

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

7.

A PORTION OF REMAINDER ERF 1253 HERMANUS (SITUATED IN LORD ROBERTS ROAD, EASTCLIFF): RENEWAL OF LEASE OF MUNICIPAL PROPERTY TO HERMANUS PRE-PRIMARY AND BABEL & KRABEL AFTERCARE

**A Le Roux
26 February 2024**

Manager: Property Administration

(028) 316 5623

1. Executive Summary

To obtain approval to enter into a further lease agreement with Hermanus Pre-primary and Babel & Krabel Aftercare, hereafter referred to as “Babel & Krabel”, in respect of municipal property, a portion of Remainder Erf 1253 Hermanus ($\pm 4,425\text{m}^2$ in extent), situated in Lord Roberts Road, Eastcliff, Hermanus hereafter referred to as “the Property”, for a period of 9 (NINE) years and 11 (ELEVEN) months for the purpose of operating a pre-primary school and aftercare facility. The locality maps are attached hereto marked “Annexure A1 & A2”.

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

Babel & Krabel has been leasing the Property from the Municipality since 2004 for the purpose of operating a pre-primary and aftercare facility. Since

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then, Babbel & Krabbel has extended the lease area with additional classrooms to accommodate more children. The current lease agreement is for a period of 9 (NINE) years and 11 (ELEVEN) months and expires on 31 July 2024.

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

The municipal account is paid up to date and no complaints during the last lease period was received from the community. Babbel & Krabbel delivers an essential service to the community of Hermanus through education and care for the children.

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:

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- 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”.**

As the Property is not classified as a business site and the leasing of the Property to Babbel & Krabbel is in the interest of the community, and they have been using it successfully since 2004 and due to the nature of the lease and benefit to the community and especially the children of the area, it can be leased directly to Babbel & Krabbel without following a competitive process.

Although the proposed lease is for a long-term period the rental to 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

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agreement.”

Babbel & Krabbel applied for the renewal of the lease agreement for a period of 9 (NINE) years and 11 (ELEVEN) months which process for renewal was approved in principle by the Municipal Manager on 14 November 2023, subject to a public participation process being followed and further subject to the approval by the Executive Mayor as the delegated authority of the long-term lease.

The Executive Mayor’s approval is hereby sought. The proposed lease was advertised in The Village News on 19 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 to registered Social Care Institutions/ Organisations/ NPO’s/ PBO’s/ Sport facilities/ Community organisations will be levied. The monthly rental will be according to the tariffs stipulated in the Annual Budget as approved by Council for the 2024/2025 financial year as the renewal will commence on 1 August 2024. The agreement will 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.”

Babbel & Krabbel 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.

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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 Babbel & Krabbel was published in The Village News on 19 January 2024 for a 30 (THIRTY) day objection/comment period. No objection/comment was received.

Conclusion

With reference to the above discussion, it is recommended that the lease of the Property to Babbel & Krabbel be approved for a further period of 9 (NINE) years and 11 (ELEVEN) months from 1 August 2024 at a tariff to be stipulated in the Annual Budget to be approved by Council for the 2024/2025 financial year.

7. Financial Implications

The Municipality stands to gain a monthly rental amount as per the tariffs stipulated in the Annual Budget to be approved by Council for the 2024/2025 financial year, where after the rental amount will escalate annually on 1 July. All expenses pertaining to the proposed lease will be borne by Babbel & Krabbel.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Manager: Social Development - Mr G Smit

“Babbel and Krabbel has been operating an aftercare and pre-primary school on the premises for many years. They provide a great and necessary service. They are registered and comply with all the legislative requirements applicable to a pre-primary (ECD partial care) and aftercare. The social development department supports the renewal of the lease.”

Town Planner - Mr P Roux

“The property on which Babbel and Krabbel is situated is zoned as Community Zone: 1 Community Facilities, and therefore the continued use as a pre-primary (ECD partial care) and aftercare is supported.”

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Manager: Building Control - Mr L Coetzee

“No objection.”

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 & 2: Locality Plan

RECOMMENDATION:

1. that the renewal of the lease of municipal property, being a portion of Remainder Erf 1253 Hermanus ($\pm 4,425\text{m}^2$ in extent), to Hermanus Pre-primary and Babbel & Krabbel aftercare, for the purpose of operating a pre-primary school and aftercare facility for a period of 9 (NINE) years and 11 (ELEVEN) months from 1 August 2024 at a tariff as stipulated in the Annual Budget to be approved by Council for the 2024/2025 financial year 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.

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



