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## SCOTTISH BORDERS COUNCIL

MINUTES of Meeting of the SCOTTISH COUNCIL held in Council Chamber, Council Headquarters, Newtown St. Boswells on Thursday, 25th February, 2016 at 10.00 am

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

Apologies:- Councillors J. Campbell, R. Smith, R. Stewart

In Attendance:- Chief Executive, Depute Chief Executive People, Corporate Transformation & Services Director, Service Director Neighbourhood Services, Service Director Regulatory Services, Chief Financial Officer, Chief Social Work Officer, Chief Legal Officer, Clerk to the Council

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

The Convener welcomed the West Linton Wasps to the Chamber. These were ten pupils from West Linton Primary School who had just been crowned winners of the Institute of Engineering and Technology's first Lego League UK competition. The task was to find an innovative solution to the way in which waste was being dealt with in the pupils' school or local community and they were also asked to design, build and program an autonomous Lego Mindstorms robot to tackle a series of waste-related missions. They had now been invited to compete in the Lego League World Festival in St Louis, USA next year. The Convener congratulated them on their achievement and wished them every success with their next challenge.

#### **DECISION**

**AGREED to congratulate both the children involved and the parents and teachers who had supported them.**

### 2. **MINUTES**

The Minutes of the Meetings held on 17 December 2015 and 11 February 2016 were considered.

#### **DECISION**

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

### 3. **COMMITTEE MINUTES**

The Minutes of the following Committees had been circulated:-

Police, Fire & Rescue and Safer Communities Board	13 November 2015
Audit & Risk	23 November 2015
Community Planning Strategic Board	26 November 2015
Peebles Common Good Fund	2 December 2015
Tweeddale Area Forum	2 December 2015
Berwickshire Area Forum	3 December 2015
Planning & Building Standards	7 December 2015
Jedburgh Common Good Fund	9 December 2015
Kelso Common Good Fund	9 December 2015
Cheviot Area Forum	9 December 2015

Pension Fund	10 December 2015
Petitions & Deputations	10 December 2015
Pension Board	10 December 2015
Local Review Body	14 December 2015
Health & Social Care Joint Integration Board	14 December 2015
Teviot & Liddesdale Area Forum	15 December 2015
Civic Government Licensing	18 December 2015
Planning & Building Standards	11 January 2016
Audit & Risk	18 January 2016
Executive (Education Theme)	19 January 2016
Teviot & Liddesdale Area Forum	19 January 2016
Scrutiny	28 January 2016
Planning & Building Standards	1 February 2016
Executive (Economic Development Theme)	2 February 2016

**DECISION**

**APPROVED** the Minutes listed above.

**4. COMMITTEE RECOMMENDATIONS**

**4.1 Audit & Risk Committee 23 November 2015**

With reference to paragraph 4 of the Minute of the Audit and Risk Committee of 23 November 2015, approval of Treasury Management Mid-year report was recommended. It was noted that this had already been approved by Council at their meeting on 17 December 2015.

**DECISION**

**NOTED.**

- 4.2 With reference to paragraph 10 of the Minute of the Audit and Risk Committee of 23 November 2015, approval of the Corporate Risk Management Strategy was recommended, a copy of which had been circulated.

**DECISION**

**AGREED** to approve the Corporate Risk Strategy.

**4.3 Scrutiny Committee 28 January 2016**

With reference to paragraph 4 of the Minute of the Scrutiny Committee of 28 January 2016, in respect of the membership of the Scrutiny Committee it was recommended that there be no additional non-voting members appointed to the Scrutiny Committee.

**DECISION**

**AGREED** that there be no additional non-voting members appointed to the Scrutiny Committee.

**4.4 Planning & Building Standards Committee 1 February 2016**

With reference to paragraph 4 of the Minute of the Planning and Building Standards Committee of 1 February 2016, it was recommended that the public speaking protocol be amended to allow those speaking to also use a maximum of two visual aids. A copy of the amended protocol had been circulated.

**DECISION**

**AGREED** that the Planning and Building Standards Public Speaking Protocol be amended to allow the use of a maximum of 2 visual aids, subject to them having been lodged a minimum of 8 days in advance of the meeting.

**4.5 Audit & Risk Committee 18 January 2016**

With reference to paragraph 5 of the Minute of the Audit and Risk Committee of 18 January 2016, approval was recommended that the Council reviewed its capital expenditure plans going forward to ensure they remained realistic, affordable and sustainable and that in all future capital projects, the revenue consequences of such projects be fully considered in arriving at investment decisions. It was noted that this had already been approved by Council at their meeting on 11 February 2016.

