

GOVERNANCE AND AUDIT COMMITTEE

23 June 2020

Present:- Councillor Paul Dundas, Councillor Mark Goacher, Councillor Sam McCarthy, Councillor Chris Pearson (Chairman), Councillor Dennis Willetts, Councillor Barbara Wood

Substitutions:- Councillor Mike Hogg for Councillor Nick Barlow

Also Present: - Councillor Lewis Barber, Councillor Nick Barlow

208. Appointment of Chairman

RESOLVED (UNANIMOUSLY) that Councillor Pearson be elected Chairman for the forthcoming Municipal Year.

209. Appointment of Deputy Chairman

RESOLVED (UNANIMOUSLY) that Councillor McCarthy be elected Deputy Chairman for the forthcoming Municipal Year.

210. Have Your Say!

Councillor Barber attended the meeting to raise with the Committee the North Essex Garden Communities (NEGC) Shareholder Agreement, and other ancillary documentation that governs the relationship of the four Authorities that are shareholders of the organisation. Councillor Barber particularly wished to raise the point that he felt that very few Councillors across the Chamber had had the opportunity to become familiar with these documents, and as a consequence when NEGC issues were being debated, may not have a full grasp of some of the more technical elements of the documents. Councillor Barber explained his belief that prior to any discussion on NEGC or related matters, all Councillors should have the opportunity to see all relevant paperwork and requested that the Committee supported this view. Councillor Pearson explained that the Governance and Audit Committee had never directly dealt with NEGC matters as it is an organisation that operates across several Authorities. Although the Governance and Audit Committee had no power to suggest to full Council that it had access to full documentation, Councillor Pearson suggested that that best approach for Councillor Barber would be to approach the Leader of the Council and Cabinet directly with his suggestions.

211. Minutes of Previous Meetings

RESOLVED that the minutes of the meeting held on 10 March be approved as a correct record.

212. Draft Annual Statement of Accounts 2019/2020

Paul Cook, Head of Finance and Section 151 Officer, attended to assist the Committee and presented the report. Paul explained that in response to the Covid-19 crisis, one of the first things that the Ministry of Housing, Communities and Local Government (MHCLG) had done was introduce more flexibility to Local Authorities on when to present their accounts. Normally the accounts would have to be presented by 31 July, but did not now have to be presented until 30 November this year. However, following discussion with the Council's external auditors (BDO), the intention was to stick to the original timetables. A draft statement of accounts has been published on the website, and once this Committee had approved the proposed draft Annual Governance Statement, this could also be published and the period of public inspection started. Paul expressed his thanks to Councillor Wood for her scrutiny of the draft accounts, and for the rounding errors that she had picked up, which would be rectified before the final document was prepared.

Councillor Willetts raised a point about the narrative of the accounts, which appeared to have been written before the advent of the Covid-19 crisis, and he pointed out that the two principal risks and uncertainties that had been identified were Brexit and the decisions on NEGC. Although mention has been made of the risks and uncertainties related to Covid, Councillor Willetts felt that these appeared as an afterthought and commented that he would like all identified risks and uncertainties to be gathered together and addressed under one heading.

Councillor Willetts further pointed out that there was an absence in the narrative to the draft accounts covering the last month of the financial year when the Council had unilaterally, and in his view illegally, suspended scrutiny of major financial decisions contrary to the Local Government Act 2000. Councillor Willetts made the point that there is no indication of this practice in the accounts, nor any indication that the external auditors were satisfied with the governance arrangements as well as the financial arrangements, and the way that decisions were being taken. Councillor Willetts stated that he felt that the two issues he had raised were of significant importance, and further stated that he would not support the publication of the draft accounts until they had been addressed to his satisfaction.

With regard to the second point made by Councillor Willetts, Dan Gascoyne, Chief Operating Officer responded that in the last two weeks of the preceding financial year, a number of decisions had had to be taken by the Council under the urgency provisions of the Council's Constitution as it was entitled to do where there was any financial or legal imperative for doing so and that normal scrutiny arrangements did not apply at that time. He explained that the March Meeting of the Scrutiny Panel had been cancelled which had been the last scheduled meeting of that financial year. The next scheduled meeting of Council in May had also been cancelled and the priority had then become responding to the Covid-19 crisis.

