

Trading Board Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ**

Wednesday, 02 August 2017 at 18:00

The role of the Trading Board is to consider the trading issues of the Council and to challenge and monitor the Council's trading arrangements including companies owned by the Council and joint Committee arrangements, and to make recommendations to Council and Cabinet on trading proposals.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Have Your Say!

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COLCHESTER BOROUGH COUNCIL

Trading Board

Wednesday, 02 August 2017 at 18:00

Member:

Councillor Rosalind Scott
Councillor Lesley Scott-Boutell
Councillor Lewis Barber
Councillor Kevin Bentley
Councillor Robert Davidson
Councillor Chris Pearson

Chairman
Deputy Chairman

Substitutes:

All members of the Council who are not Cabinet members.

AGENDA - Part A

(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
 - action in the event of an emergency;
 - mobile phones switched to silent;
 - the audio-recording of meetings;
 - location of toilets;
 - introduction of members of the meeting.

2 Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3 Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

4 Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

5 Minutes

To confirm as a correct record the minutes of the meeting held on 21 June 2017.

21-06-17 - minutes

7 - 10

6 Have Your Say!

a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter relating to the terms of reference of the Committee/Panel not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter relating to the terms of reference of the Committee/Panel not on this agenda.

7 Revised Terms of Reference and Nomination of Directors

11 - 16

See report by the Monitoring Officer

8 Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

Part B

(not open to the public including the press)

9 **Minutes (Part B)**

To confirm as a correct record the not for publication extract from the minutes of the meeting held on 21 June 2017.

10 **Commercial Business Development - Operational Businesses**

See report by the Commercial Manager

11 **Commercial Business Development - Performance and Income report**

See report by the Strategic Director, Policy and Place

TRADING BOARD

21 June 2017

Present: - Councillor Rosalind Scott (Chairman)
Councillors Kevin Bentley, Robert Davidson, Chris Pearson and Lesley Scott-Boutell

Substitute Members:- Councillor Elliott for Councillor Barber

Also in attendance:- Councillors Davies, J. Scott-Boutell and Smith

161. Minutes

RESOLVED that the minutes of the meeting held on 22 March 2017 and 24 May 2017 be confirmed as a correct record.

162. Creation of New Commercial Companies – Trading Board Terms of Reference

The Board considered a report from the Strategic Director, Commercial and Place, inviting the Board to review the proposal recently approved by Cabinet for the creation of new commercial companies and a revised role for the Trading Board. The Board also had before it draft Terms of Reference for the Trading Board reflecting its new role which had been drafted by the Monitoring Officer. The Chief Executive, Adrian Pritchard, attended and presented the report to the Board.

Adrian explained that the proposals for the creation of the new Commercial Companies set out in the report and Business Case had been considered by the Scrutiny Panel and agreed by the Cabinet. The draft terms of reference submitted to the Board had not formed part of the decision making by Cabinet. They were based upon the functions identified at paragraph 4.4 of the Business Case and were put before the Board as a draft for consideration and discussion.

Members of the Board welcomed the proposals set out in the report and the considered that they reflected the right direction of travel for the Council. However, the Board considered that the draft terms of reference did not fully encapsulate the new role for the Trading Board. It was considered that the role of the Board was to act as the shareholder's representative and this needed further emphasis.

In addition, there was some ambiguity around the meaning of the word "review" and further work needed to be done to define this and to consider the inter-relationship between the work of the Trading Board in respect of the companies and the Council's scrutiny function. It was the view of the Board that it needed to be supportive of the companies and to ensure a constructive working relationship whilst providing challenge and encouraging innovation.

The Board was of the view that the terms of reference should be taken forward via a meeting of the Chairman and Group Spokespersons with the relevant officers. This would enable revised terms of reference to be brought forward to the next meeting of the Board for consideration.

In terms of reviewing the proposals for the commercial companies, the Board noted the recommendation of the Scrutiny Panel, agreed by Cabinet, about the political make up of the Board of Colchester Commercial. However it stressed the importance of ensuring the appointment of those with the necessary skills and ensuring that they had access to appropriate professional advice and expertise.

