



EAST
CAMBRIDGESHIRE
DISTRICT COUNCIL

SHAREHOLDER COMMITTEE

Minutes of the meeting of the Shareholder Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Monday 11th December 2017 commencing at 4:00pm.

PRESENT

Cllr Mike Bradley (Chairman)
Cllr David Brown
Cllr Steve Cheetham
Cllr Lorna Dupré
Cllr Richard Hobbs
Cllr Alan Sharp

OTHERS

Maggie Camp – Legal Services Manager and Monitoring Officer
Adrian Scaites-Stokes – Democratic Services Officer
Ian Smith – Finance Manager
Paul Remington – Chairman, East Cambs Trading Company
John Hill – Managing Director, East Cambs Trading Company
Emma Grima – Commercial Director, East Cambs Trading Company
Phil Rose – Director, Property Services, East Cambs Trading Company

15. **PUBLIC QUESTION TIME**

There were no public questions.

16. **APOLOGIES AND SUBSTITUTIONS**

Apologies were received from Councillor David Chaplin.

17. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

18. **MINUTES**

It was resolved:

That the minutes of the Shareholder Committee meeting held on 25th September 2017 be confirmed as a correct record and be signed by the Chairman.

19. **CHAIRMAN'S ANNOUNCEMENTS**

There were no Chairman's announcements.

20. **ESTABLISHMENT OF A LOCAL AUTHORITY TRADING COMPANY**

The Committee considered a report, reference S200, previously circulated, that set out to establish a new East Cambridgeshire Local Authority Trading Company.

The Chairman proposed that the recommendations under paragraph 2.1 of the report should read “Members are requested to recommend to full Council to approve...” and the recommendation under paragraph 2.2 be removed.

The Commercial Director advised the Committee that the establishment of a new local authority trading company (LATC) be sought, that would deal with the waste contract. The Council had already agreed to transfer the waste and recycling service to the East Cambs Trading Company (ECTC) at its meeting last February. At that time there had been no need to undertake a tendering process, as ECTC was Teckal compliant, so ECTC was capable of accepting that contract. However, in the future ECTC would become non-compliant, so a variety of options had been considered. Doing nothing would leave ECTC open to challenge. Increasing income to retain Teckal compliance would require ECTC to achieve £34 million income, which would not be possible. Creating a holding company would not overcome the problems with maintaining Teckal compliance. So the only option left was to create a separate LATC and this option was supported by the ECTC Board.

The governance, Agreement and Articles and structure of the LATC would be exactly the same as for ECTC, except that the Director, Operations would replace the Commercial Director. It was recommended that Paul Remington become the Chairman of the LATC.

It was therefore recommended that the business plan, Agreement and Articles, Board composition and Chairman be recommended to full Council for approval.

Councillor Lorna Dupré asked when it had been realised that ECTC would become non-compliant and when was this brought to the Board and Shareholder Committee’s attention? In the report it noted that ECTC would not maintain its Teckal compliance but a separate company could benefit. Did this mean that ECTC’s Teckal status would wither? If this occurred, what then would the purpose of ECTC be? Would it have to bid for contracts? Would ECTC pass its work to the LATC and what would the governance arrangements be?

The full business plan for the new waste and recycling contract would be presented to the Regulatory Services Committee and Council during January and February next year, but which date related to which meeting? What would be the initial set-up costs? The Council was expected to fund those costs with a pay back later, so did not this mean it was a loan? So what was the difference between this ‘loan’ and the suggested ‘recharge’ and how much funding was involved? There appeared to be no agreement for this sum.

In response to those questions, the Commercial Director explained that around the time the waste contract was awarded the potential problems with future Teckal compliance were realised. ECTC would be Teckal compliant on 1st April 2018,

but forward projections indicated that it would become non-compliant. This matter was brought to the ECTC Board and Shareholder Committee's attention at that time. The future status of ECTC would be looked at if parish councils started to pass on their work to the company and this could then be passed on to the new LATC. ECTC would have the knowledge on how to deal with the work and would pass this to the LATC, which would then contract the work. The new LATC would be used for Teckal compliance. Currently no work would be passed on. The new waste contract would go for consideration to the Regulatory Services Committee in January, followed by full Council in February.

