

FINANCE AND GOVERNANCE COMMITTEE

Minutes of a Meeting of the Finance and Governance Committee held in Council Chamber, The Grange, Nutholt Lane, Ely, on Monday 26 November 2012 at 4.00pm.

PRESENT

Councillor Peter Moakes (Chairman)
Councillor Tony Cornell (substitute for Councillor Charles Roberts)
Councillor Kevin Ellis
Councillor Tony Goodge
Councillor Chris Morris
Councillor Neil Morrison
Councillor James Palmer
Councillor Philip Read
Councillor Hazel Williams MBE (substitute for Councillor Sheila Friend-Smith MBE)
Councillor Gareth Wilson
Councillor Andy Wright

APOLOGIES

Councillor Sheila Friend-Smith MBE
Councillor Charles Roberts

In attendance

John Hill – Chief Executive
Linda Grinnell – Head of Finance
Andrew Killington – Deputy Chief Executive
Tony Grzybek – Principal Accountant
Julie Cornwell – Partnerships Officer (until end of Minute 51)
Tracy Couper – Principal Democratic Services Officer

46. **PUBLIC QUESTION TIME**

No questions were submitted by the members of the public.

47. **DECLARATIONS OF INTEREST**

There were no declarations of Interests by Members of the Committee.

48. **MINUTES**

The Committee received the Minutes of the meeting held on 27 September 2012.

In connection with minute 38 on Corporate Performance Key Performance Indicators, Councillor Morison queried when the Indicators for the Medium Term Financial Strategy (MTFS) now would be submitted to this Committee. The Head of Finance stated that the preparation of the MTFS had been delayed due to the fact that the Finance Settlement was not due to be announced by Central Government until the 19/20 December 2012. Therefore, both the Indicators and the MTFS itself now would be submitted to the meeting of the Committee scheduled for 31 January 2013.

It was resolved:

That the Minutes of the meeting of the Committee held on 27 September 2012 be confirmed as a correct record and signed by the Chairman.

49. **CHAIRMAN'S ANNOUNCEMENTS**

There were no announcements by the Chairman of the Committee.

50. **COMMUNITY RIGHT TO CHALLENGE**

The Committee considered a report (reference M168, previously circulated) containing the draft Community Right to Challenge Protocol prepared in accordance with the requirements of the Localism Act 2011. The Partnerships Officer summarised the main aspects of the Protocol and process and reminded Members of the Member Seminar held on 17 September 2012 and outlined the outcome of the consultation exercise.

Members noted that certain prescribed 'relevant bodies' could submit a written expression of interest (EOI) to run all or part of a Council service and that the Council proposed a 'window of opportunity' for the submission of such EOIs from 1 September to 30 November each year, to fit with the Council's Budget setting timetable. These would need to 'promote or improve the social, economic, or environmental well-being of the area' to be accepted. A Service Specification detailing the current service standards/costs would be produced to assist a relevant body in deciding on and submitting an EOI.

The following questions/comments were made by Members and responded to by officers as stated:

The Chairman questioned if a Community Right to Challenge could override a legal contract. The Partnerships Officer stated that if a contract was terminated early there was likely to be a penalty clause,

and this would need to be taken into consideration when considering if a bid met the economic viability criteria.

Councillor Read queried if the Council could take account of economies of scale and/or remaining overhead costs for residual service(s), when considering an EOI. The Deputy Chief Executive reported that the Council needed to avoid the incurring of double taxations locally as a result of a bid and again an EOI could be refused if it did not meet the economic criteria.

In response to questions by Councillor Wilson, the Partnerships Officer explained the 'window of opportunity' and that other Councils could not submit an EOI as they were not a relevant body.

Councillor Wright raised questions on the ability of 2 or more employees to submit an EOI, in terms of if they became a separate entity and their employment status whilst making an EOI/bid. He also questioned the services/areas that could be subject to an EOI/bid and the revenue implications in terms of central administrative charges and the shrinking of the administration of a Council. The Deputy Chief Executive stated that it needed to be a severable service area of the Council and did not provide for the delegation of functions such as the granting or refusal of Planning permission. This was new to all Councils and would be tested by experience/case law, however, there could be potential benefits and savings arising from bids.

Councillor Williams MBE commented that a similar thing had already been happening with Leisure Centres.

Councillor Palmer queried the anticipated interest. The Partnerships Officer envisaged that there might be some interest from relevant groups, but no EOIs in the current year.

Councillor Goodge stated that Parish Councils could show an interest in grasscutting and queried if Internal Drainage Boards (IDBs) also qualified under the provisions of the Act. The Partnerships Officer stated that IDBs were not a relevant body and that Parish Councils would be able to submit an EOI for services such as grasscutting, but would have to meet the promotion of economic, social or environmental well-being criteria. In response to a further question by Councillor Goodge, it was confirmed that transfer of relevant staff associated with the service in accordance with the TUPE rules also would apply.

Councillor Williams MBE commented that the scale and type of services conducted by this Council might not be attractive to relevant bodies but may prove more attractive in larger more urban authorities.

In response to a question by Councillor Wright, the Partnerships Officer confirmed that there was no right of appeal against a rejection of an EOI.

It was resolved:

That the Community Right to Challenge Protocol and Appendices attached to the submitted report be approved.

