

**AGENDA of the  
Portfolio Committee :Infrastructure & Planning  
23 October 2018  
(Also the agenda for the Mayoral Committee Meeting : 31 October 2018)**

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**5.  
HAWSTON, A PORTION OF ERF 1 HAWSTON, ALSO KNOWN AS THE  
HAWSTON TAXI RANK STALLS: DEVIATION FROM PARAGRAPHS 4 AND  
20.1(b), OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF  
2015 ALLOWING THE MUNICIPALITY TO ENTER INTO FURTHER LEASE  
AGREEMENTS WITH VARIOUS LESSEES**

**7/2/3/1**

**W Murtz**

**(028) 316-3724**

**Hermanus Administration**

**14 September 2018**

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**1. Executive Summary**

To obtain approval from the Executive Mayor to enter into further lease agreements with various Hawston Taxi Rank Stall Lessees in respect of stalls on a portion of Erf 1 Hawston known as “Hawston Taxi Rank Stalls” for the purpose of informal trading, after expiry of the third year lease; and

To obtain approval from Council for the deviation from paragraph 4 and 20.1(b) of the Administration of Immoveable Property Policy of 2015 allowing the Municipality to enter into further lease agreements with the Hawston Stall Lessees in respect of stalls on a portion of Erf 1 Hawston for the purpose of informal trading or any other such purpose as may be approved by the Municipality without following a public participation process and without paying the formal application fee.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning  
Property Administration

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Creation and maintenance of a safe and healthy environment  
Promotion of tourism, economic and social development

**4. Delegated Authority**

Partly delegated to the Executive Mayor.

**5. Legal Requirements**

- Administration of Immoveable Property Policy of the Overstrand Municipality (2015)

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---

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

### **Background**

There are 10 (TEN) Informal Trading Stalls on a portion of Erf 1 Hawston situated at Hawston Taxi Rank in Church Street, Hawston for the purpose of informal trading. Agreements have been entered into with the informal traders in terms of the Administration of Immovable Property Policy for a short term period (altogether 3 years), which commenced on different dates during 2015 and expires in 2018.

Although the Administration of Immovable Property Policy was amended in 2015 to make provision for the lease of more formalised stalls to informal traders a long term lease (beyond 3 years) is still subject to a public participation in terms of the said policy.

### **Discussion**

The current Lessees, as listed below, have indicated that they wish to renew their lease agreements for another 3 (THREE) year period:

- Lucinda Marais
- Sharline Sharon October
- Amanda Vanessa Goliath
- Celesté Mara Neethling
- Collin Henry Ford
- Christie Seegels

### **Evaluation**

The following paragraphs of the Administration of Immovable Property Policy are applicable:

**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 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.”**

**AGENDA of the  
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---

The approved application fee is an amount of R2,908.00 (TWO THOUSAND NINE HUNDRED AND EIGHT RAND). As the purpose of the lease of the stalls is to accommodate and uplift emerging informal traders and further as this is an application for renewal and not new agreements, it is suggested that the application fee be waived in this instance. It should further be noted that the informal traders (due to their economic status) will not be able to afford the application fee.

**Paragraph 20: “Long term lease of municipal immovable property with an income value less than R10 million:**

**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 subsequently approved that the right may be granted.”**

The in principle approval of the Accounting Officer (Municipal Manager) will be requested for each individual lease for a stall on the subject portion of Erf 1 Hawston.

In this case, seeing that the current Lessees have already had agreements for 3 (THREE) years, a further short term lease in respect of the stalls on a portion of Erf 1 Hawston will cause the said total lease period to be in excess of three years, which is not permissible in terms of Paragraph 20 of the Policy if a public participation process is not followed. As these lease agreements will be entered into with emerging entrepreneurs who will not necessarily have the means to have an advert placed in the local newspaper and as the purpose of the lease is to give a chance to and uplift emerging entrepreneurs it is recommended that a public participation not be followed in this instance.

Simultaneous with this request for a deviation, a further request will be made for the approval by the Executive Mayor of the long term rental (as the total period will be in excess of three years).

