

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
2 November 2022
(Also the agenda for the Mayoral Committee Meeting : 16 November 2022)**

**4.
TWO PORTIONS OF PORTION 242 OF THE FARM AFDAKS RIVIER NO. 575:
LEASE, DEVELOPMENT, MANAGEMENT AND MAINTENANCE OF MUNICIPAL
PROPERTY FOR THE PURPOSE OF DEVELOPING A CREMATORIUM COMPLEX
FOR A CONTRACT PERIOD OF 45 (FORTY-FIVE) YEARS**

7/2/3/1

A Le Roux

Manager: Property Administration

14 September 2022

(028) 316 - 5623

1. Executive Summary

To inform the Executive Mayor of the intent to proceed with a tender process for the lease, development, management and maintenance of two portions of Portion 242 of the Farm Afdaks Rivier No. 575 for the purpose of developing a crematorium complex for a contract period of 45 (forty-five) years. See the locality maps attached hereto marked "Annexure A1" and "Annexure A2".

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
Creation and maintenance of a safe and healthy environment
The encouragement of structured community participation in the matters of the municipality

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

Following interest in the establishment of a crematorium complex in the Overstrand area, portion 242 of the Farm Afdaks Rivier No. 575 was investigated for the suitability of establishing a crematorium complex.

The entire portion 242 of the Farm Afdaks Rivier No. 575, which is 17,6259 hectares in extent, was acquired by the Municipality from the Overberg District Municipality for the purpose of establishing a cemetery. This condition is registered against the title deed of portion 242 of the Farm Afdaks Rivier No. 575. A crematorium however is related to a cemetery as they both provide humane and appropriate resting places for those who have passed on. The portions which is proposed to be made available for a crematorium is also significantly smaller than the remainder which can be used for a cemetery in future. If the proposed lease is pursued, approximately 15 hectares would remain available for the establishment of a cemetery.

Comments from other departments were requested and obtained, as set out fully below. During the investigation phase the two portions of portion 242 of the Farm Afdaks Rivier No. 575 shown on Annexure A1 was identified as best suited for this purpose. The two portions are respectively $\pm 2500\text{m}^2$ (approximately two thousand five hundred square metres) and $\pm 1\text{ha}$ (approximately one hectare) in extent. The smaller portion is suited for ancillary services such as a chapel, hall and kitchen whilst the larger portion is suitable for the cremation facility and a park. Both portions are collectively hereinafter referred to as the "Property".

Following the investigation, a memorandum was prepared for the previous Municipal Manager to consider and on 16 May 2020 the previous Municipal Manager approved in-principle that a competitive process for the long-term lease of 45 years of the Property for the purpose of a crematorium and related purposes be followed. The in-principle approval includes a two-year rent free development period because a developer will need to obtain various licenses and approvals to operate a crematorium complex on the Property.

As it stands the lease of the Property has been placed on the Municipality's Demand Management Plan for the 2022/2023 financial year. Furthermore, the draft tender specifications have been prepared for submission, subject to final review and amendments. The Property has not been valued yet to prevent any possible fruitless and wasteful expenditure should the lease of the Property not go ahead for the reasons set out herein.

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The Overberg Joint District and Metro Approach's Long List of Projects was recommended to Council to be noted by the Executive Mayor at a special Mayoral Committee Meeting on 29 August 2022 and was also so noted by Council at a Special Meeting of Council on the same date. Priority number 8 in Part B (Priority Projects per Municipality after application of criteria) the list for prioritised projects in the Overstrand Municipality states the project name as "*Regional Crematorium*" and states the background to this as "*ODM to establish this as a regional facility*".

As the project is earmarked for fulfilment by the Overberg District Municipality ("ODM"), it is hereby sought whether the Executive Mayor concurs with the decision of the previous Municipal Manager that Overstrand Municipality makes land available for the development of a crematorium complex by a private developer on the Property. In the alternative, whether the establishment of a crematorium as a regional facility should be left for ODM to realise as a JDMA project. Clarity is especially sought to avoid a conflict of mandates.

Whilst the Municipality is in a position to make the Property available, the Property itself is not immediately suitable for physical development as a crematorium complex. The Property is zoned Agriculture and does not allow for a crematorium. In order to establish a crematorium, a permanent departure will be required, which will need to be applied for and obtained at the developer's cost. A potential developer would also need to apply for and obtain an atmospheric emissions license from the Overberg District Municipality in terms of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 Of 2004).

Additional requirements for a successful developer would be the provision of all services to the Property. Due to the location of the Property, the Municipality would not be able to service the Property in any manner or form and consequently, a developer would have to provide for all the necessary services such as water, sewerage, refuse and the like. Refuse and sewerage would also have to be removed by the developer in a statutorily compliant manner.

