

BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK

CABINET

**Minutes from the Meeting of the Cabinet held on
Tuesday, 11 June 2014 at 5.30pm in the Committee Suite, King's Court,
Chapel Street, King's Lynn**

PRESENT: Councillor N J Daubney (Chairman).
Councillors A Lawrence, B Long,
Mrs E Nockolds, D Pope and Mrs V M Spikings.

Apologies for absence were received from Councillors A Beales
and Lord Howard.

CAB1: MINUTES

RESOLVED: The Minutes of the Meeting held on 6 May 2014
were approved as a correct record and signed by the Chairman.

CAB2: URGENT BUSINESS

There was no urgent business.

CAB3: DECLARATIONS OF INTEREST

Councillor Mrs Nockolds declared a non-pecuniary interest as a
Council appointed member of the Leisure Trust.

CAB4: CHAIRMAN'S CORRESPONDENCE

None

CAB5: MEMBERS PRESENT PURSUANT TO STANDING ORDER 34

None

CAB6: CALLED IN MATTERS

None

CAB7: FORWARD DECISIONS LIST

The forward decision list was noted.

CAB8: **MATTERS REFERRED TO CABINET FROM COUNCIL BODIES**

i) **Resources and Performance Panel & Audit Committee: 27 May 2014**

The Panel made the following recommendations to Cabinet, which were dealt with when Cabinet considered the reports on the agenda:

RP12: Cabinet Report: Local Authority Housing Company

RESOLVED: That the Panel support the recommendations to Cabinet as follows:

Cabinet is recommended to:

1 Give delegated authority to the Property Services Manager to create a simple company limited by shares, to act only to own or lease from the Borough Council residential properties, wholly owned by or on behalf of the Local Authority – in consultation with the Portfolio Holders for Regeneration and Community, Chief Executive, Deputy Chief Executive and Chief Finance Officer.

2 Instruct the Property Services Manager to develop a basic Business Plan for the Company identified within this report.

3 To give delegated authority to approve the Articles of Association and Business Plan to the Legal Services Manager in consultation with the Portfolio Holders for Regeneration and Community, Chief Executive, Deputy Chief Executive and Chief Financial Officer.

4 To give the Legal Services Manager delegated authority to draft and finalise all necessary documentation, contractual or otherwise associated with the creation of the company.

5 The sum of £761,840 is allocated to the company once established for the purposes of acquiring affordable housing units, representing the funds currently held for 'off site' affordable housing contributions as part of existing Section 106 Agreements, together with any future similar Section 106 off site affordable housing contributions.

RP13: Cabinet Report: Bank Tender

RESOLVED: That the Panel support the recommendations to Cabinet as follows:

It is recommended that Cabinet delegate the decision to award the new banking contract to the Chief Financial Officer in consultation with the Leader and Chief Executive to ensure that the joint procurement timetable can be met.

ii) Regeneration, Environment and Community Panel – 28 May 2014

The Panel made the following recommendations to Cabinet, which were dealt with when Cabinet considered the reports on the agenda:

REC8: Cabinet Report – Report of The Mart Task Group

RESOLVED: That the Regeneration, Environment and Community Panel support the recommendations to Cabinet as follows:

Cabinet is recommended to accept the proposed rolling six-year agreement between the Showmen's Guild and the Borough Council as set out in section 3 of the report.

REC9: Cabinet Report – Leisure Trust Arrangements

RESOLVED: That the Regeneration, Environment and Community Panel support the recommendations to Cabinet as follows:

That Council be recommended to:

- a) Agree the proposed lease arrangements for Lynnsport and Leisure Park, Oasis Sports and Leisure Park, Downham Market Leisure Centre, St James' Swimming and Fitness Centre and the Corn Exchange as detailed in the report outlined in section 4.
- b) Agree the funding arrangements between the Council and the Trust.
- c) Agree to a transfer of £200,000 from the general fund working balance to the Trust as part of the set up cost.
- d) Agree the support services arrangements for the Trust to be supplied via Coastshare.
- e) Confirm the management of maintenance and utilities within facilities by the Local Authority Company for the Council.
- f) Agree the staff arrangements and note the TUPE transfer of employees.
- g) Agree the pooling of pension arrangements between the Council and the Trust.
- h) Agree that in the event that the Trust folded in the first 5 years the Council would meet any unpaid balance of redundancy/pension strain cost.
- i) Delegate authority to the Chief Executive in consultation with the Leader and Cabinet Member for Assets and Special Projects to

finalise arrangements for the 1 July 2014 and any subsequent amendments in the first six months of the new arrangements.

