

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

**7.
HERMANUS, A PORTION OF ERF 243, ROTARY WAY: LEASE OF MUNICIPAL
PROPERTY TO VODACOM (PTY) LTD**

7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

2 August 2016

1. Executive Summary

To obtain approval to enter into a further lease agreement with Vodacom (Pty) Ltd, hereafter referred to as "Vodacom", in respect of Municipal Property, being a portion of Erf 243 Hermanus situated next to Rotary Way adjacent to Erf 5713 Hermanus for a period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of a telecommunication base station and related 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

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

6. Background/Discussion/Evaluation/Conclusion

Background

Vodacom has been leasing space on the mast at Olifantsberg as well as space in the municipal building on a portion of Erf 243 Hermanus in Rotary Way for telecommunication purposes since 2004.

The last agreement was for a period of 2 (TWO) years and 11 (ELEVEN) months which expired on 31 May 2016. Although Vodacom applied for

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

renewal of the lease agreement before the expiry date the processes for the long term lease could not be finalised before said date.

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

Discussion

Vodacom has been utilising the said space for well over 10 years and provides a very important service to the community of Hermanus and especially in the provision of communication and improvement of mobile and internet reception to their clients. Vodacom have applied for a long term lease agreement of 9 (NINE) years and 11 (ELEVEN) months.

In terms of the Administration of Immovable Property Policy the Municipality may grant a long term lease if the Accounting Officer has approved the lease in principle, a public participation process is followed and Executive Mayor's (as delegated authority) approval is gained in terms of the above policy.

The Accounting Officer approved in principle the lease of the property to Vodacom subject thereto that the required processes are followed. As the site is not classified as a business site it can be leased directly to Vodacom without following a competitive process.

The lease amount (tariff) for the lease of space on a mast as well as inside the building are annually determined and approved in the Annual Budget which are approved by Council.

Vodacom's municipal account is up to date and no complaints regarding the use of the property by Vodacom have been received during their previous period of lease.

As the Municipality is required to have written agreements for all municipal immovable properties occupied and as the lease agreement has expired on 31 May 2016, a subsequent lease agreement was forwarded for signature. The stipulated lease amount is R4,034.03 (FOUR THOUSAND AND THIRTY FOUR RAND AND THREE CENTS) (VAT excluded) per month for the period of 1 June 2016 to 30 June 2016. With the escalation of the tariffs as approved in the Annual Budget by Council the lease amount from 1 July 2016 will be R4,275.53 (FOUR THOUSAND TWO HUNDRED AND SEVENTY FIVE RAND AND FIFTY THREE CENTS) (VAT excluded) per month where after the lease amount will escalate annually in accordance with the tariffs as determined and approved in the Annual Budget. The agreement has been made subject to the Executive Mayor's approval of the long term lease in terms of the said Policy. In the instance where such an approval is not granted, the agreement allows for the cancellation thereof.

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

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 site is not classified as a business site it can be leased directly to Vodacom without following a competitive process.

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

The Accounting Officer has on 2 March 2016 approved in principle the lease of the subject portion of Erf 243 Hermanus to Vodacom subject thereto that a public participation process be followed. The proposed lease was advertised in the Hermanus News on 5 April 2016 and no objections were received.

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,

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

however, waive its right to claim all or any portion of the costs. Where necessary a deposit to cover the costs may be required.”

Vodacom will pay the costs relating to the advertisement. No survey or valuation was done and therefore no costs were incurred in this regard.

Paragraph 40: “Rental, except where it is decided otherwise by the Municipality shall escalate annually by a percentage fixed in accordance with the prevailing consumer price index (all items).”

The lease amount (tariff) for the lease of space on mast as well as inside the building are annually determined and approved in the Annual Budget which are approved by Council.

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 Erf 243 Hermanus to Vodacom was placed in the Hermanus News on 5 April 2016 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 Vodacom be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 June 2016 at a total rental amount of R4,034.03 (FOUR THOUSAND AND THIRTY FOUR RAND AND THREE CENTS) (VAT excluded) per month. 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 first escalation to be on 1 July 2016.

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

7. Financial Implications

The Municipality stands to gain a rental in the amount of R4,034.03 (FOUR THOUSAND AND THIRTY FOUR RAND AND THREE CENTS) (VAT excluded) for June 2016. For the period of 1 July 2016 to 30 June 2017 the Municipality stands to gain a rental in the amount of R4,275.53. (FOUR THOUSAND TWO HUNDRED AND SEVENTY FIVE RAND AND FIFTY THREE CENTS) (VAT excluded) per month. Thereafter 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. All expenses pertaining to the proposed lease will be borne by Vodacom.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

J Vorster – Senior Manager: Expenditure & Assets

Consideration should be given to whether or not the proposed leasing of the asset would constitute a commercial lease in the true sense of the word. If so, the property must be reclassified as Investment Property and be disclosed in the Fixed Asset Register and Annual Financial Statements in accordance with GRAP 16.

If, however, the intention of this rental agreement is to provide an enhanced community service, the property must be classified as PPE and be disclosed in the Fixed Asset Register and Annual Financial Statements in accordance with GRAP 17.

Property Administration's reply to the abovementioned comment:

The property is currently classified as Property Plant and Equipment ("PPE") in the Fixed Asset Register. The property will remain under the classification as PPE as the subject lease will be on an extremely small portion of Erf 243 Hermanus, the latter being commonage of which the majority use lends it to the classification as Property Plant and Equipment.

10. Annexures

Annexure A: Locality Plan

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

RECOMMENDATION:

1. that the lease of Municipal Property, being a portion of Erf 243 Hermanus to Vodacom (Pty) Ltd for the purpose of a telecommunication base station and related purposes at the rental amount of R4,034.03 (FOUR THOUSAND AND THIRTY FOUR RAND AND THREE CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 June 2016 to 30 June 2016 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 annually on the 1st of July in accordance with the tariffs as determined and approved in the Annual Budget with the first escalation on 1 July 2016.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	31 OCTOBER 2016
TARGET DATE TO INFORM APPLICANT :	14 OCTOBER 2016
TARGET DATE TO INFORM OBJECTOR :	N/A

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
26 September 2016
(Also the agenda for the Mayoral Committee Meeting : 26 September 2016)**

**7.
HERMANUS, A PORTION OF ERF 243, ROTARY WAY: LEASE OF MUNICIPAL
PROPERTY TO VODACOM (PTY) LTD**

7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

2 August 2016

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
26 SEPTEMBER 2016, WHICH COMMITTEE SUPPORTED THE
RECOMMENDATION**

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

31 OCTOBER 2016

TARGET DATE TO INFORM APPLICANT :

14 OCTOBER 2016

TARGET DATE TO INFORM OBJECTOR :

N/A

