

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
17 April 2018
(Also the agenda for the Mayoral Committee Meeting : 25 April 2015)**

2.

**HERMANUS, A PORTION OF ERF 4565: LEASE AGREEMENT WITH HERMANUS
SQUASH AND TENNIS CLUB :
DEVIATION FROM PARAGRAPH 20 OF THE ADMINISTRATION OF IMMOVABLE
PROPERTY POLICY OF 2015**

7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

12 March 2018

1. Executive Summary

To obtain approval from the Executive Mayor to enter into a further lease agreement with Hermanus Squash and Tennis Club in respect of a portion of Erf 4565 Hermanus for the purpose of operating a squash and tennis club; and

To obtain approval from Council for the deviation from paragraph 20 of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into a further lease agreement with Hermanus Squash and Tennis Club in respect of a portion of Erf 4565 Hermanus for the purpose of operating a squash and tennis club without following a public participation process.

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
Promotion of tourism, economic and social development

4. Delegated Authority

Partly delegated to the Executive Mayor.

5. Legal Requirements

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

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6. Background/Discussion/Evaluation/Conclusion

Background

The Hermanus Squash and Tennis Club, hereafter referred to as “the Club”, has been operating a squash and tennis club from a portion of Erf 4565 Hermanus (“the premises”) as indicated on the locality map attached hereto as early as 1988. The last agreement is for a period of 2 years of which agreement will expire on 30 June 2018.

This short term agreement was entered into in anticipation of the sale of the property known as the Sandbaai Commonage (Remainder Erf 2834 Sandbaai). A portion of the proceeds of the sale of the abovementioned property was committed by the Municipality to the envisaged move of the Club to the Hermanus Sports Centre. It was however later decided that a portion of the proceeds from the sale of Erf 12199 Hermanus (known as the “circus ground”) could be allocated to move the Club to the Hermanus Sports Centre. The said property registered into the name of the new owner on 21 December 2017.

Discussion

As there are still a few processes to be followed, arrangements to be made and work to be done the Club cannot be moved immediately and it is envisaged that the move will only take place closer to the end of 2018.

Therefore, in light of the aforementioned it is recommended that a lease agreement for another 12 (TWELVE) months be entered into with the Club subject thereto that Council approves the requested deviation and the Executive Mayor approves the renewal of the lease agreement.

The Club’s municipal account is up to date and no complaints regarding the use of the premises have been received during their previous period of lease.

Evaluation

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

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

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17.2 a direct lease.”

Paragraph 18: “A competitive process must at all times be followed in circumstances where:

18.1 the lease is for a long term with an income value in excess of R10 million;

18.2 the lease is for a formal business premises with a market related rental;

18.3 more than one party, in discretion of the municipality, is interested in the lease of the subject property; and/or

18.4 by discretion of the municipality, a competitive process will best serve the interests of the community.”

As the premises is not classified as a business site and the leasing of the said premises to the Club is in the interest of the community and they have been leasing it successfully for several years, it is proposed that the premises be leased directly to Hermanus Squash and Tennis Club without following a competitive process.

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

(b) the Executive Mayor, as delegated authority, has subsequently approved that the right may be granted.”

The Accounting Officer (Municipal Manager) approved in principle the lease of the subject portion of Erf 4565 Hermanus to the Hermanus Squash and Tennis Club subject thereto that the approval of Council is obtained as to the deviation from paragraph 20 of the Policy as requested in this report. An in principle approval for a six month period was obtained.

In this case, seeing that the Club has already had agreements for more than 3 years, a further short term lease in respect of the specific portion of Erf 4565 Hermanus 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

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participation process is not followed. It is in this regard that a deviation from Paragraph 20 is requested as to the public participation process. More specifically then for the reason that the adherence to this paragraph as to the public participation of the said Policy will not serve a useful purpose and will be costly considering the further renewal term requested.

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).

Cognisance should be taken of the fact that should the premises be vacant for the period from expiry of the lease agreement, the property would likely be vandalised resulting in damages, insurance claims to be made and in all likelihood impacting on the envisage development of the area's timeframe.

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.”

There is a tariff for the lease of municipal land to registered social care institutions / organisations / NPO's / Sport facilities per month, currently R131.58 (VAT excluded). It is proposed that the new lease agreement commence with the rental as will be determined in the tariffs for the 2018/2019 financial year.

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 will be included in the lease agreement entered into with the Club.

Conclusion

Taking the above into consideration, it is recommended that:

- (a) The Executive Mayor approves the lease of a portion of Erf 4565 Hermanus to the Hermanus Squash and Tennis Club for a further period of 12 (TWELVE) months from 1 July 2018 for the operation of a

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- squash and tennis club at the rental amount as will be approved in the tariffs for the 2018/2019 financial year; and
- (b) Council approves the deviation from paragraph 20 of the Administration of Immovable Property Policy of 2015 as to the public participation process.

7. Financial Implications

The Municipality has and will receive a monthly lease income equal to the tariff as will be approved for the 2018/2019 financial year. The current lease amount is R131.58 (VAT excluded) per month.

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 an essential service to the community, with no intention to dispose of the asset, there is no objection to the report.

10. Annexures

Annexure A: Locality Map

RECOMMENDATION TO THE EXECUTIVE MAYOR:

that the renewal of the lease of Municipal Property, being a portion of Erf 4565 Hermanus, to Hermanus Squash and Tennis Club for operating a squash and tennis club for a period of 12 (TWELVE) months from 1 July 2018 at the monthly rental amount as to be determined in the tariffs for the 2018/2019 financial year in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved subject to Council approving a deviation from paragraph 20 of the Administration of Immovable Property Policy.**

RECOMMENDATION TO THE COUNCIL:

that the deviation from paragraph 20 of the Administration of Immovable Property Policy in order to renew the current lease agreement with Hermanus Squash and Tennis Club for a further period of 12 (TWELVE) months without following a public participation process, **be approved.**

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RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	1 JULY 2018
TARGET DATE TO INFORM APPLICANT :	19 MAY 2018
TARGET DATE TO INFORM OBJECTOR :	N/A

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Hermanus Administration

12 March 2018

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

RECOMMENDATION TO THE EXECUTIVE MAYOR:

that the renewal of the lease of Municipal Property, being a portion of Erf 4565 Hermanus, to Hermanus Squash and Tennis Club for operating a squash and tennis club for a period of 12 (TWELVE) months from 1 July 2018 at the monthly rental amount as to be determined in the tariffs for the 2018/2019 financial year in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved subject to Council approving a deviation from paragraph 20 of the Administration of Immovable Property Policy.**

RECOMMENDATION TO THE COUNCIL:

that the deviation from paragraph 20 of the Administration of Immovable Property Policy in order to renew the current lease agreement with Hermanus Squash and Tennis Club for a further period of 12 (TWELVE) months without following a public participation process, **be approved.**

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	1 JULY 2018
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