

## **Fifth ODA Board Meeting: 24 August 2006**

Jack Lemley (Chairman), Sir Roy McNulty (Deputy Chairman), Lorraine Baldry, Tony Ball, Sir Howard Bernstein, Barry Camfield, Neale Coleman, Stephen Duckworth, Christopher Garnett, Kumar Muthalagappan, Baroness Morgan, David Taylor

### **APOLOGIES**

Apologies were received from Sir Nicholas Serota who was unable to attend the meeting.

### **DECLARATIONS OF INTEREST**

As an employee of the GLA, of which the LDA is a separate functional body, Neale Coleman declared an interest in relation to the Chief Executive's report and the Cash flow item in particular

### **MINUTES OF PREVIOUS MEETING & ACTIONS ARISING**

The Board agreed the Minutes.

### **CHAIRMAN'S REPORT**

In relation to the Powerlines Undergrounding contract the Chairman reported that specialist health and safety expertise was now available on site and any issues were addressed whenever necessary at the regular programme meetings. The Board agreed that the creation of a safety-first culture must emanate from the highest levels of management. ODA must work with the Delivery Partner to ensure that the Olympics projects set an example to the construction industry.

The Chairman drew attention to the particular risk in relation to the handling of poisonous waste materials during the existing and future contracts for remediation and demolition.

The Chairman thanked David Higgins for his excellent hard work in establishing the ODA and making such good progress. The Board endorsed this view. It was agreed that the Chairman of the Audit Committee should be formally involved in the process for agreeing any performance bonuses for the Chief Executive and that any final bonus award for the year should be considered at the Board meeting in March 2007.

The Chairman agreed to consider the benefits of creating a Remuneration Committee, which might also consider awards to other senior staff.

### **CHIEF EXECUTIVE'S REPORT**

The Chief Executive drew attention to a number of points:

The tender for the main Stadium would close on 4 September 2006. There was a limited field but he was confident that the process would identify a suitable candidate.

The four Olympic boroughs had welcomed the revised designs for the Aquatics centre and were considering what contributions they might make. Discussions were continuing with the architect with a view to making significant progress by October 2006. The Board requested that the updated designs be displayed at the Board meeting in September.

Discussions about the budget were continuing with government and further savings had been identified. This remained a key risk.

The 'lock-down' of the 3-D Park-wide Master-plan in September 2006 would be an important milestone.

Three tenderers had been selected to negotiate for the Village contract and discussions were continuing over the funding for Stratford Regional Station. A planning application was expected in September 2006.

Following the public inquiry, a decision on the Compulsory Purchase Order was expected by December 2006. There remained concerns about the relocation of the bus depot and discussions were continuing with Newham Borough Council about the relocation of the travellers.

A decision about completing the Thornton Field East acquisition was not critical at present.

### **CASH FLOW FOR 2006/07 AS AT 31 JULY 2006**

As new ODA Directors came into post they would review all costings and expenditure. A revised budget would be reported to the Board in October as part of the updated 2006/07 Business Plan, reflecting actual expenditure over the first 6 months and setting targets for the second half of the financial year.

Funding from the Olympic Lottery Distributor was capped at a maximum of £75m for the current financial year. Lottery games focused on the Olympics were understood to be proving very attractive to the public.

### **DELIVERY PARTNER APPOINTMENT**

The recommendation to appoint CLM which had emerged from the evaluation, was clear and was endorsed by the whole ODA Management team. ODA would remain responsible for all contracts and bear the risks: the Delivery Partner's role would be to provide expert services. Subject to the Board's decision, the appointment of the Delivery Partner would fall to be considered by the Olympic Project Review Group and approved by the Secretary of State.

The competitive dialogue process had not previously been used for a major contract in the UK. The in-house procurement team had been supported by external advisers who had ensured that the correct procedure had been followed, and a compliance and oversight group (including DCMS) had continuously reviewed the process, giving additional assurance.

The key elements of the CLM bid which meant the bid was evaluated as the most economically advantageous bid included the following:

- The adoption of a flexible partnering relationship with the ODA, helping the ODA to analyse its needs and propose cost effective, commercial and practical solutions.
- The general acceptance of the proposed form of contract
- A robust commercial proposal which provided better value for money to the ODA.

- A cost effective staffing proposal which assured the ODA of the retention of key CLM personnel whilst ensuring the staffing budget was within the ODA's affordability envelope.

The key contractual terms between the Delivery Partner and the ODA included the following:

- no commitment to use or pay the Delivery Partner for any particular task
- acceptance of open book accounting,
- KPIs with achievement related to milestones and measurement of softer KPIs (eg for health and safety, diversity)
- identification and management of conflicts of interest
- compliance with ODA policies and strategies
- significant control and oversight of sub-contracting arrangements including tendering

ODA would approve the mobilisation plan including all staff appointments and the structure of the organisation. A monthly Executive Board level steering group with the Delivery Partner would be chaired by ODA and there would be separate reporting lines on performance and financial compliance.

