

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
23 October 2018
(Also the agenda for the Mayoral Committee Meeting : 31 October 2018)**

**4.
HERMANUS, VARIOUS PORTIONS OF MUNICIPAL PROPERTY: DEVIATION
FROM PARAGRAPHS 18 AND 24 OF THE ADMINISTRATION OF IMMOVABLE
PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO ENTER INTO
TEMPORARY LEASE AGREEMENTS WITH VODACOM (PTY) LTD**

7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

13 September 2018

1. Executive Summary

To obtain approval from Council for the deviation from paragraphs 18 and 24 of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into further temporary lease agreements with Vodacom (Pty) Ltd, hereinafter referred to as "Vodacom", in respect of a portion of Erf 1253 Hermanus and a portion of Erf 2595 Onrustrivier for the purpose of temporary cell phone towers without following a competitive bidding 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

None.

5. Legal Requirements

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

6. Background/Discussion/Evaluation/Conclusion

Background

During the December to April peak season Hermanus experiences a high influx of tourists, holiday makers and visitors which places a tremendous pressure on the reception capacity of existing cell phone towers in Hermanus.

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Area Management entered into temporary lease agreements with Vodacom for the purpose of erecting temporary cell phone towers on portions of Erf 1253 Hermanus and a portion of Erf 2595 Onrustrivier. The temporary agreements were for a period of 6 (SIX) months and expired on 30 April 2018.

Discussion

Vodacom applied to renew their lease agreements for a 12 (TWELVE) month period until end of April 2019 as there is a high increase in the demand for reception and further pending the completion and approval of the policy dealing with cell phone towers in the Overstrand.

The Municipality is currently in the process of finalising a policy regarding cell phone towers in the Overstrand and until such a time as the policy is approved and implemented all applications for new cell phone towers have been put on hold. In this case the application is only to retain the existing temporary towers currently situated on municipal property.

There have been no problems with the installations of the temporary towers and they are well maintained and provide an important service to the various communities. The rental has been paid promptly each month.

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

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

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

In this case a direct lease is proposed with a deviation from paragraph 18 in that a competitive process not be followed as this is a temporary renewal of an agreement for temporary structures which will serve the community.

Paragraph 21.1. “The Municipality may grant a short term lease of municipal immovable property up to three years without the option of renewal only after the Accounting Officer has approved the lease in principle.”

The Accounting Officer (Municipal Manager) approved in principle the lease of the subject portions of Erf 1253 Hermanus and Erf 2595 Onrustrivier to Vodacom (Pty) Ltd subject thereto that the approval of Council is obtained as to the deviation from paragraphs 18 and 24 of the Policy as requested in this report.

Paragraph 24: “The fair market value for the alienation of, the rental amount for the leasing or compensation payable for a servitude over municipal immovable property shall be determined by an independent professional valuer or professional associated valuer registered in terms of the Property Valuers Profession Act, 2000 (Act 47 of 2000), or any ensuing act at the cost of the purchaser (in the case of a direct sale) or lessee (in the case of a direct lease)/servitude holder (in the case of a servitude).”

The current lease amounts for the portion of Erf 2595 Onrustrivier is R5,300.00 (FIVE THOUSAND THREE HUNDRED RAND) (VAT included) per month and for the portion of Erf 1253 Hermanus is R3,180.00 (THREE THOUSAND ONE HUNDRED AND EIGHTY RAND) (VAT included) per month.

A deviation from this paragraph is proposed seeing that the services of a valuer, to determine a new market related rental amount, will not only be costly but the renewals will further only be for a temporary lease.

It is proposed that the rental amount in the renewal agreement be determined at the last rental amount as mentioned above with an escalation equal to the consumer price index from 1 July 2018. The lease agreement will be backdated to 1 May 2018 which is the day after the expiration of the previous agreement.

Paragraph 47: “Subject to paragraph 46 above, immovable property let by the Municipality shall be inspected at least once a year by the

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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 Vodacom (Pty) Ltd.

Conclusion

Taking the above into consideration, it is recommended that:

- (a) Council approves the deviation from paragraphs 18 and 24 of the Administration of Immovable Property Policy of 2015 in order for the Municipality to enter into temporary renewal agreements with Vodacom.

7. Financial Implications

The Municipality stands to gain a rental amount equal to **R5,300.00 (FIVE THOUSAND THREE HUNDRED RAND) (VAT included) per month** for the period May to June 2018 and a rental amount of **R5,533.20 (FIVE THOUSAND FIVE HUNDRED AND THIRTY THREE RAND AND TWENTY CENTS) (VAT included) per month** for the period July 2018 to April 2019 for a portion of Erf 2595 Onrustrivier.

The Municipality further stands to gain a rental amount equal to **R3,180.00 (THREE THOUSAND ONE HUNDRED AND EIGHTY RAND) (VAT included) per month** for the period May to June 2018 and a rental amount of **R3,319.92 (THREE THOUSAND THREE HUNDRED AND NINETEEN RAND AND NINETY TWO CENTS) (VAT excluded) per month** for the period July 2018 to April 2019 for a portion of Erf 1253 Hermanus.

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 a service provider who deliver a vital service to the community of Overstrand, with no intention to dispose of the asset(s), there is no objection to the report.

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10. Annexures

Annexure A: Locality Map Erf 2595
Annexure B: Locality Map Erf 1253

RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew the current lease agreements with Vodacom (Pty) Ltd in respect of a portion of Erf 2595 Onrustvriër and a portion of Erf 1253 Hermanus for a further period of 12 (TWELVE) months without following a competitive process, **be approved**; and
2. that the deviation from paragraph 24 of the Administration of Immovable Property Policy in order to renew the current lease agreements with Vodacom (Pty) Ltd without having a new market related valuation being done, **be approved**.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	30 NOVEMBER 2018
TARGET DATE TO INFORM APPLICANT :	19 NOVEMBER 2018
TARGET DATE TO INFORM OBJECTOR :	N/A

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Hermanus Administration

13 September 2018

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 23 OCTOBER 2018, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew the current lease agreements with Vodacom (Pty) Ltd in respect of a portion of Erf 2595 Onrustvriër and a portion of Erf 1253 Hermanus for a further period of 12 (TWELVE) months without following a competitive process, **be approved**; and
2. that the deviation from paragraph 24 of the Administration of Immovable Property Policy in order to renew the current lease agreements with Vodacom (Pty) Ltd without having a new market related valuation being done, **be approved**.

RESPONSIBLE OFFICIAL :

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