

# Public Document Pack

## SCOTTISH BORDERS COUNCIL

MINUTES of Meeting of the SCOTTISH COUNCIL held in Council Chamber, Council Headquarters, Newtown St. Boswells on Thursday, 30th January, 2020 at 10.00 am

---

Present:- Councillors S. Aitchison, A. Anderson, S. Bell, K. Drum, G. Edgar, J. A. Fullarton, J. Greenwell, C. Hamilton, S. Hamilton, S. Haslam, E. Jardine, H. Laing, S. Marshall, W. McAteer, D. Moffat, S. Mountford, D. Paterson, C. Penman, C. Ramage, N. Richards, E. Robson, M. Rowley, H. Scott, S. Scott, R. Tatler, E. Thornton-Nicol, G. Turnbull and T. Weatherston

Apologies:- Councillors H. Anderson, J. Brown, K. Chapman, T. Miers and E. Small

In Attendance:- Chief Executive, Executive Director, Executive Director (Finance & Regulatory), Service Director Assets & Infrastructure, Service Director Customer and Communities, Chief Legal Officer and Chief Planning Officer

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

The Convener advised that the following had been recognised in the Queen's New Year Honours List:

- MBE – Steve Penny, Tweed Valley Mountain Rescue
- OBE – Martyn Blissitt, services to animal health (vet adviser to Scottish Government re spread of disease in livestock)
- OBE – Ian Davidson, services to agriculture for his work with the Scottish Rural Development Programme.

### **DECISION**

**AGREED that congratulations be passed to those concerned.**

### 2. **MINUTE**

The Minute of the Meeting held on 19 December 2019 was considered.

### **DECISION**

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

### 3. **COMMON GOOD FUND SUB COMMITTEES - RATIFICATION BY FULL COUNCIL**

There had been circulated copies of a report by the Executive Director (Finance and Regulatory) seeking approval to amend the Scheme of Administration to add an additional referred function to the Common Good Fund Sub-Committees. The report explained that there may be circumstances when all of the Members of a Common Good Fund Sub-Committee had an interest in a funding application and as a result the Sub Committee was unable to determine the application. While such matters could be determined instead by Full Council, this approach did result in applications of a particularly local nature being decided with no input from those elected to represent that local community. It was therefore proposed to add a new referred function (a starred item) to the Scheme of Administration which would allow the Sub-Committee to make recommendations to Council on such application. The application would then be finally determined by Council. In this particular and exceptional circumstance, those Members who had an interest would declare that interest but would be able to participate in the discussion on that recommendation. It was therefore proposed to add the following text to the Scheme of Administration under Common Good Fund Sub-Committees:“\* Make recommendations to

Council on any grant application for local expenditure where the Sub-Committee would otherwise be inquorate for any reason, including the composition of the applicant body”.

#### **DECISION**

**AGREED to amend the Scheme of Administration to add the following referred function to each Common Good Fund Sub-Committee:**

**“\* Make recommendations to Council on any grant application for local expenditure where the Sub – Committee would otherwise be inquorate for any reason, including the composition of the applicant body”**

#### **4. COMMITTEE MINUTES**

The Minutes of the following Committees had been circulated:-

Kelso Common Good Fund	19 November 2019
Chambers Institution Trust	20 November 2019
Peebles Common Good Fund	20 November 2019
Hawick Common Good Fund	26 November 2019
Planning & Building Standards	9 December 2019
Local Review Body	16 December 2019
Pension Fund Board	17 December 2019
Pension Fund Committee	17 December 2019
Selkirk Common Good Fund	18 December 2019
Planning & Building Standards	13 January 2020
Standards	16 January 2020

#### **DECISION**

**APPROVED the Minutes listed above subject to paragraph 5 below.**

#### **5. COMMITTEE MINUTE RECOMMENDATION**

There had been circulated copies of a recommendation made by the Hawick Common Good Fund Sub-Committee at their meeting on 26 November 2019 regarding the future funding of the Hawick Reivers Festival. The Convener ruled this recommendation as not competent on the grounds that such a recommendation had budget implications and was out-with the remit of the Sub-Committee. The Leader advised that Officers would work with the festival organisers to help them identify other sources of funding.

