

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
23 March 2021
(Also the agenda for the Mayoral Committee Meeting: 31 March 2021)**

4.

**ERF 594 STANFORD (SITUATED NEXT TO THE R43 MAIN ROAD, STANFORD):
RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO CHRISTOPHER JOHN
CARSTENS FOR THE PURPOSE OF PLANTING INDIGENOUS VEGETATION AND
CULTIVATION OF BUFFALO GRASS**

7/2/3/1

A Le Roux

Manager: Property Administration

17 December 2020

(028) 316 - 5623

1. Executive Summary

To obtain approval to enter into a further lease agreement with Christopher John Carstens (hereinafter referred to as the “Applicant”) for a period of 3 (THREE) years in respect of municipal property, being Erf 594 Stanford (3,7479ha in extent) situated next to the R43 Main Road, Stanford (hereinafter referred to as the “Property”), for the purpose of planting indigenous vegetation and cultivation of buffalo grass. 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)

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
23 March 2021
(Also the agenda for the Mayoral Committee Meeting: 31 March 2021)**

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

The Applicant is a member of the Close Corporation, Seriso 324 CC, that owns Erf 438 Stanford, which is adjacent to the municipal property Erf 594 Stanford.

The Applicant has been using the Property for approximately 20 (TWENTY) years with the first lease agreements signed with a commencement date of 1 June 2008, for the purpose of planting indigenous vegetation and cultivation of buffalo grass without any complaints from the public regarding the use of the Property. The last agreement was for a period of 3 (THREE) years, which commenced on 1 January 2018 and expired on 31 December 2020.

The Applicant applied to renew the lease agreement for a further 3 (THREE) year period. The future use and development of the Property must still be investigated and determined by the Municipality. Such an investigation will take time to establish the needs of the community, the vision of the Municipality as well as the allowed uses on the Property. As it is not desirable that the Property be unoccupied, it is recommended that a further lease period of 3 (THREE) years be entered into with the Applicant pending the outcome of the investigation as to the best use of the Property.

A lease agreement was signed by the Applicant (for administrative and audit purposes) with special conditions included in the agreement stipulating that it is subject to the required public participation process and the Executive Mayor's approval (as delegated authority) allowing the Municipality to enter into a further lease period of 3 (THREE) years.

The municipal account is paid up to date and rental is being levied pending the outcome of the report.

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 as the internal processes and subsequent investigations took longer than expected.

The Applicant delivers a service to the community by creating employment opportunities at present time to 8 (EIGHT) permanent employees as well as casual employees of the Stanford community to cultivate and harvest the vegetation and grass.

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
23 March 2021
(Also the agenda for the Mayoral Committee Meeting: 31 March 2021)**

Evaluation

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

The following conditions of the said Policy will 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.

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”.

Erf 594 Stanford is zoned as Industrial Zone 1: General Industry with Agricultural and Industries as primary uses under which the said lease

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
23 March 2021
(Also the agenda for the Mayoral Committee Meeting: 31 March 2021)**

can be accommodated. The future use and development of the Property is to be investigated and determined, which will most probably entail a larger development with a longer lease period / a possible alienation of the Property. The current upgrading of the R43 road will have an effect on any possible type of development on the Property as a size of ±688m² (SIX HUNDRED AND EIGHTY-EIGHT SQUARE METRES) will be transferred to the Provincial Government. This must also be finalised.

It must again be noted that the duration of the proposed agreement to be entered into is only for a further period of 3 (THREE) years with a cancellation clause included in the agreement providing the Municipality with the opportunity to cancel the lease when necessary, it is not feasible to make the Property available by means of a competitive bidding process at this stage. The Property cannot be made available by means of a competitive tender process at this stage as the specific development and use of the Property is not determined by the Municipality yet.

At this stage the only access to the Property is currently through the adjoining property of the Applicant and thus not accessible by anyone else. As it is not desirable that the Property is currently unoccupied and as the only access is through the adjoining property, it is recommended that the Property be leased directly to the Applicant as a competitive process will thus not serve a useful purpose and will not make financial sense at this stage.

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 the Property to the Applicant, subject to a public participation process being followed and further subject to the approval from the Executive Mayor.

The proposed lease was advertised in The Village News on 16 December 2020 for a 30 (THIRTY) day comment/objection period.

Paragraph 24: “The fair market value for the alienation of, the rental amount for the leasing or compensation payable for a

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
23 March 2021
(Also the agenda for the Mayoral Committee Meeting: 31 March 2021)**

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 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)."

