

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

**6.
TWO PORTIONS OF ERF 212 VAN DYKSBAAI (SITUATED NEXT TO
BIRKENHEAD ROAD, VAN DYKSBAAI): RENEWAL OF EXISTING LEASE AND
THE LEASE OF AN ADDITIONAL PORTION OF MUNICIPAL PROPERTY TO
OVERBERG BOAT CLUB**

7/2/3/1

A Le Roux

Manager: Property Administration

6 August 2020

(028) 316 - 3724

1. Executive Summary

To obtain approval to enter into a further lease agreement with Overberg Boat Club for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, being a portion of Erf 212 Van Dyksbaai ($\pm 2,736\text{m}^2$ in extent) situated next to Birkenhead Road, Van Dyksbaai, for the purpose of managing a boat club and related purposes.

To obtain approval to lease an additional portion of Erf 212 Van Dyksbaai ($\pm 10,306\text{m}^2$ in extent) situated next to Birkenhead Road, Van Dyksbaai to Overberg Boat Club for a period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of managing a boat club and related purposes. 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
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

The Overberg Boat Club (hereinafter referred to as the “Applicant”) has been using a portion of Erf 212 Van Dyksbaai since 1985, as approved by then Divisional Council of Caledon, for sport and recreational purposes. As no correspondence or substantial information with regards to a written agreement with the club could be found, approval was granted to enter into a standard lease agreement with the club for a period of 9 (NINE) years and 11 (ELEVEN) months, which commenced on 1 January 2010 and expired on 1 December 2019.

The Applicant applied to renew the lease agreement as well as to lease an additional portion of Erf 212 Van Dyksbaai as they have reached their capacity on their current lease area and still receives enquiries from the public looking for boathouses to store their boats. The Applicant is promoting fishing under the juniors and they try to organize regular workshops for them to better themselves with adapting to adulthood and the future in an organizational environment. This additional lease area, if approved, will serve to accommodate these workshops as well as additional boathouses. If approved, the Applicant will clear the unwanted tall bushes and plant short, local *Restia* to hold the sand in the wind and keep good, open visibility, stopping unnecessary staging points for the vandalism that is happening at present. The Applicant will also fence and maintain the additional lease area, ensuring the prohibition of the local community using the area as a dumping site, which happens from time to time as the area in question is not enclosed, with winding roads obscured by the tall bushes.

Although the process for the renewal of the agreement was commenced with timeously, the process could unfortunately not be completed before expiry of the agreement as our department was waiting for the Applicant to confirm that they wish to renew their lease agreement as well as the motivation letter from the Applicant for the additional lease area applied for. Internal processes especially requesting comments and subsequent investigations took longer than expected.

The Finance Department was requested to continue to levy the rental as the Applicant is still in possession of the property.

A lease agreement, has in the meantime been entered into,(for administrative and audit purposes) with special conditions included in the agreement stipulating that the lease agreement is subject to the Executive Mayor’s approval (as delegated authority) allowing the Municipality to enter into the long term agreement.

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

The existing lease area on a portion of Erf 212 Van Dyksbaai has been used by the Applicant for over 30 years without complaints from the public. The municipal account is up to date.

The Applicant delivers a very important service to the community of Van Dyksbaai in the form of sport and recreation.

A report served before the Mayoral Committee during a Mayoral Committee meeting held on 26 February 2020. The report was referred back and additional information was requested. The following questions were raised:

- How can a member of the public become a member of the club?
- What are the costs involved as a member of the club?
- How are the membership fees utilized by the club? and
- Who does the committee of the club consist of?

The feedback received from the Applicant in response to the above questions is discussed below.

Any person wishing to join the club must forward an application to the Secretary of the club together with full details regarding the name of the boat, if any, specifications and seaworthy particulars. The details regarding membership of any other club and which club he/she wishes to represent in competitions are required as well.

The amounts payable by members in the way of subscriptions shall be the annual subscription fee, as decided at the Annual General Meeting of the Applicant. Membership fee for 2020 is R375.00 per person together with an R275.00 affiliation fee. Other tariffs involved are subject to certain criteria. In the case of a member wishing to rent a boathouse and said member is an angler, the rental amount will be calculated at R46.64 per square metre per year. If said member is a non-angler, the rental amount will be calculated at R93.28 per square metre per year. In the case where a member wishes to store a freezer in the boathouse, electricity usage will be levied to their membership at R68 per freezer per month. The annual insurance for the boathouses is divided by the number of members renting the boathouses and the sizes of the boathouses are taken into account. The contribution by a member towards the insurance policy will thus be higher for those members with larger boathouses.

The membership fees as well as above mentioned fees are used by the Applicant to cover the expenses of the club. These expenses include, but are not limited to, the municipal account, insurance, security, liquor licence, rental of post box, television licence, television network, data, inventory for the bar, wages of the barman, reception costs, engraving of certificates, medallions and trophies, cleaning services, cleaning materials, maintenance, gardening

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

services, salaries and wages, club clothing, advertisement costs, various inter-provincial competition costs, towing services for boats and fuel costs etc.

