

SCOTTISH BORDERS COUNCIL

SELKIRK COMMON GOOD FUND SUB COMMITTEE

MINUTES of Meeting of the SELKIRK
COMMON GOOD FUND SUB COMMITTEE
held via Microsoft Teams on Wednesday, 15
February 2023 at 3.00 pm

Present:- Councillors C. Cochrane (Chair), L Douglas and E. Thornton-Nicol and
Community Councillor I. King

In Attendance:- Acting Chief Financial Officer, Chief Legal Officer, Estates Surveyor (T. Hill),
Property Officer (G. Smith), Solicitor (J. Webster) and Democratic Services
Officer (D. Hall).

ORDER OF BUSINESS

The Chair varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

1. MINUTE

There had been circulated copies of the Minute of the meeting held on 7 December 2022. Community Councillor King highlighted that he continued to have concerns regarding the fullness of coverage with regard to his insertions at previous meetings, in particular as they related to sustainability. The Democratic Services Officer explained that an action tracker would be included in future meetings of the Selkirk Common Good, which would pick up formally agreed decisions and actions and track their progress. Regarding the application form for funding which would be submitted to the Common Good when applying for a grant, Community Councillor King disputed the explanation on the form which stated that Scottish Borders Council was the owner of the Common Good Fund. The Members of the Royal Burgh of Selkirk and District Community Council had expressed horror that SBC claimed to be the owner of the Selkirk Common Good Fund. The Chief legal Officer explained that as a matter of law the assets of the Selkirk Common Good did not belong to the people of Selkirk. The Fund belonged to Scottish Borders Council, who had a legal duty to administer the Fund for the benefit of the people of Selkirk. Whilst there was a commonly held view amongst the community that the Fund was not owned by SBC, the legal reality was, according to the Chief Legal Officer, clear to the contrary. The Chief Legal Officer indicated that she was content to examine the form of words within the form. Community Councillor King requested that a full explanation of the legal basis, including reference to the legal code and origins of SBC's claim, for SBC's position on ownership of the Selkirk Common Good Fund was provided to him.

DECISION

AGREED to approve the Minute of 7 December 2022 for signature by the Chairman.

2. MONITORING REPORT FOR 9 MONTHS TO 31 DECEMBER 2022 AND PROPOSED BUDGET FOR FINANCIAL YEAR 2023/24

There had been circulated copies of a report by the Acting Chief Financial Officer which provided details of income and expenditure for the Selkirk Common Good Fund for the nine months to 31 December 2023, a full year projected out-turn for 2022/23, projected balance sheet values as at 31 March 2023, and proposed budget for 2023/23. Appendix 1 to the report provided the projected income and expenditure position for 2022/23. That showed a projected surplus of £16,058 for the year, which was less than the previously reported surplus on 7 December 2022 as a result of increases to the Central Support Charge and the property repairs budget. The projected balance sheet value as at 31 March 2023 was provided in Appendix 2 to the report, which showed a projected decrease in reserves of £94,023. A breakdown of the property portfolio showing projected rental income and projected net return for 2022/23 and actual property income to 31

December 2023 was provided in Appendix 3a, and a breakdown of the property portfolio showing projected property expenditure for 2022/23 and actual property expenditure to 31 December 2023 was provided in Appendix 3b. A breakdown of the property portfolio showing projected property valuations at 31 March 2023 was provided in Appendix 4 to the report. Appendix 5 showed to the value of the Aegon Asset Management Investment Fund to 31 December 2022. The Acting Chief Financial Officer, Ms Suzy Douglas, presented the report and explained that previously the Central Support Charge had been assumed to be 2%, but following the agreed pay award, had been adjusted to 5%. In response to a question regarding whether the list of Common Good owned assets was up to date, Ms Douglas confirmed that the list of assets was full and comprehensive. Regarding whether the property opposite old Sainsbury's, the fire station, was on the list of Common Good assets, Ms Douglas undertook to investigate the status of the old fire station and provide a response at a future meeting. The Chair explained that, based on previous discussions, it was not clear that the old municipal buildings belonged to the Common Good.

