

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
20 October 2020
(Also the agenda for the Mayoral Committee Meeting: 28 October 2020)**

4.

A PORTION OF REMAINDER ERF 1253 HERMANUS (SITUATED IN DE VILLIERS STREET, HERMANUS): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO SCOUTS SOUTH AFRICA – WESTERN CAPE

7/2/3/1

A Le Roux

Manager : Property Administration

11 September 2020

(028) 316 - 3724

1. Executive Summary

To obtain approval to enter into a further lease agreement with Scouts South Africa – Western Cape (hereinafter referred to as the “Applicant”) for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, being a portion of Remainder Erf 1253 Hermanus (±3,100m² in extent) situated in De Villiers Street, Hermanus, for the purpose of managing the Scouts Hall for scouts activities and programmes. See the locality plan attached hereto marked Annexure “A”.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Property Administration

3. Compliance with Strategic Priorities

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

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality (2015)

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6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

The Boy Scouts of South Africa has been using a portion of Remainder Erf 1253 Hermanus (hereinafter referred to as the “Land”) since 18 September 1995, as approved by the Transitional Local Council of the Greater Hermanus Municipality, for the purpose of managing the Scout Hall. The lease agreement was for a period of 25 (TWENTY FIVE) years, which commenced on 18 September 1995 and expired on 17 September 2020.

The Applicant applied to renew the lease agreement for a further 9 (NINE) years and 11 (ELEVEN) months. The applicant’s name has changed in the interim from Boy Scouts of South Africa to Scouts South Africa – Western Cape.

Due to the fact that the Property Administration Department had to wait for confirmation from the Applicant whether they wish to renew, the effect of the Covid-19 pandemic has on internal processes and external processes as well as the completion of the public participation process, the renewal process could unfortunately not be completed before expiry of the agreement.

The Finance Department was requested to continue to levy the rental as the Applicant is still in possession of the Land.

A lease agreement has been sent for signature, (for administrative and audit purposes) with special conditions included in the agreement stipulating that the lease agreement is subject to the Executive Mayor’s approval (as delegated authority) allowing the Municipality to enter into the long term agreement.

The Land has been managed successfully by the applicant for the past 25 years and the municipal account is up to date.

In 2003 a complaint was received from Babbel and Krabbel After Care with regards to using the hall for school purposes, but it was resolved.

The applicant delivers a service to the community of Hermanus in the form of recreation. The hall is also being used by the adjoining school, Babbel and Krabel After Care during school hours.

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Evaluation

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy will 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 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”.*

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As the Applicant is a well-established non-profit- and community organization who delivers a service to the community of Hermanus and surrounding areas and due to the fact that their account is up to date and no complaints have been received during their lease period, it is recommended that the Land, which will not be used for business purposes, 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 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 renewal of the lease of the Land 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 9 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 Social Care Institutions/ Registered Organisations/NPO's/PBO's/ Sport facilities/Community organisations.

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.”*

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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.

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 Land 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 Remainder Erf 1253 Hermanus (±3,100m² in extent) was placed in The Village News on 9 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 of a portion of Remainder Erf 1253 Hermanus (±3,100m² in extent) to the Applicant be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 18 September 2020.

It is recommended that the tariff for lease of municipal land to Social Care Institutions/Registered Organisations/NPO's/PBO's/Sport facilities/Community organisations, being a rental amount of R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) per month for the 2020/2021 financial year, be levied.

7. Financial Implications

The Municipality stands to gain rental in the amount of R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) per month for the 2020/2021 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 2021. All expenses pertaining to the proposed lease will be borne by the Applicant.

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8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

“The proposed property is zoned Community Zone. We do not object to the continued leasing of the property for the scout's use. What is of concern is the parking and traffic situation between the crèche and high school on adjacent sides of the proposed area. It is therefore submitted that a portion of the scout's ground is used for overflow parking for the crèche. Should this be positively considered then an updated site development plan (SDP) will be required for indicating where the parking will be situated. Further should there be any additional extensions to buildings then a land use application will be required for the amendment of the SDP, and the submission of building plans.”

Comments from Property Administration: It has been proposed and investigated in the past that a portion of Remainder Erf 243 Hermanus, across from Erf 1253 Hermanus be made available for parking needed by the crèche. This triangle of municipal property is approximately 5,968.5m² in extent. It is therefore proposed that should the need for additional parking arise, as mentioned above, the above mentioned portion of Remainder Erf 243 Hermanus be made available instead of the Applicant needing to give up a portion of their lease area. Please find attached “Annexure B”, which indicates the above mentioned potential parking area. It must however be noted that the Scouts Hall is made available to the crèche as needed and a good relationship exists between the two tenants of the municipality.

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

10. Annexures

- Annexure A: Locality Map
- Annexure B: Locality Map – Parking area

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RECOMMENDATION:

1. that the further lease of municipal property, being a portion of Remainder Erf 1253 Hermanus, ($\pm 3,100\text{m}^2$ in extent), to Scouts South Africa – Western Cape for the purpose of managing the Scout Hall for scouts activities and programmes at a rental amount of R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months from 18 September 2020 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 2021.

RESPONSIBLE OFFICIAL:	N LIEBENBERG
TARGET DATE FOR IMPLEMENTATION:	11 OCTOBER 2020
TARGET DATE TO INFORM APPLICANT:	7 OCTOBER 2020
TARGET DATE TO INFORM OBJECTOR:	N/A

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7/2/3/1

A Le Roux

Manager : Property Administration

11 September 2020

(028) 316 - 3724

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 20 OCTOBER 2020, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION

RESPONSIBLE OFFICIAL:

N LIEBENBERG

TARGET DATE FOR IMPLEMENTATION:

11 OCTOBER 2020

TARGET DATE TO INFORM APPLICANT:

7 OCTOBER 2020

TARGET DATE TO INFORM OBJECTOR:

N/A

ANNEXURE A



ANNEXURE B

