

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
19 November 2019  
(Also the agenda for the Mayoral Committee Meeting: 27 November 2019)**

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**7.  
A PORTION OF THE REMAINDER OF ERF 243 HERMANUS: LEASE OF  
MUNICIPAL PROPERTY TO HERMANUS MEDICAL SUITES BODY CORPORATE**

**7/2/3/1**

**A le Roux**

**Manager: Property Administration**

**10 October 2019**

**(028) 316-3724**

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**1. Executive Summary**

To obtain approval to enter into a lease agreement for a period of 5 (FIVE) years with Hermanus Medical Suites Body Corporate in respect of municipal property, being a portion of the Remainder of Erf 243 Hermanus ( $\pm 500\text{m}^2$  in extent) situated in Ravenscroft Road for parking 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**

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

**6. Background/Discussion/Evaluation/Conclusion**

**Background**

The Hermanus Medical Suites Body Corporate initially applied to use a portion of the Remainder of Erf 243 Hermanus for additional parking purposes in 2007 after which an encroachment agreement was entered into for a period of 5 (FIVE) years.

They then applied to use the portion of the Remainder of Erf 243 Hermanus again and as the Administration of Immovable Property Policy was amended

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in 2015 a lease agreement was entered into for a period of 3 (THREE) years, which commenced on 1 March 2015 and expired on 28 February 2018. On expiry of this lease the rental was an amount of R2,183.65 (TWO THOUSAND ONE HUNDRED AND EIGHTY THREE RAND AND SIXTY FIVE CENTS)(VAT excluded), which amount was also calculated using the valuation we obtained in another lease.

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

### **Discussion**

Hermanus Medical Suites Body Corporate applied again in September 2019 for a 5 (FIVE) year lease agreement for the said property for parking purposes.

The area applied for has been used in the past and will be used again for 31 additional parking bays. No complaints regarding the use of the property by the Hermanus Medical Suites Body Corporate have been received during the previous encroachment and lease periods. Their municipal account is paid to date.

Hermanus Medical Suites Body Corporate delivers a very important service to the community of Hermanus in providing medical care to the public of not only Hermanus but the whole Overstrand area. The lease area applied for is ideally situated opposite this facility and therefore provides easy access for the public to the facility. If not approved, patients will have to park at the MediClinic and walk to the facility which is not easy for the elderly. The Hermanus Medical Suites Body Corporate has also been maintaining the lease area.

### **Evaluation**

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

***Paragraph 4: "No application for the purchase, lease of or encroachment on immovable property (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) shall be processed unless the prescribed application fee as per tariff approved in the annual budget for that financial year has been paid, nor shall any proposed lease or encroachment (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) be advertised unless the applicant has confirmed, in writing, that***

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***he/she will bear all costs involved in such transaction including – but not limited to – legal, survey, re-zoning, sub-division, consolidations, advertisement, relocation or provision of services and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.”***

The application form to lease said portion of the Remainder of Erf 243 Hermanus was received with proof of payment of the application fee.

**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 will not be of any practical use to anyone else it is recommended that it be leased directly to Hermanus Medical Suites Body Corporate without following a competitive process.

**Paragraph 20.1: “*The Municipality may grant a long term lease of municipal immovable property with an income value of 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 approved that the right may be granted.”***

The Accounting Officer (Municipal Manager) approved in principle the lease of a portion of the Remainder of Erf 243 Hermanus to Hermanus Medical Suites Body Corporate on condition that the public participation process is followed and further subject to the approval from the Executive Mayor. The proposed lease was advertised in The Village News on 16 October 2019 for a 30 (THIRTY) day comment/objection period.

**Paragraph 24.1: “*The fair market value of the alienation of, the rental amount for the leasing or compensation payable for a servitude over municipal immovable property shall be determined by an independent professional values professional (Act 2000 (47 of***

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**2000), or any ensuing act at the cost of the purchaser (in the case of a direct sale) or lessee (in the case of a direct lease), servitude holder (in the case of a servitude)."**

The Executive Mayor approved on 26 April 2017 the lease of a portion of the Remainder of Erf 243 Hermanus to Springsweg Nigel Eiendomme (Pty) Ltd t/a Heidelberg Nigel and Hermanus Nissan for similar purposes at a rental amount of R4.49 (FOUR RAND AND FORTY NINE CENTS) (VAT excluded) per square metre per month. The current rental is R5.47 (FIVE RAND AND FORTY SEVEN CENTS) (VAT excluded) per square meter per month. The location of the above lease is near the area that the Hermanus Medical Suites Body Corporate is currently using; it is a portion of the same property and is for a similar purpose. It is therefore recommended that the escalated per square metre lease amount of Nissan be used to determine the rental of the said property to the Hermanus Medical Suites Body Corporate. The rental of R5.47 (FIVE RAND AND FORTY SEVEN CENTS) per square metre (VAT Excluded.) per month is therefore recommended.

**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 Medical Suites Body Corporate will pay all costs relating to the lease agreement which in this case so far is only the application fee and 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 a portion of the Remainder of Erf 243 Hermanus was published in The Village News on 16 October 2019 for a 30 (THIRTY) day objection/comment period. At the time of compiling of

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this report, no objections/comments were received. The receipt of objections, if any, will be confirmed during the Portfolio Committee Meeting.

### **Conclusion**

With reference to the above discussion it is recommended that the lease of a portion of the Remainder of Erf 243 Hermanus to the Hermanus Medical Suites Body Corporate be approved for a period of 5 (FIVE) years at a rental amount of R2,735.00 (TWO THOUSAND SEVEN HUNDRED AND THIRTY FIVE RAND) (VAT Excluded) per month.

### **7. Financial Implications**

The Municipality stands to gain rental in the amount of R2,735.00 (TWO THOUSAND SEVEN HUNDRED AND THIRTY FIVE RAND) (VAT Excluded) per month, where after the lease amount will escalate every year on the 1st of July by a percentage equal to the prevailing Consumer Price Index (all items), the next escalation to be on 1 July 2020. All expenses pertaining to the proposed lease will be borne by the Hermanus Medical Suites Body Corporate.

### **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(s), 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 the Remainder of Erf 243 Hermanus ( $\pm 500\text{m}^2$  in extent), to Hermanus Medical Suites Body Corporate for the parking purposes at the rental amount of R2,735.00 (TWO THOUSAND SEVEN HUNDRED AND THIRTY FIVE RAND) (VAT Excluded) per month for a period of 5 (FIVE) years, to commence on 1 December 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 percentage equal to the prevailing Consumer Price Index (all items), the next escalation to be on 1 July 2020.

<b>RESPONSIBLE OFFICIAL:</b>	<b>N LIEBENBERG</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>20 DECEMBER 2019</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>11 DECEMBER 2019</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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**A le Roux**

**Manager: Property Administration**

**10 October 2019**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
19 NOVEMBER 2019, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

**RESPONSIBLE OFFICIAL:**

**N LIEBENBERG**

**TARGET DATE FOR IMPLEMENTATION:**

**20 DECEMBER 2019**

**TARGET DATE TO INFORM APPLICANT:**

**11 DECEMBER 2019**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

