

SOUTH LAKELAND DISTRICT COUNCIL

Minutes of the proceedings at a meeting of the Council held in the Assembly Room, Kendal Town Hall, on Thursday, 11 November 2021, at 6.30 p.m.

Present

Councillors

Matt Severn (Vice-Chairman in the Chair)

Caroline Airey	Judy Filmore	Ian Mitchell
Robin Ashcroft	Fiona Hanlon	Suzie Pye
Rupert Audland	Tom Harvey	Doug Rathbone
Pat Bell	Eamonn Hennessy	Brian Rendell
Ben Berry	Hazel Hodgson	Peter Thornton
Roger Bingham	John Holmes	Heather Troughton
Jonathan Brook	Kevin Holmes	David Webster
Helen Chaffey	Andrew Jarvis	Ian Wharton
Brian Cooper	Dyan Jones	Janet Willis
Jonathan Cornthwaite	Helen Ladhams	Mark Wilson
Tracy Coward	Malcolm Lamb	Shirley-Anne Wilson
Philip Dixon	Kevin Lancaster	
Pete Endsor	Susanne Long	

Apologies for absence were received from Councillors Giles Archibald, Stephen Coleman, Ben Cooper, Michael Cornah, Alvin Finch, Gill Gardner, Chris Hogg, Rachael Hogg, Vicky Hughes, Helen Irving, Ali Jama, Janette Jenkinson and Pete McSweeney (Chairman).

Officers

Tom Benson	Legal, Governance and Democracy Specialist
Lawrence Conway	Chief Executive
Linda Fisher	Legal, Governance and Democracy Lead Specialist (Monitoring Officer)
Julia Krier	Legal, Governance and Democracy Specialist
Richard Machin	Communications Specialist
Simon McVey	Operational Lead Support Services
Adam Moffatt	Legal, Governance and Democracy Specialist
Simon Rowley	Director of Customer and Commercial Services
Helen Smith	Finance Lead Specialist (Section 151 Officer)

C/48

MINUTES

RESOLVED – That the Chairman be authorised to sign, as a correct record, the minutes of the meeting of the Council held on 27 July 2021.

C/49 ACT OF REMEMBRANCE

Members observed a two minute silence to remember those who had lost their lives in conflict following which Councillor Brian Cooper, a Member of the Royal British Legion, recited the Exhortation.

C/50 PUBLIC PARTICIPATION

No questions, representations, deputations or petitions had been received from members of the public in respect of this meeting.

C/51 DECLARATIONS OF INTEREST AND DISPENSATIONS

The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) referred to the dispensation which had been granted to all Members for matters relating to Local Government Reorganisation and Devolution for a period of four years. For Agenda Item No. 11 (Local Government Reorganisation – Structural Changes Order) Members were advised that all dual-hatted Members who were also elected Members of Cumbria County Council, would have an Other Registerable Interest noted and that unless they felt predetermined or biased on the item, they would be able to remain in the room for discussion and voting on the item. In relation to Agenda Item No. 18 (Judicial Review – Local Government Reorganisation), dual-hatted Members who were also elected Members of Cumbria County Council were asked to leave the room before discussion the item began.

In terms of the Other Registrable Interests and Members in attendance at this meeting, these would be recorded for Councillors Ben Berry, Roger Bingham, Judy Filmore, Peter Thornton and Mark Wilson. These Members were advised to leave the room before any discussion on Agenda Item No. 18 (Judicial Review – Local Government Organisation) began.

Members having been asked, no other declarations of interest were raised in respect of any of the items on this Agenda and it was

RESOLVED – That

- (1) Other Registerable Interests be recorded for all dual-hatted members, as outlined above; and
- (2) all dual-hatted members, as outlined above leave the room before discussion on Agenda Item No. 18 (Judicial Review – Local Government Organisation) began.

C/52 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS

No Member having raised concern when asked by the Chairman, it was

RESOLVED – That the items in Part II of the Agenda be dealt with following the exclusion of the press and public.

C/53 CHAIRMAN'S ANNOUNCEMENTS

The Chairman drew attention to the list of formal engagements which was attached to the Agenda.

C/54 POLITICAL BALANCE AND CHANGES TO COMMITTEE MEMBERSHIPS

The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) presented a report setting out an update to the political balance of the council and changes to committee membership.