j) Request the Board of the LAC to consider and agree the contract from the Trust.

k) Agree in principle to lease the Guildhall to the Arts Centre Trust on a similar basis to the Galleries.

l) Delegate authority to the Chief Executive to execute all necessary documentation contractual of otherwise associated with the creation of the Leisure Trust and the supply of services to it.

iii) **Resources and Performance Audit Committee : 9 June 2014**

The Committee made the following recommendations to Cabinet, which were dealt with when Cabinet considered the reports on the agenda:

ARC17: Cabinet Report: Revenue Outturn 2013/2014

RESOLVED: That Cabinet be informed that the Resources and Performance Panel – Audit and Risk Committee supports the recommendations as set out in the report to Cabinet:

It is recommended that Cabinet approves:

1 The revenue outturn and proposed transfers to reserves for 2013/2014.

2 The principle of the calculation for the provision of bad debts and appeals on the Business Rates Retention Scheme.

ARC18: Cabinet Report: Capital Programme And Resources 2013/2017

RESOLVED: That Cabinet be informed that the Resources and Performance Panel – Audit and Risk Committee supports the recommendations as set out in the report to Cabinet:

1. That Cabinet note the outturn of the Capital Programme for 2013/2014 of £9,477,218.

2. That the financial arrangements for the 2013/2014 Capital Programme be approved.

3. That Cabinet approve the revised 2014/2017 Capital Programme as detailed in the report.

CAB9: **CAPITAL PROGRAMME AND RESOURCES 2013-17**

The Chief Financial Officer presented a report which provided details of the outturn of the 2013/2014 capital programme and outlined amendments and rephrasing to the spending on schemes, revising the programme for 2014/2017. The capital programme outturn for 2013/2014 totalled £9,477,218 against an approved budget of £12,662,100. It had been necessary to rephrase a total of £2,801,830 of scheme costs to future years. Capital receipts generated in the year totalled £1,298,268 of which £1,293,890 were useable.

Councillor Long asked what effect Anglian Water taking over the sewage treatment plants would have on the Capital Programme. It was explained that the plants were being brought up to standard in order to pass them over to Anglian Water, or decommissioning and filling in old sites.

It was noted that the Audit Committee had supported the recommendations.

RESOLVED: 1) That the outturn of the capital programme for 2013/2014 of £9,477,218 be noted.

2) That the financing arrangements for the 2013/2014 capital programme be approved.

3) That the revised 2014/2017 capital programme as detailed in the report be approved.

CAB10: **REVENUE OUTTURN 2013-14**

The Principal Accountant presented a report which set out in summary the revenue outturn of 2013/2014 for the General Fund (council tax accounts) for approval to the external audit of accounts which commences in July 2014.

The report showed details of the major differences between actual costs/income and the revised estimates for 2013/2014 reported in February 2014 monitoring.

The accounts showed actual Borough spend of £19,021,737 which was £28,433 less than the February Revised Estimate for 2013/2014. This additional saving would be held within the General Fund balance that was carried forward to 2014/2015.

With regard to Business Rates Bad Debt Provision, it was explained that the Council already had in place bad debt provisions for Business Rates and Council Tax. The provision was called upon in the event of a debt being treated as uncollectable. Normal practice in setting a policy for Bad Debt Provisions was for a percentage to be set against the value of debt dependent upon the age of the debt. This meant that

a sum equivalent to the amount calculated by using the table in the report would be charged to the accounts and held in reserves to be used to offset the cost of writing off bad debts in the future.

The introduction of the Business Rates Retention Scheme had passed on an element of reward and risk from the Government to the Council. If the Business Rates collectable increased, then the Council would gain a share of the higher level of income. However, if the Business Rates collectable reduced then the Council would directly share in the loss of income.

