

**AGENDA of the  
Portfolio Committee: Investment and Infrastructure  
4 October 2023  
(Also the agenda for the Mayoral Committee Meeting: 11 October 2023)**

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4.

**ERF 196 ZWELIHLE (SITUATED AT 29 KEPKEY STREET, ZWELIHLE): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO UNITING REFORMED CHURCH IN SOUTH AFRICA**

**A Le Roux  
4 September 2023**

**Manager: Property Administration**

**(028) 316 - 5623**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Uniting Reformed Church in S.A (hereinafter referred to as "U.R.C") for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, Erf 196 Zwelihle (471m<sup>2</sup> in extent) situated at 29 Kepkey Street, Zwelihle (hereinafter referred to as "the Property"), for church purposes. 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**

U.R.C has been utilizing Erf 196, Zwelihle since July 1999. A written lease agreement with Overstrand Municipality could however not be located in the records of the Municipality.

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In order to rectify this matter, the church was advised that a lease agreement needs to be entered into and a lease agreement was entered into with U.R.C for a period of 9 (NINE) years and 11 (ELEVEN) months, which commenced on 1 July 2013 and expired on 31 May 2023.

U.R.C applied to renew the lease agreement for a further 9 (NINE) years and 11 (ELEVEN) months. The process for renewal was commenced with timeously, but due to a delay on U.R.C's side, the renewal process could not be completed before the last agreement expired.

On 17 April 2023, the delegated authority approved in-principle the renewal of the lease for a further period, subject to the public participation being followed and the final approval of the Executive Mayor.

No complaints were received from the community during the previous lease periods. The municipal account is now paid up to date.

### **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**

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*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 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 Property is not classified as a business site and the leasing of the Property to U.R.C is in the interest of the community, and they have been leasing it successfully since 1999 and due to the nature of the lease and benefit to the community it can be leased directly to U.R.C without following a competitive process.

Although the proposed lease is for a long-term period the rental that will be received will not be more than R10 million. The current rental is set at a tariff for the lease of municipal property for registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations, being R167.84 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-FOUR CENTS) (VAT excluded) for the month of June 2023, and the amount of R178.26 (ONE HUNDRED AND SEVENTY-SIX RAND AND TWENTY-SIX CENTS) (VAT excluded) per month from 1 July 2023 which rental will escalate annually in terms of the approved tariff in the financial budget of the Municipality.

**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.”**

U.R.C applied for the renewal of the lease agreement which was approved in principle by the Municipal Manager on 17 April 2023 for a period of 9 (NINE) years and 11 (ELEVEN) months, subject to a public

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participation process being followed and further subject to the approval by the Executive Mayor as delegated authority of the long-term lease.

The Executive Mayor's approval is hereby sought, and the proposed lease was advertised in The Hermanus Times on 23 August 2023 for a 30 (THIRTY) day comment/objection period. No objections have been received.

**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.”***

The tariff for the lease of municipal property for registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations will be levied. As the agreement will be backdated from 1 June 2023 the lease will commence on a monthly rental amount of R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-THREE CENTS) (VAT excluded) per month and from 1 July 2023 an amount of R178.26 (ONE HUNDRED AND SEVENTY-SIX RAND AND TWENTY-SIX CENTS) (VAT excluded) per month. The agreement will stipulate that the rental amount will escalate annually in accordance with the tariff as approved in the Annual Budget.

**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.”***

U.R.C 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 U.R.C.**

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B: Advertisement/Notification

An advertisement for the lease of the Property to U.R.C was published in The Hermanus Times on 23 August 2023 for a 30 (THIRTY) day objection/comment period. No objection/comment was received.

**Conclusion**

With reference to the above discussion, it is recommended that the lease of the Property to U.R.C be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 June 2023 at a rental amount of R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-THREE CENTS) (VAT excluded) per month for the 2022/2023 financial year, and the amount of R178.26 (ONE HUNDRED AND SEVENTY-SIX RAND AND TWENTYSIX CENTS) (VAT excluded) per month from 1 July 2023 for the 2023/2024 financial year.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-THREE CENTS) (VAT excluded) per month for the month of June 2023, and the amount of R178.26 (ONE HUNDRED AND SEVENTY-SIX RAND AND TWENTY-SIX CENTS) (VAT excluded) per month from 1 July 2023 where after the rental amount will escalate annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, next escalation to be 1 July 2024. All expenses pertaining to the proposed lease will be borne by U.R.C.

**8. Staff Implications**

None

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

**Town Planner - Mr H Boshoff**

*“The property rights are in place, the renewal of the lease is supported.”*

**Senior Manager: Expenditure and Assets - Mr J Vorster**

*“As this is a revenue generating proposal with no intention to dispose of the asset, there is no objection.”*

**10. Annexures**

Annexure A1 & 2: Locality Plan

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**RECOMMENDATION:**

1. that the lease of municipal property, being Erf 196 Zwelihle, (471m<sup>2</sup> in extent), to Uniting Reformed Church in S.A, for church purposes at a rental amount of R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-THREE CENTS) (VAT excluded) for June 2023 and a rental amount of R178.26 (ONE HUNDRED AND SEVENTY-SIX RAND AND TWENTY-SIX CENTS) (VAT excluded) per month from 1 July 2023 for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 June 2023 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 2024.

<b>RESPONSIBLE OFFICIAL:</b>	<b>R OCTOBER</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>8 NOVEMBER 2023</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>15 NOVEMBER 2023</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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Portfolio Committee : Investment & Infrastructure  
8 November 2023  
(Also the Agenda for the Mayoral Committee Meeting : 15 November 2023)**

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**4.  
ERF 196 ZWELIHLE (SITUATED AT 29 KEPKEY STREET, ZWELIHLE): RENEWAL  
OF LEASE OF MUNICIPAL PROPERTY TO UNITING REFORMED CHURCH IN  
SOUTH AFRICA**

**A Le Roux  
4 September 2023**

**Manager: Property Administration**

**(028) 316 - 5623**

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE  
PORTFOLIO COMMITTEE ON 8 NOVEMBER 2023, WHICH COMMITTEE  
SUPPORTED THE RECOMMENDATION**

**RESPONSIBLE OFFICIAL:**

**R OCTOBER**

**TARGET DATE FOR IMPLEMENTATION:**

**13 DECEMBER 2023**

**TARGET DATE TO INFORM APPLICANT:**

**13 DECEMBER 2023**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**