No Members having raised any questions when asked by the Chairman it was

RESOLVED – That

- (1) the political balance of the Council be noted;
- (2) the allocation of committee places be noted as that on 19 May 2021 (Minute C/10 (2021/22) refers); and
- (3) the following proposed changes in committee membership be received:-
 - Councillor Pete Endsor to replace Councillor Giles Archibald on the Audit Committee; and
 - Councillor Fiona Hanlon to take up the Liberal Democrat Vacancy on the Licensing and Licensing Regulatory Committees.

C/55 CORPORATE FINANCIAL UPDATE QUARTERS 1 AND 2, 2021/22

The Deputy Leader and Finance and Assets Portfolio Holder presented the Corporate Financial Monitoring report for both Quarter one and two 2021/22. He informed Members that the report provided an update on the first half of the year, performance on the first two quarters as well as decision for Council following the Quarter 1 review.

The report highlighted the cost of the ongoing Covid-19 pandemic with the current best estimate being at £337,000, which was significantly lower than the contingency plans. Despite this the Deputy Leader and Finance and Assets Portfolio Holder informed Members of ongoing risks and stated that it was too early to presume any significant savings. The report set out a projected overspend of £95,000 for business as usual activities, however if approved, the transfer from the NNDR pool will reduce this to an under spend of £49,000. The Deputy Leader and Finance and Assets Portfolio Holder informed Members of an overspend on employee costs due to the need to use agency staff in critical posts due to recruitment problems.

The Deputy Leader and Finance and Assets Portfolio Holder highlighted a request to transfer funds from the NNDR pool reserve, of £144,000 which would be used to fund salary costs for Economic Development and Culture Specialists to free up funding in other areas of the Council. Having concluded the report, the Deputy Leader and Finance and Assets Portfolio Holder proposed the recommendations in the report and was seconded by Councillor Jones (Climate Action and Biodiversity Portfolio Holder).

Members expressed concern regarding the impact of Local Government Reorganisation on the completion of projects and specifically referred to Ulverston

Coronation Hall and Ulverston Leisure Centre and requested an update on the progress made on the Asset Transfer. The Deputy Leader and Finance and Assets Portfolio Holder reassured Members that the Council planned to deliver key projects despite Local Government Reorganisation. In addition, the Finance Lead Specialist (Section 151 Officer) informed Members that advice around current projects was being monitored by the Chief Financial Officer (CFO) Group, which was considering future projects, although no conclusions had yet been reached. Regarding the Coronation Hall, the Economy, Culture and Leisure Portfolio Holder informed Members that the Council was awaiting the business plan to be submitted by Ulverston Community Enterprise and that the Council was willing to work with them to continue the good relationship going forwards.

Following a further query over the business plan for Ulverston Coronation Hall, the Economy, Culture and Leisure Portfolio Holder emphasised that it was the responsibility of Ulverston Community Enterprise to submit the document to the Council.

RESOLVED – That

- (1) the contents of the report and Appendices 1-3 be noted;
- (2) the re-profiling of the Capital Programme as shown in 3.2.3 be approved and to create the relevant Revenue Budget for the Next Steps Programme;
- (3) the revenue virements listed in 3.1.2 be approved and authority be delegated to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer) in conjunction with the relevant Operational Lead to enter into the relevant grant agreements accordingly;
- (4) the use of the reserves as per 3.1.3 be approved; and
- (5) the increase in Interest Rate Exposure Limit for Variable Rate Investments to £30 million from £20 million as shown in paragraph 3.3.4 be approved.

C/56

ANNUAL PROCUREMENT UPDATE 2021/22

The Deputy Leader and Finance and Assets Portfolio Holder presented the Annual Procurement Update, he informed Members that the report provided a historical review of activity in the 2020-21 financial year as well as reviewing and updating the 2021-22 Procurement Schedule to bring the document in line with the proposed amendments to the Contract Procedure Rules.

The report outlined the challenge presented by the ongoing Covid-19 pandemic which had resulted in heightened risk of delay and changes to costs. In addition uncertainty regarding Local Government Reorganisation had the potential to delay procurements until a clearer timeline was in place. The Deputy Leader and Finance and Assets Portfolio Holder outlined the focus on Social Value when considering procurements and highlighted 16 waivers which had been reported to the Procurement Specialist.

Having concluded the report, the Deputy Leader and Finance and Assets Portfolio Holder proposed the recommendations in the report and was seconded by Councillor Jones (Climate Action and Biodiversity Portfolio Holder).

