

MINUTE of MEETING of the COUNCIL EXECUTIVE of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 19 DECEMBER 2017.

Present – Councillors Lawrence Fitzpatrick (Chair), Frank Anderson, Harry Cartmill, Tom Conn, David Dodds, Peter Heggie, Chris Horne, Peter Johnston, Charles Kennedy, Andrew McGuire (substituting for Kirsteen Sullivan), Cathy Muldoon, George Paul and Damian Timson

Apologies – Councillor Kirsteen Sullivan

1. DECLARATIONS OF INTEREST

Agenda Item 13 (Paediatric Services at St John's Hospital) – As an employee of Neil Findlay MSP, Cllr Andrew McGuire declared his own financial interest as an employee and his employer's non-financial interest arising from the direct involvement of both in campaigning for the service at the hospital and therefore he would not participate in the item of business.

2. ORDER OF BUSINESS, INCLUDING NOTICE OF URGENT BUSINESS

- 1) The Chair ruled in terms of Standing Order 8 and 11 that a report on the Scottish Draft Budget 2018 and Local Government Finance Settlement 2018-19 would be considered after agenda item 14 as the information had only just been provided to the council; and
- 2) The Council Executive unanimously agreed to consider Agenda Item 16 (Social Work Complaints Review Committee Recommendations) in private in terms of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.

3. MINUTE

The Council Executive approved the Minute of its meeting held on 28 November 2017. The Minute was thereafter signed by the Chair.

4. PETITION - BUS SERVICE L1 & 31

The Council Executive noted the content of the petition that had been received in relation to bus service L1 and 31.

Decision

To agree to refer the petition to a future meeting of the Development and Transport Policy Development and Scrutiny Panel.

5. PETITION - TRAFFIC MANAGEMENT SYSTEM - KIRK ROAD/MARJORIBANKS STREET, BATHGATE

The Council Executive heard Mr Willie Webster, accompanied by Mr John Ball, both local residents of Majoribanks Street, speak about their concerns for the lack of traffic management on Kirk Road/Majoribanks Street, Bathgate

Mr Webster explained that as the population of Bathgate had continued to grow and with that more traffic on the local road network, drivers from the immediate vicinity were finding easier and quicker routes to get across the town. This in turn had transferred traffic from Edinburgh Road onto Kirk Road/Majoribanks Street.

Therefore most drivers with local knowledge tended to avoid using Edinburgh Road, as this road was always very busy, and were starting to use Kirk Road/Majoribanks Street instead. As a result Kirk Road/Majoribanks Street was struggling to cope with this extra demand and there were insufficient pedestrian safety measures along the length of the road to cope with the extra traffic.

Mr Webster continued to advise that he understood that the council was operating under financial constraints however a few simple measures could be introduced by the council fairly quickly to start to alleviate some of the issues he had identified. This included relocating the bus stop, introduction of a 20mph speed limit along the length of the road and the introduction of a raised table at Wallace Road.

The Chair thanked Mr Webster for his presentation.

Decision

To agree to refer the petition to a future meeting of the Environment Policy Development and Scrutiny Panel.

6. DRAFT WEST LOTHIAN LOCAL FIRE AND RESCUE PLAN 2017

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services providing an overview of the Scottish Fire and Rescue Service Local Fire and Rescue Plan for West Lothian 2017, which was out for consultation. A copy of the draft plan was attached to the report at Appendix 1.

The report recalled that following the review of the Local Fire and Rescue Plan for West Lothian 2014-17, the Local Fire and Rescue Plan for West Lothian 2017 had been developed to a stage where it had been released for consultation with key stakeholders and members of the community in West Lothian.

There were seven priorities identified within the Local Fire and Rescue Plan for West Lothian 2017 which were as follows :-

- Local Risk Management and Preparedness
- Domestic Fire Safety
- Deliberate Fire Setting
- Non Domestic Fire Safety
- Road Safety
- Unintentional Harm and Injury
- Unwanted Fire Alarm Signals

The Council Executive was asked to support the aims and content of the current draft plan which was subject to ongoing consultation. The Council Executive was also asked to note that a final version of the plan would be presented at a future meeting of the Council Executive for approval.

#### Decision

To approve the terms of the report

### 7. NEW BUILD COUNCIL HOUSING UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Housing, Customer and Building Services providing an update on the council's new build programme and to seek approval for a change at Deans South.

The report recalled that the council's Corporate Plan 2013-2017 committed the council to increasing the number of council houses available for rent through the New Build Council Housing Programme. Over the period 2012-13 to 2016-17 1,056 affordable homes were delivered in West Lothian details of which were summarised in the report.

