

## **SCOTTISH BORDERS COUNCIL**

MINUTE of MEETING of the SCOTTISH BORDERS COUNCIL held in Council Headquarters, Newtown St. Boswells on 31 January 2019 at 10.00 a.m.

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

Apology:- Councillor W. McAteer.

In Attendance:- Chief Executive, Executive Director (P. Barr), Executive Director (R. Dickson), Service Director Assets and Infrastructure, Service Director Regulatory Services, Chief Financial Officer, Principal Solicitor (H. MacLeod), Clerk to the Council.

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

The Convener advised that the following had received awards in the Queen's New Year Honours:-

#### **MBE**

John Davidson – Tourette's syndrome sufferers support

#### **OBE**

Doddie Weir – Charity work for MND

Dr Stephen Lee – programme manager from Peebles, Services to forestry

Professor Anna Meredith – Tweeddale, services to animal welfare and vet profession (Dick Vet)

Annette Brunton – West Linton, services to education (former principal of Edinburgh College)

#### **BEM**

Barbara Elborn - Newcastle and District Community Trust, services to community (local petrol pumps)

Allan Beveridge – Peebles, voluntary services to the community (rugby club, former Callant and secretary of the Beltane Festival)

David Turnbull – Peebles, voluntary services to the community (Beltane Festival)

George Brownlie Prentice – Eyemouth, welfare officer for Royal Air Force Association, for voluntary service to ex-service personnel and Coldingham community.

### **DECISION**

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

### **2. ORDER OF BUSINESS**

The Convener intimated that he proposed to withdraw Item 9 from the agenda as there had been insufficient consultation with the various political groups. Councillor Bell queried this decision on the basis that all Group Leaders had been contacted and had been given the opportunity to discuss this issue prior to the meeting. The Clerk to the Council advised that the basis of the withdrawal was the lack of consensus by the political groups on the proposed response. Following a short discussion on the merit of considering the report at the meeting the Convener agreed that item 9 would not be withdrawn and would be considered at the meeting.

### **3. MINUTE**

The Minute of the Meeting held on 20 December 2018 was considered.

## **DECISION**

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

### **4. COMMITTEE MINUTES**

The Minutes of the following Committees had been circulated:-

Eildon Area Partnership	22 November 2018
Jedburgh Common Good Fund	5 December 2018
Kelso Common Good Fund	5 December 2018
Cheviot Area Partnership	5 December 2018
Galashiels Common Good Fund	6 December 2018
Berwickshire Area Partnership	6 December 2018
Planning and Building Standards	10 December 2018
Hawick Common Good Fund	11 December 2018
Selkirk Common Good Fund	12 December 2018
Civic Government Licensing	14 December 2018
Local Review Body	17 December 2018
Coldstream Common Good Fund	20 December 2018
Planning and Building Standards	7 January 2019