Members praised the inclusion of Social Value when considering procurements and raised a query regarding the purchase or lease of vehicles and the need to prioritise electric and hydrogen vehicles when doing so. The Deputy Leader and Finance and Assets Portfolio Holder responded by highlighting that hybrid vehicles had been leased and emphasised the importance of performance when purchasing vehicles. The Customer and Locality Services Portfolio Holder added that there had been no hesitation from the Council to purchase electric or hydrogen vehicles and emphasised the importance of trusting officers to purchase those vehicles when appropriate.

RESOLVED – That

- (1) the progress across the procurement function over the past 12 months be noted;
- (2) the future focus be noted;
- (3) the updated Procurement Schedule at Appendix 1 be approved; and
- (4) the spend 2020/21 for the top 25 suppliers by value in Appendix 2 and the exemptions and waivers for 2020/21 in Appendix 3 be noted.

C/57

UPDATE TO THE COUNCIL'S CONSTITUTION - CONTRACT PROCEDURE RULES AND PROCUREMENT SCHEDULE

The Customer and Locality Services Portfolio Holder introduced the Update to the Council's Constitution report. He informed Members that by updating the Contract Procedure Rules, the Council would have ensured that the constitution had remained dynamic and relevant as well as empowering officers to make decisions within the updated framework. The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) highlighted an additional recommendation to read as follows:-

- (2) *The Monitoring Officer be delegated authority to make any changes, as necessary, in consultation with the Customer and Locality Services Portfolio Holder, to the exemption and waiver rules. In addition to update the titles of Officers as required.*

Having concluded the report, the Customer and Locality Services Portfolio Holder proposed the recommendations in the report alongside the additional recommendation as outlined above, and was seconded by Councillor Pye (Health, Wellbeing and Poverty Alleviation Portfolio Holder).

Members expressed concern regarding the changes set out in the report. The Legal Governance and Democracy Lead Specialist (Monitoring Officer) reassured Members by reminding them that as part of the procurement strategy, the Overview and Scrutiny Committee had not considered the update to the Contract Procedure Rules and that all decisions would be gatekept with any exemptions waivers being reported as required by the constitution to the relevant committee.

RESOLVED – That

- (1) The proposed amendments to the Constitution outlined in the attached Contract Procedure Rules and highlighted in red be agreed and the Monitoring Officer be authorised to make the necessary amendments to the Council's Constitution; and
- (2) the Monitoring Officer be delegated authority to make any changes, as necessary, in consultation with the Customer and Locality Services Portfolio

Holder, to the exemption and waiver rules and the titles of Officers will be updated as required.

C/58 PLANNING COMMITTEE MEMBERSHIP

The Housing Portfolio Holder introduced the Planning Committee Membership report. She informed Members that the reduction to Membership and the substitute Member system had been working well since the change and proposed the recommendations in the report. The proposal was seconded by Councillor Lamb.

Councillor Tom Harvey, proposed an amendment to the recommendations, he proposed that if there was more than one apology from a political group, that the additional vacancy be opened up to the other group's substitute. The proposal was seconded by Councillor John Holmes.

The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) informed Members that a pooled substitute system had been in place previously but had not worked.

Councillor Tom Harvey withdrew his motion.

No Member having raised any question when asked, it was

RESOLVED – That

(1) the report be noted; and

(2) the reduction in size of the Membership of the Planning Committee from 18 to 14, as approved by Council at C/32 (2020/21), be reconfirmed.

C/59 LOCAL GOVERNMENT REORGANISATION - STRUCTURAL CHANGES ORDER

The Leader and Promoting South Lakeland and Innovation Portfolio Holder presented the Local government Reorganisation – Structural Changes Order (SCO) report. He informed Members that the draft SCO had been received and a Member briefing had been held on 10 November 2021, to inform Members of the details of the SCO and answer any questions Members may have. He added that Members were welcome to feedback on the SCO through Group Leaders and proposed an additional recommendation which read as follows:-

(3) To delegate to the Chief Executive in consultation with the Leader the submission of any further comments to the DLUHC on the draft Structural Changes Order

The Leader and Promoting South Lakeland and Innovation Portfolio Holder reminded Members that the Council had until 17 November 2021 to provide comments on the draft SCO and proposed the recommendations in the report. The proposal was seconded by the Deputy Leader and Finance and Assets Portfolio Holder.

