

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
16 February 2016  
(Also the agenda for the Mayoral Committee Meeting : 24 February 2016)**

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9.

**HERMANUS, A PORTION OF ERF 2353: DEVIATION FROM PARAGRAPHS 4, 24, 36, 40 AND 41 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 TO WAIVE THE APPLICATION FEE, THE COSTS PERTAINING TO THE APPLICATION PROCESS, THE RENTAL PAYABLE AND GENERAL CONDITIONS**

7/2/3/1

M Erasmus & A Kotze  
18 January 2016

(028) 316 3724

Hermanus Administration

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### **1. Executive Summary**

To obtain approval for the deviation from conditions contained in paragraphs 4, 24 and 36 of the Administration of Immovable Property Policy of 2015 in order to:

- (a) waive the payment of the required application fee payable by the applicant upon submission of an application to lease (paragraph 4);
- (b) waive the rental payable in lieu of services that will be rendered and the investment in infrastructure on the premises (paragraph 24);
- (c) waive the Municipality's claim for payment of all or any portion of cost pertaining to the application, e.g. advertisements, etc (paragraph 36);
- (d) waive the condition that any rental charged will escalate as it is envisaged that no rental be charged (paragraph 40); and
- (e) waive the Municipality's claim for the payment of rates and taxes and services charges (paragraph 41).

### **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  
The encouragement of structured community participation in the matters of the municipality

### **4. Delegated Authority**

None

### **5. Legal Requirements**

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

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- Local Government: Municipal Finance Management Act, 2003 Municipal Asset Transfer Regulations, 2008 (No R. 878 of 2008).

## **6. Background/Discussion/Evaluation/Conclusion**

The Overstrand Municipality entered into an Agreement of intent to enter into a Joint Venture agreement with Hermanus Public Protection in terms whereof the latter will render a security service, which include/could include an alarm monitoring service, security camera monitoring, an armed response division, a guarding division and related guarding/protection services to individuals, businesses and other entities of the "Greater Hermanus Improvement District". Besides this service to be rendered by the Hermanus Public Protection

Hermanus Public Protection is a registered Section 21 Company and applied to use a portion of Municipal Property for the establishment and management of a control room and space on the mast situated on Erf 243 Hermanus for a repeater station should the latter become necessary in the future. A Section 21 Company is a company registered to provide services and do not intend to make, or to be judged by, the profits that it makes. It is seen as an "Association Not For Gain".

Office space in the Fire Brigade Service Building on a portion of Erf 2353 in the Industrial area was identified as the potential control room and locker storeroom. Hermanus Public Protection intends to convert, at own cost and without future compensation, the said portion of the building in order for it to be suitable for the use envisaged in the Joint Venture Agreement.

The Municipal Manager has, in terms of his delegation and in accordance with the Administration of Immovable Property Policy, approved in principle the lease of a portion of the building to Hermanus Public Protection for a period of 3 (THREE) years. A three year lease agreement will be entered into with the Hermanus Public Protection during which time the public participation process will be followed in order to gain the approval for a longer term agreement. This decision was taken to enable them to commence with the project.

The request for the necessary deviation is in terms of the following conditions of the Administration of Immovable Property Policy of the Overstrand Municipality:

- (1) 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**

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**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 Municipality and the community of the Overstrand stands to gain advantage from the services that the Hermanus Public Protection will provide it is recommended that the application fee be waived and the application be processed.

- (2) 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).”**

As the Municipality and the community of the Overstrand stand to gain advantage from the services that the Hermanus Public Protection will provide and the Applicant is going to invest in infrastructure on municipal property, it is recommended that no rental amount be charged for the use of Municipal Property for a control room.

In this case, as we are dealing with a registered Section 21 Company, it will not be necessary to obtain a valuation. In terms of Paragraph 27 of the approved Administration of Immovable Property Policy, the Accounting Officer has the delegation to determine the rental.

The estimated value of the infrastructure to be invested by the Applicant is approximately R1,400,000.00 (ONE MILLION FOUR HUNDRED THOUSAND RAND). In relation to the estimated rental amount of R18,631.00 (Vat excluded) which the Municipality will lose if no rental is charged, the community value as to the services to be rendered to both the municipality (insofar and not limited to the 24hour security at the municipal building and extra officers) and the community (safety and security) can however not be quantified, but must be taken into consideration. These services rendered by the Applicant from the subject municipal property will overall compliment the function of Directorate: Protection Services (specifically the Traffic and Law Enforcement Departments) in the delivery of their services to the community and will be overall in the best interests of the community.

