

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
16 April 2019  
(Also the agenda for the Mayoral Committee Meeting : 24 April 2019)**

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**3.  
HERMANUS: UNREGISTERED ERF 12273 (A PORTION OF ERF 243) HERMANUS  
SITUATED IN MOUNT PLEASANT: RENEWAL OF LEASE OF MUNICIPAL  
PROPERTY TO THE RATHFELDER FAMILY CHARITABLE TRUST**

**7/2/3/1**

**M Erasmus**

**(028) 316-3724**

**Hermanus Administration**

**10 January 2019**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with The Rathfelder Family Charitable Trust, hereinafter referred to as “the Trust” in respect of unregistered Erf 12273 (a portion of Erf 243) Hermanus(571m<sup>2</sup> in extent), situated in Angelier Street, Mount Pleasant, for the purpose of a managing an Aftercare Facility and related activities.

**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**

Executive Mayor

**5. Legal Requirements**

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

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

**Background**

In 2016 the Trust applied for land to lease as an After Care Facility with the main motivation to get the young vulnerable children of the street. This facility’s daily program includes two meals, sport, home work, life skills and outside volunteers who offer animal, drug, sex, remedial educational programs, etc. They also have holiday programs for the children.

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Subsequently a three year lease agreement was entered into with the Trust in 2017 for the purpose of erecting a building for- and management of an Aftercare Facility for children in the area. The Trust was eager to start the development urgently as they already had approximately 122 applications from the community, hence the Municipality granting them a three year lease agreement to start. Since opening the facility they have received approximately 250 applications from the community, hence there is a great need for this type of facility, and specifically this type of facility to be run by the correct management.

The Trust erected a building on unregistered Erf 12273 (a portion of Erf 243) Hermanus for this purpose with funding they obtained as they are a registered public benefit organisation. To obtain value for the money that they invested on municipal land to the satisfaction of their investors, the Trust needs to obtain a twenty year lease. The Trust spent an amount of approximately R1,500,000.00 (ONE MILLION FIVE HUNDRED THOUSAND RAND) for the erection of the building and will continue maintaining the building.

Although the said lease agreement will only expire on 31 May 2020, the Trust already applied for renewal of the agreement as they have invested great amounts of money for the erection and maintenance of the building on the property.

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

### **Discussion**

The Trust applied for a lease agreement of 20 (TWENTY) years as they have invested from their own funds and funds obtained from donors on municipal property. They will continue investing in the property and maintaining the building.

These improvements will eventually vest in the Municipality free of charge after the lease agreement has lapsed. As this lease agreement will be for a period longer than 10 (TEN) years, the lease will be registered against the title deed of the property. The Trust is aware of the fact that they are responsible for these costs.

The area applied for has been used by the Trust since 2017 without any complaints from the public regarding the use of the property. The municipal account is paid to date.

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**Evaluation**

A. Administration of Immovable Property Policy of the Overstrand Municipality

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**

**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 leasing of the said property to the Trust (as registered public benefit organisation) is in the interest of the community, the site is not classified as a business site and due to the nature of the lease and benefit to the community, it can be leased directly to the Trust 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;**

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- (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 Accounting Officer (Municipal Manager) approved in principle the lease of the unregistered Erf 12273 (a portion of Erf 243) Hermanus to the Trust subject thereto that a public participation process is followed.

The proposed lease was advertised in The Village News on 19 December 2018 for a 30 (THIRTY) day comment/objection period.

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

The Trust will pay all costs relating to the renewal of the lease agreement which in this case so far includes the advertisement costs, the cost to survey the property and the notarial registration of the lease agreement.

**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 Trust.

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**B. Advertisement/Notification**

An advertisement for the lease of unregistered Erf 12273 (a portion of Erf 243) Hermanus (571m<sup>2</sup> in extent) was placed in the Village News on 19 December 2018 for a 30 (THIRTY) day objection/comment period. No objection/comments were received.

**Conclusion**

With reference to the above discussion it is recommended that the lease agreement with the Trust be approved for a period of 20 (TWENTY) years at a rental amount as will be approved in the annual budget for the 2019/2020 financial year as the agreement will commence during said financial year.

**7. Financial Implications**

The Municipality stands to gain a monthly rental amount as will be approved in the annual budget for the 2019/2020 financial year (currently rental for 2018/2019 is an amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month where after the lease amount will escalate every year on the 1<sup>st</sup> of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council.

