

MINUTE of MEETING of the COUNCIL EXECUTIVE held within WEBEX VIRTUAL MEETING ROOM, on 18 AUGUST 2020.

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

Apologies – Councillor Chris Horne, George Paul

1. DECLARATIONS OF INTEREST

Agenda Item 6 – Petition - Traffic Calming Measures – Falside Bathgate – Councillor Harry Cartmill declared an interest in that he had spoken publicly in favour of the petition and would take no part in the consideration or decision of this item of business.

Agenda Item 10 – Petition – Local Bus Provision Bathgate Town Centre Service – Councillor Harry Cartmill declared an interest in that he had spoken publicly in favour of the petition and would take no part in the consideration or decision of this item of business.

Agenda Item 25 – City of Edinburgh Council – Reform of Transport Arm's Length Organisations – Councillor Cathy Muldoon declared an interest in that she was a council appointed member of Sustran and Lothian Buses Regional Sub-Committee.

Agenda Item 24 – 2020/21 General Fund Revenue Budget – Month 3 Monitoring Report – Councillor Tom Conn declared an interest in that he was a council appointed board member of West Lothian Leisure.

Agenda Item 25 – 2020/21 General Fund Revenue Budget – Month 3 Monitoring Report – Councillor Frank Anderson declared a non-financial interest in that he was the Chair of Open Door and Craigshill Good Neighbour Network.

2. ORDER OF BUSINESS

The Council Executive agreed to the meeting being Webcast.

The Council Executive agreed that in accordance with Standing Order 8(3) that all items of business for information were to be taken as read and their recommendations noted without further consideration.

3. MINUTE

The Council Executive confirmed the Minute of its Meeting held on 23 June 2020 as a correct record. The Minute was thereafter signed by the Chair.

4. CORRESPONDENCE

The Council Executive noted the correspondence

5. PETITION - TRAFFIC CALMING MEASURE, FALSIDE, BATHGATE

Having previously declared an interest Councillor Harry Cartmill left the meeting during consideration of this item of business.

The Council Executive considered a petition by the residents of Falside with regard to traffic calming measures.

Decision

To refer the petition to the Environment Policy Development a Scrutiny Panel for consideration and to report back to a future meeting of Council Executive.

6. COMMUNITY COUNCIL SPECIAL PROJECTS GRANT

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services regarding an application for a special project grant which had been received from Torphichen Community Council.

The report recommended that the Council Executive determine the valid application received from Torphichen Community Council as detailed in the appendix to the report.

Decision

To approve the terms of the report and approve the application.

7. PROCUREMENT APPROVAL REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services seeking approval to enter into contracts where committee authorisation was required by Standing Orders.

The report recommended that Council Executive approve:

1. The extension of the contract with Aligned Assets to January 2021 to upgrade the iManage and iExchange software to the latest version.
2. A direct award from Scottish Procurement Office Equipment Framework SP-016-013 to Konica Minolta Business Solutions (UK to 30 June 2023, for Multifunctional devices.

Decision

To approve the terms of the report.

8. DESIGNATION OF LOCAL SENIOR OFFICER

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive advising of the proposed appointment of a new Scottish Fire and Rescue Service Local Senior Officer (LSO) for the West Lothian Council area following David Lockhart's promotion to Head of Service Delivery for the East of Scotland.

The report recommended that the Council Executive agrees to support the appointment of Area Commander David Sharp as the LSO for the West Lothian Council Area.

Decision

To approve the terms of the report and to congratulate David Lockhart on his promotion to Head of Service Delivery for the East of Scotland.

9. PETITION - LOCAL BUS PROVISION BATHGATE TOWN SERVICE

Having previously declared an interest Councillor Harry Cartmill left the meeting during consideration of this item of business.

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services submitted by the Mental Health Advocacy Project and residents of Belvedere and Easton regarding the reduction of evening journeys of the Bathgate Town Service.

The report recommended that the Council Executive:

1. Note the outcome of the passenger engagement exercise;
2. Note that an amended service could be provided within current budgeted resources;
3. Note the timescales for implementation;
4. Agree to amend the LBS 5 service to reflect the outcome of the passenger engagement exercise – option 1; and
5. Instruct officers to progress the necessary application with the Officer of the Traffic Commissioner.

Decision

1. To approve the terms of the report.

2. To note the Chief Executive would instruct officers to re-engage with the community on the Broxburn/Uphall Town Centre Bus Service.

10. PREPARATIONS FOR LIVINGSTON SOUTH BY-ELECTION

The Council Executive considered a report (copies of which had been circulated) by the Chief Executive advising of the arrangements being made to deliver the Livingston South By-Election.