**Paragraph 59: “The leasing of municipal immovable property to informal traders may be affected by means of a direct lease on a “first come first serve basis”, subject to availability of immovable property, the nature of the trade envisaged, the rental payable and the area the immovable property is situated in.”**

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---

Taking the above paragraph into consideration the lease agreements may be entered into with the various Lessees as the allocation of the stalls were done on a first come first serve basis and therefore a competitive bidding process do not need to be followed.

**Paragraph 62: “The rental payable for the leasing of immovable property situated in the demarcated areas will be determined taking into account the location, structure, services available, products or services rendered and any other diverse circumstances relevant to the lease.”**

The rental payable for a Hawston Taxi Rank stall for the 2018/2019 financial year is the amount of R222.64 (TWO HUNDRED AND TWENTY TWO RAND AND SIXTY FOUR CENTS) (VAT excluded) per month per stall.

**Conclusion**

Taking the above into consideration, it is recommended that:

- (a) The Executive Mayor approves the renewal of the lease agreements for the various stalls, to the Lessees listed below, on a portion of Erf 1 Hawston for a period of 3 (THREE) years for the purpose of informal trading, at the rental amount of R222.64 (TWO HUNDRED AND TWENTY TWO RAND AND SIXTY FOUR CENTS)(VAT excluded) per stall per month, subject to the approval from Council for the deviation of paragraphs 4 and 20.1(b);
- Lucinda Marais
  - Sharline Sharon October
  - Amanda Vanessa Goliath
  - Celesté Mara Neethling
  - Collin Henry Ford
  - Christie Seegels
- (b) Council approves the deviation from paragraphs 4, and 20.1(b) of the Administration of Immovable Property Policy of 2015.

**7. Financial Implications**

The Municipality stands to gain a rental amount equal to the current rental amount of R222.64 (TWO HUNDRED AND TWENTY TWO RAND AND SIXTY FOUR CENTS) (VAT excluded) per stall per month.

**8. Staff Implications**

None

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**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 informal traders who deliver a vital service to the community of Hawston, with no intention to dispose of the asset(s), there is no objection to the report.

**10. Annexures**

Annexure A: Locality Map

**RECOMMENDATION TO THE EXECUTIVE MAYOR:**

1. that the renewal of the lease of municipal property, being various stalls on a portion of Erf 1 Hawston, to the current Lessees as listed below for the purpose of informal trading for a period of 3 (THREE) years at the rental amount of R222.64 (TWO HUNDRED AND TWENTY TWO RAND AND SIXTY FOUR CENTS) (VAT excluded) per stall per month in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**; and
  - Lucinda Marais
  - Sharline Sharon October
  - Amanda Vanessa Goliath
  - Celesté Mara Neethling
  - Collin Henry Ford
  - Christie Seegels
2. that the abovementioned approval be subject to Council approving a deviation from paragraphs 4 and 20.1(b) of the Administration of Immovable Property Policy of 2015.

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviation from paragraph 4 of the Administration of Immovable Property Policy for the waive of the application fees in respect of the renting out of stalls at the Hawston Taxi Rank, **be approved**; and
2. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the lease agreements with the various stall Lessees without following a public participation process, **be approved**.

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<b>RESPONSIBLE OFFICIAL :</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>15 NOVEMBER 2018</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>5 NOVEMBER 2018</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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7/2/3/1

W Murtz

(028) 316-3724

Hermanus Administration

14 September 2018

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 23 OCTOBER 2018, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE EXECUTIVE MAYOR:**

1. that the renewal of the lease of municipal property, being various stalls on a portion of Erf 1 Hawston, to the current Lessees as listed below for the purpose of informal trading for a period of 3 (THREE) years at the rental amount of R222.64 (TWO HUNDRED AND TWENTY TWO RAND AND SIXTY FOUR CENTS) (VAT excluded) per stall per month in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**; and
  - Lucinda Marais
  - Sharline Sharon October
  - Amanda Vanessa Goliath
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  - Collin Henry Ford
  - Christie Seegels
2. that the abovementioned approval be subject to Council approving a deviation from paragraphs 4 and 20.1(b) of the Administration of Immovable Property Policy of 2015.

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviation from paragraph 4 of the Administration of Immovable Property Policy for the waive of the application fees in respect of the renting out of stalls at the Hawston Taxi Rank, **be approved**; and
2. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the lease agreements with the various stall Lessees following a public participation process, **be approved**.

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