**DECISION  
NOTED.**

5. **OPEN QUESTIONS**

The questions submitted by Councillors Marshall, Logan and Turnbull were answered.

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

6. **PROPOSALS FROM THE SOCIAL WORK CHARGING REVIEW**

With reference to paragraph 7 of the Minute of 20 November 2014, there had been circulated copies of a report by the Chief Social Worker proposing updates to the Charging Policy 2015/16 to take account of feedback received on the current policy and new national guidance and legislation. The report explained that the Charging Policy had been updated on 1 April 2015 following an extensive review. The policy introduced a number of changes, including an extension of the charging policy to people using self-directed support. Given new national guidance, legislation and feedback from people on the impact of the policy it had been updated with key stakeholders and some changes had been made to the non-residential charges. The Charging Forum would continue to meet to consider and address any issues that would affect the policy. The report listed the areas where changes had been made and these updates had been incorporated into the Charging Policy for 2016/17, a copy of which was appended to the report.

**DECISION  
AGREED to:-**

**(a) approve the draft Charging Policy 2016/17 and any subsequent amendments;  
and**

**(b) note the continuing work of the Charging Forum.**

7. **NEW MEASURES TO CONTROL DOG FOULING**

There had been circulated copies of a report by the Service Director Neighbourhood Services outlining a new, refreshed approach to tackling dog-fouling and setting it in the context of a wider strategic approach to responsible dog ownership. The report explained that in 2014 the Scottish Household Survey people rated animal nuisance, such as noise and dog fouling, as the most common problem in their neighbourhood and this was an increasing trend. Within the Scottish Borders there had also been an increase in the number of reports of dog fouling. The Council had a number of statutory duties relating to dogs, and in looking at the problem of dog fouling, it was essential that this was considered in the wider context of responsible dog ownership. A strategy and action plan had been developed taking this into account, a copy of which was appended to the report. Due to ongoing concerns expressed to the Council, Officers had been investigating options to enhance its environmental enforcement activities. The report outlines a proposal to appoint a private company to carry out focused enforcement activity covering both dog fouling and littering for a pilot period of twelve months. The service would be provided by a nationally established company with the deployment of 2 FTE Enforcement Officers reporting to an established management resource. Staff would be recruited locally and would be identified as Council staff. They would work on a day to day basis from Council offices and closely with Neighbourhood Operations and Safer Communities staff. They would target main problem areas for dog fouling and littering. Fixed penalties

would be issued and collected using their existing technology solution. They would also prepare files for prosecution. All income collected from penalties would be retained by the company. They would also fulfil an education/awareness role by being Environmental Champions and doing work with schools. Members thanked officers for their work on this issue and supported the proposals and emphasised the importance of this issue for member for the public. The Service Director undertook to provide reports for Area Forums and to work with groups such as Community Councils and the NFU to promote these measures. She further agreed to provide a progress report to Council after the scheme had been in operation for 6 months.

#### **DECISION**

**AGREED to approve:-**

- (a) the Responsible Dog Ownership Strategy & Action Plan, as appended to the report;**
- (b) the trialling a new approach to enforcement through the rollout of a twelve month pilot scheme;**
- (c) the appointment of an external contractor for the duration of the pilot.**

#### **8. SESPLAN: FINANCE & GOVERNANCE RATIFICATION**

There had been circulated copies of a report by the Service Director Regulatory Services, seeking ratification of SESplan budget proposals for 2016/17, and changes to the SESplan governance arrangements. The report explained that the SESplan budget for 2016/17, a copy of which was appended to the report, was proposed to be set at £286,336, with each authority expected to contribute £46,550. Revised SESplan governance arrangements were also proposed, including the formalisation of the two year cycle for Convener and Vice-Convener to better relate to the Plan preparation cycle. In response to a question on the future of the student planner, the Service Director indicated that it was hoped that funding would be found to allow this post to continue.

#### **DECISION**

**AGREED to:-**

- (a) ratify the SESplan budget proposals for 2016/17;**
- (b) ratify the revised SESplan Governance arrangements; and**
- (c) note the potential for the Governance arrangements to be amended to deal with sequential and typographical errors as set out in the report.**

#### **MEMBER**

Councillor Mitchell left the meeting.

#### **9. AMENDMENT TO THE SCHEME OF ADMINISTRATION**

It was reported that an amendment was required to the Scheme of Administration in respect of the constitution of the Health & Social Care Integration Joint Board to allow the membership to be changed to:-

“Five Elected Members of Scottish Borders Council being:-

- (i) the Depute Leader (Finance)
- (ii) the Depute Leader (Health Service)
- (iii) Executive Member for Social Work
- (iv) two other Elected Members”

It was agreed that this amendment be approved and as a consequence Councillor Bhatia, seconded by Councillor Torrance moved that Councillor Gillespie be appointed to replace Councillor Parker on the Joint Board. This appointment was unanimously approved.

