

## AGENDA

### **CABINET**

**MONDAY, 12 JUNE 2023**

**4.00 PM**

**COUNCIL CHAMBER, FENLAND HALL,  
COUNTY ROAD, MARCH**

Committee Officer: Linda Albon  
Tel: 01354 622229  
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Although this is a public meeting, members of the public are encouraged to view the meeting via our You Tube channel: <https://youtube.com/live/GO3w9evmjh4?feature=share>

- 1 To receive apologies for absence
- 2 Previous Minutes (Pages 3 - 8)  
  
To confirm and sign the public minutes of the meeting held 16 March 2023.
- 3 To report additional items for consideration which the Chairman deems urgent by virtue of the special circumstances to be now specified
- 4 To receive members' declaration of any interests under the Local Code of Conduct or any interest under the Code of Conduct on Planning Matters in respect of any item to be discussed at the meeting
- 5 Rural England Shared Prosperity Fund (Pages 9 - 14)  
  
To consider acceptance of funding and allocation of that funding from the England Shared Prosperity Fund.
- 6 Fenland Future Ltd - Appointment of Director (Pages 15 - 18)

To approve the appointment of a new Director to fill a vacancy on the Board of Fenland Future Ltd.

7 Appointment to Outside Bodies for 2023/24 (Pages 19 - 36)

To review and agree the list of outside bodies and nominations for representatives on those organisations for 2023/24.

8 24 High Street, Wisbech - update (Pages 37 - 38)

To provide a monthly update regarding ongoing work related to 24 High Street, Wisbech.

9 Draft 6 Month Cabinet Forward Plan (Pages 39 - 40)

For information purposes.

10 Items which the Chairman has under item 3 deemed urgent

**CONFIDENTIAL - ITEMS COMPRISING EXEMPT INFORMATION**

To exclude the public (including the press) from a meeting of a committee it is necessary for the following proposition to be moved and adopted: "that the public be excluded from the meeting for Items which involve the likely disclosure of exempt information as defined in the paragraphs XX of Part I of Schedule 12A of the Local Government Act 1972 (as amended) as indicated."

11 Confidential Minutes (Pages 41 - 42)

To confirm and sign the confidential minutes of 16 March 2023.

Friday, 2 June 2023

Members: Councillor C Boden (Chairman), Councillor Mrs J French (Vice-Chairman), Councillor I Benney, Councillor Miss S Hoy, Councillor Mrs D Laws, Councillor A Miscandlon, Councillor P Murphy, Councillor C Seaton, Councillor S Tierney and Councillor S Wallwork

## CABINET



**THURSDAY, 16 MARCH 2023 - 4.00 PM**

**PRESENT:** Councillor C Boden (Chairman), Councillor Mrs J French (Vice-Chairman), Councillor I Benney, Councillor S Clark, Councillor S Count, Councillor Mrs D Laws, Councillor P Murphy, Councillor C Seaton and Councillor S Tierney.

**APOLOGIES:** Councillor Miss S Hoy.

### **CAB70/22 PREVIOUS MINUTES**

The minutes of the previous meeting held on 20 February 2023 were approved and signed.

### **CAB71/22 INVESTMENT BOARD UPDATE & REVIEW OF THE COMMERCIAL & INVESTMENT STRATEGY**

Members considered the Investment Board update and review of the Commercial and Investment Strategy report presented by Councillor Boden.

**Proposed by Councillor Boden, seconded by Councillor Benney and Cabinet AGREED to note the report and approve a review of the current Commercial and Investment Strategy as determined by the Constitution and in light of the current economic environment and delegate this review to the S151 Officer for tabling at a future meeting.**

### **CAB72/22 PROPOSED OPERATING MODEL (LINKED TO ACCOMMODATION REVIEW)**

Members considered the Proposed Operating Model, linked to the accommodation review report presented by Councillor Boden.

Councillor Mrs Laws said that she is pleased to see that training will be implemented as it is essential due to the different range of skills required to be able to manage staff virtually. She added that improvements do need to be made to the Council's information technology systems and an investment will need to be made. Councillor Mrs Laws stressed that whilst she agrees with flexible working it is still vital for an element of face-to-face contact and therefore regular team meetings are essential.

**Proposed by Councillor Boden, seconded by Councillor Mrs French and AGREED the principles associated with the proposed Operating Model as set out in the report and to note the need to develop a suite of associated policies to ensure the successful implementation of the Proposed Operating Model which will be presented to the Audit and Risk Management Sub-Committee in the future for consideration and approval.**

### **CAB73/22 RECAP DRY RECYCLING CONTRACT TENDER FOR BULKING, TRANSPORTATION, SORTING AND SALE OF RECYCLING MATERIALS**

Members considered the RECAP Partnership Joint Materials Recycling Tender and Contract report presented by Councillor Murphy.

**Proposed by Councillor Murphy, seconded by Councillor Tierney and AGREED:**

- to commit to the procurement and appointment of one or more Contractors, to deliver

**Joint Materials Recycling Facilities (MRF) services for bulking, sorting, onward processing and sale of recyclable materials for all RECAP participating partners;**

- **to delegate to the Corporate Director and Section 151 Officer for the authorisation of the final Invitation to Tender (ITT), to award the contract, in consultation with the Portfolio Holder;**
- **that Cambridgeshire County Council will nominate one or more preferred suppliers, in collaboration with the partners, for the provision of the services of bulking, sorting and onward processing and sale of recyclable materials contract, on behalf of the RECAP partners.**
- **to note that whilst providing procurement expertise, Cambridgeshire County Council are not party to any resulting contract; and**
- **to note that the resulting contract will likely require an updated TEEP assessment of the recycling service provision provided by Fenland which will be presented to a future Cabinet meeting.**

### **CAB74/22 WHITTLESEY SOUTHERN RELIEF ROAD SOBC**

Members considered the Whittlesey Southern Relief Road SOBC report presented by Councillor Seaton.

Members made comments as follows:

- Councillor Mrs Laws stated that she welcomes the content of the report not only in her position as a Whittlesey Town Councillor but also due to the lobbying that is taking place concerning the traffic issues on the A605. She added that she would welcome the opportunity to sit on the project board that Councillor Seaton had alluded to.
- Councillor Mrs French stated that she is pleased that this is going ahead for the residents of Whittlesey who have waited many years for this.
- Councillor Count stated that his own experience of sitting on the Kings Dyke Project Board did include a great deal of input from local members which, in his opinion, helped to shape that particular project for the future and local knowledge is imperative. Councillor Count stated that he welcomed that project, but it is still insufficient for the needs of Whittlesey and the proposed relief road is vital for that area. He expressed the view that he wished the processes could be altered in order that projects can be commenced in a timelier manner but he welcomes the funding from the Cambridgeshire and Peterborough Combined Authority Market Town Project.
- Councillor Tierney stated that he welcomes the news and is delighted for those who have been striving to move this proposal forward.
- Councillor Mrs Laws stated that it is important to remember that the proposal will open up growth and economy for Fenland as a whole. She added that it is much needed, and Whittlesey is the only Fenland market town which does not have a bypass and it is dealing with enormous amount of vehicles of different sizes, lengths and weights that use that road for which she is currently arranging for traffic surveys to be carried out. Councillor Mrs Laws made the point that she feels that the Council has a duty of care to those residents who live along the Peterborough Road.
- Councillor Benney stated that he whole heartedly supports the project which is a gateway into the Fens and from an economic perspective it opens the town of Whittlesey up from the overspill of investment from Peterborough and the project will benefit Fenland as a whole.
- Councillor Boden stated that he agrees with Councillor Count and made the point that large infrastructure projects are very cumbersome to initiate, and the process is slow. He added that in projects such as this, there are many stages to overcome, and the first stage was satisfactorily achieved by Whittlesey Town Council who managed to obtain a report which was positive and led to the justification for the strategic outline business case to be sought from the CPCA. Councillor Boden explained that there are now further stages to overcome

with the next one being the outline business case. He added that a great deal of money needs to be spent in the preparation of such projects before commencement of any works can begin, however, there is a process to follow which cannot be deviated from. Councillor Boden made the point that whilst he appreciates the frustration caused by the amount of traffic currently being handled by Whittlesey, it is the projection and looking forward which needs to be considered. He explained that from the data that is already held when looking at the traffic growth that exists in Fenland as a whole, including Peterborough and Whittlesey, by the end of the decade the two roundabouts in the centre of Whittlesey are going to be severely congested adding 6.5 minutes to negotiate. Councillor Boden expressed the view that looking to the future the relief road will not be constructed before the end of the decade but by that time, the need will be so obvious which is why steps are being taken now in order to prepare so that when the need is actually require, approval can be sought in order to get the relief road actually built.

