



REPORT TO SUBCOUNCIL 19 (WARD 64)

1 ITEM NUMBER

2 SUBJECT

PROPOSED LEASE OF PUBLIC STREET, BEING PORTION OF ERF 7000 FISH HOEK, ABUTTING ERF 13648, RANGER ROAD, FISH HOEK: JONATHAN SCOTT MILLS

2. ONDERWERP

VOORGESTELDE HUUROOREENKOMS VAN 'N OPENBARE STRAAT, NAAMLIK GEDEELTE VAN ERF 7000 VISHOEK, AANGRENSEND AAN ERF 13648, RANGERWEG, VISHOEK: JONATHAN SCOTT MILLS

2. ISIHLOKO

ISIPHAKAMISO SENGQESHISO NGESITALATO SOLUNTU, eSISIQEPHU SESIZA 7000 FISH HOEK, ESIMELENE NESIZA 13648, RANGER ROAD, FISH HOEK, JONATHAN SCOTT MILLS

LSU: M1286

PTMS NOs: 130004396

**File Ref Nos: S14/3/6/1/2/2228/35/13648
(Category 4)**

3 DELEGATED AUTHORITY

- ☒ The report is for comment by subcouncil to the competent authority in terms of Part 24, Delegation 10(1).

“To comment to the competent authority on the granting of rights to use, manage or control City immovable assets such as land, property and buildings and to recommend conditions of approval where deemed necessary.”

- ☐ In terms of delegation Part 27B paragraph 19(7), the following delegation was conferred upon the City Manager. The City Manager has sub-delegated this delegation to the Director: Property Management.

“To approve the granting of rights to use, control or manage capital assets: Capital assets less than R10 million, longer than 3 years (<R10 million and

> 3 years) and capital assets more than R10 million, not longer than 3 years (>R10 million and <3 years) for the following categories:

- a) Social Care Leases: Leases to Social Care organisations) NPOs, NGOs, sports organisations not for profit) at a tariff rental as approved by Council annually.
- b) Non-viable gardening and security leases: Leases of non-viable portion(s) of municipal land to adjacent land owners at a tariff rental as approved by Council annually."

Provided that this delegation may only be exercised after considering the comment from the Sub-council in whose area of jurisdiction the capital is situated.

☐ Final decision lies with Director: Property Management.

4 EXECUTIVE SUMMARY

PURPOSE OF REPORT	To consider the proposed lease of Public Street, being a portion of Erf 7000 Fish Hoek, to Jonathan Scott Mills, owner of Erf 13648, Ranger Road, Fish Hoek			
Site extent	± 86 m ²			
Submission date	2018-07-25			
Current zoning	Transport 2			
Current usage	Not currently occupied			
Proposed usage	Gardening & Security			
WARD CLLR	NOTICE DATE		WARD	
Councillor Aimee Kuhl	2019-08-22		64	
Internal circulation date	2018-08-13			
Internal department comments	The application was circulated to pertinent branches for comment on the lease, and no objections were received, subject to conditions.			
Public participation outcome summary	Advertised in the Cape Times and Die Burger on 2019-06-07. No objections were received.			
Viable	Yes		No	X
	The subject property is regarded as non-viable land which only has value to the abutting landowners in light of the fact that it cannot be developed or function as a separate entity. This property transaction may be approved without any competitive process having been followed on the basis that no purpose would be served by a competitive process.			
Recommended decision	Approval	X	Refusal	
Regulation 34(1) In-principle approval	Granted by Director: Property Management in terms of delegated authority after 21 June 2018			

Factors motivating recommendation:	<ul style="list-style-type: none"> • The leasing of the land will relieve Council of the maintenance burden. • A tariff related rental income will be generated. • Better utilization of City land. • While the applicant's house is secured by burglar bars, and security gates on the doors, there is no perimeter fencing on the road side of the house. The front boundary of the applicant's property abuts the public street, comprising a gravel road verge, and garden, maintained by the applicant. Leasing the subject land will assure better security for the applicant. 	
Strategic intent	SFA 1 : an OPPORTUNITY City of Cape Town	
	Objective 1.1	Positioning Cape Town as forward looking globally competitive City
	Programme 1.1(g)	Leveraging the City's assets