The major risk of loss of rates collectable comes from closure of a major business or more likely from appeals by a high business rate payer against their rateable valuation.

Cabinet discussed the case which was due to be considered by the Appeals Court in respect of Peterborough power station which had had its rateable value reduced to £1. This has the effect of being a "test case" against which the appeal by Centrica in relation to the King's Lynn Power Station would be determined. The District Valuation Officer was appealing against the new valuation but the court case would not be heard until after October 2014 and the determination was not expected until early 2015. This meant that the Council must, at this time, take a view on the potential risk of the Valuation Office losing its appeal. It was proposed to act cautiously and provide for a successful appeal by Centrica PLC. The potential loss would be charged to the 2013/2014 accounts as part of the provision.

The report explained that in the case of the Council's accounts for 2013/2014, it was intended to provide prudent cover in the event of a successful appeal by the King's Lynn power, station, owned by Centrica PLC, in reducing its rateable value from £1,230,252 in 2013/2014 to £1.

A successful appeal would have backdated implications to 2005 with an estimated cost of £6,020,634, as at the 31/3/2014, to the Collection Fund. The Council would then be liable for a 40% share of this estimated cost, which was £2,408,253.

It was explained that this would bring into play the funding safety net whereby the Council in 2013/2014 would see its rates collection reduce below the base line funding level set by the Government. The Council would be liable to cover the first £365,000 of losses and the Government would pick up the remainder of the loss. The Financial Plan for 2013/2014 included a budget of £360,000 to cover this eventuality.

Following on from these discussions, Councillor Mrs Spikings asked whether, if Centrica were successful and the Council was required to pay back the business rates, it would have to be done in one transaction. The Deputy Chief Executive confirmed that it would

probably be the case, which would provide a cash flow issue for the authority because the refunded money from the Government would possibly not be paid in one payment.

Councillor Daubney confirmed that it was a serious matter, which the Council had to make provision for, and could only wait for the outcome of the Court of Appeal's consideration of the matter.

Councillor Long asked whether with the introduction of Individual Electoral Registration the finances provided for the funding of the transition. The Chief Executive confirmed that the Government had undertaken to fully fund the first year of the transition.

Councillor Pope asked how the figures in the Business Rates Appeals had been calculated, to which it was confirmed that historical data had been used to calculate the figures.

The Deputy Chief Executive reminded Members that the position in the outturn report did not show the full figure of the saving made in the full financial year by the authority because in the monitoring report had previously been amended in February. This report showed £846,000 had been put into balances which was £500,000 more than the original budget, which was the result of the tightening of all budgets by service managers and members.

Councillor Daubney in proposing the recommendations congratulated the Council on its spend, which he acknowledged was due to the hard work and diligence of the staff and members involved who were providing excellent services with less resources which the Council should be proud of.

It was noted that the Audit Committee had supported the recommendations.

RESOLVED: 1) That the revenue outturn and proposed transfers to reserves for 2013/2014 be approved.

2) That the principle of the calculation for the provision of bad debts and appeals on the Business Rates Retention scheme be agreed.

CAB11: PROCUREMENT OF BANKING TENDER

Councillor Daubney presented a report which explained that the Council's current banking contract with the Co-Operative Bank terminated on 31 March 2015. The Co-Operative Bank had informed the Council that it would not be re-tendering for any future banking services to local authorities and the Council would therefore have a new banking provider from 1 April 2015. The Council was currently undertaking a joint procurement exercise in conjunction with all the other Norfolk District Councils, Norfolk County Council, the Norfolk

Police and Crime Commissioner and Alive Leisure. The procurement timetable aimed to make a provisional award of the new banking contract in early July 2014.

The Chief Financial Officer explained that 4 banks had expressed an interest in the tender and had been issued with packs. It was also confirmed that the new contract would be for 7 years from the end of the existing contract.

It was noted that the Resources and Performance Panel had supported the recommendations.

RESOLVED: That the decision to award the new banking contract be delegated to the Chief Financial Officer in consultation with the Leader and Chief Executive to ensure that the joint procurement timetable can be met.

