

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
19 February 2019
(Also the agenda for the Mayoral Committee Meeting: 27 February 2019)**

8.

**HERMANUS: A PORTION OF THE REMAINDER OF ERF 243, ROTARY WAY:
LEASE OF MUNICIPAL PROPERTY TO MAX INTERNET TECHNOLOGIES CC T/A
MAXITEC**

7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

7 January 2019

1. Executive Summary

To obtain approval to enter into a further lease agreement for a period of 9 (NINE) years and 11 (ELEVEN) months with Max Internet Technologies CC t/a Maxitec in respect of municipal property, being a portion of the remainder of Erf 243 Hermanus, situated next to Rotary Way ($\pm 1\text{m}^2$ in extent), for telecommunications 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

Max Internet Technologies CC t/a Maxitec, hereinafter referred to as "Maxitec", has been utilising space adjacent to the municipal mast at Olifantsberg on a portion of the remainder of Erf 243 Hermanus in Rotary Way since 2010 for telecommunications base station and related purposes.

The last agreement was for a period of 3 (THREE) years which expired on 30 November 2018. The process for renewal was commenced with in time but

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due to administrative issues it could not serve earlier before the Executive Mayor. As Maxitec is still utilising the property the rental is still being levied on the municipal account.

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

Discussion

Maxitec applied for a further lease agreement of 9 (NINE) years and 11 (ELEVEN) months and provides a very important service to the community of Hermanus and especially in the provision of communication and improvement of internet reception to their clients.

The area applied for has been used by Maxitec for approximately ten years without any complaints from the public regarding the use of the property. The municipal account is paid to date.

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 Maxitec without following a competitive process.

Paragraph 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**

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- comments or representations; and*
c) ***The Executive Mayor, as delegated authority, has approved that the right may be granted.***

The Accounting Officer (Municipal Manager) approved in principle the further lease of the subject portion of the remainder of Erf 243 Hermanus to Maxitec for telecommunication base station and related purposes on condition that the 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.”*

The 2018/2019 tariff for space outside the Mast is R253.91 (TWO HUNDRED AND FIFTY THREE RAND AND NINETY ONE CENTS) (VAT Excluded) per month. The agreement will stipulate that the rental amount shall escalate annually on the 1st of July in accordance with the tariff as 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.”*

Maxitec will pay all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs.

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.

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B. Advertisement/Notification

An advertisement for the lease of a portion of the remainder of Erf 243 Hermanus ($\pm 1\text{m}^2$ in extent) was placed in The Village News on 19 December 2018 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 Maxitec be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 December 2018 at a rental amount of R253.91 (TWO HUNDRED AND FIFTY THREE RAND AND NINETY ONE CENTS) (VAT Excluded) per month which is the amount approved in the 2018/2019 budget.

7. Financial Implications

The Municipality stands to gain rental in the amount of R253.91 (TWO HUNDRED AND FIFTY THREE RAND AND NINETY ONE CENTS) (VAT Excluded) per month where after 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 next escalation to be on 1 July 2019. All expenses pertaining to the proposed lease will be borne by Maxitec.

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 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 Plan

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RECOMMENDATION:

1. that the lease of municipal property, being a portion of the remainder of Erf 243 Hermanus ($\pm 1\text{m}^2$ in extent), to Max Internet Technologies CC t/a Maxitec for telecommunication base station and related purposes at the rental amount of R253.91 (TWO HUNDRED AND FIFTY THREE RAND AND NINETY ONE CENTS) (VAT Excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 December 2018 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 every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2019.

RESPONSIBLE OFFICIAL:	M ERASMUS
TARGET DATE FOR IMPLEMENTATION:	1 APRIL 2019
TARGET DATE TO INFORM APPLICANT:	12 APRIL 2019
TARGET DATE TO INFORM OBJECTOR:	N/A

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Hermanus Administration

7 January 2019

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
19 FEBRUARY 2019, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL:

M ERASMUS

TARGET DATE FOR IMPLEMENTATION:

1 APRIL 2019

TARGET DATE TO INFORM APPLICANT:

12 APRIL 2019

TARGET DATE TO INFORM OBJECTOR:

N/A

