

**PORTFOLIO COMMITTEE :**

**COMMUNITY SERVICES**

**Chairperson :**

**Cllr G Cohen**

**Committee Members :**

**Cllrs J Orban, C May,  
V Pungupungu & S Kalolo**

**PORTEFEULJEKOMITEE :**

**GEMEENSKAPSDIENSTE**

**Voorsitter :**

**Rdl G Cohen**

**Komiteelede :**

**Rdle J Orban, C May,  
V Pungupungu & S Kalolo**

**COMMUNITY SERVICES PORTFOLIO COMMITTEE**  
**GEMEENSKAPSDIENSTE PORTEFEULJEKOMITEE**

**17 August 2021**

**I N D E X**

**ITEM**

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**NUMBER**

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CHAIRPERSON**

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(Also the agenda for the Mayoral Committee Meeting : 24 August 2021)**

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**1.  
ONRUS CARAVAN PARK: RENEWAL OF LEASE AGREEMENTS SUBJECT TO  
CONDITIONS**

7/2/1/3

A Wyngaard  
05 July 2021

Senior Manager: Hermanus Administration

(028) 313 8112

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**1. Executive Summary**

To obtain approval from the Executive Mayor to enter into further lease agreements up to 9 (NINE) years and 11 (ELEVEN) months (in intervals of three year leases) with various lessees at the Onrus Caravan Park, after expiry of their initial three year leases;

To obtain approval from Council for:

- (a) the deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into a initial 3 (three) year lease agreements with lessees of historical semi-permanent and new short term leased stands of the Onrus Caravan Park without following a competitive process; and
- (b) the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into further lease agreements with the lessees at the Onrus Caravan Park, after the initial three years, without following a public participation process

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

Community Services  
Senior Manager: Hermanus Administration

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Provision and maintenance of municipal services  
Creation and maintenance of a safe and healthy environment  
Promotion of tourism, economic and social development

**4. Delegated Authority**

Partly delegated to the Executive Mayor

**5. Legal Requirements**

- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

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

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

### **Background**

The short-term lease agreements are for the purpose of the lessees of current 73 semi-permanent stands to keep their caravans and semi-permanent structures at the Onrus Caravan park for the duration of the agreement and not having to remove the caravans when they are not on holiday at the mentioned caravan park. In effect the specific stand is then reserved to a specific holiday maker. This request is to rectify and to ensure that the leases are in accordance with the relevant policy. The caravan park consists of 155 camping stands and a number of 73 stands have been historically leased to individual stand holders over many years. The benefit of the particular leases is a sustainable income stream that continues to support the expenditure of maintenance required for the caravan park.

It is required that such leases must be done in accordance to the relevant Policies and Regulations. Hence it is necessary to obtain all the relevant approvals to proceed with these leases and continue to give effect to the tariffs that are already approved by Council.

### **Discussion/Evaluation**

The following paragraphs of the Administration of Immovable Property Policy have reference:

*“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.”*

*“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.”*

New lease agreements must be entered into in terms of the mentioned Policy. This will entail entering into direct leases to rectify the current standard practice within the Onrus Caravan Park.

*“20. Long term lease of municipal immovable property with an income value less than R10 million:*

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- 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*
  - (b) *the Executive Mayor, as delegated authority, has subsequently approved that the right may be granted.”*

Large investments have been made by lessees regarding caravans and other semi-permanent structures that are currently on the respective stands. It is therefore requested to give preference to the current lessees to conclude new lease agreements rather than following a competitive process.

Where current users are not able to or do not want to use the stand anymore, an allocation of that stand will be done according to the waiting list on a “first come first serve” basis. The stands within the caravan park cannot be used for business purposes. Interested parties are registered on a waiting list.

It is envisaged that some of these agreements might be renewed beyond the initial 3 years which will have the effect that it will be classified as long-term leases. These renewals will be in intervals of three years at a time to a maximum renewal period of 9 years and 11 months. None of these agreements may be longer than 9 years and 11 months in total due to the zoning of the park.

*“21. Short term lease of municipal immovable property:*

- 21.1 *The Municipality may grant a short term lease of municipal immovable property up to three years without the option of renewal only after the Accounting Officer has approved the lease in principle.*
- 21.2 *Immovable property let according to paragraph 21.1 above need not be advertised in terms of paragraph 10.1 and 10.2 and need not be subsequently approved by the Executive Mayor, but shall be subject to the following:*
- (a) *the lessee shall be responsible for all costs regarding the connection of services, service fees and any other costs associated with the lease;*
  - (b) *the Municipality shall, if it is not prescribed that market related rental must be charged, determine the rental;*
  - (c) *the lessee shall undertake in writing to compensate the Municipality for damages caused to the immovable property for whatever reason;*
  - (d) *the lessee shall indemnify the Municipality against any claims; and*
  - (e) *the Municipality may request proof of financial viability to honour the lease.”*

Initially short term leases (up to 3 years) will be entered into with the current occupiers of the stands. There are already established fees in the annual budget for services to the stand and no municipal account will be opened for each individual

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stand. As mentioned below, there are also tariffs in the annual budget dealing with yearly rental payable to the Municipality.

*“22. The in principle approval of the Accounting Officer has been obtained.”*

The in-principle approval of the Accounting Officer (Municipal Manager) will be requested for each individual lease for a stand in the Onrus Caravan Park whether a new lease or a renewal of a lease agreement to be entered into.