Further clarification was sought over the proposals that the commercial companies would be able to recruit staff on different terms and conditions from those employed in local government. There was some concern that this could lead to a two tier workforce. Adrian explained that existing staff transferring to the companies would do so under the TUPE regulations on their existing contractual arrangements and terms of conditions. However, in order to enable the companies to compete with the private sector, it was vital that they have a more flexible approach and be able to recruit on different terms and conditions. This was not just a case of offering larger salaries: it may be reflected in more flexible contracts and a wider use of other non-financial benefits. This would help address some of the skills gaps in areas such as Estates Management.

In response to questions from the Board, Adrian also reassured members that the Section 151 Officer had identified those costs that were appropriate to be charged to Colchester Commercial and was satisfied that the proposed level of recharges was realistic. Professional advice had been sought on the taxation implications, and members of the Board had been provided with the advice from Pinsent Mason and Grant Thornton. In particular further work on the VAT and NNDR issues relating to the Sport and Leisure Service would be undertaken, with a view to transferring the service into the commercial structures.

The Board also stressed that Colchester Commercial and its subsidiaries needed to be able to respond quickly to commercial opportunities and explored how they would be able to raise finance. Ultimately the companies were backed by the Council which could borrow money at preferential rates and loan it to the companies, although this would be at commercial rates in of the regulations on State Aid.

Adrian stressed that it would be open to the Board to look at these issues in more depth as part of its work in monitoring and reviewing the work of Colchester Commercial and it's subsidiaries.

Some concern was expressed that in the SWOT (Strengths, Weakness, Opportunities and Threats) analysis a culture of complacency had been identified as a potential weakness. Adrian explained that whilst most areas of the Council had fully embraced the programme of change that the Council had followed in recent years, there were some small pockets where this was not the case. A small budget of 10K had been set aside to support staff through the transition: however the culture and ethos of the companies would remain public sector.

Members of the Board emphasised that this was a fundamental shift for the Council in how it delivered services. It was important that this was effectively communicated to residents. In this regard the naming of the companies was important and it was suggested that the Leader of the Council and other Group Leaders be involved in the naming of the companies.

RESOLVED that:-

(a) The proposal for new commercial companies and the revised role for Trading Board as set out in the Business Case for the Creation of Colchester Commercial (Holdings) Limited approved by Cabinet on 14 June 2017, be noted.

(b) The Terms of Reference to be subject to further discussion between the Chairman and the Group Spokespersons and revised Terms of Reference be submitted to the next meeting of the Board.

163. Commercial Business Development Reports 2016-17 Outturn

The Board received a report from the Strategic Director providing information about the outturn position for the Commercial Services at the end of the 2016-17 municipal year. Graham Lewis, Commercial Manager, attended and presented the report to the Board.

Members of the Board raised a number of issues as follows:-

- Whether the services were fully staffed and if staff shortages were holding any of the services back. Graham explained that the services were fully staffed. Whilst recruitment to Building Control was difficult, Colchester had a stable core group of Building Control inspectors.
- Given that Colchester was a fast growing borough, did the Building Control Service actively build relationships with developers? Graham explained that the Building Control Manager did try and build such relationships and did meet with developers. However, more could always be done.
- The overspend on employee costs in Estates Service was noted and the need for close management of costs was stressed.
- It was noted that recharges were not included in the figures and that if they had been included the outturn figures would have been significantly different. It was important that if recharges were not included this was made clear.
- Overall the outturn figures represented considerable progress and were indicative of a cultural change in the approach of the Council towards commercial services.

RESOLVED that the contents of the report be noted.

The Board resolved under Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

164. Minutes – Not for Publication Extract

RESOLVED that the not for publication extract of the minutes of the meeting on 22 March 2017 be confirmed as a correct record.

The Board resolved under Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

165. Commercial Business Development – Operational Business Performance and Income report

This minute is not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)).

Report of	Monitoring Officer	Author	Andrew Weavers
Title	Revised Terms of Reference and Nomination of Directors		282213
Wards affected	Not applicable		

This report concerns the revised terms of reference for Trading Board following the creation of the new commercial companies and the nomination of three councillor directors to the board of the Holding Company.

1. Decision(s) Required

- 1.1 To approve the amended Terms of Reference of the Trading Board attached at Appendix 1 of this report and recommend that they be approved by Cabinet
- 1.2 To recommend to Cabinet the names of the three Councillor Director nominees to the Board of Colchester Commercial (Holdings) Limited.