CAB12: **TRANSFER OF LEISURE FACILITIES AND SPORTS DEVELOPMENT INTO A LEISURE TRUST ARRANGEMENT AND LOCAL AUTHORITY COMPANY**

Councillor Pope presented a report which explained that at its meeting on 9th April 2013, Cabinet had agreed to establish a Charitable Company and a Local Authority Company for the operation of Culture and Leisure Facilities with arrangements to commence on 1st July 2014. The recommendation was agreed by Council at its meeting on 25 April 2013. The Chief Executive in consultation with the Leader and Cabinet Members for Assets and Health and Wellbeing had been delegated authority to implement all necessary arrangements. The reason for the decision was in order to achieve financial savings to contribute to the Council's cost reduction targets.

Given the significance of the project the purpose of the report was to outline the arrangements that had been made in accordance with this delegation and sought Cabinet approval to the remaining key issues prior to commencement.

In presenting the report Councillor Pope explained that discussions were proceeding well with the Trust and lots of details were being finalised. He commented that he felt the Trust would enable the service to be more entrepreneurial and as time went on he felt it would grow. He reassured Members should they any have any concerns that the Council was running the Local Authority Company which would be in charge of the venues. He welcomed the support for the proposals from the Regeneration Environment and Community Panel which had considered the report. Councillor Pope made the following comments:

- that in recommendations 9) & 12) the Deputy Chief Executive be added to the delegation to approve final arrangements and documentation in case the Chief Executive is unavailable.

- He enlarged on 4.2) that a five year break clause with a deed of variation that allowed break clauses to be removed if this is necessary for grant applications had now been agreed. Councillor Pope thanked Lord Howard for his help with this issue.

Councillor Pope also drew Cabinets attention to the fact that it was still aimed to meet the 1st July launch date, but suggested that the recommendation be amended very slightly in case it was not possible to meet that deadline so should include “or as soon as possible after that date”.

Councillor Daubney, in supporting the report commended what he felt was one of the major initiatives taken by the Council, having been well researched with advice taken at a very early stage with various models studied before designing this particular model which was now being studied by others.

The Trust, which should bring financial gains to the authority whilst bringing the spirit and culture from private enterprise and would be able to look at different ways of working. He congratulated and thanked all those officers and members who had put an extraordinary amount of work into getting the Council to this position.

Councillor Daubney asked for clarification on the exact amount of staff who would be TUPE'd to the Trust. The Executive Director for Commercial Services confirmed that 35 staff would TUPE to the Trust. He explained to members that a full consultation process had been undertaken with all staff involved, including those who would be joint employees, which had received excellent and positive responses.

Councillor Daubney sought confirmation that the recruitment of the Chief Executive had been undertaken using the robust recruitment procedure undertaken in accordance with the Council's policies. This was confirmed.

The Chief Executive drew attention to the considerable amount of pressure on all of those staff involved in the preparations for the Trust, and stated that the work prepared had been admirable, with terrific co-operation from all staff involved.

The Chief Executive also drew attention to the proposals in the report of the leasing of the Guildhall to the Arts Centre Trust which was now at a stage to be able to take a full management role at the building.

Councillor Lawrence stated that he felt it was a fine example of forward thinking by Members and Officers.

It was noted that the Regeneration, Environment and Community Panel had supported the recommendations.

RECOMMENDED: That following be approved:

- 1) The proposed lease arrangements for Lynnsport and Leisure Park, Oasis Sports and Leisure Park, Downham Market Leisure Centre, St James' Swimming & Fitness Centre and the Corn Exchange as detailed in the report outlined in section 4 of the report.
- 2) The funding arrangements between the Council and the Trust.
- 3) A transfer of £200,000 from the general fund working balance to the Trust as part of the set up cost.
- 4) The support services arrangements for the Trust to be supplied via Coastshare.
- 5) The management of maintenance and utilities within facilities by the Local Authority Company for the Council.
- 6) The staff arrangements and note the TUPE transfer of employees.
- 7) The pooling of pension arrangements between the Council and the Trust.
- 8) That in the event that the Trust folded in the first 5 years the Council would meet any unpaid balance of redundancy/pension strain cost.
- 9) Delegated authority be granted to the Chief Executive or Deputy Chief Executive, in consultation with the Leader and Cabinet Members for ICT, Leisure and Public Space and Special Projects to finalise arrangements for 1 July 2014 or as soon as possible thereafter, and any subsequent amendments in the first six months of the new arrangements.
- 10) Request the Board of the Local Authority Company to consider and agree the contract from the Trust.
- 11) Agree in principle to lease the Guildhall to the Arts Centre Trust on a similar basis to the Galleries.
- 12) Delegate authority to the Chief Executive or Deputy Chief Executive to execute all necessary documentation contractual or otherwise associated with the creation of the Leisure Trust and the supply of services to it.