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- (3) Paragraph 27: “In the case of a direct lease of immovable property to registered social care organisations/institutions, sports/public facilities or registered non profit organisations, the rental shall be determined by the Accounting Officer taking into consideration the community value of the lease.”**

The Hermanus Public Protection is a registered Section 21 Company. The current rental charged for social care organisations/institutions, sports/public facilities or registered non profit organisations is an amount of R120.20 (Vat excluded) per month. This amounts to an estimated total amount of R18,631.00 (Vat excluded) (excluding the annual CPI increases) for the combined period of 12 years and 11 months. The latter being the initial 3 years and subsequent 9 years and 11 months.

- (4) 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.”**

It is recommended that all the costs pertaining to the transaction be waived and be borne by the Municipality. The cost to be borne by the Municipality is for the advertisement that must be placed to comply with the policy as this will be a long term contract.

- (5) Paragraph 40: “Rental, except where it is decided otherwise by the Municipality, shall escalate on the 1st of July every year, by a percentage fixed in accordance with the prevailing consumer price index (all items).”**

As the request is not to charge rental, it will not be possible to adhere to this condition.

- (6) Paragraph 41: “The lessee shall, as a rule, be liable for the payment of rates, taxes and service charges in respect of the leased property. In the case of leases to certain social care users and sports facilities at rentals lower than market value the Municipality may consider granting a rebate on rates in accordance with the Rates Policy of the Municipality.”**

As only a portion of a building will be leased to the Hermanus Public Protection and taking into consideration the services to be rendered by them, it is requested that no rates, taxes and service charges be levied.

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It is however recommended that the current lease agreement be amended to the effect that the Applicant be held liable for payment of any excessive consumption of municipal services (e.g. water and electricity) by the Applicant over and above that which can be regarded as reasonable consumption for the attended purpose of the lease.

### **Conclusion**

It is proposed that the deviation from paragraphs 4, 24, 36, 40 and 41 of the Administration of Immovable Property Policy be approved. This is to waive the application fee payable, to commence with the application process which includes a public participation process at the cost of the Municipality and to waive the compensation payable in lieu of the services that will be rendered to the Municipality and the Overstrand community. These recommendations are due to the envisaged investment in infrastructure and goods by the Hermanus Public Protection on Municipal Property and also due to the community interest in this regard, the nature of the services to be rendered to both the municipality and the community and the investment to be made.

### **7. Financial Implications**

#### Source of Funding eg. Capital/Operating Budget Provisions

Unique Key	:	20150212024032
Cost Account	:	12200203740000
Vote/Work Code Description	:	Operational Costs: Corporate & Municipal Activities
Budget Provision 20415/2016	:	R90,000.00
Spent to Date/Committed	:	R 14,607.37
Balance Available	:	R 75,392.63
Funds Required *This report)	:	±R 5,000.00

The advertisement costs for the public participation process will be paid from the above.

The Municipality will not receive the applicable application fee, which is currently R482.46 (Vat excluded), for registered social care organisations.

The Municipality will furthermore not receive a minimum total rental amount of R18,631.00 (Vat excluded) for the full period of the lease. However, the Municipality will gain the use of infrastructure to the value of approximately R1,400,000.00.

### **8. Staff Implications**

None

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

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that the deviation from paragraphs 4, 24, 36, 40 and 41 of the Administration of Immovable Property Policy of 2015 **be approved** in light of the envisaged investment in infrastructure and goods by Hermanus Public Protection on Municipal property, the community interest in this regard and the nature of the services to be rendered to the community.

**RESPONSIBLE OFFICIAL :**

**M ERASMUS**

**TARGET DATE FOR IMPLEMENTATION :**

**9 APRIL 2016**

**TARGET DATE TO INFORM APPLICANT :**

**9 MARCH 2016**

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18 January 2016**

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**Hermanus Administration**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 16 FEBRUARY 2016, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

that the deviation from paragraphs 4, 24, 36, 40 and 41 of the Administration of Immovable Property Policy of 2015 **be approved** in light of the envisaged investment in infrastructure and goods by Hermanus Public Protection on Municipal property, the community interest in this regard and the nature of the services to be rendered to the community.

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