

**DECISION MADE UNDER THE URGENT SCHEME OF
DELEGATION**

23 March 2021

Report of the Director of Governance

Winding-up of SJB Recycling Ltd

Summary including Reason for this Decision

1. This urgent report is seeking to obtain approval to wind up SJB Recycling Ltd, a company jointly owned by City of York Council and North Yorkshire County Council, which ceased trading in March 2020. This report also seeks to note the approval of Shareholder Committee on 4 March 2021 to distribute the liquidated net assets of SJB Recycling Ltd in the form of a final dividend to its shareholders. The urgency is due to the need to distribute the dividends on or before 31 March 2021 meaning the decision is now time limited and cannot wait until the next Executive meeting.

Background

2. SJB Recycling Ltd ("SJB") was acquired in 2010 as a subsidiary to Yorwaste Ltd, as a vehicle through which to dispose of garden/green waste. In 2015, ownership of SJB transferred to North Yorkshire County Council & City of York Council (77.8% & 22.2% respectively) as part of Yorwaste's reorganisation to 'Teckal' status. SJB itself is not a 'Teckal' company.
3. The business model for SJB was originally based on "co-composting" where green waste would be mixed with sewerage solids to produce a high-nutrient material which was used as fertiliser. The Environment Agency then changed the guidelines which essentially ended the co-composting practice. The impact on SJB was to have a substantial increase in operating costs for processing green waste.
4. The higher operating costs pushed SJB from a profitable operation to a loss making one. As existing contracts expired the customers were either not prepared to meet the higher operating costs or offer the volume guarantees required to cover the fixed costs. Consequently, SJB ceased operations in March 2020.
5. Since that time SJB's directors have cleared all the operating sites of remaining material, sold all plant and equipment belonging to SJB, and cleared almost all of the working capital balances. What remains is an audited cash balance which the SJB Board have recommended be returned to the shareholders in the form of a final dividend prior to the closure of the company.

6. Once the reserves have been distributed the recommendation is to wind-up SJB as there is no residual value in the brand.
7. North Yorkshire County Council is the majority shareholder in SJB (77.8%) and resolved to wind up the company on 21 February 2021. City of York Council is a minority shareholder and is not in a position to overturn the decision to wind up SJB as the resolution to wind up a company is carried with 75% or more of the vote. The Shareholder Committee approved the winding-up and the distribution of the dividend on 4 March 2021.

Implications

Financial

8. Before applying to Companies House to begin the process of dissolution, SJB is required to inform HMRC of its plans. Additionally, SJB must send final statutory accounts and a company tax return to HMRC, expressing that they are the final trading accounts and that the company will soon be dissolved. SJB must also pay all corporation tax and any other remaining tax liabilities, if any. Part of the residual amount remaining in SJB's bank account will be used to pay for final accounts to be prepared and the application to Companies House.
9. Subsequent to any remaining costs as described in paragraph 8, the final, remaining balance is to be distributed to SJB's shareholders in the form of a final dividend on or before 31 March 2021. There is a £1.3m cash balance which is to be distributed 77.8% NYCC (circa £1.0m) and 22.2% CYC (circa £0.3m), as per the shareholding.
10. External financial advice received from North Yorkshire County Council's tax advisors stated that no liability will be created as a result of the dividend distribution. The reason provided was that as both shareholders (NYCC & CYC) are Local Authorities then corporation tax would not be liable. As a result the recommended option to distribute dividend in this fashion is deemed to be the most efficient way to extract the remaining value from SJB.
11. Once received the dividend will go into general reserves to support the council's financial position which has been put under strain due to the impacts of the Covid pandemic.

Human Resources (HR)

12. As SJB does not have any employees, there will be no implications in respect of redundancies or payment of final wages, PAYE and national insurance contributions. As part of the requirement to inform HMRC of its plans, SJB will confirm this position.

Equalities

13. Officers have completed a high level assessment and do not believe that the proposal has an adverse impact of any of the protected characteristics identified in the Equalities Act 2010.

Legal

14. A Special Resolution of the shareholders is required to wind up SJB and an Ordinary Resolution of the shareholders is required to declare a final dividend. NYCC have agreed to produce the wording for the resolutions. SJB will need to put in place the actions as set out in paragraph 8 above before it can be dissolved.
15. A company must have been dormant for at least 3 months before an application for striking off can be made to Companies House.
16. Once an application for striking off has been received by Companies House, a formal notice will be published in the London Gazette. If there are no objections, SJB will be struck off the register after a period of 2 months has passed as stated in the notice. A second notice will then be published in the London Gazette, meaning SJB will no longer exist.

Recommendations

17. The recommendations are to:
 - 1) approve the winding up of SJB Recycling Ltd;
 - 2) note the approval of Shareholder Committee on 4 March 2021 of the final dividend which must be paid on or before 31 March 2021; and
 - 3) note that the necessary shareholder resolutions will be prepared by North Yorkshire County Council and will be signed by a member of the Shareholder Committee.

Reason: to ensure a company which has ceased trading is dealt with in an orderly manner and remove the costs associated with the ongoing requirements of Companies House

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**Report
Approved**



Date

23 March 2021

Specialist Implications Officer(s):

Financial
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Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers: None