

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
22 October 2019  
(Also the agenda for the Mayoral Committee Meeting: 30 October 2019)**

---

**6.  
HERMANUS: ERVEN 127, 129 AND A PORTION OF ERF 823 ZWELIHLE:  
RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO HERMANUS RAINBOW  
TRUST**

**7/2/3/1**

**N Liebenberg**

**(028) 316-3724**

**Hermanus Administration**

**10 September 2019**

---

**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Hermanus Rainbow Trust for a period of 3 (THREE) years in respect of municipal properties, being erven 127, 129 and a portion of Erf 823 Zwelihle (jointly ±590m<sup>2</sup> in extent) situated at 46 Lusiba Street, Zwelihle, for the purpose of a Grade R Education Centre for the existing Zwelihle Pre-primary School.

**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**

Hermanus Rainbow Trust has been using erven 127, 129 and a portion of Erf 823 Zwelihle since October 2016 for the purpose of a Grade R Education Centre for the existing Zwelihle Pre-primary School.

The last agreement was for a period of 3 (THREE) years which will expire on 16 October 2019. Although the process for the renewal of the agreement was commenced with timeously, the process could unfortunately not be completed

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
22 October 2019  
(Also the agenda for the Mayoral Committee Meeting: 30 October 2019)**

---

before expiry of the said agreement as our Department was waiting for the confirmation from Hermanus Rainbow Trust that they want to renew their lease agreement and further due to internal processes taking longer than expected.

The Finance Department was however requested to continue to levy the lease as Hermanus Rainbow Trust is still in possession of the property.

A lease agreement has since been drafted (for administrative and audit purposes) with special conditions included in the agreement stipulating that the lease agreement is subject to a public participation process being followed and further subject to the Executive Mayor's approval (as delegated authority) allowing the Municipality to enter into the said long term agreement.

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

### **Discussion**

Hermanus Rainbow Trust applied for a further lease agreement of 3 (THREE) years as from 17 October 2019.

The properties applied for has been used by Hermanus Rainbow Trust successfully since October 2016. No complaints regarding the use of the properties by the Hermanus Rainbow Trust have been received. Hermanus Rainbow Trust's 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 Hermanus Rainbow Trust (a registered non-profit organisation) have been leasing the properties successfully for many years and due to the nature of the lease and benefit to the community, it can be leased directly

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
22 October 2019  
(Also the agenda for the Mayoral Committee Meeting: 30 October 2019)**

---

to Hermanus Rainbow Trust 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 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 renewal of the lease of erven 127, 129 and a portion of Erf 823 Zwelihle to Hermanus Rainbow Trust on condition that the public participation process is followed and further subject to the approval from the Executive Mayor. The proposed lease was advertised in The Village News on 4 September 2019 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.”**

In this regard the rental charged will be in accordance with the tariff approved in the annual budget for non-profit organizations.

**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.”**

Hermanus Rainbow Trust 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.”**

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
22 October 2019  
(Also the agenda for the Mayoral Committee Meeting: 30 October 2019)**

---

The properties 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 renewal of the lease of erven 127, 129 and a portion of Erf 823 Zwelihle was placed in The Village News on 4 September 2019 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 Hermanus Rainbow Trust be approved for a further period of 3 (THREE) years from 17 October 2019 at a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month as approved in the Annual Budget for the 2019/2020 financial year.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month where after the lease amount will escalate every year on the 1<sup>st</sup> of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2020. All expenses pertaining to the proposed lease will be borne by Hermanus Rainbow Trust.

**8. Staff Implications**

None

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

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

*“On the zoning map erven 127, 129 are indicated as residential, and erf 823 is parking. I could not find any record of planning approvals for the land use. Please investigate your records and I will also investigate if there are old records when I am back in office after 18 June 2019.”*

Further investigation into the above mentioned lease process showed that Erf

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
22 October 2019  
(Also the agenda for the Mayoral Committee Meeting: 30 October 2019)**

---

127 and 129 Zwelihle were zoned as Business Zone 3: Local Business in the comments obtained in 2015. Mr Olivier was kindly requested to confirm the zoning status as there is a difference in status between the current zoning and that of the zoning in 2015. Mr Olivier replied with the following comment:

*“It appears that originally erven 127 and 129 was planned for Business Zone 3 purposes. I recommend that you keep to such zoning. I have tracked an old building plan for a clinic on these erven but must first obtain more info to determine if another zoning can be allocated.*

*Erf 823 is an approved parking area, and when formal planning processes takes place we will have to address the encroachments.”*

The application for Consent use will be dealt with internally by Town Planning.

**Manager: Social Development: Mr G Smit – (028) 313 8035**

*“This department does not have any objection.”*

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

*“As this is an income generating proposal involving an institution who delivers an essential service to the community of Zwelihle, with no intention to dispose of the asset(s), there is no objection to the report.”*

## **10. Annexures**

Annexure A: Locality Plan

### **RECOMMENDATION:**

1. that the lease of municipal properties, being erven 127, 129 and a portion of Erf 823 Zwelihle (jointly ±590m<sup>2</sup> in extent), to Hermanus Rainbow Trust for the purpose of a Grade R Education Centre for the existing Zwelihle Pre-primary School at the rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for a period of 3 (THREE) years as from 17 October 2019 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 2020.

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
22 October 2019  
(Also the agenda for the Mayoral Committee Meeting: 30 October 2019)**

---

<b>RESPONSIBLE OFFICIAL:</b>	<b>N LIEBENBERG</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>30 NOVEMBER 2019</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>13 NOVEMBER 2019</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
22 October 2019  
(Also the agenda for the Mayoral Committee Meeting : 30 October 2019)**

---

**6.  
HERMANUS: ERVEN 127, 129 AND A PORTION OF ERF 823 ZWELIHLE:  
RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO HERMANUS RAINBOW  
TRUST**

**7/2/3/1**

**N Liebenberg**

**(028) 316-3724**

**Hermanus Administration**

**10 September 2019**

---

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
22 OCTOBER 2019, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

**RESPONSIBLE OFFICIAL:**

**N LIEBENBERG**

**TARGET DATE FOR IMPLEMENTATION:**

**30 NOVEMBER 2019**

**TARGET DATE TO INFORM APPLICANT:**

**13 NOVEMBER 2019**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