2. Reasons for Decision(s)

- 2.1 At its meeting on 21 June 2017 Trading Board considered a report regarding draft revised terms of reference for the Board following the creation by Cabinet of a holding company (Colchester Commercial (Holdings) Limited and a subsidiary company (Trading Company).
- 2.2 Trading Board resolved that the terms of reference be the subject of further discussion between the Chair and Group Spokes and that the revised terms of reference be submitted to this meeting.
- 2.3 The Trading Board has been requested to consider nominations by the three main political parties for one councillor each to sit on the Holding Company Board and to recommend to Cabinet who should be appointed.

3. Alternative Options

- 3.1 The Trading Board could consider a range of amendments to its Terms of Reference which it feels are appropriate and recommend them to Cabinet.

4. Proposals

- 4.1 The revised terms of reference were circulated to the Chair and Group Spokes and an amended version is attached at Appendix 1. These amended terms of reference reflect the wording contained in the Business Case approved by Cabinet on 14 June 2017 which approved the creation of the Holding Company and also the constitutional position regarding the role of the Trading Board. The amended terms of reference at Appendix 1 show the deleted wording struck out and the additional wording in italics.

- 4.2 The Business Case for the creation of the Colchester Commercial (Holdings) Limited included provisions regarding the membership of the Board and the number of directors. It was agreed that there would be five directors, The Managing Director, the Portfolio Holder for Commercial Services and three other Councillors one from each of the main political groups.
- 4.3 The Group Leaders were asked to nominate a member of their Group as a potential candidate for the Trading Board to consider and nominate to Cabinet for it to formally appoint as directors to the Holding Company.
- 4.4 Attached at Appendix 2 to this report are the nominations from each of the main political groups together with a short resume of their experience. Trading Board is requested to consider these and make a recommendation to Cabinet as appropriate.

5. Strategic Plan References

- 5.1 The Strategic Plan sets out the direction of the Borough and Council in the medium term. The new structures need to ensure implementation of the Plan with appropriate Governance arrangements.

6. Equality, Diversity, Human Rights, Community Safety, Health and Safety, Consultation, Publicity, Financial and Risk Management Implications

- 6.1 None identified relating to the subject matter of this report.

Panel	Membership	Terms of Reference
Trading Board	6 Councillors <i>(except those being appointed as directors of Colchester Commercial (Holdings) Limited</i> and up to three (non voting) co-opted external persons.	<p>a) Consider and review the activities <i>and financial performance performed by of :</i></p> <p><i>(i) Colchester Commercial (Holdings) Limited and its subsidiary companies i.e. Housing Company, Energy Company and Trading Company;</i> – the commercial services arm of the Council <i>(ii) those Council services generating income of approximately £250,000 or above; and</i> - any trading arms of the Council <i>(iii) any other partly or wholly owned companies of the Council</i></p> <p>b) <i>Receive, review and recommend Colchester Commercial (Holdings) Limited's business plans (including its subsidiary companies) annually.</i></p> <p>c) <i>Monitor, challenge and make recommendations to Cabinet regarding Colchester Commercial (Holdings) Limited and its subsidiary companies and other Council services with significant income streams.</i></p> <p>d) Identify and develop any new commercial agreements generating significant income for the Council for approval by Cabinet or Council.</p> <p>e) Develop the composition of any new body or bodies created wholly or in part by the Council for commercial purposes including their purpose; governance; operating model; business planning function; risk factors; and to recommend approval for such new arrangements to Cabinet or Council.</p> <p>f) Ensure any Council capital investment and/or assets that are to be transferred to or used by an outside body for commercial purposes is properly specified, protected and used by the outside body and recommended to Cabinet or Council for approval.</p> <p>g) Consider any proposed new/transfer or sale/purchase of company shares and make recommendations on these for approval by Council.</p> <p>h) <i>Make recommendations to Full Council on how it should exercise the functions flowing from its ownership of shares in Colchester Commercial (Holdings) Limited and its subsidiary companies.</i></p> <p>i) Identify and recommend to Cabinet or Council major strategic opportunities for procurement of services from other companies, organisations, social enterprises and the voluntary and third sector.</p>

