COUNCIL OF THE CITY OF CAPE TOWN 26 APRIL 2017

ITEM NUMBER: C 12/04/17 J88

RECOMMENDATION FROM THE EXECUTIVE MAYOR: 18 APRIL 2017

MC 25/04/17 APPLICATION FOR THE DETERMINATION OF A SPECIAL RATING AREA (SRA) KNOWN AS THE PENZANCE ESTATE SPECIAL RATING AREA (PESRA)

It is **RECOMMENDED** that:

(a) the City of Cape Town determine the area as reflected in the body of the report on the agenda as a special rating area (SRA), known as the Penzance Estate Special Rating Area (PESRA), in terms of the Special Rating Area By-law, 2012, as amended

(b) the City of Cape Town approve the application submitted by Allison Schwegmann, the registered owner of Erf 730, Penzance, to establish the PESRA in terms of Section 8.1 (a) of the Special Rating Area By-law, 2012, as amended

(c) the City of Cape Town impose the levying of an additional rate on all properties in the PESRA from 1 July 2017 in terms of section 22(1)(b) of the Local Government: Municipal Property Rates Act (MPRA), Act 6 of 2004

(d) a Finance Agreement be concluded between the City of Cape Town and the PESRA Management Committee in terms of Section 12(6) of the Special Rating Area By-law, 2012, as amended.

CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

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REPORT TO : Council **DATE : 2017 -04- 18**

LC/3839

1. ITEM NUMBER MC 25/04/17

2. SUBJECT

APPLICATION FOR THE DETERMINATION OF A SPECIAL RATING AREA (SRA) KNOWN AS THE PENZANCE ESTATE SPECIAL RATING AREA (PESRA)

AANSOEK OM DIE BEPALING VAN 'N SPESIALE-AANSLAGGEBIED (SRA) BEKEND AS DIE PENZANCE ESTATE- SPESIALE-AANSLAGGEBIED (LSRA)

ISICELO SOKUBHENGEZWA KOMMANDLA ONGEERHAFU EZIZODWA (SRA) OWAZIWA NGOKUBA YI-PENZANCE ESTATE SPECIAL RATING AREA (PESRA)

LSU H4923

3. DELEGATED AUTHORITY

In terms of delegation

This report is

☐ Committee name:

☐ The Executive Mayor ito Delegated authority

☐ The Executive Mayor together with the Mayoral Committee (MAYCO)

☑ Council

4. DISCUSSION

Property owners of Penzance Estate in Hout Bay identified the need to take ownership of their area and assist the City to create a friendly environment to live and conduct business within.

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A Steering Committee consisting of property owners from the area was formed to pursue the Special Rating Area (SRA) model which allows property owners to provide additional municipal services to improve and upgrade their area as a City Improvement District. These services will be funded from additional property rates to be collected from the property owners in the area.

The Steering Committee was guided through the establishment process as set out in sections 4 to 7 of the SRA By-law as amended and paragraphs 9 and 10 of the SRA Policy:

Initiation Phase:

An introductory meeting was held with members of the Steering Committee to inform them of the legislative requirements and timeline of the establishment process.

After a formal request was received from the Steering Committee to pursue SRA establishment a data base comprising of all properties was submitted to the Steering Committee for verification which was preceded by an arrears profile which indicated an acceptable payment ratio of 99.4% for the period 1 June 2015 to 31 May 2016.

This is in accordance with the SRA Policy as it reflects the trend of the community in paying their municipal accounts. If the payment ration is low then the community may not have the ability to pay for supplementary services which will jeopordise the impact of the benefits of a SRA as it may not be sustainable and would expose the City to cash flow risks. Furthermore the Steering Committee fund the process to establish at risk and would be setting off an unsound base in expending personal funds and energy in pursuing establishment should the payment ratio be low.

The acceptable payment ratio allowed the Steering Committee to continue with the process and conduct an urban management survey to obtain insight into the current status of the area as perceived by property owners and people using the area in respect of the following focus areas:

- Public safety;
- Cleansing;
- Urban Management; and
- Social environment.

Business Plan Content:

The urban management survey results indicated that residents are most concerned with public safety, state of the roads, street lighting and the general beautification of

the surroundings. These formed the basis for compiling a draft business plan to address the needs of the area.

The proposed Penzance Estate Special Rating Area (PESRA) Business Plan (1 July 2017 - 30 June 2022) consists of a Motivation Report that defines the need and framework required to provide the top-up municipal services, an Implementation Plan proposing relevant action steps to implement the services and the term Budget which reflects the funding required to provide these attached as annexure A.

The draft business plan was reviewed in terms of the SRA legislative requirements, affordability and sustainability and also circulated to all relevant Service Departments requesting them to confirm compliance in terms of the IDP. The following Directorates commented as per annexure B:

- Transport and Urban Development Authority: Integrated Transport Portfolio: Asset Management and Maintenance
- Social Services: Social Development and Early Childhood Development: Centralised Operations, Programmes and PMO

No other comments were forthcoming from any of the other Departments so it is assumed that the Business Plan aligns with the functions of the respective departments with whom they will interact should the application to establish a SRA be successful.