The report recommended that the Council Executive:

1. Note the arrangements being made; and
2. Agree a revised polling scheme for the by-election as outlined in paragraph D2, where changes had been recommended to minimise disruption to the education of young people.

The Chief Executive advised that due to a number of difficulties holding the by-election on 1 October 2020, it would now be held on 5 November 2020.

Decision

To approve the terms of the report and to note the by-election would be held on 5 November 2020.

11. COVID-19 RECOVERY AND RENEWAL PLAN

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive providing an update on plans for the recovery and renewal of council services, in accordance with the latest guidance published by the Scottish Government around the gradual lifting of Covid-19 lockdown restrictions.

The report recommended that Council Executive:

1. Note the update on the council's response to the Covid-19 pandemic;
2. Note the council wide Covid-19 Recovery and Renewal Plan, as set out in Appendix 1 of the report; and
3. Agree that further updates should be provided to Council Executive on the Covid-19 Recovery and Renewal Plan.

Decision

To approve the terms of the report.

12. CONSULTATION RESPONSE: PROPOSED RIGHT TO FOOD (SCOTLAND) BILL

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services advising of the parliamentary consultation on the proposed Right to Food (Scotland) Bill and to agree a response to be returned by 15th September 2020.

The report recommended that Council Executive:

1. Note the contents of the proposed consultation response at appendix 1; and
2. Approve the proposed consultation response to be submitted on behalf of West Lothian Council.

Decision

To approve the terms of the report.

13. WORKING PARTNERSHIP INITIATIVE - GREENDYKES BING

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of a request for the council to take part in a partnership initiative to address issues of off-road vehicles and other anti-social behaviour at Greendykes Bing which is located between Broxburn and Winchburgh.

The report recommended that the Council Executive:

1. Note the issues raised locally in relation to off-road vehicles and other anti-social behaviour at Greendykes Bing and the approach from the Acting Chair of a local group inviting the council to participate in a partnership initiative to address those issues;
2. Agree in principle that the council should participate in the initiative, subject to clarification of the extent of the problems, its remit, purposes and the council representation the group considered appropriate; and
3. Agree that the Head of Planning, Economic Development and Regeneration should act as lead officer for the interface between the group and the council and should report again to Council Executive when these matters have been established.

Motion

To approve the terms of the report.

- Moved by Councillor Lawrence Fitzpatrick and seconded by Councillor Kirsteen Sullivan

Amendment

To agree the report and that all 4 ward members are appointed as participating members of the group

- Moved by Councillor Frank Anderson and seconded by Councillor Janet Campbell

A roll call vote was taken. The result was as follows :-

Motion

Harry Cartmill
Tom Conn
David Dodds
Lawrence Fitzpatrick
Peter Heggie
Charles Kennedy
Andrew McGuire
Cathy Muldoon
Kirsteen Sullivan
Damian Timson

Amendment

Frank Anderson
Janet Campbell

Decision

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

14. CALL FOR EVIDENCE RESPONSE - DOGS (PROTECTION OF LIVESTOCK) (AMENDMENT) (SCOTLAND) BILL

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning, Economic Development and Regeneration advising of the call for evidence from the Scottish Parliament's Rural Economy and Connectivity Committee regarding the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill, and seeking approval for the proposed response from West Lothian Council.

The report recommended that the Council Executive:

1. Note the content of the report and proposed response to the call for evidence detailed in Appendix 1 of the report; and
2. Approve the proposed response to the call for evidence.

Decision

To approve the terms of the report.

15 PLANNING GUIDANCE - HOUSE EXTENSION & ALTERATION DESIGN GUIDE

The Council Executive considered a report (copies of which had been circulated (by the Head of Planning, Economic Development and Regeneration advising of the outcome of a consultation on draft Planning Guidance entitled “House Extension & Alteration Design Guide” and to seek approval of the guidance.

The report recommended that the Council Executive:

1. Note the comments received on the draft guidance following consultation;
2. Agree the responses to the comments received during consultation on the draft Planning Guidance (Appendix1) and which was cross referenced with Appendix 3, a track change version of the guidance identifying where revisions proposed by consultees had been made;
3. Approve the content of the Planning Guidance “House Extension & Alteration Design Guide” (Appendix 2);
4. Approve the “Screening Report” (Appendix 4) which was to be submitted to the SEA Gateway and the Consultation Authorities and which set out the council’s justification that the guidance was exempted from additional Strategic Environmental Assessment because it would not in itself have any significant environmental effects; and
5. Delegate authority to the Head of Planning, Economic Development and Regeneration to timeously issue a “Screening Determination” in the event that the SEA Gateway and the Consultation Authorities confirm their agreement that the guidance would not in itself have any significant environmental effects, and to report the outcome of the SEA screening process to a future meeting of the Council Executive for information.