Paul Cook responded to Councillor Willetts, and agreed that the narrative for the draft accounts could be made into a more harmonious document, and confirmed that he was happy to revisit the document and present a revised narrative when the accounts were

presented for final approval.

Councillor Dundas supported the comments made by Councillor Willetts, and the suggestion that the narrative be re-written to take more account of the current and unfolding position. He also commented on the errors in the figures that had been pointed out by Councillor Wood, and stated his opinion that any such errors, no matter how they had been caused or how small they were needed to be corrected and the draft document republished.

Paul Cook confirmed that the material published on the website would be tidied up straight away.

RESOLVED that the draft 2019/20 statement of accounts be noted.

213. Year End Internal Audit Assurance Report 2019-2020

Hayley McGrath, Head of Finance and Section 151 Officer, attended to assist the Committee and presented the report. It was explained that this report covered the second six months of the year and the Committee were invited to note and comment on the performance of the internal audit service over this period. The attention of the Committee was drawn to the audits that had been undertaken as listed in the report, and the fact that several of the audits undertaken had resulted in a full assurance rating, and improvements had been achieved in other areas. It was highlighted that the audits carried out had generated three 'priority one' recommendations (the highest level recommendation), thirteen 'priority two' recommendations, and three 'priority three' recommendations. One audit had generated a limited assurance rating in relation to payment control, and details had been highlighted in Appendix 2 of the report.

It was explained that following completion of the contract of the current internal auditors, a new company had been engaged to carry out this work and the upcoming programme of internal audit work was currently being reviewed to agree an internal audit plan for 2021. This programme is being re-profiled in the light of Covid-19 to ensure that all relevant issues are addressed, and one of the first audits planned was to examine how Colchester Borough Council had responded to the crisis as an organisation.

Councillor Pearson commented that it was disappointing to receive priority one recommendations, but was pleased to note the swift work that had been undertaken to address these.

Councillor Willetts commented that he agreed with the allocation of audit hours, and the general contents of the report, but did have some concerns about the payment controls audit and the issues that this had raised. Councillor Willetts queried when payment controls had last been audited as he was concerned that some of the priority one issues that had been raised in the most recent audit had been looked at in the past.

Hayley McGrath explained that with regard to the payments audit, this was the first time that the audit had been undertaken in that manner, and although payments were looked at on an ongoing basis, this was the first time that the interaction between the two payments systems had been examined. Hayley drew the attention of the Committee to the remedial work which had already been undertaken to address the concerns that had been raised.

RESOLVED that the contents of the Year End Internal Audit Assurance Report be noted.

214. Review of the Governance Framework and Draft Annual Governance Statement

Hayley McGrath, Head of Finance and Section 151 Officer, attended to assist the Committee and presented the report. The Committee were invited to consider and approve the Draft Annual Governance Statement which had been produced in accordance with the set format required by the Chartered Institute of Public Finance and Accountancy (CIPFA). The Committee heard that the statement had been prepared to cover control and governance arrangements across the services provided by Colchester Borough Council, and that the current situation and the impact of the Covid-19 pandemic had been factored into this as far as was possible, on the information currently known. During the review, three areas had been highlighted which could be improved including social media controls, procurement and the payment control issues highlighted via internal audit.

Councillor Willetts explained that although he was broadly satisfied with the work that had been carried out in relation to the preparation of the statement, he was concerned about the final month of the financial year. Councillor Willetts expressed serious concerns that actions that had been taken during this last month had conformed with principle seven of the corporate governance guidance, which required good practice in transparency, reporting and audit to deliver effective accountability. He specifically referred to the changes in the governance arrangements and the use of emergency powers that had taken place in the last month of the year, and although the reasons for these changes were understandable, Councillor Willetts did not feel that they were acceptable. Councillor Willetts felt that some decisions that had been taken were perhaps not taken with the required levels of democratic scrutiny, and enquired why, in his opinion, there had been three months of governance decisions taken without any reference to this Committee. Councillor Willetts also expressed his concern at the length of time it had taken to implement digital public meetings, together with the fact that no report on the governance principles of digital meetings had been presented for the consideration of this Committee. It was requested that both the issues that had been raised were addressed in future meetings of the Governance and Audit Committee.

