

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 May 2017
(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

**6.
KLEINMOND, A PORTION OF ERF 5462: LEASE OF MUNICIPAL PROPERTY TO
KLEINMOND PRIMARY SCHOOL**

7/2/3/1

**M Erasmus
2 March 2017**

(028) 316-3724

Hermanus Administration

1. Executive Summary

To obtain approval to enter into a further lease agreement with Kleinmond Primary School in respect of municipal property, being a portion of Erf 5462 Kleinmond (± 1 292m² in extent) for the purpose of additional parking and a netball court for the school.

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

Kleinmond Primary School has been leasing the subject portion of Erf 5462 Kleinmond from the Municipality since 2006 for the purpose of additional parking. Since then the Kleinmond Primary School has also erected a netball court on the lease area. The most recent agreement expired on 31 July 2016.

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

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Discussion

Kleinmond Primary School applied to lease the subject portion of the property for a further period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of additional parking and a netball court.

Kleinmond Primary School delivers an essential service to the community of Kleinmond. The children attending the school receive good care and education which is an advantage to our future generation. The further lease of the said portion of Municipal property may contribute towards the school providing a better service to the community and their children.

Kleinmond Primary School's municipal account is up to date and no complaints regarding the use of the property for have been received during their previous period of lease.

It can be confirmed that Kleinmond Primary School applied for the renewal in time and that the renewal process was also commenced with by the Property Administration Department in time. Unfortunately due to unforeseen circumstances the lease agreement could not be entered into before the expiration of the previous agreement. As Kleinmond Primary School is still in occupation of the property the lease amount is still levied monthly on their municipal account and paid by Kleinmond Primary School. Should the further lease agreement be approved the commencement date will be backdated to commence the day after expiry of the said previous agreement.

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".

and

Paragraph 18: "A competitive process must at all times be followed in circumstances where:

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- 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”.**

As the site is not classified as a business site and the leasing of the said property to Kleinmond Primary School is in the interest of the community, i.e. not a commercial lease, and they have been leasing it successfully for several years, it is recommended that the property be leased directly to Kleinmond Primary School without following a competitive process.

Paragraph 20.1: “The Municipality may grant a long term lease of municipal immovable property with a value 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 municipal council has approved that the right may be granted.”**

The Accounting Officer (Municipal Manager) approved in principle the lease of the subject portion of Erf 5462 Kleinmond to Kleinmond Primary School for the purpose of additional parking and a netball court on condition that the public participation process is followed. The proposed lease was advertised in the Overstrand Herald on 9 February 2017 for a 30 (THIRTY) day comment/objection period.

Paragraph 27: “In the case of a direct lease of immovable property to registered social care organisations/institutions, sports/public facilities or registered non profit organisations, the rental shall be determined by the Accounting Officer taking into consideration the community value of the lease”

The Accounting Officer approved the lease amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month for leases to social care organisations/institutions which will also be applicable in this case. The

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commencement lease amount as from 1 August 2016 will be R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month until June 2017 where after the lease amount will escalate every year on the 1st of July 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.”

Kleinmond Primary School will pay all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs.

Paragraph 40: “Rental, except where it is decided otherwise by the Municipality shall escalate annually by a percentage fixed in accordance with the prevailing consumer price index (all items).”

A clause to this effect will be inserted in the lease agreement.

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 further lease of a portion of Erf 5462 Kleinmond, ±1 292m² in extent, was placed in the Overstrand Herald on 9 February 2017 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 Kleinmond Primary School be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 August 2016 at a rental

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amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month.

7. Financial Implications

The Municipality stands to gain rental in the amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month for the period of 1 August 2016 to 30 June 2017 where after the lease amount will escalate every year on the 1st of July in accordance with the prevailing consumer price index (all items). All expenses pertaining to the proposed lease will be borne by Kleinmond Primary School.

8. Staff Implications

None

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 involving an institution who delivers an essential service to the community of Kleinmond, with no intension 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 a portion of Erf 5462 Kleinmond ($\pm 1\,292\text{m}^2$ in extent) to the Kleinmond Primary School for the purposes of additional parking and a netball court at the rental amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 August 2016 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 by a percentage fixed in accordance with the prevailing consumer price index (all items) with the first escalation being on 1 July 2017.

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RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	30 JUNE 2017
TARGET DATE TO INFORM APPLICANT :	15 JUNE 2017
TARGET DATE TO INFORM OBJECTOR :	N/A

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7/2/3/1

**M Erasmus
2 March 2017**

(028) 316-3724

Hermanus Administration

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 MAY 2017, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	30 JUNE 2017
TARGET DATE TO INFORM APPLICANT :	31 MAY 2017
TARGET DATE TO INFORM OBJECTOR :	N/A