DECISION

(a) AGREED:-

- (i) the projected income and expenditure for 2022/23 in Appendix 1 to the report as the revised budget for 2022/23; and**
- (ii) the proposed budget for 2023/24 as shown in Appendix 1 to the report.**

(b) NOTED:-

- (i) the projected balance sheet value as at 31 March 2023 in Appendix 2 to the report;**
- (ii) the summary of the property portfolio in Appendices 3 and 4 to the report; and**
- (iii) the current position of the Aegon Asset Management Investment Fund in Appendix 5 to the report.**

DECLARATION OF INTEREST

Councillor Douglas and Community Councillor King declared an interest in respect of Section 5 of the Councillors Code of Conduct and the meeting during the discussion below.

3. SELKIRK HILL MANAGEMENT GROUP

There had been circulated copies of a letter which requested that the Selkirk Common Good pay its annual maintenance grant for 2022 to the Selkirk Hill Management Group. The Grant was for the value of £10,000 for the continued upkeep of Selkirk Hill. Copies of Selkirk Hill Management Group's accounts up to 30 April 2022 had also been circulated with the agenda. The Solicitor explained that in 2013/14 there had been agreement to pay the grant each year without an application to the Sub-Committee. That agreement had expired in 2019, however the grant had continued to be paid annually. Members highlighted that the solution to maintenance of the hill offered by the Group represented good value for money. Councillor Thornton-Nicol, seconded by Councillor Cochrane proposed that the grant for 2022 be paid, and that the five year rolling payment agreement be resurrected and reinstated, on the condition that the Group continued to submit its annual accounts. This was unanimously approved. Mr Gordon Edgar joined the meeting to answer questions, and expressed thanks that the issue was resolved.

DECISION

AGREED:-

- (a) **to pay the £10,000 maintenance grant to the Selkirk Hill Management Group for 2022; and**
- (b) **that the Solicitor would draw up a five year agreement for the payment of the grant for the subsequent five years.**

MEMBER

Councillor Douglas and Community Councillor King re-joined the meeting.

DECLARATION OF INTEREST

Councillor Cochrane declared an interest in respect of Section 5 of the Councillors Code of Conduct and left the meeting during the discussion below.

CHAIRMAN

Councillor Douglas acted as Chair in the absence of Councillor Cochrane.

4. APPLICATION FOR FINANCIAL ASSISTANCE

- 4.1 With reference to paragraph 5 of the Minute of the meeting held on 19 February 2020 and paragraph 7 of the Minute of the meeting held on 8 December 2021 there had been circulated copies of an application for financial assistance from Selkirk Means Business Ltd (Selkirk Business Improvement District) for £9,995 for the replacement and extension of CCTV provision in Selkirk Town Centre. Copies of the latest accounts, complaints policy, access permissions, access policy, access form, security policy framework, procedures for operation, code of practice, destruction policy, retention policy, security policy, training policy, CCTV privacy notice and the proposed CCTV solution had also been circulated. The group had previously applied and the grant had been approved subject to conditions regarding.... Mr David Anderson of the group and Ms Sarah Macdonald, the project manager were present to provide insight into the application. Ms Macdonald explained that Selkirk BIDs had a remit as a company to explore opportunities to see if there was interest in the town to install a replacement CCTV system in Selkirk. Social media polls had indicated high levels of support. Work had been progressing prior to the outbreak of the Covid-19 pandemic, which had halted work and caused prices to rise and other associated difficulties. Ms McDonald was confident that the paperwork which had been submitted alongside the application satisfied the conditions which were set out by the Committee at its meeting on 19 February 2020. Considerable resources, both financial and volunteer time, had been deployed to put in place the necessary permissions and paperwork required for approval. Despite the funds which had been raised by the BIDs levy, the funding secured for the project remained approximately £10,000 below what was required. Mr Anderson explained that a number of the final documents required would be completed if agreement was granted. Regarding Scottish Borders Council's plans to undertake a feasibility study on installing new CCTV systems in the major towns of the region, Members explained that the plans were at a nascent stage, and stressed that the funding which had been proposed in the budget would only cover the feasibility study, not the installation of systems. In response to a question regarding access to the base unit, Mr Anderson confirmed that access to the system would not be possible without access permissions being granted. Councillor Thornton-Nicol highlighted that approval for the application should be granted as all of the issues which had been outstanding in 2019 had been addressed by the paperwork submitted, answers provided, and undertakings to complete and provide remaining documentation.
- 4.2 The Chief Legal Officer explained that approval for the system at Newcastleton had been subject to stringent conditions on paperwork due to the privacy concerns inherent to CCTV systems and public organisations. Approval could not be provided without a fully completed Data Protection Impact Assessment (DPIA). Evidence of approval from all of the property owners was also required. The application to the Sub-Committee had been in the name of the BIDS Company, and would need to be amended prior to approval to reflect that Selkirk Means Business had undertaken to comply with all of the relevant conditions. Mr Anderson confirmed that the application should have been in the name of

