

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
19 October 2021
(Also the agenda for the Mayoral Committee Meeting : 26 October 2021)**

20.

A PORTION OF REMAINDER ERF 5464 KLEINMOND (SITUATED IN MAIN ROAD, KLEINMOND): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO MEERENVLEI LEASE HOLDERS ASSOCIATION

7/2/3/1

R Marinus

Acting Manager: Property Administration

13 September 2021

(028) 316 5609

1. Executive Summary

To obtain approval to enter into a further lease agreement with Meerenvlei Lease Holders Association (hereinafter referred to as "Meerenvlei"), in respect of municipal property, being a portion of Remainder Erf 5464 Kleinmond ($\pm 7,450\text{m}^2$ in extent) (hereinafter referred to as the "Property") situated in Main Road for a period of 5 (FIVE) years for the purpose of the management, leasing, sub-letting, supervising and maintaining the Property. The locality map is attached hereto as "Annexure A".

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)
- Municipal Asset Transfer Regulations (R. 878 of 2008)

6. Background/Discussion

Background

Schus Holdings Ltd previously utilised the Property for camping purposes and the Property was originally open to the public. During the years 1985/1986

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Schus Holdings Ltd erected twenty mobile residential units for the purpose of being occupied and sold.

Meerenvlei manages the units by means of sub-lease agreements that are being entered into with the owners who bought the mobile units from Schus Holdings Ltd. The owners who bought the mobile units from Schus Holdings, sometimes re-sell the mobile units and then the sub-lease agreement needs to be ceded to the new owner of the structure. The lease agreement with Meerenvlei stipulates that the sub-lease of the mobile unit may not be ceded without the Municipality's prior written consent. Cession agreements are being entered into with new owners of the mobile units in order for them to also be bound by the terms and conditions of the lease agreement.

The last lease agreement was for a period of 9 (NINE) years and 11 (ELEVEN) months which commenced on 1 October 2011 and expired on 31 August 2021.

Meerenvlei applied for the renewal of the lease agreement for a further period of 9 (NINE) years and 11 (ELEVEN) months. The period of 9 (NINE) years and 11 (ELEVEN) months applied for is not preferred because the Property is earmarked for future development. The Kleinmond Ward Committee, together with the Municipality's Town Planning Department is busy with planning for developing the Kleinmond lagoon as a top tourist attraction. A further lease period of 5 (FIVE) years is preferred as the Municipality must still complete its plans, budget for the development and the owners of the mobile units must have sufficient time to make necessary arrangements. Although the process for the renewal of the lease 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 to levy the rental as the units are still being occupied by the owners.

A lease agreement has is in the process of being prepared (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 municipal accounts of the owners are paid up to date.

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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 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”.

Meerenvlei is a well-established organisation who successfully managed, leased and sub-let the property for the past 9 (NINE) years and 11

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(ELEVEN) months and no complaints were received from the Kleinmond community. The units are mostly being used by persons who rent and/or buy the units after retirement for holiday accommodation.

The Property is zoned: Special. It cannot be classified as a business site and therefore it is advisable that the Property be leased directly to Meerenvlei 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 delegated authority approved in principle the lease of the Property to Meerenvlei 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 Overstrand Herald on 19 August 2021 for a 30 (THIRTY) day comment/objection period. No objections were received.

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”.

There is an approved tariff in the annual budget of the Municipality for the lease of The Schus Houses (Meerenvlei). The approved tariff for the 2021/2022 financial year is R1,075.65 (ONE THOUSAND AND SEVENTY FIVE RAND AND SIXTY FIVE CENTS) (VAT excluded) per month per unit, which rental shall escalate annually in accordance with the tariff as approved in the annual budget of the Municipality.

Rental is levied on the municipal accounts of the sub-lessees and the Meerenvlei Lease Holders Association shall be responsible for ensuring that the municipal accounts of its sub-lessees, which includes rental, are paid up to date.

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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.”

