

**AGENDA of the
Portfolio Committee: Community Services
05 April 2023
(Also the agenda for the Mayoral Committee Meeting: 24 April 2023)**

7.

SHORT TERM LEASE AGREEMENTS IN THE OVERSTRAND REGION: DEVIATION FROM PARAGRAPH 20.1(b) OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2022 ALLOWING THE MUNICIPALITY TO ENTER INTO FURTHER LEASE AGREEMENTS WITH LESSEES AT THE ONRUS CARAVAN PARK: RENEWAL OF LEASE AGREEMENTS SUBJECT TO CONDITIONS

**AJE Wyngaard
28 March 2023**

Senior Manager: Hermanus Administration

(028) 313 8112

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 the third year lease;

To obtain approval from Council for the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy of 2022 allowing the Municipality to enter into further lease agreements with the lessees at the Onrus Caravan Park without following a public participation process.

2. Service Delivery and Budget Implementation Plan - IGNITE

Community Services
Area Manager: Hermanus

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

None

5. Legal Requirements

The Constitution of South Africa
Administration of the Immovable Properties Policy

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6. Background/Discussion/Evaluation/Conclusion

Background

The short-term lease agreements are for the purpose of the current lessees 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 here. 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.

Discussion

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.”*

There are currently 73 stands that were already allocated during the years to specific lessees and with whom new lease agreements must be entered into in terms of legislation. The Municipal Manager has given in principle approval for an additional 27 stands for long term lease. 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 similar to the stalls at the taxi rank. The additional 27 stands will be allocated via an historical waiting list. The stands within the caravan park cannot be used for business purposes and all interested future interested parties are already registered on a waiting list/data basis.

- “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;*

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- (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.”*

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. Thus, approval is requested now to proceed with any renewal beyond 3 years (to be commenced with in the third year) subject to:

1. Council approving the deviation from paragraph 20.1 (b) as to the public participation process;
2. Council approving the deviation to proceed with entering into direct leases;
3. Executive Mayor approving the long term leases.

A report to Council and the Executive Mayor will serve in this regard in April 2023.

- “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

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for services to the stand and no municipal account will be opened for each individual 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 must be obtained with any request for the renewal of a lease agreement.”*

The in-principle approval of the Accounting Officer (Municipal Manager) will be requested for each individual lease for a stall in the various areas of the Overstrand, 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:

2022/2023 FINANCIAL YEAR

Rental	R18 254.00
Plus Pergola with covering (if applicable)	R 1 957.00
Plus Water tap	R 417.00
Plus Structure for storing purposes (if applicable)	R 417.00
Plus Permanent fireplace (if applicable)	R 417.00
Plus Electricity per STAND	R 1632.96

The individual agreements will have different total rental amounts depending on what is located on the stand and the services needed and will escalate annually in accordance with the tariff as approved in the Annual Budget.

7. Financial Implications

Income generating

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

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10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

1. that the Municipal Manager approves in principle the short-term lease agreements for three years with the current occupiers of the stands in the Onrus Caravan Park;
2. that the Municipal Manager approves in principle that the process for longer lease agreements be followed in the third year, subject to:
 - a) Council approving the deviation from paragraph 20.1 (b) as to the public participation process;
 - b) Council approving the deviation to proceed with entering into direct leases;
 - c) Executive Mayor approving the long-term leases.
3. that the Municipal Manager advises whether it is necessary to request a deviation from the relevant policy to enter into direct 3-year lease agreements with the current occupiers of the stands.

RESPONSIBLE OFFICIAL :

AJE WYNGAARD

TARGET DATE FOR IMPLEMENTATION :

01 JULY 2023

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DEVIATION FROM PARAGRAPH 20.1(b) OF THE ADMINISTRATION OF
IMMOVABLE PROPERTY POLICY OF 2022 ALLOWING THE MUNICIPALITY TO
ENTER INTO FURTHER LEASE AGREEMENTS WITH LESSEES AT THE ONRUS
CARAVAN PARK: RENEWAL OF LEASE AGREEMENTS SUBJECT TO
CONDITIONS**

**AJE Wyngaard
28 March 2023**

Senior Manager: Hermanus Administration

(028) 313 8112

**THIS MATTER SERVED BEFORE THE COMMUNITY SERVICES PORTFOLIO
COMMITTEE ON 5 APRIL 2023, WHICH COMMITTEE RECOMMENDED AS
FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that the Municipal Manager approves in principle the short-term lease agreements for three years with the current occupiers of the stands in the Onrus Caravan Park;
2. that the Municipal Manager approves in principle that the process for longer lease agreements be followed in the third year, subject to:
 - a) Council approving the deviation from paragraph 20.1 (b) as to the public participation process;
 - b) Council approving the deviation to proceed with entering into direct leases;
 - c) Executive Mayor approving the long-term leases.
3. that the Municipal Manager advises whether it is necessary to request a deviation from the relevant policy to enter into direct 3-year lease agreements with the current occupiers of the stands.

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