

**AGENDA of the  
Portfolio Committee: Investment, Infrastructure & Tourism  
3 April 2024  
(Also the agenda for the Mayoral Committee Meeting: 10 April 2024)**

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**6.  
A PORTION OF REMAINDER ERF 5462 KLEINMOND: RENEWAL OF LEASE OF  
MUNICIPAL PROPERTY TO KLEINMOND ANIMAL WELFARE SOCIETY**

**A Le Roux  
23 February 2024**

**Manager: Property Administration**

**(028) 316 - 5623**

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**1. Executive Summary**

To obtain approval to enter into a further lease agreement with Kleinmond Animal Welfare Society, hereinafter referred to as "KAWS", for a period of 9 (NINE) years and 11 (ELEVEN) months in respect of municipal property, being a portion of Remainder Erf 5462 Kleinmond ( $\pm 1,677\text{m}^2$  in extent) situated in Protea Avenue, Kleinmond, hereinafter referred to as "the Property", for the purpose of a pound for cats and dogs, kennels, a grooming parlor, a charity shop, a veterinary surgery and related activities. See the locality plans attached hereto marked Annexure "A1 & A2".

**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

**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**

KAWS, a registered non-profit organisation, has been using the Property since 2004 and has expanded the Property during the years at own cost to operate the charity shop and veterinary surgery.

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The current agreement is for a period of 9 (NINE) years and 11 (ELEVEN) months which commenced on 1 June 2014 and will expire on 30 April 2024.

KAWS applied for the renewal of the lease agreement and the Municipal Manager, being the delegated authority, in principle approved the process for the renewal of the lease for a further period, subject to the public participation process to be followed and the approval of the Executive Mayor.

The municipal account of KAWS is paid up to date and no complaints during the last lease period was received from the community. KAWS delivers a very important service to the community of Kleinmond and surrounding areas.

### **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 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:**

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- 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 Property is not classified as a business site and KAWS (a registered non-profit organisation) has been using the Property successfully for the last approximately 20 years and has proven their commitment and sustainability. Taking into consideration the nature of the lease and benefit to the community, the Property can be leased directly to KAWS without following a competitive process.

Although the proposed lease is for a long-term period the rental that will be received will not be more than R10 million. The current rental is set at a tariff for the lease of municipal property for registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations, being R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per month, which rental will escalate annually in terms of the approved tariff in the financial budget of the Municipality.

**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.”**

**Paragraph 22: “The in principle approval of the Accounting Officer must be obtained with any request for the renewal of the lease agreement.”**

KAWS applied for the renewal of the lease agreement which process for renewal was approved in principle by the Municipal Manager on 6 December 2023 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.

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The Executive Mayor's approval is hereby sought, as the proposed lease was advertised in the Overstrand Herald on 18 January 2024 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 for registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations will be levied. The current rental is set at a tariff for the lease of municipal property for registered Social Care Institutions/ Organisations/ NPO's/ PBO's/ Sport facilities/ Community organisations, being R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per month, which rental will escalate annually in terms of the approved tariff in the financial budget of the Municipality.

**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."***

KAWS 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 cost.

**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 the Property to KAWS was published in the Overstrand Herald on 18 January 2024 for a 30 (THIRTY) day objection/comment period. No objection/comment was received.

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**Conclusion**

With reference to the above discussion, it is recommended that the lease of the Property to KAWS be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 May 2024 at a rental amount of R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per month for the 2023/2024 financial year.

**7. Financial Implications**

The Municipality stands to gain rental in the amount of R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per month from 1 May 2024 where after the rental amount will escalate annually on 1 July in accordance with the tariffs stipulated in the Annual Budget as approved by Council, next escalation to be on 1 July 2024. All expenses pertaining to the proposed lease will be borne by KAWS.

**8. Staff Implications**

None

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

**Senior Town Planner – Ms H van der Stoep**

*“No objection. Please submit a site development plan”*

A condition will be included in the lease agreement for the submission and approval of a site development plan.

**Manager: Building Control – Mr L Coetzee**

*“No objection. All structures on site to comply with relevant legislation: this is done by submitting a building plan application where there are no approved building plan applications for the structures.”*

**Senior Manager: Expenditure & Assets - Mr J Vorster**

*“As this is an income generating proposal, with no intention of selling the asset, there is no objection against the application”.*

**10. Annexures**

Annexure A1 & A2:           Locality Plans

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**RECOMMENDATION:**

1. that the renewal of the lease of municipal property, being a portion of Remainder Erf 5462 Kleinmond ( $\pm 1,677\text{m}^2$  in extent), to Kleinmond Animal Welfare Society for the purpose of a pound for cats and dogs, kennels, a grooming parlor, a charity shop, a veterinary surgery and related activities at the rental amount of R178.26 (ONE HUNDRED AND SEVENTY-EIGHT RAND AND TWENTY-SIX CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 May 2024 in terms of the Administration of Immovable Property Policy of the Overstrand Municipality, **be approved;**
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 2024; and
3. that the approval in 1 above be subject to Kleinmond Animal Welfare Society submitting and receiving approval of a site development plan on the property.

<b>RESPONSIBLE OFFICIAL :</b>	<b>R OCTOBER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>2 MAY 2024</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 MAY 2024</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>



