

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
6 February 2023
(Also the agenda for the Mayoral Committee Meeting : 14 February 2023)**

3.

**A PORTION OF ERF 453 FRANSKRAALSTRAND (PUBLIC OPEN SPACE)
(CORNER OF VEAL AND ZIERVOGEL STREET): LEASE OF MUNICIPAL
PROPERTY TO FRANSKRAAL NEIGHBOURHOOD WATCH**

**A Le Roux Senior Manager: Property Administration
6 December 2022**

(028) 316 5623

1. Executive Summary

To obtain approval to enter into a lease agreement with Franskraal Neighbourhood Watch, hereinafter referred to as “the Applicant”, in respect of municipal property, being a portion of Erf 453 Franskraalstrand (public open space) (±600m² in extent) situated on the corner of Veal and Ziervogel Street, Franskraalstrand, hereinafter referred to as “the Property”, for a period of 9 (NINE) years and 11 (ELEVEN) months for the development and use of a control office. The locality map is attached hereto as “Annexure A”.

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

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

The Applicant applied to lease the Property for a period of 9 (NINE) years and 11 (ELEVEN) months for development and use as a control office.

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The Applicant will erect a building that is aesthetically compatible with the existing buildings in the area, at no cost to the Municipality and this building will become the property of the Municipality after the lease agreement expires.

The following will be done in the control room that the Applicant intends to erect on the Property:

- Installation of a water meter and connection for a sink and ablution facility.
- Installation of a suction tank for effluent.
- Installation of an electrical meter.
- Setting up cameras and lights for security of the structure.
- Installing a radio antenna.

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.”

The Applicant completed the formal application form and paid the application fee.

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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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”.**

Although the proposed lease is for a long-term period the rental that will be received will not be more than R10 million. As the Applicant is a community organisation 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 R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-THREE CENTS) (VAT excluded) per month, which rental will escalate annually in terms of the approved tariff in the financial budget of the Municipality.

As the Property is not classified as a business site and due to the nature of the lease and benefit to the community it can be leased directly to the Applicant without following a competitive process.

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.”**

The Accounting Officer (Municipal Manager) on 20 April 2022 approved in principle the lease of the Property to the Applicant 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.

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The proposed lease was advertised in Gans-berg News on 7 October 2022 for a 30 (THIRTY) day comment/objection period. No objections have been received.

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 to registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations will be levied. The rental is R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-THREE 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."

The Applicant will be liable for the payment of all costs relating to the lease agreement which in this case so far is only the advertisement costs and application fee.

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.

B. Advertisement/Notification

An advertisement for the lease of the Property to the Applicant was published in Gans-berg News on 7 October 2022 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

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Conclusion

Considering the above discussion, it is recommended that the lease of the Property to the Applicant be approved for a period of 9 (NINE) years and 11 (ELEVEN) months at a rental amount of R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY-THREE CENTS) (VAT excluded) per month.

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, such rental to escalate every year on the 1st of July in accordance with the consumer price index (all items).

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Gansbaai Administration: Mr F Myburgh

“I support the favourable consideration of the application. No challenges are envisaged with regard to the suitability of the land nor the connection of municipal services to the building.”

Senior Town Planner: Mr S van Der Merwe

“Erf 453 Franskraal is zoned for Open Space Zone 3: Private Open Space purposes. The proposed use, offices (control room for the Franskraal Neighbourhood Watch) cannot be accommodated under the primary rights. The scheme regulations do however provide for consent use in this case the Council may permit any other related use. Having had regard to the above, from a planning point of view no objection is raised, subject to the Applicant obtain the necessary development rights prior to the submission of building plans. The lease areas shall also be surveyed and a Site Development Plan shall be provided indicating the location of the proposed offices as well as adherence to the development parameters in terms of the scheme regulations. Please note that the title deed has not been scrutinized, nor the historical building plans. The Building Control Department should also be provided with the opportunity to comment.”

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Comments from Property Administration: A condition will be included in the agreement that the Applicant obtain the necessary consent use prior to submission of building plan application.

Senior Manager: Building Control: Mr L Coetzee

“No objection from Building Control. If the lease gets approved, all buildings to comply with the NBR and all other applicable law (including part “S” of SANS 10400 – facilities for persons with disabilities).”

Senior Manager: Operational Services (Gansbaai): Mr J Solomons

2. RECOMMENDATION

2.1 *With regard to the application for the leasing of a portion of Erf 453 Gansbaai, the Department: Operational Services has no objections to the application, subject to the following conditions:*

- 2.1.1.** *That the relevant portion of Erf 453 be provided with a municipal water meter as per detail and requirements stipulated.*
- 2.1.2.** *The Applicant will be responsible for the provision- and maintenance of suitable temporary toilet facilities and sewer tanks on site, and removal thereafter, in line with relevant Health & Safety legislation, or alternatively, for the installation of a suitable sewer tank(s) on the portion of Erf 453, in accordance with the requirements of SANS 10400 – P: 2010: Part P – Drainage, into which all sewerage generated on the erf shall be discharged.*
- 2.1.3.** *That any sewerage removed from temporary toilet facilities shall be disposed of at an approved municipal sewer treatment facility, and all costs towards this will be for the Applicant’s account.*
- 2.1.4.** *That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage.*
- 2.1.5.** *That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services.*
- 2.1.6.** *That any additional and / or extended vehicle entrances will be for the owner’s account.*
- 2.1.7.** *That the Electrical- and Traffic Departments, as well as Telkom and any other relevant authorities and service providers not have any objections to the application.”*

Comments from Property Administration: The relevant conditions be included in the agreement.

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Senior Superintendent: Traffic Operational: Mr P De Gruchy

“There are no objections towards this application from my office.”

Manager: Engineering Services: Mr R Andrews

“The Engineering Services Department has the following comment: Matters regarding municipal services connections and services, metering and submetering (especially water and electricity) should be determined beforehand and included in the sublease/lease agreement. The Finance Depart should ideally be consulted beforehand.”

Senior Manager: Electrical Services: Mr D Maree

“We have no objection. A standard Single Phase 60Amp connection will be available at approved Municipal tariff.”

Senior Manager: Expenditure & Assets, Hermanus: 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 453 Franskraalstrand (±600m² in extent), to the Franskraal Neighbourhood Watch for the development and use as a control office at the rental amount of R167.83 (ONE HUNDRED AND SIXTY SEVEN RAND AND EIGHTY THREE CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months in terms of the Administration of Immoveable 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 annual tariff list, the next escalation to be on 1 July 2023.

RESPONSIBLE OFFICIAL :

W MURTZ

TARGET DATE FOR IMPLEMENTATION :

31 MARCH 2023

TARGET DATE TO INFORM APPLICANT :

17 MARCH 2023

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE
PORTFOLIO COMMITTEE ON 6 FEBRUARY 2023, WHICH COMMITTEE
SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :

W MURTZ

TARGET DATE FOR IMPLEMENTATION :

31 MARCH 2023

TARGET DATE TO INFORM APPLICANT :

17 MARCH 2023



