

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

**6.
HERMANUS, A PORTION OF ERF 375 ZWELIHLE, ALSO KNOWN AS THE
ZWELIHLE TAXI RANK STALLS: DEVIATION FROM PARAGRAPHS 4 AND
20.1(b), OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF
2015 ALLOWING THE MUNICIPALITY TO ENTER INTO FURTHER LEASE
AGREEMENTS WITH VARIOUS LESSEES**

7/2/3/1

W Murtz

(028) 316-3724

Hermanus Administration

14 September 2018

1. Executive Summary

To obtain approval from the Executive Mayor to enter into further lease agreements with various Zwelihle Taxi Rank Stall Lessees in respect of a portion of Erf 375 Zwelihle (known as “Zwelihle Taxi Rank Stalls”), for the purpose of informal trading, after expiry of the third year lease; and

To obtain approval from Council for the deviation from paragraph 4 and 20.1(b) of the Administration of Immoveable Property Policy of 2015 allowing the Municipality to enter into further lease agreements with Zwelihle Stall Lessees in respect of a portion of Erf 375 Hermanus for the purpose of informal trading or any other such purpose as may be approved by the Municipality without following a public participation and without paying the formal application fee.

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

Partly delegated to the Executive Mayor.

5. Legal Requirements

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

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6. Background/Discussion/Evaluation/Conclusion

Background

There are 10 (TEN) Informal Trading Stalls on a portion of Erf 375 Zwelihle situated at Zwelihle Taxi Rank in Hlobo Street, Zwelihle for the purpose of informal trading. Agreements have been entered into with the informal traders in terms of the Administration of Immovable Property Policy for a short term period (altogether 3 years), which commenced on different dates during 2015 and expires in 2018.

Although the Administration of Immovable Property Policy was amended in 2015 to make provision for the lease of more formalised stalls to informal traders a long term lease (beyond 3 years) is still subject to a public participation, in terms of the said policy.

Discussion

The current Lessees, as listed below, have indicated that they wish to renew their lease agreements for another 3 (THREE) year period:

- Nosipho Monica Esau
- Modise Thabiso Ponoane
- Sinethemba Stuurman
- Nosipho Lecilia Blekiwe
- Abraham Mabhengeza
- Ntombi Cordelia Tyulu
- South African National Tuberculosis Association (SANTA)
- Nokwanda Miranda Mbombo

Evaluation

The following paragraphs of the Administration of Immovable Property Policy are applicable:

Paragraph 4: “No application for the purchase, lease of or encroachment on immovable property (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) shall be processed unless the prescribed application fee as per tariff approved in the annual budget for that financial year has been paid, nor shall any proposed lease or encroachment (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) be advertised unless the applicant has confirmed, in writing, that he/she will bear all costs involved in such transaction including - but not limited to - legal, survey, re-zoning, sub-division, consolidations, advertisement, relocation or provision of services and,

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where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.”

The approved application fee is an amount of R2,908.00 (TWO THOUSAND NINE HUNDRED AND EIGHT RAND). As the purpose of the lease of the stalls is to accommodate and uplift emerging informal traders and further as this is an application for renewal and not a new agreement, it is suggested that the application fee be waived in this instance. It should further be noted that the informal traders (due to their economic status) will not be able to afford the application fee.

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 in principle approval of the Accounting Officer (Municipal Manager) will be requested for each individual lease for a stall on the subject portion of Erf 375 Zwelihle.

In this case, seeing that the current Lessees have already had agreements for 3 (THREE) years, a further short term lease in respect of the stalls on a portion of Erf 375 Zwelihle will cause the said total lease period to be in excess of three years, which is not permissible in terms of Paragraph 20 of the Policy if a public participation process is not followed. As these lease agreements will be entered into with emerging entrepreneurs who will not necessarily have the means to have an advert placed in the local newspaper and as the purpose of the lease is to give a chance to and uplift emerging entrepreneurs it is recommended that a public participation not be followed in this instance.

Simultaneous with this request for a deviation, a further request will be made for the approval by the Executive Mayor of the long term rental (as the total period will be in excess of three years).