Councillor Pearson confirmed that it was intended to review the new digital ways of working at the next meeting of the Governance and Audit Committee, and that the past few months decision making, when the Council had been in lockdown, would also be reviewed at this time. Councillor Pearson confirmed that throughout the period of lockdown, Officers of the Council had been meeting with all the political groups of Colchester Borough Council, and he invited Dan Gascoyne to comment further on this element of decision making. Dan Gascoyne referred the Committee to the paper that had already been presented to Scrutiny Panel and to Cabinet, which detailed the Council's response to the Covid crisis. Although it was felt that the clarity surrounding the decision that the Council had taken during this period was very good, nonetheless further work was to be undertaken to detail some of the decisions that had been taken under urgency provisions.

Councillor Dundas requested some details be given in relation to the rapid changes that had been required to processes and systems as required in response to the Covid crisis, that had been mentioned in the Officer's report. Councillor Dundas did not believe that the Committee could agree to confirm that it was happy with the control measures put in place, when it did not know what they were for a short period of the year in question. Hayley

McGrath clarified that the systems and process that had been implemented as a result of the Covid crisis had been relating to statutory changes in function and other necessary reactive changes in service delivery, and there had not yet been time for audit processes to be put in place for these, although work was already underway to schedule the necessary audits. Hayley confirmed that the next internal audit report that was presented to the Governance and Audit Committee in six months' time would contain full details of all such audits carried out.

Councillor Pearson noted the comments that had been made, and suggested that approval of the Governance Statement be deferred to the next meeting, and that at this meeting the Statement be reviewed and noted.

Councillor Goacher, in response to the comments by Dan Gascoyne, said that not every Councillor was a member of a group, and would not necessarily have been consulted as part of a group in relation to the decision making process. He further suggested that some comparative work with what other Local Authorities were doing with regard to digital meetings may be of benefit.

RESOLVED that the contents of the draft Annual Governance Statement be reviewed and noted, but that approval of the draft Annual Governance Statement be deferred to a future meeting of the Governance and Audit Committee.

215. Colchester Commercial Holdings Ltd Annual Report

Councillor Pearson informed the Committee that Colchester Borough Council had been named as a finalist in the Local Government Chronicle Awards in three categories – Digital Impact, Driving Growth and as an Entrepreneurial Council, and offered his congratulations to Council Staff and Officers for this achievement.

Andrew Tyrrell, Client and Business Manager, and Paul Smith, Group Commercial Director, attended to assist the Committee and presented the report. Andrew Tyrrell gave an overview of the Council's three wholly owned commercial companies; Colchester Amphora Energy Ltd, Colchester Amphora Homes Ltd and Colchester Amphora Trading Ltd. Andrew explained that the companies deliver a number of social benefits as well as economic returns to Colchester Borough Council, and cited the example of the Northern gateway site which was delivering improved infrastructure as well as leisure facilities and housing for residents and businesses, as well as being the location of the Northern Gateway Heat Network which was one of the most innovative renewable energy schemes in the country. The Committee heard that the commercial companies had delivered a number of successes over the past year, including a diverse package of entertainment, obtaining significant funding to improve the CCTV network in the town centre, and the continued success of the Helpline service.