Evaluation

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 proposed lease is for a formal business use, long term and it is believed that there would be more than one interested party. The Municipal Manager’s in-principle approval is to make the Property available by means of a competitive process and if the Executive Mayor concurs, a competitive process will be followed.

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 proposed lease has been approved in-principle by the previous Municipal Manager. Should the Municipality proceed, it will be made available by means of a competitive process. If the tender is successful, a report will serve before the Executive Mayor to approve the lease to the identified bidder.

Paragraph 24 “The fair market value for the alienation of, the rental amount for the leasing or compensation payable for a servitude over municipal immovable property shall be determined by an independent professional valuer or professional associated valuer registered in terms of the Property Valuers Profession Act, 2000 (Act 47 of 2000), or

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any ensuing act at the cost of the purchaser (in the case of a direct sale) or lessee (in the case of a direct lease)/servitude holder (in the case of a servitude)."

The valuation of the Property is currently placed on hold pending the feedback requested from the Executive Mayor in terms of this report. If concurrence with the previous Municipal Manager's decision is arrived at, a valuation will be done to determine the indicative value for the lease of the Property.

Conclusion

Taking the above into consideration, it is recommended that the Executive Mayor confirms whether she concurs that the Municipality proceed making the lease, development, management and maintenance of two portions of Portion 242 of the Farm Afdaks Rivier No. 575 for the purpose of developing a crematorium complex for a contract period of 45 (forty-five) years available by means of a competitive process.

7. Financial Implications

If concurrence is provided, the Municipality stands to gain a market related rental amount per month as well as service charges. If there is no concurrence, there would be no financial implications.

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 application is dealt with in terms of the Administration of Immoveable Property Policy and it relates to a revenue generating project, with no intension of disposing of the asset, there is no objection to the application."

Senior Town Planner: Ms H van der Stoep – (028) 313 8906

"The property is zoned Agriculture and does not make provision for a crematorium, thus a permanent departure is required. It is however supported in-principle should the various studies show it compatible with the soil conditions."

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Senior Manager: Operational Services: Mr T Marx – (028) 313 8092

“With regard to the application to lease a portion of Portion 79 of Farm 575, Afdaksrivier, the Department: Operational Services has no objections to the application, subject to the following conditions:

- *That, as no municipal water network is available in the vicinity of Portion 79 of Farm 575, and no municipal water services will be rendered to Portion 79 of Farm 575, the owner is responsible for the provision- and maintenance of any water supply and/or services to the development on Portion 79 of Farm 575.*
- *That the proposed development on Portion 79 of Farm 575 be provided with adequate sewer conservancy tanks, which must comply with the standards of the Department: Operational Services, and to which the sewer services of the development must connect to.*
- *That, as no municipal sewerage removal services are rendered in the area, the applicant will be responsible for the removal of all sewerage generated on the property, and disposal thereof at a licensed municipal sewerage treatment facility.*
- *That alternatively, sewer treatment facilities that are approved by the Department of Water Affairs may be provided for disposal of sewer from the development, and written proof of such approval to be submitted to the Municipality.*
- *That any commercial food preparation facilities must be provided with a grease trap, which must comply with the standards and specifications of the Department: Operational Services.*
- *That the developer investigates and determines the limitation of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400: P: 2010: Drainage.*
- *That as no municipal refuse removal services are rendered in the area, the developer will be responsible for removal of all refuse generated on the property and disposal thereof at a registered municipal waste transfer station or waste disposal facility.*
- *That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Directorate: Infrastructure and Planning.*
- *The Electrical- and Traffic Departments, as well as Telkom and any other relevant authorities and service providers not have any objections to the application.”*

Manager: Engineering Services: Mr R Andrew – (028) 313 5073

“No municipal services are (immediately) available for the proposed development. The need to be confirmed by the Operational Department. The applicant will be responsible for the provision of water and sewer bulk services and/or any link services that may be required and any bulk levies that may be payable. The supply of potable water and sewerage disposal shall be

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done in line with statutory requirements, especially the Department of Water Affairs standards.”

Manager: Building Services: Mr L Coetzee – (028) 313 8091

“Any proposed new structure and/or building requires a Building Plan application in terms of the National Building Regulations and Standards Act.”

Manager: Environmental Services: Ms P Aplon – (028) 316 5610

“The Environmental Section has the following comments regarding the above-mentioned application. Comments are based on the information which was provided with application.

Air Quality

In terms of the Environmental Management: Air Quality Act, 2004 (Act 39 of 2004) the applicant is required to apply for an atmospheric emissions license from the Overberg District Municipality to operate a crematorium.

The site

The applicant must liaise with Area Management regarding the placement of facilities, since the area has also been approved for a regional cemetery.”

Assistant Chief: Fire Safety & Health and Safety: Mr E Solomons - (028) 313 8979

“The Fire Department have no objection providing that the structure complies to the fire protection regulation SANS 10400 T:2011 and community safety by-law.”

