

**Unrestricted Minutes of the Alexandra Palace and Park Board
30 JANUARY 2006**

DRAFT

ITEM (4)(1)(b)

Councillors: * Manheim (Chair), Dillon (Deputy-Chair), *Haley, *Hare, *Hoban, *Krokou, Reynolds, *Robertson

Non-voting representatives: *Ms V. Paley, *Mr M. Tarpey and *Mr N Wilmott

Observer: *Mr D Liebeck - Chair, Alexandra Park and Palace Advisory Committee

*Members present.

Also present:-

Melanie Griffin	Broadway Malyan (Planning)
Tessa Kimber	Berwin Leighton Paisner (Legal)
Roger Vail	King Sturge (Valuation, Market Knowledge & Building Surveyors)
Ian Harris	Trust Solicitor
Peter Conboy	Abros

AP033 APOLOGIES FOR ABSENCE: An apology for was absence was received on behalf of Councillor Dillon (due to a family bereavement) and for lateness from Councillor Haley.

AP034 URGENT BUSINESS

The Chair asked if there were any items of urgent business,.

At this point in the proceedings Councillor Hare advised the Chair that he wished to raise a matter of urgent business in conjunction with Item 5 on the exempt part of the agenda. He presented a letter to the Chair which he had written to the Chief Executive of Haringey Council that afternoon in respect of his concerns that the General Manager of Alexandra Palace had a conflict of interest in respect of the two bidders.

The Chair then read out the content of the letter which in essence commented on the retention of existing staff by one bidder – Firoka, but not by the other – Earls Court and Olympia Limited (ECO). The letter commented on ECO not providing any detailed proposals to the Board and that the General Manager had summarised such proposals to both the Board, at its meeting on 10 January 2006, and the Statutory Advisory Committee on 24 January 2006, based on seemingly scant information of that bidder's original expression of interest and possibly subsequent communication (s). Councillor Hare's letter further commented that the presentations conflicted with the details of a letter from the bidder dated 13 January 2006 received by all Trustees included detailed differences in relation to the future of the organ, ice-rink and hotel and perhaps more significantly the sense of interest and commitment to public facilities expressed in that letter of 13 January 2006, were not in anyway reflected in the negative picture given to both the Board and the Advisory Committee.

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Councillor Hare's letter further commented on when Councillors had a similar conflict of interest it would be a requirement that such interest be declared, and given its significance, for the Member to leave the room for the entire item. Councillor Hare's letter went on to further state that he felt that it raised questions in relation to the involvement to date of an officer in as many quite critical ways as had been the case now. The conflict of interest would have become apparent at an early stage and that at the point that the conflict of interest was apparent of any staff member then no further involvement in the bidding process should have been permitted. Councillor Hare's stated view was that the General Manager had had a defining role in both the process and the presentations to the Board and the Statutory Advisory Committee. The letter concluded that in Councillor Hare's view the General Manager should not take part in the proceedings this evening, should be entirely separated from the rest of the process and that the potential conflicts of interest in his role to date be investigated.

The Chair, having read the letter's contents, asked if members had any comments.

Councillor Hoban confirmed his sentiments in support of the contents of the letter, and that it was appropriate to raise the matter as urgent business in accordance with Item 5.

Following questions from Members clarifying when the letter was sent, Councillor Hare confirmed it was sent at 16:34HRS that afternoon and he had not received a response from the Chief Executive. The Chair asked that the Board adjourn the proceedings for a 10 minute period to seek legal clarification from the Trust Solicitor – Mr Harris, and the Project Team Legal Adviser - Ms Kimber. The Chair passed a copy of the letter from Councillor Hare, to both Mr Harris and Ms Kimber.

The Board then adjourned at 19:40HRS and reconvened at 19:50HRS.

The Trust Solicitor – Mr Harris advised that the contents of the letter passed to the Chair of the Board from Board Trustee Member Councillor Hare – sent the Chief Executive of Haringey Council at 16:34HRS that day, asserted that the General Manager should not participate in the Board meeting, that the General Manager should be separated from the whole process currently embarked upon, that there was a conflict in the General Manager's role to date, and that role should be investigated.