ODA would retain responsibility and accountability to define and shape each project, controlling it totally up to the point of project approval (OGC Gateway 3). Once there was much greater certainty about specification and costs the Delivery Partner's involvement would increase in order to implement the project successfully.

ODA would control contacts with the media. There had been great media interest in the appointment and a note had been published explaining the process and the evaluation criteria. A case-study on the use of the competitive dialogue procedure would be prepared and disseminated as a contribution by ODA to the development of best practice in procurement.

The Board noted the rigour and transparency of the procurement process, which had led to the clear recommendation that CLM should be appointed as the Delivery Partner. They approved the appointment in principle and delegated authority to the Chief Executive and the Director of Finance and Corporate Services to finalise and sign and/or seal the Delivery Partner Contract and any associated contractual or other legal documentation subject to the approval of the DCMS and the GLA.

## **PLANNING COMMITTEE**

The Board noted the arrangements which had been put in place to discharge its town planning functions. The Olympic Delivery Authority (Planning Functions) Order would come into effect on 7 September 2006. The role of the Planning Committee was to provide a ring-fenced development control planning function to avoid compromising the ODA's dual role as applicant and local planning authority. Since the boundary for planning powers was the slightly larger area originally proposed for the Olympic Park, there would be applications which could more appropriately be dealt with by the relevant London Borough or the London Thames Gateway Development Corporation. The ODA Committee would exercise ODA's powers for the first time at its meeting on 19 September 2006. In the interim the Board were asked to delegate powers to the Head of Development Control. The Planning Committee would be asked to review the delegations to the Head of Development Control and to the Boroughs and the LTGDC in after some weeks when they had gained experience of how these worked in practice.

The Board would be briefed separately about major planning applications, including those to be submitted by the ODA itself, to ensure that they were fully informed about the issues and had the opportunity to comment. As members of the Planning Committee both Lorraine Baldry (Chair) and David Taylor must not express any view on proposals in advance of consideration at the Planning Committee.

Lorraine updated the Board about the appointment of Committee Members. As required by the legislation, appointments had been approved by the Secretary of State. There had been a very strong field of candidates with a broad range of experience. All the Planning Committee Members, a number of whom came from outside London, brought valuable experience of planning. Appropriate training would be provided. The Board agreed that the Standing Orders, previously agreed at the Board meeting on 29 June, should be amended to refer to the appointment of 5 independent Members: all Members would be appointed for 2 years.

The Board formally established the Planning Committee of the ODA with approved Standing Orders and Terms of Reference and with Lorraine Baldry as Chair and David Taylor as Deputy Chair and with the following other members:

- *Local Authority Members:* Cllr Rofique Ahmed, Cllr Conor McAuley, Cllr Geoff Taylor, Cllr Terry Wheeler
- *Independent Members:* Mike Appleton, Celia Carrington, William Hodgson, Janice Morphet, Dru Vesty

The Board delegated authority to the Chairman and Lorraine Baldry to approve the Code of Practice for Planning Committee Members

The Board also agreed that an Extraordinary meeting of the Board would take place on 7 September 2006 after the Order had come into effect, to pass resolutions formally giving effect to the delegations to the Head of Development Control and the Boroughs and London Thames Gateway Development Corporation, and to the delegations to the Planning Committee.

## **ESTABLISHMENT OF AN OLYMPICS DISPUTE RESOLUTION PANEL**

*Tony Ball, Stephen Duckworth, Sir Roy McNulty and David Taylor left the meeting during this item*

There was a presentation about the possible establishment of an independent Dispute Resolution Panel. It was inevitable that there would be some disputes during the contracts for the Olympics projects but a Panel could help avoid disputes by dealing with issues that were likely to cause difficulty at an early stage. The Panel would provide consistency in arbitration awards and would meet the legal requirement to have a valid adjudication process. Dispute Resolution Panels of this type had been adopted very successfully for major projects, including many outside the UK. The Panel made regular visits so that they were familiar with the subject and could be appointed to deal with disputes which might arise during the construction period or afterwards.

The procedure had been developed with the Institution of Civil Engineers and the other building professions and was supported by leading construction contractors. A Panel would be selected in consultation with them.

The Board considered that the proposal appeared helpful but, since it would involve a substantial single tender, the proposal would need to be approved by DCMS and Treasury before it could be formally considered.

### **ANY OTHER BUSINESS**

The Board requested that another site visit should be arranged later in the year so that Board Members could see the progress and better understand the implications of development proposals.

The Board noted that, whilst security for the Games was a LOCOG lead responsibility, ODA had an important role as a public body in assisting the Home Office and the Metropolitan police: a Head of Security had been appointed.

The Board agreed that there should be a presentation about how the supply chain for employment and skills development would be met, both locally and throughout the UK.