

Minutes of the meeting of the Local Authority Trading Company
Establishment Committee held in the Council Chamber,
The Grange, Nutholt Lane, Ely on Thursday,
27th November 2015 at 10.30am

P R E S E N T

Councillor James Palmer (Chairman)
Councillor Lorna Dupré
Councillor Lis Every
Councillor Bill Hunt
Councillor Charles Roberts

I N A T T E N D A N C E

Maggie Camp – Legal Services Manager
Emma Grima – Director, Commercial & Corporate Services
John Hill – Chief Executive
Janis Murfet – Democratic Services Officer
Andy Radford – Chief Financial Officer
Phil Rose – Strategic Land Advisor
Public – 1 Member

17. PUBLIC QUESTION TIME

Mr Peter Bates asked the following questions:

- Why has the CIC company structure been disregarded?
- Will all directors and company officials need to provide a “declaration of interests” – just as Council Members do?
- Although the LATC is primarily a vehicle for generating new revenue streams for the local authority, do you see opportunities for local organisations and companies to bring projects to the LATC that are in the “local community interest” and where such organisations may want to take advantage of the “trusted” brand of ECDC?
- If yes, should the LATC’s initial “Business Terms of Reference” have a more specific mention of this – in terms taking advantage of new creative and innovative opportunities that include local businesses and other organisations for the mutual benefit of the local community.

Thinking behind the question:

For example, there was a small-scale opportunity three years ago for applying for “seed funding” under the DECC Local Energy Assessment Fund (LEAF). It had to be submitted by a local authority or a community group. I offered to put together a bid (at my own cost) if ECDC were able to submit the proposal under their umbrella. This happened with many other local authorities.

Unfortunately, ECDC was not geared up to dealing with such an opportunity at short notice.

I am hoping that the LATC now creates this opportunity to respond more quickly to new “business opportunities” and more creative and innovative ways of doing business for the good of the community.

The Chief Executive replied on behalf of the Chairman and stated that the Community Interest Company had been disregarded because it was not a common structure and such a structure would not allow surpluses to be reinvested back into the Council.

With regard to the declaration of interests, the Legal Services Manager explained that there would not be a requirement under the Local Government Act for the independent Chairman and members of the LATC Board to declare interests. The Chief Financial Officer added that he served as a Non-Executive Director, and the Councillors on that Board did declare interests at each meeting. Councillor Roberts said he believed this to be a very straightforward matter; he thought that everyone should declare interests and he hoped the requirement to do so would be built into the structure of the Board.

Referring to the remaining questions, the Chairman stated that although this was still very early days, the new Company would be able to work more freely than the Local Authority. He hoped all opportunities would be examined as they arose in the future, and that there would be a financial benefit to the community.

Councillor Hunt’s view was that any change to the initial Business Terms of Reference would be “handcuffing” the Board, and Members should be very wary of doing this. Mr Bates responded, saying that in the early stages there should be some generic terms that embedded public and community interest within the thinking of the LATC.

The Chairman thanked Mr Bates for his attendance, saying that he had made some valid points regarding the need to be as open and opportunistic as possible. There was to be a further Committee meeting in December and Members would be open to suggestions.

18. **APOLOGIES AND SUBSTITUTIONS**

There were no apologies or substitutions.

19. **DECLARATIONS OF INTEREST**

No declarations of interest were received.

20. **MINUTES**

It was resolved:

That the minutes of the meeting held on 22nd October 2015 be confirmed as a correct record and signed by the Chairman.

21. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman announced that a number of applications had been received for the post of Chairman of the LATC Board.

The interviews would be conducted by the Members of the Establishment Committee, in closed session, in mid December, and a decision made before the end of the year.

22. **DRAFT SHAREHOLDER AGREEMENT**

The Committee considered a report, reference Q124, previously circulated, which set out the Draft Shareholder Agreement between the Council and the Local Authority Trading Company (LATC).

The Chief Executive reminded Members that at the last meeting, they had instructed him to prepare the Shareholder Agreement and Articles of Association. An initial draft of the Shareholder Agreement (attached at Appendix 1 to the report) would form the basis of the legal documentation including the Articles of Association, to be presented to the next meeting for recommendation to Full Council in January 2016. Paragraph 3.2 of the report summarised the main features:

- Reserved matters which cannot be made by the LATC without Full Council approval, specifically changes to the company, shares and capital, indebtedness, composition of the Board of Directors and company directors and business planning;
- The purpose and management of the Company in relation to its objectives and purpose, the governance arrangements and the distribution of surpluses;
- The role of the Shareholder Committee.

