

SCOTTISH BORDERS COUNCIL

MINUTE of MEETING of the SCOTTISH BORDERS COUNCIL held in the COUNCIL CHAMBER, COUNCIL HEADQUARTERS, NEWTOWN ST. BOSWELLS on 27 February 2014 at 10:00 a.m.

Present: Councillors G. Garvie (Convener), S. Aitchison, W. Archibald, M. Ballantyne, J. Brown, J. Campbell, K. Cockburn, A. Cranston, V. M. Davidson, G. Edgar, J. A. Fullarton, I. Gillespie, G. Logan, J. G. Mitchell, D. Moffat, S. Mountford, A. J. Nicol, D. Parker, D. Paterson, F. Renton, S. Scott, R. Smith, R. Stewart, J. Torrance, T. Weatherston, B. White

Apologies: Councillors S. Bell, C. Bhatia, M. J. Cook, J. Greenwell, B. Herd, S. Marshall, G. Turnbull

In attendance: Chief Executive, Director of Education and Lifelong Learning, Director of Environment and Infrastructure, Director of Public Health, Acting Director of Social Work, Chief Financial Officer, Service Director Strategy & Policy, Clerk to the Council.

COUNCILLOR ZANDRA ELLIOT

1. The Convener and Councillor Ballantyne paid tribute to Councillor Zandra Elliot who had sadly died on 22 February. The Council stood in silent tribute.

CONVENER'S REMARKS

2. The Convener welcomed Linda Davidson - Social Work Team Leader, and Rebecca Wade – Midwife, to the meeting. They both worked in the Early Years Assessment Team within Integrated Children's Services which had won the Partnership Working category at The RCM Annual Midwifery Awards in London on the 22nd January 2014, hosted by broadcaster and journalist Natasha Kaplinsky. The awards recognised the best new evidence-based practice projects, the best in team working and outstanding individuals making a difference for women, families and the newborn. Working together, NHS Borders and Scottish Borders Council had developed a team of health and social care professionals including social workers and family support workers which offered care and support to vulnerable families in areas such as lifestyle, infant development and health matters and the parents' role in nurturing their child.

DECISION

AGREED to congratulate the team on their award.

3. The Convener advised that Henry Thompson - Head of Business Transformation, and Ian Wilkie - Head of Corporate Governance, were to retire from the Council at the end of March. He paid tribute to the service both had given to the Council and presented each of them with a book on the Borders.

MINUTES

4. The Minutes of the Meetings held on 30 January and 6 February 2014 were considered.

DECISION

AGREED that the Minutes be approved and signed by the Convener.

COMMITTEE MINUTES

5. The Minutes of the following Committees had been circulated:-

Audit	13 January 2014
Education	14 January 2014
Social Work & Housing	16 January 2014
Executive	21 January 2014
Teviot & Liddesdale Area Forum	21 January 2014
Economic Development Group	23 January 2014
Planning & Building Standards	3 February 2014

DECISION

APPROVED the Minutes listed above.

OPEN QUESTIONS

6. The questions submitted by Councillors Cockburn and Logan were answered.

DECISION

NOTED the replies as detailed in Appendix I to this Minute.

CULTURAL SERVICES REVIEW - OPTIONS APPRAISAL

7. There had been circulated copies of a report by the Director of Education and Lifelong Learning outlining the optimal organisational setup and governance model for Cultural Services, recommending the transfer, in principle, of Cultural Services to a Trust and detailing the proposed next steps towards the establishment of a new Culture Trust. The report explained that the review of Cultural Services was a workstream of the Education and Lifelong Learning Transformation Programme with a savings target of £276k. The core task of the review was to identify the optimal organisational setup and governance model for Cultural Services, determined by an options appraisal and validated by an external, independent assessment. The option appraisal had concluded that the Trust option would be the best way to proceed. It was currently proposed that all Cultural Services (with the exception of the integrated Library/Contact Centres) transfer to a new Trust, though the scope of the proposed Trust would remain under review during the next phase of work. The savings that would be secured from the Trust option related to National Non-Domestic Rates (NNDR) relief. If all the services within current scope were to transfer to a Trust, the savings, calculated at the mandatory 80% remission of rates, would be £317k. If the Council elected to apply 95% rates remission as it had done with Borders Sports and Leisure Trust, it was expected that the rates remission would be £377k, which would allow for a Trust to incur some new and additional revenue costs that were outside the current Council budget for Cultural Services; those costs were currently estimated at £60k per annum and would be funded through identified rates savings. There would be a one off cost of approximately £70k to establish a Trust. Members discussed the proposals including community use and transfer of assets, consultation, staff, and Common Good properties. The general direction of travel was broadly welcomed. Councillor Davidson, seconded by Councillor Aitchison, moved approval of the report subject to the amendment of recommendation (c) and the addition of a new recommendation (d), as shown below, and this was unanimously approved.