In addition to the 1,056 affordable home completions over the five year period to 2016-17 there was a commitment to build a further 1,029 affordable homes over the next two years. The majority of these were part of the council's current new build programme.

192 units were complete and 704 were under construction. Details of the locations of those units completed were summarised in the report. The report also provided a narrative on progress with the 704 units under construction.

The Head of Housing, Customer and Building Services continued to advise that development had yet to start at Nelson Park, Armadale and Deans South (Eastern part of the estate). Following discussions with Lovell Partnerships it was considered that the number of units at the eastern part of the Deans South estate be reduced from 63 to 37. This would make the development of the site easier and it would avoid

developing adjacent to existing privately owned houses and would reduce the need to divert existing services.

The report concluded that progress was being made with the current new build programme and that the rate of handovers was expected to accelerate in the New Year.

It was recommended that Council Executive :-

1. Note the progress being made on the council's current new build housing programme; and
2. Approves the removal of 26 units from the Lovell Partnerships' site at Deans South and agrees to replace these with 26 Open Market Acquisitions.

### Decision

To approve the terms of the report

## 8. PROCUREMENT ARRANGEMENTS - TWO MONTH EXTENSION TO LEGIONELLA QUICK QUOTE

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to extend the Quick Quote award to SPIE Group for Legionella Services to allow completion of a full tendering exercise.

The Head of Corporate Services explained that the council had a statutory requirement to monitor its building for legionella bacteria to ensure their staff and the public were protected.

Following the failure of the incumbent supplier the council procured the services of SPIE via the Quick Quote process for an initial six month period. Preparations to retender the contract were now underway however, in the meantime, it would be advantageous to extend the interim contract by a further two months in order that the new contract could start at the beginning of the new financial year.

The initial six month requirement was carried out via Quick Quote in accordance with Standing Orders and Procurement Procedures. To date the council had spent in the region of £6,300 per month; to extend this to eight months from the initial six would entail a total estimated cost of £50,400.

The report also advised that the frequency of testing was required by law and that due to its specialist nature the requirement could not be met in house.

It was recommended that Council Executive approves an extension to the existing contract with SPIE Group, for an additional two month period, and notes the estimated total aggregated value would thereby increase to £50,400.

Decision

To approve the terms of the report

9. PROCUREMENT ARRANGEMENTS - SUPPLY OF PORTABLE APPLIANCE TESTING (PAT TESTING)

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to commence tendering procedures for the procurement of a three year contract for portable appliance testing, employing the evaluation methodology and criteria detailed in the report.

PAT Testing was required to ensure portable appliances were safe to operate and that due to its specialist nature the requirement could not be met in house.

Therefore the requirement would be advertised in accordance with European Union Directives and it was proposed that the Open Procedure be used whereby all suppliers expressing an interest would be invited to tender.

The criteria for at the tender stage would be 70% for Price and 30% for Technical & Professional Capability.

In financial year 2016-17 the council incurred costs of approximately £110,000 on the portable applicant testing with the existing contracted supplier. The majority of the expenditure would be met from the General Fund revenue budgets.

It was recommended that the Council Executive approved the application of the evaluation methodology detailed in Section D of the report for the tendering of the contract for PAT testing services.

Decision

To approve the terms of the report

10. PROCUREMENT ARRANGEMENTS - PROVISION OF SPECIALIST PROFESSIONAL TECHNICAL SERVICES FOR CAPITAL PROJECTS

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to commence tendering procedures for the procurement of a framework agreement for specialist professional technical services.

The Head of Corporate Services advised that running parallel with in-house resources several council areas required the provision of external specialist professional technical services to undertake capital projects on an ad-hoc basis. These external specialist services included architectural, quantity surveying, building surveying, mechanical & electrical, structural

engineering and clerk of works.

The council was proposing to issue a consolidated tender document for a four year framework agreement, divided into Lots, each reflecting their own specialist requirement in order to encourage the participation of Small and Medium sized Enterprises (SME's). It was anticipated that there would be between three and five providers bidding for each Lot and providers with multi-discipline resources could be successful in securing a place on more than one Lot.

The requirement would be advertised in accordance with the European Union Directives and it was proposed that the Open Procedure would be used whereby all suppliers expressing an interest would be invited to tender. Initially suppliers would be considered on examples of work via the European Single Procurement Document. If they were considered capable their full tender would be evaluated.

A criteria of 40% for Price and 60% for Quality would be applied at the tender stage. It was anticipated that the contract would commence on 13 October 2018.

