

**RECOMMENDATIONS TO CABINET ON 11 JUNE 2014 FROM THE
REGENERATION, ENVIRONMENT AND COMMUNITY PANEL MEETING HELD
ON 28 MAY 2014**

REC8: CABINET REPORT – REPORT OF THE MART TASK GROUP

The Chief Executive presented the Cabinet report which presented the outcome of the second stage of the considerations of the Mart Task Group concerning the future arrangements for the historic King's Lynn Mart. The Chief Executive referred to the previous report of the Task Group dated 18 September 2012, which revised highway arrangements together with key aspects of the Tuesday Market Place works, both of which had been agreed. Proposals were also put forward for a reduced opening period and changes to the opening hours, but these were subsequently rejected by the Showmen's Guild.

The Chief Executive felt that the negotiations had achieved all that they could and if the Council wanted further changes it was likely that these would have to be considered by the Secretary of State. He asked Members to consider if they were content with the recommendations as outlined in the report.

The Chairman thanked the Chief Executive for his report and invited questions and comments from the Panel, to which there was none.

RESOLVED: That the Regeneration, Environment and Community Panel support the recommendations to Cabinet as follows:

Cabinet is recommended to accept the proposed rolling six-year agreement between the Showmen's Guild and the Borough Council as set out in section 3 of the report.

REC9: CABINET REPORT – LEISURE TRUST ARRANGEMENTS

The Executive Director, Commercial Services presented the Cabinet report which detailed the arrangements for the transfer of Leisure Facilities and Sports Development into a Leisure Trust arrangement and Local Authority Company from 1st July 2014.

The Executive Director provided the Panel with the background to the proposals and referred to the Cabinet report of 9th April 2013, at which Cabinet agreed to establish a Charitable Company and a Local Authority Company to operate the Culture and Leisure facilities from 1st July 2014. The Chief Executive, in consultation with the Leader and relevant Cabinet Members were delegated authority to implement the proposals which would achieve significant financial savings for the Council.

The savings to be achieved were considerably higher than initially anticipated.

The Executive Director provided an overview of the arrangements and explained that Alive Leisure (the Trust) and Alive Management (the Local Authority Company) had been set up as the main organisations to deliver leisure services. The Trust was a Registered Charity and was an independent organisation which would have a Service Level Agreement with the Council to deliver leisure services in West Norfolk.

The Executive Director explained that because of the set up arrangements of the Local Authority Company there would be no increase in pension contribution. The Local Authority Company would be responsible for maintenance and utilities and it was anticipated that support services would be made available to them through Coastshare.

The Chief Financial Officer provided detail of the budgets for the three bodies; the Council, Alive Management Limited and Alive Leisure. An overview of the budget had been attached to the report at Appendix 1.

It was explained that the net savings included the impact of the new business rates retention scheme. The Chief Financial Officer explained that the arrangements were designed to be as tax efficient as possible, but there were still some VAT liabilities.

She explained that the budgets were being constantly reviewed and fine-tuned and highlighted the following points:

- The staffing budget reflected the contract changes where some council staff had now been given permanent contracts.
- The salary estimates for the next three years had taken into account inflation and possible changes to employers NI contributions which would come into effect in 2016.
- It was explained that some budgets had not yet been confirmed, for example insurance. The services of an insurance broker had been brought in and it was hoped that significant savings could be achieved.
- Service Level Agreements for Support Services had been created. Personnel for joint employees would be split between the Trust and the Council. The Executive Director explained that the Council was obtaining a Barristers opinion on all contractual arrangements prior to agreements being finalised. The Council would indemnify the Trust and Local Authority Company against any challenges from HMRC.
- Support services would be provided through Coastshare. The Borough Council was a member.
- Estimated income based on current arrangements had been used for the next three years.
- The Executive Director explained that some Authorities had transferred utilities costs to the Trust; however the Council

would retain responsibility and manage this through the Local Authority Company. A key target for the Local Authority Company would be to reduce energy costs.

- Those present were provided with information on the overall budget position and it was explained that the reasons for savings included VAT, efficiencies and business rates relief.
- The Chief Financial Officer explained that, going forward, the Council would provide trading information to the Trust and Company on a monthly basis.

In response to a question from Councillor D J Collis, it was confirmed that the VAT passing over was input VAT, not output VAT which was from sales. The Executive Director explained that around 14% of input VAT could be reclaimed by the Trust.

Councillor Crofts referred to the indemnities provided by the Council and asked if any other pitfalls had been looked at. The Executive Director explained that the model the Council was following was unlike any other and legal advice had been provided from Janet Turner QC in terms of VAT savings achievable. Janet Turner QC would also be reviewing all final documentation before it was signed off. The Executive Director explained that Janet Turner QC had £5m liability on her advice, which was reassuring to the Council. The Executive Director explained that joint employment arrangements were clearly detailed in the Memorandum of Understanding.

Councillor Crofts asked if future Government changes could have an impact on the arrangements. The Executive Director explained that he could not predict what would happen in the future. The Government was also promoting the transfer of services into Charitable arrangements. The Councils legal advice was that any changes would impact on all Charities.

The Executive Director explained that a contract between the Trust and Local Authority Company would be put in place, as requested by the Trust. The contract outlined details such as profit share agreements. The profit share agreement for the first five years would be that the Trust would retain any surplus up to £50,000, and over that the profit would be split evenly between the Trust and the Local Authority Company.

The Council would also be responsible for any redundancy costs for the first five years, and this had been budgeted accordingly. The Trust would build its reserves to cover the cost in future years.

