



## NOTICE OF MEETING

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# Alexandra Palace and Park Panel

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THURSDAY, 22ND NOVEMBER, 2007 at 09:00 HRS – PALM COURT SUITE ROOM 5,  
ALEXANDRA PALACE, ALEXANDRA PALACE WAY, WOOD GREEN, LONDON N22.

MEMBERS: Councillors Cooke (Chair), Egan (Vice-Chair) Hare, Oakes and Peacock

### AGENDA

**1. APOLOGIES FOR ABSENCE**

**2. URGENT BUSINESS**

The Chair will consider the admission of any late reports, related to item 4 below, which will be considered under that agenda item.

**3. DECLARATIONS OF INTEREST**

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A member with a personal interest in a matter also has a prejudicial interest in that matter if 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 the member's judgment of the public interest **and** if this interest affects their financial position or the financial position of a person or body as described in paragraph 8 of the Code of Conduct **and/or** if it relates to the determining of any approval, consent, licence, permission or registration in relation to them or any person or body described in paragraph 8 of the Code of Conduct.

**4. APPOINTMENT OF A DIRECTOR TO THE BOARD OF ALEXANDRA PALACE TRADING COMPANY - REPORT OF THE TRUST SOLICITOR (PAGES 1 - 20)**

Please note that under the Council's Constitution – Part 4 Section B - para 17 no other business will be transacted at the meeting.

Yuniea Semambo  
Head of Local Democracy & Member Services  
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16 November 2007

**Alexandra Palace and Park Panel      22 NOVEMBER 2007**

**Would Members of the Panel please note the following comments of the Director of Resources of the LB Haringey in respect of the report for consideration on 22 November 2007.**

**Item 4 -Appointment of a director to the Board of Alexandra Palace Trading Limited**

The Director of Resources has no comments in respect of the contents of the report and the recommendations contained therein.

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22 NOVEMBER 2007

**REPORT OF HOWARD KENNEDY, THE TRUST'S SOLICITORS**

**RESPONSIBLE PARTNER:** Iain Harris Tel: 020 - 7546 8986

**REPORT TITLE:** Appointment of Additional Director to Alexandra Palace Trading Limited.

**REPORT AUTHORISED BY:** Iain Harris of Howard Kennedy of 19 Cavendish Square, London W1A 2AW. Trust's Solicitors.

**1. PURPOSE**

1.1 To report to the Board

- a) the advice of the Council's Legal Service upon whether the "political rules" apply to Alexandra Palace Trading Limited (APTL) and
- b) seek a nomination and agreement of such nominee to act as director of APTL.

**2. SUMMARY**

2.1 The advice of the Council's Legal Service is that the "political balance "rules do not apply to APTL, which advice the Board is invited to accept.

2.2 The Board is asked to appoint a director to APTL.

**3. RECOMMENDATIONS**

3.1 The Board accepts the advice of the Council's Legal Service.

3.2 The Board appoints a director to APTL

**4. LOCAL GOVERNMENT (ACCESS TO INFORMATION)**

**ACT 1985**

4. The following papers were used in the preparation of this report:-

4.1 The General Manager's Report at Agenda Item 9(ii) on 30 October 2007

4.2 The Minutes of the discussion on that item

4.3 The advice of the Council's Legal Service.

**5. THE REPORT**

5.1 For convenience and ease of reference the General Manager's report to the Board including the Memorandum and Articles of Association of APTL is annexed hereto.

5.2 Clause 7.2.1 of the Articles provides that of a maximum of eight directors up to four **shall** be trustees of the charity.

5.3 There are presently three trustees who are serving directors, namely Clrs Egan, Peacock and Hare. Accordingly a fourth director is required to be appointed.

5.4 Following the debate on this item at the Board meeting on 30<sup>th</sup> October 2007 the charity trustees resolved at APB023 that:-

1. consideration of the appointment of a further Board member to serve on the Board of Directors of Alexandra Palace Trading Ltd. be deferred pending clarification of whether the duty to allocate seats to political groups applied and

2. a meeting of the Alexandra Palace and Park Panel be convened as necessary to agree the appointment.

5.5 Clarification of whether the duty to allocate seats to political groups has now been provided by the Council's Legal Service in the form of an email containing the following advice which we set out in full:-

5.5.1 "John Suddaby and I (Terence Mitchison) have considered the position here and specifically whether the "political balance rules" in Sections. 15-17 of the Local Government and Housing Act 1989 apply to the appointment of Directors of the trading company (APTL). **Our conclusion is that the political balance rules do not apply for the reasons set out below.**

5.5.2 Section 15 of the 1989 Act contains the basic rules and subsection 15(7) says that Schedule 1 shall effect for determining the bodies to which the rules apply.

