

**AGENDA of the  
Portfolio Committee: Investment and Infrastructure  
2 November 2022  
(Also the agenda for the Mayoral Committee Meeting: 16 November 2022)**

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**2.**

**ERF 800 ZWELIHLE (SITUATED AT 79 HLOBO AVENUE, ZWELIHLE): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO CAPE HOLY CHRISTIAN APOSTOLIC CHURCH IN ZION**

**7/2/3/1**

**A Le Roux**

**Manager: Property Administration**

**1 September 2022**

**(028) 316 - 5623**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Cape Holy Christian Apostolic Church in Zion (hereinafter referred to as “the Applicant”) for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, Erf 800 Zwelihle (690m<sup>2</sup> in extent) situated at 79 Hlobo Avenue, Zwelihle (hereinafter referred to as “the Property”), for church purposes. See the locality plan attached hereto marked Annexure “A”.

**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  
Creation and maintenance of a safe and healthy environment  
Promotion of tourism, economic and social development

**4. Delegated Authority**

Executive Mayor

**5. Legal Requirements**

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

**AGENDA of the  
Portfolio Committee: Investment and Infrastructure  
2 November 2022  
(Also the agenda for the Mayoral Committee Meeting: 16 November 2022)**

---

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

**Background/Discussion**

The Applicant previously leased Erf 375 Zwelihle for approximately 18 (EIGHTEEN) years after the property was allocated to the Applicant by the Town Clerk of the Zwelihle Municipality in 1992.

In 2011 the Council relocated the Applicant's structure from Erf 375 Zwelihle to Erf 800 Zwelihle at the Council's costs and a lease agreement was entered into with the Applicant for a period of 9 (NINE) years and 11 (ELEVEN) months for the Property, which commenced on 1 April 2011 and expired on 28 February 2021. Please see copy of Minutes of the Mayoral Committee Meeting dated 28 September 2011 attached hereto.

The Applicant applied to renew the lease agreement for a further 9 (NINE) years and 11 (ELEVEN) months. The process for renewal was commenced with timeously, but due to the passing of the authorised person, Reverend Johannes Ntlapo, the renewal process could not be completed before the last agreement expired. The municipal account was in arrears for a long period which further delayed the renewal process.

On 13 April 2021, the delegated authority approved in-principle the renewal of the lease for a further period, subject to the public participation being followed and the final approval of the Executive Mayor.

The Applicant has appointed a new authorised person and a lease agreement was signed (for administrative purposes) with a suspensive condition that the Applicant enter into an acknowledgement of debt agreement with the finance department, three months from date of signature, for the down payment of the handed over accounts. The current account is however paid up to date. The lease agreement is further subject to the Executive Mayor's approval of the long-term lease at a Mayoral Committee Meeting. The renewal date in the lease agreement was backdated to commence the day after expiry of the last agreement.

No complaints were received from the community during the previous lease periods. The municipal account is now paid up to date.

**Evaluation**

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy will apply:

**AGENDA of the  
Portfolio Committee: Investment and Infrastructure  
2 November 2022  
(Also the agenda for the Mayoral Committee Meeting: 16 November 2022)**

---

**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 Property is not classified as a business site and the leasing of the Property to the Applicant is in the interest of the community, and they have been leasing it successfully since 2011 and due to the nature of the lease and benefit to the community it can be leased directly to the Applicant without following a competitive process.

Although the proposed lease is for a long-term period the rental that will be received will not be more than R10 million. The current rental is set at a tariff for the lease of municipal property for registered Social Care Institutions/ Organisations/ NPO’s/ PBO’s/ Sport facilities/ Community organisations, being R167.84 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-FOUR CENTS) (VAT excluded) per month, which rental will escalate annually in terms of the approved tariff in the financial budget of the Municipality.

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

**AGENDA of the  
Portfolio Committee: Investment and Infrastructure  
2 November 2022  
(Also the agenda for the Mayoral Committee Meeting: 16 November 2022)**

---

The Applicant applied for the renewal of the lease agreement which was approved in principle by the Municipal Manager on 13 April 2021 for a period of 9 (NINE) years and 11 (ELEVEN) months, subject to a public participation process being followed and further subject to the approval by the Executive Mayor as delegated authority of the long-term lease.

The Executive Mayor's approval is hereby sought, and the proposed lease was advertised in The Village News on 2 September 2022 for a 30 (THIRTY) day comment/objection period. No objections have been 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.”***

The tariff for the lease of municipal property for registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations will be levied. As the agreement is backdated from 1 March 2021 the lease commenced on a monthly rental amount of R154.78 (ONE HUNDRED AND FIFTY-FOUR RAND AND SEVENTY-EIGHT CENTS) (VAT excluded) which was the tariff for the 2020/2021 financial year. The rental from 1 July 2021 is R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY-SEVEN CENTS) (VAT excluded) per month which was the tariff for the 2021/2022 financial year. The rental from 1 July 2022 is R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-THREE CENTS) (VAT excluded) per month. The agreement stipulates that the rental amount will escalate annually 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.”***

The Applicant will be liable for the payment of 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.”***

**AGENDA of the  
Portfolio Committee: Investment and Infrastructure  
2 November 2022  
(Also the agenda for the Mayoral Committee Meeting: 16 November 2022)**

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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 the Property to the Applicant was published in The Village News on 2 September 2022 for a 30 (THIRTY) day objection/comment period. No objection/comment was received.

