

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
20 September 2016  
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

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**5.  
HERMANUS, A PORTION OF ERF 1253: LEASE OF MUNICIPAL PROPERTY TO  
BREAKTHROUGH ADVENTURES NPC T/A WHALE COAST 96 FM**

7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

5 August 2016

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Breakthrough Adventures NPC t/a Whale Coast 96 FM, hereinafter referred to as "Breakthrough Adventures", in respect of municipal property, being a portion of Erf 1253 Hermanus ( $\pm 2,25\text{m}^2$  in extent), for the purpose of maintaining the existing small mast and equipment needed for the broadcasting of radio programmes.

**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**

Breakthrough Adventures had a lease agreement for the lease of the subject portion of Erf 1253 Hermanus as from 2010. The said lease agreement has expired and although Breakthrough Adventures applied for the renewal of the lease agreement before the expiry date the processes could not be timeously completed and subsequently the new lease agreement could not be signed before the expiry date of the initial lease agreement.

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

**Discussion**

Breakthrough Adventures applied to lease the subject portion of the property for a further period of 5 (FIVE) years for the purpose of maintaining the existing small mast and equipment needed for the broadcasting of radio programmes.

The mast that was erected consists of a 6m pipe with a dipole antenna and a wireless antenna. The mast is essential to Breakthrough Adventures for reception and to enable them to broadcast the Whale Coast FM radio programmes.

In terms of the Administration of Immovable Property Policy the Municipality may grant a long term lease if the Accounting Officer has approved the lease in principle, a public participation process is followed and Executive Mayor's (as delegated authority) approval is gained in terms of the above policy.

The Accounting Officer approved in principle on 7 January 2016 the lease of the property to Breakthrough Adventures subject thereto that the required processes are followed. As the site is not classified as a business site and no other applications were received for the specific portion of property, it can be leased directly to Breakthrough Adventures without following a competitive process.

The lease amount (tariff) for the lease of space outside a building for mast purposes is annually determined and approved in the Annual Budget which is approved by Council.

Breakthrough Adventures' municipal account is up to date and no complaints regarding the use of the property by Breakthrough Adventures have been received during their previous period of lease.

As the Municipality is required to have written agreements for all municipal immovable properties occupied and as the lease agreement has already expired, a subsequent lease agreement for the renewal of their agreement was forwarded to Breakthrough Adventures for signature. The stipulated lease amount is R477.63 (FOUR HUNDRED AND SEVENTY SEVEN RAND AND SIXTY THREE CENTS) (VAT excluded) per month for the period 1 January 2016 to 30 June 2016. With the escalation of the tariffs as approved in the Annual Budget by Council the lease amount from 1 July 2016 will be R507.24 (FIVE HUNDRED AND SEVEN RAND AND TWENTY FOUR CENTS) (VAT excluded) per month where after the lease amount will escalate annually in accordance with the tariffs as determined and approved in the

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Annual Budget. This agreement has been made subject to the Executive Mayor's approval of the long term lease in terms of the said Policy. In the instance where such an approval is not granted, the agreement allows for the cancellation thereof.

**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".**

**and**

**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 site is not classified as a business site and no other applications were received for the specific portion of property, it can be leased directly to Breakthrough Adventures without following a competitive process. Whale Coast FM is a local radio station that broadcasts to the Overstrand Community and therefore it is in the interest of the community to have the local station broadcasted in their area with local news and updates concerning the community.

**Paragraph 20.1: "The Municipality may grant a long term lease of municipal immovable property with a value less than R10 million**

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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 municipal council has approved that the right may be granted.”**

The Accounting Officer has on 7 January 2016 approved in principle the lease of the subject portion of Erf 1253 Hermanus to Breakthrough Adventures for a further period of 5 (FIVE) years subject thereto that a public participation process is followed. The proposed lease was advertised in The Hermanus News on 5 April 2016.