51. **ASSETS OF COMMUNITY VALUE**

The Committee considered a report (reference M169, previously circulated) containing the draft Assets of Community Value Protocol, procedures and delegations prepared in accordance with the requirements of the Localism Act 2011. The Partnerships Officer emphasised that the procedure protected the building or land concerned, rather than a service such as a Post Office and explained the procedure for nominations via the process chart attached at Appendix B to the report. The Partnerships Officer stated that there was not an appeal mechanism against ECDC's decision if a nomination was unsuccessful. However, there was a two-stage appeal mechanism for an owner if they disagreed with ECDC's decision to list an asset as an Asset of Community Value, the first to the Council known as a listing review and the second to the First Tier Tribunal. There were also compensation requirements on the Council, although the Government had indicated that it would pay compensation claims of over £20,000 submitted by the Local Authority (this could be one single claim or a number exceeding £20,000 in total) but this was only guaranteed until 2015. A grant of £4,873 had been awarded to the Council for the current year as a 'new burdens' payment. A listing of an Asset of Community Value lasted for 5 years and a request for continuation could be made after this period.

The following questions/comments were made by Members and responded to by officers as stated:

The Chairman commented that there were likely to be disputes between the Council and owner of an asset on the issue of valuation/compensation.

Councillor Wright commented that whilst the compensation process might be necessary, it needed to be closely managed to ensure that realistic sums were agreed. The procedure might also deter landlords from letting properties for community purposes, e.g. nurseries, etc, if they considered that there was the prospect of this legislation being applied to the building.

Councillor Williams MBE referred to the imminent changes to village green legislation.

Councillor Palmer gave a cautious welcome to the procedure, as it gave power to local groups to protect Assets of Community Value

and provided them with an accurate valuation of the acquisition of such buildings and land.

However, Councillor Read commented that this could potentially be a 'Lawyers goldmine'.

Councillor Goodge referred to all the unregistered Drovers within the District.

Councillor Wilson queried the definition of a 'Community Interest Group' (CIG) and asked if more than one CIG could apply for an asset to be registered and bid for it. The Partnerships Officer explained the definition and confirmed that this was the case.

In concluding, Members requested that their appreciation be recorded for the Partnership Officer's work on this protocol and the protocol on the Community right to Challenge.

It was resolved:

That the Assets of Community Value Protocol and associated procedures attached to the submitted report and delegations set out in paragraph 4.5 of the report be approved.

52. **AUDIT COMMISSION ANNUAL AUDIT LETTER 2011/12**

The Committee received the Audit Commission Annual Audit Letter for 2011/12. The Head of Finance presented this on behalf of the former District Auditor, as he had now transferred to the successful contractor for External Audit services for the Eastern region, Ernst and Young.

It was resolved:

That the Audit Commission Annual Audit Letter 2011/12 be noted.

53. **BUDGET MONITORING REPORT**

The Committee considered a report (reference M170, previously circulated) giving an update on the Council's current financial position for 2012/13 to end of August for both revenue and capital. The Principal Accountant highlighted the reduction of the projected overspending since the last report to £119,117 identified across the Council's services against the original Budget. In addition, service budget examination currently was taking place with all Heads of Service, which had identified some further savings.

Councillor Read queried the item marked 'sales' in Appendix 6 and asked if this related to asset sales. The Principal Accountant stated that this related to other sales rather than the sale of assets, which were shown in the Capital Programme. Councillor Read requested that a list of asset sales and individual sums received be submitted to the Committee.

Councillor Palmer queried the overall underspend of £150,000 relating to Personnel and Corporate Services Committee, as a sum of £35,000 had been reported to that Committee. The Deputy Chief Executive confirmed that the £35,000 was the staffing costs saving, whilst the total saving for the Committee was £150,000.

Councillor Goodge referred to potential rises in precepts by Internal Drainage Boards (IDBs) due to flooding, increasing fuel costs and the need to replace pumping machinery. As a Council representative on some IDBs, he had emphasised the need for them to submit their precepts as early as possible to fit with the Council's Budget timetable. However, he suggested that a letter also be forwarded to IDBs from the Head of Finance reinforcing this point. Councillor Goodge commented that some IDBs had large Balances which they could use rather than increasing their precepts significantly. Councillor Goodge stated that IDBs also could borrow from the PWLB. Councillor Williams MBE stated that some of the newer Councillors were not aware of the work of and issues relating to IDBs and suggested that a Member Seminar be held on the subject. Councillor Wright commented that this area was fortunate to have IDBs in the light of the recent flooding throughout other parts of the Country and that the Council was obliged to accept the precepts submitted by them, but that we could raise the matter if IDBs had significant Reserves. Councillor Read and Councillor Williams MBE commented that earmarked Reserves were acceptable, say for replacement of machinery, and Councillor Read suggested that Scrutiny Committee could be asked to undertake a review of IDBs.

It was resolved:

That the projected underspend of £141,727 since the last Budget Monitoring report, giving an overall overspend across the Council's services of £119,117 against the original Budget, be noted.

54. **INFORMATION ITEMS**

The Committee considered a report (reference M171, previously circulated) containing information items on amounts written-off as irrecoverable and action taken by the Chief Executive on the grounds of urgency relating to expenditure of S106 funds at Clay Street, Soham for homeless social housing purposes.

It was resolved:

That the report be noted.

55. **EXCLUSION OF THE PUBLIC INCLUDING REPRESENTATIVES OF THE PRESS**

It was resolved:

That the public (including representatives of the press) be excluded during the consideration of the remaining items because it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items there would be disclosure to them of exempt information of Category 3, 4, and 5 of Part I Schedule 12A to the Local Government Act 1972 (as amended).

56. **EXEMPT MINUTES – 27 SEPTEMBER 2012**

It was resolved:

That the Exempt Minutes of the meeting of the Committee held on 27 September 2012 be confirmed as a correct record and signed by the Chairman.

The meeting closed at 5:12pm.

Chairman:.....

Date:.....