Mr Harris commented that the whole process of finding a preferred bidder since 1995 had been bedevilled by conflicts of interest of both Board Members and officers. It was possible that the General Manager had been faced with potential conflicts but these conflicts, if they did exist at all, were neutralised by the advice tendered by the professional team throughout the process.. The role of the General Manager had been, since 1995, to search for a suitable investment partner (as outlined in Item 5 before the Board this evening in respect of the 1996 bid process in which the General Manager had a primary role). It would be unreal for the General Manager at this stage to step aside and withdraw and the Board would not be advised to take a decision to ask him to do so. Mr Harris advised that the conflict had

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indeed been managed to date and would continue to be managed throughout the process.

In respect of paragraph 4 of Councillor Hare's letter and the reference to the letter from ECO of 13 January 2006 to the Trustees this letter had neither been seen or commented on by the professional team. The letter had been sent after the official closure of bid/tender process and if the contents of the letter from ECO of 13 January 2006 were to be accepted and considered that evening then this would prejudice the Board's position and lead to possible challenge by the other short listed bidder.

Ms Kimber, in concurring with the views expressed by Mr Harris, reiterated that the letter from ECO of 13 January 2006 had been sent to Trustees after the deadline for the bid process had closed – 6 January 2006. This information had been sent after and outside the agreed process and should such information be considered then it would most certainly be open to challenge by the Firoka Group.

Councillor Hoban asked if it would be useful to know whether the content of the ECO letter of 13 January 2006 varied significantly to the presentation of the General Manager to the Board on 10 January 2006, and the Advisory Committee of 24 January 2006, and also if the contents of that letter could be considered during the course of the meeting this evening. Councillor Hoban commented that it was difficult to picture the bid and address the points raised in paragraph 3 of Councillor Hare's letter otherwise.

Ms Kimber responded that if the Board were mindful to consider the contents of the letter of 13 January 2006, she would strongly advise the Board against considering its contents as it would serve to undermine the whole process. Ms Kimber reminded the Board of the need for fairness and transparency in the process it had agreed on 29th November 2005. The letter from ECO dated 13 January 2006 should be disregarded and were it not, then Firoka could challenge the process.

In response to comments from Mr Liebeck in respect of the process for the bidders to comply with, and their availability if they were unable to attend on 10 January 2006, Ms Kimber confirmed that ECO had been advised of the Board's request to interview/receive a presentation from them in early December 2005 at the same time as Firoka and were asked at that time to make a presentation to the Board on 10 January 2006. The response from ECO on around 18 December 2005 was that ECO was not available on 10 January 2006 and would not be available until after the evaluation process of the bids had been completed.

In response to questions from Mr Liebeck on whether ECO had been offered an alternative date to give a presentation, and from Councillor Hoban as to the email received by him from one of the 3 principals ECO, a Mr. Anthony Lyons, Mr Harris advised of the particular provision of the bid process that stated that there should be no contact between the bidders, and the Trustees, officers of the Council (other than seeking a planning perspective).

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Ms. Kimber stated her agreement with the views expressed by the Trust Solicitor and made reference to paragraph 7.5 of the development brief sent to the bidders in early November.

Councillor Robertson commented that Mr Harris's comment perfectly confirmed that on no account were Members to have contact with either of the bidders and that by attempting to have this further information received from ECO discussed Councillor Hoban was in effect advocating on behalf of ECO which clearly was not allowed, as detailed in the confidentiality clauses of the bid process.

Mr Harris and Ms Kimber both quoted the terms of para 7.5.1 of the development brief as follows:

The bidders are not permitted to make any contact with:

Any member, officer, employee, or representative of the Trustees or the Trading Company save as specifically provided for in this brief;

Any existing client or customer of the Trustees or the Trading company; and

Any members, officers, employees or representatives of the London Borough of Haringey for advice other than in connection with the Planning Department on the planning process.

Ms Kimber went on to advise that ECO were in fact, by writing on or after 13 January 2006, in breach of the confidentiality agreement, and whilst this was inadvertently an error, the Board of Trustees could have disqualified ECO on these grounds.

The Chair commented that the Board would not be considering the contents of the letter of 13 January 2006 from ECO, and the request from Councillors Hare and Hoban would not be acceptable.

Mr Tarpey, in stating that he was not affiliated to any political party, commented that in terms of the agreed process, it was evident that a Member of the Board was in breach of this by responding to an email sent by one of the bidder project team and asked whether the Member had responded or commented back to that person.

Councillor Hoban confirmed that he was happy to comment that he had not responded to the email and that the information had been received passively. He was happy to accept the ruling of the Chair in terms of the consideration of the letter of 13 January 2006 from ECO.

