". **OR** Council to take a decision and approve the renovation of the facility for office space for staff.

**BACKGROUND**

The property is situated on Remainder Erf 361, Pascoe Crescent, Port Alfred of which ownership which in the Ndlambe Municipality under Deed of No. TT3965/2006.

**LEGISLATIVE COMPLIANCE & ADHERANCE TO POLICY FRAMEWORKS**

In terms of legislation pertaining to Government Gazette Notice No. 31346; Municipal Supply Chain Management Policy and Municipal Finance Management Act, No. 56 of 2003.

**DISCUSSION**

On 18 November 2002 an Agreement of Sale was entered into between the Ndlambe Municipality and P A River Development Company (Pty) Ltd for the sale of a portion of the remainder of Erf 361 for development purposes. During 2016 the Eastern Cape High Court declared the sale as unlawful and the Supreme Court of Appeal arrived at the same conclusion on the 25<sup>th</sup> April 2018. The Court also overturned the municipal resolutions attached to the alienation of the property.

**Annexure-C.09**

The "Lounge" building is positioned on this property and is currently unutilized but was utilised by Mr.Gary McKay as an entertainment venue. He however claims that he is the holder of the previous lease on the property since 2002, and that a Memorandum of Understanding (MoU) was concluded between him and P A River Development Company

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(Pty) Ltd, but could not provide any proof thereof. The Estates section also conducted a search to the availability of the contract in the municipal records, but to no avail.

Numerous written and verbal requests have been received for the lease of the property for various purposes since the land sale has been nullified by the courts, one of the reasons being the environmental sensitivity of the property. It is therefore suggested as per the prescribed legislation that the facility be put out on public tender and considered accordingly.

Alternatively Council is advised to take the most advantageous option and cost beneficial decision, of utilising the Lounge building for office space for staff. As the Municipality is currently facing a serious challenge of office space and is currently spending enormous amounts on leasing of private buildings for office space and by taking an informed decision to utilise this building for office space Council will benefit from such a decision. The buildings at the Market Square are currently an eyesore and an informed decision needs to be taken with regard to this area, development in this vicinity is currently stagnant and the area currently is surrounded by mixed land uses, there is a police station in the vicinity, workshop building and recently council approved the rezoning of the opposite property for a office block. This indicates that the proposed use of the building for in in line with the area and will contribute to the aesthetics of the area. There is also ample space for parking of vehicles and also future development for offices for the Municipality.

It must be noted that it will highly benefit the Municipality should a decision be taken to use this facility as an office space.

Section 12(1)(d) of the Municipal Supply Chain Management Regulations ("Supply Chain Regulations") made in terms of the Municipal Finance Management Act, No. 56 of 2003 ("MFMA") further provides that a competitive bidding process must be followed in the event of:-

- a) Procurements above a transaction value of R100 000,00 (VAT included); and
- b) The procurement of long term contracts.

#### RECOMMENDATIONS TO COUNCIL

- a) THAT it BE NOTED that the appeal of the P A River Development Company was dismissed with costs as per the Order granted on the 25<sup>th</sup> April 2017.

