

# **SCOTTISH BORDERS COUNCIL**

MINUTE of MEETING of the SCOTTISH BORDERS COUNCIL held in Council Headquarters, Newtown St. Boswells on 30 March 2017 at 10.00 a.m.

-----

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

Apologies:- Councillors S. Bell, K. Cockburn, W. McAteer, S. Marshall, R. Stewart, J. Torrance.

In Attendance:- Chief Executive, Depute Chief Executive (Place), Corporate Transformation and Services Director, Service Director Assets and Infrastructure, Service Director Regulatory Services, Chief Legal Officer, Chief Officer HR, Clerk to the Council.

-----

## **1. CONVENER'S REMARKS**

- 1.1 The Convener congratulated Mark Smith from Community Learning and Development, Douglas Ormiston from TD1 Youth Hub, and Scott Forbes from Scottish Fire and Rescue, whose work was recognised at national level when they were awarded the Youth Worker of the Year – Partnership Category at the recent awards in Glasgow. A number of the young people were also in attendance. The project had delivered a range of innovative learning experiences for young people and had helped them gain a Youth Achievement Award. One young person took part in a mentoring programme at Galashiels Fire Station which had the potential to lead to employment with the Scottish Fire and Rescue Service when he turned 18.
- 1.2 The Convener congratulated the Democratic Services Team comprising Jenny Wilkinson, Louise McGeoch, Pauline Bolson, Fiona Henderson, Kathleen Mason, Judith Turnbull, Fiona Walling, Karen Farquhar, Margaret Blacklock and Alison Wallace on receiving the inaugural Team of the Year Award from SOLAR in recognition of their work over a wide number of fields supporting Members, Community Councils, Lord-Lieutenants and administering elections.

## **DECISION NOTED.**

## **2. MINUTE**

The Minute of the Meeting held on 2 March 2017 was considered.

## **DECISION**

**AGREED that the Minute be approved and signed by the Convener.**

## **3. COMMITTEE MINUTES**

- 3.1 The Minutes of the following Committees had been circulated:-

Audit & Risk	16 January 2017
Cheviot Area Forum	1 February 2017
Planning & Building Standards	6 February 2017
LLP Strategic Governance Group	7 February 2017
Police, Fire & Rescue and Safer Communities Board	10 February 2017
Executive	14 February 2017
Selkirk Common Good Fund	15 February 2017

Scrutiny	16 February 2017
Civic Government Licensing	17 February 2017
Lauder Common Good Fund	21 February 2017
Hawick Common Good Fund	21 February 2017
Teviot & Liddesdale Area Forum	21 February 2017
Peebles Common Good Fund	1 March 2017
Tweeddale Area Forum	1 March 2017
Berwickshire Area Forum	2 March 2017
Planning & Building Standards	6 March 2017
Jedburgh Common Good Fund	7 March 2017
Executive	7 March 2017
Community Planning Strategic Board	9 March 2017
Galashiels Common Good Fund	9 March 2017
Eildon Area Forum	9 March 2017
Pension Fund	16 March 2017
Executive	21 March 2017

- 3.2 Councillor Davidson referred to paragraph 5 of the Minute of the Hawick Common Good Fund Sub-Committee held on 21 February 2017 and sought reassurance that items in the possession of the Hawick Common Good Fund would still be available for display outwith the town. Councillor Turnbull, Chairman of the Sub-Committee, assured Councillor Davidson that no restrictions had been introduced which would prevent items being temporarily displayed out-with Hawick, and any application for loan would be looked on favourably.

#### **DECISION**

**APPROVED** the Minutes listed above subject to paragraph 4 below.

#### **4. COMMITTEE RECOMMENDATIONS – EXECUTIVE COMMITTEE**

With reference to paragraph 5 of the Minute of the Executive Committee held on 30 March 2017, the Council was asked to approve a recommendation to disband the Social Work Complaints Review Committee once the process for all social work complaints raised before 1 April 2017 had been completed.

#### **DECISION**

**AGREED** to approve the recommendation as detailed above and that the Scheme of Administration be amended accordingly.

#### **5. OPEN QUESTIONS**

The questions submitted by Councillors Mountford and White were answered.