**Proposed by Councillor, seconded by Councillor and AGREED to:**

- **confirm the establishment of the Project Board to oversee the business case project, confirm the boards remit including its terms of reference and membership;**
- **note the procurement exercise to select a contractor to deliver the SOBC project and give approval for delegated authority to the Portfolio Holder for Social Mobility and Heritage to award the contract;**
- **note that third party funding has been approved from CPCA Market Towns Budget for this work. A Grant Funding Agreement between CPA and FDC is required and that this agreement requires FDC to underwrite any capital overrun; and**
- **delegate approval to the Portfolio Holder for Social Mobility and Heritage and the Portfolio Holder for Finance to sign the agreement on behalf of FDC.**

#### **CAB75/22 24 HIGH STREET, WISBECH - UPDATE**

Members considered the update report concerning 24 High Street update report presented by Councillor Seaton.

Councillor Tierney stated that it has taken a considerable amount of time to get to this stage and he worries about the public's perception of the timescales when looking at the works that have taken place so far with the project. He added that he welcomes the decision not to close the High Street for an extended period of time during the works as that would be detrimental for the shops, businesses and residents. Councillor Tierney stated that it is a complicated project and he is excited to see it moving forward.

**Proposed by Councillor Seaton, seconded by Councillor Boden and AGREED to note the current position in relation to the 24 High Street construction project in Wisbech High Street.**

#### **CAB76/22 PROCUREMENT OF CLEANING SERVICES**

Members considered the Procurement of Cleaning Services report presented by Councillor Benney.

Councillor Boden stated that given the accommodation review which is currently taking place there is some uncertainty with regards to what the Council's footprint is going to be and, therefore, it is imperative that the new arrangements allow for complete flexibility as detailed within the report in order that the Council is not penalized for any arrangements which are made with the County Council. Councillor Boden added that he welcomes utilizing the County Council for these arrangements because of the economies of scale which they can provide rather than the Council doing it solely where the opportunity would not be able to achieve such favourable terms and he agrees that in this case there is the justification to work with the County Council.

**Proposed by Councillor Benney, seconded by Councillor Boden and AGREED for the procurement process to commence in order that Cambridgeshire County Council may complete the execution of the cleaning contract with Atalian Servest AMK Ltd before the contract commencement date of 1 April 2023.**

#### **CAB77/22 PROCUREMENT OF SEWAGE EFFLUENT REMOVAL SERVICES**

Members considered the Procurement of Sewage Effluent Removal Services report presented by Councillor Benney.

**Proposed by Councillor Benney, seconded by Councillor Mrs Laws and AGREED that officers be given delegated authority to appoint the most advantageous tenderer as per evaluation under the Public Contract Regulations 2015 and, therefore, undertake the Council's sewage effluent removal services for the coming 3-year period, commencing on 1 April 2023, including the option for a 2 year extension subject to agreement by both parties.**

#### **CAB78/22 RENEWAL OF IDOX SOFTWARE APPLICATION SUPPORT AND MAINTENANCE**

Members considered the Renewal of Idox Software Application Support and Maintenance Contract report presented by Councillor Tierney.

Councillor Boden stated that it is appropriate for members to agree the proposal for the three-year period starting imminently but he added that consideration also needs to be given to the transformation processes that are currently being undertaken.

**Proposed by Councillor Tierney, seconded by Councillor Boden and AGREED for the renewal of the contract between the Council and the Idox Group for 3 years in accordance with the terms of the contract at an estimated total cost of £258k for the period from 1 April 2023 until 31 March 2026.**

#### **CAB79/22 DRAFT 6 MONTH CABINET FORWARD PLAN**

Councillor Boden presented the draft 6 Month Cabinet Forward Plan for information.

#### **CAB80/22 FREEDOM LEISURE - ENERGY CRISIS SUPPORT**

Members considered the Freedom Leisure Energy Crisis Support report presented by Councillor Sam Clark.

Members made comments as follows:

- Councillor Boden expressed the view that the announcement in the recent Budget was welcomed but the details and implications for the Council are not yet known, however, it is hoped that the detail will be favourable to the Council's particular situation. He added that it is very much welcomed as this did not happen for part of the Covid period, and the monies are to be made available to local swimming pools which are under third party control as well as being directly controlled by councils. Councillor Boden stated that given that Freedom Leisure has charitable status, the Government announcement is such that the Council will be able to apply for money from the fund. He stated that given that the finer detail is not known he suggested that the recommendations should be amended to reflect the point that offering to make a repayable loan up to a maximum of £250,000 for the six month period commencing on 1 April 2023 which represents 86% of the expected maximum excess energy costs with the sum anticipated to be reduced by the continuing implementation of the mitigation measures put in place to reduce operating costs and energy consumption which is referred to in section 12 of the report. Councillor Boden added that the suggested wording

that he is proposing to include is 'together with any additional government support for Leisure Centres energy costs', so that it can be considered when any potential loan is looked at on an open book basis.

- Councillor Mrs French stated that she welcomes and fully supports the proposal, but she would not like to see any reduction in opening hours at the leisure centres going forward.

**Proposed by Councillor Clark, seconded by Councillor Boden and AGREED to:**

- note the considerable impact that the energy crisis continues to have on the leisure sector across the country;
- note the continued good operational performance of the Fenland group of leisure centres managed by Freedom;
- recognise the £4 return on investment that every £1 invested in sport and physical activity generates in England and as part of that return recognises the essential role that the Council's leisure facilities play in helping to maintain the physical and mental health of our community as highlighted;
- recognise the significant financial challenges that the Council itself is facing;
- agree to maintain the reduction in opening hours agreed in 2022 in order to continue to mitigate some energy costs in the leisure centres;
- consider, and delegate to the Section 151 Officer, working in consultation with the Portfolio Holders for Finance and Leisure, to offer direct financial support to Freedom Leisure in the form of a repayable loan, on an open book basis, up to a maximum sum of £250,000 for the period 1 April 2023 to 30 September 2023. This represents 86% of the expected maximum excess energy cost, with the sum anticipated to be reduced by the continuing implementation of the mitigating measures put in place to reduce operating costs and energy consumption as detailed in section 12 together with any additional Government support for leisure centres energy costs. Any repayable loan shall become payable through an annual deduction of any profit generated in excess of the levels predicted in the Leisure Operators Base Trading Account (LOBTA). This is a change from the current 50/50 profit share and will be subject to the performance of the business over the remaining contract period, with the past three years having been particularly difficult for businesses across the country and whilst the operational business has recovered well, there remains no certainty that excess profits will be made in the future; and
- instruct officers, alongside other industry experts, with input from the energy market, to investigate the likely longer-term impact of the energy supply costs on the management of leisure facilities, reporting back to Cabinet with options that consider a longer-term approach to managing the situation. This report to be presented alongside a further report regarding Freedom Leisure and potential energy support for the remainder of 2023/24 and a review of ongoing actual costs to date.

### **CAB81/22 WISBECH PARK - PAVILION CONSTRUCTION CONTRACT**

Members considered the Wisbech Park Pavilion Construction Contract report presented by Councillor Murphy.

