

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

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5.

**A PORTION OF ERF 76 ZWELIHLE: RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO NOMZAMO EDUCARE CENTRE**

**A Le Roux  
5 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 Nomzamo Educare Centre, hereinafter referred to as “Nomzamo”, for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, being a portion of Erf 76 Zwelihle ( $\pm 1,028.3\text{m}^2$  in extent) situated at 28 Petros Ntlapo Street, Zwelihle, hereinafter referred to as “the Property”, for the purpose of operating the Nomzamo Educare Centre and related activities. 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

**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**

Nomzamo has been using the Property for several years and has developed the Property during the years at own cost. Although the agreement preceding 2010 could not be found, the Property has supposedly been used for close to 30 years. The previous agreement was entered into with The Treasurer Welfare Society, who was administratively managing the Nomzamo Educare

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Centre. Since then, Nomzamo registered as an NPO and their registered name, Nomzamo Educare Centre, was entered into the NPO register on 5 July 2017. As Nomzamo is now a registered NPO it was decided by their management that any further lease agreements entered into with the Municipality for the lease of the Property be in the name of Nomzamo Educare Centre and not The Treasurer Welfare Society.

The last agreement was for a period of 3 (THREE) years which commenced on 1 January 2020 and expired on 31 December 2022.

Nomzamo applied for the renewal in time and the renewal process was also commenced with by the Property Administration Department in time. Unfortunately, due to new committee members that was appointed the renewal process could not be proceeded with until the new committee members were settled and fully informed about the renewal process.

The municipal account of Nomzamo is paid up to date and no complaints during the last lease period was received from the community.

Should the renewal of the lease agreement be approved the renewal will be backdated to commence the day after expiry of the previous agreement.

### **Evaluation**

A. Administration of Immoveable Property Policy of the Overstrand Municipality

The following conditions of said policy 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.

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**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 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”.**

The Property is not classified as a business site and Nomzamo (a registered non-profit organisation) has been using the Property successfully for the last approximately 30 years and has proven their commitment and sustainability. Taking into consideration the nature of the lease and benefit to the community, the Property can be leased directly to Nomzamo 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) per month, 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.”**

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**Paragraph 22: “The in principle approval of the Accounting Officer must be obtained with any request for the renewal of the lease agreement.”**

Nomzamo applied for the renewal of the lease agreement which was approved in principle by the Municipal Manager on 17 October 2022 for a period of 9 (NINE) years and 11 (ELEVEN) months, subject to a public 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 12 April 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 January 2023 the lease will commence at a monthly rental amount of R167.84 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-FOUR CENTS) (VAT excluded) per month which was the tariff for the 2022/2023 financial year. The rental from 1 July 2023 will be R178.26 (ONE HUNDRED AND SEVENTY-EIGHT 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.”**

Nomzamo 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 cost.

**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.”**

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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.**

**B. Advertisement/Notification**

An advertisement for the lease of the Property to Nomzamo was published in The Hermanus Times on 12 April 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 Nomzamo be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 January 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.

**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 2022/2023 financial year, and the amount of R178.26 (ONE HUNDRED AND SEVENTY EIGHT RAND AND TWENTY SIX CENTS) (VAT excluded) per month for the 2023/2024 financial year 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. All expenses pertaining to the proposed lease will be borne by Nomzamo.

**8. Staff Implications**

None

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

**Town Planner - Mr H Boshoff**

*“The property rights are in place and therefore the extension of the lease is supported from town planning point of view.”*

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**Manager: Social Development - Mr G Smit**

*“Nomzamo Educare has been in operation for many years and is well established. The facility is registered in terms of the Children’s Act and provide a good service to the children in their area. The department supports the application for the renewal of the lease.”*

**Senior Manager: Expenditure & 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 & A2:           Locality Plan

**RECOMMENDATION:**

1. that the lease of municipal property, being a portion of Erf 76 Zwelihle ( $\pm 1,028.3\text{m}^2$  in extent), to Nomzamo Educare Centre for the purpose of operating the Nomzamo Educare Centre and related activities at the rental amount of R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-THREE CENTS) (VAT excluded) per month from 1 January 2023 and a rental amount of R178.26 (ONE HUNDRED AND SEVENTY EIGHT 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 January 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>