Sustainability and budget implications would also considered in the report.

It was recommended that the Council Executive approve the commencement of tendering procedures for the procurement of a framework agreement for specialist professional technical services employing the evaluation methodology and criteria outlined in Section D of the report.

#### Decision

To approve the terms of the report

#### 11. PROCUREMENT ARRANGEMENTS - IMPLEMENTATION OF SUSTRANS I BIKE PROJECT

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval of a direct award to Sustrans for the implementation of the Sustrans I Bike project.

The members were advised that the use of I Bike Officer support from Sustrans had been identified in the Smarter Choices Smarter Places (SCSP) report to Council Executive on 6 June 2017 and was funded solely by a grant from SCSP. The I Bike Officer worked with Education and Community Health Development Put Your West Foot Forward to support and seek to increase walking, cycling and scooting activity. The funding supported the provision of one Sustrans Officer for a period of up to 12 months.

The I Bike project worked with schools throughout Scotland to help embed a culture of active travel and create safer, happier and healthier school communities. A number of local authorities throughout Scotland had used and continued to use the I Bike project to deliver specialised

targeted support.

A key element of the I Bike project was the provision of an I Bike Officer. The I Bike Officer would deliver a structured programme of practical activities for the whole school community.

It was being recommended that a direct award be made to Sustrans to a maximum value of £59,000. The award would comprise £32,000 initially, with a maximum aggregated award of £59,000, if additional funding became available.

Sustainability and budget implications were also considered in the report.

It was recommended that Council Executive approves the proposed direct award to Sustrans up to a maximum value of £59,000 for the implementation of the I Bike Project.

### Decision

To approve the terms of the report

## 12. PAEDIATRIC SERVICES AT ST JOHN'S HOSPITAL

Councillor Andrew McGuire having previously declared a non-financial interest in the following item of business took no part in the discussion or voting on the matter.

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive providing an update on the reduction in Paediatric Services at St John's Hospital in Livingston on 3 December 2017 and 9 December 2017.

The Chief Executive advised committee that the NHS Lothian External Communications Manager wrote to the council's Corporate Communications team by email on 1 December 2017 to advise that a decision had been taken to close the children's short stay assessment unit at St John's Hospital on Sunday 3 December 2017. The council was also notified on 7 December 2017 of a further closure to the children's short stay assessment unit on Saturday 9 December 2017.

The Chief Executive also updated the committee in that he had received a further communication from NHS Lothian on the morning on 19 December 2017 advising of further closures of the unit on the 23 and 24 December 2017 and 30 and 31 December 2017.

This followed a reduced service in Paediatric Services at St John's Hospital in 2012, 2015 and from 7 July 2017.

The Chief Executive wrote to the Deputy Chief Executive of NHS Lothian to express the council's concern at this decision and in particular the communication from NHS Lothian given the commitment by NHS Lothian at the cross-party meeting held on 4 July 2017, regarding communication with key stakeholders. A copy of the response from the Deputy Chief

Executive of NHS Lothian was attached to the report at Appendix 1.

It was recommended that the Council Executive :-

1. Notes the closure of the children's short stay assessment unit at St John's Hospital on Sunday 3 December 2017 and Saturday 9 December 2017; and
2. Decides what action should be taken by the council in relation to this issue.

### Motion

"Council Executive agrees with increasing regret the further closures of the children's short stay assessment on Sunday 3<sup>rd</sup> and Saturday 9<sup>th</sup> December 2017 and fully shares the distress and anxiety caused to parents' and their children directly affected.

Council Executive agrees that this the fifth closure since 2012, with a further two closures expected over the next two weekends, 23<sup>rd</sup> and 24<sup>th</sup> and the 30<sup>th</sup> and 31<sup>st</sup> December. This underscores the Scottish Government's appalling and increasing mismanagement of our cherished NHS due to its myopic focus on centralisation and independence.

Once again Council Executive calls on Shona Robison to restate her support for option 1 as detailed by the Royal College for Paediatricians, restate her commitment to no downgrade of the children's ward service at St John's Hospital and commit to a full return of the service at the earliest possible date.

Council Executive also agrees to write to the West Lothian local MSPs and the Lothian list MSPs to support our council's position".

- Moved by the Chair and seconded by Councillor Harry Cartmill

### Amendment

"Council Executive agrees with increasing regret the further closures of the children's short stay assessment on Sunday 3<sup>rd</sup> and Saturday 9<sup>th</sup> December 2017 and fully shares the distress and anxiety caused to parents' and their children directly affected.

