

**AGENDA of the
Portfolio Committee : Investment & Infrastructure
7 September 2022
(Also the agenda for the Mayoral Committee Meeting : 26 September 2022)**

**9.
PARTIAL AMENDMENT OF MAYORAL COMMITTEE RESOLUTION DATED
25 MARCH 2020 FOR THE LEASE OF A PORTION OF ERF 5514 BETTY'S BAY
(SITUATED IN MOOIUITSIG, BETTY'S BAY) TO CHILD WELFARE SOUTH AFRICA
(KLEINMOND)**

7/2/3/1

A Le Roux

25 July 2022

Manager: Property Administration

(028) 316 5623

1. Executive Summary

To obtain approval for the amendment of the size of the lease area of Child Welfare South Arica (Kleinmond), hereinafter referred to as "the Applicant", stipulated in the Mayoral Committee's Resolution dated 25 March 2020 from $\pm 370\text{m}^2$ in extent to $\pm 563\text{m}^2$ in extent. The locality map is attached as "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
Provision and maintenance of municipal services

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

The Executive Mayor at a Mayoral Committee Meeting of 25 March 2020 resolved as follows:

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- “1. *that the lease of municipal property, being a portion of Erf 5514 Betty’s Bay, (±370m² in extent), to Child Welfare South Africa (Kleinmond) for the purpose of managing the Pikkewyntjies Pre-Primary School 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 9 (NINE) years and 11 (ELEVEN) months as from 1 June 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 2020.”*

Subsequently a lease agreement was entered into with the Applicant for a period of 9 (NINE) years and 11 (ELEVEN) months for a portion of Erf 5514 Betty’s Bay (±370m² in extent) which commenced on 1 June 2020 and expires on 30 April 2030 for the purpose of managing the Pikkewyntjies Pre-Primary School.

The Applicant now applied to also lease the Community Hall (±193m² in extent) adjoining their current lease area as there are no aftercare assistance or internet facilities for the school children of the Mooi Uitsig, Betty’s Bay area. The Applicant wants to assist the community in providing an aftercare program in the community hall for the children within the community.

Discussion

The community hall (±193m² in extent) is on the same property as the lease area but is excluded from the lease area, as indicated on the locality map attached marked “Annexure A”. The Applicant now applied to have this community hall incorporated into their lease area for the aftercare program to accommodate all the children.

It is recommended that if approved, the Applicant must make the community hall available, when needed, for community meetings at no charge to the Municipality to compensate for the room previously used as a community meeting place being incorporated into the current lease agreement. The hall must also be made available to the community for special events and celebrations after hours and weekends.

Evaluation

- A. Administration of Immovable Property Policy of the Overstrand Municipality

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The following paragraphs of the Administration of Immovable Property Policy are applicable:

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.”

The proposed incorporation of the additional lease area of the Community Hall has no influence on the rental as the rental is not determined per square metre and the income value will not exceed R10 million.

The current lease is for the managing of the Pikkewyntjies Pre-Primary School and the proposed aftercare program will be an additional complement to the current purpose of the lease. Should the application be approved, the purpose of an aftercare as well as the additional area will be stipulated in an addendum to the current lease agreement and the lease area will reflect as ±563m² in extent to include the Community Hall.

A competitive process will not best serve the interest of the community as it will be costly, and the specific portion of the property can be used meaningful as an aftercare program together with the Pikkewyntjies Pre-Primary School as the adjoining building (existing lease area) which will be to the advantage of the community and it is therefore recommended that the Community Hall be incorporated into the lease area of the Applicant without following a competitive process.

Paragraph 20: “Long term lease of municipal immovable property with an income value less than R10 million:

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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 subsequently approved that the right may be granted."**

The Accounting Officer (Municipal Manager) approved in principle the Community Hall to be incorporated in the current lease subject thereto that a public participation process is followed.

The proposed additional lease area was advertised in Overstrand Herald on 9 June 2022 for a 30 (THIRTY) day comment/objection period. No objections/comments 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."

The amendment of the Mayoral Committee decision and lease agreement will have no financial implication for the Municipality as the rental paid by the Applicant is a fixed tariff and not determined per square metre. The Municipality will continue to receive the monthly rental, currently R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY THREE CENTS) (VAT excluded) with an annual escalation on 1st July.

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."

The Applicant will pay all costs relating to this application 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."

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The property will be inspected by the Property Administration Department at least once a year.

B. Advertisement/Notification

An advertisement for the proposed additional lease area a portion of Erf 5514 Betty's Bay ($\pm 193\text{m}^2$ in extent) was placed in the Overstrand Herald on 9 June 2022 for a 30 (THIRTY) day objection/comment period. No objection/comments were received.

Conclusion

It is recommended that paragraph 1 of the Resolution dated 25 March 2020 be amended to substitute the size of the approved lease area, being $\pm 370\text{m}^2$ in extent with $\pm 563\text{m}^2$ in extent and thus including this additional community hall as well as include the additional purpose for an aftercare facility.

7. Financial Implications

The amendment of the Mayoral Committee decision and lease agreement will have no financial implications for the Municipality as the rental paid by the Applicant is a fixed tariff and not determined per square metre. The Municipality will continue to receive the monthly rental, currently R167.83 (ONE HUNDRED AND SIXTY-SEVEN RAND AND EIGHTY THREE CENTS) as determined in the lease agreement.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Kleinmond Administration: Mr D Lakey - (028) 271 8413

"I support the application, provided that the hall should be made available to the community for special events and celebrations after hours and weekends and at any time to the Municipality at short notice."

Property Administration Comment: This condition will be included in the agreement.

Senior Operational Manager: Kleinmond: Mr D van Rhodie – (028) 271 8431

"Operational Services Kleinmond have no objection to the application."

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Senior Town Planner: Ms H van der Stoep – (028) 313 8900

“There is no objection pertaining to the request. This will optimize multi use of structures. The zoning is Community Zone and thus caters for the intended purpose. The aftercare facility must however be subservient to the normal use of the Community Hall which must get preference.”

10. Annexures

Annexure A: Locality plan
Annexure B Site plan

RECOMMENDATION:

That the amendment of paragraph 1 of the Executive Mayor’s Resolution dated 25 March 2020 to reflect the lease area as ±563m² in extent in order to include the community hall as well as the inclusion of the purpose of the lease for an aftercare facility, **be approved**.

RESPONSIBLE OFFICIAL :	W MURTZ
TARGET DATE FOR IMPLEMENTATION :	14 OCTOBER 2022
TARGET DATE TO INFORM APPLICANT :	28 OCTOBER 2022
TARGET DATE TO INFORM OBJECTOR :	N/A

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE
PORTFOLIO COMMITTEE ON 7 SEPTEMBER 2022, WHICH COMMITTEE
SUPPORTED THE RECOMMENDATION**

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