5.5.3 Schedule 1 applies the rules to the ordinary and advisory committees/sub-committees of the Council and to a variety of bodies specified in paragraph 2 of the schedule. Most of the paragraph 2 bodies are special local authority committees or joint committees e.g. statutory fisheries or pensions committees.

5.5.4 The only possibly relevant body in the context of APTL is in paragraph 2 (g) "a board or committee appointed by one or more relevant authorities in exercise of a power conferred by a local enactment being a board or committee seats on which are required to be filled by the appointment of members of that authority". The significant point here is that the appointment has to be specifically in exercise of a power under a local Act. Although certain aspects of the establishment of APTL may be authorised under the AP&P Acts, there is nothing specific in that local legislation about appointments of Directors of APTL (not surprisingly).

5.5.5 It is also likely that the expression "board or committee" is not appropriate to include a private company set up by a local authority. Elsewhere in the relevant parts of the 1989 Act these words are used

to describe s.101 committees or joint committees. This point is not conclusive but in view of the conclusion reached in the paragraph above, we are confident that paragraph 2 (g) and, consequently the political balance rules, do not apply to the appointment of Directors of APTL.'

5.6 Board members as charity trustees are invited to accept this advice.

5.7 If Board members accept this advice they are asked to appoint a director to APTL





Agenda item:

**Alexandra Palace & Park Board** **On 30<sup>th</sup> October 2007**

Report Title: Appointment of a director to the board of Alexandra Palace Trading Ltd.

Report of: **David Loudfoot, General Manager**

**1. Purpose**  
1.1 To seek a nomination and the agreement of that nominee to act as a director of the trading company, Alexandra Palace Trading Limited, of which the charity is sole shareholder.

**2. Recommendations**  
2.1 That the board resolve to appoint a further one their number to the board of directors of Alexandra Palace Trading Ltd.

Report Authorised by: **David Loudfoot, General Manager**, 

Contact Officer: **David Loudfoot, General Manager, Alexandra Palace & Park, Alexandra Palace Way, Wood Green N22 7AY Tel No. 020 8365 2121**

**3. Executive Summary**  
3.1 This report seeks the appointment of one of the board of charity trustees as a company director in accordance with memorandum and articles of association of Alexandra Palace Trading Ltd.

**4. Reasons for any change in policy or for new policy development (if applicable)**  
4.1 N/A

**5. Local Government (Access to Information) Act 1985**  
5.1 No specific background papers other than the memorandum and articles of association of APTL were used in compiling this report. For further information contact David Loudfoot, General Manager, Alexandra Palace, Wood Green, London N22 7AY. Tel. 020 8365 4300.

## **6. Description**

- 6.1 Alexandra Palace Trading Ltd. [APTL] is a formally constituted company under the Companies Act 1985. The company has an entirely separate legal identity to that of the charity. The Memorandum and Articles of Association of APTL, which were agreed and registered in 1999 prior to the Order allowing its creation, are attached at Appendix 1. The Memorandum and Articles of Association underpin the governance requirements of the company. Any actions taken by the board which are contrary to or outside the scope of the Memorandum and Articles of Association will render such actions unlawful.
- 6.2 Clause 7 of that document regulates the composition of the board of directors. In particular, clause 7.2.1 specifies there shall be up to four charity trustees appointed as directors of the company.
- 6.3 The changes to the board of charity trustees brought about through the AGM of the Council in May 2007 resulted in the potential for a change to the chair of the board of directors of APTL. At that stage it was anticipated that the transfer of the asset to the Firoka Group was immanent with the liquidation of APTL following on shortly thereafter. In these circumstances it was inappropriate to go through the resignation and re-appointment process and the formal notification procedures with Companies House under the Companies Act 1985 together with the necessary amendments to the associated banking procedures.
- 6.4 The quashing of the Order allowing the transfer of the asset and the subsequent resolution of the Board on 10<sup>th</sup> October to seek a new Order from the Charity Commission suggests a longer timescale for a conclusion to be reached. In these circumstances a change of the chair of the board of directors is now appropriate.
- 6.5 The current chair of the board of directors has now resigned and a replacement chair, usually the chair of the board of trustees, must be appointed to fill the resultant vacancy. There are no other vacancies for directors who are charity trustees.
- 6.6 The appointment will take immediate effect and is subject to formal registration, checks and acceptance by Companies House. The charity trustee appointed as chair will take responsibility for the all activities undertaken by APTL alongside other directors and must act in the best interest of the company at all times.