Decision

To approve the terms of the report.

16

6 AND 7 NAIRN ROAD, DEANS INDUSTRIAL ESTATE, LIVINGSTON - PROPOSED SALE TO H+H DEVELOPMENTS LIMITED

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the sale of 6 and 7 Nairn Road, Livingston to H+H Developments Limited for £555,555 (Five Hundred and Fifty-Five Thousand Five Hundred and Fifty-Five Pounds).

The report recommended that the Council Executive:

1. Approve the sale of 6 and 7 Nairn Road, Livingston to H+H Developments Limited for £555,555 subject to terms and

conditions as set out in the report; and

2. Authorise the Head of Finance and Property Services to carry out further negotiations with the purchaser, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

Decision

To approve the terms of the report.

17. 48 MUIRFIELD WAY, DEANS LIVINGSTON - PROPOSED SALE TO LIVINGSTON HOMEREACH LIMITED

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the sale of 48 Muirfield Way, Deans, Livingston to Livingston Homereach Limited for the sum of £140,000 (One Hundred and Forty Thousand Pounds).

The report recommended that the Council Executive:

1. Approve the sale of 48 Muirfield Way, Deans, Livingston to Livingston Homereach Limited for the sum of £140,000 subject to terms and conditions set out in the report; and
2. Authorise the Head of Finance and Property Services to carry out any further negotiations with the purchaser in respect of the sale of the property, on the basis that any revised terms and conditions still represent the achievement of best value for the council.

Decision

To approve the terms of the report.

18. UNIT 1 - 8, OAKBANK PARKWAY, LIVINGSTON - PROPOSED EXTENSION OF GROUND LEASES TO MALT PORTFOLIO GP LLP

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval for the extension of the ground leases for 1-8 Oakbank Park Way, Livingston to Malt Portfolio GP LLP.

The report recommended that the Council Executive:

1. Approve the extension of the ground leases of Units 1-9 Oakbank Park Way, Livingston Malt Portfolio GP LLP for the sum of £5,758 (Five thousand seven hundred and fifty-eight pounds) subject to the terms and conditions set out in the report; and
2. Agree to provide delegated authority to the Head of Finance and

Property Services to carry out any further negotiations and conclude the extension of the leases for the property, on the basis that any revised terms and conditions still represented the achievement of best value for the council.

19. PROPOSED 3G PITCH AND CHANGING FACILITIES AT WATSON PARK, NORTH STREET, ARMADALE

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on proposals to deliver a new synthetic 3G sports pitch and changing facilities at Watson Park, North Street, Armadale.

The report recommended that the Council Executive:

1. Note that adverse ground conditions had rendered the proposed location of a new synthetic 3G sports pitch and changing facilities at Watson Park, North Street, Armadale financially unviable;
2. Note that an options appraisal had been undertaken to identify potential alternative council-owned locations within Armadale for a new synthetic 3G sports pitch and changing facilities and that these options were currently being discussed by officers with the end-users of the new facilities; and
3. Agree that a further report should be presented to the Council Executive on 6 October 2020 to consider the delivery of the new facilities at an alternative council-owned location in Armadale.

Decision

To approve the terms of the report.

20. WINCHBURGH CORE DEVELOPMENT AREA - SCHOOL ESTATE INVESTMENT UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services and Head of Education (Learning, Policy and Resources) providing an update on the progress made in relation to the delivery of new school investment as part of Winchburgh Core Development Area.

The report recommended that the Council Executive:

1. Note that the project successfully achieved financial close on 28 July 2020 at a cost of £60.742 million which was within the approved budget of £60.919 million;
2. Note the project timescales for commencement and completion of main construction works together with the proposed school opening dates; and

3. Note that the construction costs and timescales for delivery reflected the current risks associated with Covid-19 and changes to construction operating procedures to ensure social distancing.

Decision

To approve the terms of the report.

21. ORGANISATIONAL DUTY OF CANDOUR ANNUAL REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy providing an update on the annual Duty of Candour report. The report detailed the number of incidents to which the Duty of Candour procedure applied in relation to the council's Social Work services.

The report recommended that the Council Executive:

1. Approve the publication of the annual report for 2019/20; and
2. Note that there had been no incidents which triggered requirements under the Duty.

Decision

To approve the terms of the report.

