

AUTHORITY MINUTES: MONDAY 05 FEBRUARY 2018 (10.05 TO 11.30)

Present:

Councillor K Clark (Chair), Councillor S Bain (Vice Chair), Councillor J Howard, Councillor S Kelly, Councillor L Rice and Councillor J Wade.

57. Apologies for Absence

The Members received an apology for absence from Councillor O Dervish.

58. Declaration of Members' Interests

There were none declared.

59. Minutes of previous meeting (11 September 2017)

Members confirmed as true and accurate the minutes of the meeting held on 20 November 2017. The Chair was authorised to sign the same.

60. External Audit

Members received the Finance Director's report and attached External Auditor's Audit Plan for the period 1 April 2017 to 31 March 2018, to include the 2017/18 final accounts.

Jess Heath, External Auditor, KPMG attended the meeting and presented commentary and detail on the External Audit Plan 2017/17. The Audit Plan headlined two main responsibilities, the Financial Statement and Value for Money Audits.

Members attention was drawn to the focus of the audit at page 4, management override of controls, Page 5 the Authority's significant audit risks - Valuation of land, buildings and PFI assets, PFI Liability, PFI service charge expenditure and related disclosures and page 6, Pension liability. It was stated on page 7 that materiality had been set for planning purposes at £1.2m in line with the Levy last year. The approach to value for money was set out at page 8. Page 10 identified the anticipated audit fee of £18,270.

The Auditors confirmed that they will report back to the Authority on any major issues arising from the audit.

The Chair thanked the External Auditor and she left the meeting.

Members noted and agreed the report.

61. Budget Control & Contract Monitoring to 31 December 2017

Members received the regular joint report of the Finance Director and Interim Managing Director together with the three Appendices.

The current expenditure on services outturn position, shown at Appendix A, is an underspend of £1.756m to date. The overall forecast outturn is projected to be £1.716m under budget. Contract tonnage was down eight of nine months on budget forecast and contractor payments were forecast to be underspent by £0.938m at year end due to fluctuating tonnages. December's tonnage figure at 32,460t, which was 834 tonnes less than that for December 2016. Members were advised that other Waste Disposal Authorities in London were in a similar position having reported that tonnages were either the same as the previous year or slightly lower.

The recycling performance, year to date, figure of 24.6% meant that the recycling target would not be achieved.

It was reported that the diversion rate at 93.09% for December was very good news as the main aim of our Contract was diversion of waste from landfill and therefore, reputationally, this was important.

Members noted the report and forecast outturn and **delegated authority** to the Finance Director to agree the 2017/18 outturn.

62. Treasury Management 2017/18 and Prudential Code Indicators 2018/19 to 2020/21:

Members received the Finance Director's Treasury Management Strategy 2018/19 and Prudential Code Indicators 2018/19 to 2020/21 report and four appendices recommending Members agree the Borrowing Strategy, Minimum Revenue Provision, Annual Investment Strategy, Treasury Policy Statement and Prudential Indicators.

The Finance Director provided a brief explanation of the statutory regulations and processes leading to the report. Members' attention was particularly drawn to the £1.250m Public Works Loan Board borrowing made when interest rates were high at 10%. Refinancing had been considered but found not to be cost effective since interest rates were much lower now but would be reconsidered at the stage when the Authority would need to raise funds for the future strategy.

She raised the prospect of interest rates and explained that interest rates had gone up by 2.5% following the EU Referendum and that Brexit and the US Elections had impacted interest rates. She mentioned fluctuating risks impacting the PWLB borrowing as including a Chinese downturn and its impact on emerging market countries and a weak capitalisation of some European banks. The prediction was that interest rates would increase.

It was recommended that new borrowing for 2018/19 be set at £0.400m to be used only if needed and with Members approval. £0.100m would be held in capital reserves.

Paragraph 10 contained minimum revenue provision statement and paragraph 11 the annual investment strategy. The table in paragraph 13 identified the types of banks and maximum percentages the Authority could invest in remained unchanged. Paragraph 17 identified that Member training had been requested and scheduled for 18 September 2018. Paragraph 18 contained a summary of the 2018/19 investment strategy.

One Member was keen to explore the content of paragraph 6.3 with finance officers. His contention was that bond yields had been rising and equity bonds had gone down. It was his belief that none could impact on the PWLB rate. There was a general feel that the market would go in the opposite direction and that quantitative easing would stop. Officers responded that this market was volatile and that they took advice from their treasury management officers weekly and that this market was difficult to predict and in the next mid-year report this position could be revised.