Council Executive agrees to request an urgent all party meeting with NHS Lothian to impress upon them the necessity to maintain the current temporary provision and to return to the full 24/7 inpatient paediatric service as soon as possible."

- Moved by Councillor Peter Johnston and seconded by Councillor Frank Anderson

A Roll Call Vote was taken which resulted as follows :-

### Motion

### Amendment



Harry Cartmill

Frank Anderson

Tom Conn

Peter Johnston

David Dodds

Lawrence Fitzpatrick

Peter Heggie

Chris Horne

Charles Kennedy

Cathy Muldoon

George Paul

Damian Timson

### Decision

Following a roll call vote the motion was successful by 10 votes to 2 and it was agreed accordingly.

## 13. REGAL COMMUNITY THEATRE, BATHGATE

The Council Executive considered a joint report (copies of which had been circulated) by the Head of Finance and Property Services and the Head of Education (Learning, Policy and Resources) advising of progress with the community consultation to explore the potential for a viable community use for the Regal Theatre.

The report recalled that the Regal Community Theatre in North Bridge Street, Bathgate was owned by the council. The property was leased to and managed by a registered charity named Regal Community Theatre Bathgate Limited (RCTBL). On 20 September 2017 RCTBL was placed into liquidation on the instruction of its directors resulting in the termination of their lease on the building.

Following the liquidation the council immediately put measures in place to assume responsibility for the operation of the building to allow community lets to continue without disruption. Existing staff were retained by the council on a supply basis.

Council officers were instructed to undertake consultation with the community to investigate the potential for a viable community use for the building. The council received expressions of interest from three organisations; West Lothian Leisure, Reconnect Scotland and West Lothian Music Hub. These organisations were asked to submit a brief outline business plan demonstrating how their ideas were consistent with the council's outcomes and the information provided was used to inform

the community consultation.

The consultation took the form of an electronic survey using the council's internet-based survey tool. The survey was published on the council's website and social media sites and on the Regal Theatres own website and was emailed to over 150 voluntary arts organisations in West Lothian. Community Councils were also advised of the consultation along with former users of the Regal Theatre and former Board members. Corporate Communications also issued a media release to the local press.

The consultation closed on 10 November and the council received 762 responses to the e-survey. Consultees were asked to express their preference on the available options and West Lothian Leisure was the preferred option achieving 47% of the first choice votes. Reconnect Scotland was the next most popular choice with 36% of the first choice votes.

Council officers would now engage with West Lothian Leisure and Reconnect Scotland to explore and develop ideas presented in their respective outline business plans. Consideration would also have to be given to the implications in the ministerial recommendations on the Barclay Review before a decision could be made.

It was recommended that Council Executive :-

1. Notes that the council would continue to meet the costs of managing the Regal Theatre until March 2018;
2. Notes the outcome of the community consultation;
3. Agrees that council officers should engage with West Lothian Leisure and Reconnect Scotland to explore and develop the options for future use; and
4. Agrees that a further report would be presented to Council Executive on the outcome of that engagement.

#### Decision

1. To approve the terms of the report; and
2. To agree that a progress report would be brought back to the Council Executive before 31 March 2018

#### 14. SCOTTISH DRAFT BUDGET 2018 AND LOCAL GOVERNMENT FINANCE SETTLEMENT 2018-19

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update in relation to the Scottish Draft Budget presented to the Scottish Parliament on 14 December 2017 and the local government finance settlement for 2018-19 as published in Finance Circular No.5/2017 dated 14 December 2017.

The Head of Finance and Property Services explained that in overall terms Scotland's total proposed spending plans, as set out in the Draft Budget 2018-19, amounted to £40,639 million which was an increase of £1,261 million compared to the Scottish Budget 2017-18 and as update for the Budget (Scotland) Act 2017 Amendment Regulations 2017. The allocations per portfolio were set out in a table in the report.

In 2017-18 the total managed expenditure available within the local government portfolio was £10,341.1 million. This figure included general revenue and capital grant funding, specific revenue and capital grants, as well as an estimate of non-domestic rate income. There were also a number of other funding allocations linked to individual policy initiatives held within other spending portfolios and taking this into account, this resulted in a total local government settlement of £10,507 million. An allocation for Scottish Government funding to Local Government in cash terms were set out in a table in the report.

It was important to note that the 2018-19 local government funding increase included significant funding relating to new expenditure commitments. The key changes in funding were set out in the report and these were under the headings of Health & Care Social Care Funding, Early Learning & Childcare, Funding for Teachers Pay, Non Domestic Rates and Council Tax.

