

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 November 2018
(Also the agenda for the Mayoral Committee Meeting : 28 November 2018)**

**5.
HERMANUS: A PORTION OF ERF 243 BEHIND ERF 7157: LEASE OF
MUNICIPAL PROPERTY TO HERMANUS ANIMAL WELFARE SOCIETY**

7/2/3/1

W Murtz

(028) 316-3724

Hermanus Administration

8 October 2018

1. Executive Summary

To obtain approval to enter into a further lease agreement for a period 9 (NINE) years and 11 (ELEVEN) months with the Hermanus Animal Welfare Society in respect of municipal property, being a portion of Erf 243 behind Erf 7157 Hermanus ($\pm 400\text{m}^2$ in extent) situated behind 4A Steenbras Street in the Industrial Area, for the purpose of exercising the dogs from the shelter.

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
Creation and maintenance of a safe and healthy environment

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 Animal Welfare Society, a registered non-profit organisation, has been leasing the subject portion of Erf 243 behind Erf 7157 Hermanus from the Municipality since 1 May 2009 for the purpose of exercising the dogs from the shelter. The current lease agreement will expire on 31 January 2019.

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

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Discussion

Hermanus Animal Welfare Society applied to lease the subject portion of the property for a further period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of exercising the dogs from the shelter.

Hermanus Animal Welfare Society delivers an essential service to the community of Hermanus through the various services they offer. The space to exercise dogs is a very important necessity as this provides Hermanus Animal Welfare Society with the opportunity to ensure that the dogs are in a fit and healthy condition.

Hermanus Animal Welfare Society's municipal account is up to date and no complaints regarding the use of the property for exercising the dogs from shelter have been received during their previous period of lease.

No structures will be allowed to be erected on the said portion of the property except for the existing fence to ensure that the dogs remain within the lease area. The area will be kept clean and tidy by the Hermanus Animal Welfare Society.

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 leasing of the said property to Hermanus Animal Welfare Society (as registered non-profit 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 Hermanus Animal Welfare Society without following a competitive process. The property can further not currently be of useful purpose to anyone else as it is a portion of property between other private properties with no direct access from the Swartdam, Steenbras or Gideon van Wyk streets.

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Paragraph 20.1: “The Municipality may grant a long term lease of municipal immovable property with an income 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 Executive Mayor, as delegated authority, has subsequently approved that the right may be granted.”**

The Accounting Officer (Municipal Manager) approved in principle the lease of the subject portion of Erf 243 behind Erf 7157 Hermanus to Hermanus Animal Welfare Society for the purpose of exercising the dogs from the shelter and related purposes on condition that the public participation process is followed. The proposed lease was advertised in The Village News on 12 September 2018 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.”

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.”

Hermanus Animal Welfare Society 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.

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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 243 behind Erf 7157 Hermanus ($\pm 400\text{m}^2$ in extent) was placed in The Village News on 12 September 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 Hermanus Animal Welfare Society be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 February 2019 at a rental amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month.

7. Financial Implications

The Municipality stands to gain rental in the amount of R140.00 (ONE HUNDRED AND FORTY RAND) (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 approved by Council, the next escalation to be on 1 July 2019. All expenses pertaining to the proposed lease will be borne by Hermanus Animal Welfare Society.

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

10. Annexures

Annexure A: Locality Plan

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RECOMMENDATION:

1. that the lease of municipal property, being a portion of Erf 243 behind Erf 7157 Hermanus ($\pm 400\text{m}^2$ in extent) to Hermanus Animal Welfare Society for the purposes of exercising the dogs from the shelter at the rental amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 February 2019 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 tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2019.

RESPONSIBLE OFFICIAL :	W MURTZ
TARGET DATE FOR IMPLEMENTATION :	31 DECEMBER 2018
TARGET DATE TO INFORM APPLICANT :	14 DECEMBER 2018
TARGET DATE TO INFORM OBJECTOR :	N/A

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Hermanus Administration

8 October 2018

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
20 NOVEMBER 2018, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :

W MURTZ

TARGET DATE FOR IMPLEMENTATION :

31 DECEMBER 2018

TARGET DATE TO INFORM APPLICANT :

14 DECEMBER 2018

TARGET DATE TO INFORM OBJECTOR :

N/A