5 RECOMMENDATIONS FOR CONSIDERATION AND COMMENT BY THE RELEVANT SUBCOUNCIL

It is recommended that the lease of public street, being a portion of Erf 7000 Fish Hoek, situated at Ranger Road, Fish Hoek, shown hatched and lettered ABCDEFGH on the attached Plan LT 1573v1 marked **Annexure A**, in extent approximately 86 m², to Jonathan Scott Mills, owner of Erf 13648 FishHoek or his successors in title, be approved subject to inter alia the following conditions:

- a) A tariff rental of R548,70 per annum excluding VAT calculated at the rate applicable at the time of transaction be payable. Rates not applicable;
- b) The lease will endure for a period of ten years with an option to renew for a further 10 years;
- c) The rental will be adjusted annually in terms of the rental tariff structure as approved by Council;
- d) The property be used for gardening and security purposes only;
- e) Subject to such further conditions to be imposed by the Director: Property Management in terms of her delegated authority;
- f) Subject to compliance with any other statutory requirements;
- g) No compensation will be payable for any improvement made to the property;
- h) Any alterations or deviations to electricity services necessary as a consequence of the proposal or requested by the applicant, will be carried out at the applicant's cost;

- i) Adherence to the requirements of the City of Cape Town's by-law;
- j) No permanent structures to encroach on the road reserve;
- k) Pedestrian traffic must not be affected;
- l) The erection of any structures would in terms of Section 89 of the Cape Town Municipal Planning By-Law require an application to be submitted to Council for consideration. Any unauthorised structures would also require land use approval or for the structures to be removed;
- m) Since important cables are affected, the applicant must contact a Telkom representative, at least 48 hours prior to commencement of construction work;
- n) It is the responsibility of the applicant to notify Telkom immediately should the applicant locate any Telkom services which may not be indicated on the plan;
- o) Telkom requires access to carry out maintenance or upgrade existing services at all times;
- p) No mechanical plant or vibrator type compactors may be used within three meters of any Telkom services (i.e any Telecommunication equipment above or below ground level);
- q) The position of the Telkom services affected by the proposal is indicated as approximate and a Telkom representative must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of the Telkom services will be indicated on site;
- r) Should the applicant expose any Telkom services, the safeguard thereof will be the applicant's full responsibility;

5 AANBEVELINGS VIR OORWEGING EN KOMMENTAAR DEUR DIE BETROKKE SUBRAAD

Daar word aanbeveel dat die verhuring van 'n gedeelte openbare straat, naamlik 'n gedeelte van erf 7000, Vishoek, geleë te Rangerweg, Vishoek, aangetoon deur arsering en die letters ABCDEFGH op die aangehegte plan LT 1573v1, gemerk bylae A, ongeveer 86 m² groot, aan Jonathan Scott Mills, eienaar van erf 13648, Vishoek of sy regsopvolgers, goedgekeur word onderworpe onder meer aan die volgende voorwaardes dat:

- a) Tariefhuurgeld van R548,70 per jaar, BTW uitgesluit, bereken teen die koers wat ten tye van die transaksie geld, betaalbaar is; Eiendomsbelasting is nie van toepassing nie;
- b) Die huurooreenkoms vir 'n tydperk van tien jaar sal geld met die keuse om vir 'n verdere tien jaar te hernu;