## **7. Consultation**

- 7.1 There are no specific consultation requirements necessary for the board of trustees to appoint from its own membership to the board of directors.

**8. Summary and Conclusions**

8.1 This report sets out both the rationale for the non-appointment of a replacement for the chair of the board of directors either this year and now revisits that approach in light of the changed circumstances and makes recommendations thereon.

**9. Recommendations**

9.1 That the board resolve to appoint the chair of trustees as chair of the board of directors of Alexandra Palace Trading Ltd.

**10. Legal and Financial Implications**

10.1 Both the Trust Solicitor and Director of Finance have been sent copies of this report.

**11. Equalities Implications**

11.1 No specific equalities issues arise from the content of this report.

**12. Use of Appendices/Tables/Photographs**

12.1 Memorandum and Articles of Association of Alexandra Palace Trading Ltd.

**THE COMPANIES ACTS 1985 TO 1989**

**COMPANY LIMITED BY SHARES**

**MEMORANDUM AND ARTICLES OF ASSOCIATION**

**OF**

**ALEXANDRA PALACE TRADING LIMITED**

**(As amended by Special Resolutions dated 19<sup>th</sup> August 1999,  
12<sup>th</sup> October 1999 and 13<sup>th</sup> February 2002)**

**BATES, WELLS & BRAITHWAITE  
Cheapside House  
138 Cheapside  
London EC2V 6BB  
STL.MG.JM.016883.4**

THE COMPANIES ACTS 1985 TO 1989

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COMPANY LIMITED BY SHARES

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MEMORANDUM OF ASSOCIATION

of

ALEXANDRA PALACE TRADING LIMITED

(As amended by Special Resolutions dated 19<sup>th</sup> August 1999,  
12<sup>th</sup> October 1999)

1. The Company's name is Alexandra Palace Trading Limited.
2. The Company's registered office is to be situated in England and Wales.
- 3A. The object of the company is to carry on business as a general commercial company to procure profits and gains for the purpose of paying them to Alexandra Palace and Park Charitable Trust (registered charity number 281991) or any other charitable body which succeeds to its charitable purposes.
- 3B. The company shall pay such profits and gains at such times and after making such retention for the purposes of the company's continued trade and development as the directors think fit.
4. The liability of the members is limited.
5. The Company's share capital is £100 divided into 100 shares of £1 each.

We the subscribers to this Memorandum of Association wish to be formed into a company pursuant to this Memorandum; and we agree to take the number of shares shown opposite our respective names.

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NAMES AND ADDRESSES OF SUBSCRIBERS	Number of Shares taken by each Subscribers
LONDON LAW SERVICES LIMITED Temple Chambers Temple Avenue London EC4Y OHP	One
LONDON LAW SECRETARIAL LIMITED Temple Chambers Temple Avenue London EC4Y OHP	One
Total of shares taken	Two

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Dated the 29<sup>th</sup> day of July 1999

Witness to the above signature:-

COLIN A LAW  
Temple Chambers  
Temple Avenue  
London EC4Y OHP

THE COMPANIES ACTS 1985 – 1989

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

ALEXANDRA PALACE TRADING LIMITED

(As amended by Special Resolutions dated 19<sup>th</sup> August 1999,  
12<sup>th</sup> October 1999 and 13<sup>th</sup> February 2002)

INTERPRETATION

1. In these articles:-
  - 1.1 “the Act” means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force.
  - 1.2 “the Articles” means these articles of the company.
  - 1.3 “the Charity” means Alexandra Palace and Park Charitable Trust (registered charity number 281991) or any other charitable body which succeeds to its charitable purposes.
  - 1.4 “clear days” in relation to the period of a notice means that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect.
  - 1.5 “the Council” means Haringey Council of Civic Centre, Wood Green, London N22 8LE.
  - 1.6 “the Memorandum” means the memorandum of association of the company.
  - 1.7 “Secretary” means the secretary of the company or any other person appointed to perform the duties of the secretary of the company.
  - 1.8 Unless the context otherwise requires, words or expression contained in the Articles bear the same meaning as in the Act but excluding any statutory modification thereof not in force when the Articles become binding on the company.
  - 1.9 The provisions of Table A shall not apply to and are expressly excluded from the Articles except where they are expressly included.

SHARES

2. Subject to the provisions of the Act any share may be issued with such rights or restrictions as the company may by ordinary resolution determine.
3. No share shall be transferred except with the consent of the member which may in its absolute discretion and without giving any reason decline to register any transfer of any share.

