

EAST CAMBS TRADING COMPANY SHAREHOLDER AGREEMENT AND ARRANGEMENTS

Committee: Council

Date: 17 October 2019

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Company Secretary ECTC

[U94]

1.0 **ISSUE**

1.1 To consider proposed changes to the membership of East Cambs Trading Company (ECTC) and the terms of reference for the Finance & Assets Committee in its capacity as Shareholder Committee.

2.0 **RECOMMENDATIONS**

2.1 Members are requested to:

- (i) approve the changes to the Board membership as detailed in paragraph 4.0;
- (ii) appoint Leader of Council and Chairman of Finance & Assets Committee to ECTC as Board Observers;
- (iii) authorise the Monitoring Officer to make consequential amendments to the Shareholder Agreement and Finance & Assets Committee Terms of Reference to implement the decisions of Council as detailed above.
- (iv) authorise the Company Secretary to make changes to the ECTC Articles of Association to implement the decision of Council as detailed above

3.0 **BACKGROUND**

3.1 Annual Council on 30 May 2019 (ref: Agenda Item 15) agreed revised shareholder arrangements for ECTC, specifically the designation of the shareholder function and member appointments to the Board.

3.2 The Leader of Council and Chairman, Operational Services Committee were appointed to the ECTC Board. The arrangements for the appointment of the respective Chairman to ECTC and ECSS was designed to avoid conflict of interests in the disposal of the shareholder function.

3.3 The Shareholder Agreement provides that certain decisions are reserved for Council approval. Such decisions include, but are not limited to, Amendments to the Articles of Association, matters relating to company structure, ECTC ability to borrow (except from the Combined Authority), ECTC ability to enter into joint ventures and approval of the annual business plan.

3.4 The Shareholder Agreement and Terms of Reference for the Finance & Assets Committee also requires ECTC to hold two all member shareholder meetings a year.

4.0 ARGUMENT/CONCLUSIONS

4.1 It is recommended to revisit these arrangements, specifically the re-designation of elected members from Board members with voting rights to observer non-voting status. In addition, this allows the Chairman of the respective 'shareholder' Committee to attend and speak at the Board covered by that Committee, ie, Chairman of Finance and Assets whose Committee fulfils the shareholder function for ECTC on behalf of the Council can now participate, but not vote in ECTC. The role and rights of the Observer is outlined in Appendix 1.

4.2 The arrangements agreed by Annual Council have also led to issues related to declaration of interests with the effect that elected members to the Board have not been able to participate fully in key strategic matters affecting the Council.

4.3 The revised composition of the Board (subject to Council approval of recommendations in paragraph 2.1) would be:

Chairman, ECTC (Independent)
Managing Director
Director, Commercial

The role of Managing Director and Director, Commercial will continue to be fulfilled by the Chief Executive and the Director Commercial for East Cambridgeshire District Council.

4.4 Council does not meet as frequently as the Finance & Assets Committee; this can impede ECTC's ability to make the most of opportunities that arise throughout the year. Further, the annual business plan is debated at Finance & Asset Committee and is again debate at Council at the next available meeting. This creates an issue in the business planning cycle; the current business planning and budget planning cycle does not provide for sufficient time to meet two different Council cycles, particularly where the Shareholder raises issues that need to be address prior to a decision being made. For these reasons, it is recommended that Council delegates certain decisions to the Finance & Assets Committee. Specifically;

- the approval of the annual business plan,
- the ability for ECTC to undertake external borrowing, and
- the ability for ECTC to enter into Joint Ventures.

4.5 In addition, it is recommended to reduce the two all member shareholder meetings to one annual all member shareholder meeting, which will be held at the end of each financial year.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 There are no financial implications of these proposals.

5.2 There is no requirement for an Equality Impact Assessment (INRA) at this stage.

6.0 APPENDICES

6.1 Appendix 1- The role and rights the Observers

Background Documents

Council - 30 May 2019
Agenda Item No. 15

Location

The Grange
Ely

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