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Paragraph 59: “The leasing of municipal immovable property to informal traders may be affected by means of a direct lease on a “first come first serve basis”, subject to availability of immovable property, the nature of the trade envisaged, the rental payable and the area the immovable property is situated in.”

Taking the above paragraph into consideration the lease agreements may be entered into with the various Lessees as the allocation of the stalls were done on a first come first serve basis and therefore a competitive bidding process do not need to be followed.

Paragraph 62: “The rental payable for the leasing of immovable property situated in the demarcated areas will be determined taking into account the location, structure, services available, products or services rendered and any other diverse circumstances relevant to the lease.”

The rental payable for a Zwelihle Taxi Rank stalls for the 2018/2019 financial year is the amount of R168.56 (ONE HUNDRED AND SIXTY EIGHT RAND AND FIFTY SIX CENTS) (VAT excluded) per month per stall.

Conclusion

Taking the above into consideration, it is recommended that:

- (a) The Executive Mayor approves the renewal of the lease agreements for the various stalls on a portion of Erf 375 Zwelihle, to the Lessees as listed below, for a period of 3 (THREE) years for the purpose of informal trading, at the rental amount of R168.56 (ONE HUNDRED AND SIXTY EIGHT RAND AND FIFTY SIX CENTS) (VAT excluded) per stall per month, subject to the approval from Council for the deviation of paragraphs 4 and 20.1(b); and
 - Nosipho Monica Esau
 - Modise Thabiso Ponoane
 - Sinethemba Stuurman
 - Nosipho Lecilia Blekiwe
 - Abraham Mabhengeza
 - Ntombi Cordelia Tyulu
 - South African National Tuberculosis Association (SANTA)
 - Nokwanda Miranda Mbombo
- (b) Council approves the deviation from paragraphs 4, and 20.1(b) of the Administration of Immoveable Property Policy of 2015.

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7. Financial Implications

The Municipality stands to gain a rental amount equal to the current rental amount of R168.56 (ONE HUNDRED AND SIXTY EIGHT RAND AND FIFTY SIX CENTS) (VAT excluded) per stall per month.

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 informal traders who deliver a vital service to the community of Zwelihle, Hermanus, with no intention to dispose of the asset(s), there is no objection to the report.

10. Annexures

Annexure A: Locality Map

RECOMMENDATION TO THE EXECUTIVE MAYOR:

1. that the renewal of the lease of municipal property, being stalls on a portion of Erf 375 Zwelihle, to the Lessees as listed below for the purpose of informal trading for a period of 3 (THREE) years at the rental amount of R168.56 (ONE HUNDRED AND SIXTY EIGHT RAND AND FIFTY SIX CENTS) (VAT excluded) per stall per month in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**; and
 - Nosipho Monica Esau
 - Modise Thabiso Ponoane
 - Sinethemba Stuurman
 - Nosipho Lecilia Blekiwe
 - Abraham Mabhengeza
 - Ntombi Cordelia Tyulu
 - South African National Tuberculosis Association (SANTA)
 - Nokwanda Miranda Mbombo
2. that the abovementioned approval be subject to Council approving a deviation from paragraphs 4 and 20.1(b) of the Administration of Immovable Property Policy of 2015.

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RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraph 4 of the Administration of Immovable Property Policy for the waive of the application fees in respect of the renting out of stalls at the Zwelihle Taxi Rank, **be approved**; and
2. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the lease agreements with the various stall Lessees without following a public participation process, **be approved**.

RESPONSIBLE OFFICIAL :	W MURTZ
TARGET DATE FOR IMPLEMENTATION :	15 NOVEMBER 2018
TARGET DATE TO INFORM APPLICANT :	5 NOVEMBER 2018
TARGET DATE TO INFORM OBJECTOR :	N/A

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W Murtz

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Hermanus Administration

14 September 2018

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

RECOMMENDATION:

that the item **be referred back.**

RESPONSIBLE OFFICIAL :

W MURTZ

TARGET DATE FOR IMPLEMENTATION :

15 NOVEMBER 2018

TARGET DATE TO INFORM APPLICANT :

5 NOVEMBER 2018