AUTHORISED REPRESENTATIVES

4. The company secretary from time to time of each corporate member (or such other person as is from time to time notified to the company in writing) shall be the duly authorised representative of such corporate member.

MEETINGS AND COMPANY RESOLUTIONS

5. Subject to the provisions of the Act, the company shall dispense with the holding of general meetings and all resolutions of the company shall be passed by way of written resolution signed by the member or, in the case of a corporate member, by its duly authorised representative.
6. If in accordance with the Act a general meeting is required to be called then the provisions of articles 40 to 63 inclusive of Table A in force on the date of incorporation of the company shall apply to such meeting.

DIRECTORS

- 7.1 The maximum number of directors shall be eight and the minimum two.
- 7.2 The Board of directors shall comprise eight directors of which:
  - 7.2.1 up to four shall be trustees of the Charity;
  - 7.2.2 one shall be an employee of the Company;
  - 7.2.3 one shall be an officer of the Council;
  - 7.2.4 two others who shall not be officers or members of the Council, employees of the Company or trustees of the Charity.



Appointment and Removal of Directors

8. The directors shall be appointed by resolution of the member. The directors shall be removed by service of a notice as provided for in article 9.7.
9. The office of a director shall be vacated if -
  - 9.1 he or she ceases to be a director by virtue of any provision of the Act or he or she becomes prohibited by law from being a director; or
  - 9.2 he or she ceases to be a member of the London Borough of Haringey and is disqualified from such duty; but this Article will not apply to any director whose membership of the Council terminates in the period immediately prior to Council elections as part of the Council's election cycle. Any such director shall continue in office until replaced by a successor or re-appointed following the Council elections.
  - 9.3 he or she becomes bankrupt or makes any arrangement or composition with his or her creditors generally; or
  - 9.4 he or she is, or may be, suffering from mental disorder and either:-
    - (i) he or she is admitted to hospital in pursuance of an application for admission for treatment under the Mental Health Act 1983 or in Scotland, an application for admission under the Mental Health (Scotland) Act 1960; or
    - (ii) an order is made by a court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder for his or her detention or for the appointment of a receiver, curator bonis or other person to exercise powers with respect to his or her property or affairs; or
  - 9.5 he or she resigns his or her office by notice to the company; or
  - 9.6 he or she shall for more than six consecutive months have been absent without permission of the directors from meetings of directors held during that period and the directors resolve that his or her office be vacated.
  - 9.7 a written notice dismissing the director signed by the member's authorised representative, is served on the company at its registered office.

Powers of Directors

10. Subject to the provisions of the Act, the Memorandum and the Articles and to any directions given by special resolution, the business of the company shall be managed by the directors who may exercise all the powers of the company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this article shall not be limited by any special power given to the directors by the Articles and a meeting of directors at which a quorum is present may exercise all powers exercisable by the directors.
11. The directors may, by power of attorney or otherwise, appoint any person to be the agent of the company for such purposes and on such conditions as they determine, including authority for the agent to delegate all or any of his or her powers.

Delegation of Directors' Power

12. The directors may delegate any of their powers to any committee consisting of one or more directors. They may also delegate to any managing director or any director holding any other executive office such of their powers as they consider desirable to be exercised by him or her. Any such delegation may be made subject to any conditions the directors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the Articles regulating the proceedings of directors so far as they are capable of applying.

Remuneration of Directors

13. The directors (other than the director identified in Article 7.2.3 and directors who are also trustees of the Charity) shall be entitled to such remuneration as the company may by ordinary resolution determine.

Directors' Expenses

14. The directors may be paid all travelling, hotel, and other expenses properly incurred by them in connection with their attendance at meetings of directors or committees of directors or general meetings or otherwise in connection with the discharge of their duties.

Directors' Appointments and Interests

15. Subject to the provisions of the Act a director

- 15.1 may be a director or other officer of, or employed by the Charity or any body corporate promoted by the company or in which the company is otherwise interested provided that no director who is also a trustee of the Charity shall be remunerated or receive other benefits in respect of such employment or office; and
- 15.2 shall not, by reason of his or her office, be accountable to the company for any benefit which he or she derives from any such office or employment and no transaction or arrangement of the company shall be liable to be avoided on the ground of any such benefit.