*“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 relevant tariffs for lease of stands in the Onrus Caravan park are approved in the annual budget every year and is calculated as follows:

<u>2021/2022 FINANCIAL YEAR</u>	<u>VAT incl</u>
Rental	R17,468.00
Plus Pergola with covering (if applicable)	R 1,873.00
Plus Water tap	R 399.00
Plus Structure for storing purposes (if applicable)	R 399.00
Plus Permanent fireplace (if applicable)	R 399.00
Plus Electricity per STAND	R 1,519.00

The individual agreements will have different total rental amounts depending on what is located on the stand and the services needed. The rental amounts will escalate every year in accordance with the approved annual budget.

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 individual lease agreements as applicable.

## **Conclusion**

Taking the above into consideration, it is recommended:

1. that the Executive Mayor approves, subject to Council approving the requested deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy:
  - (a) the subsequent renewal of all lease agreements for the identified stands within in the Onrus Caravan Park allocated on a “first come first serve” basis in periods of 3 (THREE) years up to a total of 9 (NINE) years and 11 (ELEVEN) months subject thereto that they still adhere to the conditions of the lease agreement, their accounts are paid up to date on date of request of a further lease period and the Municipal Manager has approved the renewal in principle.

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- (b) that the annual rental amount for the leasing of the stands escalates every year in accordance with the tariffs stipulated in the Annual Budget as approved by Council, next escalation to be on 1 July 2021.
2. Council approves:
- (a) the deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into an initial 3 (three) year lease agreements with holiday makers to the Onrus Caravan Park without following a competitive process; and
  - (b) the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy of 2015 in relation to all the stands allocated as discussed in this report.

The Administration consulted with the local Ward Committee at a special ward committee meeting held on 29 June 2021 on the proposal to be recommended to the Executive Mayor and Council. The recommendations were unanimously supported by members in attendance.

## **7. Financial Implications**

The Municipality is currently (2020/2021) having a minimum rental amount of R17,468,00 (SEVENTEEN THOUSAND FOUR HUNDRED AND SIXTY EIGHT RAND) (VAT included) per year per stand which amount will escalate on the 1<sup>st</sup> of July in accordance with the approved tariffs.

## **8. Staff Implications**

None

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

**Manager: Property Administration, Ms A Le Roux - (028) 316 5623**

The report is mainly to ensure that the leases of the stands at the Onrus Caravan Park to specific holiday makers for a period (to in effect reserve their stands and ensure that they do not have to remove their caravans) are in accordance with the Administration of Immovable Property Policy (2015) and the Municipal Asset Transfer Regulations (2008).

## **10. Annexures**

None

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**RECOMMENDATION TO THE EXECUTIVE MAYOR:**

that the following **be approved**, subject to Council approving the requested deviation from paragraphs 18 and 20.1(b) of the Administration of Immovable Property Policy:

- (a) the subsequent renewal of the all lease agreements for the identified stands in the Onrus Caravan Park as indicated in this report in periods of 3 (THREE) years up to a total of 9 (NINE) years and 11 (ELEVEN) months subject thereto that they still adhere to the conditions of the lease agreement, their accounts are paid up to date on date of request of a further lease period and the Municipal Manager has approved the renewal in principle;
- (b) that the annual rental amount for the leasing of the stands escalates every year in accordance with the tariffs stipulated in the Annual Budget as approved by Council, next escalation to be on 1 July 2021.

**RECOMMENDATION TO THE COUNCIL:**

- 1. the deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into an initial 3 (three) year lease agreements with holiday makers to the Onrus Caravan Park without following a competitive process; and
- 2. the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy of 2015 in relation to all the stands allocated as discussed in this report whether the current leases or any future leases **be approved**.

**RESPONSIBLE OFFICIAL :**

**A WYNGAARD**

**TARGET DATE FOR IMPLEMENTATION :**

**7 SEPTEMBER 2021**

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**1.  
ONRUS CARAVAN PARK: RENEWAL OF LEASE AGREEMENTS SUBJECT TO  
CONDITIONS**

7/2/1/3

A Wyngaard  
05 July 2021

Senior Manager: Hermanus Administration

(028) 313 8112

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

**RECOMMENDATION TO THE EXECUTIVE MAYOR:**

that the following **be approved**, subject to Council approving the requested deviation from paragraphs 18 and 20.1(b) of the Administration of Immovable Property Policy:

- (a) the subsequent renewal of the all lease agreements for the identified stands in the Onrus Caravan Park as indicated in this report in periods of 3 (THREE) years up to a total of 9 (NINE) years and 11 (ELEVEN) months subject thereto that they still adhere to the conditions of the lease agreement, their accounts are paid up to date on date of request of a further lease period and the Municipal Manager has approved the renewal in principle;
- (b) that the annual rental amount for the leasing of the stands escalates every year in accordance with the tariffs stipulated in the Annual Budget as approved by Council, next escalation to be on 1 July 2021.

**RECOMMENDATION TO THE COUNCIL:**

1. the deviation from paragraph 18 of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into an initial 3 (three) year lease agreements with holiday makers to the Onrus Caravan Park without following a competitive process; and
2. the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy of 2015 in relation to all the stands allocated as discussed in this report whether the current leases or any future leases **be approved**.

**RESPONSIBLE OFFICIAL :**

**A WYNGAARD**

**TARGET DATE FOR IMPLEMENTATION :**

**7 SEPTEMBER 2021**