

CABINET

RECORD OF DECISIONS of the special meeting of the Cabinet held on Friday, 10 August 2018 at 4.30 pm at the Guildhall, Portsmouth

Present

Councillor Gerald Vernon-Jackson CBE (in the Chair)

Councillors Steve Pitt
Dave Ashmore
Ben Dowling
Darren Sanders
Jeanette Smith
Lynne Stagg
Matthew Winnington

Also in attendance - Councillor Donna Jones

34. Apologies for Absence (AI 1)

Cabinet Members Councillors Suzy Horton and Rob Wood had sent their apologies for absence.

35. Declarations of Interests (AI 2)

There were no declarations of members' interests.

36. Forward Plan Omission (AI 3)

(Information item)

The City Solicitor confirmed that the correct procedure had been followed to notify members and the public of the Forward Plan omission of a key decision.

The Cabinet agreed that:

- (1) the omission to the Forward Plan for August 2018 be noted and
- (2) that publication of the omission notice be noted.

37. Victory Energy Supply Limited - Expert Review of Business Case (AI 4)

Councillor Vernon-Jackson, asked that the deputations be heard before the presentation by Chris Ward the Section 151 Officer.

Deputations are not minuted in full as these are recorded as part of the web-cast of this meeting which can be viewed here:

<https://livestream.com/accounts/14063785/Special-Cabinet-10Aug2018/videos/178776860>

- (i) Hilary Reed, who had made a late request to speak, addressed the Cabinet, including reference to fuel poverty, the lack of Equalities

Impact Assessment and governance arrangements for the company.

- (ii) Jerry Brown's concerns included examination of the loan arrangements, his request for a non-executive director, how the suppliers were selected, the need for wider scrutiny of the business case and lack of accountability. He advocated making the company insolvent.
- (iii) Councillor Donna Jones, Leader of the Conservative Group, responded to the governance issues raised and confirmed that Energy Board meetings had taken place (she had chaired) and been audited, with legal checks made on the appointees. She explained the aims in setting up the company were to a) generate income, b) give the opportunity for residents to consume green energy and c) set up a Community Fund for the council to choose how to spend such as to help those in fuel poverty. Councillor Jones outlined the marketing strategy and opportunities for embracing technological advances locally. She stated that the independent reports had found the company investable and PCC's medium term budget forecast was for £2m income p.a.

Chris Ward, as Director of Finance and Section 151 Officer, presented his report and was grateful that members had attended briefings to give full consideration to the issues, including the Victory Energy proposition and Business Plan, evidence from the 3 independent expert reviews and his report summarising the overall investment return to the Council and the potential risks involved. He believed that the 4 key ingredients to a successful energy business were in place, namely: strong governance, a talented senior management team, an agile business plan and a robust risk management framework.

The Director of Finance went through the implications of the 4 options. He estimated the loss of between £2.5m and £3.5m if the company ceased and that whilst this involved no further risk it denied the opportunity of any future income. The Victory Energy Supply Limited (VESL) Business Case forecast a total investment return over a 5 year period of £24m, however the PricewaterhouseCoopers (PwC) report pointed out the potential risks, including those associated with price caps and achieving customer growth.

The Director of Finance explained that those risks identified by PwC had been modelled by PwC into a "Downside" Scenario and that this was the most severe of 10 scenarios that had been modelled. This "Downside" Scenario described by PwC produced an overall investment return to the Council of £50m over 10 years.

If the Administration chose to proceed with the venture he would recommend this be on a stage-gate approach, thereby not taking a 10 year decision now, but a series of annual decisions where continued future funding was subject to an annual review of how the company was performing and its future prospects and risks at that time. As recommended by Baringa, this was an effective way to mitigate the Council's risk.

Councillor Gerald Vernon-Jackson, as Leader, outlined his significant concerns when considering the level of risk when investing public money which was based on the expected number of customers that would need to be recruited. He referenced the varying numbers being quoted of 25,000 in the first business plan, increasing to 44,000 per year and at the briefing given the previous day 50,000 in the first year was mentioned. He was also concerned about the method of recruiting customers and the £15m he believed the council would need to lend to VESL. He felt that this business venture should have been the subject of earlier cross party discussion, and the subject was still not engaging all councillors. His further concern was that the energy price cap had not been factored into the business case. Councillor Vernon-Jackson was not confident that the 4 key elements for success, as stated by the Section 151 Officer, were in place and therefore he would not wish the venture to proceed further.