Boland Valuers determined the market related value in October 2007 at an amount of R1,110.00 (ONE THOUSAND ONE HUNDRED AND TEN RAND) (VAT excluded) per month. The valuation was done taking into consideration the size, shape, locality, zoning and proposed use (restriction) of the Property. As the agreement will only be for a further period of 3 (THREE) years it is recommended that the last rental amount of R1,691.40 (ONE THOUSAND SIX HUNDRED AND NINETY ONE RAND AND FORTY CENTS) (VAT excluded) per month, as escalated annually, be used, which will again escalate on 1 July 2021.

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."*

The Applicant will be liable for the payment of all costs relating to the renewal of the lease agreement which 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 the Property was placed in The Village News on 16 December 2020 for a 30 (THIRTY) day objection/comment period.

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
23 March 2021
(Also the agenda for the Mayoral Committee Meeting: 31 March 2021)**

Conclusion

With reference to the above discussion it is recommended that the lease of the Property to the Applicant be approved for a further period of 3 (THREE) years from 1 January 2021

It is further recommended that the rental be determined at the current rental amount of R1,691.40 (ONE THOUSAND SIX HUNDRED AND NINETY ONE RAND AND FORTY CENTS) (VAT excluded) per month as from 1 January 2021 which will escalate on the 1st of July by a percentage fixed in accordance with the prevailing consumer price index (all items).

Lastly it is recommended that a cancellation clause be included in the agreement providing the Municipality with the right to cancel the lease when necessary.

7. Financial Implications

The Municipality stands to gain rental in the amount of R1,691.40 (ONE THOUSAND SIX HUNDRED AND NINETY ONE RAND AND FORTY CENTS) (VAT excluded) per month as of from 1 January 2021 for the 2020/2021 financial year where after the rental amount will escalate every year on the 1st of July in accordance with the consumer price index, the next escalation to be on 1 July 2021. All expenses pertaining to the proposed lease will be borne by the Applicant.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Town Planner: Mr Petrus Roux – (028) 313 8000

“The applicant has leased the property from the municipality for more than 20 years. The portion of municipal property on which the grass is harvested is zoned as Industrial Zone 1. The harvesting of grass was implemented on the property prior to the implementation of the Zoning Scheme 2013 and the newly implemented Land Use Scheme 2020. Considering the history of the property, the proposal is supported for the continued lease, subject to a condition that the municipality can cancel the lease should another developer seek to develop the property for commercial use.”

Comment from Property Administration: These conditions are included in the lease agreement.

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
23 March 2021
(Also the agenda for the Mayoral Committee Meeting: 31 March 2021)**

Senior Manager: Expenditure and Assets: Mr 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 Map

RECOMMENDATION:

1. that the renewal of the lease of municipal property, being Erf 594 Stanford, (3,7479ha in extent), to Christopher John Carstens, for the purpose of planting indigenous vegetation and cultivation of buffalo grass for a further period of 3 (THREE) years as from 1 January 2021 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved;**
2. that the rental be determined at R1,691.40 (ONE THOUSAND SIX HUNDRED AND NINETY ONE RAND AND FORTY CENTS) (VAT excluded) per month for the 2020/2021 financial year; and
3. that the rental amount mentioned in 2 above escalate every year on the 1st of July in accordance with the Consumer Price Index as published by Stats SA, the next escalation to be on 1 July 2021.

RESPONSIBLE OFFICIAL:

W MURTZ

TARGET DATE FOR IMPLEMENTATION:

30 APRIL 2021

TARGET DATE TO INFORM APPLICANT:

16 APRIL 2021

TARGET DATE TO INFORM OBJECTOR:

N/A

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
23 March 2021
(Also the agenda for the Mayoral Committee Meeting : 31 March 2021)**

**4.
ERF 594 STANFORD (SITUATED NEXT TO THE R43 MAIN ROAD, STANFORD):
RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO CHRISTOPHER JOHN
CARSTENS FOR THE PURPOSE OF PLANTING INDIGENOUS VEGETATION AND
CULTIVATION OF BUFFALO GRASS**

7/2/3/1

A Le Roux

Manager: Property Administration

17 December 2020

(028) 316 - 5623

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
23 MARCH 2021, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL:

W MURTZ

TARGET DATE FOR IMPLEMENTATION:

30 APRIL 2021

TARGET DATE TO INFORM APPLICANT:

16 APRIL 2021

TARGET DATE TO INFORM OBJECTOR:

N/A