Members made comments as follows:

- Councillor Tierney expressed the view that he is pleased to see the project moving forward.
- Councillor Mrs French stated that she welcomes the project which has received some funding from the County Council, however, she would urge the project to move forward at pace in order that the funding is not lost.

**Proposed by Councillor Murphy, seconded by Councillor Clark and AGREED to:**

- note the project progress;

- consider the financial position of the project, following tender returns, and to decide to continue the project with the tendered costs and estimated capital requirement from FDC detailed within exempt Schedule Error! Reference source not found. (subject to tender assessments).
- delegate to the Section 151 Officer, working in consultation with the Portfolio Holders for Finance and Environment to facilitate the additional capital sum required, as detailed in the exempt Schedule Error! Reference source not found., allowing acceptance of the best value compliant tender when tender assessments are completed following FDC's Code of Procurement; and
- to delegate to the Section 151 Officer, working in consultation with the Portfolio Holders for Finance and Environment to enter into a construction contract with the best value compliant tenderer to build the Wisbech Park Pavilion.

**CAB82/22 STRUCTURAL CONCRETE REPAIRS, WATERPROOFING, SURFACING AND EXPANSION JOINT REPLACEMENT WORKS - WISBECH SUSPENDED QUAY (CONFIDENTIAL)**

Members considered the structural concrete repairs, waterproofing, surfacing and expansion, joint replacement works at Wisbech Suspended Quay presented by Councillor Benney.

Members made comments, asked questions and received responses.

**Proposed by Councillor Benney, seconded by Councillor Boden and AGREED the recommendations in the report.**

*(Members resolved to exclude the public for this item of business on the grounds that it involved the disclosure of exempt information as defined in Paragraphs 3 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972)*

5.05 pm

Chairman



<b>Agenda Item No:</b>	<b>5</b>	
<b>Committee:</b>	<b>Cabinet</b>	
<b>Date:</b>	<b>12 June 2023</b>	
<b>Report Title:</b>	<b>Rural England Shared Prosperity Fund</b>	

## **1 Purpose / Summary**

- 1.1 The Government has allocated Fenland £436k Rural England Shared Prosperity Fund (RESPF).
- 1.3 RESPF must be allocated for business or community purposes and used to fund capital projects such as a buildings or equipment.

## **2 Key Issues**

- 2.1 The two-year RESPF allocated for Fenland will be paid on an annual basis by DLUHC/DEFRA to the CPCA.
- 2.2 As the District Council is accepting RESPF funding from the CPCA a decision is required to accept the funding.

## **3 Recommendations**

- 3.1 Cabinet is requested to consider and recommend acceptance of £436k Rural England Shared Prosperity Funding from the Cambridgeshire & Peterborough Combined Authority for a two-year period commencing in 2023-24 and ending in 2024-25.
- 3.2 Due to the tight delivery timescale, it is recommended that the 2023/24 RESPF monies should be allocated exclusively for business growth purposes. The split of the fund to be spent in 2024/25 between business growth and community will be determined at a future meeting of the Cabinet.
- 3.3 Given the limited funds available for projects in 2023/24, Officers should prioritise bringing forward opportunities for approval in the following areas:
  - Grants towards equipment and premises for smaller businesses which will promote business growth.
  - Grants to rural areas
  - Grants which will create and sustain rural jobs by assisting the diversification of income streams for farmers.
- 3.4 To delegate to Officers responsibility for approving and finalising with the CPCA the RESPF Grant Funding Agreement; and
- 3.5 To note that a further report will be presented to Cabinet for approval of the detailed proposals in relation to the projects, procedures and documentation associated with the onward administration of the funding.

Wards Affected	All
Forward Plan Reference	
Portfolio Holder(s)	Cllr Boden Cllr Ian Benney
Report Originator(s)	Anna Goodall, Assistant Director Simon Jackson, Economic Growth Manager
Contact Officer(s)	Simon Jackson, Economic Growth Manager
Background Papers	Rural England Shared Prosperity Fund: prospectus - GOV.UK ( <a href="https://www.gov.uk/government/publications/rural-england-prosperity-fund-prospectus/rural-england-prosperity-fund-prospectus#Introduction">https://www.gov.uk/government/publications/rural-england-prosperity-fund-prospectus/rural-england-prosperity-fund-prospectus#Introduction</a> )

## Report:

### **1 BACKGROUND AND INTENDED OUTCOMES**

- 1.1 The Rural England Shared Prosperity Fund (RESPF) builds on, and is complementary to, the UK Shared Prosperity Fund (UKSPF). The RESPF is a top-up to the UKSPF and is available to eligible local authorities in England. It succeeds European Union funding from LEADER and the Growth Programme which were part of the Rural Development Programme for England.
- 1.2 The RESPF objectives sit within the UK Shared Prosperity Fund investment priorities for:
- Supporting Local Business
  - Community and Place
- 1.2 The RESPF provides capital funding to support new and existing rural businesses to develop new products and facilities that will be of wider benefit to the local economy. This includes farm businesses looking to diversify income streams support new and improved community infrastructure, providing essential community services and assets for local people and businesses to benefit the local economy.
- 1.3 The RESPF sits alongside existing Defra schemes, including:
- The Farming in Protected Landscapes programme
  - The Farming Investment Fund
  - The Platinum Jubilee Village Hall Improvement Grant Fund

- 1.4 The Government has allocated £3.2m RESPF for the four rural districts of Cambridgeshire over a two-year period commencing 2023/24. The allocation for Fenland is £436k with £109k in 2023/24 and £327k in 2024/25. The allocation is based on factors developed in line with the scheme objectives including the size of rural populations.
- 1.5 Examples of the types of opportunities the RESPF prospectus sets out for each sector are:

#### **Opportunities for Businesses**

- A key investment priority will be to enable our smaller businesses to 'grow locally' investing in entrepreneurship to unlock barriers to growth through grants for equipment and premises. Growing businesses locally links to UKSPF business support for start-ups and scaling-up of businesses, allowing them to develop new products and facilities that will be of wider benefit to the local economy.
- REPF funding will enable us to achieve better reach into rural areas where we know there is increasing austerity and declining prosperity. We will particularly support where there is evidence of likely market failure due to rurality and to allow for the increasing/sustaining of jobs.
- We will invest to allow the fast tracking of business modernisation towards Net Zero targets in processing and premises, encouraging businesses to act as demonstration projects across the area leading the way in new approaches and technologies.
- We will look to invest farm businesses looking to diversify income streams creating and sustaining rural jobs and support the transition from the Common Agricultural Policy.
- We will respond to the need to revitalise service centres for economic prosperity at a time where more than ever we value 'place'; enabling local people to become more involved in leading and developing a local approach to 'place branding' that is focused around reaching new visitors and increasing local distinctiveness.
- A we will invest into economic growth in tourism, food and farming businesses (especially looking to build on local, distinctive products and markets) and increasing of support for creative and arts that play a significant part in rural economics and rural identity (Place).

#### **Opportunities for Communities**

- Responding to the cost-of-living crisis and taking opportunities presented by the REPF, we will nurture rural talents and leadership investing in social enterprise and community-led business as a sector of growing importance, as more communities choose to run their own pubs, village shops/produce markets, health and social care and other key facilities.
- We will invest to support new and improved community infrastructure, providing essential community services and assets for local people and businesses to benefit the local economy. This adds value to our UKSPF aspirations through supporting community-led business and innovation that often fill gaps when market failure occurs, using volunteers and innovative

approaches to support the delivery of vital rural services and to benefit the local economy.

- We will invest to improve and widen the use of rural community buildings including village halls; including fast tracking of modernisation towards Net Zero targets in improving premises, allowing them to act as demonstration sites and making their running costs more affordable.
- We will invest to improve availability of broadband connectivity in rural places to alleviate the issues of poor network coverage and lacking public accessibility in some places.
- We will invest in active travel plans to enable better access through cycling and walking to rural services centres.

- 1.6 A further report will be presented to Cabinet for approval of the detailed proposals in relation to the projects, procedures and documentation associated with the onward administration of the funding.

