

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
18 February 2020  
(Also the agenda for the Mayoral Committee Meeting: 26 February 2020)**

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**3.  
TWO PORTIONS OF ERF 212 VAN DYKSBAAI: RENEWAL OF EXISTING LEASE  
AND THE LEASE OF AN ADDITIONAL PORTION OF MUNICIPAL PROPERTY TO  
OVERBERG BOAT CLUB**

**7/2/3/2**

**A le Roux**

**Manager : Property Administration**

**10 January 2020**

**(028) 316 - 3724**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Overberg Boat Club for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, being a portion of Erf 212 Van Dyksbaai ( $\pm 2,736\text{m}^2$  in extent) situated next to Birkenhead Road, Van Dyksbaai, for the purpose of managing a boat club and related purposes.

To obtain approval to lease an additional portion of Erf 212 Van Dyksbaai ( $\pm 10,306\text{m}^2$  in extent) situated next to Birkenhead Road, Van Dyksbaai to Overberg Boat Club for a period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of managing a boat club and related purposes. See the 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  
Creation and maintenance of a safe and healthy environment  
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)

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

**Background/Discussion**

Overberg Boat Club has been using a portion of Erf 212 Van Dyksbaai since 1985, as approved by then Divisional Council of Caledon, for sport and recreational purposes. As no correspondence or substantial information with regards to a written agreement with the Overberg Boat Club could be found, approval was granted to enter into a standard lease agreement with Overberg Boat Club for a period of 9 (NINE) years and 11 (ELEVEN) months, which commenced on 1 January 2010 and expired on 1 December 2019.

The Overberg Boat Club applied to renew the lease agreement as well as to lease an additional portion of Erf 212 Van Dyksbaai as they have reached their capacity on their current lease area and still receives enquiries from the public looking for boat houses to store their boats. The Overberg Boat Club is promoting fishing under the juniors and they try to organize regular workshops for them to better themselves with adapting to adulthood and the future in an organizational environment. This additional lease area, if approved, will serve to accommodate these workshops as well as additional boat houses. If approved, Overberg Boat Club will clear the unwanted tall bushes and plant short, local *Restia* to hold the sand in the wind and keep good, open visibility, stopping unnecessary staging points for the vandalism that is happening at present. The Overstrand Boat Club will also fence and maintain the additional lease area, ensuring the prohibition of the local community using the area as a dumping site, which happens from time to time as the area in question is not enclosed, with winding roads obscured by the tall bushes.

Although the process for the renewal of the agreement was commenced with timeously, the process could unfortunately not be completed before expiry of the agreement as our Department was waiting for Overberg Boat Club to confirm that they wish to renew their lease agreement as well as the motivation letter from Overberg Boat Club for the additional lease area applied for. Internal processes especially requesting comments and subsequent investigations took longer than expected.

The Finance Department was requested to continue to levy the rental as Overberg Boat Club is still in possession of the property.

A lease agreement was drafted and sent to Overberg Boat Club for signature (for administrative and audit purposes) with special conditions included in the agreement stipulating that the lease agreement is subject to the Executive Mayor's approval (as delegated authority) allowing the Municipality to enter into the long term agreement.

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The existing lease area on a portion of Erf 212 Van Dyksbaai has been used by Overberg Boat Club for over 30 years without complaints from the public. The municipal account is up to date.

The Overberg Boat Club delivers a very important service to the community of Van Dyksbaai in the form of sport and recreational purposes.

### **Evaluation**

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy will apply:

**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.”**

As Overberg Boat Club is a well-established sport and recreational facility who delivers a service to the community of Gansbaai and surrounding areas and due to the fact that their account is up to date, it is recommended that the property, as per the current lease area plus the additional lease area applied for, be leased directly to Overberg Boat Club 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) approved in principle the further lease of a portion of Erf 212 Van Dyksbaai as well as the additional lease area applied for, to Overberg Boat Club, subject to a public participation process being followed and further subject to the

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approval from the Executive Mayor.

The proposed lease was advertised in the Gansbaai Courant on 29 November 2019 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 for Sports facilities.

**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.”*

Overberg Boat Club will pay all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs.

