

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

6.

A PORTION OF PORTION 32 (A PORTION OF PORTION 18) OF FARM KLIP FONTEYN NUMBER 711: RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO VODACOM (PTY) LTD

7/2/3/1

A le Roux

Manager: Property Administration

5 November 2019

(028) 316 - 3724

1. Executive Summary

To obtain approval to enter into a further lease agreement for a period of 9 (NINE) years and 11 (ELEVEN) months with Vodacom (Pty) Ltd, hereinafter referred to as "Vodacom", in respect of a portion of portion 32 (a portion of portion 18) of the Farm Klip Fonteyn Number 711 Caledon Regional District ($\pm 79\text{m}^2$ in extent), situated off Birkenhead Road near the Kleinbaai Water Reservoir for a telecommunication base station and related purposes.

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

Vodacom has been using a portion of portion 32 (a portion of portion 18) of the Farm Klip Fonteyn Number 711 Caledon Regional District for at least the last 19 years for telecommunication purposes. Vodacom erected a mast as

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well as placed containers on the property which houses the necessary Vodacom equipment.

The last agreement was for a period of 9 (NINE) years and 11 (ELEVEN) months which expired on 31 July 2019. Although the process for the renewal of the agreement was commenced with timeously, the process could unfortunately not be completed before expiry of the said agreement due to internal processes that took longer than expected as well as further discussions that took place between the Municipality and Vodacom.

As Vodacom is still in possession of the property the rental is still being levied on the municipal account.

The locality of the proposed lease area is indicated on the locality plan attached per "Annexure A".

Discussion

Vodacom applied for a further lease agreement of 9 (NINE) years and 11 (ELEVEN) months and provides an important telecommunication service to the community of the Gansbaai area. The Municipality also has equipment on the Vodacom mast which is essential for municipal communication and telemetry purposes. The municipal telemetry system monitors the water and electricity supply in the Gansbaai area.

The area applied for was used by Vodacom for more than 19 years without any complaints from the public regarding the use of the property. The Municipality also stands to gain the benefit of using space on the Vodacom mast for the effective functioning of the municipal telecommunication equipment. The mast and equipment are therefore of essential importance for Vodacom, the public at large and other networks who are also making use of the Vodacom mast. Vodacom's municipal account is paid to date.

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:*

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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

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

The site is zoned for Utility Services and therefore not classified as a business site although Vodacom is a business that operates for commercial gain. The lease area with the Vodacom high mast and telecommunication equipment are well established on the site for more than 19 years. The Gansbaai community benefits from these services and the municipality also has equipment on the mast which is essential for municipal communication and telemetry. The lease area is a portion of the water reservoir site and therefore the property is not suitable for any other activities thereon. Due to the nature of the lease and benefit to the community and further as the Municipality makes use of the structures to house important telemetry equipment, it is proposed that the property be leased directly to Vodacom 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

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(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 the subject portion of portion 32 (a portion of portion 18) of the Farm Klip Fonteyn Number 711 Caledon Regional District to Vodacom subject thereto that a public participation process is followed and the approval of the Executive Mayor is obtained.

The proposed renewal of the lease was advertised in the Gansbaai Courant on 27 September 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."

The 2019/2020 tariff for land for a Mast is R67.83 (SIXTY SEVEN RAND AND EIGHTY THREE CENTS) (VAT Excluded) per square metre per month. As the area Vodacom occupies with the mast and containers are ±79m² in extent the total commencement rental will be an amount of R5,358.57 (FIVE THOUSAND THREE HUNDRED AND FIFTY EIGHT RAND AND FIFTY SEVEN CENTS) (VAT Excluded) per month. The agreement will stipulate that the rental amount shall escalate annually on the 1st of July in accordance with the tariff as approved in the annual budget.

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."

Vodacom 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.

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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 Vodacom.

B. Advertisement/Notification

An advertisement for the lease of a portion of portion 32 (a portion of portion 18) of the Farm Klip Fonteyn Number 711 Caledon Regional District was placed in the Gansbaai Courant 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 lease agreement with Vodacom be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 August 2019 at a rental amount of R5,358.57 (FIVE THOUSAND THREE HUNDRED AND FIFTY EIGHT RAND AND FIFTY SEVEN CENTS) (VAT Excluded) (VAT Excluded) per month which is the amount approved in the 2019/2020 budget.

7. Financial Implications

The Municipality stands to gain a rental amount of R5,358.57 (FIVE THOUSAND THREE HUNDRED AND FIFTY EIGHT RAND AND FIFTY SEVEN CENTS) (VAT Excluded) (VAT Excluded) per month where after the lease amount will 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. All expenses pertaining to the proposed lease will be borne by Vodacom.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

As this is an income generating proposal with no intention to dispose of the asset, there is no objection to the report.

10. Annexures

Annexure A: Locality Map

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RECOMMENDATION:

1. that the lease of municipal property, being a portion of a portion 32 (a portion of portion 18) of Farm Klip Fonteyn Number 711 Caledon Regional District ($\pm 79\text{m}^2$ in extent), to Vodacom (Pty) Ltd for telecommunication base station and related purposes at the rental amount of R5,358.57 (FIVE THOUSAND THREE HUNDRED AND FIFTY EIGHT RAND AND FIFTY SEVEN CENTS) (VAT Excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 August 2019 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**; and
2. 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, the next escalation to be on 1 July 2020.

RESPONSIBLE OFFICIAL:	M ERASMUS
TARGET DATE FOR IMPLEMENTATION:	27 MARCH 2020
TARGET DATE TO INFORM APPLICANT:	13 MARCH 2020
TARGET DATE TO INFORM OBJECTOR:	N/A

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A le Roux

5 November 2019

Manager: Property Administration

(028) 316 - 3724

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
18 FEBRUARY 2020, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL:

M ERASMUS

TARGET DATE FOR IMPLEMENTATION:

27 MARCH 2020

TARGET DATE TO INFORM APPLICANT:

13 MARCH 2020

TARGET DATE TO INFORM OBJECTOR:

N/A