- c) Die huurgeld jaarliks aangepas sal word volgens die huurtariefstruktuur soos deur die Raad goedgekeur;
- d) Die eiendom slegs vir tuinmaak- en sekuriteitsdoeleindes gebruik word;
- e) Onderworpe aan die verdere voorwaardes wat die direkteur: eiendomsbestuur ingevolge haar gedelegeerde bevoegdheid oplê;
- f) Onderworpe aan die nakoming van enige ander statutêre vereistes;
- g) Geen vergoeding betaalbaar is vir enige verbeteringe wat aan die eiendom gemaak word nie;
- h) Enige veranderings of afwykings aan die elektrisiteitsdienste wat as gevolg van die voorstel nodig is, of wat deur die aansoeker versoek word, op die aansoeker se onkoste uitgevoer moet word;
- i) Nakoming van die vereistes van die Stad Kaapstad se Waterverordening;
- j) Geen permanente strukture die padreserwe mag oorskry nie;
- k) Voetgangerverkeer nie geraak mag word nie;
- l) 'n Aansoek vir oorweging by die Raad ingedien moet word vir die oprigting van enige strukture ingevolge artikel 89 van die Stad Kaapstad: Verordening op Munisipale Beplanning. Enige ongemagtigde strukture ook grondgebruikgoedkeuring nodig het of andersins verwyder moet word;
- m) Aangesien belangrike kables betrokke is, moet die aansoeker minstens 48 uur voor die aanvang van bouwerk met 'n Telkom-verteenwoordiger in verbinding tree;
- n) Dit is die aansoeker se verantwoordelikheid om Telkom dadelik in kennis te stel indien die aansoeker enige Telkom-installasie vind wat nie op die plan aangedui is nie;
- o) Telkom te alle tye toegang verlang om instandhoudingswerk of opknapping van bestaande aanlegte uit te voer;
- p) Geen meganiese installasies of vibrerende kompakteerders binne drie meter van enige Telkom-installasies (dus enige telekommunikasie-toerusting bo- of ondergronds) gebruik mag word nie;
- q) Die ligging van die Telkom-aanleg wat deur die voorstel geraak word, by benadering aangetoon is en die aansoeker moet Telkom minstens 48 uur voordat daar met werk begin word, kontak om die werklike posisie van die Telkom op die terrein aan te dui;
- r) Indien die aansoeker enige Telkom-installasie ontbloom, die veilige bewaring daarvan die volle verantwoordelikheid van die aansoeker is.

IZINDULULO UKUBA ZIQWALASELWE KWAYE KUVAKALISWE ULUVO LIBHUNGANA ELIFANELEKILEYO

Kundululwe ukuba makuphunyezwe ngengqeshiso ngesitalato soluntu, esisiqephu sesiza-7000 Fish Hoek, esime eRanger Road, Fish Hoek, esiqhotyoshelweyo nesibonakaliswe ngoonobumba abakhulu u- ABCDEFGH kwiplani LT 1573v1 esiphawulwe **isihlomelo A**, esibukhulu bumalunga nama-86 m², ku Jonathan Scott Mills, umnini wesiza-13648 Fish Hoek okanye kwabangena ezihlangwini zakhe ngokwetayitile, ngokuxhomekeke phakathi kwezinye izinto, kule miqathango ilandelayo:

- a) Makuhlululwe ixabiso lerenti elingama- R548,70 ngonyaka ngaphandle kweRhafu-ntengo ngexabiso elibalwe ngexabiso elijoliswe kwixesha elo lonaniselwano. lintlawulo zobuhlali azisebenzi;
- b) Uqeshiso luyakuthi luqhubekeke isithuba seminyaka elishumi apho kuyakuthi kubekho ummiselo wokuzikhethela, ukuhlaziya kweminye iminyaka elishumi;
- c) Ixabiso lerenti liyakuthi lilungelelaniswe rhoqo ngonyaka ngokungqinelana nesakheko samaxabiso njengoko siphunyezwe liBhunga;
- d) Ipropati iyakuthi isetyenziselwe imibandela yegadi nokhuseleko kuphela;
- e) Ngokuxhomekeke kweminye imiqathango eyongeziweyo eyakuthi imiselwe nguMlawuli: woLawulo lweePropati ngokwamagunya akhe awagunyaziselweyo;
- f) Ngokuxhomekeke ekuthotyelweni kwayo nayiphina imimiselo yomthetho engeminye;
- g) Akusayi kuhlululwa mbuyekezo ngophuculo oluthe lwenziwa kwipropati;
- h) Naluphi na utshintsho okanye ukuphambuka kwiinkonzo zombane eziyimfuneko ngenxa yesindululo okanye ezicelwe ngumenzi-sicelo, ziya kwenziwa ngendleko zomenzi-sicelo;
- i) Kufuneka kuthotyelwe iimfuno zomthetho kamasipala kwiSixeko saseKapa;
- j) Akuvumelekanga ukumiselwa kwezakheko ezisisigxina kwindlela ebekelwe bucala;
- k) Abahambi ngeenyawo akufuneki bachaphazeleke;
- l) Ukwakhiwa kwazo naziphi na izakheko ngokungqinelana necandelo 89 loMthetho kaMasipala woCwangciso lukaMasipala weSixeko saseKapa kuyakufuna ukuba kungeniswe isicelo kwiBhunga ukuze lisithathele ingqalelo. Kananjalo nazo naziphi na izakheko ezingagunyaziswanga ziya kufuna iimvume yokusetyenziswa komhlaba okanye kuya kufuneka zisuswe ezo zakheko;