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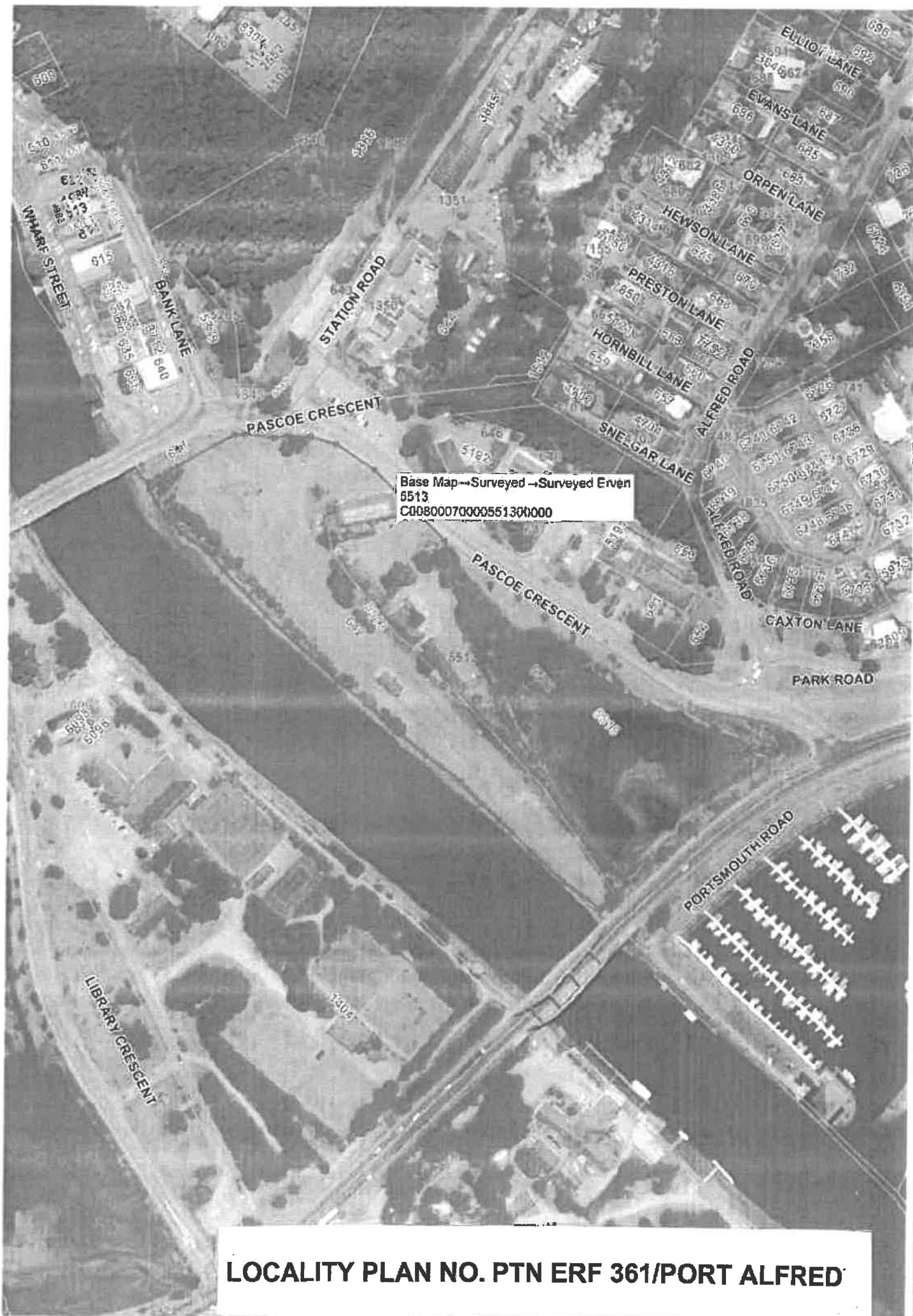
- b) THAT it BE APPROVED that an Expression of Interest be invited from interested persons / organizations to lease the facility known as the "Lounge" situated on a portion of Erf 361, Pascoe Crescent, Port Alfred, as depicted on Locality Plan No. PTN ERF 361/PORT ALFRED, subject to the following conditions:-
- i) Tenders are invited in terms of the applicable legislation and specifically the Preferential Procurement Regulations, 2011.
  - ii) A nine (9) year eleven (11) months lease agreement is applicable.
  - iii) A valuation is obtained to determine the monthly market rental chargeable
  - iv) All costs associated with the transaction is for the account of the successful tenderer.

**OR ALTERNATIVELY (advised)**

- a) THAT it BE NOTED that the appeal of the P A River Development Company was dismissed with costs as per the Order granted on the 25<sup>th</sup> April 2017.
- b) That it BE APPROVED that the facility (The Lounge) be renovated and partitioned in order to be utilized for more municipal office space which is currently lacking and in dire need.
- c) That it BE NOTED, the facility already has the necessary infrastructure (Electricity, Sewer & Water).

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Base Map -> Surveyed -> Surveyed Even  
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**LOCALITY PLAN NO. PTN ERF 361/PORT ALFRED**