It was noted that the Council's Asset Development Committee would be the Shareholder Committee, but it would not be operational. The Shareholder Committee would meet at least quarterly to consider and review the matters as set out on page 5 of the Shareholder Agreement. These scrutiny arrangements would be reviewed after six months of the LATC being formally established, and then annually (by Annual Council) thereafter.

Elected Members who were appointed as LATC board directors could not be full members or substitutes of the Shareholder Committee, ie Asset Development Committee; the Terms of Reference had been agreed by the Asset Development Committee and would go to Full Council in January 2016.

Councillor Every commented that although there were initially only two commercial services moving over to the LATC, in time, much more of the Committee's work could go over to the Company. She asked for clarification that scrutiny would take this into account and that business plans would be reviewed by the LATC, as she felt there needed to be a balance between

operational and strategic matters. The Director, Commercial & Corporate Services assured her that this would be addressed and would form part of the six month initial review.

Councillor Hunt said he was concerned that, in the early days, something might crop up and the Company could need the support of the Shareholder Committee. He thought it would be a good idea for the Committee to be able to meet and consider issues at short notice if something was going wrong, something along the lines of an extraordinary meeting. Such a meeting could be requested by the LATC and require the directors to attend at short notice.

The Chairman thought this to be a valid point, and the Chief Executive advised the Committee that Officers would find an appropriate approach. He reminded them that they were hidebound by the notice to the public of calling meetings, but that the use of the term “extraordinary” would be appropriate. The Chairman suggested that the Shareholder Committee should be able to meet as quickly as possible, and the Chief Executive said he would draft something to this effect taking into account statutory deadlines.

Referring to the bullet point on page 5 of the draft document, which mentioned the appointment of the Chairman of the Board, Councillor Dupré said she assumed that this Committee would be making the recommendation, as the initial meeting of the Shareholder Committee had been cut out. The Chief Executive replied that the Shareholder Agreement had been drafted on the basis that the Company was operational, but the Shareholder Committee would not be formally established until the meeting of Full Council in January 2016. This would be clearly reflected in the document to come to the next meeting in December.

There being no further comments or questions,

It was resolved unanimously:

- i. That the outline Shareholder Agreement, as attached in Appendix 1 of the report, be approved;
- ii. That the Chief Executive be instructed to bring forward detailed legal documentation to the next LATC Establishment Committee meeting, for recommendation to Council in January 2016.

23. **DRAFT BUSINESS PLANS – COMMERCIAL SERVICES AND PROPERTY DEVELOPMENT**

The Committee considered a report, reference Q125, previously circulated, which set out draft business plans for the Local Authority Trading Company (LATC).

The Director, Commercial & Corporate Services informed the Committee that the business plan for Commercial Services detailed the transfer of the Markets Service and the Sanctuary contract operated by Open Spaces & Facilities Management.

The principal drivers for the proposals were detailed in Appendix 1 of the report, and in outline they were:

- To ensure Teckal compliance for the new LATC to enable the Council to secure profitable contracts outside the boundaries of the District;
- To increase profitability of the transferred services and contracts;
- To act as an exemplar to promote commercialisation within the Council; and
- To provide revenue stream to cover the operational costs of the LATC to reduce indebtedness.

Members noted that transferring the Markets Service to the Commercial Services Division of the LATC was based on the Markets Service being financially viable as a stand-alone entity. It had a proven track record of profitability which would increase on transfer, thereby allowing both individuals and the Service to trade in a commercial environment. The Director, Commercial & Corporate Services paid tribute to the staff, saying that they were embracing the changes and had risen to the challenges before them, inspiring a culture to be more commercial. With regard to the Teckal balance, the Markets Service would continue as it presently did for the Council, or it would improve its service delivery.

Councillor Dupré commented that whilst the section of the business plan regarding risk did not have a definitive list, it seemed to her to be slightly “skimpier” than she would have expected, and she asked if it was intended to improve on this. The Director, Commercial & Corporate Services said she would be happy to do so.

For the benefit of the member of the public present, the Chairman said that the Members of this Committee had been briefed in great detail on the business plans outside of this meeting. He wished to assure him that although it might seem as though they were paying scant attention, this was most definitely not the case.

At the invitation of the Chairman, the Strategic Land Advisor, addressed the Committee regarding the Property & Community Land Trust (CLT) Development business plan.

Members were reminded that the principal reasons for establishing the Property & CLT Development side to the Company were:

- To enable the Council, through the LATC, to act as the developer of Council owned assets, to increase financial return, and retain greater control over the quality, timing and delivery of development; and
- To deliver more, successful community-led projects across the district by providing direct support to emerging and existing CLT's.

The Council expected to make a positive contribution to the delivery of more housing to meet housing need in all segments of the housing market. In time, the Council would be able to recycle funds generated from these

development projects to support its Corporate Objectives, and enhance its reputation and financial viability.