Members agreed the borrowing strategy for 2018/19 as set out in paragraph 8, the Minimum revenue provision Policy Statement for 2018/19 as set out in paragraph 10, the annual investment strategy for 2018/19 as set out in paragraphs 11 to 15 and summarised in paragraph 18, the treasury management policy statement as set out in Appendix A and the prudential indicators for treasury management as set out in paragraph 18.

63. Review of Corporate Risk Register:

Members received the Interim Managing Director's report, appendices and commentary advising that the risk register was necessary to inform strategic and operational decisions. The register was split into two categories, corporate and operational risks and although reviewed annually it is updated as and when changes in the Authority's risks profile are identified.

In commentary she advised that overall, ELWA took a very cautious approach to managing risk. This was a standard Risk Register that identified all risks, scored them re likelihood and impact and plans developed to ensure the risks are appropriately mitigated to reduce the likelihood and impact. The Authority formally reviews all operational and corporate risks annually so that the risks identified here are the same as in previous years except for some minor changes.

Members attention was drawn to the detailed corporate risks and responses identified as C1 to C13 at Appendix B which related to the relationship with the Contractor and the requirement for sound controls and sufficient funding to meet the Authority's obligations. These risks were thought to be manageable. C13 residual waste treatment arrangements not in place when needed was previously about the current contract but it is Renewi's responsibility to have arrangements in place and they have proven their ability to manage the Authority's residual waste even with a facility fire. The Board was content that all risks had been identified and adequate mitigations were in place. In terms of future strategy for treatment of waste, the Authority has a Strategy Programme Plan that has identified the steps required to have arrangements in place by 2027.

Members were advised that the Aveley Methane Ltd risk had been removed upon termination of ELWA's interest in the joint venture and that Officers would now be able to remove the £500k liability from the balance sheet. Some income was being received from the new proposal.

Members enquired about the risks relating to the other Closed Landfill sites and why they were not mentioned. Officers advised that this had been captured under C13 but agreed that it was unclear. For clarity in future, the closed landfill sites would be identified separately. In addition, Members enquired about the costs of keeping the sites open. The Interim Managing Director advised that Officers would look at this but, in terms of the future strategy, it was included in the management plan and budget. She explained that Officers were continuing to explore opportunities for these pieces of land. Officers will review the corporate level risk in this connection.

Members sought clarification as to the risks relating to the insurance dispute and although covered by the risk assessment, it was agreed that this could be identified more clearly in the body of the report. Officers would take this forward. Members were advised that insurance cover was in place in respect of Renewi contractual requirements. The Finance Director confirmed that there were sufficient reserves to cover the cost of any improvement works.

Members agreed the revised corporate risk register.

64. Annual Budget & Service Delivery Plan 2018/19:

Members received the report of the Interim Managing Director advising that Officers had concerns relating to some aspects of the Annual Budget & Service Delivery Plan (ABSDP) and were unable to recommend to the Authority that it gives approval to the documents as drafted. The report advised that to formally reject the plans could disrupt discussions and trigger unfavourable dispute resolution procedure. Officers were still engaging with the Contractor (ELWA Ltd) to ensure final documents reflect the IWMS Contract requirements including a recycling improvement plan to move towards contract targets.

The Interim Managing Director advised that the Integrated Waste Management Services Contract required Renewi (formerly Shanks) to produce an annual plan (para 4.4 refers) which enabled them to predict tonnage so that the Authority can plan the level of expenditure needed and enable a levy to be set (para 4.8 refers)

Members attention was drawn to paragraph 4.7 which identified that Officers had been unable to recommend to the Authority for the last 4 years that the ABSDP should be approved. In the previous year it had been recommended that the Plan be rejected so that the Authority could obtain the attention of both the Operator and ELWA Limited over contractual failure relating to recycling targets and other issues such as insurance costs.

Paragraph 5.3 notes that Renewi forecast for increased tonnage of 452,803 but Officers considered that this figure does not take into consideration housing growth. After consultation with the Board and the Constituent Councils, Officers recommend a figure of 469,000 tonnes as being more appropriate to allow for growth.

