

**AGENDA of the
Portfolio Committee : Protection Services
1 August 2023
(Also the agenda for the Mayoral Committee Meeting : 16 August 2023)**

4.

**A PORTION OF ERF 4565 HERMANUS: DEVIATION FROM THE
ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 – HERMANUS
PUBLIC PROTECTION (NPC)**

**N J Michaels Director : Protection Services
2 July 2023**

(028) 313 8054

1. Executive Summary

To obtain approval for the deviation from conditions contained in paragraphs 4, 26 and 41 of the Administration of Immovable Property Policy of 2015 in order to:

- (a) waive the payment of the required application fee payable by the applicant upon submission of an application to use municipal property (paragraph 4);
- (b) waive any rental/compensation payable in lieu of services that will be rendered and the investment in infrastructure on municipal property (paragraph 26); and
- (c) waive the Municipality's claim for the payment of rates and taxes and services charges (paragraph 41);

in order for the Municipality to enter into a memorandum of agreement with the Hermanus Public Protection NPC (hereinafter referred to as "HPP") for the use of floor space in the Incident Command Centre (hereinafter referred to as "ICC") building situated on a portion of Erf 4565 Hermanus (hereinafter referred to as the "floor space"), for a period of 3 (THREE) years from 1 October 2023 to be able to share the incident command system as an integrated joint approach in the fight against crime.

See locality map attached marked Annexure A.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Protection and Security Services
Protection and Security Services

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Creation and maintenance of a safe and healthy environment

4. Delegated Authority

None

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5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality (2015).
- Local Government: Municipal Finance Management Act, 2003 Municipal Asset Transfer Regulations, 2008 (No R. 878 of 2008).

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

The Overstrand Municipality has an Incident Command Centre (ICC) situated at the Fire Brigade Services building in Mussel Road, Hermanus. The ICC is used by HPP and the Overstrand Municipality as, amongst others, a control room.

HPP has a memorandum of agreement with the Overstrand Municipality for the use of ±16,5m² floor space in a designated room in the Fire Brigade Services building in Mussel Road, Hermanus. The memorandum of agreement will expire on 30 September 2023.

As the current ICC is too small, the Overstrand Municipality is busy relocating the Incident Command Centre (ICC) to the old Squash and Tennis Club Building in Harmony Avenue, Hermanus. The ICC will also be used by the South African Police Service and the Overstrand Municipality. The ICC will contain an incident command system, which is a management tool used to manage response to an emergency or non-emergency event. It is therefore a fixed centre (unlike an Incident Command Post which is temporary and located on-scene or close to the scene) where all infrastructure, tools and equipment, and other resources are kept. It is the centre where all the role players identified can get together and discuss the emergency and makes provision for break-away rooms for such role players.

The request is to also accommodate HPP in the new ICC after the expiry of their current agreement, where resources can be shared in a joint approach in the fight against crime.

As HPP will be using the floor space to deliver a service to the community in the fight against crime, they will be investing and contributing financially to the establishment of the new ICC and also to assist the Municipality, it will not be recommended to enter into a lease agreement, but rather to enter into a memorandum of agreement again for the use of the floor space and resources therein. This agreement is necessary to give clarity on the responsibilities of each party to the agreement.

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As HPP will have to furnish their portion of floor space and get settled before commencement of the agreement, it is necessary to give them early occupation, and therefore it is recommended that occupation of the facilities be given on 1 September 2023 or as soon as possible thereafter.

Evaluation

The request for the necessary deviation is in terms of the following conditions of the Administration of Immovable Property Policy of the Overstrand Municipality of 2015:

- (1) 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.”**

This paragraph deals with an application fee payable for applications for purchase/lease/encroachment in relation to municipal property. As it is recommended that no lease agreement be entered into with HPP, but rather a memorandum of agreement to use municipal property, the payment of an application fee is not relevant.

- (2) 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.”**

The only relevant tariff in this regard is as follows:

Tariff Code	Detail	2023/2024	
		Exclude VAT	Include VAT 15%
		R	R
S46A2	Rental for office space to NGO's/NPO's/Government Departments/State Owned Enterprises irrespective of area (per m ² per month)	41,74	48,00

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As HPP is a non-profit company who will in effect make use of “office space”, rental should be charged in accordance with the tariff approved above. However, the Municipality and the community of the Overstrand stand to gain advantage from the continued supplementary services that will be rendered by HPP in the joint approach to fight crime. HPP will further contribute financially towards the new ICC; therefore, it will be requested that no lease agreement be entered into and rather that a memorandum of agreement be entered into for the use of the floor space.

HPP will not only use an identified area in ICC, but also make use of all the other facilities (toilets, kitchen, board room, office space, etc), thus it will be difficult to determine the amounts payable for rates, taxes and services.

Furthermore, it must be mentioned, that the community value of this supplementary service to be rendered by HPP cannot be quantified due to its ongoing value but must also be taken into consideration.

- (2) Paragraph 41: “The lessee shall, as a rule, be liable for the payment of rates, taxes and service charges in respect of the leased property. In the case of leases to certain social care users and sports facilities at rentals lower than market value the Municipality may consider granting a rebate on rates in accordance with the Rates Policy of the Municipality.”**

As only floor space in a building that will be used by HPP, making it difficult to quantify usage, and taking into consideration the services to be rendered by them, it is requested that no rates, taxes and service charges be levied.

Conclusion

It is proposed that the deviation from paragraphs 4, 26 and 41 of the Administration of Immovable Property Policy be approved for the use of floor space in the Incident Command Centre building situated on a portion of Erf 4565 Hermanus for a period of 3 (THREE) years from 1 October 2023. It is further recommended that early occupation be given on 1 September 2023 (or as soon as possible after) allowing HPP to prepare the allocated area to be used as a control room.

7. Financial Implications

The Municipality will not receive a minimum total rental amount of R41.74/m² (VAT excluded) per month as it is not quantifiable and will also not receive any compensation for rates, taxes and services charges.

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8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Manager: Property Administration: Ms A Le Roux

My comments are already included in the report as I drafted it.

10. Annexures

Annexure A: Locality Map

RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraphs 4, 26 and 41 of the Administration of Immovable Property Policy of 2015 in order for the Municipality to enter into a memorandum of agreement with the Hermanus Public Protection NPC to use floor space in the Incident Command Centre building situated on a portion of Erf 4565 Hermanus, for a period of 3 (THREE) years from 1 October 2023, to operate the control and surveillance service as part of the incident command system in a joint approach to fight crime within the Overstrand, **be approved**; and
2. that early occupation be given on 1 September 2023 or as soon as possible thereafter, allowing HPP to prepare the allocated floor space for the intended use.

RESPONSIBLE OFFICIAL :

L SMITH

TARGET DATE FOR IMPLEMENTATION :

11 SEPTEMBER 2023

TARGET DATE TO INFORM APPLICANT :

4 SEPTEMBER 2023