DECISION

AGREED:-

- (a) to note the options appraisal and its results;**
- (b) to approve in principle the transfer of Cultural Services to a Trust;**

- (c) that a further report on progress with the transfer be brought back to Council in August 2014, enabling Council to determine which services were included within a Trust, with a view to the Trust being launched by October 2015; and
- (d) that consultation on the proposals would take place during this period and, in particular, that meetings would take place with all Community Centre Management Committees.

SELKIRK FLOOD PROTECTION SCHEME

8. With reference to paragraph 10 of the Minute of 21 June 2012, there had been circulated copies of a report by the Director of Environment and Infrastructure providing an update on progress of the Selkirk Flood Protection Scheme further to submission of an Application for Funding to the Scottish Government in January 2014. It was also requested that authority be delegated to commence project's Stage 7 (Construction Stage Procurement) and Stage 8 (Construction Works) without further recourse to Council for approval upon receipt of grant funding confirmation. The report outlined the background to the project and explained that an application for Capital Grant Funding in January 2014, further to an invitation from the Scottish Government in December 2013. This funding was for 80% of the Total Scheme Cost estimate of £31.4M. It was expected that confirmation on whether or not the application had been successful would be received by early March 2014. A high-level review of the Scheme's Financial Management Strategy, by KPMG, reported that the Scheme had established a robust set of: project management; scheme design and approval adherence to regulations; financial management including cost estimation; and risk management procedures that adhered to the appropriate guidelines. A full review of the Scheme's estimated Project Programme and Total Scheme Cost estimate had been undertaken as part of the Application for Funding. The revised estimated Project Programme had only minor changes in the current revision. The revised Total Scheme Cost estimate had increased by £2.6M from £28.8M to £31.4M of which the Council portion would be £0.413M. Members welcomed the report.

DECISION

AGREED to:-

- (a) acknowledge the following progress since the last report to Council:
 - that the project had put in place bespoke strategies to deal with project delivery;
 - the KPMG audit of the Financial Management Strategy;
 - that an Application for Capital Grant Funding had been submitted to the Scottish Government on 21 January 2014 for 80% of the Total Scheme Cost estimate; and
 - that the revised estimated Project Programme, total Scheme Cost estimate and associated spend profile was included in the application.
- (b) delegate authority to the Director of Environment & Infrastructure to commence Stage 7 (Construction Stage Procurement) and Stage 8 (Construction Works) of the Scheme in accordance with the Project Programme and subject to funding confirmation by the Scottish Government.

COMMITTEE MEMBERSHIP

9. With reference to paragraph 19 of the Minute of 30 January 2014, it was reported that Councillor Cranston had resigned from membership of both the Licensing Board and the Civic Government Licensing Committee. Councillor Mitchell, seconded by Councillor Nicol, moved that Councillor Torrance be appointed to both and this was unanimously approved.

DECISION

AGREED that Councillor Torrance be appointed to the Licensing Board and the Civic Government Licensing Committee

PRIVATE BUSINESS

10. **DECISION**

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in Appendix II to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 6, 8 and 9 of Part I of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

Minute

1. The private section of the Council Minute of 30 January 2014 was approved.

Committee Minutes

2. The private sections of the Committee Minutes as detailed in paragraph 5 of this Minute were approved.

Sale of Claims

3. Members noted an update by the Chief Financial Officer on the current position.

Urgent Business

4. Under Section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Convener was of the opinion that the item dealt with in the following paragraph should be considered at the meeting as a matter of urgency, in view of the need to make an early decision.

Withdrawal of the Traffic Warden Service

5. Members approved a report by the Chief Executive.

The meeting concluded at 11.50 a.m.

SCOTTISH BORDERS COUNCIL
27 FEBRUARY 2014
APPENDIX I

Question from Councillor Cockburn

To the Executive Member for Roads and Infrastructure

Have the Administration any plans in place for controlling parking when the traffic wardens are withdrawn by Police Scotland?

Reply from Councillor Edgar

As discussed in the Report to Council on 13 December 2013 the procedure for a local authority to be authorised to undertake Decriminalised Parking Enforcement is complex and time consuming. Transport Scotland guidance suggests a minimum of 18 months but in practice the period involved can be considerably longer than that. A report discussing the Council's options on moving forward is scheduled to go before E & I Committee in March. There is also considerable discussion going on at national level through COSLA and SCOTS, while at regional level SEStran have arranged a workshop for March at which it is hoped to have both officer and member representation. In the interim Police Scotland have again reiterated that their officers will continue to enforce road traffic legislation in relation to dangerous or obstructive parking.

Questions from Councillor Logan

To the Leader

1. Can the Leader give an update on why a number of local authorities are indicating that they may leave COSLA and what is the position of Scottish Borders Council?

Reply from Councillor Parker

I am delighted to have the opportunity to update the council about recent events in relation to COSLA and the local government financial settlement.

