

**6.
A PORTION OF ERF 775 FISHERHAVEN: LEASE OF MUNICIPAL PROPERTY TO
POINT CARAVAN RESORT (PTY) LTD**

**A Le Roux
1 July 2024**

Divisional Manager: Property Management

(028) 316 - 5623

1. Executive Summary

To obtain approval to enter into a lease agreement with Point Caravan Resort (Pty) Ltd in respect of municipal property, being a portion of Erf 775 Fisherhaven (2,1284 Hectares in extent) situated next to Riverside Drive, Fisherhaven, hereinafter referred to as "the Property", for a period of 25 (TWENTY-FIVE) years for the lease, development, management and maintenance of municipal property as holiday resort. See the locality maps attached hereto marked Annexure "A1 & A2".

2. Service Delivery and Budget Implementation Plan - IGNITE

Planning and Development
Property Management

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

6. Background/Discussion/Evaluation/Conclusion

Background

The initial lease of a portion of Erf 775 Fisherhaven (±1,4200ha in extent) was with the Lake Marina Yacht and Boat Club for the purpose of managing the Lake Marina Yacht and Boat Club as well as operating 39 caravan sites for members and related activities. This lease agreement was renewed on several occasions, the last renewal ending on 30 June 2024. These renewals were approved pending further investigation, planning and public meetings regarding the envisaged development and the subsequent outcome of the competitive bidding process. The first competitive process was followed in 2020, which tender was cancelled as no responsive bids were received. Further

discussions were held, mainly regarding the proposed size of the lease area, as well as the lease period. This led to the inclusion of the Property in the list of Investment Conference properties.

The subsequent outcome was further that the lease area will be increased from $\pm 1,4200$ ha to 2,1284ha in extent and the proposed lease period increased from 9 (NINE) years 11 (ELEVEN) months to 25 (TWENTY-FIVE) years. This was to ensure a viable bid and development.

Discussion

The subject property was thus subsequently identified as one of the "Investment Conference" properties to be made available by means of a competitive process. Following various public notices, including the Investment Conference held on 23 and 24 June 2022, 11 people initially registered as interested parties to partake in any competitive process followed to make the Property available.

Following the Investment Conference, the Accounting Officer (Municipal Manager), on 24 October 2022, approved in principle the competitive process for the lease, development, management and maintenance of the Property property as a holiday resort at a market related rental amount for a lease period of 25 (TWENTY-FIVE) years.

Tenders were duly invited and on 8 March 2024 the tender was awarded to Point Caravan Resort (Pty) Ltd, hereinafter referred to as "the Lessee", at a rental amount of R32,907.25 (THIRTY-TWO THOUSAND NINE HUNDRED AND SEVEN RAND AND TWENTY-FIVE CENTS) (VAT included) per month.

In terms of the tender document and the subsequent lease agreement, the area of $\pm 1,4200$ ha in extent (as was leased to the Lake Marina Yacht and Boat Club) can be used by the lessee immediately as they will keep to the current footprint. For further development up to the 2,1284ha, the lessee must obtain additional approvals, which might include environmental authorisation. As the proposed lease area will be in excess of 10 (TEN) years, the Lessee will have to attend to a land use planning process (subdivision of lease area, closure of public place and rezoning) in order for the lease agreement to be registered as required by legislation. This will entail a public participation process as to the proposed use and further development of the Property.

Evaluation

A. Administration of Immoveable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

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 (i) many parties showed interest in managing a holiday resort from the Property, (ii) the Property is well situated, and (iii) the intended use of the Property will be for business purposes, the decision was made to make the Property available for leasing by means of a competitive bidding process at a market related rental. A competitive bidding process was therefore followed.

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 lease of the Property by means of a competitive process at a market related rental amount.

As a competitive process was followed there is no need for a public participation process as the tender was already a form of public participation. However, due to the interest in the process, it is recommended that the public be informed of the outcome of the tender process as to the award made and the decision of Council as to the lease period. This will be done in the form of an advertisement, at the cost of the Municipality.

During the initial process to obtain the in-principle approval to follow a competitive process, the expectation was that the income value for the period will be under R10 million. This was taking into account the market related rental amount of R12,749.12 (TWELVE THOUSAND SEVEN HUNDRED AND FORTY-NINE RAND AND TWELVE CENTS) (VAT included) per month as determined by the municipality's valuer (indicative rental in the tender document) with an estimated average CPI escalation of 6.5% per annum. With an estimated rental income for the period being under R10 million it is only necessary to obtain the final approval from the Executive Mayor.

However, with the submission of the tender, a much higher rental amount was offered. This had the effect that the estimated rental income for the period will be in excess of R10 million. This means that the final approval must be obtained from Council. Thus, the request will be for Council to approve the long-term lease.

Paragraph 40: “Rental, except where it is decided otherwise by the Municipality, shall escalate on the 1st of July every year, by a percentage fixed in accordance with the prevailing consumer price index (all items).”

A clause to this effect will be included in 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.

Conclusion

Considering the above discussion, it is recommended that the lease of the Property to the Applicant be approved for a lease period of 25 (TWENTY-FIVE) years at a rental amount of R32,907.25 (THIRTY-TWO THOUSAND NINE HUNDRED AND SEVEN RAND AND TWENTY-FIVE CENTS) (VAT included) per month.

7. Financial Implications

The Municipality stands to gain rental in the amount of R32,907.25 (THIRTY-TWO THOUSAND NINE HUNDRED AND SEVEN RAND AND TWENTY-FIVE CENTS) (VAT included) per month from 1 July 2024 such rental to escalate

every year on the 1st of July in accordance with the consumer price index (all items), the next escalation to be on 1 July 2025. All expenses pertaining to the proposed lease will be borne by the Applicant, except for the last advertisement to inform the public of the outcome of the tender award and Council's decision as to the lease period.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Divisional Manager: Expenditure, Fleet and Asset Management- Mr J Vorster

“As this is an income generating proposal, with no intention of selling the asset, there is no objection against the application”.

10. Annexures

Annexure A1 & A2: Locality maps

RECOMMENDATION TO THE COUNCIL:

1. that the lease of municipal property, being a portion of Erf 775 Fisherhaven (2,1284 Hectares in extent), to Point Caravan Resort (Pty) Ltd for the lease, development, management and maintenance of municipal property as a holiday resort at an initial rental amount of R32,907.25 (THIRTY-TWO THOUSAND NINE HUNDRED AND SEVEN RAND AND TWENTY-FIVE CENTS) (VAT included) per month for a rental period of 25 (TWENTY FIVE) years in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved**;
2. that the rental amount mentioned in 1 above escalate every year on the 1st of July in accordance with the consumer price index (all items), the first escalation to be 1 July 2025;
3. that Point Caravan Resort (Pty) Ltd be responsible for all costs relating to the registering of the lease agreement against the title deed of the Property and all associated processes;
4. that Point Caravan Resort (Pty) Ltd enters into a services agreement with the Municipality for the provision of services in terms of the tender, applicable legislation and Council policies; and
5. that a final advertisement be placed at the cost of the Municipality to inform the public of the outcome of the tender award and Council's decision as to the lease period.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	17 SEPTEMBER 2024
TARGET DATE TO INFORM APPLICANT :	17 SEPTEMBER 2024
TARGET DATE TO INFORM OBJECTOR :	N/A



