

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
21 November 2017
(Also the agenda for the Mayoral Committee Meeting : 29 November 2017)**

**7.
ROOI-ELS, A PORTION OF UNREGISTERED ERF 325 (A PORTION OF ERF 324),
LEASE OF MUNICIPAL PROPERTY TO VODACOM (PTY) LTD**

7/2/3/1

**M Erasmus
5 October 2017**

(028) 316-3724

Hermanus Administration

1. Executive Summary

To obtain approval to enter into a further lease agreement with Vodacom (Pty) Ltd, hereafter referred to as "Vodacom", in respect of a portion of unregistered Erf 325 (a portion of Erf 324) Rooi-Els ($\pm 16\text{m}^2$ in extent) for a period of 9 (NINE) years and 11 (ELEVEN) months for telecommunication and related purposes.

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

Vodacom has been leasing the portion of unregistered Erf 325 (a portion of Erf 324) Rooi-Els for telecommunication purposes since 2008. The latest agreement will expire on 31 December 2017.

With the commencement of the original agreement Vodacom contributed an additional once off amount of R50,000.00 toward the upgrading of the access road that also provide access to unregistered Erf 325 (a portion of Erf 324) Rooi-Els.

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Although unregistered Erf 325 (a portion of Erf 324) Rooi-Els is not registered in the name of the Overstrand Municipality yet, the property is under the management of the Overstrand Municipality as there is a water reservoir situated on the property and the said property is thus also used for municipal service delivery.

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

Discussion

Vodacom has been utilising the said space for almost 10 years and provides a very important service to the community of Rooi-Els and especially in the provision of communication and improvement of mobile and internet reception to their clients. Vodacom applied for a long term lease agreement of 9 (NINE) years and 11 (ELEVEN) months.

In terms of the Administration of Immovable Property Policy the Municipality may grant a long term lease if the Accounting Officer has approved the lease in principle, a public participation process is followed and Executive Mayor's (as delegated authority) approval is gained in terms of the above policy.

The Accounting Officer approved in principle the lease of the property to Vodacom subject thereto that the required processes are followed. As the site is not classified as a business site and since it is in the interest of the community to have the service provider on the property and further as we have not received any other applications for the said property, the said portion of the property can be leased directly to Vodacom without following a competitive process.

The lease amount (tariff) for the lease of space for a mast are annually determined and approved in the Annual Budget which is approved by Council. The current amount is R60.44 (SIXTY RAND AND FORTY FOUR CENTS) (VAT excluded) per square meter.

No complaints regarding the use of the property by Vodacom have been received during their previous period of lease.

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

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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 site is not classified as a business site and since it is in the interest of the community to have the service provider on the property and further as we have not received any other applications for the said property, the said portion of the property can be leased directly to Vodacom 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 approved in principle the lease of the subject portion of unregistered Erf 325 (a portion of Erf 324) Rooi-Els to Vodacom subject thereto that a public participation process be followed. The proposed lease was advertised in the Overstrand Herald on 14 September 2017 and no objections were received.

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.”

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Vodacom 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).”

The lease amount (tariff) for the lease of a mast are annually determined and approved in the Annual Budget which is approved by Council.

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 a portion of unregistered Erf 325 (a portion of Erf 324) Rooi-Els to Vodacom was published in the Overstrand Herald on 14 September 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 Vodacom be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 January 2018 at a total rental amount of R967.04 (NINE HUNDRED AND SIXTY SEVEN RAND AND FOUR CENTS) (VAT excluded) per month. The rental 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 first escalation to be on 1 July 2018.

7. Financial Implications

The Municipality stands to gain a rental in the amount of R967.04 (NINE HUNDRED AND SIXTY SEVEN RAND AND FOUR CENTS) (VAT excluded) per month 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

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approved by Council with the first escalation on 1 July 2018. All expenses pertaining to the proposed lease will be borne by Vodacom.

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 of Rooi-Els, 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.

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION:

1. that the lease of a portion of unregistered Erf 325 (a portion of Erf 324) Rooi-Els to Vodacom (Pty) Ltd for telecommunication and related purposes at the rental amount of R967.04 (NINE HUNDRED AND SIXTY SEVEN RAND AND FOUR CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 January 2018 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved.**
2. that the rental amount mentioned in 1 above escalate annually on the 1st of July in accordance with the tariffs as determined and approved in the Annual Budget with the first escalation on 1 July 2018.

