

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
17 August 2021
(Also the agenda for the Mayoral Committee Meeting : 24 August 2021)**

**3.
A PORTION OF ERF 1660 PRINGLE BAY (BUFFELS ROAD): LEASE OF
MUNICIPAL PROPERTY TO THE PRINGLE HOUSE ECO SCHOOL NPC**

7/2/3/1

A Le Roux

Manager: Property Administration

24 June 2021

(028) 316 5623

1. Executive Summary

To obtain approval to enter into a lease agreement with The Pringle House Eco School NPC, hereinafter referred to as "The Applicant", in respect of a portion of Erf 1660 Pringle Bay (±3,185m² in extent), situated in Buffels Road, Pringle Bay, hereinafter referred to as "the Property", for the purpose of erecting and managing a school. See locality plan attached hereto marked Annexure "A",

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Property Administration

3. Compliance with Strategic Priorities

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

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background

The Applicant currently rents a space on private property for the school which lease agreement will soon come to an end. The Applicant, after the application process was followed, entered into a short-term lease agreement with the Municipality for municipal property, Erf 396 Pringle Bay, with the intention of erecting a school building, which lease agreement expired on 30 June 2021.

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During the planning phase for the school building, it was found that the property is part of a wetland and the costs of stabilising the property is too great for their already restricted budget.

The Applicant now applied for a long-term lease on a portion of Erf 1660 Pringle Bay, ±3,185m² in extent.

Discussion

The Applicant is a Non-Profit Organisation catering exclusively for children up to the end of Grade 7 in the immediate community of Pringle Bay.

The main reason for the long-term lease is that the Applicant will be investing on the Property, which will consist of erecting a building(s) and further infrastructure that will provide the school with a facility to educate the learners in a sustainable and secure environment.

These improvements will eventually vest in the Municipality free of charge after the lease agreement has lapsed. As this lease agreement will be for a period longer than 10 (TEN) years, the lease will be registered against the title deed of the Property. The Applicant will be responsible for these costs.

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following paragraphs of the Administration of Immovable Property Policy are applicable:

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.”

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

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18.4 by discretion of the municipality, a competitive process will best serve the interests of the community.”

Although the application is for a long term, the estimated income for the period will not be in excess of R10 million, should the lease be approved.

As the leasing of the Property to the Applicant (as a registered Non-Profit organisation) is in the interest of the community, the Property is not classified as a business property 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: “Long term lease of municipal immovable property with an income value less than R10 million:

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 subsequently approved that the right may be granted.”***

The Accounting Officer (Municipal Manager) approved in principle the lease of a portion of Erf 1660 Pringle Bay to the Applicant for a period of 20 (TWENTY) years plus an additional 2 (TWO) rental free years to obtain all the necessary approvals for the intended use as a school and the construction is completed, subject thereto that a public participation process is followed and further subject to the approval from the Executive Mayor for the long-term lease. Should the approvals not be obtained, the lease agreement will lapse, and the Applicant will have no claim against the Municipality for money invested by them.

The proposed lease was advertised in The Overstrand Herald on 27 May 2021 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.

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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 pay all costs relating to the lease agreement which in this case so far includes the advertisement costs and the notarial registration of the lease agreement as well as any Town Planning processes.

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 will be included in the lease agreement entered into with the Applicant.

B. Advertisement/Notification

An advertisement for the lease a portion of Erf 1660 Pringle Bay (±3,185m² in extent) was placed in the Overstrand Herald on 27 May 2021 for a 30 (THIRTY) day objection/comment period. No objection/comments were received.

Conclusion

With reference to the above discussion it is recommended that the lease agreement with the Applicant be approved for a period of 2 (TWO) years rental free to provide the Applicant with sufficient time to complete the necessary Town Planning and other planning processes as well as a further period of 20 (TWENTY) years at a rental amount as will be approved in the annual budget for the financial year after the 2 (TWO) year rental free period has lapsed (total lease period is 22 years).

7. Financial Implications

The Municipality stands to gain a monthly rental amount as will be approved in the annual budget for the financial year after the 2 (TWO) year rental free period has lapsed (currently rental for 2021/2022 is an amount of R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY SEVEN CENTS) (VAT Excluded)

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per month where after the rental amount will escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets, Mr J Vorster - (028) 313 8305

As this is an income generating proposal involving an institution who delivers an essential service to the community of Pringle Bay, with no intention to dispose of the asset, there is no objection to the report.

10. Annexures

Annexure A: Locality Map

RECOMMENDATION:

1. that the lease of municipal property, being a portion of Erf 1660 Pringle Bay ($\pm 3,185\text{m}^2$ in extent) to the Pringle House Eco School NPC for the purposes of erecting and managing a school and related purposes at the monthly rental amount as will be approved in the annual budget for the financial year after the 2 (TWO) year rental free period has lapsed, for a period of 22 (TWENTY-TWO) years in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**;
2. that the first 2 (TWO) years of the lease agreement be rental free to provide the Pringle House Eco School NPC with sufficient time to complete the necessary Town Planning and other processes;
3. that the rental amount mentioned in 1 above escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council; and
4. that the Pringle House Eco School NPC be responsible for all cost involved in the lease agreement and specifically the survey cost and the cost of the notarial registration of the lease agreement against the Title Deed.

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RESPONSIBLE OFFICIAL:	M ERASMUS
TARGET DATE FOR IMPLEMENTATION:	30 SEPTEMBER 2021
TARGET DATE TO INFORM APPLICANT:	15 SEPTEMBER 2021
TARGET DATE TO INFORM OBJECTOR:	N/A

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
17 AUGUST 2021, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL:

M ERASMUS

TARGET DATE FOR IMPLEMENTATION:

30 SEPTEMBER 2021

TARGET DATE TO INFORM APPLICANT:

15 SEPTEMBER 2021

TARGET DATE TO INFORM OBJECTOR:

N/A

ANNEXURE A