David Williams, as Chief Executive, clarified that the PWC report (page 49 of the Cabinet paper) said that delivering the customer growth numbers appeared achievable, if challenging, over the 5 year period and that the additional cost of a contingency plan to deliver the customer numbers over 5 years was built into PwC's Downside Scenario (as previously referenced).

Councillor Jeanette Smith, as Cabinet Member for Resources, was concerned by how the Community Fund would be allocated by VESL (wishing this to be for PCC community projects) and by the risk in spending public money, wishing there to be prudent spending to tackle fuel poverty.

Councillor Darren Sanders, as Cabinet Member for Housing, was concerned that VESL's approach to tackling fuel poverty duplicated much of the work PCC was already undertaking, especially with Council tenants. His understanding was that the mid-market product Victory was offering was more expensive than the tariff used currently to set communal heating charges and that it was the Council's responsibility to offer the cheapest possible deal for those properties. Councillor Sanders stated that, at the time of greatest uncertainty around local government funding, the project, far from generating income, would see the Council losing money on the deal. As such, he did not wish to gamble on the basis of an unproven business plan when the Council had already agreed a range of measures, such as an energy-switching website and the energy project Cabinet had agreed in December 2016. Therefore, he proposed an expanded option 4 (which after discussion with the City Solicitor and Section 151 Officer formed the decision as set out).

Councillor Matthew Winnington, Cabinet Member for Health Wellbeing and Social Care, wanted fuel poverty to be at the heart of the process and was concerned by the aggressive marketing strategy proposed, targeting those who do not want to switch provider which could be the elderly, those with mental health problems and those on low income, which could cause reputational damage to the council.

Councillor Steve Pitt, Deputy Leader, clarified that it was not being suggested that VESL was not a fit or proper company, and this may be investable as a business. However, the level of investment of public money to make a non-

guaranteed return was a huge responsibility at a time of pressures on budgets which could compromise other PCC services.

Chris Ward, as Section 151 Officer, wished to counter some of the misinterpretation of numbers quoted on the level of risk to PCC. He explained that the maximum risk exposure, as set out in his report, amounted to £6.5m and that this was based on the PwC "Downside" Scenario (which included the impact of slower customer growth and price caps), rather than the range of other figures quoted during the meeting. He reiterated that there was general consensus from the independent expert reviews that the 4 key elements (strong governance, a talented senior management team, an agile business plan and a robust risk management framework) were in place.

The Section 151 Officer advised that any amendments would need to recognise that the new proposals referenced by members could not be funded by the loan facility in operation for VESL, and the funding source for these costs had not been specified or whether these were 'business as usual'. In light of this the City Solicitor advised that the proposed amendments could be phrased so that any report(s) back could investigate those matters which were of concern to the Cabinet Members.

Councillor Gerald Vernon-Jackson, as Leader, advocated the engagement of external professional help to wind up VESL at the least cost to PCC and had already asked that the Director of Finance bring an income generation strategy to a future meeting of the full Council.

DECISIONS:

The Cabinet considered the options set out in the report, taking account of the potential risks and rewards, and determined that:

- (1) Option 4 should proceed, i.e. to seek to enter into a "White Label" agreement with an existing fully licensed energy supplier;**
- (2) external support be sought to enable the Council to cease its investment in Victory Energy Supply Limited (VESL) at the lowest overall cost;**
- (3) any solar PV contracts entered into by VESL continue to be honoured by the Council;**
- (4) the Council develops a comprehensive campaign for tackling fuel poverty and look to resume the promotion of PCC's energy saving website;**
- (5) an Outline Business Case be brought forward by the Council's in-house Energy Savings Team to re-evaluate commercial opportunities (previously approved by Cabinet 8 December 2016).**

The meeting concluded at 5.45 pm.

Councillor Gerald Vernon-Jackson CBE
Leader of the Council