CAB13: LOCAL AUTHORITY HOUSING COMPANY

Councillor Lawrence presented a report which considered the potential benefits of the Borough Council establishing a Local Authority Housing Company. The primary purpose for establishing the company would be to act as a vehicle to secure new affordable housing units in the Borough utilising 'off site' Section 106 planning funds granted by developers who in exceptional circumstances provide off site financial contributions in lieu of onsite affordable housing units. The company would retain ownership of the units but sub contract the management to a suitable housing association (Registered Provider/ RP). This approach would enable the Borough Council to retain ownership of the assets and benefit from revenue stream.

The company would be established in such a way that it could take ownership of any unsold market units, should there be any, from

schemes where the Council was acting as a developer including the NORA Joint Venture currently developing a first phase of 55 homes. These properties could subsequently be privately rented and create additional income, until they were sold at a point in the future.

The Chief Executive in presenting the recommendations, commended the scheme which was to ensure that the funds currently held by the Borough Council for affordable housing purposes were utilised to secure additional affordable housing units, and that any similar funds in the future were similarly invested. The process had been successfully used by a number of authorities.

Councillor Daubney referred to recent coverage of such a scheme which had referred to “enlightened Councils” going down such routes.

It was noted that the Resources and Performance Panel had supported the recommendations.

RECOMMENDED: That the following be approved:

- 1) That delegated authority be awarded to the Property Services Manager to create a simple company limited by shares, to act only to own or lease from the Borough Council residential properties, wholly owned by or on behalf of the Local Authority - in consultation with the Portfolio Holders for Regeneration and Community, Chief Executive, Deputy Chief Executive and Chief Finance Officer.
- 2) That the Property Services Manager be instructed to develop a basic Business Plan for the Company identified within the report.
- 3) That delegated authority to approve the Articles of Association and Business Plan be awarded to the Legal Services Manager in consultation with the Portfolio Holders for Regeneration and Community, Chief Executive, Deputy Chief Executive and Chief Finance Officer.
- 4) That the Legal Services Manager be given delegated authority to draft and finalise all necessary documentation, contractual or otherwise associated with the creation of the company.
- 5) That the sum of £761,840 be allocated to the company once established for the purposes of acquiring affordable housing units, representing the funds currently held for ‘off site’ affordable housing contributions as part of existing Section 106 agreements, together with any future similar Section 106 off site affordable housing contributions.

CAB14: **REPORT OF THE MART TASK GROUP**

Councillor Mrs Nockolds presented a report which was a follow-up to that of 18 September 2012, at which revised highway arrangements together with key aspects of the Tuesday Market Place works, were

approved. Proposals were also put forward for a reduced open period, and changes to the opening hours, but these were subsequently rejected by the Showmen's Guild.

The report set out the outcome of the second stage of the considerations of the Mart Task Group concerning the future arrangements for the historic King's Lynn Mart. It set out the following points which formed the basis of the six year agreement provisionally reached between the two parties:

- To adhere to the traditional opening day of 14 February as opposed to the Council's proposal of the Friday prior to half-term week.
- To trial afternoon opening during half-term week, and to jointly promote the proposed extended (afternoon) opening hours for the next two years.
- The Opening/Occupation Schedule
- Half-term opening to be subject to a joint review after the 2016 Mart.

The agreement would then be rolled forward by one year after each Mart. Charges to be set on the basis of the 2014 charge, pro-rata according to the number of operating days, increased annually in accordance with the consumer price index. The costs of the removal and reinstatement of the street furniture on the Tuesday Market Place and the road closures to be based on the actual cost incurred.

