

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
20 April 2021
(Also the agenda for the Mayoral Committee Meeting: 28 April 2021)**

4.

A PORTION OF THE REMAINDER OF FARM NO. 581 ONRUSTRIVIER (A KIOSK SITUATED AT THE ONRUS CARAVAN PARK): PARTIAL REBATE ON RENTAL LEVIED, MR A SALES

7/2/3/1

A Le Roux

Manager: Property Administration

8 March 2021

(028) 316-3724

1. Executive Summary

The purpose of the report is to request Council to approve a full rebate on the rental for January 2021 and a partial rebate of 50% on the rental for February 2021 payable by Mr A Sales to a total amount of R1,062.69 (ONE THOUSAND AND SIXTY TWO RAND AND SIXTY NINE CENTS) (VAT excluded) in relation to the lease of the Kiosk at the Onrus Caravan Park.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate Finance
Department Revenue

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Promotion of tourism, economic and social development

4. Delegated Authority

None

5. Legal Requirements

Administration of Immovable Property Policy of the Overstrand Municipality, as amended
Local Government: Municipal Finance Management Act, Act 56 of 2003 ("MFMA")

6. Background/Discussion/Evaluation/Conclusion

Background

The widespread and commonly known Covid-19 virus, declared as a pandemic by the World Health Organisation, has wreaked havoc on the world, South-Africa and the Overstrand region.

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Furthermore, Dr Nkosazana Dlamini Zuma, Minister of Cooperative Governance and Traditional Affairs, designated under section 3 of the Disaster Management Act (No. 57 of 2002) (the “DMA”), following a declaration of a national state of disaster, published regulations in terms of section 27(2) of the DMA, after consultation with the relevant Cabinet members (the “Regulations”). The Regulations are amended from time to time and the state of disaster is continuing, currently until 15 March 2021, with no indication of whether it will again be extended after the said date.

Guidelines issued by the World Health Organisation to individuals in mitigating the potentially fatal risk posed by the Covid-19 virus include staying home, avoiding gatherings, social distancing, the regular washing of hands, etc.

Due to the Regulations bookings for only 50% of the camp site at Onrus Caravan Park was accepted which was approximately 150 sites. Of these 150 sites approximately 80 of them are semi-permanent sites of which the owners very seldom buy anything from the kiosk as they can store most of their goods at their semi-permanent stands.

On 28 December 2020 South Africa moved back to Level 3 restrictions with effect that no new bookings were accepted as from 5 January 2021. No new campers were allowed and most of the other campers left on 5 January 2021. The Onrus Caravan Park only started accepting new bookings on 15 February 2021. From 5 January to 15 February 2021 the Onrus Caravan Park was extremely quiet.

Further to the above challenges, the temporary stall at Davies Pool also attracted many of the campers as they were also allowed to sell chocolates, water, ice cream, etc.

Discussion

A: REBATE

A lease agreement was entered into with Mr A Sales for the purpose of operating the Onrustrivier Kiosk in the Onrus Caravan Park at a rental amount of R650.00 (SIX HUNDRED AND FIFTY RAND) (VAT excluded) per month.

The Kiosk in the Caravan Park was hit hard as the customer base consists primarily of campers to the caravan park.

Travel for leisure purposes was severely restricted in terms of the Regulations and Mr A Sales had no viable customer base for a period of time.

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The Overstrand area is generally regarded as a tourist destination where international and national visitors frequent our facilities such as restaurants, stalls, beaches and parks. The Regulations prohibit leisure travel (except for the recently allowed inter-provincial travel from 18 August 2020) which, together with the closure of most tourist facilities such as beaches and parks etc. for a period, resulted in substantially fewer visitors to Hermanus, especially since the Overberg was declared a hotspot.

B: EFFECT IF NO REBATE IS GRANTED

Should the full payment of the rental amount without any rebate be required, there is a reasonable prospect that the detrimental consequences may materialise.

1. Consequences of termination of lease agreement

Should Mr A Sales not receive rebate on his rental, he will not be able to pay his rental due to the Municipality timeously. Although the rebate amount requested is not a large amount it should also be taken into consideration that Mr A Sales lost a lot of stock during the lock down last year when travelling was not allowed and he could not sell nor return the stock before the expiry date thereof.

