

MAIDSTONE BOROUGH COUNCIL

**RECORD OF DECISION OF THE
CABINET MEMBER FOR ECONOMIC DEVELOPMENT AND
TRANSPORT**

Decision Made: 17 November 2011

**APPOINTMENT OF DIRECTOR TO MAIDSTONE TOWN CENTRE
MANAGEMENT LIMITED AND REPRESENTATIVE OF COUNCIL AT
GENERAL MEETINGS OF THE COMPANY**

Issue for Decision

To consider who to nominate to be a Director of Maidstone Town Centre Management Ltd (MTCM), who should attend meetings of the company on behalf of the Council as a member and how that person should vote at the forthcoming Annual General Meeting.

Decision Made

1. That Steve Goulette be nominated as a director of Maidstone Town Centre Management Limited.
2. That the Head of Legal Services represent the Council in its role as a member of the company at general meetings of the company.
3. That, at the forthcoming Annual General Meeting, the Head of Legal Services vote in favour of the proposals set out in the Maidstone Town Centre Management Ltd 11th Annual General Meeting Agenda as attached at Appendix 1 to the report of the Chief Executive and Head of Legal Services.
4. That the Head of Legal Services exercise the Council's vote at future meetings of the company, having consulted the relevant Cabinet Member to use of the vote.

Reasons for Decision

The Memorandum and Articles of Association of Maidstone Town Centre Management Ltd (MTCM) provide for Maidstone Borough Council (MBC) to nominate a person to be a director of the company. Most recently the Chief Executive has held this position. However, she has recently resigned from the Board of Directors due to conflicts of interest between her role as a director of the company and her role as Chief Executive of MBC. It is in the Council's interest to have a Council nominee on the Board of MTCM but that person should not be put in a position where their duties to the company and the Council conflict.; for that reason Steve

Goulette, Assistant Director for Environment and Regulatory Services, will be nominated to the Board.

The Council itself is a corporate member of MTCM and is therefore in a position to hold the Board to account at general meetings of the company. This role has been undertaken by the Head of Legal Services who, when necessary, takes instructions as to how to vote from the Cabinet Member. The role could be undertaken by the nominated director but we believe that it is important to keep the director role and the member role distinct. The current arrangements work well and we see no reason to change them. Generally, decisions taken at general meetings are not controversial, but if any controversial issues do arise, formal instructions will be sought from the Cabinet Member as to how to vote.

The Annual General Meeting of the company is due to take place on 17 November 2011. As well as the usual formal decisions about reappointment of directors, receipt of accounts, and appointment of auditors, there are proposals to change the Memorandum of Articles of the company. The most significant of these changes is to remove the requirement that the MBC nominated director must be present for a board meeting to be quorate. At present, if the Council's nominated director for MTCM does not attend the board, no decisions can be taken. On occasions, the Council's nominated director will not be able to attend, or may have to absent themselves due to conflicts of interest. This could lead to situations where no board decisions can be taken. This provision has been in place since MTCM was created and responded to the historical position when the Council employed the Town Centre Manager and circumstances when the Council's financial contribution to town centre management represented a significant proportion of the overall funding. Circumstances have changed since the creation of the company; MTCM employ the Town Centre Management staff and the Council's current contribution of £15,000 is a small percentage of overall income of approximately £250,000 a year. Given this position, we do not believe that deleting this requirement significantly harms the Council's position, and does mean that the Board can act in the absence of the Council nominee. The company also intends to allow the council to have two nominees to the Board instead of one. A further report will be produced on the process of appointing directors in future.

Alternatives considered and why rejected

The Council could chose not to nominate a director but this would deprive the Council of the benefit of one of its nominees having influence over the activities of MTCM. It would also deprive MTCM of the expertise of the Council nominated director.

The Council could decide not to agree to the proposed changes to the company's Memorandum and Articles relating to the quorum for a board meeting but to do so could lead to the Board being in a position where it could not transact business.

Background Papers

Memorandum and Articles of Association of Maidstone Town Centre Management Limited

The Cabinet Member determined his decision was urgent because the decision needs to be actioned at the Town Centre Management Limited Annual General Meeting on 17 November 2011. In accordance with Paragraph 18 of the Overview and Scrutiny Procedure rules of the Constitution, the Mayor, in consultation with the Head of Paid Service and the Chairman of the Regeneration and Economic Development Overview and Scrutiny Committee, agreed that the decision was reasonable in all the circumstances and should be treated as a matter of urgency and not be subject to call-in.