The report continued to provide information on Pay Award, Devolved Taxation, Welfare Changes, Scottish Economic Growth and High Level Local Government Settlement.

The Head of Property Services also provided an overview of the high level implications for West Lothian Council.

The report concluded that the Scottish Government had published the draft 2018-19 Scottish Budget and the provisional Local Government Finance Settlement for 2018-19 on 14 December 2017.

For West Lothian the reduction in revenue grant funding based on the settlement was £4.127 million. After taking account of funding provided for new spend commitments, the comparable reduction compared to 2017-18 was £7.091 million at this stage although confirmation on a number of funding streams was still required. It was however clear that the revenue funding package proposed by the Cabinet Secretary would not provide sufficient funds to meet cost pressures and increasing demands and very significant savings would be required in 2018-19 and future years.

It was therefore proposed that the Head of Finance and Property Services continued to assess the outcome of the detailed local government finance settlement, taking account of further confirmation required and the further funding streams to be clarified.

It was recommended that Council Executive :-

1. Notes the issue of the Scottish Draft Budget 2018/19, which included

departmental spending plans for 2018/19;

2. Notes the outcome of the provisional local government finance settlement in respect of revenue and capital funding for 2018/19;
3. Notes that authorities not intending to accept the offer and full package of measures included within the finance settlement must write to the Cabinet Secretary for Finance and the Constitution outlining this intention by 19 January 2018;
4. Notes that the revenue grant funding for West Lothian contained in the settlement of £304.660 million reflected a £4.127 million reduction compared to 2017/18 funding, and that £2.946 million of the 2018/19 total revenue funding related to new spending commitments;
5. Notes the general capital grant of £15.026 million, and the £245,000 grant funding for Cycling, Walking and Safer Streets in 2018/19;
6. Notes that the revenue grant funding package set out by the Scottish Government would not provide the funding required to meet unavoidable cost pressures such as pay awards, demographics and indexation and that, as a result, very significant budget savings will be required in 2018/19;
7. Agrees that the Head of Finance and Property Services should continue to assess the outcome of the detailed Local Government Finance Settlement and include in the report to Partnership and Resources Policy Development and Scrutiny Panel (PDSP) on 19 January 2018 an update on the impact of the 2018/19 revenue budget settlement as part of the council's overall five year revenue budget strategy; and
8. Agrees that the council's Head of Finance and Property Services should incorporate the capital implications of the settlement into the ten year capital strategy and provide an update in the capital budget report to Partnership and Resources PDSP on 19 January 2018.

#### Motion

"Council Executive agrees recommendations 1 – 8 and further demands that the Council is provided with a fully funded settlement by the Scottish Government to maintain our quality services to our community".

- Moved by the Chair and seconded by Councillor Andrew McGuire

#### Amendment

"Note the recommendations and look forward to the final figures being made available demonstrating an increase in local government funding in 2018".

- Moved by Councillor Peter Johnston and seconded by Councillor Frank Anderson

A Roll Call Vote was taken which resulted as follows :-

Motion

Amendment

Harry Cartmill

Frank Anderson

Tom Conn

Peter Johnston

David Dodds

Lawrence Fitzpatrick

Peter Heggie

Chris Horne

Charles Kennedy

Andrew McGuire

Cathy Muldoon

George Paul

David Tait

Decision

Following a vote the motion was successful by 11 votes to 2 and it was agreed accordingly.

15. PRIVATE SESSION

The committee resolved under Section 50(A) of the Local Government (Scotland) Act 1973, that the public be excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 3 of Schedule 7A of the Act.

16. SOCIAL WORK COMPLAINTS COMMITTEE RECOMMENDATIONS

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy advising of the outcome of the meeting of the Social Work Complaints Review Committee held on 16 November 2017.

On the 16 November 2017 the committee met to consider a complaint by an individual; the focus of the complaint was communication with a service user and her carer with the regards to the assessment of need. The decision of the committee was as follows :-

- The council had recorded meetings and conversations accurately

- The council had correctly communicated with the service user; and
- The council had done nothing wrong and that the case work was diligent.

The committee agreed that the complaint was not upheld and that there were no recommendations to be made to the Council Executive as a result.

The complainer was offered the opportunity to comment on the outcome of his complaint hearing so that his views could be passed to the committee. No reply was received prior to the report being finalised.

It was recommended that Council Executive note that the Social Work Complaint Review Committee on 16 November 2017 heard a statutory complaint, decided that the grounds of the complaint were not upheld and that there were no recommendations to be made to the council.

#### Decision

To note the content of the report