#### **DECISION**

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

#### **6. "PLACES, PEOPLE & PLANNING" A CONSULTATION ON THE FUTURE OF THE SCOTTISH PLANNING SYSTEM**

There had been circulated copies of a report by the Service Director Regulatory Services seeking approval of the response prepared by the Chief Planning Officer on behalf of Scottish Borders Council in respect of the Scottish Government consultation "Places, People and Planning" that set out the options for the future of the planning system in Scotland. The report explained that the consultation contained proposals to make significant changes to the existing planning system in Scotland. The key thrust of the changes was to have a planning system that helped growth to happen and unlocked the potential of our people and places. The proposals identified four key areas of change:

- Making plans for the future
- People make the system work
- Building more homes and delivering infrastructure
- Stronger leadership and smarter resourcing

The consultation sought views on 20 proposals for improving the planning system set out within these four key areas. There was also a series of technical questions for each of these proposals. Appendix A to the report set out the proposed response of the Chief Planning Officer to these proposals and questions. The proposals sought to refocus the planning system on delivering outcomes, facilitating economic development and Placemaking, whilst enhancing community engagement and reducing and simplifying processes and procedures. Members discussed the response. Councillor Cook noted that the response made no mention of the environment or wildlife and moved that the response be amended to include this. Members unanimously supported this amendment.

## **DECISION**

**AGREED to approve the consultation response set out in Appendix A as the Scottish Borders Council's formal response to the Scottish Government consultation "Places, People and Planning", subject to the addition of a supplement dealing with the environment and wildlife concerns.**

### **7. SESTRAN - MOVE TOWARDS A MODEL 3 TRANSPORT PARTNERSHIP**

There had been circulated copies of a report by the Service Director Regulatory Services on a consultation exercise being undertaken by SEStran in relation to a potential transfer of functions to the regional transport partnership. The report explained that the South East of Scotland Transport Partnership (SEStran) was a statutory partnership consisting of eight local authorities, namely: City of Edinburgh, Fife, East Lothian, Midlothian, West Lothian, Falkirk, Clackmannanshire and Scottish Borders. SEStran was currently classed as a "Model 1" Regional Transport Partnership (RTP) which meant that the primary function of the partnership was the production of a Regional Transport Strategy. At a meeting on 2 December 2016, the SEStran Board agreed to undertake a consultation with all constituent local authorities with a view to moving towards a "Model 3" Regional Transport Partnership. A Model 3 Regional Transport Partnership had additional powers, specifically in relation to public transport, but also could be utilised in terms of potentially managing other services such as ferry services, tolled bridges road pricing, road maintenance and road safety. While there had been discussions on the inclusion of a "Model 3" Regional Transport Authority proposal within the City Deal process, this suggestion was not being actively pursued as part of the City Deal at this particular time. SEStran initially required a response from all constituent Local Authorities which could be discussed at the next SEStran Board Meeting on 3 March 2017. However, SEStran had now decided to delay formal consideration of the proposal. Councillor Edgar advised that he considered that the recommendation in the report did not go far enough and the proposal should be rejected. Councillor Ballantyne, while having sympathy for Councillor Edgar's position, felt that the opportunity to be involved in future consultation should not be lost.

#### Vote

*Councillor Ballantyne, seconded by Councillor Fullarton, moved that the recommendations contained in the report should be approved.*

*Councillor Edgar, seconded by Councillor Aitchison, moved as an amendment that recommendation (a) be reworded to read "Scottish Borders Council rejects the proposal that they be part of a SEStran Model 3 Regional Transport Authority."*

*On a show of hands Members voted as follows:-*

*Motion - 8 votes*

*Amendment - 18 votes*

*The Amendment was accordingly carried.*

## **DECISION**

### **DECIDED:-**

- (a) that Scottish Borders Council rejects the proposal that they be part of a SEStran Model 3 Regional Transport Authority; and**

**(b) to authorise the Service Director Regulatory Services to respond to SEStran to that effect.**

**8. EQUALITY MAINSTREAMING REPORT AND EQUALITY OUTCOMES 2017 -2021**

There had been circulated copies of a report by the Chief Executive seeking approval of the Equality Mainstreaming Report 2017 -2021 in order that it be published to meet the legal deadline of 30 April 2017. The report explained that the Equality Mainstreaming Report was required every four years, with an update in the two year period in between. Scottish Borders Council's first Equality Mainstreaming Report was published in 2013 and covered the period 2013 – 2017. An Equality Mainstreaming Update Report was published in 2015 covering the period 2013-2015. The Council was therefore required to publish - no later than 30 April 2017 - an updated Equality Mainstreaming report for the period 2017-2021, a copy of which was appended to the report. The development of the Equality Mainstreaming Report had taken account of the work that the Council had undertaken on equalities over the past four years and the legislative, economic and social changes, both locally and nationally, that had impacted on equality matters. This had involved looking at progress in taking forward the eight equality outcomes contained within the initial Equality Mainstreaming Report; and embedding equalities in the Council's policies, processes and work practices, details of which were contained in Appendix 2 to the report. The Equality Mainstreaming Report concluded that these equality outcomes were still relevant and should be maintained. A set of high level actions was produced to facilitate further progress in embedding equalities within the Council for the period 2017 -2021. The Equality Mainstreaming Report provided details on the Council's Employee Data analysed by the protected characteristics and operational aspects. It also included in Appendix 3 information on Equal Pay and the Gender Pay Gap. Councillor Greenwell as Equalities Champion asked Members to support the report. Councillor Parker paid tribute to Councillor Greenwell's hard work as Equalities Champion.

