

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
20 February 2018  
(Also the agenda for the Mayoral Committee Meeting : 28 February 2018)**

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**3.  
HERMANUS: A PORTION OF ERF 786: LEASE OF MUNICIPAL PROPERTY TO  
HERMANUS ANIMAL WELFARE SOCIETY**

**7/2/3/1**

**W Murtz**

**(028) 316-3724**

**Hermanus Administration**

**14 December 2017**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement (for a period 9 (NINE) years and 11 (ELEVEN) months from 1 November 2017) with the Hermanus Animal Welfare Society, in respect of municipal property, being a portion of the building on Erf 786 Hermanus ( $\pm 100\text{m}^2$  in extent) situated in Mitchell Street, Hermanus, for the management of a shop, office and related purposes.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning;  
Property Administration

**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)

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

**Background**

Hermanus Animal Welfare Society, a registered non-profit organisation, has been leasing the subject portion of the building on Erf 786 Hermanus from the Municipality since 2004 for the purpose of managing the Hermanus Animal Welfare Society shop and office. The most recent agreement expired on 31 October 2017.

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The locality of the proposed lease area is indicated on a locality plan attached per "Annexure A".

### **Discussion**

Hermanus Animal Welfare Society applied to lease the subject portion of the property for a further period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of managing the Hermanus Animal Welfare Society office, shop and related purposes.

Hermanus Animal Welfare Society delivers an essential service to the community of Hermanus through the various services they offer. The office space is a very important necessity for ensuring that the management of Hermanus Animal Welfare Society runs smoothly. The shop on the said property is crucial to Hermanus Animal Welfare Society as they rely on the income generated from the shop in order to be able to provide the service to the community.

Hermanus Animal Welfare Society's municipal account is up to date and no complaints regarding the use of the property for the office and shop have been received during their previous period of lease.

It can be confirmed that Hermanus Animal Welfare Society applied for the renewal in time and that the renewal process was also commenced with by the Property Administration Department in time. Unfortunately due to unforeseen circumstances the lease agreement could not be entered into before the expiration of the previous agreement. As the Hermanus Animal Welfare Society is still in occupation of the property, the lease amount is still levied monthly on their municipal account and paid by them. Should the renewal of the lease agreement be approved the renewal date will be backdated to commence the day after expiry of the said previous agreement.

### **Evaluation**

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

**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."**

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As the leasing of the said property to Hermanus Animal Welfare Society (as registered non-profit organisation) is in the interest of the community, i.e. not a commercial lease, and they have been leasing it successfully for several years. It is recommended that the property be leased directly to Hermanus Animal Welfare Society without following a competitive process.

**Paragraph 20.1: *“The Municipality may grant a long term lease of municipal immovable property with a value 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 municipal council has approved that the right may be granted.”***

The Accounting Officer (Municipal Manager) approved in principle the lease of the subject portion of Erf 786 Hermanus to Hermanus Animal Welfare Society for the management of a shop, office and related purposes on condition that the public participation process is followed. The proposed lease was advertised in The Village News on 31 October 2017 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.

**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.”***

Hermanus Animal Welfare Society will pay 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***

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***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 a portion of Erf 786 Hermanus ( $\pm 100\text{m}^2$  in extent) was placed in The Village News on 31 October 2017 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 Hermanus Animal Welfare Society be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 November 2017 at a total rental amount of R131.58 (ONE HUNDRED AND THIRTY ONE RAND AND FIFTY EIGHT CENTS) (VAT excluded) per month.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R131.58 (ONE HUNDRED AND THIRTY ONE RAND AND FIFTY EIGHT CENTS) (VAT excluded) per month where after the lease amount will escalate every year on the 1<sup>st</sup> of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2018. All expenses pertaining to the proposed lease will be borne by Hermanus Animal Welfare Society.

**8. Staff Implications**

None

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

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

As this is an income generating proposal involving an institution who delivers an essential service to the community of Hermanus, concluded in terms of the conditions set out in the Administration of Immovable Property Policy of the

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Municipality and with no intension to dispose of the asset, there is no objection to the report.

**10. Annexures**

Annexure A: Locality Plan

**RECOMMENDATION:**

1. that the lease of municipal property, being a portion of Erf 786 Hermanus ( $\pm 100\text{m}^2$  in extent) to Hermanus Animal Welfare Society South Africa for the purposes of managing a shop, office and related purposes at the rental amount of R131.58 (ONE HUNDRED AND THIRTY ONE RAND AND FIFTY EIGHT CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 November 2017 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 1<sup>st</sup> of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2018.

<b>RESPONSIBLE OFFICIAL :</b>	<b>W MURTZ</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>30 APRIL 2018</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>14 MARCH 2018</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
20 FEBRUARY 2018, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

**RESPONSIBLE OFFICIAL :**

**W MURTZ**

**TARGET DATE FOR IMPLEMENTATION :**

**30 APRIL 2018**

**TARGET DATE TO INFORM APPLICANT :**

**14 MARCH 2018**

**TARGET DATE TO INFORM OBJECTOR :**

**N/A**

