

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
19 September 2018
(Also the agenda for the Mayoral Committee Meeting: 26 September 2018)**

**2.
ERF 2044 GANSBAAI, MASAKHANE: LEASE OF MUNICIPAL PROPERTY TO THE
MASAKHANE PRE-SCHOOL**

7/2/3/1

C Simson

(028) 316 3724

Hermanus Administration

14 August 2018

1. Executive Summary

To obtain approval to enter into a further lease agreement for a period of 9 (NINE) years and 11 (ELEVEN) months with the Masakhane Pre-School in respect of municipal property being Erf 2044 Gansbaai situated in Masakhane ($\pm 2,281\text{m}^2$ in extent), for the purpose of operating an early childhood development centre.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure & Planning;
Property Administration

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance.

4. Delegated Authority

Executive Mayor

5. Legal Requirements

The Administration of Immovable Property Policy of the Overstrand Municipality (2015) ("the Policy").

6. Background/Discussion/Evaluation/Conclusion

Background

The Masakhane Pre-School, a registered Early Childhood Development Centre with the Department of Social Development (Creche and Educare Centre), has been utilising Erf 2044 Gansbaai, Masakhane for many years. There were previous lease agreements in place from 1 December 2013 to 30 November 2014 and most recently from 1 December 2014 to 30 November 2016. The

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renewal application commenced in 2016, but correspondence between the Municipality and the applicant proved to be a challenge. Last year Grootbos Green Futures Foundation, who manage and assist with other ECDs in the area, assisted the applicant with the application.

The Masakhane Pre-School delivers an essential service to the community of Masakhane in Gansbaai providing amongst other things day care and education to the children of Masakhane.

A municipal account is open in the name of the pre-school and services are being levied and paid on the account however it is apparent that a lease amount is currently not levied on the account.

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

Discussion

The matter was discussed with the Area Manager for Gansbaai and he supports the lease of the property to the Masakhane Pre-School. Since they have already been utilising the property for many years this report serves to legalise the matter and to enter into a further agreement with the pre-school in terms of the Administration of Immovable Property Policy.

The last standard lease amount of R127.53 (VAT Excl.) for the lease of property to non profit organisations was levied during the 2016/2017 financial year. As the agreement will be backdated it is proposed that the rental amount be levied as follows:

- December 2016 to June 2017: R127.53 (VAT Excl.) per month;
- July 2017 to June 2018: R134.42 (VAT Excl.) per month; and
- July 2018 to June 2019: R140.00 (VAT Excl.) per month, whereafter the rental amount shall escalate annually as determined in the tariffs.

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of the Policy apply:

Paragraph 17: "Taking into consideration the nature and duration of the lease to be entered into, the leasing of immovable property may

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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:

- 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 municipal property to Masakhane Pre-School as a registered Early Childhood Development Centre (Creche and Educare centre) is in the interest of the community, ie not a commercial lease, and they had been leasing it for several years prior, it is recommended that the municipal property be leased directly to Masakhane Pre-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.”**

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The Accounting Officer (Municipal Manager) approved in principle the lease of Erf 2044 Gansbaai situated in Masakhane to Masakhane Pre-School for the purpose of managing an Early Childhood Development Centre on 12 March 2017 on condition that a public participation process was followed. The proposed lease was advertised in the Gansbaai Courant on 7 April 2017 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.

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.”

Masakhane Pre-School has and 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 Municipal 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 Policy will be included in the lease agreement with the Applicant.

B. Advertisement/Notification

An advertisement for the lease of Erf 2044 Gansbaai in Masakhane ($\pm 2,281\text{m}^2$ in extent), was placed in the Gansbaai Courant on 7 April 2017 for a 30 (THIRTY) day objection/comment period. No

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objections/comments were received.

Conclusion

With reference to the above discussion it is recommended that the lease agreement with Masakhane Pre-School be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 December 2016 at a total rental amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month for the period December 2016 to June 2017, a rental amount of R134.42 (ONE HUNDRED AND THIRTY FOUR RAND AND FORTY TWO CENTS) (VAT excluded) per month for 2017/2018 financial year and a rental amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month for the 2018/2019 financial year.

7. Financial Implications

The Municipality stands to gain a lease amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month for the period December 2016 to June 2017, a rental amount of R134.42 (ONE HUNDRED AND THIRTY FOUR RAND AND FORTY TWO CENTS) (VAT excluded) per month for 2017/2018 financial year and a rental amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month for the 2018/2019 financial year whereafter 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 2019. All expenses pertaining to the proposed lease will be borne by the Lessee.

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 Masakhane, Gansbaai, with no intention to dispose of the asset, there is no objection to the report.

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10. Annexures

Annexure A: Locality Plan

RECOMMENDATION:

1. that the lease of municipal property, being Erf 2044 Gansbaai situated in Masakhane ($\pm 2,281\text{m}^2$ in extent) to the Masakhane Pre-School for the purpose of managing an early childhood development centre at a rental amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month from December 2016 to June 2017, a rental amount of R134.43 (ONE HUNDRED AND THIRTY FOUR RAND AND FORTY THREE CENTS) (VAT excluded) per month for the 2017/2018 financial year and a rental amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) for the 2018/2019 financial year for a period of 9 (NINE) years and 11 (ELEVEN) months commencing from 1 December 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 annually on the 1st of July in accordance with the tariffs as determined and approved in the Annual Budget with the next escalation on 1 July 2019.

RESPONSIBLE OFFICIAL:

C SIMSON

TARGET DATE FOR IMPLEMENTATION:

21 DECEMBER 2018

TARGET DATE TO INFORM APPLICANT:

9 OCTOBER 2018

TARGET DATE TO INFORM OBJECTOR:

N/A

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14 August 2018

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
19 SEPTEMBER 2018, WHICH COMMITTEE SUPPORTED THE
RECOMMENDATION**

RESPONSIBLE OFFICIAL:

C SIMSON

TARGET DATE FOR IMPLEMENTATION:

21 DECEMBER 2018

TARGET DATE TO INFORM APPLICANT:

9 OCTOBER 2018

TARGET DATE TO INFORM OBJECTOR:

N/A

