

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
19 October 2021  
(Also the agenda for the Mayoral Committee Meeting: 28 October 2021)**

---

**8.**

**A PORTION OF ERF 1969 PEARLY BEACH (SITUATED AT 1 DASI STREET, PEARLY BEACH): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO FLOWER VALLEY CONSERVATION TRUST**

**7/2/3/1**

**R Marinus**

**Acting Manager: Property Administration**

**13 July 2021**

**(028) 316 - 5609**

---

**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Flower Valley Conservation Trust (hereinafter referred to as "FVCT") in respect of municipal property, being a portion of Erf 1969 Pearly Beach (±385m<sup>2</sup> in extent) situated at 1 Dasi Street, Pearly Beach (hereinafter referred to as "the Property"), for a period of 9 (NINE) years and 11 (ELEVEN) months for the management of the Dolfyntjies Early Childhood Development Centre and related purposes. 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)

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
19 October 2021  
(Also the agenda for the Mayoral Committee Meeting: 28 October 2021)**

---

**6. Background/Discussion/Evaluation/Conclusion**

**Background/Discussion**

FVCT is a registered Non Profit Organisation with registration number NPO 083 402 as well as a Public Benefit Organisation with PBO registration number 930 011 712. FVCT is a trust that assists various ECD's in the Gansbaai area with the management as well as the administration of ECD's.

FVCT has been successfully using a portion of Erf 1969 Pearly Beach for the past 6 (SIX) years for the purpose of managing the Dolfyntjies Early Childhood Development Centre. The last lease agreement commenced on 1 April 2018 and expired on 31 March 2021.

The renewal process was delayed due to outstanding advertisement costs and FVCT's municipal account was also in arrears. The municipal account is paid up to date and the outstanding costs have been settled.

FVCT applied for the renewal of the lease agreement and the lease renewal was approved in principle by the Municipal Manager on 14 January 2021 for a period of 9 (NINE) years and 11 (ELEVEN) months.

FVCT is being levied the monthly rental amount as they are still occupying the Property.

In 2018 the Manager: Social Development, Economic Development and Tourism, Mr Gerhard Smit, provided the following comment with regards to long term lease renewals of ECD centres:

*"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."*

It was requested that should renewals be approved, it should only be for a further period of 3 (THREE) years, giving the Directorate: Social Development and Economic Development and Tourism the needed time to compile and implement the above-mentioned policy. With the writing of this report, there was still no approved policy in the above regard, hence after discussion with the Manager: Property Administration, Ms Anja Le Roux, it has been recommended and subsequently approved in principle by the Municipal Manager that, should the renewal of the lease agreement be recommended, the renewal period be for a period of 9 (NINE) years and 11 (ELEVEN) months as the financial implications towards the publishing of the

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
19 October 2021  
(Also the agenda for the Mayoral Committee Meeting: 28 October 2021)**

---

advert every 3 (THREE) years with respect to the public participation process will be too great for any ECD to bear and place an enormous strain on their finances.

FVCT delivers an important service to the community of Eloxulweni and no complaints have been received from the public during their previous lease periods.

### **Evaluation**

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

The following paragraphs 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.”**

The application for renewal was received before the expiry of the last lease agreement and therefor no formal application form needs 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:**

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
19 October 2021  
(Also the agenda for the Mayoral Committee Meeting: 28 October 2021)**

---

- 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 in excess of the R10 million as the rental charged will be in accordance with the tariffs approved in the Annual Budget for lease of municipal land to NPO's for the specific financial year. The rental for the period from April to June 2021 will be R154.78 (ONE HUNDRED AND FIFTY FOUR RAND AND SEVENTY EIGHT CENTS) (VAT excluded) per month and for 2021/2022 the rental will be R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY-SEVEN CENTS) (VAT excluded) per month whereafter it will annually escalate in terms of the tariffs approved in the Annual Budget.

The Property is zoned: Community Zone and may not be used for a formal business premises as this is not allowed for in terms of the zoning.

FVCT provides an important service to the community and FVCT has been leasing the Property successfully for the past 6 (SIX) years without any complaints from the community. A competitive process will not be in the best interest of the community as the service of educating the children of the community is very important.

In light of the fact that FVCT is a registered NPO that uses the Property and manages an ECD, it can be argued that the Property be leased directly to FVCT without following a competitive process as the ECD is a community based facility that delivers a very important service to the community which operates not to gain profit.

