

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
7 September 2022
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

**7.
UNREGISTERED ERF 4459 GANSBAAI (SITUATED IN BOEGOE STREET IN
BEVERLY HILLS: RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO
S.H.A.R.E**

7/2/3/1

A Le Roux

Manager: Property Administration

3 August 2022

(028) 316 5623

1. Executive Summary

To obtain approval to enter into a further lease agreement with S.H.A.R.E (hereinafter referred to as "the Applicant") for a period of 5 (FIVE) years in respect of municipal property, being unregistered Erf 4459 Gansbaai, (371m² in extent) (hereinafter referred to as "the Property"), situated in Beverly Hills, Gansbaai, for the purpose of operating an Early Childhood Development Centre, providing skills development and a feeding scheme. See the locality plan attached hereto marked Annexure "A1 & 2".

2. Service Delivery and Budget Implementation Plan - IGNITE

Investment and Infrastructure
Property Administration

3. Compliance with Strategic Priority/ies

Provision of democratic, accountable and ethical governance
Creation and maintenance of a safe and healthy environment
Promotion of tourism, economic and social development

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)

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
7 September 2022
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

6. Background/Discussion/Evaluation/Conclusion

Background/ Discussion

The Property has been used by the Applicant since 2016 and a lease agreement was first entered into with effect from 1 April 2017 for the purpose of operating an Early Childhood Development Centre, providing skills development and a feeding scheme. The last lease agreement was for a period of 2 (TWO) years, which expired on 31 March 2020. As the Property is located in the area “Beverly Hills” where diagrams for the Property had to be finalised with the surrounding housing development, an internal investigation had to be done to ensure that a lease renewal was possible, there was a delay in the process for the renewal of the lease agreement. The rental is still being levied on the account and the renewal agreement will be backdated from 1 April 2020.

The renewal process was delayed due to the Housing Project which was not completed and the internal investigation, with regards to the building plans and fire regulations, was also not completed. In this investigation it was found that the building the Applicant was occupying does not comply with the health and safety requirements and no building plan is available. This was of concern as the Property is mainly used as an ECD. This was one of the issues that had to be addressed before a renewal could be finalised.

The Applicant delivers an important service to the Beverly Hills community through educating their children and providing food to the community with the feeding scheme. The Property has been used by the Applicant for 4 (FOUR) years without any problems or complaints from the public regarding the use of the Property. The municipal account is up to date. The Applicant is still in occupation of the Property and the monthly rental is still being levied.

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

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
7 September 2022
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

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 more than R10 million. The Property is not a business premises and will not be used for business purposes neither will the rental be market related.

As the Applicant is a well-established non-profit organisation who delivers a much-needed service to the community of Beverly Hills and no complaints have been received during the lease period, and their account is up to date, it is recommended that the Property be leased directly to the Applicant 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***

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
7 September 2022
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

- 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 the Property to the Applicant, subject to a public participation process being followed and further subject to the approval from the Executive Mayor.

The proposed lease was advertised in The Village News on 16 September 2020 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 for the lease of municipal land to registered Social Care Institutions/Organisations/NPO’s/PBO’s/Sports facilities.

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 will be liable for the payment of all costs relating to the renewal of the lease agreement which in this case is only the advertisement costs. These costs have already been paid by the Applicant.

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.

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
7 September 2022
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

B. Advertisement/Notification

An advertisement for the lease renewal of the Property to the Applicant was placed in The Village News on 16 September 2020 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 the Applicant be approved for a further period of 5 (FIVE) years from 1 April 2020 at a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENTS) (VAT excluded) per month for the 2019/2020 financial year, R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) for the 2020/2021 financial year, R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY SEVEN CENTS) (VAT excluded) for the 2021/2022 financial year, and R167.83 (ONE HUNDRED AND SIXTY SEVEN RAND AND EIGHTY THREE CENTS) (VAT excluded) for the 2022/2023 financial year as approved in the Annual Budget