## **2 REASONS FOR RECOMMENDATIONS**

- 2.1 The two-year RESPF allocation for Fenland will be paid on an annual basis by DLUHC/DEFRA to the CPCA. In accordance with the standard CPCA Funding Agreement the District Council will claim in monthly arrears the funding for each of the projects delivered in Fenland from the CPCA.
- 2.2 The Grant Funding Agreement with the CPCA is expected to be a standard agreement and will be satisfactorily completed and signed off.
- 3.6 As the District Council is accepting RESPF funding from the CPCA a decision is required to accept the funding and to comply with constitutional requirements. Once these arrangements are in place and in order that the onward transmission of the funding is appropriately determined and recorded, separate procedures and documentation will be drawn up and presented to Cabinet for approval at the earliest future opportunity.

## **4 CONSULTATION**

- 4.1 Engagement with partners such as Cambridgeshire ACRE and evaluation on previous projects such as Growth Works and Growth HUB Start & Grow pilot will enable external views and policies to be incorporated into the RESPF projects.

## **5 ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 The RESPF is a specific funding opportunity with no comparable alternative options. Acceptance of the funding provides an opportunity to deliver the outcomes specified in the RESPF Prospectus. Entry into the CPCA's RESPF Grant Funding Agreement is a requirement of receiving the funding and will be subject to appropriate legal oversight to ensure that Fenland District Council's position is adequately protected.

## **6 IMPLICATIONS**

### **Legal Implications**

- 6.1 The CPCA's RESPF Grant Funding Agreement is a standard document with ongoing negotiation taking place in relation to the fund specific clauses relating to this arrangement. Presently it is considered that resolution of these final points will be achieved, and the Agreement will be fit for purpose from a legal perspective.
- 6.2 Subject to Cabinet's agreement of the recommendations set out in this Report, it is now appropriate for officers to finalise the associated processes and documentation necessary to ensure that the future administration of the funding is transparent and complies with Fenland District Council's general legal and governance obligations to include procurement and subsidy control.

### **Financial Implications**

- 6.3 The RESPF is external funding that FDC has been successful in securing via the CPCA from Central Government and as such whilst FDC will be responsible for administering the various projects there are no significant implications for the FDC budget. A further report to Cabinet will set out the projects, proposed procedures and documentation required to provide for the appropriate oversight and reporting in relation to the future administration of the funding.

### **Equality Implications**

- 6.4 All individual projects and services have been assessed to ensure equality of access, etc.

## **7 SCHEDULES**

None

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<b>Agenda Item No:</b>	6
<b>Committee:</b>	Cabinet
<b>Date:</b>	12 June 2023
<b>Report Title:</b>	Fenland Future Ltd – Appointment of Director



## Cover sheet:

### **1 Purpose / Summary**

- 1.1 To seek Cabinet approval to appoint a new Director to fill a vacancy on the Board of Fenland Future Ltd.

### **2 Key Issues**

- 2.1 The Board of Fenland Future Ltd (FFL) has been carrying a vacancy since the departure of the Head of Economic Growth and Assets in July 2021.
- 2.2 The role as stated above no longer exists and it is necessary to refresh the designation of both new and existing Directors and the Company Secretary.
- 2.3 Fenland Future Ltd is entering an exciting stage in its evolution and the additional resource and skill set would be a welcome addition to the Board.
- 2.4 It is proposed to appoint Anna Goodall as the new Director of FFL to work alongside current Directors Dan Horn and Mark Saunders.
- 2.5 As Anna Goodall is the current Company Secretary a replacement for this role would need to be sourced and the current proposal is to appoint Jane Bailey, Elections Team Leader to the position. As Jane is already a direct report to Anna the required handover and support would necessarily be in place.
- 2.6 The proposed new Director's skillset complements the existing board and brings a wide range of experience most notably in the governance, Economic Growth and Limited Company Secretarial areas and Anna has been part of all the FFL Board and Investment Board meetings to date.

### **3 Recommendations**

- 3.1 Cabinet are asked to approve:-
- the appointment of Anna Goodall to the Board of FFL and the appointment of Jane Bailey as the Company Secretary of FFL and to,
  - delegate to the Company Secretary all necessary arrangements to make this happen.

Wards Affected	All
Forward Plan Reference	
Portfolio Holder(s)	Cllr Chris Boden – Leader, Finance Portfolio Holder and Chairman of the Investment Board Cllr Steve Tierney – Transformation, Communications & Environment Portfolio Holder and Investment Board Member Cllr Ian Benney – Economic Growth Portfolio Holder and Investment Board Member
Report Originator(s)	Paul Medd – Chief Executive Peter Catchpole – Corporate Director & Chief Finance Officer Carol Pilson – Corporate Director & Monitoring Officer Amy Brown – Assistant Director & Deputy Monitoring Officer
Contact Officer(s)	Paul Medd – Chief Executive Peter Catchpole – Corporate Director & Chief Finance Officer Carol Pilson – Corporate Director & Monitoring Officer Amy Brown - Assistant Director & Deputy Monitoring Officer
Background Papers	Cabinet meeting 9 <sup>th</sup> June 2020 LATCo Business case Cabinet meeting 29 <sup>th</sup> June 2020 Fenland Future Ltd, Articles of Association and Reserved matters

## Report:

### **1 BACKGROUND AND INTENDED OUTCOMES**

- 1.1 It was agreed in the original business case presented to Cabinet on 9<sup>th</sup> June 2020 that the Board of Directors will be comprised of Council officers with an elected member attending in an observational capacity. It was initially intended that the officers appointed to the Board would be the Chief Accountant, the Head of Economic Growth and Assets and the Head of Housing and Community Support and this was duly implemented. Due to the resignation of the Head of Economic Growth and Assets and the subsequent re-designation of parts of this role, it is now necessary to rethink this and the proposal put forward in this paper attempts to address this issue.

### **2 REASONS FOR RECOMMENDATIONS**

- 2.1 Fenland Future Ltd is constituted to run with a minimum of three directors and it is therefore necessary to appoint a third director as soon as possible.



### **3 CONSULTATION**

Whilst there are no specific consultation requirements, the appointment has been discussed with the existing representatives of FFL who have confirmed their support of the proposals outlined in this report.

### **4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 None. The composition of the Board is as designated by the original LATCo Business case as presented to Cabinet on 9<sup>th</sup> June 2020 and as determined by the Articles of Association approved by Cabinet on 29<sup>th</sup> June 2020. The Articles of Association state that the Board of Directors will comprise a minimum of three and a maximum of five directors.

Other officers were considered in discussion between the Chief Executive and the Section 151 officer and the suggested recommendation is as contained in this paper.

### **5 IMPLICATIONS**

#### **5.1 Legal Implications**

- 5.1.1 Fenland Future Ltd are currently operating below the minimum number of Directors required and action is required to correct this situation. Part 3, Table 3, paragraph 3.1.1(g) specifies that the determination of Reserved Matters for example appointment or dismissal of Directors are the responsibility of Cabinet unless delegated to the Investment Board. Such a delegation has not been made and it is therefore appropriate that Cabinet make this decision.

#### **6.2 Financial Implications**

- 6.2.1 There are no financial implications to this appointment and the Service Level Agreement between Fenland District Council and Fenland Future Ltd already includes the costs for three Directors and a Company Secretary.

#### **6.3 Equality Implications**

N/A

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<b>Agenda Item No:</b>	<b>7</b>
<b>Committee:</b>	<b>Cabinet</b>
<b>Date:</b>	<b>12 June 2023</b>
<b>Report Title:</b>	<b>Appointment to Outside Bodies for 2023/24</b>



## 1. PURPOSE/SUMMARY

1.1. The purpose of this Report is to enable Cabinet to review and agree the list of outside bodies and nominations for representatives on those organisations for 2023/24.

