

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 August 2017
(Also the agenda for the Mayoral Committee Meeting : 30 August 2017)**

**3.
HERMANUS, ERF 8937: LEASE OF MUNICIPAL PROPERTY TO YOMELELANI
EARLY CHILDHOOD DEVELOPMENT AND AFTER SCHOOL CARE**

7/2/3/1

**M Erasmus
4 July 2017**

(028) 316-3724

Hermanus Administration

1. Executive Summary

To obtain approval to enter into a further lease agreement with Yomelelani Early Childhood Development and After School Care, hereinafter called "Yomelelani" in respect of municipal property, being Erf 8937 Zwelihle ($\pm 2,557\text{m}^2$ in extent) for the purpose of a pre- and after school facility (care centre), soup kitchen and a recycle swop shop.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning;
Property Administration

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background

Yomelelani, a registered social care facility, has been leasing Erf 8937 Zwelihle from the Municipality since 2013 for the purpose of a pre- and after school facility (care centre), soup kitchen and a recycle swop shop. The most recent agreement expired on 31 July 2017.

The locality of the proposed lease area is indicated on a locality plan attached per "Annexure A".

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Discussion

Yomelelani applied to lease the property for a further period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of a pre- and after school facility (care centre), soup kitchen and a recycle swop shop.

Yomelelani delivers an essential service to the community of Zwelihle. The children receive good care and education during the day and the parents are able to work and earn an income for the family while their children are well looked after in a safe environment. The soup kitchen and recycle swop shop further provides essential services to the community.

Yomelelani rents out the hall on the property for community purposes during the week and it is also used on a Sunday for Church services. Furthermore the hall is a registered voting station and thus also being used by the Electoral Commission when needed.

Yomelelani's municipal account is up to date and no complaints regarding the use of the property have been received during their previous period of lease.

It can be confirmed that Yomelelani applied for the renewal in time and that the renewal process was also commenced with by the Property Administration Department in time. Unfortunately due to unforeseen circumstances the lease agreement could not be entered into before the expiration of the previous agreement. As Yomelelani is still in occupation of the property the lease amount is still levied monthly on their municipal account and paid by Yomelelani. Should the renewal of the lease agreement be approved the renewal date will be backdated to commence the day after expiry of the said previous agreement.

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

Paragraph 17: "Taking into consideration the nature and duration of the lease to be entered into, the leasing of immovable property may be affected by means of either:

17.1 a competitive process, which may include a closed or public tender or proposal call, specifically in circumstances listed in paragraph 18 below; or

17.2 a direct lease".

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and

Paragraph 18: “A competitive process must at all times be followed in circumstances where:

- 18.1 the lease is for a long term with an income value in excess of R10 million;**
- 18.2 the lease is for a formal business premises with a market related rental;**
- 18.3 more than one party, in discretion of the municipality, is interested in the lease of the subject property; and/or**
- 18.4 by discretion of the municipality, a competitive process will best serve the interests of the community”.**

As the property is not classified as a business site and the leasing of the said property to Yomelelani (a registered social care organisation) is in the interest of the community, i.e. not a commercial lease, and they have been leasing it successfully for several years, it is recommended that the property be leased directly to Yomelelani without following a competitive process.

Paragraph 20.1: “The Municipality may grant a long term lease of municipal immovable property with a value less than R10 million only after:

- a) The accounting officer has approved the lease in principle;**
- b) In the case of a direct lease, the proposed lease was advertised in terms of paragraph 10.1 and 10.2 above to invite the local community and other interested parties to submit comments or representations; and**
- c) The municipal council has approved that the right may be granted.”**

The Accounting Officer (Municipal Manager) approved in principle the lease of Erf 8937 Zwelihle to Yomelelani for the purpose of a pre- and after school facility (care centre), soup kitchen and a recycle swop shop on condition that the public participation process is followed. The proposed lease was advertised in The Village News on 28 March 2017 for a 30 (THIRTY) day comment/objection period.