#### **DECISION**

**NOTED.**

#### **6. RESPONSE TO THE CONSULTATION BY ON THE SCOTTISH GOVERNMENT ON THE REPLACEMENT OF THE EUROPEAN STRUCTURAL FUNDS IN SCOTLAND POST EU-EXIT**

There had been circulated copies of a report by the Chief Executive seeking approval for the proposed response to the consultation by the Scottish Government on the replacement of the European Structural Funds in Scotland post EU Exit. The report explained that on 5 November 2019 the Scottish Government released a consultation paper aimed at providing input into its policy dialogue with UK Government on the development of a new funding instrument. This would be the UK Shared Prosperity Fund, which had been previously announced by the UK Government as its replacement for European Union Structural Funds (i.e. European Regional Development Fund and European Social Fund). European Structural Funds were an important source of funding to support economic development and training. The deadline for responses to the consultation was 12 February 2020. The Scottish Government had indicated that its consultation excluded European funding such as LEADER, Fisheries etc. which would be handled separately. The proposed response, contained in Appendix 1 to the report, indicated that the UK Shared Prosperity Fund should focus on tackling regional economic inequalities with the aim of improving economic cohesion across Scotland and the UK. NUTS 2 regions should be used to identify regions of intervention as they provided a

geography with consistent regional economic data and were strategic enough to address the different economic challenges which were experienced across Scotland and the UK. This regional geography included the new Southern Scotland NUTS 2 statistical area which was officially recognised in 2017. The Southern Scotland NUTS 2 area comprised the local authority areas of Dumfries and Galloway, Scottish Borders, South Ayrshire, East Ayrshire, North Ayrshire (excluding Arran and the Cumbraes) and South Lanarkshire. To recognise relative prosperity the measure of Gross Value Added (GVA) per head should be used as this provided a measure of productivity and income produced in regions. The Southern Scotland NUTS 2 area had the lowest GVA per head of all the NUTS 2 regions in Scotland and the UK. Recently released economic statistics showed that this had been the case for the past 20 years, but had been masked because of the inclusion of its geography in wider city based NUTS 2 areas. The lack of recognition of Southern Scotland as a NUTS 2 region had meant that the area had been unable to access significant amounts of monies from the EU Structural Funds. Members thanked officers for their work on this complex subject.

#### **DECISION**

**AGREED to submit the response to the Scottish Government's consultation on Replacement of the European Structural Funds in Scotland Post EU-Exit, as set out in Appendix 1 to the report.**

#### **7. DRAFT SUPPLEMENTARY PLANNING GUIDANCE: TWEEDBANK - VISION FOR GROWTH SUSTAINABILITY**

There had been circulated copies of a report by the Executive Director seeking approval for Draft Supplementary Planning Guidance as a basis for public consultation. The report explained that a 34ha site was allocated within the Council's adopted Local Development Plan (LDP) 2016 to the north of Tweedbank for mixed use development which included housing and business uses. The site was incorporated into the LDP as part of Supplementary Guidance (SG) on Housing, as required by the Planning and Environmental Appeals Division of the Scottish Government following Examination of the LDP. The Housing SG had been approved by the Council and was cleared by Scottish Ministers in November 2017. The LDP stipulated the requirement for Supplementary Planning Guidance (SPG) to be provided for the site. The purpose of the SPG was to give greater clarity on measures to achieve a satisfactory development on the site. This included identifying site constraints to be addressed, the identification of zones for specific uses, indicative housing densities for the residential zones, a possible area for a care home facility, placemaking and design guidance and a pre-application checklist. A draft version of the SPG was attached as Appendix A to the report. Once approved the Draft SPG would be subject to public consultation for a period of 12 weeks giving the opportunity for any third parties to make any representations on the proposals within it. This would include holding a public exhibition in the Tweedbank Community Centre. At the conclusion of the consultation period all consultation responses and any proposed consequential amendments to the Draft SPG would be reported to the Planning and Building Standards Committee for their review and comment. Thereafter a summary of the representations received, the proposed amendments, and any comments from the Planning & Building Standards Committee would be reported back to Scottish Borders Council. Once approved by Council, the SPG would be a material consideration in guiding planning applications for the development of the site. In considering the purchase of Lowood Estate Council agreed that all future strategic decisions relating to the Estate would be considered by Council. Consequently, the decisions regarding this SPG for Tweedbank required to be made by Council. Members supported the paper although there was some discussion on the timescale for development. The need for a high quality development with a proper community feeling with an identifiable social focus was highlighted, along with the need for sustainable homes.

