

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
19 February 2019
(Also the agenda for the Mayoral Committee Meeting: 27 February 2019)**

**9.
HERMANUS: A PORTION OF ERF 257 HERMANUS SITUATED IN MOUNT
PLEASANT: RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO CHILD
WELFARE SOUTH AFRICA: HERMANUS**

7/2/3/1

**N Liebenberg
9 January 2019**

(028) 316-3724

Hermanus Administration

1. Executive Summary

To obtain approval to enter into a further lease agreement with Child Welfare South Africa: Hermanus for a further period of 3 (THREE) years in respect of municipal property, being a portion of Erf 257 Hermanus ($\pm 659\text{m}^2$ in extent), situated in Heide Street, Mount Pleasant, for the purpose of managing the Vrolike Vinkies Early Childhood Development Centre.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning;
Property Administration

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)

6. Background/Discussion/Evaluation/Conclusion

Background

Child Welfare South Africa: Hermanus has been utilising a portion of Erf 257 Hermanus for many years although a formal lease agreement was only entered into on 1 November 2008 for the purpose of managing the Vrolike Vinkies Early Childhood Development Centre.

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
19 February 2019
(Also the agenda for the Mayoral Committee Meeting: 27 February 2019)**

The last agreement was for a period of 9 (NINE) years and 11 (ELEVEN) months which expired on 31 October 2018.

The locality and layout of the proposed lease area are indicated on the locality plan attached per "Annexure A".

Discussion

Child Welfare South Africa: Hermanus applied for a further lease agreement of 9 (NINE) years and 11 (ELEVEN) months. Due to the reasons as stated below by the Municipality's Department of Social Development, a lease for a further 3 (THREE) years must rather be considered.

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 because:

- (a) it took months to receive confirmation form Child Welfare South Africa: Hermanus that they in fact wish to renew their lease agreement;
- (b) our Department received comments late from other internal Departments; and
- (c) by the time that the comment/objection period stipulated in the advertisement closed, Council went into recess.

The previous rental was levied annually and was last levied on 1 July 2018. As there is now a tariff approved by Council for non-profit organisation/social care organisations, the rental charged will change to a monthly rental amount.

The area applied for has been used by Child Welfare South Africa: Hermanus for more than ten years without any complaints from the public. Child Welfare South Africa: Hermanus' municipal account is paid 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."

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
19 February 2019
(Also the agenda for the Mayoral Committee Meeting: 27 February 2019)**

As the property is not classified as a business site and the leasing of the said property to Child Welfare South Africa: Hermanus (a registered non-profit organisation) is in the interest of the community, i.e. not a commercial lease, and they have been leasing it successfully for many years and due to the nature of the lease and benefit to the community, it can be leased directly to Child Welfare South Africa: Hermanus 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 lease of a portion of Erf 257 Hermanus to Child Welfare South Africa: Hermanus for managing Vrolike Vinkies Early Childhood Development Centre on condition that the public participation process is followed. The proposed lease was advertised in the Village News on 19 December 2018 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.”

Child Welfare South Africa: Hermanus will pay all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs.

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
19 February 2019
(Also the agenda for the Mayoral Committee Meeting: 27 February 2019)**

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 257 Hermanus (±659m² in extent) was placed in the Village News on 19 December 2018 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 lease agreement with Child Welfare South Africa: Hermanus be approved for a further period of 3 (THREE) years from 1 November 2018 at a rental amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month which is the amount approved in the 2018/2019 budget.

7. Financial Implications

The Municipality stands to gain rental in the amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month 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 2019. All expenses pertaining to the proposed lease will be borne by Child Welfare South Africa: Hermanus.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Manager: Social Development: Mr G Smit – (028) 313 8035

The Department has no objections to the renewal of the lease. However, please take note of the following which has been communicated to Property

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
19 February 2019
(Also the agenda for the Mayoral Committee Meeting: 27 February 2019)**

Administration on a previous occasion:

Child Care facilities are a local government function in terms of Section 156 and Schedule 4B of the Constitution of the Republic of South Africa, 1996. The Local Government: Municipal Systems Act, No 32 of 2000, determines that a municipality can either perform these functions internally or externally through an external service provide. We do not have the capacity to perform this function internally and must therefore make use of an external service provider.

Lease agreements per se, does not constitute a proper agreement with an external service provider to prove a municipal service. It also lacks the necessary mechanisms required to monitor the quality of service being delivered. Early childhood Development services must be provided at a minimum standard as set out in the Children's Act, No 38 of 2005.

This Department does not have any objections against Child Welfare South Africa: Hermanus's application. It is also mindful of the fact that the Property Administration Department cannot have occupancy of municipal premises where there is no agreement in place.

However, considering above mentioned, this department is of the opinion that a maximum lease agreement of three years should be considered. This department has been tasked with drawing-up an ECD policy which will, amongst others, look at suitable mechanisms to appoint external service providers to provide an ECD service from municipal facilities. The policy will have to undergo a thorough public participation process to ensure buy in from the community, it will therefore take some time but hopefully not more than two years.

Hopefully the ECD policy can be completed within a year. Limiting the lease agreements for municipal ECD facilities will ensure that a new system can be implemented over a shorter period without too much bias and unfairness.

Reply from Property Administration: The matter was discussed with Mr Smit as to a combined lease and management agreement where ECD facilities are concerned. This can however only be implemented once the necessary policy is approved by Council as indicated by Mr Smit above.

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 Mount Pleasant, with no intention to dispose of the asset, there is no objection to the report.

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
19 February 2019
(Also the agenda for the Mayoral Committee Meeting: 27 February 2019)**

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION:

1. that the lease of municipal property, being a portion of Erf 257 Hermanus ($\pm 659\text{m}^2$ in extent), to Child Welfare South Africa: Hermanus for the purpose of managing Vrolike Vinkies Early Childhood Development Centre at the rental amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month for a further period of 3 (THREE) years as from 1 November 2018 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 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 2019.

RESPONSIBLE OFFICIAL:	N LIEBENBERG
TARGET DATE FOR IMPLEMENTATION:	27 MARCH 2019
TARGET DATE TO INFORM APPLICANT:	13 MARCH 2019
TARGET DATE TO INFORM OBJECTOR:	N/A

**AGENDA of the
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Hermanus Administration

9 January 2019

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 19 FEBRUARY 2019, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION

RESPONSIBLE OFFICIAL:

N LIEBENBERG

TARGET DATE FOR IMPLEMENTATION:

27 MARCH 2019

TARGET DATE TO INFORM APPLICANT:

13 MARCH 2019

TARGET DATE TO INFORM OBJECTOR:

N/A