- m) Kuba iintambo ezibalulekileyo zichaphazeleka, umfaki-sicelo kufuneka aqhagamshelane nommeli wakwaTelkom, ubuncinane kwiiyure ezingama-48 phambi kokuqala komsebenzi wokwakha;
- n) Luxanduva lomfaki-sicelo ukwazisa uTelkom ngoko nangoko ukuba umfaki-sicelo ufumene naziphi na iinkonzo zakwaTelkom ezingaboniswa kwiplani;
- o) Abakwa-Telkom kufuneka bavumeleke ukungena, ngawo onke amaxesha ukuze baqhube umsebenzi wononophelo okanye uhlaziyo lweenkonzo ezikhoyo;
- p) Akuvumelekanga ukusebenzisa oomatshini okanye uhlobo oluthile loomatshini bokugangatha kwiimitha ezintathu zazo naziphina iinkonzo zeTelkom (oko kukuthi nasiphi na isixhobo sezoxibelelwano esihamba ngaphezulu okanye ngaphantsi komhlaba);
- q) Indawo ezime kuyo iinkonzo zikaTelkom ezichaphazelwa sesi siphakamiso ziqikelelwe kwaye kufuneka kuqhagamshelwane nommeli wakwaTelkom ubuncinane kwiiyure ezingama-48 phambi kokuqala komsebenzi, nalapho kuya kuboniswa eyona ndawo iinkonzo zeTelkom zikuyo;
- r) Ukuba umfaki-sicelo ubona naziphi na iinkonzo zeTelkom, ukhuseleko lwazo iya kuba luxanduva lomfaki-sicelo olupheleleyo.

6 DISCUSSION/CONTENTS

6.1 BACKGROUND:

An application has been received from Johnathan Scott Mills, to lease a portion of public street, being a portion of Erf 7000 Fish Hoek, abutting Erf 13648, Ranger Road, Fish Hoek, in extent approximately 86m², shown hatched and lettered ABCDEFGH on the attached plan LT 1573v1 marked **Annexure A**, for gardening and security purposes.

While the applicant's house is secured by burglar bars, and security gates on the doors, there is no perimeter fencing on the road side of the house. The front boundary of the applicant's property abuts the public street, comprising a gravel road verge and garden, maintained by the applicant.

The various departments were consulted and have no objection to the lease subject to conditions.

6.2 CONSULTATION WITH INTERNAL BRANCHES:

The various Council Departments were consulted and have no objection to the lease subject to the following conditions that will form part of the lease agreement:

- 6.2.1 Any alterations or deviations to electricity services necessary as a consequence of the proposal or requested by the applicant, will be carried out at the applicant's cost;
- 6.2.2 Adherence to the requirements of the City of Cape Town's by-law.
- 6.2.3 No permanent structures to encroach on the road reserve;
- 6.2.4 Pedestrian traffic should not be affected;
- 6.2.5 The erection of any structures would in terms of Section 89 of the Cape Town Municipal Planning By-Law require an application to be submitted to Council for consideration. Any unauthorised structures would also require land use approval or for the structures to be removed;

6.3 VALUATION

The application category fits within the tariff structure of the City approved on 27 May 2020;

An annual rental tariff of R548,70 excl. VAT subject to increase in accordance with the City's tariff structure as approved by Council and as may be amended from time to time will be payable.

6.4 CONSTITUTIONAL AND POLICY IMPLICATIONS

- 6.4.1 Chapter C of Council's policy entitled the Management of Certain of the City of Cape Town's Immovable Property (approved by Council 26 August 2010, C 54/08/10), permits the leasing of immovable property.

6.5 FINANCIAL IMPLICATIONS

All costs involved in this transaction will be for the Applicant's account.

6.6 TAX COMPLIANCE

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 98.3 stipulates the City may not consider a bid or quote unless the bidder who submitted the bid or quote has submitted a valid tax clearance certificate certifying that the provider's tax matters are in order.

