Minutes of a meeting of the **Corporate Governance and Audit Committee** held in Committee Room Two, East Pallant House, Chichester, on Thursday, 29 November 2012 at 9.30 a.m.

Members (10)

Mrs P M Tull (Chairman)
Mr A J French (Vice-Chairman)

Mrs C M M Apel
Mr J L Cherry
Mr T Dignum
Mr G H Hicks
Mr R Marshall

Present (7)

Apologies for absence
Mr M Bell
Mrs P A Hardwick
Mr G V McAra

Officers Present
Mr P E Over, Executive Director of Support Services and the Economy
Mr J Ward, District Treasurer
Mr P Coleman, Member Services Manager

Officers Present for Specific Items Only
Ms B Bayliss, S106 Monitoring Officer
Mrs H Belenger, Accountancy Services Manager
Mr R Dunmall, Housing Operations Manager
Mr A Frost, Assistant Director Development Management
Mrs L Grange, Housing Enabling Manager
Mrs J Hotchkiss, Assistant Director Leisure and Wellbeing
Mr D Hyland, Senior Community Engagement Officer
Mr S James, Principal Auditor
Ms L Le Vay, Design and Implementation Manager
Miss A Loaring, Policy Officer
Mrs S Peyman, Sport and Leisure Development Manager
Mr P Pickard, Procurement Officer
Ms P Pritchard, Housing Enabling Officer
Ms Y Thomson, Assistant Director Strategic Housing and Planning Policy

86. Audit

The Chairman welcomed Mr Paul King and Mr Mark Catlow from Ernst and Young LLP, who were the Council's newly appointed auditors. Mr King and Mr Catlow introduced themselves and answered members' questions. Mr King explained that the Audit Commission remained in being as a regulatory body and had set scale fees for the 2013/14 audit which were about 40% lower than for 2012/13. These scale fees were fixed for the five years of the contract. He also explained that Ernst and Young would base their audit on the same international standards and code of audit practice as the Audit Commission. However, Ernst and Young used different technologies and different sampling techniques. Mr Catlow added that the auditors would send an outline audit plan in time for the Committee's consideration and comment at their meeting in January 2013, to be followed up by a more detailed plan for the meeting in March.

87. Minutes

RESOLVED

That the Minutes of the meeting held on 20 September 2012 be signed as a correct record.

88. Urgent Items

There were no urgent items for consideration at this meeting.

89. Declarations of Interest

No interests were declared at this meeting.

90. Public Question Time

No public questions had been submitted.

91. Financial Strategy and Plan

The Committee considered the report circulated with the agenda (copy attached to the official Minutes).

The District Treasurer introduced the report, explaining that the Committee were asked to consider it from a risk perspective. He drew attention to the recommendation that Cabinet review the Housing Investment allocation of £5m following completion of the revised Housing strategy, which was now expected to be considered by the Cabinet in April 2013. He also explained that the Budget Task and Finish Group, comprising members of the Committee with members of the Overview and Scrutiny Committee would be meeting on 7 December to consider the draft budget.

In general terms it appeared possible to balance the budget for 2013/14, without too much difficulty, but a growing deficit was projected thereafter, amounting to about £1.5m by 2017/18.

Since the report had been prepared, the Government had made an announcement which meant that the Council Tax Support Scheme would reduce the council tax base of parish councils. It was, therefore, proposed to passport an equitable share of the Council Tax Support grant to parish councils to ensure that they were in no worse position, once discounts and exemptions had been taken into account.

The District Treasurer then explained each of the proposed Key Financial Principles. He drew particular attention to:-

> 6.2 'Over the next five years maintain a position of non-dependency on reserves': Building maintenance, asset renewals and disabled facilities grants

(DFG) had all been incorporated into the base budget, rather than being funded from reserves. He corrected Appendix 2, where DFG had been double counted in year 2013/14.

6.9 ‘Match Council Tax increases to a realistic and affordable base budget’: The Council Tax freeze grant in 2011/12 had been rolled into formula grant, but the freeze grant in 2012/13 had not been and nor would the grant on offer for 2013/14.

6.11 ‘New Homes Bonus (NHB) should be reserved to reward communities that have accepted growth…’: The budget had so far been balanced without use of the NHB, except for one-off investments in economic development and broadband.

6.12 ‘Localisation of Business Rates’: Since the report had been written the Government had announced changes to the localisation scheme, which reduced the benefit to district councils of pooling, but maintained the risks. In the light of this announcement, chief executives of borough and district councils in West Sussex were now proposing that the pooling scheme should be abandoned.