**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**

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
19 October 2021  
(Also the agenda for the Mayoral Committee Meeting: 28 October 2021)**

---

**c) *The Executive Mayor, as delegated authority, has approved that the right may be granted.***

FVCT applied for the renewal of the lease agreement and the lease renewal was approved in principle by the Municipal Manager on 14 January 2021 for a period of 9 (NINE) years and 11 (ELEVEN) months, subject to a public participation process being followed and further subject to the approval by the Executive Mayor as delegated authority of the long term lease.

The Executive Mayor's approval is hereby sought and the proposed lease was advertised in The Gansbaai Courant on 19 March 2021 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."***

The tariff for lease of municipal property to registered Social Care Institutions/Organisations/NPO's/PBO's/Sport facilities is R154.78 (ONE HUNDRED AND FIFTY-FOUR RAND AND SEVENTY-EIGHT CENTS) (VAT excluded) per month for the 2020/2021 financial year and for 2021/2022 the rental will be R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY-SEVEN CENTS) (VAT excluded) per month. The lease agreement will stipulate that the rental amount will escalate annually in accordance with the tariff as 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."***

FVCT will be liable for the payment of all costs relating to the renewal of the lease agreement which in this case so far is only the cost of placing the advertisement.

**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.

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
19 October 2021  
(Also the agenda for the Mayoral Committee Meeting: 28 October 2021)**

---

**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 the Property was placed in The Gansbaai Courant on 19 March 2021 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 the Property to FVCT be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 April 2021 at 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.

**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 from 1 April 2021 to 30 June 2021 and for 2021/2022 the rental will be R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY-SEVEN CENTS) (VAT excluded) per month where after the rental amount will escalate annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council. The next escalation will be on 1 July 2022. All expenses pertaining to the proposed lease will be borne by FVCT.

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

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

*“Please note that the social development department does not have any objections to the renewal of the lease agreement for Dolfyntjies.”*

**Senior Town Planner: Mr S van der Merwe – (028) 313 8938**

*“The subject property is zoned Community Zone and developed with a community hall and a crèche under the applicable primary rights. The renewal of the lease agreement is supported subject to compliance with the scheme regulations.”*

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
19 October 2021  
(Also the agenda for the Mayoral Committee Meeting: 28 October 2021)**

---

**Senior Manager: Gansbaai/Stanford Administration: Mr F Myburgh –  
(028) 384 8365**

*“Approval was given for a project to upgrade the existing facilities situated on this project. The project which is currently in the planning phase will be funded by the Department of Rural Development. The existing tenant and infrastructure will however remain on the premises and I am therefore in favour of the favourable consideration of the extension of the lease arrangement.”*

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

## **10. Annexures**

Annexure A: Locality Map

### **RECOMMENDATION:**

1. that the lease of municipal property, being a portion of Erf 1969 Pearly Beach ( $\pm 385\text{m}^2$  in extent), to the Flower Valley Conservation Trust, for operating the Dolfyntjies Early Childhood Development Centre at a rental amount R154.78 (ONE HUNDRED AND FIFTY-FOUR RAND AND SEVENTY-EIGHT CENTS) (VAT excluded) per month from 1 April 2021 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 annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council.

**RESPONSIBLE OFFICIAL:**

**R OCTOBER**

**TARGET DATE FOR IMPLEMENTATION:**

**13 NOVEMBER 2021**

**TARGET DATE TO INFORM APPLICANT:**

**30 NOVEMBER 2021**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
19 October 2021  
(Also the agenda for the Mayoral Committee Meeting : 28 October 2021)**

---

**8.**

**A PORTION OF ERF 1969 PEARLY BEACH (SITUATED AT 1 DASI STREET, PEARLY BEACH): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO FLOWER VALLEY CONSERVATION TRUST**

**7/2/3/1**

**R Marinus**

**Acting Manager: Property Administration**

**13 July 2021**

**(028) 316 - 5609**

---

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 19 OCTOBER 2021, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION:**

1. that the lease of municipal property, being a portion of Erf 1969 Pearly Beach ( $\pm 385\text{m}^2$  in extent), to the Flower Valley Conservation Trust, for operating the Dolfyntjies Early Childhood Development Centre at a rental amount 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 1 April 2021 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 annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council.

**RESPONSIBLE OFFICIAL:**

**R OCTOBER**

**TARGET DATE FOR IMPLEMENTATION:**

**13 NOVEMBER 2021**

**TARGET DATE TO INFORM APPLICANT:**

**30 NOVEMBER 2021**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

ANNEXURE A



a Portion of Erf 1969 Pearly Beach