## 2. KEY ISSUES

2.1. The nomination and review of representatives on outside body organisations is the responsibility of Cabinet.

2.2. In addition to attending Council meetings and other constituency work, Councillors are required to sit as representatives of the Council on other organisations and agencies known as Outside Bodies.

2.3. An "Outside Body" is an organisation that has a separate governance structure to that of the Council. The Council appoints elected members to represent it on a range of Outside Bodies at a national and local level. Such appointments ensure that the Council's and residents' interests are represented within key agencies.

2.4. The Council recognises the value outside organisations make to the wider community and in the achievement of the Council's corporate priorities.

2.5. The rules relating to political proportionality in relation to the membership of committees are set out in The Local Government and Housing Act 1989 and the supporting regulations. It is best practice to reflect these rules when allocating places on outside body organisations and in some instances it is a legal requirement to do so.

### 3. RECOMMENDATIONS

It is recommended that Cabinet:

- 3.1. Agree the proposed nominations in respect of Outside Bodies which require Fenland District Council representation as set out at Appendix A.
- 3.2. Notes where requirements to provide representatives on outside organisations cannot currently be fulfilled.
- 3.3. Delegate to the Corporate Director and Monitoring Officer in consultation with the Leader of the Council and Group Leaders the addition or deletion of Outside Bodies as the need arises during the municipal year and appointment of members to vacancies on outside bodies during the municipal year.

<b>Wards Affected</b>	All
<b>Portfolio Holder(s)</b>	Councillor Chris Boden – Leader of the Council
<b>Report Originator(s)</b>	Amy Brown, Assistant Director and Deputy Monitoring Officer – <a href="mailto:amybrown@fenland.gov.uk">amybrown@fenland.gov.uk</a>  Peter Catchpole – Corporate Director and Section 151 Officer <a href="mailto:petercatchpole@fenland.gov.uk">petercatchpole@fenland.gov.uk</a>  Carol Pilson, Corporate Director and Monitoring Officer <a href="mailto:cpilson@fenland.gov.uk">cpilson@fenland.gov.uk</a>
<b>Contact Officer(s)</b>	Elaine Cooper, Team Leader – Elections, Land charges and Member Services – <a href="mailto:ecooper@fenland.gov.uk">ecooper@fenland.gov.uk</a>
<b>Background papers</b>	Council Political Proportionality Report of 22 <sup>nd</sup> May 2023. Outside Body Guidance
<b>Wards Affected</b>	All

## **1. BACKGROUND AND INTENDED OUTCOMES**

1.1. Cabinet have endorsed that Outside Bodies should fall into one of the following criteria in order to receive representation from the District Council:

- Statutory Outside Bodies.
- Organisations to which the District Council contributes funding - To ensure public money is used properly and achieves value for money.
- Organisations which have a clear link to key objectives outlined in the Business Plan.

1.2. Political proportionality rules are applied to Outside Bodies as best practice by the Council and, in some instances, as a matter of law.

1.3. It should be noted that political groups can appoint members who are not aligned to a political group, or indeed aligned to another group, to seats allocated to them, under the political proportionality rules.

1.4. It is envisaged that the process of nominating and reviewing representatives on Outside Bodies will occur at the start of the municipal year unless in exceptional circumstances.

1.5. The table contained within Appendix A outlines the Outside Bodies currently requiring representation, the level of required representation and any proposed new appointments, which Cabinet are asked to endorse, in addition to highlighting where vacancies exist.

1.6. Whilst expressions of interest have been proactively sought from all members of the district council resulting in a considerable reduction in the number of unfilled vacancies, there continues to be a number of opportunities for representation which will remain vacant. Cabinet are asked to note these at this time and consider nominations for these vacancies as and when they come forward in the future.

1.7. The number of outside organisations requiring representation for 2023/24 will be 54.

## **2. REASONS FOR RECOMMENDATIONS**

2.1. The purpose of this Report and the associated recommendations is to enable Cabinet to make and keep under review appointments to Outside Bodies in accordance with the proposals and political proportionality arrangements agreed by Full Council on 22<sup>nd</sup> May 2023.

### **3. CONSULTATION**

3.1. The Leaders of the recognised political groups have been consulted in confirming the proposed allocations to Outside Bodies. There are no additional or specific consultation requirements beyond that.

### **4. ALTERNATIVE OPTIONS CONSIDERED**

4.1. Other than the possible variations as regards the specific appointments proposed, the only other option available for consideration is to not make appointments to Outside Bodies. This option has not been presented on the basis that it would not meet with the expectations of Full Council or add value to Fenland District Council and the organisations concerned.

### **5. IMPLICATIONS**

#### **5.1. Legal Implications**

5.1.1. The Local Government and Housing Act 1989 and The Local Government (Committees and Political Groups) Regulations 1990 require that political proportionality requirements must be met in relation to appointments of 3 or more councillors in relation to certain specified bodies. Fenland District Council however observes political proportionality in relation to all Outside Bodies where appointments of 3 or more members are made and unless otherwise agreed between Group Leaders.

5.1.2. Appointments to Outside Bodies and the matters to which members must be aware are as set out in the Outside Body Guidance.

#### **5.2. Financial Implications**

5.2.1. There are no specific financial implications associated with this Report.

#### **5.3. Equality Implications**

There are no specific equality implications associated with this Report.

### **6. SCHEDULES**

Appendix A – Allocation of Seats to Outside Bodies

Appendix B – Outside Body Guidance

## Appendix A - Allocation of Seats on Outside Bodies

Outside Body	Representati on Required	Proportionality	Substantive Nominee	Substitute
Anglia Revenue Partnership	1 substantive 2 substitutes	Conservative	J French	D Connor C Boden
Benwick Internal Drainage Board (IDB)	4	3 Conservative 1 FIA	A Miscandlon T Taylor K Mayor	N/A
Cambridgeshire Horizons Board	1	Conservative	C Boden	N/A
Cambridgeshire Military Community Covenant Board	1	Conservative	A Gowler	N/A
Cambridgeshire Police and Crime Panel	1 substantive 1 substitute	Conservative	S Wallwork	L Foice Beard
Cambridgeshire Health and Wellbeing Board + District Lead Members Group	1	Conservative	S Wallwork	N/A
Chatteris Community Centre Association	2	Conservative	P Murphy I Benney	N/A
College of West Anglia Governing Body	1	Conservative	I Benney	N/A
Community Learning and Skills Partnership	1	Conservative	I Benney	N/A
Curf and Wimblington Combined IDB	1	Conservative	A Gowler	N/A
Feldale IDB	7	6 Conservative 1 FIA	A Miscandlon C Boden K Mayor D Laws E Sennitt Clough H Nawaz	N/A
Fenland Association of Community Transport	1	Conservative	C Seaton	N/A
Fenland Diverse Communities Forum	1	Conservative	S Wallwork	N/A

Outside Body	Representati on Required	Proportionality	Substantive Nominee	Substitute
Fenland Health and Care Forum	Open meeting		Any members can attend	
Fenland Tension Monitoring Group	1	Conservative	D Oliver	N/A
Fenland Transport and Access Partnership	1	Conservative	C Seaton	N/A
Fenland Transport Strategy	2	Conservative	C Seaton S Count	N/A
Fenland Twinning Association	4	3 Conservative 1 FIA	K Mayor N Meekins M Davis	N/A
Hanson, Fletton Brickworks Industry	1	Conservative	C Boden	N/A
Health Committee	1 substantive 1 substitute	Conservative	H Nawaz	S Wallwork
Hundred of Wisbech IDB	15	12 Conservative 2 FIA 1 Ungrouped	S Clark A Miscandlon D Oliver D Laws C Marks C Boden B Barber M Davis C Seaton S Imafidon H Nawaz S Hoy	N/A
Kings Lynn IDB	1	Conservative	D Oliver	N/A
LGA/ LGA Rural Commission/ LGA Urban Commission	1 substantive 1 substitute	Conservative	C Boden	J French
Manea and Welney Drainage Commissioners	3	2 Conservative 1FIA	J Carney C Marks S Imafidon	N/A
March Area Transport Study	2	Conservative	S Count A Wollard	N/A
March West and White Fen Internal Drainage Board	6	5 Conservative 1 FIA	D Laws A Miscandlon J French T Taylor A Woollard	N/A