Members asked about asset sales and the possible funding deficit on pensions. It was confirmed that the projected asset sales of £6m were those which were fairly certain – all having been declared surplus and most having planning permission. Assets were kept under continual review. The pension deficit was funded from revenue. Some proposed changes to the scheme might reduce costs, but the outcome of the triennial revaluation in 2013 could be significant.

Mr Marshall suggested that the projection of reserves should be stress-tested, as in the worst case, they could fall below £10m.

Mr Dignum supported the recommendations to review the £5m housing investment allocation, which had not been used since it was established in 2009, and to reserve NHB as far as possible to compensate areas which took new housing. The future of NHB was uncertain if the Government changed.

He indicated that he would not wish to raise council tax, which was a regressive tax. Other members, however, suggested that a modest increase would be preferable to a continued erosion of the council tax base.

RECOMMENDED TO CABINET

(1) Cabinet are asked to consider the resources position (Appendix 3) and specifically the following:

   (a) In the short to medium term the Council maintains a minimum level of reserves of £5m for general purposes.
   (b) The Housing Investment allocation of £5m to be reviewed following the completion of the revised Housing strategy, due in April 2013.
   (c) To maintain the current provision of £1.3m of revenue support to smooth the impact of funding reductions, and volatility associated with localisation of Business Rates.
   (d) The current unallocated resource of £1.7m be noted.

(e) To maintain the current restructuring allocation of £0.7m to aid future service reductions and service redesign.
(f) The New Homes Bonus should be allocated annually following receipt, taking into account the legal requirement to set a balanced budget.

(2) The Council should continue to aim to set balanced budgets without the use of reserves, although some use of reserves in the short term may be necessary.

(3) That in order to achieve a balanced budget over the medium term, the Council continues to evaluate options to deliver savings over 5 years at least equivalent to the funding shortfall identified in the financial matrix (currently £1.5m).

92. Procurement – Supporting the Local Economy

The Committee considered the report and appendix circulated with the agenda (copy attached to the official Minutes). Mr Pickard introduced the report and answered members' questions, confirming that the proposals did not imply that the Council would pay more for goods and services. Members welcomed the proposals in the report.

RESOLVED

That the actions proposed to strengthen the support to the local economy, as set out in Section 5, be endorsed.

RECOMMENDED TO CABINET

That the Council be recommended to make the changes to the Council's Contract Standing Orders as set out in the Appendix.

93. Local Authority Mortgage Scheme

The Committee considered the report and appendices circulated with the agenda (copy attached to the official Minutes). With the agreement of the Chairman, Mrs Duncton (Cabinet Member for Housing and Planning) gave the background to the proposal, stating this was the only scheme that officers had been able to find that would help people to move into private ownership.

Mrs Grange introduced the report. She acknowledged that the proposal would not target those most in need. It would help first time buyers in the 25-40 age group, especially key workers with household incomes in the range £34,000 - £51,000, to obtain a mortgage. Its use would lead to a chain of moves and relieve pressure on the private rented sector and help the local economy. Apart from the initial investment of £1 million, there was little resource implication for the Council. The initial allocation would be recycled. If a single mortgagor defaulted, the loss to the council over the scheme as a whole (i.e. divided by the total number of properties that had been purchased) would be £625-£1,100 per unit. This was a national scheme, currently operated by 33 local authorities. Hertfordshire County Council had just launched a countywide scheme with an initial investment of £12million. Kent County Council was about to launch a countywide scheme.

Mr Marshall pointed out that the Committee had just recommended a review of the £5 million housing investment allocation from which the initial investment would be drawn. He felt that the interest rate offered was a good deal for the mortgage lenders, but not for the Council; a better return could be obtained by purchasing a 4 or 5 year bond from the same lenders.

Mr French and Mrs Apel pointed to the benefits of the proposal in helping key workers to be able to afford to live in Chichester District.

Mr Dignum drew attention to the officers' answer to question 1 on Appendix 2 that the scheme did not target those most in need. He felt that the Scheme did not represent good housekeeping of the council's assets, in that:

- It put £1m of the Council's money at risk of loss from default over 5 years. Default rates might be low so far, but the applicants had been only recently assessed. High loan to value ratios were a greater risk and much could happen to personal circumstances in 5 years.
- The Council had no right of audit of the operation of the scheme.
- The rate of return for taking the risk was now only 2.2% from Lloyds, but this might not be good value over 5 years.
- It was contrary to the present Treasury Management strategy.
- The Council could not confine applicants to Chichester residents.