The current issues affecting COSLA membership stem from a decision of Council Leaders in September 2013. Leaders, at their meeting in September, were presented with a report from the settlement and distribution group which recommended that the distribution formula for the allocation of local government finance should be rerun for the 2015/16 financial year. The distribution formula is the mechanism used to distribute local government funding to Scotland's councils. At the beginning of each settlement period the settlement and distribution group which comprises professional officers would recommend that distribution should be rerun. In the past this professional officer's advice has been accepted without question by COSLA Leaders. In September of last year COSLA leaders voted narrowly, by 16 votes to 14, to depart from their normal practice and they agreed that the 15/16 financial settlement should be based on a flat cash allocation. This which would mean that councils' financial allocations for the 15/16 financial year would be exactly the same as the allocation in the current year. This decision of Leaders was an unprecedented departure from the way in which councils deal with distribution.

This council strongly opposed this approach as it would mean that council's distribution would not be updated to take into consideration additional pressures. It was my view that, if the distribution formula had been rerun, this council would stand to gain financially from that process and that we would lose out if our financial allocation was based on a flat cash settlement.

Following this decision SBC led an attempt to have the Leaders decision called in to the COSLA Convention so that the decision could be re-examined. We gained the support of a significant number of local authorities but the call in was deemed inappropriate by the COSLA President due to the nature of COSLA's constitution and standing orders.

Given the concerns that were raised about the distribution decision, and the failure of the call in process, it was necessary to challenge COSLA's constitution and at the December COSLA Convention I moved a motion to establish a task group to revisit and bring forward a new draft constitution and standing orders for COSLA to consider, no later than June 2014. My motion was supported by 72 convention delegates as opposed to 53. The 53 votes against were from Labour delegates with all other parties supporting the constitutional review.

In recent weeks we have seen that a number of Labour controlled councils have indicated their intention to possibly resign from COSLA, and they have given the required year's notice of that decision. Some of those councils are doing this because they are concerned about the constitutional review and feel that it may take power away from the Labour dominated Leaders meetings and shift it to convention which is not dominated by any single party.

Other Labour councils are arguing that they do not benefit from the formula used to distribute local government finance and that COSLA should be doing more to support their argument that the formula should be changed.

On Friday of last week there was a significant development, in that the Cabinet Secretary for Finance issued a letter to all council leaders in Scotland which provided detailed information about the funding that would be available to councils under a flat cash settlement. Helpfully the Cabinet Secretary also provided information about the funding that would have been available to councils if the distribution formula had been rerun.

The contents of that letter demonstrate that many councils, who believed they would benefit from a flat cash settlement, do not in fact benefit.

From the figures published 12 councils will benefit from a flat cash settlement with 20 councils being disadvantaged by a flat cash settlement. In contrast if distribution had been run 20 councils would benefit with 12 councils seeing their allocations reduced.

The worrying position for Scottish Borders Council is that, if COSLA's current approach to the funding settlement is not reversed, then Scottish Borders Council will be worse off in 2015/16 by £1.711m in revenue and by £125k in capital.

The Cabinet Secretary's recent letter will be debated at COSLA Leaders again tomorrow and, although I do not expect the Leaders' decision of September to be reversed tomorrow, I am hopeful that the decision will be revisited and reversed in April.

I would advise council that I believe that membership of COSLA is to the council's advantage and that Scottish Borders Council has punched well above our weight in being able to influence matters that impact on local government nationally because of our enthusiastic and significant involvement in the organisation.

However, if the decision of Leaders of September 2013 is not reversed, and if this council suffers a financial penalty as a result of this foolish decision, then this council would have no option but to review its membership of COSLA.

I will of course report back to elected members in due course with the outcome of the discussions that will be taking place tomorrow and during the course of April.

2. Could you please give the Council a progress report on the redevelopment of the gap site, High Street, Innerleithen?

Reply from Councillor Parker

I am very happy to update members on the progress being made in addressing the gap site on the High Street in Innerleithen.

Councillor Logan, along with other interested local Councillors, is only too well aware of the challenges this gap site has presented over a long period of time. It is a difficult site to access, has unique development challenges and has required a multiagency approach to funding a solution acceptable to the local community.

However, I am very pleased to say that we believe we have now addressed all of these challenges and are anticipating that by the end of this year there will no longer be the blight of a gap site in Innerleithen.

Specifically, I can say that

- 1) We have appointed Eildon Housing Association as delivery agents for the Council
- 2) Waverco, the current owners of the site have applied for both Planning Consent and Building Warrant, which are being actively considered by the Council's planning officers.
- 3) We anticipate that the Council should be in a position to acquire the site, have a contract in place with Waverco and have development start on site by May this year.
- 4) And finally, whilst we don't have a formal development programme agreed yet we anticipate that the potential handover of the completed 3 flat apartments could be as early as late November or more likely early December this year.