**DECISION**

**AGREED to approve the Equality Mainstreaming Report as set out in Appendix 1 and the supplementary Appendices 2 and 3 to the report**

**9. CHARITY REORGANISATION UPDATE**

With reference to paragraph 11 of the Minute of 21 May 2015, there had been circulated copies of a report by the Chief Financial Officer providing an update on the progress of the ongoing reorganisation of the Council's registered and unregistered Trust Funds and Charities and proposing a timetable and approach for the next phase. The report detailed the proposals for the Thomas Howden Wildlife Trust, the SBC Charitable Trust and the 177 Trusts which were currently unregistered. The report contained a detailed timetable to carry out the required consultations on the future of the 177 unregistered Trusts, provide a further report to Council to approve any amalgamations and submissions to OSCR with a view to having all work completed by March 2018. Members welcomed the proposals and hoped that this would allow access to funds, particularly in rural areas without the benefit of Common Good Funds.

**DECISION**

**AGREED:-**

- (a) that an application be submitted to OSCR to amalgamate the Thomas Howden Wildlife Trust into a restricted fund applicable to Peebles within the SBC Educational Trust;**
- (b) to disburse the funds held for the ten Trusts detailed in Appendix 3 to the report to the organisations noted; and**
- (c) the next steps and timetable for the amalgamation of the remaining 167 Trusts, where possible, into the existing Welfare, Educational and Community Enhancement trusts.**

10. **HAWICK ACTION PLAN**

With reference to paragraph 15 of the Private Appendix to the Minute of 2 March 2017, there had been circulated copies of a report by the Corporate Transformation and Services Director providing a progress report on key activities within the Hawick Action Plan following previous updates in November 2016 and an update in a private report in March 2017. The report also highlighted the opportunity to present some of these potential project opportunities as economic development priorities for the proposed South of Scotland Enterprise and Skills Vehicle. The report explained that since November 2016 there had been significant progress within some of the themes, in particular 'Creating an Environment to Encourage Economic Growth'. The priority actions identified and areas of progress were set out in Appendix 1 to the report and a number of key areas of progress were highlighted. Two major projects to note include the Business Growth / Property Development proposal with an application for Scottish Government funding; and the Hawick Flood Protection Scheme. The Business Growth / Property Development Proposal is aimed at helping to deliver a variety of business infrastructure projects to help drive the local economy and to encourage business growth and new investment in the town. The proposal also included a second phase, which would commission and deliver feasibility studies on individual sites. It was proposed that these sites were presented as priorities for the new South of Scotland Enterprise and Skills Vehicle. The Hawick Flood Protection Scheme would now progress to a formal consultation period for the outline design. The project was currently scheduled to have final approval of the design in September 2017 with potential site completion in March 2022. The Flood Protection Scheme would enable further regeneration and development opportunities for the town by safeguarding areas of land currently deemed at risk to flooding. It was noted that Business Gateway would move to Hawick on Monday 3 April 2017. Members welcomed the progress to date.

**DECISION**

**AGREED:-**

- (a) **to note the progress taking forward key actions within the Hawick Action Plan since November 2016, as set out in Appendix 1 to the report;**
- (b) **the Council should support further work with businesses and stakeholders in Hawick in 2017/18 as outlined in Appendix 1 to the report; and**
- (c) **that the Corporate Transformation and Services Director present a further progress report on the Action Plan to the Council before the end of 2017.**

11. **CONSULTATION ON POSSIBLE AMENDMENT TO COUNCILLORS CODE OF CONDUCT**

There had been circulated copies of a report by the Service Director Regulatory Services seeking the Council's views on proposed amendments to the Councillors' Code of Conduct. The report explained that the Scottish Government had published a consultation on possible amendments to the Councillors' Code of Conduct to allow Councillors to continue to participate in quasi-judicial decisions without there being a conflict of interest in instances where they represented the Council on the board of an external organisation. At present the Code precluded Members from participating in such decisions except in a number of specified cases. The existing terms of the Code had not presented significant difficulties for the Council or for any of the outside bodies to which members have been appointed or nominated. On that basis it was proposed that the Code be retained in its current form. In response to a question from Councillor Logan, Mr Frater advised that he would raise the matter of the Code of Conduct for Community Councils at the next annual meeting of Monitoring Officers.

