

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

5.

**A PORTION OF ERF 4565 HERMANUS: DEVIATION FROM THE
ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 – SOUTH
AFRICAN POLICE SERVICE**

**N J Michaels
2 July 2023**

Director : Protection Services

(028) 313 8054

1. Executive Summary

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

- (a) waive any rental/compensation payable in lieu of services that will be rendered from municipal property (paragraph 26); and
- (b) 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 South African Police Service (hereinafter referred to as "SAPS") 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.

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 Hermanus Public Protection 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 SAPS in the new ICC where resources can be shared in a joint approach in the fight against crime.

As SAPS 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 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.

As SAPS 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.

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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 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

As SAPS is a government department 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 services to be rendered by SAPS in the joint approach to fight crime. It is thus 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.

SAPS will not only use the identified floor space, 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 SAPS 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.”**

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As only floor space in a building will be used by SAPS, 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 26 and 41 of the Administration of Immovable Property Policy be approved in order to enter into a memorandum of agreement with SAPS 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 SAPS 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.

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 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 South African Police Service 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

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2. that early occupation be given on 1 September 2023 or as soon as possible thereafter, allowing SAPS 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

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**THIS MATTER SERVED BEFORE THE PROTECTION SERVICES PORTFOLIO
COMMITTEE ON 1 AUGUST 2023, WHICH COMMITTEE RECOMMENDED AS
FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraphs 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 South African Police Service 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 as soon as possible, allowing SAPS to prepare the allocated floor space for the intended use; and
3. that the Memorandum of Agreement to be entered into clearly stipulate which assets (irrespective of whether non-permanent in nature) will be given to the Municipality in lieu of the rental payable.

RESPONSIBLE OFFICIAL :

L SMITH

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