There were other schemes available which in their various ways helped to meet the perceived need:-

- New Buy offering 5-10 % deposit to certain new homes in the area.
- Shared ownership schemes available, for example at Graylingwell, City Canal basin and Whyke Marsh.

There were also concerns for the potential applicants:

- Only 1 in 12 applicants are accepted according to Sector, who run the scheme. So the Council would be setting a scheme that raised false hopes for most applicants.
- It was doubtful whether the Council should be actively encouraging people to buy homes at a time of house price uncertainty where house prices are kept up above historical ratios of house price to earnings by (i) very low interest rates; (ii) a government Support for Mortgage interest (SMI) scheme to 250,000 people who would otherwise be repossessed whose future was subject to review as early as January; and (iii) banks' reluctance to recognise bad debts. Land registry semi-detached house prices had fallen 0.7% in the year to September. Over the 5 years to October real house prices adjusted for RPI inflation fell 20% in West Sussex according to the Land Registry and ONS. Most forecasters expected a further 10-15% house price drop in real terms over the next few years of continued austerity.

In sum, the proposal would help about 20 households not on priority need; it gave a risky small return to the council; there were alternatives for those who would apply; and it was doubtfully a good proposition for the applicants.

He, therefore, moved an amendment to the recommendation to add the word "not" after "is" in line 2 of 3.1 and to delete 3.2 to 3.5 inclusive.

Mrs Grange responded that the track record was that 97% of applicants came from the sponsoring district and the other schemes on offer were very limited and oversubscribed. Also none of them were available on secondhand homes, which tended to be more affordable than new built homes which attract a premium. Mrs Belenger pointed out that interest rates had been falling and the Council assumed a rate of return of 1.2% on its investments. The District Treasurer pointed out that the scheme was not an investment decision but provision of a guarantee which then would assist people to gain lower rate mortgages.

The Chairman pointed out that the Committee's function in respect of the scheme was to advise the Cabinet on risk. She pointed out that the scheme had not run anywhere for 5 years. She felt that officers had re-assured the Committee that the risk of losing the initial investment was small, but it was not necessarily the best thing to do with the Council's money.

On a vote being taken, Mr Dignum's amendment was carried by four votes to two.

RECOMMENDED TO CABINET

That a Local Authority Mortgage Scheme (LAMS) be not set up.

94. Section 106 Exceptions Report

The Committee considered the report and appendices circulated with the agenda (copy attached to the official Minutes). Ms Le Vay introduced the report, and members asked officers about particular schemes:-

CC/00/01073/FUL – Farrs Field, Swanfield Drive, Chichester:
Mrs Peyman explained that the contribution for a bus shelter had been requested by West Sussex County Council and passed to the District Council to implement. However, no need or location for a bus shelter related to the development had been identified. Members considered this an unsatisfactory waste of money and asked Mrs Peyman to write again to the County Council to see whether a use might be found for it; otherwise it would need to be returned to the developer.

WH/040/01070/FUL – Land west of Devils Rush, Westhampnett
Mr Hyland explained that the community had ambitions to construct a village hall and a number of contributions were being held for this purpose. Although a site had been identified, the accumulated funds were insufficient to proceed at present. The contribution expired in April 2013, and the developer would be entitled to ask for it to be returned, if he did not agree to enable it to continue to be retained for the village hall.

SB/98/03023/OUT – The Hermitage, Emsworth
Mrs Peyman indicated that she was in negotiations with Southbourne Parish Council about maintenance in perpetuity of the bus shelter.

CC/04/03271/FUL – Land at Walcot, North Walls, Chichester
Mrs Peyman explained that, whilst there was some uncertainty about the overall plan for Priory Park, a project around the Hospitium would be put to members shortly.

RESOLVED

That the contents of the report concerning section 106 agreements nearing their expenditure date (as set out in section 6 of this report) be approved.

95. Section 106 Review: Tangmere

The Committee considered the report and appendix circulated with the agenda (copy attached to the official Minutes). Mr James introduced the report, explaining that Internal Audit had been asked to carry out a review to find out why Section 106 contributions for sport and leisure facilities had not been requested in connection with two planning applications in Tangmere in 2007 and 2008. The review had found that the list of service co-ordinators forming part of the relevant Supplementary Planning Guidance was not up-to-date and there had been no follow-up to a lack of response. It had not been possible to calculate what contributions might have been received, because this would depend on negotiations.

