

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

7.

A PORTION OF ERF 257 HERMANUS: RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO HERMANUS CHILD AND FAMILY SERVICES

7/2/3/1

R Marinus

Acting Manager: Property Administration

10 September 2021

(028) 316 5609

1. Executive Summary

To obtain approval to enter into a further lease agreement with Hermanus Child and Family Services (hereinafter referred to as “Vrolike Vinkies”), in respect of a portion of Erf 257 Hermanus situated at 30 Heide Street, Mount Pleasant for a period of 9 (NINE) years and 11 (ELEVEN) months for purpose of managing the Vrolike Vinkies Early Childhood Development Centre. 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/Evaluation/Conclusion

Background/ Discussion

Hermanus Child and Family Services, previously known as Child Welfare South Africa: Hermanus has been utilising a portion of Erf 257 Hermanus for the past years for the purpose of managing the Vrolike Vinkies Early Childhood Development Centre.

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The last agreement was for a period of 3 (THREE) years which commenced on 1 November 2018 and will expire on 31 October 2021.

Vrolike Vinkies applied for the renewal of the lease agreement and the lease renewal was approved in principle by the Municipal Manager on 24 June 2021 for a period of 9 (NINE) years and 11 (ELEVEN) months.

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 in place, 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 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.

Vrolike Vinkies deliver an important service to the community of Mount Pleasant through educating their children and no complaints regarding the use of the Property by Vrolike Vinkies were received during their previous periods of lease. The municipal account is paid up to date.

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

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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”.

Although the proposed lease is for a long term period the rental that will be received will not be in excess of R10 million as the rental charge 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. Currently the rental amount is R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY SEVEN CENTS) (VAT excluded).

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

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Vrolike Vinkies delivers an important service to the community and has been leasing the Property successfully for the past few 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 and as the financial implication to make the Property available via the competitive bidding process will be more than that of the rental amount received.

As Vrolike Vinkies is a registered NPO that uses the Property and manages an ECD, it can be argued that the Property be leased directly to Vrolike Vinkies 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**
- c) The Executive Mayor, as delegated authority, has approved that the right may be granted.”**

Vrolike Vinkies applied for the renewal of the lease agreement which was approved in principle by the Municipal Manager on 24 June 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 Village News on 25 August 2021 for a 30 (THIRTY) day comment/objection period. No objections have been 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 tariff for the lease of municipal property to registered Social Care Institutions/Organisations/NPO’s/PBO’s/Sport facilities is R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY SEVEN CENTS) (VAT excluded) per month for the 2021/2022 financial year. The agreement will

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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.”

Vrolike Vinkies 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 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.

B. Advertisement/Notification

An advertisement for the lease of a portion of Erf 257 Hermanus was placed in The Village News on 25 August 2021 for a 30 (THIRTY) day objection/comment period.

Conclusion

With reference to the above discussion it is recommended that the lease of the Property to Vrolike Vinkies be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 November 2021 at a rental amount of R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY SEVEN CENTS) (VAT excluded) per month for the 2021/2022 financial year.

7. Financial Implications

The Municipality stands to gain rental in the amount of R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY SEVEN CENTS) (VAT excluded) per month from 1 November 2021 where after the rental amount will escalate annually on 1 July in accordance with the tariffs stipulated in the

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Annual Budget as approved by Council, next escalation to be on 1 July 2022.
All expenses pertaining to the proposed lease will be borne by Vrolike Vinkies.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

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

“Since it is an existing lease for renewal this office has no comment to offer except that that the activities must comply with all the relevant legislation.”

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

“The social development department does not have any objections and would support the application on the grounds of the good track record that the organisation has with Vrolike Vinkies.”

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

RECOMMENDATION:

1. that the lease of municipal property, being a portion of Erf 257 Hermanus (±659.4m² in extent), to Hermanus Child and Family Services, for managing the Vrolike Vinkies Early Childhood Development Centre at a rental amount of R160.87 (ONE HUNDRED AND SIXTY RAND AND EIGHTY SEVEN CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 November 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.

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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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7/2/3/1

R Marinus

Acting Manager: Property Administration

10 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