10. Annexures

Annexure A1: Locality Map 1

Annexure A2: Locality Map 2

RECOMMENDATION:

that the Municipality proceeds with the competitive process for the lease, development, management and maintenance of two portions of Portion 242 of the Farm Afdaks Rivier No. 575 for the purpose of developing a crematorium complex for a contract period of 45 (forty-five) years at a market related rental.

RESPONSIBLE OFFICIAL :

R MARINUS

TARGET DATE FOR IMPLEMENTATION :

15 DECEMBER 2022

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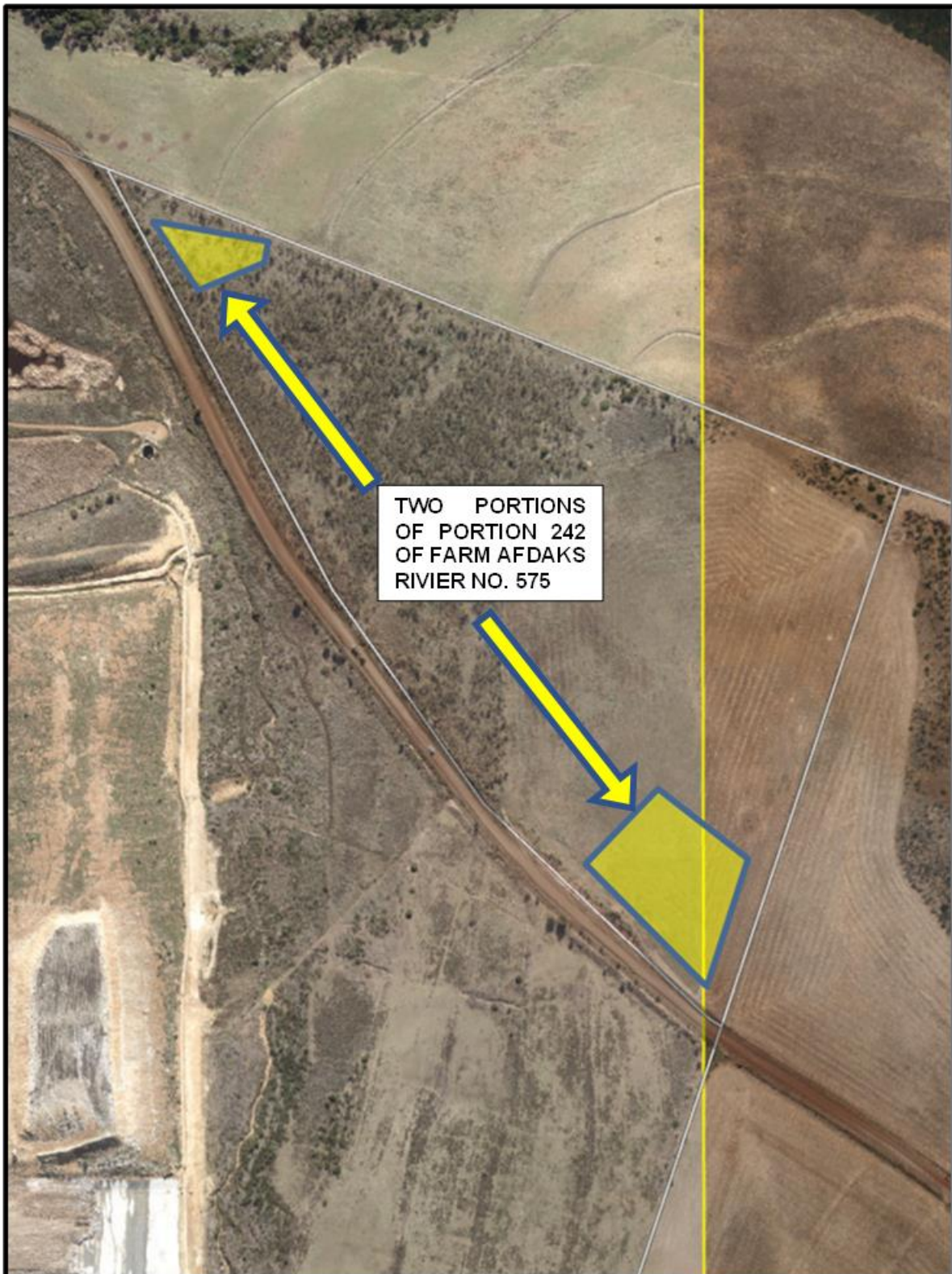
**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE
PORTFOLIO COMMITTEE ON 2 NOVEMBER 2022, WHICH COMMITTEE
SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :

R MARINUS

TARGET DATE FOR IMPLEMENTATION :

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ANNEXURE A2