Public Meetings:

The draft Business Plan was presented to the property owners of Penzance Estate at a public meeting held on 20 September 2016 after which the obtaining of support commenced. Notice and minutes of this meeting are attached as annexure C.

Obtaining Support:

As the PESRA is regarded as a residential SRA in term of the SRA legislation, the proposal required at least 60% written support from property owners before an application for establishment could be submitted to the City. The Steering Committee obtained support from 169 properties out of the 256 (66.02%).

Application:

The Steering Committee submitted an application to establish the PESRA as per the application letter dated 30 September 2016 (refer annexure D) that refers to the following:

- The Business Plan (Motivation Report, Implementation Plan and Budget).

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- The written consent or objections of property owners within the proposed SRA who will be liable for paying the additional rate.
- Property database indicating consent or objection to the SRA proposal.
- Affidavit declaring that the required support has been obtained.
- Advertisements and notices of the public meeting.
- Copy of the presentation done at the public meeting, and
- Minutes of the public meeting.

When the application was validated 9 consent forms where referred back to the Steering Committee for remedial action of which 3 were updated and returned to the City. Notwithstanding this the original application remained valid with 160 from 256 (62.50%) properties in support of the establishment (refer annexure E).

Advertising of application:

The application was advertised for comments and objections on 14 October 2016 (annexure F) as required by section 7 of the SRA By-law as amended and paragraph 9.5 of the SRA Policy. Property owners had the opportunity to submit their comments or objections to the establishment of the PESRA to the City until 16 December 2016. This notice also informed all property owners of a further public meeting which was held on 5 December 2016. Minutes of this meeting is attached as annexure G.
All the public meetings were attended by City staff who dealt with technical questions and matters of clarity.

Objections:

A total of six objections were received from property owners. The issues ranged from:

- Inability to pay;
- Questioning the need for the additional services other than public safety;
- Self-interest by Steering Committee to established the SRA;
- Governance issues and dissolution of the SRA: and
- Legality of forcing the significant minority to participate/pay.

Paragraph 9.5.3 of the SRA Policy requires that the Steering Committee engage with objectors to ensure that there is a clear understanding of the SRA proposal and processes that needs to be followed. A summary indicating the properties, ownership, objection date, engagement date, objection points and comments of the Steering Committee is attached as annexure H.

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Consultation meetings were held with five objectors and as per the minutes of the meeting the objectors indicated that they concur with the minutes. One objector changed his objection to support the application. The Steering Committee extended the same invitation to an objector who did not take up the offer to meet.
The following is attached as annexure I:

- objection letters;
- minutes;
- confirmation from the objector that the minute is an accurate record;
- proof of requests to meet: and
- signed support form.

Further to the above, the owner of erf 794 approached the Steering Committee with various issues. Although this was not a formal objection the Steering Committee met with the property owner and discussed all his concerns. The summary of his comments also forms part of annexures H and I.

Penzance Estate Special Rating Area **(PESRA)**		
Total properties	256	100%
Consent required	154	(> &=) 60%
Properties supporting on application	169	66.02%
Less Consent Forms referred back to Steering Committee	-9	
Application declared Valid	160	62.50%
Plus Consent Forms updated by Steering Committee	3	
Plus objector now supporting the SRA	1	
Final Verified Consent	**164**	**64.06%**
Final objections	**5**	**1.95%**

Decision:

As per the urban management survey and objections it is clear that Penzance Estate is a well-developed area with good infrastructure that shows signs of urban decay and the need for intervention to turn this downward spiral of degeneration into a well maintained and looked after area that is conducive to a vibrant and caring community as set out in the proposed PESRA application.

The applicant complied with all the legislative processes and obtained more than the required support of 60% from property owners as required in the SRA By-law as amended and SRA Policy for a residential area.

The SRA legislation provides for the following as raised by the objectors:

- Property owners that qualify for a rates rebate will be exempted from contributing towards the SRA budget;

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- The services proposed in the Business Plan were identified in the urban management survey and presented to the community at two public meetings for discussion;
- A Steering Committee representative of property owners of the area drives the establishment process. Property owners are also allowed the opportunity to become members of the PESRA Non-Profit Company which enables participation.
- The By-law as amended allows for the SRA to be dissolved upon written application signed by the majority of property owners or after prior consultation by the City with the Management Board or Community.

The SRA additional rate will be calculated on the total municipal valuation for all properties within the PESRA area to enable the City to collect the PESRA's first year budget of R 994 536. The City will commence monthly pay over once the following sections in chapter 2 of the SRA By-law as amended are met:

- Section 10: Commencement with the Business Plan;
- Section 11: Establishment Composition, Powers and Duties of the Management Body; and
- Section 12: Finances (this includes the conclusion of a Finance Agreement)

The additional rate for the PESRA will be considered for approval by Council and will be implemented from 1 July 2017.

