

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
4 May 2022
(Also the agenda for the Mayoral Committee Meeting : 30 May 2022)**

3.

A PORTION OF THE REMAINDER OF FARM NO. 562 CALEDON REGIONAL DISTRICT (ADJOINING A GRAVEL ROAD): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO THE WESTERN CAPE NATURE CONSERVATION BOARD T/A CAPE NATURE

7/2/3/1

A Le Roux

Manager: Property Administration

7 March 2022

(028) 316 5623

1. Executive Summary

To obtain approval to enter into a further lease agreement with The Western Cape Nature Conservation Board trading as Cape Nature, hereafter referred to as "Cape Nature", in respect of a portion of the Remainder of Farm No. 562 Caledon Regional District situated in Kleinmond, hereafter referred to as "the Property" for a period of 3 (THREE) years for the purpose of managing an access control gatehouse. The locality map is attached hereto as "Annexure A".

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning;
Property Administration

3. Compliance with Strategic Priority/ies

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

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

6. Background/Discussion/Evaluation/Conclusion

Background/ Discussion

On 28 January 2019 Cape Nature entered into a lease agreement with the Municipality for a period of 3 (THREE) years. The last agreement expired on

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30 November 2021. Unfortunately, the renewal process was delayed due to Cape Nature's manager who resigned, and a new manager had to be appointed before the renewal process could be continued with.

Cape Nature applied for the renewal of the lease of the Property for a further period of 3 (THREE) years for the purpose of the retention of a gatehouse facility in the Coastal and Mountain Local Authority Nature Reserve, Kleinmond.

Cape Nature indicated that this facility would add value to the management of the Kleinmond Nature Reserve by adding a monitoring presence to the Palmiet section of the Kleinmond Nature Reserve. This section is open to the impacts of rangeland fires and an extra presence will assist in the prevention, early detection and combatting of such fires. The gatehouse furthermore assists the Kogelberg Biosphere Reserve by improving the service provided by the Kogelberg Nature Reserve.

No complaints were received from the community during the previous lease periods. The municipal account is paid up to date.

Evaluation

A. Administration of Immoveable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

Paragraph 4: “No application for the purchase, lease of or encroachment on immovable property (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) shall be processed unless the prescribed application fee as per tariff approved in the annual budget for that financial year has been paid, nor shall any proposed lease or encroachment (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) be advertised unless the applicant has confirmed, in writing, that he/she will bear all costs involved in such transaction including – but not limited to – legal, survey, re-zoning, sub-division, consolidations, advertisement, relocation or provision of services and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid.”

As the application for renewal was received before the expiry of the last agreement there is no need for a formal application form to be completed and no application fee is payable.

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

Although the proposed lease is for a long-term period the rental that will be received will not be in excess of R10 million.

The current rental being paid by Cape Nature is R5.74/m² (FIVE RAND AND SEVENTY-FOUR CENTS) (VAT excluded) per square metre which equates to a rental amount of R2,223.90 (TWO THOUSAND TWO HUNDRED AND TWENTY-THREE RAND AND NINETY CENTS) (VAT excluded) per month. This amount was arrived at following consumer price index escalations of the initial rental amount which was calculated with reference to a tariff for the use of Municipal Property for general purposes for a temporary period. This amount was considered favourable towards the Municipality as the market valuation received was ridiculously and unacceptably low.

As this initial amount has been favourable towards the Municipality and has been willingly paid by Cape Nature for the lease period, it is indicative of being market related, favourable to the Municipality and it is therefore recommended that any further lease period commences with the increased amount as at the date of the previous lease expiring, being R2,223.90 (TWO THOUSAND TWO HUNDRED AND TWENTY THREE RAND AND NINETY CENTS) (VAT excluded) per month and that this amount escalates annually on 1 July in accordance with the consumer price index.

The gatehouse was constructed for access control purposes to the adjoining property of Cape Nature, and it cannot be utilised by any other

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person and therefore it is recommended that the Property be leased directly to Cape Nature.

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.”**

Cape Nature applied for the renewal of the lease agreement which was approved in principle by the Municipal Manager on 23 September 2021 for a period of 3 (THREE) years, subject to a public participation process being followed and further subject to the approval by the Executive Mayor as delegated authority of the long-term lease.

The proposed lease was advertised in The Village News on 14 January 2022 for a 30 (THIRTY) day comment/objection period and no objections have been received. The Executive Mayor’s approval is hereby sought.

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.”

Cape Nature will be liable for the payment of 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.

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B. Advertisement/Notification

An advertisement for the lease of a portion of the Remainder of Farm No. 562 Caledon Regional District was published in The Village News on 14 January 2022 for a 30 (THIRTY) day objection/comment period. No objection/comment was received.

Conclusion

With reference to the above discussion, it is recommended that the lease of the Property to Cape Nature be approved for a further period of 3 (THREE) years from 1 December 2021 at a rental amount of R2,223.90 (TWO THOUSAND TWO HUNDRED AND TWENTY-THREE RAND AND NINETY CENTS) (VAT excluded) per month for the 2021/2022 financial year.

7. Financial Implications

The Municipality stands to gain rental in the amount of R2,223.90 (TWO THOUSAND TWO HUNDRED AND TWENTY-THREE RAND AND NINETY CENTS) (VAT excluded) per month from 1 December 2021 where after the rental amount will escalate annually on 1 July in accordance with the escalation percentage equal to the prevailing consumer price index (all items) in terms of the Municipality's Administration of Immovable Property Policy, as amended from time to time, the next escalation to be on 1 July 2022. All expenses pertaining to the proposed lease will be borne by Cape Nature.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Town Planner: Ms H van der Stoep– (028) 313 8900

"In order."

Senior Manager: Kleinmond: Mr. D Lakey– (028) 271 8413

"I support the application without reservations."

Senior Manager: Operational Services: Mr. Denovan van Rhodie– (028) 271 8413

"Operational Services Kleinmond have no comment on the application. No operational services are rendered to the property"

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Senior Manager: Expenditure & Assets, Hermanus – J Vorster 028 313 8046

“As this is an income generating proposal, with no intention of selling the asset, there is no objection against the application.”

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION:

1. that the lease of municipal property, being a portion of the Remainder of Farm No. 562 Caledon Regional District ($\pm 399\text{m}^2$ in extent), to The Western Cape Nature Conservation Board, for purpose of managing an access control gatehouse at a rental amount of R2,223.90 (TWO THOUSAND TWO HUNDRED AND TWENTY-THREE RAND AND NINETY CENTS) (VAT excluded) per month for a period of 3 (THREE) years from 1 December 2021 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 annually on 1 July in accordance with the escalation percentage equal to the prevailing consumer price index (all items) in terms of the Municipality’s Administration of Immovable Property Policy, as amended from time to time, the next escalation to be on 1 July 2022.

RESPONSIBLE OFFICIAL :	R OCTOBER
TARGET DATE FOR IMPLEMENTATION :	15 JUNE 2022
TARGET DATE TO INFORM APPLICANT :	30 JUNE 2022
TARGET DATE TO INFORM OBJECTOR :	N/A

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7/2/3/1

A Le Roux

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THIS MATTER SERVED BEFORE THE PORTFOLIO COMMITTEE ON 4 MAY 2022, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION

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ANNEXURE A