**Conclusion**

With reference to the above discussion, it is recommended that the lease of the Property to the Applicant be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 March 2021 at a rental amount of R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) for the 2020/2021 financial year, from 1 July 2021 the amount of R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY-SEVEN CENTS) (VAT excluded) and for the 2021/2022 financial year and from 1 July 2022 an amount of R167.84 (ONE HUNDRED AND SIXTY SEVEN RAND AND EIGHTY FOUR CENTS) (VAT excluded) per month for the 2022/2023 financial year.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) for the period 1 March 2021 to 30 June 2021, the amount of R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY-SEVEN CENTS) (VAT excluded) for the period 1 July 2021 to 30 June 2022, and the amount of R167.84 (ONE HUNDRED AND SIXTY SEVEN RAND AND EIGHTY FOUR CENTS) (VAT excluded) per month from 1 July 2022 where after the rental amount will escalate annually on 1 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 the Applicant.

**8. Staff Implications**

None

**AGENDA of the  
Portfolio Committee: Investment and Infrastructure  
2 November 2022  
(Also the agenda for the Mayoral Committee Meeting: 16 November 2022)**

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

**Town Planner: Mr H Boshoff – (028) 313 8900**

*“The zoning of the property is Community Zone 1 and the usage is consistent with the primary rights thereof. This department therefore has no objection to the extension of the lease period of the property.”*

**Senior Manager: Expenditure and Assets: Mr J Vorster - (028) 313 8046**

*“As this a revenue generation proposal, with no intention of selling the asset, there is no objection against the application.”*

**10. Annexures**

Annexure A1 & 2: Locality Plan

Annexure B: Copy of Minutes of the Mayoral Committee Meeting

**RECOMMENDATION:**

1. that the lease of municipal property, being Erf 800 Zwelihle, (690m<sup>2</sup> in extent), to Cape Holy Christian Apostolic Church in Zion, for church purposes at a rental amount of R154.78 (ONE HUNDRED AND FIFTY-FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 March 2021 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved;**
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 2022; and
3. that the approval in 1 above be subject to the suspensive condition that the Applicant enter into an acknowledge of debt agreement with the finance department for the down payment of the handed over accounts within a period of 3 (THREE) months from the signature date of the lease agreement.

**RESPONSIBLE OFFICIAL:**

**R OCTOBER**

**TARGET DATE FOR IMPLEMENTATION:**

**15 NOVEMBER 2022**

**TARGET DATE TO INFORM APPLICANT:**

**30 NOVEMBER 2022**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

**AGENDA of the  
Portfolio Committee : Investment & Infrastructure  
2 November 2022  
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**ERF 800 ZWELIHLE (SITUATED AT 79 HLOBO AVENUE, ZWELIHLE): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO CAPE HOLY CHRISTIAN APOSTOLIC CHURCH IN ZION**

**7/2/3/1**

**A Le Roux**

**Manager: Property Administration**

**1 September 2022**

**(028) 316 - 5623**

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE PORTFOLIO COMMITTEE ON 2 NOVEMBER 2022, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

**RESPONSIBLE OFFICIAL:**

**R OCTOBER**

**TARGET DATE FOR IMPLEMENTATION:**

**15 NOVEMBER 2022**

**TARGET DATE TO INFORM APPLICANT:**

**30 NOVEMBER 2022**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**



ANNEXURE A2



16

**MINUTES OF THE MAYORAL COMMITTEE MEETING 28 SEPTEMBER 2011**

**7. HERMANUS : CLOSURE OF A PORTION OF ROAD, ERF 314, ZWELIHLE, REZONING OF SUCH PORTION AND ERF 800, HLOBO STREET AND CONSOLIDATION THEREOF AND LEASE TO THE CAPE HOLY CHRISTIAN APOSTOLIC CHURCH IN ZION**

7/2/3/1

M Erasmus  
30 August 2011

(028) 313 8900

Hermanus Administration

**EXECUTIVE SUMMARY**

To obtain approval to enter into a lease agreement with Cape Holy Christian Apostolic Church in Zion in respect of Municipal Property being Erf 800 ±687m<sup>2</sup> in extent, and a portion of abutting road ±325m<sup>2</sup> in extent, Zwelihle, for a period of 9 years and 11 months.

Further to obtain approval for the closure of a portion of Road, Erf 314, ±325m<sup>2</sup> in extent, and the consolidation thereof with Erf 800.

Further to obtain approval for the rezoning of newly consolidated property from Residential Zone II and Road purposes to Institutional Zone II.

**RESOLVED**

1. that the lease agreement with Cape Holy Christian Apostolic Church in Zion in respect of Municipal Property Erf 800, ±687 m<sup>2</sup>, Zwelihle for the purpose of a church at a rental amount of R98.49 (VAT Excl) per month for a period of 9 years and 11 months commencing from the 1<sup>st</sup> of April 2011 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality **be approved;**
2. that the rental amount mentioned in 1. above escalate in accordance with paragraph 32 of the Management of Immovable Property Policy;
3. that the closure of a portion (±325 m<sup>2</sup>) the road reserve abutting Erf 800 and the consolidation of the closed road reserve portion with Erf 800, Zwelihle in terms of the regulations of the former Black Community Development Act, 1984 (Act 4 of 1984) **be recommended for approval to the Provincial administration, and**
4. that the rezoning of the newly consolidated property, from Residential Zone II to Institutional Zone II in terms of the Black Communities Development Act (Act 4 of 1984), **be recommended for approval** to the Provincial Administration.

17

**MINUTES OF THE MAYORAL COMMITTEE MEETING 28 SEPTEMBER 2011**

**RESPONSIBLE OFFICIAL : A MARAIS**

**TARGET DATE FOR IMPLEMENTATION : 30 SEPTEMBER 2011**

**TARGET DATE TO INFORM APPLICANT : 20 SEPTEMBER 2011**

**TARGET DATE TO INFORM OBJECTOR : N/A**