Outside Body	Representati on Required	Proportionality	Substantive Nominee	Substitute
March East IDB	11	9 Conservative 2 FIA	G Christy J French A Miscandlon C Boden M Purser M Davis S Harris C Marks T Taylor	N/A
March Education Foundation	1	Conservative	M Purser	N/A
March Fifth District Drainage Commissioners	8	7 Conservative 1 FIA	J French A Miscandlon S Harris A Woollard C Marks C Boden T Taylor	N/A
March Sixth District Drainage Commissioners	4	3 Conservative 1 FIA	J French A Miscandlon C Marks	N/A
March Third IDB	5	4 Conservative 1 FIA	J French A Miscandlon T Taylor C Marks	N/A
Middle Level Commissioners	3	2 Conservative 1 FIA	D Laws A Miscandlon	N/A
Needham and Laddus IDB	1	Conservative	C Marks	N/A
Nightlayer IDB	10	8 Conservative 2 FIA	Ian Benney Anne Hay Charlie Marks Alan Gowler Pete Murphy K Mayor J French Tim Taylor	N/A
North Level District IDB	7	6 Conservative 1 FIA	D Laws A Miscandlon K Mayor	N/A

Outside Body	Representati on Required	Proportionality	Substantive Nominee	Substitute
			S Clark D Laws C Marks	
Wisbech Community Development Trust (Oasis Village Centre)	1	Conservative	L Foice Beard	N/A
Ransonmoor District Drainage Commissioners	2	Conservative	J French T Taylor	N/A
RECAP	1 substantive 1 substitute	Conservative	P Murphy	S Tierney
Rural Cambs CAB	3	2 Conservative 1FIA	A Miscandlon S Imafidon	N/A
Safer Fenland Partnership	1	Conservative	J Carney	N/A
The Wash and North Norfolk Marine Partnership	1	Conservative	D Oliver	N/A
The Combined Authority Board	1 substantive 1 substitute	Conservative	Councillor Chris Boden	Councillor Jan French
The Combined Authority Overview and Scrutiny Committee	2 substantive 2 substitutes	Conservative	Maureen Davis Anne Hay	Elisabeth Sennitt Clough Steve Tierney
The Combined Authority Audit and Governance Committee	1 substantive 1 substitute	Conservative	Gary Christy	Susan Wallwork
The Combined Authority HR Committee	1 substantive 1 substitute	Conservative	Chris Boden	Jan French
The Combined Authority Environment and Sustainable Communities Committee	1 substantive 1 substitute	Conservative	Dee Laws	Sam Hoy
The Combined Authority Transport and Infrastructure Committee	1 substantive 1 substitute	Conservative	Chris Seaton	Haq Nawaz
The Combined	1	Conservative	Ian Benney	Haq Nawaz

<b>Outside Body</b>	<b>Representation Required</b>	<b>Proportionality</b>	<b>Substantive Nominee</b>	<b>Substitute</b>
Authority Employment and Skills Committee	substantive 1 substitute			
Upwell IDB	2	Conservative	J French C Marks	N/A
Waldersey IDB	2	Conservative	A Miscandlon M Humphrey	N/A
Warboys, Somersham and Pidley IDB	1	Conservative	J Carney	N/A
Whittlesey & District IDB	5	4 Conservative 1 FIA	A Miscandlon D Laws K Mayor H Nawaz	N/A
Wisbech Access Strategy Member Steering Group	2	Conservative	S Imafidon C Seaton	N/A
Young People March	1	Conservative	M Purser	N/A
Water Resources East (WRE) Strategic Advisory Group	1	Conservative	D Laws	N/A

# GUIDANCE: OUTSIDE BODY APPOINTMENTS

## INTRODUCTION

Fenland District Council appoints members and, less often, officers to serve on a wide range of organisations outside the council, including as directors of companies, trustees of charities, members of management committees and other roles on public bodies and voluntary organisations.



Roles on outside bodies lead to uncertainty about responsibilities and sometimes lead to conflicts of interest. For example, if an outside body comes into conflict with the Council and the member is a director or on the management committee of the outside body it is likely that the member's prime duty would be to the outside body in the conduct of the outside body's affairs. The purpose of this guidance is to summarise the legal position and responsibilities of members and officers who are appointed by the council to serve on outside bodies. It is not intended to be an exhaustive explanation of the law and if further advice is required the Monitoring Officer should be contacted.

This guidance does not cover any situation where a member or officer who chooses to sit on an outside body in their own private capacity – in this case they should ensure there is no conflict of interest with their position as a member or officer.

Members and officers may be appointed by the Council to be an “observer” or to undertake a monitoring role at an outside body, facilitating exchanges of views or information as an extension of their council duties but taking no part in the outside body's management or governance other than to attend and vote at annual or general meetings, or simply to attend. In this type of role members and officers will be mainly concerned with representing the council and will not have responsibility for the governance of the body. Care should be taken to ensure such attendance is minuted/recorded each time to correctly reflect this.

## GENERAL

Before accepting the directorship or trusteeship of an external organisation, the member or officer should consider how onerous the responsibilities are likely to be and should only accept the office if satisfied that they have the time and capacity to undertake them.

Consideration should also be given to whether there is likely to be any significant conflict of interest between the role as a director or trustee and their role as a member or officer. If such a conflict is likely to arise to a significant degree then the role should not be taken on.

The member or officer should also assess the risks of things going wrong which might raise the prospect of a personal liability. Matters to be taken into account include the nature of the functions of the outside body and the amount of money it holds or deals with. For example, some external companies handle considerable sums of money in the course of each year and have major functions. On the other hand, the risks associated with relatively small local charities are much less.

Members and officers who serve on outside bodies must exercise independent judgement in the interests of the organisation in which they are involved. Whilst it is recognised that they may have a commitment to representing Fenland District Council on the outside organisation, they must also be aware that it is their responsibility to decide what view to take on any question before the organisation. Where a member or officer serves on the outside body in a representative capacity, this should be made clear to that body. There will be a fine line to tread between the duty to the outside body and to the Council.

Ultimately the member or officer in acting as a Director or Trustee or member of a Management Committee of an outside body, must act in accordance with that body's interests, and not those of the Council or even the council tax payers at large. A mandate from the Council to vote one way or the other would put the member or officer in breach of the duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them. The overriding duty in considering an item before the outside body is to vote in accordance with the interests of that organisation.

A member or officer serving on an outside body must also ensure that avoidable loss is not incurred in managing that body. Individual responsibility cannot be avoided by not reading the papers or failing to ask for appropriate reports. Professional advice should also be sought where appropriate.

If there is a major dispute between the Council and the outside body then the Council's representative can be placed in an untenable position. In these circumstances, the appointee should take advice from either the Monitoring Officer or Director of Finance.

At the end of the day, it is possible that a representative on an outside body may find themselves unable to adequately carry out their responsibilities properly, both as a member or officer of the Council and as a Director/Trustee/Committee Member of the outside body. That would be an exception, and should not deflect those appointed to outside bodies from being prepared to participate in the management and running of outside organisations.

Finally, it is recommended that:-

- Upon being appointed to an outside body, appointees obtain essential documents such as the outside body's governing document and the latest annual report and accounts;
- Clarify if there are any insurances or indemnities in place;
- Ensure the organisation has sound financial practices and procedures – take an interest in the business plan and other financial reports;
- Understand how decisions are made in the organisation including delegations of powers;
- Appointees to outside bodies should take advice from the s151 Officer or the Monitoring Officer (as appropriate) if they have any financial or other concerns about the body to which they have been appointed.

