

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
17 November 2020
(Also the agenda for the Mayoral Committee Meeting: 25 November 2020)**

4.

A PORTION OF REMAINDER ERF 243 HERMANUS (SITUATED IN MALVA STREET, MOUNT PLEASANT) KNOWN AS THE MOUNT PLEASANT BUSINESS CENTRE: DEVIATION FROM PARAGRAPH 18 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO RENEW THE LEASE OF MUNICIPAL PROPERTY TO MOUNT PLEASANT BUSINESS CENTRE COMMITTEE

7/2/3/1

A Le Roux

Manager: Property Administration

9 October 2020

(028) 316 - 5623

1. Executive Summary

To obtain approval from the Executive Mayor to enter into a further lease agreement with Mount Pleasant Business Centre Committee, hereinafter referred to as “the Committee”, for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of a portion of Remainder Erf 243 Hermanus (situated in Malva Street, Mount Pleasant) ($\pm 1,400\text{m}^2$ in extent), hereinafter referred to as “the Property”, for the purpose of managing, leasing, sub-letting, supervising and maintaining the Mount Pleasant Business Centre as a community project; and

To obtain approval from Council for the deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into a further lease agreement with the Committee in respect of the Property without following a competitive 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

- Municipal Asset Transfer Regulations (R. 878 of 2008)

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

6. Background/Discussion/Evaluation/Conclusion

Background

The Committee has been leasing the Property since November 2010 for the purpose of managing, leasing, sub-letting, supervising and maintaining the Mount Pleasant Business Centre as a community project.

The last agreement was for a period of 9 (NINE) years and 11 (ELEVEN) months which expired on 30 September 2020.

Although the lease agreement expired, the Committee is still in possession of the Property and continued to pay their monthly rental amount.

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

Discussion

The Committee applied for a further lease period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of managing, leasing, sub-letting, supervising and maintaining the Mount Pleasant Business Centre, as a community project.

Although the process for the renewal of the agreement was commenced with timeously, the process could unfortunately not be completed before expiry of the agreement as the future use of the Property was deliberated at numerous informal internal meetings. It has also been considered whether the Directorate Economic and Social Development and Tourism should take control of the management of the Property upon the expiry of the agreement. However, the Directorate Economic and Social Development and Tourism was concerned whether his directorate will have the budget to manage the Property successfully. The Committee has indicated that they wish to renew the lease agreement and continue with the management of the Mount Pleasant Business Centre. It was thus suggested and supported that the lease agreement with the Committee be renewed for a further long term period, with a representative from the Directorate Economic and Social Development and Tourism sitting as chairperson on the board of the Committee.

The Property was managed by the Committee for approximately 10 (TEN) years 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.”

The Mount Pleasant Business Centre is not operated to gain a profit therefore the Committee pays the rental tariff approved for community organisations and not a market related rental as the project is driven as a community project with a committee managing it with the purpose of contributing towards the development of the community and its economy rather than managing a business for profit purposes.

The Property is zoned as Business Zone 3: Local Business and although there are some businesses situated in the Property as discussed above the Property is managed as a community project.

The Property has been managed well over a long period of time. The sub-lessees appear generally happy with the operation of the Mount Pleasant Business Centre as we have not received any complaints regarding the operation of the Centre. In addition to the health care based sub-lessee that has operated at the Property, local employment

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and entrepreneurship have also been positively influenced by the Committee's management of the Property.

The Committee provides upcoming entrepreneurs the opportunity to operate small businesses from the Property and a representative from the Directorate Economic and Social Development and Tourism will be sitting as chairperson on the board of the Committee.

The Committee has also upgraded the Property for safety and security purposes.