Paragraph 5.4 indicates the contentious issue which is still Renewi's failure to achieve 33% recycling. They are forecasting 30% for next year which would be their highest level achieved. Regrettably there are no financial penalties in the contract for noncompliance. The Interim Managing Director has requested Renewi to produce an improvement plan that leads to the delivery of 33% in 2019/20. Discussion took place regarding mattress trials.

Paragraph 5.9 shows diversion from landfill at 90%. This is expected to continue to improve as the Operator forecasts 91.76% during 2018-19. The Interim Managing Director is encouraging them to increase this to 95% if possible as reputationally it is good for ELWA.

The Interim Managing Director stated that the ABSDP doesn't meet contractual target on recycling but there were realistic projections in the Plan and therefore Members were being asked to note the Plan rather than approve it.

The 'A' Director commented that he believed the working relationship between the parties had improved.

Members considered a proposal that the Interim Managing Director ask representatives of Renewi to provide a short presentation at a future Authority meeting (following any new appointments) and coupled with a site visit with a view to further strengthening communications/relationships.

Members noted items (a-c) of paragraph 2.1 in the report, namely, that:

- a) Officers continue to have concerns relating to some aspects of the details of the submitted Annual Budget and Service Delivery Plan (ABSDP) 2018-19 and officers are therefore not able to recommend that the Authority gives approval of these documents as currently drafted;
- b) it is not necessary for the Authority to formally reject the Plans at this stage as to do so could disrupt the discussions and trigger the Dispute Resolution Procedure (DRP) which is unlikely to be favourable to the Authority; and
- c) Officers are continuing to engage with ELWA Limited (the Contractor) regarding these plans to ensure that the final documents reflect the Integrated Waste Management Services (IWMS) Contract requirements including a recycling improvement plan to move towards Contract targets. Officers were not able to recommend that the Authority gave approval of the ABSDP documents as currently drafted.

65. Revenue & Capital Budget and Levy 2018/19:

Members received the Finance Director's report and appendices asking them to agree the 2018/19 budget, recycled and other commercial and industrial waste charges, the levy and percentage increase, the constituent councils' individual percentage increases, the risk analysis of the budget and policy on reserves, to include the creation of a business risk reserve and the continuation of existing arrangements for the payment of the levy and commercial and other waste charges.

In commentary the Finance Director reminded Members that at their November meeting an increase of 5.45% had been put forward in the Medium Term Financial Strategy (MTFS). This figure had now been reduced to 5.25% ranging from 4.17% to 6.45%. Items impacting the levy included tonnages, insurance costs, reserves, salaries and inflation.

The Finance Director advised that tonnage projections for 2018/19 had been updated to 469,000t with 15,000t pa increase over the next four years, attributed to population growth and Band D properties as shown in Appendix D. The salaries budget had been increased to take account of the recruitment of Managing Director and proposed staffing structure. £100,000 would be maintained in the capital reserve for legal & financial professional fees and support services. The general revenue reserve would be kept at £3m over the five years period, the strategy reserve would be built up to reach a predicted £16.148m by 2022/23. It was anticipated that some of the strategy reserve would be spent as the future strategy came to fruition. A business risk reserve of £1m was to be created. The budget for insurance costs is to be increased by £600,000 in 2018/19 and then by 5% in 2019/2020 and 10% thereafter. It was reported that the budget control report to December had projected an underspend at year end for 2017/18 of £1.716m and should this outcome be achieved it would be put into Reserves. There had been a marginal increase in commercial waste income.

Members received an update on the latest insurance position regarding liability.

One Member questioned whether the population/household projection figures at Appendix D for LB Havering were correct. It was his contention that there would be a 100% shortfall in the figures over the five years and that the Authority was underbudgeting.

Discussion took place around the consultation in respect of the London Plan and the need to consider targets. The Finance Director, Interim Managing Director and technical officers would discuss. Officers were asked to produce a table containing target worst case scenarios and present a further report.

Members agreed:

- d) the revenue budget for 2018/19, totalling £66.586m as set out in Appendix A to the report;
- e) the charges for commercial and industrial waste for 2018/19:
 - (i) Commercial & Industrial Waste – recycled £84 per tonne; and
 - (ii) Commercial & Industrial Waste – other £155 per tonne;
- f) that on the basis of (a) and (b) above, ELWA determined its levy for 2018/19 in the sum of £64.770m, an average increase of 5.25 %;
- g) on the basis of the agreed formula for apportioning the levy, that the levies for the constituent councils with percentage increases are as follows:

Constituent Council	£m	% Increase
Barking and Dagenham	12.138	4.17
Havering	15.887	6.45
Newham	19.004	5.30
Redbridge	17.741	4.87

- h) the risk analysis of the budget and the policy on reserves including the creation of a Business Risk reserve; and
- i) the continuation of existing arrangements for the payment of the levy, commercial and other waste charges.