#### **DECISION**

**AGREED that the Scheme of Administration be amended as detailed above and that Councillor Gillespie be appointed to the Board.**

#### 10. **COMMITTEE MEMBERSHIP**

It was reported that the appointment of two Committee Members to the Scrutiny Committee were required following the resignations of Councillors Mountford and Stewart. A new Vice-Chairman also required to be appointed to replace Councillor Stewart.

Councillor Ballantyne, seconded by Councillor Marshall, moved that Councillor McAteer be appointed.

Councillor Parker, seconded by Councillor Brown, moved that Councillor Herd be appointed.

Councillor Parker, seconded by Councillor Logan, moved that Councillor Torrance be appointed as the Vice-Chairman of Scrutiny.

All three appointments were unanimously approved.

#### **DECISION**

**AGREED to appoint Councillors McAteer and Herd to the Scrutiny Committee and that Councillor Torrance be appointed as Vice-Chairman.**

#### 11. **MOTION BY COUNCILLOR MCATEER**

Councillor McAteer, seconded by Councillor Marshall, moved the Motion as detailed on the agenda in the following terms:-

"That Scottish Borders Council agrees to write to the Scottish Government Minister for Local Government and Community Empowerment, on behalf of the local communities in and around Hawick which are being penalised by the disproportionate weighting of the methodology used by the Local Government Boundary Commission for Scotland (LGBCS) for the 5th Review and the resultant proposed reduction in councillor numbers and significant changes to the existing Hawick ward areas.

The Council calls upon the Minister, when considering any LGBCS proposals, to reject the arbitrary maximum variation in electoral parity in the new wards of +/- 10% which places an artificial burden in particular on the Hawick area, failing to recognise that area's natural population and settlement distribution, geography, and its traditional social, economic and cultural connections. The Minister is urged to reject any proposal to reduce both councillor numbers and wards in the Hawick area, and instead allow for a true reflection of the unique demographic, geographic and natural communities in and around Hawick, and the wishes of the local electorate.

This letter should also be copied to the Local Government Boundary Commission for Scotland to allow the Commission to take this Motion into account when arriving at its final recommendations."

Councillor McAteer spoke in support of his Motion. Members generally supported the motion but Councillors Turnbull and Cook suggested some amended wording for the second paragraph as follows:-

"The Council calls upon the Minister, when considering any LGBCS proposals, to reject the arbitrary maximum variation in electoral parity in the new wards of +/- 10% which places an artificial burden in particular on the Hawick area, failing to recognise that area's natural population and settlement distribution, geography, and its traditional social,

economic and cultural connections. The Minister is urged to reject any proposal to reduce councillor numbers in the Scottish Borders, and its consequential effect on the wards of the Hawick and Jedburgh area, and instead allow for a true reflection of the unique demographic, geographic and natural communities in and around Hawick, and the wishes of the local electorate.”

This amended wording was accepted by Councillor McAteer and the amended Motion was unanimously approved.

#### **DECISION**

**AGREED the Motion as follows:-**

**“That Scottish Borders Council agrees to write to the Scottish Government Minister for Local Government and Community Empowerment, on behalf of the local communities in and around Hawick which are being penalised by the disproportionate weighting of the methodology used by the Local Government Boundary Commission for Scotland (LGBCS) for the 5th Review and the resultant proposed reduction in councillor numbers and significant changes to the existing Hawick ward areas.**

**The Council calls upon the Minister, when considering any LGBCS proposals, to reject the arbitrary maximum variation in electoral parity in the new wards of +/- 10% which places an artificial burden in particular on the Hawick area, failing to recognise that area's natural population and settlement distribution, geography, and its traditional social, economic and cultural connections. The Minister is urged to reject any proposal to reduce councillor numbers in the Scottish Borders, and its consequential effect on the wards of the Hawick and Jedburgh area, and instead allow for a true reflection of the unique demographic, geographic and natural communities in and around Hawick, and the wishes of the local electorate.**

**This letter should also be copied to the Local Government Boundary Commission for Scotland to allow the Commission to take this Motion into account when arriving at its final recommendations.”**

#### **12. 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**

#### **13. MINUTE**

The private section of the Council Minute of 17 December 2015 was approved.

#### **14. COMMITTEE MINUTES**

The private sections of the Committee Minutes as detailed in paragraph 3 of this Minute were approved.