#### **DECISION**

**AGREED:-**

- (a) to approve the Draft Supplementary Planning Guidance, contained in Appendix A to the report, as a basis for public consultation;
- (b) that Members of the Planning and Buildings Standards Committee review responses received during the public consultation period and any proposed adjustments to the Supplementary Planning Guidance in advance of the item being reported to Council for final decision; and
- (c) to consider a future report setting out representations made during the consultation period, any proposed amendments to the draft document and any comments from the Planning & Building Standards Committee for final decision making on the Supplementary Planning Guidance.

## 8. CORE BANKING SERVICES

There had been circulated copies of a report by the Executive Director (Finance and Regulatory) advising on the outcome of the recent collaborative procurement for core banking services and seeking delegated approval to implement a new contract for banking services. The report explained that following the collaborative procurement exercise undertaken with City of Edinburgh Council, Fife Council and Edinburgh Leisure, the Royal Bank of Scotland had been awarded the contract to provide banking services to the 4 organisations for a period of up to 6 years. The contract award and implementation would require a number of key documents to be completed to allow the transition from the Council's current banking services provider, the Bank of Scotland, to be completed.

### DECISION

#### AGREED to:-

- (a) note that the tender outcome had resulted in the Royal Bank of Scotland being awarded the contract; and
- (b) authorise the Executive Director, Finance & Regulatory, to implement the new banking contract in line with the Scheme of Delegation.

## 9. CCTV PROVISION IN THE SCOTTISH BORDERS

9.1 With reference to paragraph 4 of the Minute of 26 June 2019, there had been circulated copies of a report by the Service Director Assets and Infrastructure which provided details of the consultation process that took place in relation to Public Space Closed Circuit Television (CCTV) provision in the Scottish Borders. The report provided information around the financial implications for renewing or replacing the current Public Space Closed Circuit Television (CCTV) provision in the Scottish Borders and detailed the 4 options which had been considered. Members discussed the proposals in detail and were divided in their opinion regarding the responsibility for providing this service and whether it should be the Council, Police Scotland or a joint approach. It was noted that although Police Scotland were supportive of CCTV provision they were not able to provide any financial input. Members commented on a number of aspects including the benefits of making people feel safer and whether CCTV reduced crime or displaced it to areas where there was no coverage. It was also noted that officers were happy to provide advice to any community which wished to provide CCTV in their area.

9.2 Councillor Bell, seconded by Councillor Laing, and following advice from Mr Robertson on the wording regarding the financial implications, moved as an amendment that the recommendations be amended to read as follows:-

“That Council

- (a) Notes that the consultation process is now complete;
- (b) Notes the financial implications of renewing or replacing the current Public Space CCTV provision in the Scottish Borders;

- (c) Continues with its current policy of maintaining the current Public Space CCTV provision;
- (d) Agrees to consider funding as part of the financial planning process to implement a phased replacement of the current systems in eight towns with an appropriate split of fixed and wireless technology; and
- (e) Notes the requirement to budget for the Capital cost of this in future years.”

Councillor Haslam, seconded by Councillor Edgar, moved the recommendations in the report.

Councillor Penman moved that the vote be taken by roll call and this was unanimously approved.

#### *Roll Call Vote*

#### *Motion*

*Councillor Aitchison  
Councillor Edgar  
Councillor Fullarton  
Councillor Greenwell  
Councillor C. Hamilton  
Councillor S. Hamilton  
Councillor Haslam  
Councillor Jardine  
Councillor Mountford  
Councillor Parker  
Councillor Richards  
Councillor Rowley  
Councillor S. Scott  
Councillor Tatler  
Councillor Weatherston*

#### *Amendment*

*Councillor A. Anderson  
Councillor Bell  
Councillor Drum  
Councillor Laing  
Councillor Marshall  
Councillor McAteer  
Councillor Moffat  
Councillor Paterson  
Councillor Penman  
Councillor Ramage  
Councillor Robson  
Councillor H. Scott  
Councillor Thornton-Nicol  
Councillor Turnbull*