The Committee received a presentation from Paul Smith, Group Commercial Director Colchester Commercial Holdings Limited (CCHL). The Committee heard that it had been projected that CCHL would deliver a target dividend to Colchester Borough Council of £226,000 in this financial year, but in fact a dividend of £394,000 had been delivered, and this was due in part to the way that the commercial companies were structured and managed. Paul highlighted a number of the key developments which were planned for 2021, including the building of a premier sports park offering excellent cycling tracks which

is was hoped would attract national events in the future. In addition to this, the implementation of ultrafast broadband, with download speeds of up to one gigabyte per second, would place Colchester in an enviable position. Other key projects planned for 2020-2021 included using section 106 funding for community buildings, and continuing partnerships with Local Authority partners and the University of Essex. Paul confirmed that CCHL managed Colchester Borough Council's property investment portfolio, which was worth approximately £41.9 million, with income of approximately £3.2 million per year, although this would obviously be affected by the current situation. CCHL would take steps to ensure that the income loss was minimized, while adhering to guidance issued by central government on how to assist companies coming out of the lock down period.

The Committee heard that the events company was a key part of the business which drove significant financial benefit and which had been significantly affected by the Covid 19 situation. Key priorities for the events company looking forward were to hosting events where possible, such as community weddings with limited guest numbers, although large scale, close proximity events, were still not allowed.

The Helpline service that CCHL offers had been very successful through the pandemic, maintaining full service throughout, and even expanding customer numbers. Looking to the future, the Committee heard that the digital upgrade of the Helpline operating system, in conjunction with similar upgrades of the CCTV system would allow opportunities to expand the call centre.

With regard to sports and leisure, Paul confirmed that CCHL acts as managing agent for the sports and leisure budget of Colchester Borough Council, and that in review of the year 2019-2020, the Ipswich Road roadworks had had a severe impact on ease of access to Leisure World, but in spite of this membership had been maintained. The challenge looking forward was to determine how to open up leisure facilities in line with current government guidance.

The Committee heard that Amphora Energy had completed the drilling of the boreholes and testing necessary to confirm that the heat network was viable to proceed, and that the energy centre was on course to be built in the current financial year.

Amphora Homes had been very successful in the preceding year, including receiving planning approval for the Creffield Road and Military Road sites and completion of the final designs for the St Runwald Street development. Key priorities for the coming year were identified as the completion of Creffield Road by March 2021, and advancement of the Military Road and Northern Gateway South schemes.

The revised budget for the Amphora Group had been presented to the Committee with some assumptions built in, such as the service level agreement charges being index linked and distributed across all companies. The likely negative impact of the Covid pandemic on the entertainment company had also been carefully accounted for, and it had been assumed that there would be no large scale outdoor events until January 2021, with weddings gradually starting to become possible over the coming months. The overall effect of Covid on the financial statement presented to the Committee was that the previous forecast dividend due to Colchester Borough Council had been £529,000, but that this had been revised to £226,000.

Councillor Pearson confirmed that the Committee were being asked to consider four items of action required in respect of the report;

2.1 The Committee is invited to review the performance of CCHL (and its subsidiaries) during 2019/20, having regard to the performance information for the year provided in Appendix A.

2.2 The Committee is also invited to make any recommendations to the Portfolio Holder for Commercial Services on CCHL performance management arrangements for 2020/21 and the next three years for consideration in the next three-year business plans.

2.3 To recommend to the Portfolio Holder for Commercial Services and the CCHL Board to commence the review of the Service Level Agreements for services supplied to the companies by the Borough Council early in this financial year.

2.4 To recommend to Cabinet a revised forecasted dividend of £226,000 for the 20/21 financial year as an achievable dividend given the effects on the businesses as a result of the Covid 19 pandemic.

He did, however, note that the Committee were not well placed to consider item 2.2 as they had not yet had sight of the three year plan, and suggested that this should be returned to the Committee at its January 2021 meeting for proper consideration.

Members of the Committee commended the Officers for their work throughout the year, and in producing the report, and particularly noted the successes of the events company and the maintenance of membership levels at Leisure World.

In respect of the sale of various assets mentioned in the presentation, Councillor Goacher requested clarification of the exact nature of those assets, and Paul Smith confirmed that the assets were predominantly at Colchester Northern Gateway with regard to the provision of the medical centre by a third party.