The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) emphasised that DLUHC had clearly stated that this was not a consultation. The draft had been prepared by parliamentary lawyers. However, for transparency we had considered that all members should be aware of this important matter and had added this to both the Cabinet and Council agendas.

Members raised queries related to the warding arrangements and sharing the information in the SCO. The Legal Governance and Democracy Lead Specialist (Monitoring Officer) reminded Members that there was not a consultation on the draft SCO that the draft SCO had been provided to Group Leaders and it had been agreed that any comments would be fed back through the group leaders. Members had received a summary of the main contents and a briefing session. In response to a question asked regarding sharing the content of the draft SCO order itself the Monitoring officer advised that DLHUC had been clear on the requirement to retain the contents within the Councils. In answer to a question raised confirmed that the member code of conduct would apply to all members in this regard. The Chief Executive reminded Members that any feedback was welcome through the Group Leaders before the deadline to submit comments which was 17 November.

Note – following a proposal from Councillor Lancaster, which was seconded by Councillor Berry, Members voted to move into Part II to obtain legal advice from the Solicitor to the Council and ask further questions regarding the SCO.

C/60 PRESS AND PUBLIC

RESOLVED - That, under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12 A of the Act as amended by the Local Government (Access to Information) (Variation) Order 2006 by virtue of the paragraph indicated.

C/61 LOCAL GOVERNMENT ORGANISATION - STRUCTURAL CHANGES ORDER

- *Paragraph 5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*

Members discussed the Draft SCO and received legal advice from the Legal, Governance and Democracy Lead Specialist (Monitoring Officer).

Note – Following this discussion, it was proposed by the Chairman that Members vote to re-admit the press and public. The proposal was seconded by the Deputy Leader and Finance and Assets Portfolio Holder.

C/62 RE-ADMISSION OF PRESS AND PUBLIC

RESOLVED – That the press and public be re-admitted to the meeting.

C/63 LOCAL GOVERNMENT REORGANISATION - STRUCTURAL CHANGES ORDER

The Leader and Promoting South Lakeland and Innovation Portfolio Holder reminded Members of the recommendations in the report and the additional recommendation set out earlier in the discussion.

No Member having raised any question when asked, it was

RESOLVED – That

- (1) the update be received and noted;
- (2) the contents of the Member briefing session on the 10 November 2021 be noted; and
- (3) the submission of any further comments to the DLUHC on the draft Structural Changes Order be delegated to the Chief Executive in consultation with the Leader.

C/64 URGENT ITEMS

No Urgent Items were raised.

C/65 LEADER'S ANNOUNCEMENTS AND CABINET QUESTION TIME (30 MINUTES)

In accordance with paragraphs 10.2 and 10.3 of the Council's Rules of Procedure, the following written question had been submitted to the meeting:-

From Councillor Doug Rathbone to Councillor Philip Dixon, Customer and Locality Services Portfolio Holder - *Could Cllr Dixon confirm what sort of items of funding are possible and are not possible under members' Locality Budgets, what the deadline date is, and also show how quick and easy it is to actually get that funding?*

Councillor Dixon responded, reminding Members to submit their Locality Budgets as early as possible, but highlighted the deadline which was 1 March 2022. He informed Members that the Member Services Steering Group (MSSG) had unanimously resolved to have a minimum amount of £500 for individual grants.

Councillor Dixon thanked all officers and members involved in the Locality Budget scheme and emphasised the impact and importance of the Locality Budget scheme for the community.

In responding to a follow up question, Councillor Dixon informed Members that the minimum of £500 had been a decision taken by the MSSG to help reduce the amount of officer time spent processing the applications.

From Councillor Helen Ladhams to Councillor Suzie Pye, Health, Wellbeing and Poverty Alleviation Portfolio Holder - I note that a youth hub is opening in Kendal, at the south foyer, please let us know more about it and how it will help young people.

Councillor Pye responded, informing Members that Kendal Youth Club would be an important part of many young people's lives and that it was a difficult time to be 18-23 years old at this time. She highlighted the obstacles faced by young people and stressed the importance of ensuring that young people built confidence and

employability skills, which the Youth Club would help with. She stated that dedicated work coaches and Council officers were looking forward to working on this project and encouraged all Members to learn about this importance of ideas like this one.