In terms of the City's Supply Chain Management Policy, approved by Council on 30 May 2019 (C18/05/19), paragraph 99 stipulates "Irrespective of the procurement process, the City may not make any award above R15 000,00 to a person whose tax matters have not been declared by the SARS to be in order."

Paragraphs 372 – 375 of the afore-mentioned policy deal with the sale and letting of City owned immovable property and are silent on the SARS requirement. Property Management adopted the principle as per paragraph 99 above and applicants need to submit a SARS clearance certificate or exemption certificate for the sale of all City owned immovable property. Except for tariff based rentals, which do not exceed R15 000,00 all applicants need to submit a SARS clearance or exemption certificate for the leasing of City owned immovable property.

This transaction is tariff based and does not exceed R15 000,00 and as such the requirements for a SARS clearance or exemption certificate is not applicable.

6.7 FINANCIAL DUE DILIGENCE

The applicant's debt profile has been verified and it is confirmed that he is not in arrears.

6.8 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
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6.9 LEGAL IMPLICATIONS

Regulation 36 of the MATR

In terms of the above Regulation, Council must take into account a number of factors (highlighted in bold) when considering any proposed granting of rights to use, control or manage municipal capital assets, and it is herewith confirmed that:

Whether asset may be required for the municipality's own use during the period for which the right is to be granted

Council's service branches confirmed that the asset is not required for own purposes.

Extent to which any compensation to be received, estimated value of improvements or enhancements to party the right is granted to will be required to make, economic or financial benefit to the City

Council will receive a financial benefit in the form of a tariff rental to the amount of R548,70, excluding VAT, per annum as calculated in accordance with the tariff structure.

Management of Risk

No operational or control risk to the City.

Stakeholder comments and recommendations

The Director: Property Management, in terms of her delegated powers, has approved the public participation process as required, resulting in

the proposed lease being advertised in the Cape Argus and Die Burger on 2019-06-07. Closing date for objections was 2019-09-22. Copies of the advertisement were sent to the Ward Councillor, Manager and Chairperson of the relevant Sub-Council and registered local community organisation, as well as abutting owners. No objections were received.

Views from National and Provincial Treasury

In terms of Regulation 34 of the MATR the subject property falls within the category of a capital asset in respect of which the proposed right to be granted has a value less than R10 million and a period exceeding 3 years (Non-Significant Property Right). National and Provincial Treasury have been notified. No objections were received

Strategic, Legal and Economic Interests

None of these interests will be compromised through the granting of the right to use, control or manage the asset. In fact, they will be supported.

Compliance with Legislative Regime that is Applicable to Proposed Granting of Rights

Granting of the right to use, control or manage the asset is compliant with the Municipal Finance Management Act, Municipal Asset Transfer Regulations and Council's policy on the management of certain of the City of Cape Town's immovable property.

6.10 STAFF IMPLICATIONS

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?



No ☒


Yes ☐

ANNEXURES

Annexure A: Plan LT 1573v1

FOR FURTHER DETAILS CONTACT:

NAME	LINDSAY JOY ARON 
CONTACT NUMBERS	(021) 444-2587
E-MAIL ADDRESS	LINDSAYJOY.ARON@CAPETOWN.GOV.ZA
DIRECTORATE	ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT
FILE REF No	S14/3/6/1/2/2228/35/13648
MANAGER: PROPERTY HOLDING RACHEL SCHNACKENBERG	Rachel Schnackenberg  Digitally signed by Rachel Schnackenberg Date: 2020.10.12 14:06:52 +02'00'

 Digitally signed by
Ruby Gelderbloem
Date: 2020.10.15
11:42:58 +02'00'

Comment:

**DIRECTOR : PROPERTY MANAGEMENT IN HER
CAPACITY AS EXECUTIVE DIRECTOR : ECONOMIC
OPPORTUNITIES & ASSET MANAGEMENT NOMINEE**

NAME RUBY GELDERBLOEM

DATE

☐ REPORT COMPLIANT WITH THE PROVISIONS OF
COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS
AND ALL LEGISLATION RELATING TO THE MATTER
UNDER CONSIDERATION.

☐ NON-COMPLIANT

LEGAL COMPLIANCE

NAME

Comment:

TEL

Certified as legally compliant based on the contents of the report

DATE

ANNEXURE A

