

North Yorkshire County Council

Executive

16 February 2021

Winding-up of SJB Recycling Ltd

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of Report

- 1.1 To obtain approval to wind up SJB Recycling Ltd, a company that ceased trading in March 2020.
- 1.2 To seek approval to distribute liquidated net assets of SJB Recycling Ltd in the form of a final dividend to its shareholders.

2.0 Background

- 2.1 SJB Recycling Ltd ("SJB" or "the Company") was acquired in 2010 as a subsidiary to Yorwaste Ltd, as a vehicle through which to dispose of garden/green waste. Later, 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 change to 'Teckal' status. SJB is not a 'Teckal' company.
- 2.2 The business model for the Company 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.
- 2.3 The higher operating costs pushed the Company 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.
- 2.4 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 unaudited cash balance which SJB Board have recommended be returned to the shareholders in the form of a final dividend prior to the closure of the company.
- 2.5 Once the reserves have been distributed the recommendation is to wind-up SJB Recycling Ltd as there is no residual value in the brand. As City of York Council are a minority shareholder in SJB, they will need to follow their own approval processes to deal with the dividend and winding-up. The winding-up process is also known as dissolution and voluntary strike off.

3.0 Financial Implications

- 3.1 Before applying to Companies House to begin the process of dissolution, the Company is required to inform HMRC of its plans. Additionally, the Company 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. The Company must also pay all corporation tax and any other remaining tax liabilities, if any. Part of the residual amount remaining in the Company's bank account will be used to pay for final accounts to be prepared and the application to Companies House.

- 3.2 Subsequent to any remaining costs as described in paragraph 3.1, the final, remaining balance is to be distributed to the Company's shareholders in the form of a final dividend. It is expected there is be an approximate £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.
- 3.3 External financial advice received from NYCC'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 the Company.

4.0 Legal Implications

- 4.1 An Ordinary Resolution of the shareholders is required to declare a final dividend. As the intention is for the Company to be wound-up shortly after the final dividend is distributed, the Company seeks Executive approval, acting as shareholder to approve the proposal in accordance with the terms of reference of the Shareholder Committee. The Company will need to put in place the actions as set out in 3.1 above before it can be dissolved.
- 4.2 The Company must have been dormant for at least 3 months before an application for striking off can be made to Companies House.
- 4.3 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, the Company 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 the Company will no longer exist.

5.0 Human Resources Implications

- 5.1 As the Company 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, the Company will confirm this position.

6.0 Equalities Implications

- 6.1 Officers have completed an equality impact assessment initial screening form (Appendix 1) and do not believe that the proposal has an adverse impact of any of the protected characteristics identified in the Equalities Act 2010.

7.0 Risk Implications

- 7.1 Although the Company is dormant and is not actively trading, it is still required to file annual accounts and confirmation statements to HMRC and Companies House at a cost to the Company. Dissolving the Company will remove those costs.

8.0 Recommendation

8.1 The Executive are requested to:

- i. approve the winding up of SJB Recycling Ltd;
- ii. authorise the Chief Executive (as Shareholder Representative) to approve the final dividend and sign the relevant shareholder resolutions in relation to the final dividend; and
- iii. authorise the Assistant Chief Executive (Legal and Democratic Services) to prepare the necessary shareholder resolutions and any action necessary to wind-up the company.

KARL BATTERSBY
Corporate Director – Business & Environmental Services

Author of Report: Michael Leah,
Assistant Director – Strategic Resources

Background Documents: None

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| Initial equality impact assessment screening form (As of October 2015 this form replaces 'Record of decision not to carry out an EIA') | | | |
| This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate. | | | |
| Directorate | Central Services | | |
| Service area | Strategic Resources | | |
| Proposal being screened | Dissolving a limited company | | |
| Officer(s) carrying out screening | Michael Leah | | |
| What are you proposing to do? | The County Council wishes to obtain approval to dissolve SJB Recycling Ltd and apply to Companies House to have it struck off the Register. | | |
| Why are you proposing this? What are the desired outcomes? | The company is no longer actively trading and now has a residual amount remaining in its bank account. | | |
| Does the proposal involve a significant commitment or removal of resources? Please give details. | The Company does not have any employees. | | |
| Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristic As part of this assessment, please consider the following questions: | | | |
| <ul style="list-style-type: none"> • To what extent is this service used by particular groups of people with protected characteristics? • Does the proposal relate to functions that previous consultation has identified as important? • Do different groups have different needs or experiences in the area the proposal relates to? | | | |
| If for any characteristic it is considered that there is likely to be a significant adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt. | | | |
| Protected characteristic | Yes | No | Don't know/No |
| Age | | <input type="checkbox"/> | |
| Disability | | <input type="checkbox"/> | |
| Sex (Gender) | | <input type="checkbox"/> | |
| Race | | <input type="checkbox"/> | |
| Sexual orientation | | <input type="checkbox"/> | |
| Gender reassignment | | <input type="checkbox"/> | |
| Religion or belief | | <input type="checkbox"/> | |
| Pregnancy or maternity | | <input type="checkbox"/> | |
| Marriage or civil partnership | | | |
| NYCC additional characteristic | | | |
| People in rural areas | | <input type="checkbox"/> | |
| People on a low income | | <input type="checkbox"/> | |
| Carer (unpaid family or friend) | | <input type="checkbox"/> | |

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|--|---|---------------------------------|------------------------------|
| <p>Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.</p> | <p>n/a – the company ceased trading in March 2020</p> | | |
| <p>Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.</p> | <p>n/a</p> | | |
| <p>Decision (Please tick one option)</p> | <p>EIA not relevant or proportionate:</p> | <p><input type="checkbox"/></p> | <p>Continue to full EIA:</p> |
| <p>Reason for decision</p> | <p>As the Company has ceased trading and has no employees, Officers do not believe the proposal will have an adverse impact on any of the protected characteristics or the NYCC additional characteristics.</p> | | |
| <p>Signed (Assistant Director or equivalent)</p> | <p>Michael Leah</p> | | |
| <p>Date</p> | <p>25.01.2021</p> | | |