22. 2020/21 NON-RESIDENTIAL CONTRIBUTION

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy providing an update on the position in relation to Non-Residential Social Care Contributions in the current financial year in the light of the Covid-19 pandemic.

The report recommended that the Council Executive:

1. Note that due to the implications anticipated for the delivery of care arising from the Covid-19 pandemic the issue of invoices for and the collection of Non-Residential Social Care Contributions from 1 April 2020 were postponed pending a resumption of full service provision and a committee decision concerning charging and collection;
2. Note that taking account of the work undertaken to resume normal delivery of care services it was proposed to issue invoices in September requiring service users to recommence their contributions to care costs from 1 October 2020; and
3. Agree that invoices for the period 30 September 2020 should not be issued and that there should be no requirement for services users to contribute retrospectively for care that they had received in

the period from 1 April 2020 to 30 September 2020.

Decision

To approve the terms of the report.

23. 2020/21 GENERAL FUND REVENUE BUDGET - MONTH 3 MONITORING REPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update of the General Fund revenue budget monitoring exercise at month 3 and set out potential options to manage anticipated pressures, which were mainly as a result of the Covid-19 pandemic. An update on recurring budget pressures and delivery of approved budget savings for the period 2020/21 to 2022/23 was also provided.

The report recommended that the Council Executive:

1. Note the outcome of the month 3 risk-based monitoring exercise, which was a projected overspend of £4.334 million, after accounting for all currently confirmed funding from Scottish Government;
2. Note the council awaited confirmation of further funding from Scottish Government in relation to social care costs and the return to schools;
3. Note the potential actions identified in the report to manage and mitigate the financial pressures outlined in the report;
4. Note the recurring pressures of £974,000, and the updates from relevant Heads of Service on progress against agreed actions to mitigate these pressures;
5. Agree that the Head of Finance and Property Services should provide a letter of comfort to West Lothian Leisure covering financial year 2020/21 only, and incorporating the wording and context set out in section D.2.3 of the report;
6. Note the good progress in the delivery of approved budget savings for 2020/21 to 2022/23;
7. Agree that Heads of Service take all management action necessary to ensure, wherever possible, that 2020/21 expenditure is managed within budgeted resources;
8. Agree the £994,000 over and above the minimum approved General Fund Balance £2 million should be ear-marked for managing the projected overspend;
9. Agree that officers should continue to engage with Scottish

Government and COSLA around further government funding for the council so the significant additional costs being incurred in relation to Covid-19 were fully funded; and

10. Agree that the additional resources announced for food funding of £444,000 were used to provide support to vulnerable groups over the remainder of the financial year and agree that £505,000 funding support for Free School Meals over the summer holidays should be allocated against the cost of delivering this programme, which the council had already agreed to deliver, with the £505,000 balance held as a contingency to cover potential food related costs over the remainder of 2020/21.

Motion

To approve the terms of the report.

- Moved by Councillor Lawrence Fitzpatrick and seconded by Councillor Kirsteen Sullivan.

Amendment

To approve recommendations 1, 2, 3, 4, 6, 7, 8, 9, to remove recommendation 5 and amend recommendation 10 as follows:

“Agree that the additional resources announced for food funding of £444,000 were used to provide support to vulnerable groups over the remainder of the financial year and agree that £505,000 funding support for Free School Meals over the summer holidays should be allocated against the cost of delivering this programme, which the council had already agreed to deliver, with the £505,000 balance used to provide support to vulnerable groups for the rest of the financial year.

- Moved by Councillor Frank Anderson and seconded by Councillor Janet Campbell.

A roll call vote was taken. The result was as follows: -

Motion

Harry Cartmill
Tom Conn
David Dodds
Lawrence Fitzpatrick
Peter Heggie
Charles Kennedy
Andrew McGuire
Cathy Muldoon
Kirsteen Sullivan
Damian Timson

Amendment

Frank Anderson
Janet Campbell

Decision

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

24. CITY OF EDINBURGH COUNCIL - REFORM OF TRANSPORT ARM'S LENGTH ORGANISATIONS

The Council Executive considered a report (copies of which had been circulated) by the Head of Operational Services advising that the City of Edinburgh Council (CEC) had commenced a review of the governance arrangement for its transport ALEOs and to agree responses to five key questions CEC had posed in its engagement letter.

The report recommended that the Council Executive:

1. Note CEC's intention to reform its transport arm's length organisations and the commencement of engagement with Lothian Buses minority shareholders on this matter;
2. Agree the response to the five key questions, asked in the CEC engagement letter, as outlined in section D.3 of the report; and
3. Instructs the Head of Operational Services to continue engagement with CEC and to provide Council Executive with a further report to seek authority to progress any outcomes from these discussions.