***The meeting concluded at 11.35 am***

**SCOTTISH BORDERS COUNCIL  
25 FEBRUARY 2016  
APPENDIX I**

Question from Councillor Marshall

To Executive Member for Environmental Services

Can the Executive Member for Environmental Services advise how many kerbside food collection bins have been issued in Hawick and can he report on the percentage level of how many are actually being used in the area on a weekly basis?

Reply from Councillor Paterson

The Council has a statutory obligation to provide food waste collections to all households in Hawick and that totals 7,422 properties. The Council monitored the performance of the service in all areas for a number of weeks immediately following the introduction of the service.

The bins presented for collection in Hawick on a weekly basis during that period averaged 24%. However, this does not represent participation in the service as some householders may not present their food waste bin every week.

The main measure of performance, recognised across Scotland, is the number of kilograms collected per household per week.

The average for Scotland is 0.97 kilos

The average for the Scottish Borders is 0.91 kilos

The average for Hawick is 0.73 kilos

The performance of the service in Hawick is obviously disappointing and is clearly impacting on the overall performance of the service in the Scottish Borders. The Waste Services Team are currently considering the delivery of a recycling monitoring and intervention exercise. Attention will be given to low performing areas to identify barriers to recycling and to improve participation

Supplementary

Councillor Marshall asked if this could be considered a cost effective service and a good use of Council money. Councillor Paterson advised that this was a statutory service and that the negativity in Hawick needed to be overcome.

Questions from Councillor Logan

To The Executive Member for Economic Development

1. Why was the Council not informed at the Council meeting on 11 February 2016, when debating the amendment to the Capital programme, that the Scottish Culture Secretary was demanding a fully revised business plan and the associated designs for the Great Tapestry of Scotland before releasing the Scottish Government's share of £2.5m to the project?

Reply from Councillor Bell

The Cabinet Secretary requested further information regarding the Tapestry project in early January; the nature and format of this information was still the subject of discussion between Civil Servants and Council Officers at the time of the last Council meeting.

There had been, and remains, no commitment to producing a further, fully revised business case. However, given that there have been significant developments since the business case was produced, specifically the opening of the Borders Railway, it is not unreasonable for the Council to be asked to provide additional information on how this may impact on the original business case. This information has been provided.

Finally, the letter from the Cabinet Secretary which refers to a fully revised business case was not sent to me until 7.32 in the evening of the Council meeting. I understand that a similar letter was sent to the Council Leader at 7:09 on the same evening, 6 hours after the Council meeting concluded.

#### Supplementary

Councillor Logan requested a yes or no response as to whether or not Councillor Bell was aware of the Cabinet Secretary's position on a revised business case in advance of the Council meeting. Councillor Bell responded he had had a number of exchanges with the Cabinet Secretary before the Council meeting, but the answer was no.

2. It is now clear that the Scottish Government had not carried out the due diligence process on the Great Tapestry of Scotland Project. Can you tell us why Councillors were given assurances that the process had been carried out?

#### Reply from Councillor Bell

I do not recall this assurance being given at the Council meeting. The due diligence process was certainly underway, but I do not believe any assertion was made that it was complete.

The process for funding approval is through the blueprint leadership group and this group considered the draft approval paper in December 2015. Discussions were underway between senior Civil Servants and our Officers regarding further information which the Cabinet Secretary would like to consider before approving any funding grant. Further information was provided and was being considered.

Given that the blueprint leadership group has not yet met this year it would not have been able to receive or respond to any request for a revised business case. As I have also already said, no commitment has been given to the Scottish Government to produce a revised business case.

However, following a very constructive meeting with the Cabinet Secretary yesterday evening, I can confirm that we have agreed a way forward in respect of the Tapestry project. The Cabinet Secretary has confirmed that she is committed to delivering a successful project in the Borders and we have now agreed a due diligence process which will enable us to give the appropriate level of assurance to allow the funding from Scottish Government to be released. Work is already underway and we expect to be able to complete this process in the coming weeks.

#### Supplementary

Councillor Logan asked if he could be given an assurance that no construction work would commence until a revised business case had been debated by Council. Councillor Bell advised that he could give no such assurance as there was no commitment to provide a revised business case and it depended on the outcome of the due diligence process.

#### Question from Councillor Turnbull

To the Executive Member for Economic Development

In the event of the Scottish Government not supporting the construction of a building in Tweedbank costing £2.5m does this mean the project will be aborted?

#### Reply from Councillor Bell

That is likely to be the outcome. However it would continue to be crucial to consider what we would do to address the need for tourist and visitor facilities at Tweedbank

If we are to maximise the full potential economic benefits of the Railway as set out in the Railway Blueprint to which we are co-signatories then we urgently need facilities at Tweedbank which celebrate and signpost what we have to offer throughout the Region.