

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

**2.
ERF 185 ZWELIHLE (43 NAMA STREET, ZWELIHLE): RENEWAL OF LEASE OF
MUNICIPAL PROPERTY TO THE PARISH OF ST. PETER THE FISHERMAN**

7/2/3/1

A Le Roux

Manager: Property Administration

6 August 2020

(028) 316 - 3724

1. Executive Summary

To obtain approval to enter into a further lease agreement with The Parish of St. Peter the Fisherman for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, being Erf 185 Zwelihle (742m² in extent), situated at 43 Nama Street, Zwelihle, for the purpose of managing the Anglican Church of Southern Africa. See the locality plan attached hereto marked Annexure "A".

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

Executive Mayor

5. Legal Requirements

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

The Parish of St. Peter the Fisherman (hereinafter referred to as "the Applicant") has been using Erf 185 Zwelihle since 1966 for the purpose of managing the Anglican Church of Southern Africa. The Municipality entered

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into a lease agreement with the church in 1966 and the church building was completed in 1976. The current lease agreement is for a period of 9 (NINE) years and 11 (ELEVEN) months, which will expire on 30 September 2020.

Erf 185 Zwelihle has been used by the Applicant for many years without any problems or complaints from the public. The municipal account is paid up to date.

The Applicant delivers a service to the community of Zwelihle and has proven its commitment to the community.

Evaluation

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy will apply:

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

As the application for renewal was received before the expiry of the last agreement there is no need for a formal application form to be completed and no application fee is payable.

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

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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 Applicant is a well-established church organization who delivers a service to the community with no intent to profit from the services and as the Applicant has invested a lot of money in developing the property, it is recommended that the property be leased directly to them 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 further lease of Erf 185 Zwelihle to the Applicant, subject to a public participation process being followed and further subject to the approval from the Executive Mayor.

The proposed lease was advertised in The Village News on 31 July 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 community organizations.

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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 Applicant will be liable for the payment of 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.”

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.

B: Advertisement/Notification

An advertisement for the lease of Erf 185 Zwelihle (742m² in extent) was placed in The Village News on 31 July 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 The Parish of St. Peter the Fisherman be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 October 2020 at a rental amount of R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENT) (VAT excluded) per month as approved in the Annual Budget for the 2020/2021 financial year.

7. Financial Implications

The Municipality stands to gain rental in the amount of R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENT) (VAT excluded) per month where after the lease 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 Applicant.

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8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

“The Property is Zoned Community Zone I. There is no objection to the renewal of the lease.”

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

“As this is an income generating proposal involving an institution who delivers a 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 Map

RECOMMENDATION:

1. that the lease of municipal property, being Erf 185 Zwelihle (742m² in extent), to The Parish of St Peter the Fisherman for the purpose of managing the Anglican Church of Southern Africa at the rental amount of R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENT) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) as from 1 October 2020 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 2021.

RESPONSIBLE OFFICIAL:

N LIEBENBERG

TARGET DATE FOR IMPLEMENTATION:

11 OCTOBER 2020

TARGET DATE TO INFORM APPLICANT:

7 OCTOBER 2020

TARGET DATE TO INFORM OBJECTOR:

N/A

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A Le Roux

Manager: Property Administration

6 August 2020

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 SEPTEMBER 2020, WHICH COMMITTEE SUPPORTED THE
RECOMMENDATION**

RESPONSIBLE OFFICIAL:

N LIEBENBERG

TARGET DATE FOR IMPLEMENTATION:

11 OCTOBER 2020

TARGET DATE TO INFORM APPLICANT:

7 OCTOBER 2020

TARGET DATE TO INFORM OBJECTOR:

N/A

ANNEXURE A

