

**AGENDA of the
Portfolio Committee : Planning and Development
19 August 2025
(Also the agenda for the Mayoral Committee Meeting : 26 August 2025)**

**5.
A PORTION OF REMAINDER ERF 249 HERMANUS: RENEWAL OF LEASE OF
MUNICIPAL PROPERTY TO OVERBERG PROPERTIES (PTY) LTD**

**A Le Roux
30 June 2025**

Divisional Manager: Property Management

(028) 316 5623

1. Executive Summary

To obtain approval to enter into a further lease agreement with Overberg Properties (Pty) Ltd, hereafter referred to as “the Lessee”, in respect of a portion of Remainder Erf 249 Hermanus ($\pm 2,25\text{m}^2$ in extent) situated in High Street, Northcliff, Hermanus (road reserve), hereafter referred to as “the Property” for a period of 9 (NINE) years and 11 (ELEVEN) months for the placing tables and chairs for restaurant outdoor seating purposes.

The locality maps are attached hereto as Annexures “A1” & A2”.

2. Service Delivery and Budget Implementation Plan - IGNITE

Planning and Development
Property Management

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)
- Municipal Asset Transfer Regulations (R. 878 of 2008)

6. Background/Discussion/Evaluation/Conclusion

Background/ Discussion

Vincenzo Romano, the previous owner of Java Rock restaurant, who was the initial lessee, had a lease agreement with the Municipality for the lease of the Property adjoining his restaurant for the placement of tables and chairs for outdoor seating purposes since 2015. Mr Romano sold his property, being Erf 813 Hermanus adjacent to the Property, to the Lessee in May 2023 and submitted a request for the lease agreement to be assigned to the Lessee for the remainder of the lease period.

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The Lessee entered into a cession and assignment agreement with the Municipality and Mr Romano for the remainder of the lease period to utilise the Property for placing tables and chairs for restaurant outdoor seating purposes.

The lease agreement, which was for a period of 9 (NINE) years and 11 (ELEVEN) months, expired on 28 February 2025. The Lessee applied for the renewal in time and the renewal process was also commenced with by the Property Management Division in time. Unfortunately, due to a holdup on Lessee's side the application process could not be finalised before the expiration of the previous agreement. The Lessee was abroad and could not provide the Property Management Division with the necessary documentation for the renewal. As the Lessee is still in occupation of the Property the lease amount is still levied monthly on their municipal account and paid by them.

A lease agreement has in the meantime been entered into (for administrative purposes) subject to a condition that the Executive Mayor approves the long-term lease at a Mayoral Committee Meeting. The renewal agreement commences on the day after expiry of the last agreement.

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

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”.

The Property Management Division will be recommending a direct lease on the reasons provided in the report.

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”.

18.1 Although the proposed lease is for a long-term period, the rental that will be received will not be in excess of R10 million (TEN MILLION RAND) as the rental charged will be in accordance with the tariffs approved in the Annual Budget for lease of municipal land for outdoor seating adjoining a restaurant for the specific financial year. The commencement rental amount is equal to the tariff for the 2024/2025 financial year, being R38.26/m² (THIRTY-EIGHT RAND AND TWENTY-SIX CENTS PER SQUARE METRE) (VAT excluded) per month which is equal to R86.09 (EIGHTY-SIX RAND AND NINE CENTS) (VAT excluded) per month. The rental escalated on 1 July 2025 and currently equals a rental amount of R91.96 (NINETY-ONE RAND AND NINETY-SIX CENTS) (VAT excluded) per month which rental will escalate annually in terms of the approved tariffs as stipulated in the Annual budget as approved by Council.

18.2 The Property is not classified as a business property, forms part of a road reserve, no other trading is allowed on the Property, and no other party can make use of it except the owner of the adjoining property, which in this case is the Lessee. The size and locality of the Property makes it impossible for any development or use on the Property by any other party.

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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.”**

a) The Lessee applied for the renewal of the lease agreement which was approved in principle by the Municipal Manager on 23 April 2025 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.

b) The proposed lease was advertised in the Village News on 13 June 2025 for a 30 (THIRTY) day comment/objection period and no objections have been received.

c) The Executive Mayor’s approval is hereby sought.

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 outdoor seating adjoining a restaurant was R38.26/m² (THIRTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per square metre per month for the 2024/2025 financial year. The lease area is ±2,25m² (TWO COMMA TWO FIVE) square metres in extent and the commencement rental calculates to an amount of R86.09 (EIGHTY-SIX RAND AND NINE CENTS) (VAT excluded) per month. The rental escalated on 1 July 2025 and currently equals a rental amount of R91.96 (NINETY-ONE RAND AND NINETY-SIX CENTS) (VAT excluded) per month which rental will escalate annually on 1 July in terms of the approved tariffs as stipulated in the Annual budget as approved by Council.

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.”

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The Lessee 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 Management Division 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 was included in the lease agreement.

B. Advertisement/Notification

An advertisement for the lease of a portion of Remainder Erf 249 Hermanus was published in the Village News on 13 June 2025 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 the Lessee be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 March 2025 at a rental amount of R86.09 (EIGHTY-SIX RAND AND NINE CENTS) (VAT excluded) and a rental amount of R91.96 (NINETY-ONE RAND AND NINETY-SIX CENTS) (VAT excluded) per month for the 2025/2026 financial year.

7. Financial Implications

The Municipality stands to gain rental in the amount of R86.09 (EIGHTY-SIX RAND AND NINE CENTS) (VAT excluded) per month from 1 March 2025 and rental in the amount of R91.96 (NINETY-ONE RAND AND NINETY-SIX CENTS) (VAT excluded) per month from 1 July 2025, where after the rental amount will escalate annually in terms of the approved tariffs as stipulated in the Annual budget as approved by Council. All expenses pertaining to the proposed lease will be borne by the Lessee.

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

Senior Town Planner: Ms Hanneen van der Stoep

“No objection as long as pedestrians are accommodated.”

Building Control Officer: Mr. Gerrit Coetzee

“No objection from Building Control. I think that the size of $\pm 1m^2$ may not be very accurate.”

The Property Management Division conducted an inspection at the Property to determine the exact size of the lease area, and the measurement is 1.5m x 1.5m which equates to $\pm 2.25m^2$, thus the size of the lease area has been adjusted to $\pm 2.25m^2$.

Divisional Manager: Expenditure, Fleet & Assets Management: Mr Johannes Vorster

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

10. Annexures

Annexures A1 & A2: Locality maps

RECOMMENDATION:

1. that the lease of municipal property, being a portion of Remainder Erf 249 Hermanus ($\pm 2,25m^2$ in extent), to Overberg Properties (Pty) Ltd for the purposes of placing tables and chairs for outdoor restaurant seating purposes at a rental amount of R38.26 (THIRTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per square metre per month for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 March 2025 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 on 1 July 2025 to a rental amount of R40.87 (FORTY RAND AND EIGHTY-SEVEN CENTS) (VAT excluded) per square metre per month and annually thereafter on 1 July in terms of the approved tariffs as stipulated in the Annual budget as approved by Council.

RESPONSIBLE OFFICIAL :

R OCTOBER

TARGET DATE FOR IMPLEMENTATION :

10 SEPTEMBER 2025

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TARGET DATE TO INFORM APPLICANT : 10 SEPTEMBER 2025

TARGET DATE TO INFORM OBJECTOR : N/A