The management and control of the club is vested in the Executive Committee consisting of the:

- Chairman (Riaan van Staden)
- Vice-chairman (Ric Kuisis)
- Secretary (Marzaan Middleton)
- Weigh in Officer (Riaan van Staden)
- Treasurer (Marzaan Middleton)
- Competitions officer (Amanda van Staden)
- Crews representative (Thys Louw)
- Clubhouse and Property Maintenance (Ric Kuisis)
- Bar Management (Kenny Owen)
- Reception Management (Amanda van Staden)
- Junior Division Development (Riaan van Staden & Ric Kuisis)
- Hall leasing Management (Linda Groenewald)
- Angling Representatives at Club Meetings (Wayne Middleton, Thys Louw & Chris Fourie)
- Boathouse Representatives at Club Meetings (Thys Louw, Wayne Middleton & Erik Dahl)
- Member to represent the club at the Western Province Deep Sea Angling Association Committee Meetings (DP Burger)
- Radio and safety officer (Norman Kemm)
- Records officer (Amanda van Staden)
- Public relations officer in respect of sponsorship and funds only. (Amanda van Staden)

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 –*

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

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”.**

As the Applicant is a well-established sport and recreational facility who delivers a service to the community of Gansbaai and surrounding areas and due to the fact that their account is up to date, it is recommended that the property, as per the current lease area plus the additional lease area applied for, be leased directly to the Applicant 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**

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

- 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 a portion of Erf 212 Van Dyksbaai as well as the additional lease area applied for, 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 Gansbaai Courant on 29 November 2019 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.”*

In this regard the rental charged will be in accordance with the tariff approved in the annual budget for Sports facilities.

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 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 with the Applicant.

B: Advertisement/Notification

An advertisement for the lease of a portion of Erf 212 van Dyksbaai (jointly ±13,042m² in extent) was placed in the Gansbaai Courant on

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

29 November 2019 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 existing lease of a portion of Erf 212 Van Dyksbaai ($\pm 2,736\text{m}^2$ in extent) to the Applicant be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 2 December 2019. It is further recommended that the lease of an additional portion of Erf 212 Van Dyksbaai ($\pm 10,306\text{m}^2$ in extent) to the Applicant be approved for a period of 9 (NINE) years and 11 (ELEVEN) months from 2 December 2019.

It is recommended that the tariff for sport facilities, being a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for the 2019/2020 financial year and R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) per month for the 2020/2021 financial year, be levied.

7. Financial Implications

The Municipality stands to gain rental in the amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for the 2019/2020 financial year R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) per month for the 2020/2021 financial year where after the lease amount will escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2021. All expenses pertaining to the proposed lease will be borne by the club.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Town Planner: Mr S van der Merwe – (028) 313 8900

“Erf 212 van Dyksbaai is zoned for Open Space Zone 2: Public Open Space purposes and leased to the boat club. The current lease agreement is up for renewal. The applicant also proposes to extend the lease area up to the Dangerpoint road leading to Birkenhead. The lease area will have a total size of 1,3ha. From a planning point, no objection is raised to the renewal and extension of the lease area, subject to following:

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

- 1) *the applicant at his cost obtain prior municipal approval for an amended SDP in respect of the proposal*
- 2) *boathouses may only be rented out to members of the club*
- 3) *boathouses may only be utilized for storage of boats.”*

The above conditions are included in the lease agreement. As the additional portion of Erf 212 Van Dyksbaai requires the approval of an amended Site Development Plan the agreement stipulates that the lease of the additional portion will be subject to the club obtaining the approval within a period of 6 (SIX) months from signature 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 van Dyksbaai, 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 further lease of municipal property, being a portion of Erf 212 Van Dyksbaai, (±2,736m² in extent), to Overberg Boat Club for the purpose of managing a boat club and related activities for a period of 9 (NINE) years and 11 (ELEVEN) months as from 2 December 2019 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved;**
2. that the lease of an additional portion of municipal property, being a portion of Erf 212 Van Dyksbaai, (±10,306 m² in extent), to Overberg Boat Club for the purpose of managing a boat club and related activities for a period of 9 (NINE) years and 11 (ELEVEN) months as from 2 December 2019 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved;**
3. that the approval mentioned in 2 above be subject to the approval of a Site Development Plan and that no new development be commenced with prior to the approval of the Site Development Plan;

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting: 30 September 2020)**

4. that the rental be determined at R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT)(VAT excluded) per month for the 2019/2020 financial year and R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) per month for the 2020/2021 financial year, as determined in the tariffs stipulated in the Annual Budget as approved by Council; and
5. that the rental amount mentioned in 4 above escalate every year on the 1st of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2021.

RESPONSIBLE OFFICIAL:	N LIEBENBERG
TARGET DATE FOR IMPLEMENTATION:	11 OCTOBER 2020
TARGET DATE TO INFORM APPLICANT:	7 OCTOBER 2020
TARGET DATE TO INFORM OBJECTOR:	N/A

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting : 30 September 2020)**

**6.
TWO PORTIONS OF ERF 212 VAN DYKSBAAI (SITUATED NEXT TO BIRKENHEAD ROAD, VAN DYKSBAAI): RENEWAL OF EXISTING LEASE AND THE LEASE OF AN ADDITIONAL PORTION OF MUNICIPAL PROPERTY TO OVERBERG BOAT CLUB**

7/2/3/1

A Le Roux

6 August 2020

Manager: Property Administration

(028) 316 - 3724

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 22 SEPTEMBER 2020, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION:

that the item **be referred back** in order for the Administration to clarify some aspects and be resubmitted at the Mayoral Committee meeting of 30 September 2020.

RESPONSIBLE OFFICIAL:

N LIEBENBERG

TARGET DATE FOR IMPLEMENTATION:

11 OCTOBER 2020

TARGET DATE TO INFORM APPLICANT:

7 OCTOBER 2020

TARGET DATE TO INFORM OBJECTOR:

N/A