## **DECISION**

**APPROVED the Minutes listed above.**

### **5. FLOOD RISK MANAGEMENT (SCOTLAND) ACT 2009 – SECTION 37 INTERIM REPORT**

With reference to paragraph 7 of the Minute of 19 May 2016, there had been circulated copies of a report by the Service Director Assets and Infrastructure seeking approval of the Section 37 Interim Reports for the Tweed, Solway and Forth Estuary Local Flood Risk Management Plans (LFRMP), as a true reflection of the progress made in the first 3 years of the 6 year Flood Risk Management (FRM) cycle 2016 - 2022 to mitigate flood risk in the Scottish Borders. The report explained that this approval was required to allow for the publication of the Section 37 Interim Reports for each Local Flood Risk Management Plan in Scotland by 22 June 2019. The inception of the Flood Risk Management (Scotland) Act 2009 (FRM Act) required the production of Local Flood Risk Management Plans covering each Local Plan District (LPD) in Scotland. Scottish Borders Council's area fell within 3 of the 14 Local Plan Districts in Scotland. These were: Forth Estuary LPD, Tweed LPD and Solway LPD. There were two sets of complementary plans; Flood Risk Management Strategies which were approved by Scottish Ministers and subsequently published by the Scottish Environment Protection Agency (SEPA) on 22 December 2015 and Local Flood Risk Management Plans produced by Lead Authorities and published 22 June 2016. Scottish Borders Council was the Lead Authority for Tweed Local Plan District. The Flood Risk Management Strategies and Local Flood Risk Management Plans had been developed through collaborative partnerships between Local Authorities, SEPA and Scottish Water and provided a framework for co-ordinating actions across catchments to deal with all sources of flooding. These Plans ensured long term planning around flooding and under Section 41(2) of the FRM Act, Scottish Ministers had to take them into account when allocating funding. This approach helped target investment to areas where there was the greatest risk of flooding and where communities could receive the greatest benefit. Section 37 of the Flood Risk Management (Scotland) Act 2009 required that the Lead Authority of each Local Plan District between years 2 & 3 of the FRM Cycle (2016 – 2022), review and publish an Interim Report on the progress made in implementing the measures to mitigate flood risk detailed in the relevant Local Flood Risk Management Plan and approval was required to allow for national publication by 22 June 2019. Members welcomed the report. In response to a query on natural flood management studies, the Flood and Coastal Management Team Leader advised that they were trying to model the whole catchment areas above both Hawick and Galashiels. This level of modelling had not been attempted before and would take some time but it was anticipated that a consultant would be appointed for the Hawick Area soon.

## **DECISION**

**AGREED to approve the:-**

- (a) S37 Interim Report for the Tweed Local Flood Risk Management Plan;**
- (b) S37 Interim Report for the Solway Local Flood Risk Management Plan; and**
- (c) S37 Interim Report for the Forth Estuary Local Flood Risk Management Plan.**

### **6. CITY REGION DEAL – FULL BUSINESS CASE FOR CENTRAL BORDERS INNOVATION PARK PROGRAMME**

With reference to paragraph 8 of the Minute of 20 December 2018, there had been circulated copies of a report by the Executive Director on progress with the Full Business Case for the Central Borders Innovation Park Programme at Tweedbank, which was required to draw down funding from the Edinburgh and South East Scotland City Region Deal. The report explained that within the City Region Deal, a 'core' of the Central Borders Innovation Park was being created, providing an opportunity to set the tone and standard of future development in the area. This programme of work would deliver commitments made within the Borders Railway Blueprint. A Full Business Case for the programme had been prepared for approval by the City Region Deal Joint Committee, which was required for formal approval from the Scottish Government to allow for the drawdown of funds. The timescales involved in this process had been outlined in the previous report. It had been agreed with the Scottish Government to submit a Full Business Case for the whole programme rather than taking an iterative approach, which would have required a Full Business Case for each of the programme's three phases. This approach therefore superseded that suggested in the report to Council of 28 June 2018. Members discussed the report and generally welcomed the proposals. The Chief Economic Development Officer answered Members' questions and emphasised that it had always been intended that the Lowood Estate land would be mixed use not only for housing. It was anticipated that there would be an announcement regarding the tenants for the various sites in the near future. The importance of the success of this project being critical in assisting with the aim of extending the railway onto Hawick was highlighted. The need to ensure that there was no duplication of effort by the various agencies was also noted.

## **DECISION**

**AGREED to:-**

- (a) submit to the City Region Deal Joint Committee the Full Business Case set out in Appendix 2 to the report, as the final stage of approval to allow the Council to draw down funding of £15m for the Central Borders Innovation Park Programme from the Edinburgh and South East Scotland City Region Deal;**
- (b) the drawdown of Scottish Government funding on a fixed basis of £1m per annum over 15 years and noted that there was sufficient flexibility in the delivery of the later phases of the programme to minimise the burden imposed on the Council by the cost of borrowing; and**
- (c) include the budget detailed in Table 3 of the report in the 2019/20 – 2028/29 Capital Financial Plan.**