**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.”**

Breakthrough Adventures will pay all costs relating to the application which in this regard so far will only be the advertisement costs. It can be confirmed that the advertisement costs have already been paid by Breakthrough Adventures.

**Paragraph 40: “Rental, except where it is decided otherwise by the Municipality shall escalate annually by a percentage fixed in accordance with the prevailing consumer price index (all items).”**

The lease amount for the lease of space outside a building for most purposes are annually determined in the tariffs which are approved by Council and the lease amount will annually escalate accordingly.

**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 of the said policy will be included in the lease agreement with the Applicant.**

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**B. Advertisement/Notification**

An advertisement for the lease of a portion of Erf 1253 Hermanus, ±2,25m<sup>2</sup> in extent, was placed in The Hermanus News on 5 April 2016 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 Breakthrough Adventures be approved for a further period of 5 (FIVE) years as from 1 January 2016 at a total rental amount of R477.63 (FOUR HUNDRED AND SEVENTY SEVEN RAND AND SIXTY THREE CENTS) (VAT excluded) per month.

**7. Financial Implications**

The Municipality stands to gain a rental in the amount of R477.63 (FOUR HUNDRED AND SEVENTY SEVEN RAND AND SIXTY THREE CENTS) (VAT excluded) per month for the period of 1 January 2016 to 30 June 2016. For the period of 1 July 2016 to 30 June 2017 the Municipality stands to gain a rental in the amount of R507.24 (FIVE HUNDRED AND SEVEN RAND AND TWENTY FOUR CENTS) (VAT excluded) per month. Thereafter 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. All expenses pertaining to the proposed lease will be borne by Breakthrough Adventures.

**8. Staff Implications**

None

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

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

Consideration should be given to whether or not the proposed leasing of the asset would constitute a commercial lease in the true sense of the word. If so, the property must be reclassified as Investment Property and be disclosed in the Fixed Asset Register and Annual Financial Statements in accordance with GRAP 16.

If, however, the intention of this rental agreement is to provide an enhanced community service, the property must be classified as PPE and be disclosed in the Fixed Asset Register and Annual Financial Statements in accordance with GRAP 17.

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Property Administration's reply to the abovementioned comment:

The property is currently classified as Property Plant and Equipment ("PPE") in the Fixed Asset Register. The property will remain under the classification as PPE as the aim of the lease agreement is to enhance a community service rather than to earn income. It is thus not seen as a commercial lease. The subject lease will be on an extremely small portion of Erf 1253 Hermanus, the latter being commonage of which the majority use lends it to the classification as Property Plant and Equipment.

**10. Annexures**

Annexure A: Locality Plan

**RECOMMENDATION:**

1. that the lease of Municipal Property, being a portion of Erf 1253 Hermanus ( $\pm 2,25\text{m}^2$  in extent) to Breakthrough Adventures NPS t/a Whale Coast 96 FM for the purposes of maintaining the existing mast and equipment at the rental amount of R477.63 (FOUR HUNDRED AND SEVENTY SEVEN RAND AND SIXTY THREE CENTS) (VAT excluded) per month for a period of 5 (FIVE) years as from 1 January 2016 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 annually on the 1<sup>st</sup> of July in accordance with the tariffs as determined and approved in the Annual Budget, with the first escalation on 1 July 2016.

<b>RESPONSIBLE OFFICIAL :</b>	<b>M ERASMUS</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>31 OCTOBER 2016</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>14 OCTOBER 2016</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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**7/2/3/1**

**M Erasmus**

**(028) 316-3724**

**Hermanus Administration**

**5 August 2016**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
26 SEPTEMBER 2016, WHICH COMMITTEE SUPPORTED THE  
RECOMMENDATION**

**RESPONSIBLE OFFICIAL :**

**M ERASMUS**

**TARGET DATE FOR IMPLEMENTATION :**

**31 OCTOBER 2016**

**TARGET DATE TO INFORM APPLICANT :**

**14 OCTOBER 2016**

**TARGET DATE TO INFORM OBJECTOR :**

**N/A**