4.1. Financial implications ☑ None ☐ Opex ☐ Capex

☐ Capex: New Projects

☐ Capex: Existing projects requiring additional funding

☐ Capex: Existing projects with no additional funding requirements

Legal Compliance ☐

4.2. Staff Implications ☐ Yes ☑ No

5. OUTCOMES OF DISCUSSIONS WITH MAYCO MEMBER

Supported

6. RECOMMENDATIONS

Not delegated: for decision by Council:

It is recommended that:

a) The City of Cape Town determine the area as reflected in the body of this report as a special rating area (SRA), known as the Penzance Estate Special Rating Area (PESRA), in terms of the Special Rating Area By-law, 2012 as amended.

b) The City of Cape Town approves the application submitted by Allison Schwegmann, the registered owner of Erf 730, Penzance, to establish the PESRA in terms of section 8.1(a) of the Special Rating Area By-law, 2012 as amended.

c) The City of Cape Town impose the levying of an additional rate on all properties in the PESRA from 1 July 2017 in terms of section 22(1)(b) of the Local Government: Municipal Property Rates Act (MPRA), Act 6 of 2004.

d) A Finance Agreement be concluded between the City of Cape Town and the PESRA Management Committee in terms of section 12(6) of the Special Rating Area By-law, 2012 as amended.

Nie gedelegeer nie: vir besluitneming deur die Raad:

Daar word aanbeveel dat:

a) Die Stad Kaapstad bepaal dat die gebied soos weerspieël in die inhoud van hierdie verslag as 'n spesiale-aanslaggebied (SRA), bekend as die Penzance Estate- spesiale-aanslaggebied (PESRA), verklaar word ingevolge die Verordening op Spesiale-aanslaggebiede, 2012, soos gewysig.

b) Die Stad Kaapstad die aansoek ingedien deur Allison Schwegmann, die geregistreerde eienaar van erf 730, Penzance, om die PESRA te stig kragtens artikel 8.1(a) van die Verordening op Spesiale-aanslaggebiede, 2012, soos gewysig.

c) Die Stad Kaapstad die heffing van 'n bykomende tarief op alle eiendomme in die PESRA vanaf 1 Julie 2017 ingevolge artikel 22(1)(b) van die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting (MPRA), Wet 6 van 2004 plaas.

d) 'n Finansiële ooreenkoms tussen die Stad Kaapstad en die PESRA-bestuurskomitee gesluit word ingevolge artikel 12(6) van die Verordening op Spesiale-aanslaggebiede, 2012, soos gewysig.

Azigunyaziswanga: Isigqibo seseBhunga:

Kundululwe ukuba:

a) ISixeko saseKapa masibhengeze ummandla njengoko ubonakaliswe kumbindi wale ngxelo njengommandla ongeerhafu ezizodwa (SRA), owaziwa njengokuba yi-Penzance Estate Special Rating Area (PESRA), ngokungqinelana noMthetho kaMasipala ongoMmandla weeRhafu ezizodwa wango-2012 njengoko ulungisiwe.

b) b) ISixeko saseKapa masiphumeze isicelo esingeniswe ngu-Allison Schwegmann, umnini obhalisiweyo wesiza-730, esise-Penzance, ukuze kumiselwe i-PESRA, ngokungqinelana necandelo-8.1(a) loMthetho kaMasipala ongoMmandla weeRhafu ezizodwa wango-2012 njengoko ulungisiwe.

c) ISixeko saseKapa masinyanzelise umrhumo olixabiso elongezelelekileyo kuzo zonke iipropati ezikwi-PESRA ukususela ngowo-1 Julayi 2017, ngokungqinelana necandelo-22(1)(b) loMthetho wobuRhulumente boMmandla ongamaXabiso eePropati zikaMasipala (MPRA) ongunomb.6 wangowe-2004.

e) Makuqukunjelwe isivumelwano esingezimali phakathi kweSixeko saseKapa neKomiti yoLawulo ye-PESRA, ngokungqinelana necandelo-12(6) loMthetho kaMasipala ongoMmandla weerhafu ezizodwa wango-2012 njengoko ulungisiwe.

ANNEXURES

Annexure A - Penzance Estate Special Rating Area (PESRA) Business Plan

Annexure B - Directorates supported/comments

Annexure C - Public Meeting notice and minutes

Annexure D - Application letter

Annexure E - Support for application

Annexure F - Application adverts and notice of second public meeting

Annexure G - Minutes of second public meeting

Annexure H - Summary of objections

Annexure I - Objections, minutes, invitation to meet and consent form

FOR FURTHER DETAILS CONTACT

NAME	Eddie Scott	CONTACT NUMBER	021 400 1872
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DIRECTORATE	Finance	FILE REF NO	
SIGNATURE : DIRECTOR			

EXECUTIVE DIRECTOR

NAME	Kevin Jacoby	COMMENT:
DATE	20/3/2017	
SIGNATURE		

EXECUTIVE DIRECTOR: FINANCE

NAME	Kevin Jacoby	COMMENT:
DATE	20/3/2017	
SIGNATURE		

LEGAL COMPLIANCE

☑ REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.

☐ NON-COMPLIANT

NAME Jean Mar. Holt

DATE 24/03/2017

SIGNATURE

COMMENT:

Certified as legally compliant: JMH.
Based on the contents of the report.