

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
19 June 2018
(Also the agenda for the Mayoral Committee Meeting : 27 June 2018)**

3.

HERMANUS: A PORTION OF THE REMAINDER OF ERF 249: LEASE OF MUNICIPAL PROPERTY TO BELLA ROSA INVESTMENT HOLDINGS (PTY) LTD

7/2/3/1

W Murtz

(028) 316-3724

Hermanus Administration

10 May 2017

1. Executive Summary

To obtain approval to enter into a further lease agreement for a period of 5 (FIVE) years from 1 February 2018 with the Bella Rosa Investment Holdings (Pty) Ltd, in respect of municipal property, being a portion of the remainder of Erf 249 Hermanus ($\pm 60\text{m}^2$ in extent) situated on the corner of Harbour and Marine Road, Hermanus, for the purpose of outdoor tables and chairs for restaurant seating.

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

Bella Rosa Investment Holdings (Pty) Ltd has been utilising the subject portion of municipal property, being a portion of the remainder of Erf 249 Hermanus, since 2010 for the purpose of outdoor tables and chairs for restaurant seating. The most recent agreement expired on 31 January 2018.

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

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Discussion

Bella Rosa Investment Holdings (Pty) Ltd applied to lease the subject portion of property for a further period of 5 (FIVE) years for the purpose of outdoor tables and chairs for restaurant seating.

Bella Rosa Investment Holdings (Pty) Ltd's municipal account is up to date and no complaints regarding the use of the property for the purpose of outdoor tables and chairs for restaurant seating have been received during their previous period of lease.

It can be confirmed that Bella Rosa Investment Holdings (Pty) Ltd 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 the Bella Rosa Investment Holdings (Pty) Ltd is still in occupation of the property, the lease amount is still levied monthly on their municipal account and paid by them. 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."

As the said property is directly adjoining the property of Bella Rosa Investment Holdings (Pty) Ltd and as it is a small area which will not be of any practical use to anyone else for seating purposes, it is recommended that the property be leased directly to Bella Rosa Investment (Pty) Ltd without following a competitive process.

Paragraph 20.1: "The Municipality may grant a long term lease of

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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 renewal of the lease of the subject portion of the remainder of Erf 249 Hermanus to Bella Rosa Investment Holdings (Pty) Ltd for the purpose of outdoor tables and chairs for restaurant seating on condition that the public participation process is followed.

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.”*

In this regard the rental charged will be in accordance with the tariff approved in the annual budget.

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.”*

Bella Rosa Investment Holdings (Pty) Ltd 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.

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B. Advertisement/Notification

An advertisement for the renewal of the lease of a portion of the remainder of Erf 249 Hermanus ($\pm 60\text{m}^2$ in extent) was placed in The Village News on 27 March 2018 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 Bella Rosa Investment Holdings (Pty) Ltd be approved for a further period of 5 (FIVE) years from 1 February 2018 at a total rental amount of R26.32 (TWENTY SIX RAND AND THIRTY TWO CENTS) (VAT excluded) per square metre per month.

7. Financial Implications

The Municipality stands to gain rental in the amount of R26.32 (TWENTY SIX RAND AND THIRTY TWO CENTS) (VAT excluded) per square metre per month [R1,579.20 (ONE THOUSAND FIVE HUNDRED AND SEVENTY NINE RAND AND TWENTY CENTS VAT EXCLUDED)], where after the lease amount will escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2018. All expenses pertaining to the proposed lease will be borne by Bella Rosa Investment Holdings (Pty) Ltd.

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 a service to the community of Hermanus, with no intention to dispose of the asset, there is no objection to the report.

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION:

1. that the lease of municipal property, being a portion of the remainder of Erf 249 Hermanus ($\pm 60\text{m}^2$ in extent) to Bella Rosa Investment Holdings (Pty) Ltd

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for the purposes of outdoor tables and chairs for restaurant seating at the rental amount of R26.32 (TWENTY SIX AND THIRTY TWO CENTS) (VAT excluded) per square metre per month for a further period of 5 (FIVE) years as from 1 February 2018 in terms of the Administration of Immoveable 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 tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2018.

RESPONSIBLE OFFICIAL :	WILLMARY MURTZ
TARGET DATE FOR IMPLEMENTATION :	31 JULY 2018
TARGET DATE TO INFORM APPLICANT :	8 JULY 2018
TARGET DATE TO INFORM OBJECTOR :	N/A

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Hermanus Administration

10 May 2017

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
19 JUNE 2018, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :

W MURTZ

TARGET DATE FOR IMPLEMENTATION :

31 JULY 2018

TARGET DATE TO INFORM APPLICANT :

8 JULY 2018

TARGET DATE TO INFORM OBJECTOR :

N/A