The registration charges for the new LATC would be met by Council initially and the amount involved would be reported later, although it would not be a major cost. The repayment would be on the same principle as provided for ECTC. It would not be a loan as such and would be recouped by Council.

Councillor Lorna Dupré, in referring to the Business Plan, noted that initially the new LATC would deal with the waste contract but asked what other services might it be given? The information regarding the transfer of the waste services was not stated correctly in the report. The Council had agreed to transfer it to ECTC but this suggested overturning that decision so the waste contract could be offered to the new LATC. This had not been agreed to by Council.

Vehicles and equipment would be transferred to the LATC when it started. However, there was some uncertainty over the purchase of the vehicles as it was believed they had been purchased by the Council, though the report suggested otherwise.

It was suggested that the Shareholder Committee would meet to look at ECTC and LATC but how would this be managed and would there be any tension between the two companies?

It was noted that the independent Chairman for the LATC would be the same as ECTC, but why would he get an additional remuneration? The original intention was to award the waste contract to ECTC, but if this was withdrawn and given to the LATC the quantum of work would remain the same, so why was an additional remuneration required? An additional remuneration could be given for the LATC with a reduction for ECTC.

It was noted that there would be no loan facility to the LATC, so what extent of the £5 million given to ECTC had been envisioned to include the waste contract? If this was split off, why would ECTC still need £5 million? There appeared to be no mention of Teckal or pensions within the figures.

The Managing Director replied to those questions by stating that the Chairman's additional remuneration related to the additional responsibility involved, and this would be recommended to Council to decide. The £5 million provided for ECTC had nothing to do with the waste contract but was given when the company was set up. This Shareholder Committee would receive reports from both companies and it was up to the Committee to decide if the companies were undermining the objectives of the Council. It was expected that there would not be any conflict between the two companies.

Councillor Lorna Dupré thought that one of the driving forces affecting the new LATC should be the changes in legislation, which was an emerging field due to case law, so was the score of 1 in the risk analysis realistic? The potential for an additional loan being required for the new LATC was likely to happen.

The Managing Director would review the likelihood of changes in legislation affecting the LATC. There were no proposals to provide an additional loan for the LATC.

Councillor David Brown noted that the head office for the new waste services would be at The Grange, but plans were needed to future proof this, as flexibility would be needed in case they were likely to move.

Councillor Alan Sharp thought the presentation of the figures could give the wrong impression, as the surplus shown look like a loss. In response to Councillor Sharp's further queries, it was confirmed that the re-charge costs of the waste services were included in the waste figures and the waste company would receive advanced funding to enable it to operate.

When put to the vote....

It was resolved to RECOMMEND TO FULL COUNCIL:

- (i) That the overall business plan as detailed in Appendix 1 be approved;
- (ii) That the Shareholder Agreement and Articles of Association as detailed in Appendix 2 and 3 be approved;
- (iii) That the composition of the Board as set out in Appendix 1 (ref: Para 4.1.1) be approved;
- (iv) That the appointment of Paul Remington as Chairman of the LATC be approved;
- (v) That the Chief Executive and Legal Services Manager be authorised to complete the necessary legal documentation to implement the above;
- (vi) That the Deputy Monitoring Officer be authorised to amend the constitution, as necessary, to implement the above.

21. **EAST CAMBS TRADING COMPANY HALF YEARLY REPORT**

The Committee consider the East Cambs Trading Company half yearly report, previously circulated, that provided an update on the Trading Company between 1st April 2017 and 30th September 2017.

The Commercial Director advised the Committee that the report looked back six months on the performance of the company. It was feeling the effects of Brexit

and the loss of skills in the construction industry. The company was attempting to maintain its flexibility and comply with the Teckal exemption. As at September 2017 the company was 92.06% compliant but it was predicted that this figure would drop to 25.7%.

There were no major financial concerns with a projected £4.9 million requirement, which was under the agreed loan amount. Financial modelling was being done and would be presented to the Board and Committee in the future.