Councillor Fiona Hanlon to Councillor Dyan Jones, Climate Action and Biodiversity Portfolio Holder – How successful has the UN Climate Change Conference (COP) 26 been and do you have any expectations that we will be supported by government?

Councillor Jones responded, highlighting the aims and intentions of the previous COP21 agreement stressing that there was much more to be achieved. She stated the importance of national and local governments working to reduce emissions and set out the ambitious targets set by the UK government in 2021.

Councillor Jones reminded Members of the Council's commitment to reduce its carbon footprint and stated that the Council took this commitment seriously and had continued to move this agenda forward to ensure a legacy is left for the future. She highlighted the need for devolution to local authorities, with more trust for on the ground local governance and improve the independence of Local Authorities to act on their own patch.

In concluding her response Councillor Jones raised the need for action in the meantime and felt that Local Government Reorganisation could offer opportunities to build for a sustainable future.

C/66 MINUTES OF MEETINGS

No comments or questions had been received in respect of the minutes of committee meetings held between 3 May and 20 August 2021.

C/67 QUESTIONS TO CHAIRMAN OF THE COUNCIL OR CHAIRMAN OF ANY COMMITTEE OR SUB-COMMITTEE

No questions had been received under Rule 10.6 of the Council's Rules of Procedure.

C/68 URGENT DECISIONS

RESOLVED – That the details relating to an urgent Executive Decision taken since the last scheduled ordinary meeting of the Council held on 21 July 2021, namely CEX/28, DEX/002, DEX/008 (2021/22), be received.

C/69 PRESS AND PUBLIC

Councillor Harvey proposed that the meeting move into Part II to consider the remainder of the items on the agenda and was seconded by the Leader and Promoting South Lakeland and Innovation Portfolio Holder.

RESOLVED - That, under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12 A of the Act as amended by the Local Government (Access to Information) (Variation) Order 2006 by virtue of the paragraphs indicated.

C/70**A590 CROSS A MOOR JUNCTION IMPROVEMENT**

- *Paragraph 3, 5 - Information relating to the financial or business affairs of any particular person (including the authority holding that information) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*

The Deputy Leader and Finance and Assets Portfolio Holder presented a report which sought approval to enable the Council to enter into the funding agreements with Cumbria County Council and the Highways Act s274 agreement with National Highways which together with the Growth Deal Funding Agreement completed in March 2021 would allow for the delivery of the scheme. Having concluded the report, the Deputy Leader and Finance and Assets Portfolio Holder proposed the recommendations contained within the report and was seconded by Councillor Ashcroft (Economy Culture and Leisure Portfolio Holder).

Members discussed the item in detail and expressed their thanks to Officers for their hard work on the project.

RESOLVED – That subject to full Council's approval of the repurposing of the Cross a Moor contingency reserve:-

- (1) the legal and financial advice contained in the report be received;
- (2) it be noted that the agreements listed at (3)(a) to (c) are subject to final agreement;
- (3) authority be delegated to the Director of Strategy, Innovation and Resources, in consultation with the Finance Lead Specialist (Section 151 Officer), Legal, Governance and Democracy Lead Specialist (Monitoring Officer), and the Leader of the Council, to agree any further amendments (within the budget and policy framework and the overall risk envelope), and to approve the entering into of the following agreements (as more fully described in the report):
 - (a) the Forward Funding Agreement with Cumbria County Council;
 - (b) the Underwriting Agreement with Cumbria County Council; and
 - (c) the Highways Act 1980 section 274 Agreement with National Highways.
- (4) The signing of the agreements referenced in recommendations 3(a) to (c) inclusive be delegated to the Legal, Governance and Democracy Lead Specialist (Monitoring Officer).

C/71**JUDICIAL REVIEW - LOCAL GOVERNMENT REORGANISATION**

- *Paragraph 5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*

Note – at this stage in the proceedings, Councillors Ben Berry, Roger Bingham, Judy Filmore, Peter Thornton and Mark Wilson were advised to leave the room by the Monitoring Officer. Due to the conflict of interest arising from being County Councillors. The County Council having issued the proceedings for the Judicial Review. They left the room before the item was considered and for the remainder of the meeting.

The Legal, Governance and Democracy Lead Specialist (Monitoring Officer) provided a verbal update regarding the Judicial Review against the Secretary of State, submitted by Cumbria County Council.

The meeting ended at 9.07 p.m.