Decision

To approve the terms of the report.

25. EQUALITY AND DIVERSITY

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services providing information on the process taken to identify and mitigate against the impact of Covid-19 on protected characteristics, the council's response to Black Lives Matter movement and the development of a new Outcomes and Mainstreaming Framework for 2021/2025.

The report recommended that the Council Executive:

1. Note the council's mechanism to consider the potential equality impacts of Covid-19;
2. Note the council's commitment to working with key stakeholders in response to the Black Lives Matter movement; and
3. Agree the suggested approach to the development of the Equality and Diversity Outcome 2021-2025.

Decision

To approve the terms of the report.

26. DISCRETIONARY NON-DOMESTIC RATES RELIEF SCHEME

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services seeking approval to amend the current Discretionary Non-Domestic Rates Relief Scheme.

The report recommended that the Council Executive agree the proposed amendment to the current Discretionary Non-Domestic Rates Relief Scheme to allow a 20% “top up” relief for the Bridge Community Project.

Decision

To approve the terms of the report.

27. EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT (INCORPORATION) (SCOTLAND) BILL

The Council Executive considered a report (copies of which had been circulated by the Governance Manager on the response to a pre-legislative scrutiny call for views on a Member’s Bill seeking to incorporate the European Charter of Local Self-Government into Scots Law.

The report recommended that the Council Executive:

1. Note that the European Charter of Local Self Government (Incorporation) (Scotland) Bill had been introduced to the Scottish Parliament and that the Local Government and Communities Committee had called for views as part of its pre-legislative scrutiny;
2. Note that the council previously expressed its support for incorporation when responding to a consultation by the MSP seeking to introduce the Bill (Council Executive, 11 September 2018); and
3. Note the specific questions asked and the proposed responses, and to approve them for submission to the Committee by the deadline of 17 September 2020 (Appendix 1).

Decision

To approve the terms of the report.

28. CORPORATE GOVERNANCE ANNUAL REPORT

The Council Executive considered a report (copies of which had been circulated) by the Governance Manager providing assurance in relation to compliance with the standards in the council’s Code of Corporate Governance and related governance matters.

The report recommended that the Council Executive:

1. Note the terms of the annual governance statement approved at Governance and Risk Committee on 22 June 2020 (appendix 1) and in particular the assurance that although there were areas where improvement could be made, the council and the West Lothian community could be assured that the council's corporate governance standards had been substantially met in 2019/20;
2. Note that in approving the annual governance statement Governance and Risk Committee considered the annual compliance statements provided by senior officers, the fully populated Local Code of Corporate Governance, and a progress report on a running list of governance issues previously identified; and
3. Note that the governance issues identified in this year's annual governance statement would be added to the list considered by Governance and Risk Committee and that interim progress reports would be made to that committee a part of its work plan.

Decision

To note the terms of the report.

29. ANNUAL PROCUREMENT REPORT 1 APRIL TO 31 MARCH 2020

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services providing the Annual Procurement report for the period 1 April 2019 to 31 March 2020 attached at appendix 1.

The report recommended that the Council Executive note the terms of the report.

Decision

To note the terms of the report.

30. COMMUNITY COUNCIL GRANTS 2019/20

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising of the administration and special project grants which were paid to community councils during financial year 1 April 2019 to 31 March 2020.

The report recommended that the Council Executive note the payments made from the Community Council administration and special project grants budgets during financial year 2019/20

Decision

To note the terms of the report.

31. COUNCILLORS' LOCAL DISBURSEMENT FUND

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising of the expenditure from the Councillors' Local Disbursement Fund for the period 1 April 2019 to 31 March 2020.

The report recommended that the Council Executive note the expenditure from the Councillors' Local Disbursement Fund for the period 1 April 2019 to March 2020.

Decision

To note the terms of the report.

32. RIGHT OF PRE-EMPTION, LAND FORMING PART OF HERMAND ESTATE, WEST CALDER

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services advising of the council's right of pre-emption over land forming part of Hermand Estate, West Calder and seeking approval for the acquisition of this land.

The report recommended that the Council Executive note and approve a number of recommendations contained in the report.

Decision

To approve the terms of the report.

33. FISHERY AND LOCH AT BEECRAIGS COUNTRY PARK, LINLITHGOW

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services.

The Council Executive considered the recommendation of the report.

Decision

To approve the terms of the report.

34. MILL CENTRE, BLACKBURN

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Property Services providing an update on the current position in relation to the Mill Centre, Blackburn.

The report recommended that the Council Executive approve the recommendations of the report.

Decision

To approve the terms of the report.