### **7. REDUCING HEALTH HARMS OF FOOD HIGH IN FAT, SUGAR OR SALT CONSULTATION PAPER**

- 7.2 There had been circulated copies of a report by the Joint Director of Public Health on the proposed response to the Scottish Government's Consultation Paper, "Reducing Health Harms of Foods High in Fat, Sugar or Salt". The document set out proposed restrictions on the promotion and marketing of items termed "discretionary foods" which were foods high in fat, sugar or salt and which should not form a staple of an individual's diet. The draft response document, which was contained in Appendix A to the report, had been prepared

jointly by Borders Public Health and SBC Regulatory Services (Trading Standards). The report explained that no other country had yet implemented measures to limit the marketing and promotion of these foods in this way and so the policy would be ground breaking. There were clear potential health and inequality benefits to this proposal in terms of having an impact on rates of overweight and obesity in communities along with associated diseases such as heart disease, type 2 diabetes and some cancers. However, there were enforcement implications for local authorities as, for example, Scottish Government put forward its suggestion that local authorities be given the role of enforcing the proposed policy with Ministers given powers to issue guidance to local authorities. The Council had received an extension to submit its response to 31 January 2019.

- 7.2 The Convener agreed to a short adjournment to allow Members to consider their response to this paper given that notice had previously been given regarding the withdrawal of this item. Dr Keith Allan, Consultant in Public Health was present at the meeting and explained what he felt were the benefits of implementing such measures in terms of preventing obesity, type 2 diabetes and health inequality in the Borders. Councillor Laing spoke in support of the suggested response which she proposed should be submitted with some additional text. Councillor Haslam proposed that the response should be submitted by officers as their view and that each political group submit their own view if they so wished.

#### VOTE

*Councillor Laing, seconded by Councillor Moffat, moved that the Consultation response as detailed in the report be submitted from Scottish Borders Council subject to the addition of the following paragraph to question 12:-*

*"The success of these proposals will come about through actively promoting good practice and that must be the focus. The process of educating retail outlets on compliance with the legislation, and the processes of enforcement will take some time to develop. As a Council we are of the view that across all Local Authorities there will be benefits from sharing best practice on the implementation of the provisions of this legislation. Also, as there may be significant changes needed in some retail outlets it might be wise for there to be a phased roll-out of the requirements across the categories of foods; so local authorities and enforcement staff can learn what works."*

*Councillor Haslam, seconded by Councillor Heather Anderson, moved as an amendment that the Consultation response be submitted as an officer response, including the additional wording as detailed above in the response to question 12.*

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

<i>Motion</i>	<i>-</i>	<i>9 Votes</i>
<i>Amendment</i>	<i>-</i>	<i>21 Votes</i>

*The Amendment was accordingly carried.*

#### **DECISION**

**DECIDED that the Consultation response be submitted as an officer response, with the additional wording in the response to Question 12.**

8. **COMMON GOOD AND COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015**  
There had been circulated copies of a report by the Service Director Regulatory Services on the duties placed on the Scottish Borders Council in respect of common good assets by Part 8 of the Community Empowerment (Scotland) Act 2015 (hereinafter referred to as "the 2015 Act") and to recommend actions to ensure compliance with such duties. The report explained that Section 102 of Part 8 of the Community Empowerment (Scotland) Act came into force in June 2018 and placed a duty on the Council to establish an asset register for each Common Good Fund. Section 104 of the same Act placed a duty on the Council to ensure that, prior to any disposal or change of use of common good assets, the Council publish details about the proposed disposal or change of use. In order to comply with Section 102, Legal Services

was currently completing the proposed list of common good assets, using the current heritable property registers together with information available regarding moveable items. Following approval of these lists by the individual Common Good Fund Sub-Committees, the Council would then publish the proposed lists of common good assets, followed by a 12 week public consultation period. Representations would need to be made by email or letter and could be on (i) whether a proposed asset should be included as part of the common good; or (ii) whether there should be other assets included in the common good asset list. As soon as practicable after expiry of the twelve week consultation period, the Council would publish its Common Good Asset Registers and in any case within six months of the end of the consultation period. Section 104 of the Act gave details of the consultation required around the disposal and use of common good property. When disposing or changing the use of a common good asset, details of the asset, what was being proposed and likely timescales, together with the same information detailed in the Common Good Asset Register relating to that asset must be published. In response to a question on the valuation of items it was noted that these had not been updated for around 10 years and it would be left to each Common Good Fund Sub-Committee to request for valuations to be updated.