*The Motion was carried by 15 votes to 14.*

#### **DECISION**

#### **DECIDED to:-**

- (a) note that the consultation process was now complete;**
- (b) note the financial implications of renewing or replacing the current Public Space CCTV provision in the Scottish Borders;**
- (c) continue with the current policy of maintaining the current Public Space CCTV provision until it was beyond economic repair; and**
- (d) take no further future action.**

#### **10. MOTION BY COUNCILLOR WEATHERSTON**

Councillor Weatherston, seconded by Councillor A. Anderson, moved the Motion as detailed on the agenda in the following terms:-

“Following many complaints over several years from Sports groups and parents of children, Scottish Borders Council agrees to write to the Scottish Government requesting an addition to the Dog Fouling (Scotland Act) 2003 to create a new offence. It is requested that it be made an offence for a person in charge of a dog to allow it to defecate at any time on a sports pitch or children’s play area.”

Councillor Weatherston spoke in support of his Motion which was unanimously supported.

**DECISION**

**AGREED to approve the Motion as detailed above.**

**11. MOTION BY COUNCILLOR GREENWELL**

Councillor Greenwell, seconded by Councillor H. Scott, moved the Motion as detailed on the agenda in the following terms:-

“That the Council call on COSLA to set up a policy forum specifically related to developing policies and policy adjustments aimed at supporting serving and former members of the Armed forces and their families in accordance with the commitments made by all local Authorities in support of the Armed forces Covenant.”

Councillor Greenwell spoke in support of his Motion which was unanimously supported.

**DECISION**

**AGREED to approve the Motion as detailed above.**

**12. OPEN QUESTIONS**

The questions submitted by Councillors McAteer, Paterson, Bell, Robson and A. Anderson were answered.

**DECISION**

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

**13. COMMITTEE MEMBERSHIP**

**13.1 Planning & Building Standards Committee**

It was noted that Councillor Aitchison had resigned from the Planning and Building Standards Committee. Councillor Haslam, seconded by Councillor Fullarton, moved that Councillor Richards be appointed.

**13.2 Executive Member for Transformation**

Councillor Aitchison, seconded by Councillor Mountford, moved that Councillor Haslam be appointed as the interim Portfolio Holder for Transformation.

**DECISION**

**AGREED that:-**

- (a) Councillor Richards be appointed to the Planning and Building Standards Committee with immediate effect; and**
- (b) Councillor Haslam be appointed as the interim Portfolio Holder for Transformation.**

**14. 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**

**15. MINUTE**

The private section of the Council Minute of 19 December 2019 was approved.

16. **COMMITTEE MINUTES**

The private sections of the Committee Minutes as detailed in paragraph 4 of this Minute were approved.

17. **COMMITTEE MINUTE RECOMMENDATION**

Members approved recommendations from the Hawick Common Good Fund Sub-Committee relating to a grant to the Provost Council and an addition to their moveable assets inventory.

***The meeting concluded at 12.30 pm***

This page is intentionally left blank

**SCOTTISH BORDERS COUNCIL  
30 JANUARY 2020  
APPENDIX I**

**Question from Councillor McAteer**

To Executive Member for Adult Social Care

Having regard to the recent Court of Session decision (27 December 2019, 'Roy McHattie vs South Ayrshire Council'), which declared South Ayrshire Council's actions leading to the closure of Kyle Adult Care Centre as unlawful, can you explain what action was taken by Scottish Borders Council to

- (a) assure members that this council is not exposed to any similar unlawful conduct; and
- (b) that SBC has fully complied with all aspects of the Equality Act 2010 and the Carers Act (Scotland) 2016, with regard to the process and decisions taken to decommission day services in the Borders

Reply from Councillor Weatherston

Council officers are aware of the decision in the McHattie case. In that instance a decision by South Ayrshire Council was over turned by the Court because the court concluded the Council had failed in its Public Sector Equality Duty and failed to properly consult. SBC is very conscious of its duties under the Equality Act and its duties to involve service users and carers in the provision of the services. It seeks to comply fully with its legal obligations at all times.

The law requires the Council to conduct Equality Impact Assessments and such assessments have been carried out. This includes assessments which formed part of the budget papers in 2017 and was available to Members as part of the budget process. This assessment was completed before the review of day services in the Borders commenced. Further EIAs have been conducted as the proposals progressed to ensure the Council's continuing obligations were met.