		<p>j) Receive regular reports of procurement agreements entered into including financial and service performance measures against those stated in the contract and bring any concerns or risks as recommendations to Cabinet.</p> <p>k) <i>Recommend, where relevant, the constitution and appointment of the Board of Directors of Colchester Commercial (Holdings) Limited.</i></p>
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Nominee Councillor Directors to Colchester Commercial (Holdings) Limited

Liberal Democrat Group

Name	Experience
Martin Goss	<p>I have extensive commercial experience in a number of different sectors including IT, Financial Services and New Media where I have held a number of Senior Leadership positions delivering multi-million pounds Business and IT change projects which either deliver new services, new products or streamlining organisations.</p> <p>Currently I am in a very operational role within Financial Services providing leadership to a team of 21 people leading the CRM and Strategic DataWarehouse solutions used across the globe within different business units. I also manage a budget of £3,000,000 managing outsourced vendors.</p> <p>I hold an MBA from the Open University and numerous Project Management and Service Management qualifications.</p>
Phil Coleman	<p>Straight from school to professional footballer with Millwall, Colchester, Wrexham, Aldershot and played in Finland. Coached football to children and adults for over 35 years. Degree and Qualified Teacher Status from Middlesex University. Now an experienced teacher with 26 years service.</p> <p>I teach Physical Education and have been a head of year, deputy head and for 16 years head of the faculty for pe, dance and sport. I wrote the bid to gain specialist sports college and then ran a faculty with a budget for of £159k pa along with 18 full time teaching staff. I currently lead sports tours overseas e.g. Ski trips for up to 80 students with in depth knowledge of risk assessments.</p> <p>I've work with numerous external agencies including The Youth Sport Trust, Sport England, examination bodies, Tendring Leisure services, primary/secondary schools and resource providers to identify opportunities to build and enhance provision, courses, equipment and training for staff and young people at my school and others in our catchment area.</p> <p>Initiatives included creating a joint use agreement between pe, the school and TDC Leisure to open the pe/sport facilities from 5pm daily and at weekends to benefit the community and create more income from the hire of the facilities.</p> <p>I've created two consortiums, six primary and 22 secondary schools to share best practice and offer training for pe staff.</p> <p>I'm a qualified assessor for examination courses which entails inspecting schools pe courses and checking the grades awarded. I am currently teaching Btec Vocational Sport and Exercise courses to college students and coaching rugby to under 18 level. alongside pe teaching and a councillor for Mile End Ward</p>

Labour Group

Name	Experience
Adam Fox	<p>I have a background in business development and marketing with a track record of delivering income growth. I have experience working with people, managing performance, developing strategic plans, fundraising strategies, and other policies and procedures. I have managed various functions and been involved in work across finance, health and safety and human resources. I believe my experience working with SMEs and in the social enterprise sector will be of benefit to the new company structure being put in place by Colchester Borough Council.</p> <p>For the past year I have been the Labour Group spokesperson on Scrutiny Panel and also sit on the Local Plan Committee.</p>

Conservative Group

Name	Experience
Beverly Davies	<p>My current professional role is as Programme Manager of an EU grant working for Rural Community Council of Essex. I work closely with micro and small businesses to help them with their expansion plans and diversification projects which involves a degree of mentoring and understanding of business plans and business accounts. The role is investigative as well as supportive. I have a considerable background in project management. I gained my PRINCE2 practitioner qualification in 2012 and also have a qualification in Change Management (2012).</p> <p>I was director of my own business for nine years and during that time, worked with organisations, including small businesses and local authorities, to assist them with funding and business start-up schemes. I have acted as mentor to private sector businesses and community and voluntary organisations. I set up and was director of a small company which provides counselling and therapy to schools (primary and secondary stage pupils) as well as private customers.</p> <p>I have been a director (Vice Chairman of Trustees) of CCVS and am currently trustee of Cory Environmental in Colchester and The Straight Road Community Centre Ltd.</p> <p>I was sworn in as a Magistrate in 2009, a role which includes regular training and development sessions, including regular appraisals. I have been told that I am a robust, but fair, Magistrate. It is imperative, within this role, to have very good active listening skills, including asking relevant questions to try and find out more information. I also have to take in a lot of detailed information in a very short time, understand which issues are pertinent, make a judgment and be able to discuss any issues with the other Magistrates. Sometimes this leads to a change of stance on an issue and I have to have the emotional intelligence to deal with this and accept some verdicts which I do not agree with.</p>