Councillor Mrs Nockolds commented that the recommendations had come following considerable negotiations with the Guild and consultations with the public and businesses in the town. She wished to thank the Task Group and the officers for their work and continued support in this matter. She also wished to thank Mr Simon Beales for Chairing the meetings between the Guild and the Council.

Councillor Daubney also thanked Councillor Mrs Nockolds for her relentless work in this area, and wished his thanks to be passed to Mr Beales for his Chairmanship of those meetings which had proved very helpful.

It was noted that the Regeneration, Environment and Community Panel had supported the recommendations.

RECOMMENDED: That Council accept of the proposed rolling six-year agreement between the Showmen's Guild and the Borough Council as set out in section 3 of the report.

CAB15: **REDUCTION IN THE SIZE OF THE COUNCIL'S REPRESENTATION ON THE KING'S LYNN INTERNAL DRAINAGE BOARD**

Councillor Daubney presented a report which submitted a further request from the King's Lynn Internal Drainage Board to reduce the Council's representation on it following previous reports to the Cabinet and Council in 2012. The Board now had formal approval to reduce their overall membership from 31 to 21. The knock on effect for the Borough Council was a reduction from 15 Members to 10. The appointments were made at the Full Council meeting so the recommendations would be made to Council where those appointments would be made.

RECOMMENDED: That the Council's Membership of the King's Lynn Internal Drainage Board be reduced from 15 to 10 members and those members be appointed by Council at its meeting on 26 June 2014.

CAB16: **UPDATE TO THE SCHEME OF DELEGATION**

Councillor Daubney presented a report which recommended an updated scheme of delegation for approval. The Scheme had been amended to take account of the changes in Portfolio responsibilities.

RECOMMENDED: 1) That Council approve the amended Scheme of Delegation.
2) That the Chief Executive, in consultation with the Leader be given delegated Authority to make minor amendments to the Scheme to resolve any anomalies which may occur.

CAB17: **APPOINTMENTS TO TASK GROUPS, JOINT SAFETY AND JOINT EMPLOYEE COMMITTEES**

The report invited the Cabinet to agree to arrange for the appointment of members to serve on the LDF Task Group; the setting up of a new Broadcasting of Public Meetings Task Group; note those Task Groups which had finished their work during the course of the year; and agree the membership of Joint Safety and Welfare Committee and Joint Employee Committee for 2014/15.

In proposing the recommendations, Councillor Daubney proposed that the membership of the Joint Employee Committee and Joint Safety and Welfare Committee remain the same as the previous year.

RESOLVED: 1) That officers be instructed to seek the Membership from Group Leaders for the Local Development Framework Task Group for the new Municipal Year:

2) Note that the following Task Groups have finished their work during the course of the year:

- Mart Task Group
- King's Lynn Representational Arrangements Task Group.
- Regeneration and Economic Development Task Group
- Heritage Task Group

3) That the Terms of Reference for the Broadcasting of Public Meetings Task Group be approved and officers be instructed to seek membership of a 6 Member Task Group (4 Con, 1 Lab, 1 Ind All).

4) That the Membership of the Joint Safety and Welfare Committee for 2014/15 be confirmed as Councillors N Daubney, B Long and D Tyler

5) That the Joint Employee Committee membership for 2014/15 be confirmed as Councillors N Daubney, M Chenery of Horsbrugh, B Long, C Manning and D Pope.

CAB18: APPOINTMENTS TO OUTSIDE BODIES AND PARTNERSHIPS 2014/15

The report sought nominations for Executive appointments to serve on outside bodies and partnerships requiring confirmation for 2014. The Appendix to the report set out the nominations for the 2014/15 year. Councillor Daubney also added his name to the Norfolk Waste Partnership as a Sub, should one be required.

RESOLVED: 1) That the Cabinet representatives be appointed to serve in an Executive capacity on the outside bodies and partnerships requiring appointment in 2014 as set out in the Appendix attached to the report, with the addition of Councillor N Daubney as a sub on the Norfolk Waste Partnership.

2) That the reporting arrangements be noted, as shown in section 3 of the report.

3) To note that all other appointments to Outside Bodies will be made at the Council meeting on 26th June 2014.

The Meeting closed at 6.33 pm