Meerenvlei will pay all costs relating to the application which in this case is only the advertisement. No survey or valuation was done and therefore no costs were incurred in this regard.

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.

B. Advertisement/Notification

An advertisement for the lease of the Property was placed in The Overstrand Herald on 19 August 2021 for a 30 (THIRTY) day objection/comment period. No objections were received.

Conclusion

With reference to the above discussion, it is recommended that the renewal of the lease agreement with Meerenvlei be approved for a further period of 5 (FIVE) years from 1 September 2021 at a rental amount of R1,075.65 (ONE THOUSAND AND SEVENTY FIVE RAND AND SIXTY FIVE CENTS) (VAT excluded) per month per unit.

7. Financial Implications

The Municipality stands to gain rental in the amount of R1,075.65 (ONE THOUSAND AND SEVENTY FIVE RAND AND SIXTY FIVE CENTS) (VAT excluded) per month per unit, such rental to escalate every year on the 1st of July as stipulated in the Overstrand Municipality’s Tariffs for the specific financial year.

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8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Town Planner: H van der Stoep 028 313 8900

“The property is zoned Special. Some of the houses are permanently occupied and are sold as such.. The area is also part of the Kleinmond CBD Upgrading Plan.

The application for long term lessees are not supported. The reason being that at present the properties are sold under the assumption that it can be permanently occupied. Secondly, the area is to be part of the tourist drive from the Kleinmond community and may the houses be utilized for future tourism accommodation. Long term lease will sterilize the possibility of developing a tourism node at the entrance of Kleinmond and the lagoon.

Lease period of 3 years will be supported.”

Comment from the Property Administration Department: The allegations of permanent residency will be investigated. The Municipality, together with the ward committee of Kleinmond, has future plans for developing the beachfront of Kleinmond as a tourist attraction and the long lease period of 9 (NINE) years and 11 (ELEVEN) months applied for by Meerenvlei will prevent the possibility of developing the area. However, in light of budgeting constraints and in order for proper planning to occur, the 3 year period suggested by the Town Planning Department is too short and a 5 (FIVE) year lease would be preferred. A 5 (FIVE) year lease will also afford Meerenvlei and the owners of the units with sufficient time to prepare for vacating the Property so that development of the Property to increase tourism in the area can occur.

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 A: Locality Plan

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RECOMMENDATION:

1. that the lease of municipal property, being a portion of Remainder Erf 5464 Kleinmond ($\pm 7,450\text{m}^2$ in extent), to Meerenvlei Lease Holders Association for the purpose of the management, leasing, sub-letting, supervising and maintaining the property at the rental amount of R1,075.65 (ONE THOUSAND AND SEVENTY FIVE RAND AND SIXTY FIVE CENTS) (VAT excluded) per month per unit, for a period of 5 (FIVE) years from 1 September 2021 in terms of the Administration of Immoveable 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 as stipulated in the Overstrand Municipality's Tariffs for the specific financial year, as approved by Council in the Annual Budget, the next escalation to be on 1 July 2022.

RESPONSIBLE OFFICIAL :	R OCTOBER
TARGET DATE FOR IMPLEMENTATION :	30 NOVEMBER 2021
TARGET DATE TO INFORM APPLICANT :	15 NOVEMBER 2021
TARGET DATE TO INFORM OBJECTOR :	N/A

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20.

A PORTION OF REMAINDER ERF 5464 KLEINMOND (SITUATED IN MAIN ROAD, KLEINMOND): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO MEERENVLEI LEASE HOLDERS ASSOCIATION

7/2/3/1

R Marinus

Acting Manager: Property Administration

13 September 2021

(028) 316 5609

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 19 OCTOBER 2021, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION

RESPONSIBLE OFFICIAL :

R OCTOBER

TARGET DATE FOR IMPLEMENTATION :

30 NOVEMBER 2021

TARGET DATE TO INFORM APPLICANT :

15 NOVEMBER 2021

TARGET DATE TO INFORM OBJECTOR :

N/A