Proceedings of Directors

16. Subject to the provisions of the Articles, the directors may regulate their proceedings as they think fit. A director may, and the secretary at the request of a director shall, call a meeting of the directors. Questions arising at a meeting shall be decided by a majority of votes. In the case of an equality of votes, the chair shall have a second or casting vote.
17. The quorum for the transaction of the business of the directors may be fixed by the member and unless so fixed at any other number shall be two.
18. The continuing directors or a sole continuing director may act notwithstanding any vacancies in their number, but, if the number of directors is less than the number fixed as the quorum, the continuing directors or director may act only for the purpose of calling a general meeting.
19. The directors may appoint one of their number to be the chair of the board of directors and may at any time remove him or her from that office. Unless he or she is unwilling to do so, the director so appointed shall preside at every meeting of directors at which he or she is present. If there is no director holding that office, or if the director holding it is unwilling to preside or is not present within five minutes after the time appointed for the meeting, the directors present may appoint one of their number to be chair of the meeting.
20. All acts done by a meeting of directors, or of a committee of directors, or by a person acting as a director shall, notwithstanding that it be afterwards discovered that there was a defect in the appointment of any director or that any of them were disqualified from holding office, or had vacated office, or were not entitled to vote, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director and had been entitled to vote.

21. A resolution in writing signed by all the directors entitled to receive notice of a meeting of directors or of a committee of directors shall be as valid and effectual as if it had been passed at a meeting of directors or (as the case may be) a committee of directors duly convened and held and may consist of several documents in the like form each signed by one or more directors. The date of a written resolution of the directors shall be the date on which the last director signs.
  - 22.1 Save as otherwise provided by the Articles, a director shall not vote at a meeting of directors or of a committee of directors on any resolution concerning a matter in which he or she has, directly or indirectly, an interest or duty which is material and which conflicts or may conflict with the interests of the company.
  - 22.2 Any person who is both a director and an officer of the Council should at a meeting of directors or of a committee of directors declare his interest and not vote on a resolution concerning any matter which relates to the relationship between the Company and the Council.
  23. A director shall not be counted in the quorum present at a meeting in relation to a resolution on which he or she is not entitled to vote.
  24. The company may by ordinary resolution suspend or relax to any extent, either generally or in respect of any particular matter, any provision of the Articles prohibiting a director from voting at a meeting of directors or of a committee of directors.
  25. Where proposals are under consideration concerning the appointment of two or more directors to offices or employments with the company or any body corporate in which the company is interested the proposals may be divided and considered in relation to each director separately and (provided he or she is not for another reason precluded from voting) each of the directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution except that concerning his or her own appointment.
  26. If a question arises at a meeting of directors or of a committee of directors as to the right of a director to vote, the question may, before the conclusion of the meeting, be referred to the chair of the meeting and his or her ruling in relation to any director other than himself or herself shall be final and conclusive.
- SECRETARY
27. Subject to the provisions of the Act, the secretary shall be appointed by the directors for such term, at such remuneration and upon such

conditions as they may think fit; and any secretary so appointed may be removed by them. The secretary shall not be remunerated if he or she is a trustee of the Charity but shall be entitled to reimbursement of expenses to the same extent that the directors are entitled.

#### MINUTES

28. The directors shall cause minutes to be made in books kept for the purpose:-
- 28.1 of all appointments of officers made by the directors; and
- 28.2 of all proceeding at meetings of the company and of the directors, and of committees of directors, including the names of the directors present at each such meeting;

and the directors shall cause all written resolutions of the members and of the directors to be kept in such books.

#### ACCOUNTS

29. Accounts shall be prepared in accordance with the Act.

#### NOTICES

30. Notices under the Articles may be sent by hand, or by post or by suitable electronic means. The only address at which the member is entitled to receive notices is the address shown in the register of members. Any notice given in accordance with the Articles is to be treated for all purposes as having been received three days after being sent by first class post to that address or immediately if sent by electronic means effecting immediate transmission and receipt or, if earlier, on being handed personally to the member or, in the case of a corporate member, its duly authorised representative.

#### WINDING UP

31. If the company is wound up all remaining assets of the company after paying the debts of the company and the costs of winding up shall be paid to the Charity.

#### INDEMNITY

32. Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director or other officer or auditor of the company shall be indemnified out of

the assets of the company against any liability incurred by him or her in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application in which relief is granted to him or her by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the company.

DIRECTORS' INDEMNITY INSURANCE

33. The directors shall have power to resolve to effect directors' indemnity insurance despite their interest in such policy.

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NAME AND ADDRESSES OF SUBSCRIBERS

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LONDON LAW SERVICES LIMITED  
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LONDON LAW SECRETARIAL LIMITED  
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Dated the 29<sup>th</sup> day of July 1999

Witness to the above signature:-

COLIN A LAY  
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