The Strategic Land Advisor went on to say that the Company would be a commercially driven operation and he described the three main services it would offer in the property market:

- Provide a development consultancy service to the Council, identifying new development opportunities from the asset register and managing these projects through the design and planning stages to enhance asset value;
- Act as a trusted development partner to local CLTs, providing early-stage support and, the legal, technical and financial support that is required to bring new development projects through design and planning stages.
- Directly develop Council owned assets and CLT projects, funding and project managing the build stages and disposing of the final product to CLTs and open market house purchasers / investors.

Members noted that the ambition of the Company was to deliver 200 new homes in its first five years of operation, and as it did so, it would build a local reputation for the successful implementation of high quality, well designed developments across the District.

In the first year of operation, a team of three professionals, comprising a Head of Property Development, a Business Development & CLT Support Manager, and a Land Manager would be recruited to drive growth and establish a strong presence. The Head of Property Development would give strategic guidance and direction to the Managing Director and would have primary responsibility for the development of a pipeline of business opportunities to secure the financial growth of the company.

Assisted by the Land Manager, the Head of Property Development would also take a hands-on approach to the delivery of the initial development projects at Barton Road and The Vineyards and the provision of the development consultancy service. Specialist expertise from architects, engineers, and other development professionals would be sourced externally as required on a case by case basis.

The Company would provide development consultancy services to secure planning permission on the first two Council owned sites at Barton Road and The Vineyards. These sites would be transferred to the Company for development at market value once planning permission had been obtained, with land payments being deferred until the project had been completed.

It was noted that the Company would also identify further development opportunities from Council owned assets and promote them through the design and planning stages to build a future pipeline of future development projects. The company would also deliver specialist early stage support and technical advice to help more CLT's establish as legal entities.

The Strategic Land Manager informed Members that the Property & CLT Development Division was expected to be making a profit from Year 2. The financial budgets accompanying the objectives were set out in the table on page 17 of Appendix 2 of the report. The Chief Financial Officer would provide further detail on the implications of the business case for the Council loan to the LATC.

In terms of opportunities and risks, there was a clear opportunity for the Council to capitalise on its assets, reputation and community connections to develop a highly regarded local development company. While there were risks associated with operating in a commercial market, by employing a professional team, major risks could be limited to the specific development projects for which there was a clear financial objective.

The Chairman thanked the Strategic Land Manager for an excellent report. The move to establish a LATC represented a shift in approach and the Council would be run on a commercial basis. The Authority had been criticised because its policies to bring forward housing and affordable dwellings were not working, and it was hoped that the LATC would address this.

Councillor Dupré believed that much of the risk came from Central Government; considering some of its recent decisions, there could be a huge impact on viability. She continued, saying that while the LATC could provide the opportunity to put work out to local companies, she was concerned that all local businesses should be able to take part on a level footing. She asked if this Committee or the Administration wished to put appropriate arrangements in place to ensure that everything was open and transparent to all.

The Chairman concurred that the whole process must be transparent, with no indication at any time of favouritism. He assured Councillor Dupré that measures would be put in place to ensure the ability to scrutinise the process.

The Strategic Land Manager interjected to say that it was standard business practice to award contracts by means of competitive tender and there was often a pre-selection process. It was intended to use local businesses wherever possible, but it had to be recognised that the best people would be engaged to carry out the best job.

Councillor Hunt spoke of a "golden thread" running through what would be a commercial operation. He believed that care would have to be taken to separate the commercial aspect from the benefit to the people, in that properties should not be sold at low prices just because the buyer was a "good cause". He reminded the Committee of the Mission Statement, as set out on page 8 of the business plan, adding that the LATC would be a responsible, well run company, but overall, commercial.

Councillor Roberts disagreed with Councillor Dupré's comments about Central Government, saying that in his opinion the greatest risk was to do nothing and then end up having something done to you instead. He did not think there needed to be any conflict between commercial success and benefits to the wider community. This was an excellent business plan which would deliver high quality private and affordable housing, and he looked forward to the day when every community had its own CLT.

It was resolved unanimously to **RECOMMEND TO COUNCIL:**

That the Commercial Services and Property Development business plans, as detailed in Appendix 1 and 2 of the report, be approved.

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24. **BUDGET MONITORING REPORT**

The Committee considered a report, reference Q98, previously circulated, which provided information on the committed expenditure to date and how this was being funded.

The Chief Financial Officer stated that he had nothing to add to the submitted report.

It was resolved;

That the report be noted.

25. **FORWARD AGENDA PLAN**

The Committee considered the Forward Agenda Plan.

It was resolved;

That the Forward Agenda Plan be noted.

The meeting closed at 11.21am.