Council officers are satisfied that the processes followed comply with the Equality Act 2010 and the Carers (Scotland) Act 2016.

It is considered that the risk of facing a similar successful challenge is unlikely for SBC, however officers (including the Chief Legal Officer) are examining the detail of the McHattie case and assessing our practices against that judgment to provide further certainty.

Supplementary

Councillor McAteer asked that Councillor Weatherston assure the carer groups that they would continue to receive an effective service in Hawick. Councillor Weatherston advised that the service was working well in other areas and he was confident that Hawick would receive an effective service.

**Question from Councillor Paterson**

To Executive Member for Children and Young People

Can the Portfolio Holder please tell me when the 60 year old windows will be replaced in the Classrooms of Drumlanrig St Cuthbert's Primary School in Hawick? On a recent visit with an officer from the Council to look at the state of the windows we were approached by a number of staff unhappy at the possible long term health problems for children and staff having to teach and learn in such damp conditions all day every day.

Reply from Councillor C. Hamilton

The windows at Drumlanrig Primary School were originally scheduled to be replaced during financial year 2022/23.

Following a further assessment of the condition of the windows, which have deteriorated more quickly than anticipated, the replacement programme has been accelerated and works are scheduled to be completed during calendar year 2020. The works will be undertaken in a phased manner, on a room by room basis, to minimise disruption to the school curriculum.

### **Questions from Councillor Bell**

#### To the Leader

On 6<sup>th</sup> December you sent out a notification that Cllr Mountford was stepping down from his position as portfolio holder for Transformation & HR. Given the Improvement challenges facing this Council that is an important portfolio. Who now holds it?

#### Reply from Councillor Haslam

Me.

#### Supplementary

Councillor Bell asked why there was no permanent Executive Member appointment made. Councillor Haslam advised that she was looking at the current structure of Executive Members with a view to re-aligning them with the new Corporate Management Structure

#### To the Executive Member for Children and Young People

In line with statements made; there was, I understand, an evaluation done of the pilot in 3 schools of unstaffed libraries. Please could Councillors see the results of the pilot study and the conclusions drawn from it?

#### Reply from Councillor C. Hamilton

Council Officers have been progressing the plans for future delivery of school library services. A report will be brought to the earliest possible full Council in March 2020, which will contain the information from the evaluation, conclusions and recommended route forward for this service.

#### Supplementary

Councillor Bell asked that this decision be taken at the same meeting as the budget was being considered to allow for any budget implications. Councillor Hamilton advised that she would discuss with officers.

### **Question from Councillor Robson**

#### To the Executive Member for Roads and Infrastructure

Can The Executive member advise what discussions if any, have been had with the Scottish Government about alterations to the Sheriffhall roundabout in Midlothian?

#### Reply from Councillor Edgar

I am not aware of any discussions taking place between the Scottish Government and Scottish Borders Council regarding this project.

The scheme is a Transport Scotland proposal as part of the City Deal and, as it is within Midlothian, I would imagine that they have been in discussions with that Council.

#### Supplementary

Councillor Robson asked that if in light of Scottish Government discussions regarding the proposed flyover not going ahead if any of the funds would be directed to schemes in the Scottish Borders. Councillor Edgar advised that he would investigate.

**Question from Councillor A. Anderson**

To Executive Member for Adult Social Care

Further to the decision to withdraw funding from Borderline, I have had sight of a letter from the Directorate for Mental Health (DMH) on behalf of the Minister regarding the decision to withdraw this funding. It states that the DMH has been informed that 'an Equalities Impact Assessment was completed by NHS Borders, as well as service user and wider stakeholder consultation...' Are you able to provide a copy of this assessment and documentary evidence of this service user and wider stakeholder consultation?

Reply from Councillor Weatherston

Please find attached the published Equalities Impact Assessment documentation as requested which references the stakeholder consultation.



EIA Stage 1 -

BORDERLINE published.



EIA stage 3

Borderline published.

Supplementary

Councillor Anderson asked if Councillor Weatherston considered that this demonstrated proper consultation for the withdrawal of this service. Councillor Weatherston advised that the evidence provided did warrant the decision and he was happy to discuss this further with Councillor Anderson.

This page is intentionally left blank