

**PORTFOLIO COMMITTEE :
INFRASTRUCTURE & PLANNING**

Chairperson :

Cllr E Gillion

Committee Members :

**Cllrs D Botha, J Orban,
S Tebele & V Pungupungu**

**PORTEFEULJEKOMITEE :
INFRASTRUKTUUR & BEPLANNING**

Voorsitter :

Rdl E Gillion

Komiteelede :

**Rdle D Botha, J Orban,
S Tebele & V Pungupungu**

INFRASTRUCTURE & PLANNING PORTFOLIO COMMITTEE
INFRASTRUKTUUR & BEPLANNING PORTEFEULJEKOMITEE

18 May 2021

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1.

A PORTION OF PORTION 45 OF THE FARM HANGKLIP NO 559 (SITUATED ON THE CORNER OF HANGKLIP- AND BUFFELS ROAD, PRINGLE BAY): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO THE PRINGLE BAY RATEPAYERS ASSOCIATION

7/2/3/1

A Le Roux

Manager: Property Administration

13 April 2021

(028) 316 - 5623

1. Executive Summary

To obtain approval to enter into a further lease agreement with the Pringle Bay Ratepayers Association (hereinafter referred to as "Ratepayers Association") in respect of municipal property, being a portion of portion 45 of the Farm Hangklip No 559 ($\pm 27\text{m}^2$ in extent) situated on the corner of Hangklip and Buffels Road, Pringle Bay (hereinafter referred to as "the Property"), for a period of 9 (NINE) years and 11 (ELEVEN) months for purpose of a small building to accommodate security guards and CCTV camera systems to improve the safety and security in the area. 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

The Ratepayers Association has been using the Property since 2011 for the purpose of a small building to accommodate security guards and CCTV camera systems for the improvement of safety and security of the Hangklip community.

The Hangklip community was very concerned about safety and security before the CCTV cameras were installed as there is only one entrance to the town, which makes it vulnerable to criminal activities. The systems are technically sophisticated and is very beneficial as any suspect entry can simply be tagged and on reappearance on the system, even if it happens years later, will trigger immediate automated alarms to the police, security companies etc.

The Hangklip community has accepted financial responsibility for the building and the maintenance thereof.

The agreement was for a period of 9 (NINE) years and 11 (ELEVEN) months which commenced on 1 June 2011 and expired on 30 April 2021. The renewal process was commenced with on time, but due outstanding documents of the Ratepayers Association, the renewal process could not be finalised.

The Ratepayers Association is being levied the monthly rental amount as they are still occupying the Property.

The Ratepayers Association applied for the renewal of the lease agreement and the lease renewal was approved in principle by the Municipal Manager on 14 January 2021 for a period of 9 (NINE) years and 11 (ELEVEN) months.

No complaints regarding the use of the Property were received during the period of lease and the municipal account is paid to date.

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following paragraphs 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

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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.”

The application for renewal was received before the expiry of the last lease agreement and therefore no formal application form needs 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.”

Although the proposed lease is for a long term period the rental that will be received will not be in excess of the R10 million as the rental charged will be in accordance with the tariffs approved in the Annual Budget for lease of municipal land to NPO's for the specific financial year. Currently the rental amount is R154.78 (ONE HUNDRED AND FIFTY-FOUR RAND AND SEVENTY-EIGHT CENTS) (VAT excluded) per month.

The Property is zoned: Transport Zone 2: Road and Parking and may not be used as a formal business premises as this is not allowed for in terms of the zoning.

The Ratepayers Association provides an important service to the Hangklip community where the flow of vehicles entering the community is

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being monitored by the CCTV cameras and the Ratepayers Association has been leasing the Property successfully for the past 9 (NINE) years and 11 (ELEVEN) months without any complaints from the community. A competitive process will not be in the best interest of the community as the safety and security of the community is very important and as the financial implication to make the Property available via the competitive bidding process will be more than that of the rental amount received.

Taking the above into consideration it is proposed that the Property be leased directly to the Ratepayers Association 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 Ratepayers Association applied for the renewal of the lease agreement and the lease renewal was approved in principle by the Municipal Manager on 14 January 2021 for a period of 9 (NINE) years and 11 (ELEVEN) months, 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 Executive Mayor’s approval is hereby sought, and the proposed lease was advertised in The Village News on 17 March 2021 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 tariff for lease of municipal property to registered Social Care Institutions/Organisations/NPO’s/PBO’s/Sport facilities is R154.78 (ONE HUNDRED AND FIFTY-FOUR RAND AND SEVENTY-EIGHT CENTS) (VAT excluded) per month for the 2020/2021 financial year. The agreement will stipulate that the rental amount will escalate annually in accordance with the tariff as approved in the Annual Budget.

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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 Ratepayers Association will be liable for the payment of all costs relating to the application for the lease agreement.

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 17 March 2021 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 of the Property to the Ratepayers Association be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 May 2021 at a rental amount of R154.78 (ONE HUNDRED AND FIFTY-FOUR RAND AND SEVENTY-EIGHT CENTS) (VAT excluded) per month for the 2020/2021 financial year.

7. Financial Implications

The Municipality stands to gain rental in the amount of R154.78 (ONE HUNDRED AND FIFTY-FOUR RAND AND SEVENTY-EIGHT CENTS) (VAT excluded) per month from 1 May 2021 where after the rental amount will escalate annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council. The next escalation will be on 1 July 2021. All expenses pertaining to the proposed lease will be borne by the Ratepayers Association.

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8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

“No objection.”

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

“I support the application for the renewal of the lease agreement.”

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 Pringle Bay, 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 lease of municipal property, being a portion of portion 45 of the Farm Hangklip No 559 ($\pm 27\text{m}^2$ in extent), to the Pringle Bay Ratepayers Association, for the purpose of a small building to accommodate security guards and CCTV camera systems to improve the safety and security in the area at a rental amount of R154.78 (ONE HUNDRED AND FIFTY-FOUR RAND AND SEVENTY-EIGHT CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 May 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 tariffs stipulated in the Annual Budget as approved by Council.

RESPONSIBLE OFFICIAL:

R OCTOBER

TARGET DATE FOR IMPLEMENTATION:

30 JUNE 2021

TARGET DATE TO INFORM APPLICANT:

16 JUNE 2021

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7/2/3/1

A Le Roux

13 April 2021

Manager: Property Administration

(028) 316 - 5623

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 18 MAY 2021, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION

RESPONSIBLE OFFICIAL:

R OCTOBER

TARGET DATE FOR IMPLEMENTATION:

30 JUNE 2021

TARGET DATE TO INFORM APPLICANT:

16 JUNE 2021

ANNEXURE A