It is a standard term of all lease agreements that the Municipality may cancel a lease agreement where the tenant fails to pay the rental amount and proceed with the formal collection proceedings at the cost of the Municipality. Should rental remain unpaid, the Municipality may be left with no alternative but to enforce the lease cancellation provision leaving the property vacant.

Should Mr A Sales not receive the rebate and not be able to continue to manage the kiosk at the Onrus Caravan Park, the visitors to the Caravan Park will not have this service available to them. Should another tender be prepared and advertised it will take approximately another 6 months before someone can operate from the kiosk which will cause the kiosk to be vacant for most of the rest of the year.

2. Closing of business

Should Mr A Sales remain liable to pay his full rental amount at this time and stage of economic uncertainty in the South African nation at large, this may be the tipping point for his business that is already standing on the proverbial edge of closure. It is a reality faced by many businesses that have not been able to generate an income sufficient to keep them afloat.

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The closure of businesses, regardless of how big or small, includes job losses. Unemployment is a major threat to the economy and state of South Africa and must be prevented where possible. An increase in crime is a well-known effect of unemployment within an area.

Evaluation

Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply to this report:

Paragraph 25(a): *The Municipality, as a rule, bearing in mind the provisions of paragraph 23 and save for those cases mentioned in paragraphs 21, 25, 26 and 58 to 62, shall not (a) let immovable property at a lower rental than market related rental or the rental approved in the tariffs except in cases when the public interest or the plight of the poor demands otherwise and taking into account the provisions of Regulation 13(2) of the MATR, the latter in circumstances of an alienation.*

The request for an exemption from the payment of rental for January 2021 and a partial exemption from the payment of the rental for February 2021 can be considered. This is not an alienation / transfer of a municipal asset and therefore the reference to Regulation 13(2) is not applicable here.

Conclusion

Taking into consideration the above and the loss of income suffered by Mr A Sales, it is recommended that he is exempted from having to pay rental for January 2021 and partially exempted from having to pay rental for February 2021.

7. Financial Implications

A total decrease in rental income for January 2021 and a partial decrease of 50% in the rental income for February 2021 will amount to R1,062.69 (ONE THOUSAND AND SIXTY TWO RAND AND SIXTY NINE CENTS) (VAT excluded), which amount is calculated as follows:

<u>Current rental (VAT excl)</u>	<u>Requested Rebate for January 2021 (VAT excl)</u>	<u>Requested Rebate for February 2021 (VAT excl)</u>
R708.46	R708.46	R354.23

$$R708.46 + R354.23 = R1,062.69$$

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The Municipality will still receive rental in the amount of R354.23 (THREE HUNDRED AND FIFTY FOUR RAND AND TWENTY THREE CENTS) (VAT excluded) for February 2021 and will continue to receive the full rental amount of R708.46 (SEVEN HUNDRED AND EIGHT RAND AND FORTY SIX CENTS) (VAT excluded) per month thereafter.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

that a full rebate of the rental for January 2021 and a partial rebate of the rental for February 2021 payable by Mr A Sales to a total amount of R1,062.69 (ONE THOUSAND AND SIXTY TWO RAND AND SIXTY NINE CENTS) (VAT excluded), **be approved.**

RESPONSIBLE OFFICIAL :	M ERASMUS E HOONEBERG
TARGET DATE FOR IMPLEMENTATION :	30 MAY 2021
TARGET DATE TO INFORM APPLICANT :	14 MAY 2021
TARGET DATE TO INFORM OBJECTOR :	N/A

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Manager: Property Administration

8 March 2021

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
20 APRIL 2021, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

that a full rebate of the rental for January 2021 and a partial rebate of the rental for February 2021 payable by Mr A Sales to a total amount of R1,062.69 (ONE THOUSAND AND SIXTY TWO RAND AND SIXTY NINE CENTS) (VAT excluded), **be approved.**

RESPONSIBLE OFFICIAL :

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