**DECISION**

**AGREED:-**

- (a) **to respond advising that on balance the Council was minded to support the retention of the Code in its current form; and**

- (b) **to recommend that if the Scottish Government was minded to amend the Code that this should be based on a case by case consideration of individual requests and addition of individual named bodies to Section 5.18 (2) of the Code rather than a general exclusion for all outside bodies.**

12. **EARLY RETIREMENT/VOLUNTARY SEVERANCE**

There had been circulated copies of a report by the Chief Executive seeking approval for 12 applications for staff who had requested to leave Live Borders through the early retirement/voluntary severance programme. The report explained that Live Borders was allocated management fee savings as part of the Council's 2017/18 Financial planning process, reflecting the local government settlement. To enable that level of saving to be achieved in the 2017/18 financial year, Live Borders sought support from the Council to open the ER/VS programme for a limited period of time with any one-off costs being funded by the Council. Live Borders opened the ER/VS scheme to their employees, at the same time as undertaking a review of their management structure and methods of delivery. In January 2017, 32 applications were received of which 12 were supported by the Council's Corporate Management Team. If all 12 applications were agreed, total one-off costs of £ 338,670 would be incurred and total direct recurring employee cost savings of £320,334 would be delivered each full year, providing an overall payback period of 1.06 years. Savings from the 12 applications were considered necessary to allow Live Borders to meet its savings target for 2017-18. Ewan Jackson, Chief Executive of Live Borders, was present and gave Members a presentation on the future operation of the organisation and the proposed future structure. He also assured Members that the services provided by the staff who were leaving the organisation would still continue. In response to a query from Councillor Ballantyne on whether these requests had already been approved by the Live Borders Board of Trustees the Chief Executive proposed an amended wording for the recommendation to reflect this approval which was unanimously accepted.

**DECISION**

- (a) **NOTED that the 12 applications for ERVS had been approved by the Live Borders Finance Committee and subsequently ratified by the Live Borders Board of Trustees.**
- (b) **AGREED to approve the associated costs being met from the Council's ER/VS budget for 2016/17 of £ 338,670.**

13. **URGENT BUSINESS**

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 keep Members informed.

14. **AUDIT AND RISK COMMITTEE ANNUAL REPORT 2016/17**

There had been circulated copies of the Audit and Risk Committee Annual Report for 2016/17 following consideration by that Committee on Tuesday 28 March 2017. Councillor Ballantyne, Chairman of the Committee, commented on the work of the Committee and thanked the Members and officers for their contribution. Despite the fact that two of the external members had stood down due to personal circumstances she recommended that there continue to be three external members with appropriate skills in future. The Convener thanked Councillor Ballantyne for her service as chairman.

**DECISION**

**NOTED the report.**

15. **PRIVATE BUSINESS**

**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**

16. **Minute**  
The private section of the Council Minute of 2 March 2017 was approved.
17. **Committee Minutes**  
The private sections of the Committee Minutes as detailed in paragraph 3 of this Minute were approved.
18. **Committee Recommendation**  
A recommendation of the Pension Fund Committee of 16 March 2017 relating to investments was approved.

*The meeting concluded at 1.15 p.m.*

**SCOTTISH BORDERS COUNCIL**  
**30 MARCH 2017**  
**APPENDIX I**

**Question from Councillor Mountford**

To the Depute Leader (Finance)

How much extra revenue has been generated by the Empty Homes Premium since it was introduced?

Reply from Councillor Mitchell

This Council took the decision to increase Council Tax for long term empty properties, to the maximum 200% charge, from 1<sup>st</sup> April 2016. To date, an additional £475k in revenue has already been received and we estimate that the ultimate collection level for 2016/17 will be in the region of £525k. This slightly exceeds the projected income figure of £500k within the financial plan.

Supplementary

Councillor Mountford asked what evidence was there to show that this policy was bringing empty homes back into use. Councillor Mitchell undertook to ask officers to provide this information.

**Question from Councillor White**

To Depute Leader (Finance)

How many freedom of information requests FOI have we had in the last year and how much has this cost the council?

Reply from Councillor Mitchell

A total of 1241 Freedom of Information requests were received in 2016.

The Council does not currently record the full cost of handling FOI requests. FOI responses are coordinated by two officers within the Information Management Team who each spend approximately 75% of their time dealing with FOI enquiries. The annual cost of these two posts is £43,468. This does not however reflect the full cost of responding to FOIs as extracting the requested information, obtaining legal advice and/or responding to requests for reviews also involves staff within other service departments.

Supplementary

Councillor White requested that while he did not want to increase the burden on officers could they sample the cost of some FOI requests. Councillor Mitchell advised that he would discuss the feasibility of this with officers.