

11.

A PORTION OF REMAINDER ERF 4771 HERMANUS: RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO BERG EN SEE BELEGGINGS (PTY) LTD**A Le Roux
3 October 2024****Divisional Manager: Property Management****(028) 316 5623**

1. Executive Summary

To obtain approval to enter into a further lease agreement with Berg en See Beleggings (Pty) Ltd, hereinafter referred to as “the Applicant”, in respect of a portion of Remainder Erf 4771 Hermanus ($\pm 101,3\text{m}^2$ in extent), hereinafter referred to as “the Property”, situated at 84 Eight Street, Voëlklip, Hermanus for a period of 5 (FIVE) years for security and gardening purposes.

The locality maps are attached hereto as Annexures “A1” and “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

Executive Mayor

5. Legal Requirements

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

6. Background/Discussion/Evaluation/Conclusion**Background/ Discussion**

Ghoeps Beleggings (Pty) Ltd, who was the initial lessee, sold its property, being Erf 10998 Hermanus adjacent to the Property, to the Applicant in June 2023 and submitted a request that the lease agreement be ceded to the Applicant.

The Applicant entered into a cession agreement with the Municipality for the remainder of the lease period to utilise the Property for security and gardening purposes.

The last lease agreement was for a period of 3 (THREE) years from 1 September 2021 until 31 August 2024 for security and gardening purposes.

The Applicant applied for the renewal of the lease of the Property for a further period of 5 (FIVE) years. No complaints were received from the community during the previous lease period. The municipal account is paid up to date.

Evaluation

A. Administration of Immoveable Property Policy of the Overstrand Municipality

The following conditions of said policy 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”.

Although the proposed lease is for a long-term period, the rental that will be received will not be in excess of R10 million (TEN MILLION RAND).

Currently the rental amount is R359.13 (THREE HUNDRED AND FIFTY-NINE RAND AND THIRTEEN CENTS) (VAT excluded) per month.

The Property is a passage next to the Applicant’s property and no other party can make use of it except the owner of an adjoining property. The size and locality of the Property makes it impossible for any development or use on the Property by any other party.

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 Applicant applied for the renewal of the lease agreement which process for renewal was approved in principle by the Municipal Manager on 17 May 2024 for a period of 5 (FIVE) years, 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, as the proposed lease was advertised in The Village News on 20 September 2024 for a 30 (THIRTY) day comment/objection period. No objections have been received.

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).”*

Boland Valuers determined the market related value in October 2020 at an amount of R3.37/m² (THREE RAND AND THIRTY-SEVEN CENTS) (VAT excluded) per square metre per month. The rental amount escalated annually, and the current rental is an amount of R359.13

(THREE HUNDRED AND FIFTY-NINE RAND AND THIRTEEN CENTS) (VAT excluded) per month which annually escalates by a percentage equal to the prevailing consumer price index (all items).

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 is 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 Management Division 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.

B. Advertisement/Notification

An advertisement for the lease of the Property was published in The Village News on 20 September 2024 for a 30 (THIRTY) day objection/comment period. No objection/comment was received.

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 5 (FIVE) years from 1 September 2024 at a rental amount of R359.13 (THREE HUNDRED AND FIFTY-NINE RAND AND THIRTEEN CENTS) (VAT excluded) per month for the 2024/2025 financial year.

7. Financial Implications

The Municipality stands to gain rental in the amount of R359.13 (THREE HUNDRED AND FIFTY-NINE RAND AND THIRTEEN CENTS) (VAT excluded) per month from 1 September 2024 where after the rental amount will escalate annually on 1 July by a percentage equal to the prevailing 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.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations**Town Planner – Mr P Roux**

“The subject portion of Erf 4771 is indicated as a passage on the SG diagrams. A site inspection was conducted, and it was found that the property owner has erected two gates on each side of the passage (on 7th Street and 8th Street).

The passage was only developed between 7th Street and 8th Street and does not link with other passages in the suburb. In this particular case the passageway may not be beneficial to pedestrians due to no linkage with other passages, further easy pedestrian access can be obtained from 4th Avenue and Fifth Avenue.

Considering the aforementioned, our first option would be that the continued use is formalized in the future and that the applicant purchase the portion (subject to approval of a land use application), however we do not have an objection towards the continued leasing of a portion of the Remainder of Erf 4771 HVK adjacent to Erven 10997 and 10998.”

Divisional Manager: Building Control - Mr L Coetzee

“Building Control has no objection. Any proposed structure like a fence will require a building plan application that must comply with all applicable law.”

Divisional Manager: Expenditure, Fleet & Assets Management – J Vorster

“As this is a revenue generating proposal with no intention to dispose of the asset, there is no objection.”

10. Annexures

Annexures A1 & A2: Locality maps

RECOMMENDATION:

1. that the lease of municipal property, being a portion of Remainder Erf 4771 Hermanus ($\pm 101,3\text{m}^2$ in extent), to Berg en See Beleggings (Pty) Ltd for safety and gardening purposes at a rental amount of R359.13 (THREE HUNDRED AND FIFTY NINE RAND AND THIRTEEN CENTS) (VAT excluded) per month for a further period of 5 (FIVE) years from 1 September 2024 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 by a percentage equal to the prevailing consumer price index (all items), next escalation to be on 1 July 2025.

RESPONSIBLE OFFICIAL :	R OCTOBER
TARGET DATE FOR IMPLEMENTATION :	4 DECEMBER 2024
TARGET DATE TO INFORM APPLICANT :	11 DECEMBER 2024
TARGET DATE TO INFORM OBJECTOR :	N/A