Councillor Hare commented of the fact that ECO had been not offered an alternative date for the presentation that both ECO and Firoka could attend and surely the Board were beholden to do so, and was not this then prejudicing one bidder. In response Ms Kimber advised that the date chosen for the bidders had been conveyed well in advance of the actual

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presentation date and that for a bidder to decline the opportunity to make a presentation was unusual, and that given the size of ECO it was surprising that other persons could not have presented on 10 January 2006.

Mr Vale commented that by emphasising that having in the past acted on both sides of bidding processes clients did have a whole project team of professionals and in most situations expected to, and made themselves available for presentations and fitted in to timescales set. It was also the case that it was not appropriate to give two different days for presentations as there would then be a risk of 'spill out information'. It was the case that the date and time were offered to both short listed bidders and ECO chose not to attend.

In response to questions from Mr Liebeck, Ms Griffin advised that the Board made its decision on 29 November 2005 to invite presentations from Firoka and ECO, in addition to agreeing the submission date for the final bids – being 6 January 2006, and the assessment of bids dates. Ms Griffin commented that personal contact was made with ECO and they were advised of the timetable for the final bid submission date, presentation date, and bid assessment date. Further contact was made just prior to Christmas when ECO advised that whilst its bid was ready and offered to submit the document early, ECO would not be available to make a presentation on 10 January 2006 as two of the three principals would be on holiday. Ms Griffin advised that ECO were asked if they would have other people to put forward for the presentation and were asked a second time, but this request was declined.

Councillor Krokou advised the Board that he had also received an email from ECO and had responded to them that any questions should be put directly to the Chair of the Board.

Councillor Hare advised that upon receipt of the email he sought clarification from the General Manager, and had responded to ECO that he had been advised by the General Manager to decline the ECO invitation. A one line response back from ECO had said 'why had he said that' then no further response.

The Chair commented that the letter of 13 January 2006 was irrelevant to the process and was therefore disregarded. She had herself received the email letter in hard form through the post and had ignored it and had not replied.

Councillor Robertson also commented that the actions and deeds of members could be regarded as seditious.

Mr Harris, to clarify further comments, reiterated his earlier comment that if the Board was to breach the terms of the process it had agreed to abide by the Firoka Group could challenge the fact that this letter had be integrated into the process. Ms Kimber added that Firoka had an expectation that the Board would abide by the process it had adopted.

Councillor Hoban stated that he was personally disappointed that the Board

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did not take every opportunity to allow both bidders to present and disappointed that ECO had not been given an alternative date to make its presentation.

Mr Vale commented that under the 'rules of engagement' this body was vested with taking decisions as to the future of the asset. In terms of conflicts there should be no due influence and that it was the case that the Board agreed a submission of final bids by 6 January 2006, and that both bids were received. The requested presentation by each bidder was in addition to the original bid process and that the evaluation process was where the actual bids would be considered. The fact that one of the bidders not presenting was something of a 'red herring' as the bids had been received on the due date of 6 January 2006 and were evaluated on 18 and 19 January 2006, and the actual presentation was to further the Board's knowledge of bidder intentions, and no more than that. It was the case that the ECO bidder team had viewed a ski-ing holiday more important than a presentation.

Mr Willmott also commented that the presentation had been in addition to the process of bid submission.

In conclusion the Chair commented that in respect of the letter sent by Councillor Hare to the Chief Executive on the afternoon of 30 January 2006 with regard to the role of the General Manager this did not constitute a substantial or serious conflict of interest,. With regard to further inference in the letter that the Board should consider details of a letter dated 13 January 2006 to Trustees from ECO , on the legal advice given during this discussion the contents of the letter from ECO was received out of time and would not be considered as part of the process..

NOTED

AP034 DECLARATIONS OF INTERESTS

There were no declarations of interests.

NOTED

AP035 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

The following item is likely to be subject of a motion to exclude the press and public from the meeting as it contains exempt information as defined in section 100A of the Local Government Act 1972; namely information relating to the financial or business affairs of any particular person (other than the authority), and terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services

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SUMMARY OF EXEMPT/CONFIDENTIAL PROCEEDINGS

AP032 FUTURE USE OF ALEXANDRA PALACE

AGREED the recommendations contained in the report.

The meeting ended at 22.45HRS.

VIVIENNE MANHEIM

Chair