Councillor Willetts enquired about the performance of the pensions in terms of the clarity of operation of the companies, noting that some of the pensions for staff were being billed directly to Colchester Borough Council, and were not appearing in the CCHL statement of accounts presented to this Committee. Councillor Willetts further questioned the revised dividend figure being presented to the Committee as he noted that the figure depended on future uncertainties, and he asked for clarification on the reasoning behind the estimate. In response, Paul Smith explained that CCHL had entered into a 'pass through agreement' with Colchester Borough Council meaning that there was no further need for any form of pension payments between the Council and CCHL. The 'pass through agreement' was a form of underwrite between the Council and the companies, and in the future there would be no cause for concern; the position would be accurately reflected in the accounts. Paul further confirmed that the projected dividend figure did include all the service level agreement charges, and that the revised budget had been examined very carefully and included not only the activities of the trading company, but also profit generated by provision of CCTV, which would be increasing revenue earnings. Paul assured the Committee that the resilience of the revised budget did account for the effect of the pandemic on the events business, but that other elements of the companies' functions underpinned income generation and he was happy to stand by the revised estimates.

Councillor Dundas asked for confirmation of the current predicted revenue, costs, profit and loss of the events company for next year. He further asked for more detail on the levels of risk being attached to the housing elements of the companies, in the light of the potential economic downturn being predicted in some quarters. With regard to future projects, Councillor Dundas noted that the current housing projects were related to land that Colchester Borough Council already owned, and enquired what would happen in the future

when these stocks of Council owned land had been exhausted. Responding to the points raised, Paul Cook undertook to provide further financial details of the events company outside the meeting. He acknowledged that although some reports on the housing market had suggested there would be a dip, this had not yet been seen locally and interest levels from agents and developers was high. Looking further into the future, Paul stated that the Council's ownership of land at the Northern Gateway was sufficient to provide development opportunities for the next five years of trading activity, and that in the future acquiring land for development would be considered at a strategic level. Andrew Tyrell confirmed that although there had been a number of independent reports prepared on the housing market which suggested that although the market was expected to dip as a result of the pandemic, it was also expected to recover, and would have returned to pre-covid levels by the end of the financial year.

Councillor Wood asked about the funding that had been obtained for community facilities at Tiptree including a new gym, and sought confirmation when this would take place. Paul Smith confirmed that this should take place before the end of the calendar year.

RESOLVED that:

- The Committee noted that it had reviewed the performance of CCHL (and its subsidiaries) during 2019/20, having regard to the performance information for the year.
- The Portfolio Holder for Commercial Services and the CCHL Board be recommended to commence the review of the Service Level Agreements for services supplied to the companies by the Borough Council early in this financial year.
- A revised forecasted dividend of £226,000 for the 20/21 financial year as an achievable dividend given the effects on the businesses as a result of the Covid 19 pandemic be recommended to Cabinet.

216. Work Programme 2020-2021

Councillor Pearson wished to make some suggestions for modification to the current work programme, following on from discussions that had taken place at the meeting. He requested that Officers present further information to the next meeting of this Committee on 28 July 2020 on Covid-19 governance and scrutiny. He further requested a report on the implementation of the digital solution in response to Covid-19, including early lessons learned, future needs, feedback received from both Councillors and members of the public, any equipment or training needs identified by Councillors.

Councillor Pearson noted that Colchester Commercial Holdings Ltd (CCHL) already featured on the workplan for January 2021, and asked that this report also include at least a draft version of the three year plan.

Councillor Pearson noted that a report clarifying the Annual Governance Statement as amended by discussions at this evening's meeting should be presented to the next meeting of the Committee in July.

Councillor Pearson also noted that there was a report due to be referred to the Committee on NEGC governance arrangements, but was happy to leave the timing of this report to be

determined in the future.

Councillor Dundas commented that there may be future incarnations of the current NEGC that are not yet be known, and that any review of the NEGC governance procedures should also take into account any new or modified organisation carrying the same or similar functions. He also made the point that he had been involved in discussions around new ways of working, and noted that following the recent broadcasting of meetings, the expectation from the public was that this would continue on the return to physical meetings and this was something that should be followed up by this Committee.

RESOLVED that the Committee had noted the report.