

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
18 February 2020
(Also the agenda for the Mayoral Committee Meeting: 26 February 2020)**

**5.
ERF 2037 GANSBAAI SITUATED IN MASAKHANE: RENEWAL OF LEASE OF
MUNICIPAL PROPERTY TO TAKALANE BABY CARE.**

7/2/3/2

A le Roux

Manager : Property Administration

8 January 2020

(028) 316 - 3724

1. Executive Summary

To obtain approval to enter into a further lease agreement with Takalane Baby Care for a period of 3 (THREE) years in respect of municipal property, being Erf 2037 Gansbaai (624m² in extent) situated at 22 Hani Crescent, Masakhane, Gansbaai, for the purpose of managing the Takalane Early Childhood Development Centre. 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)

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

Takalane Baby Care has been using Erf 2037 Gansbaai for many years, where the first official lease agreement commenced in December 2013. The previous agreement was entered into with Grootbos Green Futures

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
18 February 2020
(Also the agenda for the Mayoral Committee Meeting: 26 February 2020)**

Foundation, who was administratively managing the Takalane Early Childhood Development Centre. Takalane Baby Care registered as an NPO and their registered name, Takalane Baby Care, was entered into the NPO register on 13 April 2013. As the Takalane Early Childhood Development Centre is a registered NPO and further as they are no longer administratively managed by the Grootbos Green Futures Foundation, it was decided by their management that the new lease agreement, if approved, will be in the name of Takalane Baby Care.

The last agreement was for a period of 2 (TWO) years and 11 (ELEVEN) months which expired on 30 November 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 as our Department was waiting for the confirmation from Grootbos Green Futures Foundation whether they want to renew their lease agreement and further confirmation in which entity's name the new lease agreement will be entered into. Internal processes especially requesting comments and subsequent investigations took longer than expected.

The Finance Department was requested to continue to levy the rental as Takalane Baby Care is still in possession of the property.

A lease agreement is in the process of being drafted (for administrative and audit purposes) with a special condition 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.

Erf 2037 Gansbaai has been used by the Takalane Baby Care for many years without complaints from the public. The municipal account is up to date.

The Takalane Early Childhood Development Centre delivers a very important service to the community of Masakhane.

Evaluation

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

The following conditions of the said Policy will apply:

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:

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
18 February 2020
(Also the agenda for the Mayoral Committee Meeting: 26 February 2020)**

- 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.”

As Takalane Baby Care is an established non-profit organization who delivers a service to the community of Masakhane and due to the fact that their account is up to date, it is recommended that the property, which will not be used for business purposes, be leased directly to Takalane Baby Care 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 2037 Gansbaai, situated in Masakhane, to Takalane Baby Care, 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 Gansbaai Courant on 22 November 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.

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.”

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
18 February 2020
(Also the agenda for the Mayoral Committee Meeting: 26 February 2020)**

Takalane Baby Care 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 lease of Erf 2037 Gansbaai (624m² in extent) was placed in the Gansbaai Courant on 22 November 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 Takalane Baby Care be approved for a further period of 3 (THREE) years from 1 December 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. All expenses pertaining to the proposed lease will be borne by Takalane Baby Care.

8. Staff Implications

None

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
18 February 2020
(Also the agenda for the Mayoral Committee Meeting: 26 February 2020)**

9. Comments from other Departments, Divisions and Administrations

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

“The property is zoned as Community Zone that amongst others provides for a crèche as a primary right. The proposal is thus in line with the scheme regulations. As such, no objection to the renewal of the lease subject to compliance with the applicable development parameters in terms of the zoning scheme and any other applicable legislation relating to child care facilities.”

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

“Takalane Baby Care has been struggling for a number of years. This NPO has had management issues as well as service delivery issues. In light of this, this department supports the renewal of the lease to a maximum of three years on condition that the duration of the lease agreement will be subject to a quarterly performance evaluation of Takalane Baby Care. Overstrand municipality and Takalane will agree on the KPI's against which they will be measured.

This department will manage the performance evaluations of Takalane in cooperation with the service provider appointed by the Western Cape Department of Social Development to assist ECD's in the Gansbaai area with registration. Through this partnership, assistance will also be provided to Takalani to increase their capacity where necessary.”

A special condition will be included into the lease agreement stating that Takalane Baby Care needs to comply with a quarterly performance evaluation, which will be compiled and managed by The Manager: Social Development.

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

10. Annexures

Annexure A: Locality Map

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
18 February 2020
(Also the agenda for the Mayoral Committee Meeting: 26 February 2020)**

RECOMMENDATION:

1. that the lease of municipal property, being Erf 2037 Gansbaai, situated in Masakhane, (624m² in extent), to Takalane Baby Care for the purpose of managing the Takalane 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 December 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:	11 MARCH 2020
TARGET DATE TO INFORM APPLICANT:	31 MARCH 2020
TARGET DATE TO INFORM OBJECTOR:	N/A

**AGENDA of the
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A le Roux

8 January 2020

Manager : Property Administration

(028) 316 - 3724

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
18 FEBRUARY 2020, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL:	N LIEBENBERG
TARGET DATE FOR IMPLEMENTATION:	11 MARCH 2020
TARGET DATE TO INFORM APPLICANT:	31 MARCH 2020
TARGET DATE TO INFORM OBJECTOR:	N/A

ANNEXURE A