In conclusion the Mount Pleasant Business Centre is a community driven project, with businesses also operating from the Property however, taking the above discussion into consideration, the well management of the Property and the fact that it is in the best interest of the community to have the continuance of the service on the Property, it is therefore recommended that Council deviate from paragraph 18 of the Administration of Immovable Property Policy (2015) allowing the Municipality to enter into a renewal agreement 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**
- (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 further lease of the Property to the Committee subject thereto:

- that a public participation process is followed;
- the approval of the Executive Mayor is obtained; and
- Council approves the deviation from paragraph 18 of the Administration of Immovable Property Policy 2015.

The proposed renewal of the lease was advertised in the Village News on 30 September 2020 for a 30 (THIRTY) day comment/objection period.

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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 2020/2021 tariff for land for registered Social Care Institutions/Organisations/NPO’s/PBO’s/Sport facilities/Community organisations is R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT 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.”

The Committee will be liable for the payment of all costs relating to the renewal of the lease agreement which in this case is so far 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 will be included in the lease agreement entered into with the Committee.

B. Advertisement/Notification

An advertisement for the lease of the Property was placed in The Village News on 30 September 2020 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

Conclusion

Taking the above into consideration, it is recommended that:

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- (a) The Executive Mayor approves the lease of the Property to the Committee for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 October 2020 for the purpose of managing, leasing, sub-letting, supervising and maintaining the Mount Pleasant Business Centre as a community project, subject thereto that Council approves the deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015.
- (b) Council approves the deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into a renewal agreement without following a competitive process.

7. Financial Implications

The Municipality stands to gain a rental amount of R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) per month where after the rental 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 2021. All expenses pertaining to the proposed lease will be borne by the Committee.

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, with no intention of selling the asset, there is no objection against the application.”

10. Annexures

Annexure A: Locality Map

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RECOMMENDATION TO THE EXECUTIVE MAYOR:

1. that the lease of municipal property, being a portion of Remainder Erf 243 Hermanus ($\pm 1,400\text{m}^2$ in extent), to Mount Pleasant Business Centre Committee, for the purpose of managing, sub-letting, supervising and maintaining the Mount Pleasant Business Centre as a community project and related purposes at the 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 October 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 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 2021;
3. that a designated official of the Directorate Economic and Social Development and Tourism be appointed as Chairperson of the Committee; and
4. that the approval in 1 above be subject to Council approving a deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015.

RECOMMENDATION TO THE COUNCIL:

that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew the lease agreement with Mount Pleasant Business Centre Committee for a further period of 9 (NINE) years and 11 (ELEVEN) months without following a competitive process, **be approved**.

RESPONSIBLE OFFICIAL:	W MURTZ
TARGET DATE FOR IMPLEMENTATION:	31 DECEMBER 2020
TARGET DATE TO INFORM APPLICANT:	18 DECEMBER 2020
TARGET DATE TO INFORM OBJECTOR:	N/A

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7/2/3/1

A Le Roux

Manager: Property Administration

9 October 2020

(028) 316 - 5623

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 17 NOVEMBER 2020, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE EXECUTIVE MAYOR:

1. that the lease of municipal property, being a portion of Remainder Erf 243 Hermanus ($\pm 1,400\text{m}^2$ in extent), to Mount Pleasant Business Centre Committee, for the purpose of managing, sub-letting, supervising and maintaining the Mount Pleasant Business Centre as a community project and related purposes at the 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 October 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 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 2021;
3. that a designated official of the Directorate Economic and Social Development and Tourism be appointed as Chairperson of the Committee; and
4. that the approval in 1 above be subject to Council approving a deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015.

RECOMMENDATION TO THE COUNCIL:

that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew the lease agreement with Mount Pleasant Business Centre Committee for a further period of 9 (NINE) years and 11 (ELEVEN) months without following a competitive process, **be approved**.

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RESPONSIBLE OFFICIAL:	W MURTZ
TARGET DATE FOR IMPLEMENTATION:	31 DECEMBER 2020
TARGET DATE TO INFORM APPLICANT:	18 DECEMBER 2020
TARGET DATE TO INFORM OBJECTOR:	N/A