The Municipality further stands to gain an asset in the form of the buildings and/or structures erected and to be erected on the property that will vest with the Municipality free of charge once the agreement has lapsed.

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

**Senior Manager: Expenditure and Assets, Mr J Vorster - (028) 313 8305**

As this is an income generating proposal involving an institution who delivers a service to the community of Hermanus, with no intention to dispose of the asset, there is no objection to the report.

**10. Annexures**

Annexure A: Locality Map

Annexure B: Diagram

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**RECOMMENDATION:**

1. that the lease of municipal property, being unregistered Erf 12273 (a portion of Erf 243) Hermanus (±571m<sup>2</sup> in extent), situated in Mount Pleasant, to The Rathfelder Family Charitable Trust for the purposes of managing an Aftercare Facility and related purposes at the monthly rental amount as will be approved in the annual budget for 2019/2020 for a period of 20 (TWENTY) years as from 1 June 2020 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**;
2. that the rental amount mentioned in 1 above be escalated every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council; and
3. that The Rathfelder Family Charitable Trust be responsible for all cost involved in the renewal of the lease agreement and specifically the survey cost and the cost of the notarial registration of the lease agreement against the Title Deed.

<b>RESPONSIBLE OFFICIAL:</b>	<b>M ERASMUS</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>7 JUNE 2019</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>10 MAY 2019</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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**10 January 2019**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
16 APRIL 2019, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION:**

that the item **be referred back** and be resubmitted at the forthcoming Mayoral Committee meeting.

**RESPONSIBLE OFFICIAL:**

**M ERASMUS**

**TARGET DATE FOR IMPLEMENTATION:**

**7 JUNE 2019**

**TARGET DATE TO INFORM APPLICANT:**

**10 MAY 2019**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

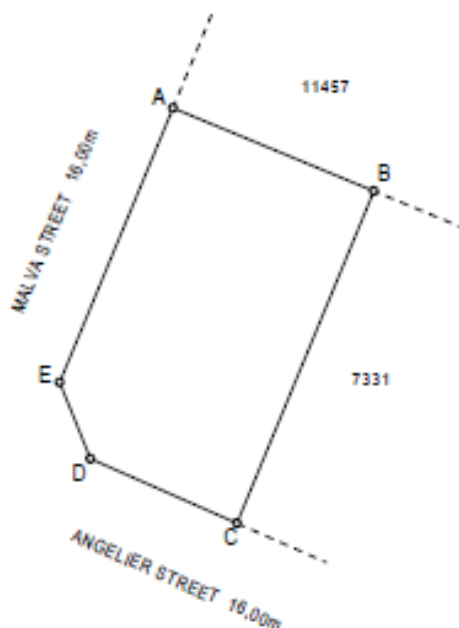


Town &amp; Country, Pr. Land Surveyors, Bredasdorp

SIDES metres	ANGLES OF DIRECTION	CO-ORDINATES Y System: WG 19° X		SG No.
		Constants	0,00 +3 800 000,00	
A B	18,85 202.25.40	A	-19 828,70 +10 195,90	Approved  for SURVEYOR-GENERAL
B C	31,14 22.25.20	B	-19 844,12 +10 203,09	
C D	13,86 113.44.10	C	-19 832,24 +10 231,88	
D E	7,16 158.05.40	D	-19 819,55 +10 226,30	
E A	25,71 202.27.20	E	-19 816,88 +10 219,66	
5AC20		⊕	-19 889,16 +9 981,89	
6AC20		⊕	-20 228,17 +10 103,60	

BEACON DESCRIPTIONS

A,B,C,D,E : 12mm Iron Peg



Scale: 1/ 500

The figure A B C D E

represents 571 square metres of land being  
**ERF 12273, portion of Erf 243 HERMANUS description**

situate in the Overstrand Municipality  
 Administrative District of Caledon  
 Province of Western Cape  
 Surveyed by me in March 2015 & May 2017

PLS 1141 F. Truter  
 Professional Land Surveyor

This Diagram is annexed to No.	The original diagram is	File No.:
Dated	Transfer No.	S.R.
Registrar of Deeds		Comp. AINW-1172(M3866)
		LPI C0130013

Erf 12273 Hermanus