

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

**4.
KLEINMOND, A PORTION OF ERF 7349: LEASE OF MUNICIPAL PROPERTY TO
CHILD WELFARE SOUTH AFRICA (KLEINMOND)**

7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

4 August 2016

1. Executive Summary

To obtain approval to enter into a further lease agreement with Child Welfare South Africa (Kleinmond), hereinafter referred to as "Child Welfare", in respect of municipal property, being a portion of Erf 7349 Overhills ($\pm 1\,251\text{m}^2$ in extent) situated in Kleinmond, for the management of the Bambanani Daycare Centre.

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)

6. Background/Discussion/Evaluation/Conclusion

Background

Child Welfare, a registered social care facility, has been leasing the subject portion of Erf 7349 Overhills in Kleinmond from the Municipality since 2006 for the purpose of managing the Bambanani Daycare Centre. The most recent agreement expired on 31 May 2016.

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

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

Discussion

Child Welfare applied to lease the subject portion of the property for a further period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of managing the Bambanani Daycare Centre.

Child Welfare through the Bambanani Daycare Centre delivers an essential service to the community of Overhills. The children receive good care and education during the day and the parents are able to work and earn an income for the family while their children are well looked after in a safe environment.

In terms of the Administration of Immovable Property Policy the Municipality may grant a long term lease if the Accounting Officer has approved the lease in principle, a public participation process is followed and Executive Mayor's (as delegated authority) approval is obtained in terms of the above policy.

The Accounting Officer approved in principle the lease of the property to Child Welfare. As the site is not classified as a business site and the leasing of the said property to Child Welfare is in the interest of the community, i.e. not a commercial lease, and they have been leasing it successfully for the several it is proposed that the property be leased directly to Child Welfare without following a competitive process.

Child Welfare's municipal account is up to date and no complaints regarding the use of the property for the Bambanani Daycare Centre have been received during their previous period of lease.

As the Municipality is required to have written agreements for all municipal immovable properties occupied and as the lease agreement expired on 30 May 2016 a lease agreement has subsequently been forwarded for signature. The lease agreement as forwarded to Child Welfare, provides for the levying of a rental amount of R120.20 (ONE HUNDRED AND TWENTY RAND AND TWENTY CENTS) (VAT excluded) per month for the period 1 June 2016 to 30 June 2016. With the annual escalations as determined on 1 July 2016 the lease amount for 1 July 2016 to 30 June 2017 will be R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month where after the lease amount will escalate annually by a percentage fixed in accordance with the prevailing consumer price index (all items). This agreement has been made subject to the Executive Mayor's approval of the long term lease in terms of the said Policy. In the instance where such an approval is not granted, the agreement allows for the cancellation thereof.

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

Evaluation

A. Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy 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:

- 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 said property to Child Welfare is in the interest of the community, i.e. not a commercial lease, and they have been leasing it successfully several years it is proposed that the property be leased directly to Child Welfare 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**

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

- c) **The municipal council has approved that the right may be granted.”**

The Accounting Officer (Municipal Manager) approved in principle the lease of the subject portion of Erf 7349 Overhills in Kleinmond to Child Welfare for the management of the Bambanani Daycae Centre on condition that the public participation process is followed. The proposed lease was advertised in the Overstrand Herald on 4 August 2016 for a 30 (THIRTY) day comment/objection period.

Paragraph 27: “In the case of a direct lease of immovable property to registered social care organisations/institutions, sports/public facilities or registered non profit organisations, the rental shall be determined by the Accounting Officer taking into consideration the community value of the lease”

The Accounting Officer approved the lease amount of R120.20 (ONE HUNDRED AND TWENTY RAND AND TWENTY CENTS) (VAT excluded) per month for the lease of the said property to Child Welfare for June 2016. After the escalations were done in accordance with the prevailing consumer price index (all items) the lease amount as from 1 July 2016 will be an amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month. The approved lease amount is the amount that other non-profit organisations are currently paying for the leasing of Municipal Property.

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.”

Child Welfare will pay all costs relating to the renewal of the lease agreement which in this case so far is only the advertisement costs.

Paragraph 40: “Rental, except where it is decided otherwise by the Municipality shall escalate annually by a percentage fixed in accordance with the prevailing consumer price index (all items).”

A clause to this effect will be inserted in the lease agreement.

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.”

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

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 a portion of Erf 7349 Overhills in Kleinmond, ±1 251m² in extent, was placed in the Overstrand Herald on 4 August 2016 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 Child Welfare be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 June 2016 at a total rental amount of R120.20 (ONE HUNDRED AND TWENTY RAND AND TWENTY CENTS) (VAT excluded) per month for June 2016 and an escalated lease amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month from 1 July 2016.

7. Financial Implications

The Municipality stands to gain rental in the amount of R120.20 (ONE HUNDRED AND TWENTY RAND AND TWENTY CENTS) (VAT excluded) per month for June 2016 and an amount of R127.53 (ONE HUNDRED AND TWENTY SEVEN RAND AND FIFTY THREE CENTS) (VAT excluded) per month for the period of 1 July 2016 to 30 June 2017 where after the lease amount will escalate every year on the 1st of July in accordance with the prevailing consumer price index (all items). All expenses pertaining to the proposed lease will be borne by Child Welfare.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets, Mr. J Vorster - (028) 313 8046

Consideration should be given to whether or not the proposed leasing of the asset would constitute a commercial lease in the true sense of the word. If so, the property must be reclassified as Investment Property and be disclosed in

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

the Fixed Asset Register and Annual Financial Statements in accordance with GRAP 16.

If, however, the intention of this rental agreement is to provide an enhanced community service, the property must be classified as PPE and be disclosed in the Fixed Asset Register and Annual Financial Statements in accordance with GRAP 17.

Property Administration's reply to the abovementioned comment:

The property is currently classified as Property Plant and Equipment ("PPE") in the Fixed Asset Register. The property will remain under the classification as PPE as the aim of the lease agreement is to enhance community services (the establishment and management of Early Childhood Development Centres) rather than to earn income. It is thus not seen as a commercial lease.

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION:

1. that the lease of Municipal Property, being a portion of Erf 7349 Overhills ($\pm 1\,251\text{m}^2$ in extent) situated in Kleinmond to Child Welfare South Africa (Kleinmond) for the purposes of managing the Bambanani Daycare Centre at the rental amount of R120.20 (ONE HUNDRED AND TWENTY RAND AND TWENTY CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 June 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 every year on the 1st of July by a percentage fixed in accordance with the prevailing consumer price index (all items) with the first escalation being on 1 July 2016.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	31 OCTOBER 2016
TARGET DATE TO INFORM APPLICANT :	14 OCTOBER 2016
TARGET DATE TO INFORM OBJECTOR :	N/A

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
26 September 2016
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7/2/3/1

M Erasmus

(028) 316-3724

Hermanus Administration

4 August 2016

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
26 SEPTEMBER 2016, WHICH COMMITTEE SUPPORTED THE
RECOMMENDATION**

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

31 OCTOBER 2016

TARGET DATE TO INFORM APPLICANT :

14 OCTOBER 2016

TARGET DATE TO INFORM OBJECTOR :

N/A