## **COMPANY DIRECTORS**

The management of a company is generally the responsibility of a board of directors and the powers of the directors are usually set out in the company's Articles of Association (rules which govern the company's internal management). Directors are those who are appointed by the company to act in that capacity.

Company Directors have the following duties:-

- A fiduciary duty to the company (not individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. This means taking proper care of the assets of the company.
- A general duty of care and skill to the company. This means that Directors must exercise a degree of skill as may reasonably be expected from someone with that individual's particular knowledge and experience. However, Directors are not deemed to be experts, but are expected to use due diligence and to obtain expert advice if necessary.
- Directors must exercise independent judgement, although they may take account of the interests of any third party whom they represent. This may well require interests to be declared (see below). However Directors cannot vote simply in accordance with the Council's mandate.
- Directors are not allowed to make a profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the company's Articles of Association.
- Directors must ensure compliance with the Companies Act in relation to the keeping of accounts and making of returns to the Registrar of Companies and the information to be shown on stationery.
- There is a duty to have regard to the interests of the company's employees, particularly, for example, in respect of health and safety.
- Directors also have a range of accounting and financial responsibilities, including the preparation of accounts for each financial year, ensuring accounting records are maintained sufficiently to demonstrate the company's day to day transactions, approving the annual accounts and laying them before a general meeting and ensuring that annual accounts and reports are sent to shareholders and anyone else entitled to receive them.

Individual Directors can also be liable in certain circumstances, including the following:-

- A company can only act within the scope set out in its Memorandum of Association, and those Directors who knowingly cause the company to act beyond these activities will be liable personally.
- Directors may also be liable for breach of trust, if they misapply the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a Co-Director of which they are aware.
- In the event of a failure to act in accordance with the best interests of the company, or if Directors use their powers improperly or make a personal profit from their position as a Director, then they may be personally liable for loss to the company and may be required to give to the company the personal profit made.
- If the level of skill and care shown by a Director falls below that which could reasonably be expected and the company suffers loss, the Director will be liable for the loss incurred. However, if it believes the Director acted honestly and reasonably, a Court may excuse the Director from this liability.
- If a Director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, the Court may require the Director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the Court is satisfied that the Director took all reasonable steps to minimise the loss to the creditors.
- Directors will also be liable if to their knowledge the company carried on business with intent to defraud creditors or any other person, or for any other fraudulent purpose.
- Where a company fails to pay National Insurance contributions and this is due to fraud or neglect on the part of any director(s) of the company, they may be held personally responsible for the outstanding contributions.

Finally, information (apart from confidential information) must be given to other councillors about their activities as required by the local authority.

## CHARITY TRUSTEES

Trustees of a charity are responsible for the control and administration of a charity and retain personal liability. Trustees must acquaint themselves with the terms of the Trust. In the case of a charity which is also a company, these terms will be found in the Memorandum and Articles of Association. Other Trusts will be found in the document under which the charity was established, such as a will or deed of gift or constitution.

Charity Trustees have the following duties:-

- Trustees must act in accordance with the terms of the Trust.
- The property of the charity must be used for the purposes for which the charity was set up. It must also be applied fairly between those properly entitled to benefit from it.
- Trustees have a duty to exercise such care and skill as is reasonable in the circumstances having particular regard to any special knowledge or experience that they have or holds themselves out as having. In addition, where a Trustee acts in the course of a business or profession, particular regard must be had to any special knowledge or experience which it is reasonable to expect of a person acting in the course of that kind of business or profession.
- Trustees must always act in the interests of the charity and of its beneficiaries or potential beneficiaries and without regard to their own private interests. This means that Charity Trustees must not put themselves in a position where their interests and duties conflict.
- The work must generally be unpaid. Trustees may be paid for their expenses from the charity's income and, very occasionally, the Charity Commission may allow wider remuneration where this is in the interests of the charity.
- Trustees cannot benefit either directly or indirectly from the charity.
- They must act reasonably and prudently in all matters relating to the charity and must always bear in mind the interests of the charity. They should manage the charity as carefully as if they were running their own business. Although they may delegate certain of their functions under the Trustee Act 2000 and also under any powers in the trust document, they remain legally responsible and must supervise and control the work of officers.
- Trustees must act in accordance with all relevant legislation.
- They have a duty to provide information to the Charity Commissioners. Most charities (except small ones with an annual income under £1000 a year) are required to register under the charities legislation. The Charity Commissioners rely on this information when making a decision about a charity, so it is very important that it is accurate. It is an offence to give the Charity Commissioners false or misleading information, or to alter, conceal or destroy charity documents which may be required by the Commissioners.
- All registered charities are subject to a number of accounting and reporting requirements, depending on their income and expenditure. These involve maintaining proper accounts, preparing the annual statement of accounts and an annual report and in some cases submitting them to the Charity Commission; and where the charity's gross income and total expenditure exceeds £10,000, making an annual report to the Charity Commission. Charity trustees are under a duty to ensure that these accounting and reporting requirements are carried out and to approve the annual report and accounts.
- The accounts of registered charities with a gross income or total expenditure exceeding £10,000 must, at the option of the trustees, be either audited or independently examined. In addition if either income or expenditure has been more than £250,000 in either of the previous two financial years then accounts must be audited by a registered auditor.
- Retaining accounting records and statements of account for at least 6 years.

## MANAGEMENT COMMITTEES

Groups which are not charitable trusts or limited companies are "unincorporated associations" and have no separate legal identity from their members. The rules governing the members' duties and liabilities will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and registerable as a charity.

Broadly, management committee members must act within the terms of the constitution, and must take reasonable care in exercising their powers.

Generally, members of management committees are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall. If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent of all the members, who have joint liability for the agent's actions. Members of the management committee will have a personal liability if they act outside the authority given them or if they do not comply with the law.

Exceptions apply to certain consultative/advisory bodies such as EELGA & LGA where the representative will normally be expected to act in the Council's interests.

## REGULATED COMPANIES

A company that is influenced by the Council (20% shareholding or more) or controlled by the Council (50% shareholding or more) will be a regulated company under the Local Authorities (Companies) Order 1995. This piece of legislation has a number of restrictions for members that sit on the board of regulated local authority companies, referring to them as "regulated directors".

These restrictions include:

- The maximum amount of remuneration is the greatest amount which would be payable by the Council in respect of a comparable duty performed on behalf of the Council, less any amount paid by the Council to the regulated director for duties to the Company;
- The maximum amount of travelling or subsistence allowance which would be payable to that director by the Council of which he is a member if the relevant duty were an approved duty for the purposes of s174 of the Local Government Act 1972.
- When a regulated director becomes disqualified for membership of the Council, he/she must be removed as a director of the regulated company.
- Where members sit on the board of an influenced or regulated company there will be an inherent conflict of interest in their roles as the Companies Act 2006 requires Directors to consider the best interests of the company and not the shareholders. However due to the restrictions on the remuneration and expenses of members in relation to such companies members are unlikely to have a disclosable pecuniary interest. Members should nonetheless declare their conflict of interest at Council meetings and avoid voting on or taking Council decisions in relation to such companies.



## OTHER PUBLIC BODIES

There are bodies created by an Act of Parliament to carry out particular functions and whose constitution is set out in the legislation relating to that specific body. Examples include the Broads Authority, Internal Drainage Boards and school governing bodies.

The powers of the members of the body and duties and liabilities of those members individually and collectively depend upon the wording of the legislation in question. In general terms, however, the position of a member is similar to that of a councillor. It is therefore wise for a member of any of these bodies to obtain information for themselves from that body on its powers and duties, its Standing Orders and other procedures which they must follow and financial or other regulations which govern the conduct of its business.

In addition, conflicts of interest can occasionally arise for such appointees. In this respect, the general provisions described in Section 2 above will apply.

Finally, there is the developing area of partnerships and partnership boards. Generally, these are not legal entities in their own right and members are appointed purely to represent the Council. In these circumstances the specific duties referred to above will not therefore tend to apply nor will there be a potential for a conflict of interest. On the other hand, the position may well be different if a separate legal entity is formed as part of the partnership working.