With the Chairman's permission, Mr Oakley addressed the Committee. He declared a personal interest in that one of the sites was visible from his home. His own calculation was that £232,000 of contributions might have been obtained towards leisure facilities in Tangmere, which was a deprived ward. Furthermore, previous opportunities in the ward to obtain developers' contributions had not been fully pursued. He pointed out that health and wellbeing depended on people having somewhere to exercise and be active, and that developer contributions were the main means of providing such facilities. It was, therefore, important, not only that planning officers and service co-ordinators sought contributions, but also that ward members and parish councils should ensure that all aspects of S106 contributions covered by the Supplementary Planning Guidance were considered. He pointed out that, although the Community Infrastructure Levy would mostly replace the S106 regime, this would not be in place for another two years; furthermore, the Sport England facility calculator used by the District Council to determine these contributions had not been updated for 14 months and was overdue for a review.

Mrs Hotchkiss reported that she accepted the audit. However, it should be borne in mind that Section 106 contributions were achieved by negotiation, and that there had to be evidence of need. It was important, therefore, to have a sound evidence base, and this was being addressed in the preparation of the Local Plan.

Mr Frost confirmed that he, too, accepted the audit, and the recommendations were being implemented. He explained that a section 106 contribution was intended to mitigate the impact of a development on the surrounding area. The contribution must be justified according to a series of tests that related the contribution sought to the development applied for. Negotiations with developers were required, but thresholds were set in the Supplementary Planning Guidance, and developers were usually willing to contribute to requirements that were justified and related to the development.

Members felt that the audit review had identified a control weakness and questioned whether the function should be centralised in the Finance Team. Mr Ward said that this had been reviewed a year ago, but it had felt that the negotiation process should be left with the Development Management service. Mr Frost confirmed this and added that it was not possible to automate the function and so individual case officers were responsible for following up requirements with services. However, there were only three or four case officers who dealt with the major applications that were likely to give rise to Section 106 contributions. He believed that there was no evidence of a wider problem beyond the two applications identified. However, members asked for a further review in six months to ensure that the system was working properly.

RESOLVED

(1) That the Principal Auditor's recommendations be approved as follows:-

(a) That the contact list contained in the SPG is updated to reflect the appropriate person responsible for submitting Section 106 contributions.

(b) That co-ordinators are no longer used and consultee letters are sent directly to the individual responsible for the various categories within the service to avoid confusion and to ensure that everyone has been consulted. A copy of this should be sent to the Assistant Director.

(c) That Development Management have an alert system to identify when a response has not been received. This should be done in person, or over the phone. A record should be made of when this has been followed up.

(d) That a response is required by the service departments even if that response states a contribution is not required.

(2) That the Principal Auditor be asked to conduct a further review to test the effectiveness of the recommendations and report back to the Committee at their meeting in June 2013.

96. Internal Audit Reports and Audit Plan Progress

The Committee considered the report circulated with the agenda (copy attached to the official Minutes). The Committee noted that Internal Audit reports on *National Non-Domestic Rates, Community Wardens, and Planning Enforcement* had been made available for members' scrutiny and comment on the Members' Bulletin Board. No comments had been made.

Mr James introduced the Internal Audit report on Westward House. Internal Audit had made eight recommendations, seven of which had been accepted by Management. However, the recommendation that the Temporary Accommodation Manager (TAM) is trained to record legionella testing on Covalent had not been accepted by Management because the service was satisfied with their current arrangement of using paper based records.

Mr Dunmall explained that at present a manual log of health and safety legionella checks was kept by the TAM, which he inspected monthly. He felt that the use of Covalent would duplicate work and would require some 46 entries, but he had been instructed to use Covalent.

Mr Over explained that legionella posed a health and safety risk to the Council, especially in a hostel. The weakness of the manual system was that it did not escalate any breakdown to him as the person responsible. The aim would be to avoid duplication of effort.

Mr Dunmall also explained that during the current refurbishment of Westward House, income was not being banked weekly, but this would be re-instated when the refurbishment was complete.

The Committee noted the audit plan progress report and Mr James added that because there had been some non-programmed audit work the full plan might not be achieved. He would report further on this to the next meeting.

RESOLVED

That the report be noted.

97. Partnerships Guidance

Further to minute 82 of the last meeting, the committee considered the report and appendix circulated with the agenda (copy attached to the official Minutes). Miss Loaring introduced the report.

Mr Dignum asked for an assurance that officers would assist Cabinet Members with reporting on partnerships in the Council's Annual Report, and Miss Loaring confirmed this would be the case.

RESOLVED

That the Partnerships Guidance be approved for publication via the intranet and team brief and implemented across the organisation.

RECOMMENDED TO CABINET

That individual portfolio holders include an update on the partnerships within their remit in the Council's Annual Report.

(Note: The meeting closed at 12.28 p.m.)

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(Chairman)

Date: __________________________________