

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 September 2019  
(Also the agenda for the Mayoral Committee Meeting: 25 September 2019)**

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**6.  
KLEINMOND: ERF 5768 KLEINMOND: RENEWAL OF LEASE OF MUNICIPAL  
PROPERTY TO CHILD WELFARE SOUTH AFRICA (KLEINMOND)**

7/2/3/1

**N Liebenberg  
7 August 2019**

**(028) 316-3724**

**Hermanus Administration**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Child Welfare South Africa (Kleinmond) for a further period of 3 (THREE) years in respect of municipal property, being Erf 5768 Kleinmond (737m<sup>2</sup> in extent), situated at 119 10<sup>th</sup> Avenue, Kleinmond, for the purpose of the management of an Early Childhood Development Centre ("ECD"), an Aftercare Facility and related activities.

**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 South Africa (Kleinmond) has been using Erf 5768 Kleinmond since 1999 for the purpose of the management of a Nursery School (now ECD) and later approval was given for an Aftercare Facility.

The last agreement was for a period of 9 (NINE) years and 11 (ELEVEN) months which expired on 30 April 2019. Although the process for the renewal of the agreement was commenced with timeously the process could

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
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---

unfortunately not be completed before expiry of the said agreement due to processes that took longer than expected. Although the lease agreement expired the Child Welfare South Africa (Kleinmond) is still in possession of the property and continued to pay their rental amount.

A lease agreement has since been entered into (for administrative and audit purposes) with the Child Welfare South Africa (Kleinmond) with special conditions included in the agreement stipulating that the lease agreement is subject to a public participation process being followed and the Executive Mayor's approval (as delegated authority) allowing the Municipality to enter into the said renewal agreement.

The locality and layout of the proposed lease area are indicated on the locality plan attached per "Annexure A".

### **Discussion**

Child Welfare South Africa (Kleinmond) applied for a further lease agreement of 9 (NINE) years and 11 (ELEVEN) months. Due to the reasons as stated below by the Municipality's Department of Social Development, a lease for a further 3 (THREE) years must rather be considered.

The area applied for has been used by Child Welfare South Africa (Kleinmond) successfully and without any problems since 1999. Child Welfare South Africa (Kleinmond)'s municipal account is paid to date.

### **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."**

As the property is not classified as a business site and the leasing of the said property to Child Welfare South Africa (Kleinmond) (a registered non-profit organisation) is in the interest of the community, and they have been leasing it successfully since 1999 and due to the nature of the

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Portfolio Committee: Infrastructure & Planning  
17 September 2019  
(Also the agenda for the Mayoral Committee Meeting: 25 September 2019)**

---

lease and benefit to the community and especially the children of the area, it can be leased directly to Child Welfare South Africa (Kleinmond) 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 5768 Kleinmond to Child Welfare South Africa (Kleinmond) on condition that the public participation process is followed and further subject to the approval from the Executive Mayor. The proposed lease was advertised in the Overstrand Herald on 1 August 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 registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations.

**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 South Africa (Kleinmond) 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.”**

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 September 2019  
(Also the agenda for the Mayoral Committee Meeting: 25 September 2019)**

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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 renewal of the lease of Erf 5768 Kleinmond was placed in the Overstrand Herald on 1 August 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 Child Welfare South Africa (Kleinmond) be approved for a further period of 3 (THREE) years from 1 May 2019 at a rental amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month for the months May and June 2019, which is the amount approved in the 2018/2019 budget, and a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month from 1 July 2019 for the 2019/2020 financial year.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month for the period from 1 May 2019 to 30 June 2019 and a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for the 2019/2020 financial year where after the lease amount will escalate every year on the 1<sup>st</sup> 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 Child Welfare South Africa (Kleinmond).

**8. Staff Implications**

None

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 September 2019  
(Also the agenda for the Mayoral Committee Meeting: 25 September 2019)**

---

**9. Comments from other Departments, Divisions and Administrations**

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

*“This department is of the opinion that a maximum lease agreement of three years should be considered for municipal properties where ECD services are provided. Kinder garden is an Early Childhood Development Service. The 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. Hopefully the ECD policy can be completed within a year. Limiting the length of the lease agreements for municipal ECD facilities will ensure that a new system can be implemented over a shorter period without too much bias and unfairness.*

*The Children’s Act makes a distinction between a partial care facility and the services that may be rendered there. A partial care facility must be managed and maintained in accordance with the Act, must comply with – national norms and standards, the structural safety, health and other requirements of the local municipality. Partial care facilities must be registered and for the purpose of registration, the regulations makes provision for the following different types of partial care that may be provided: early childhood development service, after school service, a private hostel, and temporary respite care services for children including children with disabilities. Norms and standards are also prescribed for each of these services.*

*Importantly, the type of service/s that is delivered at the facility determines the zoning requirements, the standards that must be complied with to get a fire clearance and or a health clearance certificate.*

*In light of the above, I strongly recommend that lease/contractual agreements make use of the facility and service descriptions used in Children’s Act specifically with reference to partial care facilities and services being rendered there.*

*Reply from Property Administration: The lease agreement stipulates that Child Welfare South Africa (Kleinmond) shall use the property for an ECD and aftercare facility which falls under the descriptions of an ECD and partial care facility as described above.”*

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

*“The Erf is zoned Community Zone and the lease is supported.”*

**AGENDA of the  
Portfolio Committee: Infrastructure & Planning  
17 September 2019  
(Also the agenda for the Mayoral Committee Meeting: 25 September 2019)**

---

**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 Kleinmond, with no intention to dispose of the asset, there is no objection to the report.”*

**10. Annexures**

Annexure A: Locality Plan

**RECOMMENDATION:**

1. that the lease of municipal property, being Erf 5768 Kleinmond (737m<sup>2</sup> in extent), to Child Welfare South Africa (Kleinmond) for the purpose of the management of an Early Childhood Development Centre, an Aftercare Facility and related activities as from 1 May 2019 at the rental amount of R140.00 (ONE HUNDRED AND FORTY RAND) (VAT excluded) per month for the period 1 May 2019 to 30 June 2019 and a rental amount of R147.83 (ONE HUNDRED AND FORTY SEVEN RAND AND EIGHTY THREE CENT) (VAT excluded) per month for the 2019/2020 financial year (from 1 July 2019) for a period of 3 (THREE) years 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.

<b>RESPONSIBLE OFFICIAL:</b>	<b>N LIEBENBERG</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>31 OCTOBER 2019</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>12 OCTOBER 2019</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
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**N Liebenberg  
7 August 2019**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
17 SEPTEMBER 2019, WHICH COMMITTEE SUPPORTED THE  
RECOMMENDATION**

**RESPONSIBLE OFFICIAL:**

**N LIEBENBERG**

**TARGET DATE FOR IMPLEMENTATION:**

**31 OCTOBER 2019**

**TARGET DATE TO INFORM APPLICANT:**

**12 OCTOBER 2019**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