In response to a question from Councillor Baron Chenery of Horsburgh, it was confirmed that the Unions had been involved in the setting up arrangements and were supportive. The Executive Director explained that all staff involved had been kept informed via briefing sessions and briefing notes.

In response to a question from Councillor Mrs Collingham, it was confirmed that the Council's VAT advisors had been consulted on the arrangements and HMRC would look at the arrangements as part of their future inspections.

Councillor White asked if any redundancies had been made as part of the arrangements and it was confirmed that as part of the ring-fenced recruitment process, one officer had asked for voluntary redundancy, which had been accommodated and had resulted in savings being achieved from restructuring arrangements.

Councillor Pitcher referred to the redundancy costs, which would be covered by the Council for the first five years and asked what would happen if the Trust had built up a reserve by then, would they be required to take some of the strain? The Executive Director explained that he hoped that the Trust would not fail in its first five years. If it did it would be likely that the Council would reemploy key posts and redundancies would be limited. He explained that regular meetings would be held between the Trust and the Local Authority Company as part of the Partnership, which included open book accounting.

The Executive Director explained that leases were still being finalised and discussions were ongoing between the Trust and the Council. The Trust had indicated that they would like the break clauses removed from the leases as this had an effect on their ability to apply for grant funding as some funders required a long term lease before awarding funding and would take break clauses into consideration. The Trust had proposed that it be added to the lease that if the Council were to break the lease, the Trust be given the opportunity to take on a commercial lease, which would require them to take on utilities and maintenance costs.

In response to a question from Councillor Mrs Watson, it was confirmed that the Princess Theatre was not included in the arrangements.

Councillor Bubb asked why the Council was retaining the responsibility for utilities and how they would encourage the Trust to be energy efficient. The Executive Director explained that utilities and maintenance costs were approximately £1.1m and if the Trust were to take on the costs they would be subject to VAT. The Council had retained responsibility for this as utilities prices had been quite volatile in recent years and this would afford some protection to the continued operation of the Trust. The Local Authority Company would be responsible for maintenance and utilities and would manage it efficiently and look for cost savings.

Councillor Loveless addressed the Panel under Standing Order 34. He asked if the public had been made aware of the proposals. The Executive Director explained that the Trust was an independent

organisation and would therefore be rebranding the facilities. New signage would be erected and staff uniforms would be changed. Communications and PR would recognise the Council support. The Executive Director commented that the Trust had come up with some good ideas to improve services, including bringing forward the introduction of an online booking facility.

Councillor Loveless referred to the recommendation within the report which asked Cabinet to agree in principle to lease the Guildhall to the Arts Centre Trust on a similar basis to the galleries and asked if this meant that more shows would be put on. The Executive Director felt that the Arts Centre Trust had aspirations to improve the use of the Guildhall and wanted to see more shows and improve the arts development offer. The Executive Director explained that the Arts Centre Trust had indicated that arrangements were likely to come into effect on 1st September 2014.

Councillor D J Collis welcomed the proposals and asked if the Trust had the ability to take on other additional interests in the future. The Executive Director explained that their articles of association were broad and included leisure, arts and heritage. If the Trust was successful they could take on other organisations. There was no geographical limit on what the Trust could be involved with.

The Vice Chairman commented that she hoped that classical shows would continue to be supported. The Executive Director explained that the Regeneration, Environment and Community Panel would receive an update from the Trust on a six monthly basis and could raise issues such as the offer available if required.

In response to a question from Councillor D J Collis, it was explained that Peter Lemon was Chairman of the Trust and Ian Mack was Vice Chairman. The other members of the Trust Board had been given specific roles, for example, governance, strategy, finance etc. The Trust had a Governance Manual which had been created, at their request, by their lawyers. There was no set period for a Trust Board member to serve, but the Executive Director explained that during the interview process, most of the Board members had indicated that they would like to be involved for at least three years.

In response to a question from Councillor Mrs Watson, the Executive Director agreed to find out what liabilities the Trust Board Members had and what the insurance covered and feedback to the Panel.

The Portfolio Holder for Regeneration and Industrial Assets commented that he was supportive of the proposals and welcomed the positive comments and relevant questions raised by the Panel.

The Chairman thanked the Executive Director and Chief Financial Officer for the report.

RESOLVED: That the Regeneration, Environment and Community Panel support the recommendations to Cabinet as follows:

That Council be recommended to:

- a) Agree the proposed lease arrangements for Lynnsport and Leisure Park, Oasis Sports and Leisure Park, Downham Market Leisure Centre, St James' Swimming and Fitness Centre and the Corn Exchange as detailed in the report outlined in section 4.
- b) Agree the funding arrangements between the Council and the Trust.
- c) Agree to a transfer of £200,000 from the general fund working balance to the Trust as part of the set up cost.
- d) Agree the support services arrangements for the Trust to be supplied via Coastshare.
- e) Confirm the management of maintenance and utilities within facilities by the Local Authority Company for the Council.
- f) Agree the staff arrangements and note the TUPE transfer of employees.
- g) Agree the pooling of pension arrangements between the Council and the Trust.
- h) Agree that in the event that the Trust folded in the first 5 years the Council would meet any unpaid balance of redundancy/pension strain cost.
- i) Delegate authority to the Chief Executive in consultation with the Leader and Cabinet Member for Assets and Special Projects to finalise arrangements for the 1 July 2014 and any subsequent amendments in the first six months of the new arrangements.
- j) Request the Board of the LAC to consider and agree the contract from the Trust.
- k) Agree in principle to lease the Guildhall to the Arts Centre Trust on a similar basis to the Galleries.
- l) Delegate authority to the Chief Executive to execute all necessary documentation contractual of otherwise associated with the creation of the Leisure Trust and the supply of services to it.