**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 with the Applicant.**

**B: Advertisement/Notification**

An advertisement for the lease of a portion of Erf 212 van Dyksbaai (jointly ±13,042m<sup>2</sup> in extent) was placed in the Gansbaai Courant on 29 November 2019 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

**Conclusion**

With reference to the above discussion it is recommended that the existing lease of a portion of Erf 212 Van Dyksbaai (±2,736m<sup>2</sup> in extent) to the Overberg Boat Club be approved for a further period of 9 (NINE) years and 11

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(ELEVEN) months from 2 December 2019. It is further recommended that the lease of an additional portion of Erf 212 Van Dyksbaai ( $\pm 10,306\text{m}^2$  in extent) to the Overberg Boat Club be approved for a period of 9 (NINE) years and 11 (ELEVEN) months from 2 December 2019.

It is recommended that the tariff for sport facilities, being a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month, be levied.

### **7. Financial Implications**

The Municipality stands to gain rental in the amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month where after the lease amount will escalate every year on the 1<sup>st</sup> of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2020. All expenses pertaining to the proposed lease will be borne by Overberg Boat Club.

### **8. Staff Implications**

None

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

**Town Planner: Mr S van der Merwe – (028) 313 8900**

*“Erf 212 van Dyksbaai is zoned for Open Space Zone 2: Public Open Space purposes and leased to the boat club. The current lease agreement is up for renewal. The applicant also proposes to extend the lease area up to the Dangerpoint road leading to Birkenhead. The lease area will have a total size of 1,3ha. From a planning point, no objection is raised to the renewal and extension of the lease area, subject to following:*

- 1) the applicant at his cost obtain prior municipal approval for an amended SDP in respect of the proposal*
- 2) boathouses may only be rented out to members of the club*
- 3) boathouses may only be utilized for storage of boats.”*

The above conditions are included in the lease agreement. As the additional portion of Erf 212 Van Dyksbaai requires the approval of an amended Site Development Plan the agreement stipulates that the lease of the additional portion will be subject to the Overberg Boat Club obtaining the approval within a period of 6 (SIX) months from signature of the lease agreement.

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**Senior Manager: Expenditure and Assets, Mr J Vorster - (028) 313 8046**

*“As this is an income generating proposal involving an institution who delivers a service to the community of van Dyksbaai, with no intention to dispose of the asset(s), there is no objection to the report.”*

**10. Annexures**

Annexure A: Locality Map

**RECOMMENDATION:**

1. that the further lease of municipal property, being a portion of Erf 212 Van Dyksbaai, ( $\pm 2,736\text{m}^2$  in extent), to Overberg Boat Club for the purpose of managing a boat club and related activities for a period of 9 (NINE) years and 11 (ELEVEN) months as from 2 December 2019 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**;
2. that the lease of an additional portion of municipal property, being a portion of Erf 212 Van Dyksbaai, ( $\pm 10,306\text{ m}^2$  in extent), to Overberg Boat Club for the purpose of managing a boat club and related activities for a period of 9 (NINE) years and 11 (ELEVEN) months as from 2 December 2019 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**;
3. that the approval mentioned in 2 above be subject to the approval of a Site Development Plan and that no new development be commenced with prior to the approval of the Site Development Plan;
4. that the rental be determined at R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT)(VAT excluded) per month as determined in the tariffs stipulated in the Annual Budget as approved by Council, and
5. that the rental amount mentioned in 4 above escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2020.

<b>RESPONSIBLE OFFICIAL:</b>	<b>N LIEBENBERG</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>11 MARCH 2020</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>31 MARCH 2020</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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**7/2/3/2**

**A le Roux**

**10 January 2020**

**Manager : Property Administration**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
18 FEBRUARY 2020, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION:**

that the item be referred back.

**RESPONSIBLE OFFICIAL: N LIEBENBERG**

**TARGET DATE FOR IMPLEMENTATION: 11 MARCH 2020**

**TARGET DATE TO INFORM APPLICANT: 31 MARCH 2020**

**TARGET DATE TO INFORM OBJECTOR: N/A**

ANNEXURE A

