

7.

**ERF 2820 SANDBAAI (SITUATED IN JIMMY SMITH STREET): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO THE SANDBAAI HALL MANAGEMENT COMMITTEE**

7/2/3/1

A Le Roux

Manager: Property Administration

4 March 2020

(028) 316-3724

**1. Executive Summary**

To obtain approval to enter into a further lease agreement with the Sandbaai Hall Management Committee for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, being Erf 2820 Sandbaai (8,912m<sup>2</sup> in extent) situated in Jimmy Smith Street, Sandbaai for the purpose of managing, leasing, supervising and maintaining the Sandbaai Community Hall for community purposes.

**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  
The encouragement of structured community participation in the matters of the municipality  
Promotion of tourism, economic and social development

**4. Delegated Authority**

Executive Mayor

**5. Legal Requirements**

- Municipal Assets Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

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

The Sandbaai Hall Management Committee has successfully managed the Sandbaai Community Hall for the past 9 (NINE) years and 11 (ELEVEN) months for the purpose of managing, leasing, supervising and maintaining the Sandbaai Community Hall for community purposes. They are a well-

established management committee and manage the Sandbaai Community Hall on behalf of the Municipality to the advantage of the community.

Sandbaai Hall Management Committee is a non-governmental organisation and has full legal status. They do not conduct any business for profit, other than the leasing of the Sandbaai Community Hall, but may initiate and coordinate fundraising in matters and projects that are within the boundaries of community goals as stated in their constitution. The current lease agreement stipulates that the profit must be used for the maintenance of the building and premises and any profit after said maintenance is completed must be paid to the Overstrand Municipality. There have never been profit left after repairs and maintenance was completed as no profit was paid over to the Municipality.

The lease agreement was for a period of 9 (NINE) years and 11 (ELEVEN) months and expired on 31 August 2019. Although the process for the renewal of the agreement was commenced with timeously, the process could unfortunately not be completed before expiry of the said agreement as several aspects regarding the conditions of the proposed lease agreement had to be discussed.

As Sandbaai Hall Management Committee is still in possession of the property the rental is still being levied on the municipal account.

A condition will be included in the new lease agreement that the Sandbaai Community Hall must be made available to the Municipality free of charge for official meetings and functions.

The locality of the lease area is indicated on the locality plan attached per "Annexure A".

### **Discussion**

The Sandbaai Hall Management Committee applied for a further lease agreement of 9 (NINE) years and 11 (ELEVEN) months as from 1 September 2019.

The community hall has been managed by them successfully since 2009. Although one complaint was received in 2015 from a user of the hall for one specific event the complaint was adequately addressed by the management committee.

The Sandbaai Hall Management Committee's municipal account is up to date.

### **Evaluation**

- A. Administration of Immovable 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 interest of the community.”*

As the property is zoned as Community Zone 1: Community Facility and used by the Sandbaai Hall Management Committee to the benefit of the community as they are up managing and maintaining a community facility and thus due to the nature of the lease and benefit to the community, it can be leased directly to Sandbaai Hall Management Committee 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 Accounting Officer (Municipal Manager) approved in principle the further lease of Erf 2820 Sandbaai to the Sandbaai Hall Management Committee on condition that a public participation process is followed and further subject to the approval from the Executive Mayor.

The proposed lease was advertised in the Village News on 24 December 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.

**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 Sandbaai Hall Management Committee will pay 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 renewal of the lease of Erf 2820 Sandbaai was advertised in the Village News on 24 December 2019 for a 30 (THIRTY) day objection/comment period. No objection/comments were received.

#### **Conclusion**

With reference to the above discussion, it is recommended that the lease agreement with the Sandbaai Hall Management Committee be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 September 2019 at 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.

#### **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 where after the rental amount will escalate every year on the 1<sup>st</sup> of July in accordance with the tariffs

stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2020. All expenses pertaining to the proposed lease will be borne by the Sandbaai Hall Management Committee.

### **8. Staff Implications**

N/A

### **9. Comments from other Departments, Divisions and Administrations**

**Senior Manager: Expenditure and Assets: Mr J Vorster – (028) 313 8046**

As this is an income generating proposal, with no intention to dispose of the asset, there is no objection to the report.

### **10. Annexures**

Annexure A: Locality plan

### **RECOMMENDATION:**

1. that the lease of municipal property, being Erf 2820 Sandbaai (8,912m<sup>2</sup> in extent) to the Sandbaai Hall Management Committee for the purpose of managing, leasing, supervising and maintaining the Sandbaai Community Hall for community purposes at the rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 September 2019 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 1<sup>st</sup> of July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2020; and
3. that a condition be included in the lease agreement that the Sandbaai Community Hall must be made available to the Overstrand Municipality free of charge for official meetings and functions.

**RESPONSIBLE OFFICIAL :**

**W MURTZ**

**TARGET DATE FOR IMPLEMENTATION :**

**30 JUNE 2020**

**TARGET DATE TO INFORM APPLICANT :**

**12 JUNE 2020**

**TARGET DATE TO INFORM OBJECTOR :**

**N/A**