7. Financial Implications

The Municipality stands to gain rental in the amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENTS) (VAT excluded) per month for the 2019/2020 financial year, R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) for the 2020/2021 financial year, R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY SEVEN CENTS) (VAT excluded) for the 2021/2022 financial year, and R167.83 (ONE HUNDRED AND SIXTY SEVEN RAND AND EIGHTY THREE CENTS) (VAT excluded) for the 2022/2023 financial year, where after the rental 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 2023. 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

Senior Town Planner: Mr S van der Merwe – (028) 313 8900

“My comment as per the below remain the same. As far as I am aware the development is still in progress. I cannot advise when registration in the deeds office would occur. The property has however been accommodated in

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
7 September 2022
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

the layout of the housing development as a community zone erf. There may however be further requirements from Building Control Department pertaining to compliance with the Building and Fire Regulations.”

Comment from Property Administration: The Building Control and Fire Departments have been contacted to determine if there are any further requirements for the compliance with the Building and Fire Regulations to be included in the lease agreement. The Senior Manager: Gansbaai/Stanford Administration (who originally placed the Applicant on the Property), in conjunction with Fire Services and Building Control, will ensure that the necessary fire and building regulations are in place and attend to all works needed to comply with the relevant legislation.

The general plan for the development has already been registered with the Surveyor-General and will be registered in the Deeds Office once the allocations are done and the individual properties transferred in the names of the beneficiaries.

Manager: Housing Planning and Project Management: Ms A Jacobs – (028) 312 8972

“As previously explained, Community Zone erven has been included in the layout. The civil infrastructure is almost complete, only tarring of roads remains. The leasing of the community zone erven within the development and the lease period attached thereto must be determined by your Department.”

Manager: Social Development: Mr Gerhard Smit - (028) 313 8035

“The social development department does not have any objections to the application.”

Senior Manager: Expenditure & Assets, Hermanus – J Vorster 028 313 8046

“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 & 2: Locality Plan

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
7 September 2022
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

RECOMMENDATION:

1. that the lease of municipal property, being unregistered Erf 4459 Gansbaai (371m² in extent) situated in Beverly to S.H.A.R.E for the purpose of operating an Early Childhood Development Centre, providing skills development and a feeding scheme at the rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENTS) (VAT excluded) per month for the 2019/2020 financial year, R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) for the 2020/2021 financial year, R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY SEVEN CENTS) (VAT excluded) for the 2021/2022 financial year, and R167.83 (ONE HUNDRED AND SIXTY SEVEN RAND AND EIGHTY THREE CENTS) (VAT excluded) for the 2022/2023 financial year, for a period of 5 (FIVE) years from 1 April 2020 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 tariffs stipulated in the Annual Budget as approved by Council, the next escalation to be on 1 July 2023; and
3. that the Senior Manager: Gansbaai/Stanford Administration ensures that the necessary works are done in order for the Property to comply with all Health and Safety requirements.

RESPONSIBLE OFFICIAL :	R OCTOBER
TARGET DATE FOR IMPLEMENTATION :	15 OCTOBER 2022
TARGET DATE TO INFORM APPLICANT :	26 OCTOBER 2022
TARGET DATE TO INFORM OBJECTOR :	N/A

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
7 September 2022
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

**7.
UNREGISTERED ERF 4459 GANSBAAI (SITUATED IN BOEGOE STREET IN
BEVERLY HILLS: RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO S.H.A.R.E**

7/2/3/1

A Le Roux

Manager: Property Administration

3 August 2022

(028) 316 5623

**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE
PORTFOLIO COMMITTEE ON 7 SEPTEMBER 2022, WHICH COMMITTEE
SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :	R OCTOBER
TARGET DATE FOR IMPLEMENTATION :	15 OCTOBER 2022
TARGET DATE TO INFORM APPLICANT :	26 OCTOBER 2022
TARGET DATE TO INFORM OBJECTOR :	N/A



