

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 November 2018
(Also the agenda for the Mayoral Committee Meeting : 28 November 2018)**

**6.
GANSBAAI, A PORTION OF REMAINDER OF ERF 210: DEVIATION FROM
PARAGRAPHS 18, 20.1(b) AND 24 OF THE ADMINISTRATION OF IMMOVABLE
PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO ENTER INTO A
FUTHER TEMPORARY LEASE AGREEMENT WITH GANSBAAI PERDERY KLUB**

7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

11 October 2018

1. Executive Summary

To obtain approval from the Executive Mayor to enter into a further lease agreement with Gansbaai Perdery Klub, hereinafter referred to as “the Lessee” in respect of a portion of the remainder of Erf 210 Gansbaai for the purpose of stabling/keeping horses; and

To obtain approval from Council for the deviation from paragraph 18 and 24 of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into a further lease agreement with the Lessee in respect of a portion of the remainder of Erf 210 Gansbaai for the purpose of stabling/keeping horses without following a competitive bidding process.

To obtain approval from Council for the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy of 2015 allowing the Municipality to enter into a further lease agreement with the Lessee in respect of a portion of the remainder of Erf 210 Gansbaai for the purpose of stabling/keeping horses without following a public participation process.

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

Partly delegated to the Executive Mayor.

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5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background

The Lessee have been leasing a portion of the remainder of Erf 210 Gansbaai since December 2008 for the purpose of keeping/stabling horses. The latest agreement is for a period of 9 (NINE) years and 11 (ELEVEN) months which expired on 30 October 2018.

As we have received more interest in space to be rented for the keeping/stabling of horses it was decided that the further lease of the property will follow a competitive process. The tender document and process will not be completed before the expiry of the existing agreement. As it is unfavourable to have the property vacant for any period of time it is recommended that a short term lease agreement be entered into with the Lessee while the tender process is being followed.

As the proposed temporary renewal of an existing lease area is for a short period of only 12 (TWELVE) months a deviation from paragraph 20.1(b) is proposed.

Discussion

As the tender process is still in process, it is recommended that a lease agreement for another 12 (TWELVE) month be entered into with the Lessee subject thereto that Council approves the requested deviations and the Executive Mayor approves the renewal of the lease agreement.

Evaluation

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:*

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.”

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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.”**

In this case a direct lease is proposed with a deviation from paragraph 18 in that a competitive process shall not be followed for the short term lease of 12 (TWELVE) months. A short term lease agreement will afford the administration time to follow the competitive process for the further lease of the property.

Cognisance should also be had to the fact that should the property be vacant for the period from expiry of the current lease agreement the reality would be that the property would likely be vandalised and that there will be no other space for the various horse owners to stable/keep the horses during this time.

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 Accounting Officer (Municipal Manager) approved in principle the lease of the subject portion of remainder of Erf 210 Gansbaai to the Lessee subject thereto that the approval of Council is obtained as to the deviation from paragraphs 18, 20.1(b) and 24 of the Policy as requested in this report. An in principle approval for a 12 (TWELVE) month period was obtained.

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In this case, seeing that the Lessee has already had an agreement for more than 3 years, a further short term lease in respect of the specific portion of remainder of Erf 210 Gansbaai will cause the said total lease period to be in excess of three years and therefore the in principle approval of the Accounting Officer is requested.

As the proposed temporary renewal of an existing lease area is for a short period of only 12 (TWELVE) months a deviation from paragraph 20.1(b) is requested from Council as it is a very temporary arrangement and will allow the administration to follow a competitive process which will include a public participation process.

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 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 current lease amount is R695.82 (SIX HUNDRED AND NINETY FIVE RAND AND EIGHTY TWO CENTS) (VAT excl) per annum.

A deviation from this paragraph is proposed seeing that the services of a valuer, to determine a new market related rental amount, will be costly and not make sense for such a short term renewal. The rental amount escalated annually since the commencement of the lease agreement.

It is proposed that the rental amount in the renewal agreement be determined by escalating the current amount with the latest CPI, which rental then amounts to R729.22 (SEVEN HUNDRED AND TWENTY NINE RAND AND TWENTY TWO CENTS) (VAT excl) for the year.

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 will be included in the lease agreement entered into with the Lessee.

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Conclusion

Taking the above into consideration, it is recommended that:

- (a) The Executive Mayor approves the renewal of the lease of a portion of the remainder of Erf 210 Gansbaai to the Lessee for a period of 12 (TWELVE) months for the purpose of keeping/stabling horses at the rental amount of R729.22 (SEVEN HUNDRED AND TWENTY NINE RAND AND TWENTY TWO CENTS) (VAT excl) for the year; and
- (b) Council approves the deviation from paragraphs 18, 20.1(b) and 24 of the Administration of Immovable Property Policy of 2015.

7. Financial Implications

The Municipality stands to gain a rental amount of R729.22 (SEVEN HUNDRED AND TWENTY NINE RAND AND TWENTY TWO CENTS) (VAT excl) for the year.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A: Locality Map

RECOMMENDATION TO THE EXECUTIVE MAYOR:

1. that the renewal of the lease of municipal property, being a portion of the remainder of Erf 210 Gansbaai, to Gansbaai Perdery Klub for the purpose of stabling/keeping horses for a period of 12 (TWELVE) months from 1 November 2018 at the rental amount of R729.22 (SEVEN HUNDRED AND TWENTY NINE RAND AND TWENTY TWO CENTS) (VAT excl) for the year), **be approved**; and
2. that the abovementioned approval be subject to Council approving a deviation from paragraphs 18, 20.1(b) and 24 of the Administration of Immovable Property Policy of 2015.

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RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew the current lease agreement with Gansbaai Perdery Klub for a further period of 12 (TWELVE) months without following a competitive process, **be approved**;
2. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the current lease agreement with Gansbaai Perdery Klub without following a public participation process, **be approved**; and
3. that the deviation from paragraph 24 of the Administration of Immovable Property Policy in order to renew the current lease agreement with Gansbaai Perdery Klub without having a new market related valuation being done, **be approved**.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	31 DECEMBER 2018
TARGET DATE TO INFORM APPLICANT :	22 DECEMBER 2018
TARGET DATE TO INFORM OBJECTOR :	N/A

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7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

11 October 2018

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 20 NOVEMBER 2018, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE EXECUTIVE MAYOR:

1. that the renewal of the lease of municipal property, being a portion of the remainder of Erf 210 Gansbaai, to Gansbaai Perdery Klub for the purpose of stabling/keeping horses for a period of 12 (TWELVE) months from 1 November 2018 at the rental amount of R729.22 (SEVEN HUNDRED AND TWENTY NINE RAND AND TWENTY TWO CENTS) (VAT excl) for the year), **be approved**; and
2. that the abovementioned approval be subject to Council approving a deviation from paragraphs 18, 20.1(b) and 24 of the Administration of Immovable Property Policy of 2015.

RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew the current lease agreement with Gansbaai Perdery Klub for a further period of 12 (TWELVE) months without following a competitive process, **be approved**;
2. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the current lease agreement with Gansbaai Perdery Klub without following a public participation process, **be approved**; and
3. that the deviation from paragraph 24 of the Administration of Immovable Property Policy in order to renew the current lease agreement with Gansbaai Perdery Klub without having a new market related valuation being done, **be approved**.

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

31 DECEMBER 2018

TARGET DATE TO INFORM APPLICANT :

22 DECEMBER 2018

TARGET DATE TO INFORM OBJECTOR :

N/A

