

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
22 October 2019
(Also the agenda for the Mayoral Committee Meeting: 30 October 2019)**

**3.
HERMANUS: ERF 490 ZWELIHLE: RENEWAL OF LEASE OF MUNICIPAL
PROPERTY TO MASIZAKHE EDUCARE CENTRE**

7/2/3/1

N Liebenberg

(028) 316-3724

Hermanus Administration

10 September 2019

1. Executive Summary

To obtain approval to enter into a further lease agreement for a period of 3 (THREE) years with Masizakhe Educare Centre in respect of municipal property, being Erf 490 Zwelihle (858m² in extent) situated at 32 Loba Street, Zwelihle, for the purpose of operating the Masizakhe 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

Erf 490 Zwelihle has been used for the purpose of managing the Masizakhe Early Childhood Development Centre for many years with the first lease agreement signed on 12 August 1999. The previous lease agreements were entered into with the Hermanus Rainbow Trust as Masizakhe Early Childhood Development Centre has been managed with their financial and administrative support. In 2012 an agreement was entered into between Hermanus Rainbow Trust and the Masizakhe Educare Centre in terms of which the ECD would become independent of the Hermanus Rainbow Trust.

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To give effect to this agreement the Hermanus Rainbow Trust requested to have the lease ceded to Masizakhe Educare Centre. Masizakhe Educare Centre then registered as an NPO and subsequently a cession agreement was entered into between Overstrand Municipality, Hermanus Rainbow Trust and Masizakhe Educare Centre where Hermanus Rainbow Trust ceded, with the approval of the Overstrand Municipality, the said lease agreement to Masizakhe Educare Centre on the same terms and conditions.

The last agreement, which was ceded, was for a period of 9 (NINE) years and 11 (ELEVEN) months expiring on 30 September 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 due to internal processes taking longer than expected.

The Finance Department was requested to continue with the levy of the rental amount as Masizakhe Educare Centre is still in possession of the property.

A lease agreement has since been drafted (for administrative and audit purposes) with special conditions included in the agreement stipulating that the lease agreement is subject to a public participation process being followed and the Executive Mayor's approval (as delegated authority) allowing the Municipality to enter into the said long term agreement.

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

Discussion

Masizakhe Educare Centre applied for a further lease agreement of 3 (THREE) years as from 1 October 2019.

The area applied for has been used for the Masizakhe Early Childhood Development Centre since August 1999. No complaints regarding the use of the property by Masizakhe Educare Centre have been received. Masizakhe Educare Centre's municipal account is paid to date.

Masizakhe Educare Centre delivers a very important service to the community of Zwelihle in providing amongst others day care and education to the children of Zwelihle.

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply:

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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.”

The property is not classified as a business site and Masizakhe Educare Centre (a registered non-profit organisation) has been on the premises since 1999 and has proven to be successful in educating the children of the Zwelihle community. Taking into consideration the nature of the lease and benefit to the community together with the effort put into for the education and care of the children, the property can be leased directly to Masizakhe Educare Centre 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 490 Zwelihle to Masizakhe Educare Centre on condition that the 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 18 September 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 for non-profit organizations.

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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.”

Masizakhe Educare Centre 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 490 Zwelihle was placed in The Village News on 18 September 2019 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 Masizakhe Educare Centre be approved for a further period of 3 (THREE) years from 1 October 2019 at a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month as approved in the Annual Budget 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 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 2020.

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8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Town Planner: Mr H Olivier – (028) 313 8900

“A Consent use was approved in 2017 to utilize the property for a crèche. There is no objection to extending the lease.”

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

“The social development department has no objection to the extension of the lease agreement. The facility is well managed.”

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 Zwelihle, with no intention to dispose of the asset(s), there is no objection to the report.”

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION:

1. that the lease of municipal property, being Erf 490 Zwelihle (858m² in extent), to Masizakhe Educare Centre for the purpose of operating the Masizakhe Early Childhood Development Centre at the rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for a period of 3 (THREE) years as from 1 October 2019 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 2020.

RESPONSIBLE OFFICIAL:

N LIEBENBERG

TARGET DATE FOR IMPLEMENTATION:

30 NOVEMBER 2019

TARGET DATE TO INFORM APPLICANT:

13 NOVEMBER 2019

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 OCTOBER 2019, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL:

N LIEBENBERG

TARGET DATE FOR IMPLEMENTATION:

30 NOVEMBER 2019

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