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|--|-------------------------|
| RESPONSIBLE OFFICIAL : | M ERASMUS |
| TARGET DATE FOR IMPLEMENTATION : | 31 JANUARY 2018 |
| TARGET DATE TO INFORM APPLICANT : | 31 DECEMBER 2017 |
| TARGET DATE TO INFORM OBJECTOR : | N/A |

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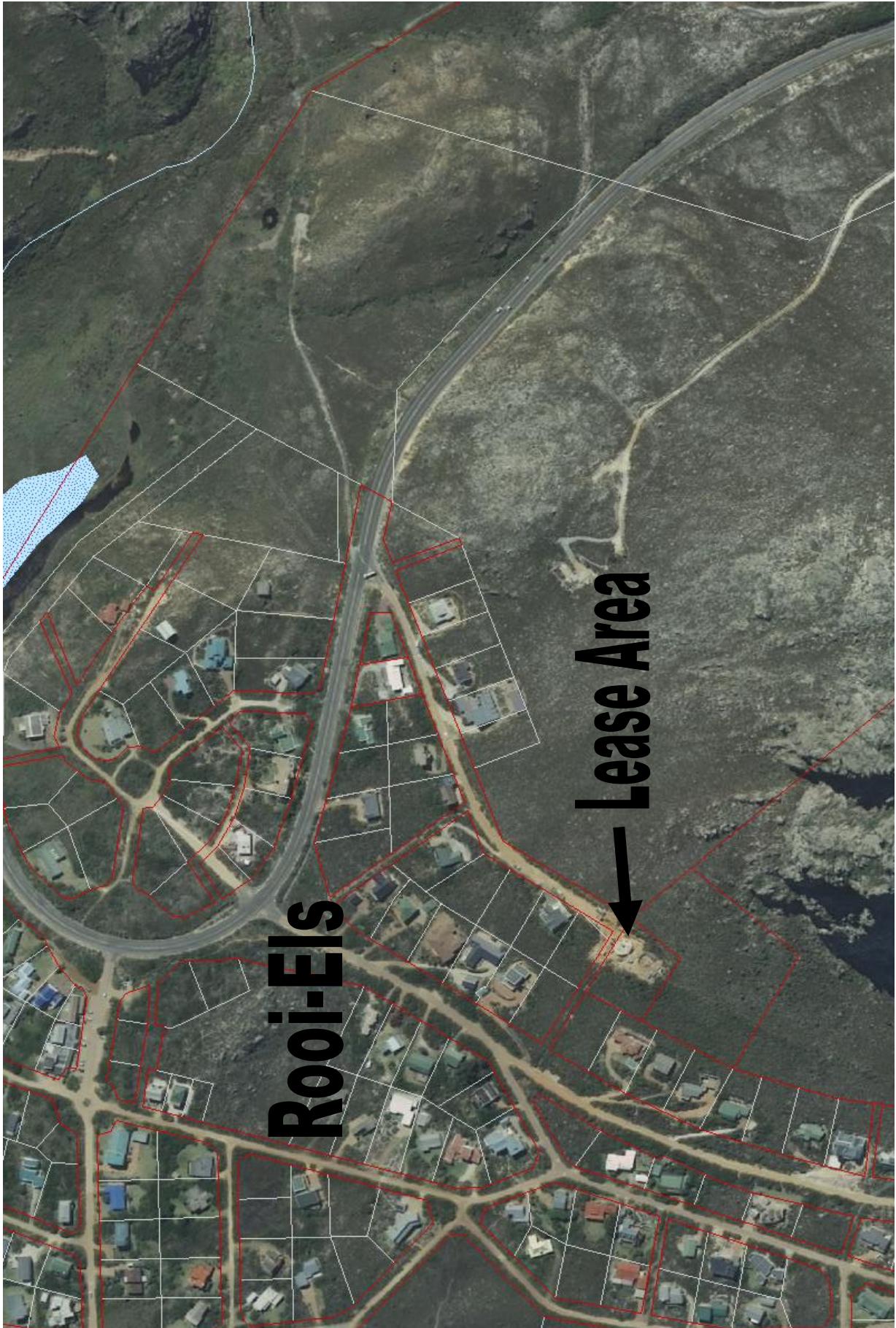
**M Erasmus
5 October 2017**

(028) 316-3724

Hermanus Administration

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
21 NOVEMBER 2017, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

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|--|-------------------------|
| RESPONSIBLE OFFICIAL : | M ERASMUS |
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Rooi-Els

Lease Area