Selkirk Means Ltd, and that he was happy to amend the application, and all other relevant paperwork and documentation, accordingly. Community Councillor King explained that the community of Selkirk welcomed the project and expressed that if all of the necessary planning permissions were in place and legal concerns addressed then he would welcome the project. Concerns were expressed about placing equipment on lighting columns as an interim solution due to wind elements sustaining weight loads. Ms MacDonald explained that the new CCTV system would replace units which were already in place and, assurance has been provided by Mr Alex Young of SBC. Documentation of that assurance would be provided to SBC's legal department. Planning permission for the locations had been approved at the end of the previous year, and conversations were ongoing with BEAR Scotland regarding the use of light columns. Ms MacDonald provides assurances that the necessary permissions were in place and that the cameras which would be used in the new system were lightweight and that concerns regarding weight on columns would be clarified prior to installation. Community Councillor King stressed that any installation on a listed building, even if pre-existing, would be considered as vandalism without explicit approval. Mr Anderson confirmed that planning permission had been granted approximately one year previously and that the appropriate paperwork had been completed regarding the structural integrity of the light poles their ability to accommodate the cameras. In response to a question regarding maintenance of the system, Mr Anderson confirmed that conversations had been held with Alloa BIDS, who had run a system for a 5 years. They had budgeted £500 per year for maintenance, and a similar budget would be required for the Selkirk system. Mr Anderson explained that the use of sponsorship was being explored, and that he was happy to provide written assurance that he would provide funding for maintenance if required. Ms Webster explained that it was not possible to charge individuals for subject access requests. Mr Anderson informed the meeting that due to the timeframe of the BIDs coming to an end, discussions needed to be undertaken with the members of the BIDs regarding an extension to the articles of association in order for the CCTV system project to proceed as planned. The Chief Legal Officer advised Selkirk Means Business to seek legal advice on extending their ability to retain the BIDs funding and use it for the project beyond the lifetime of the BIDs.

- 4.3 The Chief Legal Officer outlined the appropriate legal conditions that needed to be put in place prior to approval, and undertook to provide Selkirk Means Business Ltd a comprehensive outline of all the requirements by the close of business on Monday, 20 February 2023. Councillor Thornton-Nicol, seconded by Councillor Douglas proposed that the application for funding for £9,995 be approved, subject to the Chief Legal Officer being satisfied that all of the appropriate legal conditions were met. Authority was delegated to the Chief Legal Officer to notify Selkirk Means Business of the full list of conditions by Monday, 20 February 2023, and to determine that once those conditions that the grant could be paid. An additional condition was specified that the funding provided would be earmarked for this project, used for the specified purpose, and in the event that it was not used then returned

AGREED:-

- (a) **to approve the grant of £9,995 to Selkirk Means Business Ltd subject to the receipt of:**
- (I) **satisfactorily completed Data Protection Impact Assessment by Scottish Borders Council's Legal Department;**
 - (II) **corrected and updated documentation related to the system, and**
 - (iii) **evidence of permission from all of the property owners, including Scottish Borders Council, where CCTV would be hosted.**
- (b) **to delegate authority to the Chief Legal Officer to:**

- (I) **determine and notify Selkirk Means Business Ltd of an exhaustive list of conditions required for approval by close of business on Monday, 20 February 2023;**
 - (II) **decide whether the exhaustive list of conditions had been met; and**
 - (III) **to authorise payment to Selkirk Means Business if the conditions were met.**
- (c) **that the grant funding had to be used for the specified purpose of the CCTV System project within one year or returned.**

MEMBER

Councillor Cochrane re-joined the meeting and assumed the Chair.

5. **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 the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in the appropriate paragraphs of Part I of Schedule 7A to the Act.

SUMMARY OF PRIVATE BUSINESS

6. **PRIVATE MINUTE**

The Private section of the Minute of the Meeting held on 7 December 2022 was approved signature by the Chair.

7. **PROPERTY**

The Sub-Committee received an update on private matters relating to Common Good owned property and approved various maintenance works.

The meeting concluded at 4.55 pm