Paragraph 26: “In cases where a rental amount has been approved in the annual budget of the Municipality for certain types of leases and encroachments, the approved amount will be used for purposes of determining the rental amount.”

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The rental amount approved in the tariffs for leases to social care organisations/institutions, which will also be applicable in this case, is R131.58 (ONE HUNDRED AND THIRTY ONE RAND AND FIFTY EIGHT CENTS) (VAT excluded) per month. The lease amount will escalate every year on the 1st of July according to the approved tariffs for the specific financial year.

Paragraph 36: “All costs pertaining to a transaction, e.g. survey, advertisements, valuation, relocation or provision of services where necessary, shall be borne by the Lessee. The Municipality may, however, waive its right to claim all or any portion of the costs. Where necessary a deposit to cover the costs may be required.”

Yomelelani will pay all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs.

Paragraph 47: “Subject to paragraph 46 above, immovable property let by the Municipality shall be inspected at least once a year by the Municipality to ensure compliance with the terms and conditions of the agreement of sale or lease.”

The property will be inspected by the Property Administration Department at least once a year.

It is further confirmed that the other Conditions of Lease as stipulated in paragraph 36 – 50 of the said policy will be included in the lease agreement with the Applicant.

B. Advertisement/Notification

An advertisement for the lease of Erf 8937 Zwelihle ($\pm 2\,557\text{m}^2$ in extent) was placed in The Village News on 28 March 2017 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

Conclusion

With reference to the above discussion it is recommended that the lease agreement with Yomelelani be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 August 2017 at a total rental amount of R131.58 (ONE HUNDRED AND THIRTY ONE RAND AND FIFTY EIGHT CENTS) (VAT excluded) per month.

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7. Financial Implications

The Municipality stands to gain rental in the amount of R131.58 (ONE HUNDRED AND THIRTY ONE RAND AND FIFTY EIGHT CENTS) (VAT excluded) per month for the period of 1 August 2017 to 30 June 2018 where after the lease amount will escalate every year on the 1st of July in accordance with the approved tariff in the annual budget. All expenses pertaining to the proposed lease will be borne by Yomelelani.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets, Mr. J Vorster - (028) 313 8046

As this is an income generating proposal involving an institution who delivers an essential service to the community of Zwelihle, concluded in terms of the conditions set out in the Administration of Immovable Property Policy of the Municipality and with no intension to dispose of the asset, there is no objection to the report.

Manager: Social Development, Mr G Smit – (028) 313 8035

Partial Care Facilities must conform to the norms and standards set out in the Children's Act No 38 of 2005, and Regulations to comply with the legislative requirement of registration with the Department of Social Development. Municipal facilities designated as partial care facilities must therefore be in compliance with these requirements prior to letting so as to ensure that the municipality adheres to its Constitutional obligation of the provision of child care facilities. In the case of Yomelelani, the facility was extensively renovated in 2016 and fully complies with all the legislative requirements for partial care facilities and early childhood development services and was duly registered. The renewal and extension of the lease agreement with Yomelelani is supported.

10. Annexures

Annexure A: Locality Plan

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RECOMMENDATION:

1. that the lease of Municipal Property, being Erf 8937 Zwelihle ($\pm 2\,557\text{m}^2$ in extent) to Yomelelani Early Childhood Development and After School Care for the purposes of a pre- and after school facility (care centre), soup kitchen and a recycle swop shop at the rental amount of R131.58 (ONE HUNDRED AND THIRTY ONE RAND AND FIFTY EIGHT CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 August 2017 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**, and
2. that the rental amount mentioned in 1 above escalate every year on the 1st of July in accordance with the tariff as approved by Council in the annual budget for the specific financial year.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	22 SEPTEMBER 2017
TARGET DATE TO INFORM APPLICANT :	30 SEPTEMBER 2017
TARGET DATE TO INFORM OBJECTOR :	N/A

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 AUGUST 2017, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

22 SEPTEMBER 2017

TARGET DATE TO INFORM APPLICANT :

30 SEPTEMBER 2017

TARGET DATE TO INFORM OBJECTOR :

N/A

