

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
17 April 2018  
(Also the agenda for the Mayoral Committee Meeting : 25 April 2018)**

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**6.  
HERMANUS: PORTIONS OF ERF 249 AND 832 HERMANUS, WRITE-BACK OF  
AMOUNTS RAISED, MACHIEL ADRIAAN DE KLERK**

**7/2/3/2**

**A Le Roux**

**(028) 316 3724**

**Hermanus Administration**

**12 March 2018**

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**1. Executive Summary**

The purpose of the report is to request Council to approve the writing back of an amount of R221,667.03 (TWO HUNDRED AND TWENTY ONE THOUSAND SIX HUNDRED AND SIXTY SEVEN RAND AND THREE CENTS) of Machiel Adriaan de Klerk (hereinafter referred to as 'De Klerk'), incurred in terms of a lease agreement entered into between himself and the Overstrand Municipality in relation to portion of Erf 249 and 832 Hermanus, also known as the Market Square Stalls.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Directorate Finance  
Department Revenue

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Provision and maintenance of municipal services

**4. Delegated Authority**

None

**5. Legal Requirements**

Administration of Immovable Property Policy of the Overstrand Municipality, as amended

**6. Background/Discussion/Evaluation/Conclusion**

**Background**

A tender was advertised for the lease and management of the Market Square Stalls situated on portions of Erf 249 and 832 Hermanus for business purposes. The main purpose was to obtain one tenant who can sublease and manage the individual stalls on behalf of the Municipality and who could then take over the total maintenance of the stalls with the

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management thereof. This is the first time the Municipality attempted this type of venture with the Market Square Stalls. The tender was duly awarded to Mr M A de Klerk on 17 July 2015 at a rental amount of R70,000.00 (seventy thousand rand) (VAT excluded) per month. The lease agreement entered into with De Klerk is in accordance with the in principle decision, the tender specifications as well as the Administration of Immovable Property Policy and commenced on 1 August 2015 and will expire on 31 July 2018.

### **Discussion**

The Municipality was not able to give possession of the Market Square to De Klerk on 1 August 2015 as the previous tenants refused to vacate the stalls. In this regard, Court proceedings were launched to obtain a court order for the eviction of the traders who refused to vacate the stalls, which final order was only granted in March 2017. This meant that Mr De Klerk could only obtain full occupation of the Market Square stalls as from 1 April 2017 when he could start fully marketing the stalls.

The Municipality was only able to give possession of individual stalls as follows:

- (a) 10 stalls on 1 November 2015;
- (b) 2 further stalls on 1 December 2015;
- (c) 1 further stall on 1 January 2016;
- (d) 1 further stall on 1 November 2016; and
- (e) All remainder 22 stalls on 1 April 2017.

The Court proceedings were finalized in March 2017 and vacant occupation of the remainder of the stalls was given as from 1 April 2017. Thus De Klerk could only start with the whole venture and process of managing the Market Square Stalls when he was given occupation of all the stalls in Market Square that were included in the tender.

In the meantime, a portion of the net income derived from the management of the stalls was spent by Mr de Klerk on maintenance and the upkeep of the stalls.

De Klerk subsequently approached the Municipality to consider the write-back of a portion of the amounts levied on the municipal account, based on the afore-mentioned circumstances.

All the above would most probably not have happened if the Municipality was in the position to give occupation of all 36 stalls on 1 August 2015 as contemplated in the lease agreement.

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De Klerk is able to manage the Stalls effectively subsequent to the handover of the final remainder of the 22 stalls on 1 April 2017, without the challenges he had to face with illegal traders and not being able to take full occupation of the lease area as envisaged in the tender and subsequent lease agreement. De Klerk is currently paying the current municipal account.

In view of the above background and discussion it is recommended that the amount of R221,667.03 (TWO HUNDRED AND TWENTY ONE THOUSAND SIX HUNDRED AND SIXTY SEVEN RAND AND THREE CENTS) representing the rental levied from 1 November 2015, up to 30 June 2016, based on only a number of the stalls that became available over this period, be written back as De Klerk was only able to start managing the Market Square stalls effectively from 1 April 2017.

**7. Financial Implications**

An amount of R221,667.03 (TWO HUNDRED AND TWENTY ONE THOUSAND SIX HUNDRED AND SIXTY SEVEN RAND AND THREE CENTS) levied on the account up to 30 June 2016, will be written back.

**8. Staff Implications**

N/A

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

Annexure A: Locality plan

**RECOMMENDATION TO THE COUNCIL:**

that the write-back of the arrear municipal account of Machiel Adriaan de Klerk for the leasing of a portion of Erf 249 and a portion of Erf 832 Hermanus, also known as the Market Square Stalls, in the amount of R221,667.03 (TWO HUNDRED AND TWENTY ONE THOUSAND SIX HUNDRED AND SIXTY SEVEN RAND AND THREE CENTS) for the period up to 30 June 2016, being the period where he at least had occupation of 13 of the 36 stalls, **be approved.**

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<b>RESPONSIBLE OFFICIAL :</b>	<b>A LE ROUX E HOONENBERG</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>25 APRIL 2018</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>N/A</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
17 APRIL 2018, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

that the write-back of the arrear municipal account of Machiel Adriaan de Klerk for the leasing of a portion of Erf 249 and a portion of Erf 832 Hermanus, also known as the Market Square Stalls, in the amount of R221,667.03 (TWO HUNDRED AND TWENTY ONE THOUSAND SIX HUNDRED AND SIXTY SEVEN RAND AND THREE CENTS) for the period up to 30 June 2016, being the period where he at least had occupation of 13 of the 36 stalls, **be approved.**

**RESPONSIBLE OFFICIAL :**

**A LE ROUX  
E HOONENBERG**

**TARGET DATE FOR IMPLEMENTATION :**

**25 APRIL 2018**

**TARGET DATE TO INFORM APPLICANT :**

**N/A**

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