66. London Borough of Barking & Dagenham's (LBBD) Green Garden Waste & Service

In accordance with Minute 46/2017, Members received a presentation from Councillor Rice. It included the background to waste in Barking & Dagenham, the rationale for a move from free to chargeable green garden waste service, the consultation process, the new green garden waste service, details of subscription to the service and cost to the resident over a two years period, promotion of the service, the lessons learnt, the effect of the service on household waste and their 2018 review plans. Copies of the presentation and resident(s) consultation cards were made available to Members.

A Member enquired as to whether there had been an increase in the Frizlands Lane green garden waste tonnage. The reply received was that overall waste tonnage at Frizlands Lane had gone up but Councillor Rice thought that green garden waste collected during the period had gone down. Another Councillor reported that anecdotal usage evidence showed that it had increased.

Discussion took place regarding the financial modelling

An explanation was provided regarding the recovery of costs via the levy and ownership of the waste.

The Chair thanked Councillor Rice for her presentation and congratulated her on a good personal initiative.

67. Date of Next Meeting:

Members noted the date of Friday 29 June as the date for their next meeting which would be the Annual General Meeting.

68. Any other public items

There were none.

69. Private Business

Members resolved to exclude any members of the public and press from the remainder of the meeting by reason of the nature of the business to be discussed which included information exempt from publication by virtue of paragraphs 1, 3, 4 and 8 respectively of part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

70. Aveley Methane Ltd (AML) – Termination & New Proposal

Members received the joint report of the Interim Managing Director, Head of Strategic Development and Contract Manager informing them of the termination of the Aveley Methane Joint Venture and advising on the execution of an Option Agreement relating to a new development project at the Aveley 1 Closed Landfill site.

The Interim Managing Director advised that, in line with Members agreement to the Heads of Terms in November (Minute 54/2017), the termination of the Aveley Methane Ltd Joint Venture was achieved on a cost neutral basis, relieving ELWA of any risk to the £0.500m on the ELWA balance sheet. Members attention was drawn to paragraph 6.1 in which it states that ELWA Officers had negotiated a reduced term of eighteen years from the twenty-seven years that AML originally wanted. Additionally, a higher rental and profit share if AML made excess profits.

This new lease was now in place and ELWA had received the options fee and legal costs. Aveley Methane Ltd are keen to start work and therefore ELWA could receive the first years rent on top for 2018/19.

The Interim Managing Director offered thanks to the ELWA team for their extra efforts over December and January to achieve this outcome.

Members noted the report.

71. Managing Director Recruitment Process

Members received the Interim Managing Director's report setting out the revised timetable and request for Members to convene an Authority meeting at the end of February to appoint to the post of Managing Director.

The Interim Managing Director provided an update, stating that it was expected that Officers would now interview candidates during the morning of 28 February, followed by Members & Officers interviews in the afternoon. Ratification of any appointment would be carried out at an Authority meeting to be called in early March.

The Interim Managing Director advised that he short list of candidates was believed to be strong having some good technical applicants.

72. ELWA Limited – 30 January 2018 Board Agenda

Members received the confidential Agenda pack circulated for information only. They also received commentary from the Interim Managing Director that, at the ELWA Limited Board Meeting on Thursday 1 February, she and the 'A' Director raised the usual contractual matters such as non-delivery of the recycling performance, that they were not recommending Members approve the Annual Budget & Service Delivery Plan, the signing off of the side agreement that was with Operator for final agreement. She also advised that there would a change of 'A' Director after the May elections. Following discussion, it was agreed that the next meeting of the ELWA Limited Board would take place before the May Election so that the current 'A' Director was able to complete the term for this municipal year.

The Chair thanked Councillor Kelly for his valued contribution to the Authority over the past eleven years and in his capacity as ELWA Chair and ELWA Ltd 'A' Director.

A small presentation was made to Councillor Kelly on behalf of the Members and Officers in appreciation for his long service with the Authority and as the 'A' Director of ELWA Limited. Councillor Kelly's thanks were received.

Minutes agreed as a true record.

Chair: ..O Dervish.....

Date: ..29 June 2018.....