## **DECISION**

### **AGREED:-**

- (a) **to approve the processes detailed in the report for compliance with Sections 102 and 104 of the Community Empowerment (Scotland) Act 2015;**
- (b) **to add to the Scheme of Administration as follows:**
  - (i) **Common Good Fund Sub-Committees - Functions Referred**
    - **“To approve the Common Good Fund Asset Register(s) as required in terms of Section 102 of the Community Empowerment (Scotland) Act 2015, reviewing these at least every 5 years”**
    - **“To approve the disposal or change of use of a Common Good asset up to the value of £20,000, following due process in terms of Section 104 of the Community Empowerment (Scotland) Act 2015”**
    - **“To make recommendations to Council regarding the disposal or change of use of a Common Good asset of a value greater than £20,000, following due process in terms of Section 104 of the Community Empowerment (Scotland) Act 2015”**
  - (ii) **Scottish Borders Council – Functions Referred – “To approve the disposal or change of use of a Common Good asset of a value greater than £20,000, following due process in terms of Section 104 of the Community Empowerment (Scotland) Act 2015.**

## **9. DRAFT CALENDAR OF MEETINGS 2019/2020**

There had been circulated copies of the draft Calendar of Meetings for the period August 2019 to July 2020.

### **DECISION**

**AGREED to approve the Calendar of Meeting for 2019/2020.**

## **10. MOTION BY COUNCILLOR HASLAM**

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

“The Council acknowledges the importance of discouraging people from dropping litter; supports increasing the fixed penalty notice for littering from £80 to £100; agrees that a letter from the local authority will be sent to the Scottish Government making clear Scottish Borders

Council support for increasing the default on-the-spot litter fine from £80 to £100 and to request that Ministers implement this change as quickly as possible.”

Councillor Haslam and Councillor Turnbull spoke in support of the Motion which was unanimously approved.

#### **DECISION**

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

#### 11. **MOTION BY COUNCILLOR SMALL**

Councillor Small, seconded by Councillor Heather Anderson, moved the Motion as detailed on the agenda in the following terms:-

“To ask the Leader to write to the Leader of Midlothian Council requesting that they take action to improve road safety at Leadburn Junction and offering support of officers at Scottish Borders Council to work with them in developing an improvement plan for the junction.”

Councillor Small and Councillor Anderson spoke in support of the Motion. Members discussed the pros and cons of becoming involved in the improvement of a junction located outwith the Scottish Borders but used by numerous Scottish Borders residents. Councillor Edgar, seconded by Councillor Paterson, moved as an amendment that the motion be not approved.

#### VOTE

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

<i>Motion</i>	-	<i>27 votes</i>
<i>Amendment</i>	-	<i>4 votes</i>

*The Motion was accordingly carried.*

#### **DECISION**

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

#### 12. **MOTION BY COUNCILLOR BELL**

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

“As the UK Parliament has been unable to agree upon terms for withdrawal from the EU and as the facts about, and implications of, withdrawal are now clear. Scottish Borders Council considers that the case for withdrawal should be directly decided by the British people on the basis of the actual facts.

Council resolves to communicate this opinion to the UK Government and to all local MPs and MSPs.”

Councillor Bell and Councillor Chapman spoke in support of the Motion. Members discussed the Motion and Councillor Haslam, seconded by Councillor Mountford, moved as an amendment that no action be taken.

#### VOTE

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

<i>Motion</i>	-	<i>12 votes</i>
<i>Amendment</i>	-	<i>18 votes</i>

*The Amendment was accordingly carried.*

**DECISION**

**DECIDED that no action be taken.**

**13. MOTION BY COUNCILLOR MARSHALL**

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

“That this Council recognise the fantastic efforts of Hawick’s Julie Forrest in recently winning the Ladies World Indoor Singles Bowling Championship. A fantastic achievement for both Hawick and Indoor Bowling and a great reason why this authority continue to provide full support for those who make Indoor Bowling such a competitive sport in our region “

Councillors Marshall and Paterson spoke in support of the Motion which was unanimously approved. The Convener undertook to write to Ms Forrest conveying the Councils congratulations on her achievements.

