

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 May 2017
(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

**10.
HERMANUS, A PORTION OF ERF 4771: LEASE OF MUNICIPAL PROPERTY TO
THE ANNUAL HERMANUS CAMP**

7/2/3/1

**M Erasmus
3 March 2017**

(028) 316-3724

Hermanus Administration

1. Executive Summary

To obtain approval to enter into a further lease agreement with The Annual Hermanus Camp, hereafter referred to as "Hermanus Camp", in respect of Municipal Property, being a portion of Erf 4771 Hermanus ($\pm 8\,000\text{m}^2$ in extent) situated in Voëlklip for a period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of holding an annual camp as provided for in their constitution.

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

Hermanus Camp has been leasing the said portion of municipal property, being a portion of Erf 4771 Hermanus, since 2002 for the purpose of holding an annual camp as provided for in their constitution. The current agreement will expire on 30 November 2017.

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

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 May 2017
(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

Discussion

Hermanus Camp has been holding annual camps for an estimated period of 100 years and has been utilising the said specific municipal property since 2002 for the hosting of these annual camps. Hermanus Camp has applied for a further lease agreement of 9 (NINE) years and 11 (ELEVEN) months.

These camps have been an integral part of the rich history of Hermanus and provide boys of all races the opportunity of an experience in an environment where the physical, social and spiritual needs are balanced.

Hermanus Camp's constitution determines that the funds generated must be used for the purpose of a camp and providing leadership training and environmental education and further that the organisation is a voluntary organisation with the purpose of the organisation being for the benefit of the community.

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

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".**

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;**

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
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(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

- 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 site is not classified as a business site and the leasing of the said property to Hermanus Camp 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 Hermanus Camp without following a competitive process.

Paragraph 27 of the Administration of Immovable Property Policy stipulates that in the case of a direct lease to registered social care organisations, sport/public facilities or registered non-profit organisation the rental shall be determined by the Accounting Officer taking into consideration the community value of the lease. The following definitions are found in the said policy:

*“**Public Facilities**” Facilities providing services to the community which cannot be supplied directly to the individual residential dwelling unit satisfying specific individual and/or community needs including safety; security; communication; recreation; sport; education; health; public administration; cultural and social needs generally regarded as the responsibility of the Government but also provided privately when it is perceived that the government provided services are inadequate”*

*“**Social care**” Defined as child care facilities in so far as it contributes to the functioning of a multi-use child care facility and is operated on a non-profit basis; services provided by registered welfare, charitable, non-profit, cultural organisations; centres utilised as homes for the handicapped and disabled persons; non-profit rehabilitation centres; homes or centres for indigent, battered or destitute people; organisations for the homeless and elderly; youth activity or culture centres and organisations; community development organisations operating on a non-profit basis or amateur sporting, cultural or recreational organisations”.*

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**

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 May 2017
(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

- c) **The municipal council has approved that the right may be granted.”**

The Accounting Officer has approved in principle the lease of the subject portion of Erf 4771 Hermanus (±8 000m² in extent) to Hermanus Camp subject thereto that a public participation process be followed. The proposed lease was advertised in the Hermanus News on 24 January 2017 and no objections were received.

Paragraph 27: “In the case of a direct lease of immovable property to registered social care organisations/institutions, sports/public facilities or registered non profit organisations, the rental shall be determined by the Accounting Officer taking into consideration the community value of the lease”

The lease amount currently levied is the lease amount that other non-profit and community organisations are levied. In light of the above discussion and motivation it is thus recommended that the lease amount be equal to the amount that other community organisations are paying at the time of the compilation of the lease agreement. The amount that the organisations are currently paying is R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month which amount will escalate on the 1st of July by a percentage equal to the prevailing consumer price index (all items).

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.”

Hermanus Camp will pay the costs relating to the advertisement. No survey or valuation was done and therefore no costs were incurred in this regard.

Paragraph 40: “Rental, except where it is decided otherwise by the Municipality shall escalate annually by a percentage fixed in accordance with the prevailing consumer price index (all items).”

A clause to this effect will be inserted in the lease agreement.

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.”

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 May 2017
(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

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 a portion of Erf 4771 Hermanus ($\pm 8\,000\text{m}^2$ in extent) to Hermanus Camp was placed in the Hermanus News on 24 January 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 Hermanus Camp be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 December 2017 at a rental amount equal to that which other community organisations are levied at time of finalisation of the lease agreement.

7. Financial Implications

The Municipality stands to gain rental in the amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) plus the escalation which will be implemented on 1 July 2017 with a percentage equal to the prevailing consumer price index (all items) per month for the period of 1 December 2017 to 30 June 2018 (which amount will be equal to the amount that other community organisations are levied) where after the lease amount will escalate every year on the 1st of July in accordance with the prevailing consumer price index (all items). All expenses pertaining to the proposed lease will be borne by Hermanus camp.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

J Vorster – Senior Manager: Expenditure & Assets

As this is an income generating proposal involving an institution who delivers an essential service to the community, concluded in terms of the conditions set out in the Administration of Immovable Property Policy of the Municipality

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 May 2017
(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

and with no intension 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 Erf 4771 Hermanus ($\pm 8\,000\text{m}^2$ in extent) to The Annual Hermanus Camp for the purpose of holding an annual camp as provided for in their constitution at the rental amount equal to the amount that other community organisations are levied at the time of the finalisation of the lease agreement for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 December 2017 to 31 October 2027 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 by a percentage fixed in accordance with the prevailing consumer price index (all items) with the first escalation being on 1 July 2018.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	30 JUNE 2017
TARGET DATE TO INFORM APPLICANT :	15 JUNE 2017
TARGET DATE TO INFORM OBJECTOR :	N/A

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
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Hermanus Administration

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

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	30 JUNE 2017
TARGET DATE TO INFORM APPLICANT :	31 MAY 2017
TARGET DATE TO INFORM OBJECTOR :	N/A