## DECLARATION OF INTERESTS

This Guidance should be read in conjunction with Fenland District Council's **Register of Interests Form and Guidance for Completing the Register of Interests** and the **Code of Conduct**.

If you have a Disclosable Pecuniary Interest in a matter to be considered at the meeting and that interest is on your Register of Interests you must not speak or vote on the matter. In many cases (but not all) a Member will not have a Disclosable Pecuniary Interest (and therefore need not make any declaration) if the matter relates to an outside body to which the Council have appointed the Member as its representative.

Members do however need to pay particular attention to whether a body on which they have a beneficial interest (which includes a body corporate of which they are a director – NB. "director" includes being a member of the committee of management of an industrial and provident society) has or is likely to have a contractual relationship with the council (NB. which includes grant agreements). If this is the case then this is a specific DPI and it needs to be declared as such and the member must not take part in any decision making where that interest is engaged by the business of the Council.

If you do not have a DPI you may nevertheless have an 'Other Interest' (non-statutory disclosable interest) in a matter to be discussed if it affects:

- the well-being or financial standing of your or a member of your family or a person with whom you have a close associated to a greater extent than it would affect the majority of the council tax payers,

ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area; or

- it relates to or is likely to affect any of the interests which would meet the definition of a DPI, but in respect of a member of your family (other than a "partner") or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

If that is the case then you must declare such an interest but can speak and vote on the matter, unless 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 your judgement of the public interest"

Please seek the advice of the council's Monitoring Officer if unsure about what needs to be declared in order to help avoid the appearance of bias.

When members discuss at Council meetings matters relating to an outside body on which they serve, they may take account of that outside body's interest. However, they must not vote simply in accordance with the mandate of that outside body. In short, the primary consideration is the public interest.

## INDEMNITIES

An outside body can provide indemnities for its members as follows:

- Companies can now give their Directors indemnities. However, such indemnities cannot cover:-
  - the Director's liability to the company itself or to other companies within the same group;
  - fines imposed on a Director in criminal proceedings or in respect of a sum payable to a Regulatory Authority by way of penalty for non-compliance with any requirement of a regulatory nature; or
  - Liabilities incurred by a Director in defending criminal proceedings where convicted, or in defending any civil proceedings brought by the company, or an associated company in which judgement is made against such Director.
- With regard to Charitable Trusts, an indemnity can be given from the Trust Fund provided the Trustee has acted properly and within their powers. Trustees may take out insurance to protect themselves against personal liability, but not for criminal acts, fraud etc. There will be no problem if the Trustees themselves pay the premiums but if they are paid out of the Charitable Funds the Trustees will need to consent to the Charity Commission unless the Trust Deed specifically allows it.
- With regard to Management Committees, members will be entitled to an indemnity if they act in accordance with the Constitution and are not at fault. It is also possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the Constitution.

## RELATED ISSUES

Occasionally, the Council will be represented on outside bodies by third parties, rather than members or officers. This guidance applies in principle to these representatives, although some parts of it will necessarily not apply.

From time to time, officers are, as a result of their position with the Council appointed to serve on an outside body by the body itself, rather than by the Council. Examples include serving on the managing body of a professional association or appointment to a national body as a local authority representative. Again, most of

the principles contained in this guidance will apply to that situation, depending on the nature of the outside body.

Finally, officers may from time to time be asked to serve in their private capacity on outside bodies funded by the Council. This can often give rise to a conflict of interest for the officer, particularly in the situation where the officer is employed within the funding department. In these circumstances, the Council takes the view that there will be circumstances where an officer should not serve on the outside body because of the potential for a conflict of interest.

## **FURTHER INFORMATION**

If you require any further information about the issues raised in this Guidance Note please contact the Council's Monitoring and/or Finance Officers.

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<b>Agenda Item No:</b>	<b>8</b>	
<b>Committee:</b>	<b>CABINET</b>	
<b>Date:</b>	<b>12 June 2023</b>	
<b>Report Title:</b>	<b>24 High Street, Wisbech - update</b>	

## 1. Purpose / Summary

To provide Cabinet with a monthly update regarding ongoing work related to 24 High Street, Wisbech.

## 2 Progress to develop 24 High Street

- 2.1 The project to redevelop 24 High Street continues, following Cabinet's recommendation and Council's decision to enter into a contract with a preferred bidder to develop the site.
- 2.2 The Pre-Contract Services Agreement (PCSA) was completed on 1 March 2023. The main contract has also now been entered into.
- 2.3 A start on site will be made on 5<sup>th</sup> June with a 77 week timescale with completion in November 2024.
- 2.4 The contractor is using the Wisbech Town Council car park at Somers Road as a site compound.
- 2.5 Road closures on the High Street will be kept to a minimum.

## 3 Recommendations

- 3.1 That Cabinet notes the current position in relation to the 24 High Street construction project in Wisbech High Street.

Wards Affected	Medworth Ward	
Forward Plan Reference	KEY21APR22/01	
Portfolio Holders	Cllr Chris Seaton Cllr Ian Benney Cllr Chris Boden	Portfolio Holder for Social Mobility and Heritage Portfolio Holder for Economic Growth Leader of the Council and Portfolio Holder for Finance
Report Originator	Phil Hughes	Head of Service
Contact Officers	Paul Medd Peter Catchpole Mark Greenwood	Chief Executive Corporate Director and S151 Officer Head of Property, assets and Major Projects

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**DRAFT 6 MONTH CABINET FORWARD PLAN –  
Updated 02 June 2023**



(For any queries, please refer to the published forward plan)

**CABINET**

<b>CABINET DATE</b>	<b>ITEMS</b>	<b>LEAD PORTFOLIO HOLDER</b>
17 Jul 2023	1. Statement of Community Involvement	Cllr Boden
	2. Fenland Transport Strategy	Cllr Seaton
	3. Accommodation Review	Cllr Boden
	4. Rural England Shared Prosperity fund (RESPF)	Cllr Boden Cllr Benney
	5. Civil Parking Enforcement Update	Cllr French
	6. Cabinet Draft Forward Plan	Cllr Boden
	7. Wisbech High Street Update (confidential) (TBC)	Cllr Seaton Cllr Hoy Cllr Tierney
11 Sep 2023	1. Investment Board Update	Cllr Boden Cllr Benney Cllr Tierney
	2. RECAP Partnership Waste Strategy Review	Cllr Tierney Cllr Murphy
	3. Accommodation Review	Cllr Boden
	4. Freedom Energy Costs Update	Cllr Sam Clark Cllr Boden
	5. Cabinet Draft Forward Plan	Cllr Boden
	6. Wisbech High Street Update (confidential) (TBC)	Cllr Seaton Cllr Hoy Cllr Tierney
2 Oct 2023	1. Council Tax Support Scheme	Cllr Boden
	2. Cabinet Draft Forward Plan	Cllr Boden
	3. Wisbech High Street Update (confidential) (TBC)	Cllr Seaton Cllr Hoy Cllr Tierney
13 Nov 2023	1. Review & Refresh of Public Space Protection Orders (dog fouling & dog controls)	Cllr Murphy
	2. Cabinet Draft Forward Plan	Cllr Boden
	3. Wisbech High Street Update (confidential) (TBC)	Cllr Seaton Cllr Hoy Cllr Tierney
11 Dec 2023	1. Draft Business Plan 2024/25	Cllr Boden
	2. Draft Budget & Medium Term Financial Strategy 2024/25	Cllr Boden

<b>CABINET DATE</b>	<b>ITEMS</b>	<b>LEAD PORTFOLIO HOLDER</b>
	3. Treasury Management Strategy Statement & Annual Investment Strategy Mid-Year review 2023/24	Cllr Boden
	4. Cabinet Draft Forward Plan	Cllr Boden
	5. Wisbech High Street Update (confidential) (TBC)	Cllr Seaton Cllr Hoy Cllr Tierney

TBC = To be confirmed



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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