**DECISION**

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

**MEMBER**

Councillor Fullarton left the meeting.

**14. OPEN QUESTIONS**

The questions submitted by Councillor H. Scott were answered.

**DECISION**

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

**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 20 December 2018 was approved.

**17. Committee Minutes**

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

*The meeting concluded at 1.00 p.m.*

**SCOTTISH BORDERS COUNCIL**  
**31 JANUARY 2019**  
**APPENDIX II**

**Questions from Councillor Harry Scott**

1. To the Executive Member for Roads and Infrastructure

The B709 Heriot to Innerleithen road is listed on official Borders cycle touring routes with the aim of attracting touring cyclists to enjoy the scenery and spend money in the Borders. Several sections of the road, particularly towards Innerleithen are presently in a state of serious disrepair, and hazardous not only for cars, but particularly for cyclists. May I ask that at the least the most hazardous sections of the B709 be considered for inclusion as a matter of priority in the Roads Department's scheme of works and overlays for the year 2019/20.

Reply from Councillor Edgar

The B709 Heriot to Innerleithen Road is inspected every two months in accordance with the Councils Standards and Guidelines. Any defects noted during these inspections are recorded and instructions are issued to carry out Reactive Maintenance as required within the timescales of the guidelines.

Planned Maintenance on the Councils Adopted Road Network is programmed by our Asset Team. Some sections of the A709 Heriot to Innerleithen Road are listed to be considered for possible inclusion in future surface treatment programmes, unfortunately, the overall condition of our road network means that we are not in a position to treat all identified sections with a permanent form of treatment and must apply a prioritisation process to determine our annual programme which meets available budgets.

Supplementary

Councillor Scott asked for this road to be included in the work schedule and to be reassured it would not be forgotten. Councillor Edgar assured him that it would not be forgotten

2. To the Executive Member for Finance

Community centres in my constituency are run by committees of unpaid volunteers who give up many hours of their time to manage the lets, maintenance, and internal refurbishment of the centres. Last year the remittance paid for services provided by Live Borders was raised from circa £5k to £9k because of a reduction in the support grant paid to Live Borders by Scottish Borders Council. This has reduced by a substantial amount the support committees can provide to community groups, many of which do valuable work in an area where deprivation is recognised, and to the maintenance and refurbishment of the buildings they manage on behalf of Scottish Borders Council.

I ask that the Administration, when considering their forthcoming budget proposals, restore to Live Borders the funding which will enable it to reduce substantially the amount which these hard working management committees must remit so they are able to continue and enhance this essential community work.

Reply from Councillor Tatler

The Council and Live Borders fully appreciate the invaluable work undertaken by volunteer committees to support local community groups.

The contribution required from the community centres was increased prior to transfer to Live Borders in 2016, this increase was however not implemented until 2018.

Live Borders has been working closely with the Committees through Community Enterprise Ltd to review the current operational model and challenge some of the historical practices. The purpose of this review is to ensure that the centres continue to provide outstanding community impact in a sustainable way. What is clear is that the all the Centres operate to a generic model despite there

being significant differences in committee size, capacity and not least significantly different financial circumstances.

Live Borders is committed to working with the centres to develop new aspirations and financial plans fit for the future. Once this stage of the review is complete Live Borders will continue to work with community centres and the Council to develop resourcing plans that are appropriate to enable them to achieve their and the Councils locality objectives.

Live Borders have previously circulated a briefing note to Councillors and provided a further update in a briefing session held yesterday which articulates in greater detail some of the challenges and the aspirations of community centre management.

As you are aware there are a number of community funds which have been devolved to Area Partnerships which the Community Centre Committees should be encouraged to access. They are also in a position to apply for external funding, including any generic wind farm funds, and the Communities & Partnership team will be able to offer advice and support in accessing these.

#### Supplementary

Councillor Scott considered that volunteers were being punished for success and that if funding could not be found to help them they would give up. Any additional funding given to Live Borders must be directed to community centres. Councillor Tatler advised that volunteers were always appreciated. The Core Budget for Live Borders had not changed and the Council could not directly control their expenditure. Live Borders had set aside funding for community centres and it was up to Live Borders to allocate this.