The Commercial Services arm of the company had hosted a number of successful markets, including evenings and Christmas markets. The Ground Maintenance team had secured more contracts and seconded relevant staff. Work had been done for schools, parishes and businesses with tenders out for work at other schools. It was also working with developers on two sites on sustainable drainage systems and was promoting ECTC as a potential management company.

The timetable and business case had been set out for the new waste contract and would be presented to the Regulatory Services Committee in January. Final agreement would be made by full Council.

The Director, Property Services advised the Committee that the company was selling its expertise to aid community land trusts (CLTs), so local CLTs were getting the company's support. An initial proposal had also been submitted to the Combined Authority to secure funding for CLTs, but this process had not concluded yet. Other services, such as estate management, were also being explained to CLTs in the hope of gaining more work.

Palace Green Homes was continuing to provide advice to the Asset Development Committee and delivering projects. It was on site at Barton Road Ely and The Shade Soham. The new car park in Ely was now open and had good occupancy. The new car park in Littleport was close to completion and was expected to open before Christmas, weather permitting.

Grant funding had been secured from the Combined Authority for Soham. A planning application for 54 units in Haddenham had been submitted and was expected to go before the Planning Committee in the new year. A submission for the Kennett site, which had received a positive endorsement, would be made early 2018.

Councillor Mike Bradley congratulated the company on its work relating to Kennett, the CLTS and the Ely car park. However, some of the information provided in the report was inadequate. An informal meeting with the Chairman and Vice Chairman of this Committee would discuss what would be needed in such reports. For example, more clarity was needed within the financial information given relating to what was being done. The figures were not fit for purpose and did not tie up with other figures given elsewhere. There should also be a procedure to recognise any profits made.

Councillor Alan Sharp suggested that two separate reports would be needed in the future for each of the companies, which should include the values of net assets and work in progress.

Councillor Lorna Dupré presumed that ECTC would only take on Council services whose value was below a set threshold, to avoid having to go out to tender. On page 13 of the report the likelihood of the Teckal Exemption being lost had only been graded as 2 in the risk analysis, which was remarkable, so how did that work? The turnover as at September was rated at 92.06% with a prediction that it would fall to 25.7% in the future, which was a precise figure for an imprecise date. More detail on that would be appreciated. Could it be expected that the loan threshold would be breached? Would the grounds maintenance tenders be below the relevant threshold? With various contracts being achieved, would the parishes be on the right side of the law, as it was stated that the Teckal compliance would be lost? The information about the new waste services should not have been included in this report, as it was no longer of interest to ECTC, as it was proposed to pass this onto a new company. If ECTC became non-compliant would it have to bid for CLT work?

The Commercial Director responded to those questions by stating that the risk rating for Teckal compliance would be looked at. Projections had been done for 2018/19 and had included grounds maintenance work and the markets income. The financial predictions were still under the £5 million threshold and it was not expected to be breached. The grounds maintenance tenders were a competitive contract bidding process, so Teckal was not relevant.

The Director, Property Services stated that the CLT work was also a competitive bidding process, but could have an impact if there were other projects.

The contents of the report were noted.

22. **FORWARD AGENDA PLAN**

The Committee were reminded that an additional item, relating to the new waste services, would be presented to the Committee at its meeting on 8th February and would then be presented to full Council on 22nd February.

The Committee noted its forward agenda plan, as amended.

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

It was resolved:

That the press and public be excluded during the consideration of items 10 and 11 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 item(s) there would be disclosure to them of exempt information of Categories 1, 2 and 3 of Part I Schedule 12A to the Local Government Act 1972 (as amended).

24. **EAST CAMBRIDGESHIRE TRADING COMPANY BOARD MINUTES 16TH NOVEMBER 2017**

The Committee considered an Exempt set of minutes, previously circulated, of the East Cambridgeshire Trading Company Board meeting held on 16th November 2017.

The Committee noted the exempt minutes.

25. **SHAREHOLDER COMMITTEE EXEMPT MINUTES 25TH SEPTEMBER 2017**

It was resolved:

That the Exempt minutes of the Shareholder Committee meeting held on 25th September 2017 be confirmed as a correct record and be signed by the Chairman.

The meeting concluded at 5:07pm.