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MEETING	EXECUTIVE
DATE	28 APRIL 2009
PRESENT	COUNCILLORS WALLER (CHAIR), STEVE GALLOWAY, SUE GALLOWAY, MOORE, REID, RUNCIMAN AND VASSIE

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**225. DECLARATIONS OF INTEREST**

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda.

Cllr Vassie declared a personal, non prejudicial interest in agenda item 6 (The Barbican Auditorium), due to his involvement in a contractual dispute with the surveyors commissioned to provide specialist advice on the Barbican building.

Cllr Waller declared a personal, non prejudicial interest in agenda item 9 (Local Area Agreement Delivery Fund), as the Council's appointee to the Board of the Ryedale Energy Conservation Group.

**226. MINUTES**

RESOLVED: That the minutes of the Executive (Calling In) meeting held on 7 April 2009 and the Executive meeting held on 14 April 2009 be approved and signed by the Chair as a correct record.

**227. PUBLIC PARTICIPATION / WARD MEMBER COMMENTS**

It was reported that there had been three registrations to speak at the meeting under the Council's Public Participation Scheme and one request to speak from a Ward Member.

Norman Fowler spoke in relation to agenda item 6 (The Barbican Auditorium), as a participant in both the annual Carol Concert and the Festival of Remembrance that had been held regularly at the Barbican prior to its closure. He emphasised the importance of the Barbican as a large and well equipped venue, with no equivalent in York, and expressed the view that the refurbishment costs outlined in the report were far too high, since the building was still in a reasonable condition.

Ted Griffiths also commented on agenda item 6, on behalf of the York Festival of Remembrance Committee. The Festival had been held at the Barbican for eighteen years, the last time in 2007, and a move to the Grand Opera House in 2008 had resulted in a fall in attendance figures and revenue due to the lower capacity of that venue. He urged Members

to make a decision about the future of the building as quickly as possible, as a suitable venue would need to be found soon for this year's Festival on 1 November.

Michael Hughes spoke in relation to agenda item 10 (Petition from Sovereign Park Residents), on behalf of the petitioners. He outlined the reasons for the petition, which had been signed by 87% of residents on the Sovereign Park development in Acomb, and asked that the Council act to instigate the process of adopting the highways etc in the locality as soon as possible, so that residents could receive the services that they were paying for through their Council Tax.

Cllr Simpson-Laing also commented on agenda item 10, as a Ward Member for the relevant area. She described the problems that had resulted from the developers' failure to comply with the Section 106 agreements attached to the planning permission and expressed disappointment that the Officer report on this item contained no input from the City Strategy department.

## **228. EXECUTIVE FORWARD PLAN**

Members received and noted details of those items currently listed on the Forward Plan for the next two Executive meetings.

## **229. LISTENING, INFORMING AND WORKING TOGETHER: YORK'S COMMUNITY ENGAGEMENT STRATEGY**

Members considered a report which presented for their comment and approval a draft Community Engagement Strategy for York, entitled *Listening, informing and working together*. This followed a progress report to the Executive meeting in December 2008, when Members had given approval to finalise the strategy and a 'toolkit' for its delivery.

The Strategy was designed to ensure that both the Council and the Local Strategic Partnership, Without Walls, understood what people wanted and needed from them. It had been produced in response to a number of drivers; in particular, the new Duty to Involve, set out in the Local Government and Public Involvement in Health Act 2007, and the Council's Single Improvement Plan.

The draft Strategy was attached as Annex A to the report. The results of consultation carried out with interested parties were presented in Annex B.

Having noted the comments of the Shadow Executive on this item, it was

**RESOLVED:** That the Strategy be approved, subject to inclusion of the following:<sup>1</sup>

- a) Clear indication of how residents responding to consultation can track how their collective input has influenced decisions with, as a minimum, a requirement

that this is included on the Council's website in an easy to find location.

- b) Examples being quoted in documentation on consultation activities that are already taking place and are familiar to the public.
- c) Development of a Community Engagement Strategy for appropriate consultation with those residents under voting age.
- d) Clear instructions given in the writing of reports to Council meetings on what engagement with the public has fed into the report, the details that were given at the time of consultation on how this would impact on decisions, and how it will be reported back to the public.

**REASON:** To ensure a systematic approach to community engagement by the Council, in line with new legal requirements and the Council's own Single Improvement Plan, and to ensure that the outcomes of this engagement are made clear to the public.

Action Required

1. Amend to include these additional points before publication of the finalised Strategy

SC

## **230. THE BARBICAN AUDITORIUM**

Members considered a report which outlined, and sought approval for, the next steps in a strategy designed to bring the Barbican Auditorium back into public use.

Since the last update report to Executive, on 3 March 2009, the LHL Group had been commissioned to undertake a full condition survey of the building. This work, and the specialist entertainment market advice commissioned from Drivers Jonas, had now been completed. The Council had also carried out some improvements to the condition of the building, including cleaning, removal of graffiti and security patrols. Key findings of Drivers Jonas' work were set out in paragraphs 11 to 18 of the report. An executive summary of the LHL Group's report was provided in Annex A.

Drivers Jonas had reviewed the options for future use of the Barbican and recommended that the options now be taken forward by the Council and developed further with those parties that had expressed an interest. The LHL report had identified a cost of £818k to bring the Auditorium back into a usable condition, plus £1.097m over the next five years. It was suggested that the Council should progress the work recommended by Driver Jonas and, at the same time, pursue one of the following options:

**Option 1** – undertake immediately all the work necessary to return the building to a usable condition (cost - £818k) or

**Option 2** – undertake immediately only that part of the work necessary to make the building wind and watertight, safe and secure (cost - £90k).

Option 2 was recommended, on the basis that this would protect the integrity of the asset whilst options for future use were explored. Drivers Jonas had advised against spending the full £818k at this stage, since pursuing an interim use would distract from, and may be incompatible with, the principle aim of identifying a long-term sustainable use for the building.

Having noted the comments of the Shadow Executive and the comments made under Public Participation on this item, it was

- \*RESOLVED:
- (i) That Option 2 in the report be approved, that is: to focus on progressing the work recommended by Drivers Jonas in order to develop options for the Barbican Centre through structured dialogue with the identified interested parties, whilst undertaking work now to make the building wind and water tight, safe and secure.
  - (ii) That the Council's aspirations be agreed for the Centre; that is, that it should provide:<sup>1</sup>
    - a) the major conference and / or entertainment facilities for the City;
    - b) high quality facilities for the residents of York and for visitors, acting as a focus for important City events and a focus for civic pride;
    - c) opportunities for community involvement and activities;
    - d) no on-going requirement for public subsidy.
  - (iii) That the following be agreed as the key next steps:
    - a) Drivers Jonas to be retained as the Council's advisers, to work with Officers in preparing a succinct brief to be used as a basis for further structured dialogue with the interested parties, and to further develop the approach to the market.<sup>2</sup>
    - b) Essential work to be carried out to prevent any further deterioration of the Centre.<sup>3</sup>
    - c) Independent legal advice to be taken to assist Officers in all aspects of procurement.<sup>4</sup>
  - (iv) That a further report be received, in the light of the structured dialogue, setting out the available options and the direction to be followed.<sup>5</sup>
  - (v) That an allocation of £120k of additional one-off budget in 2009/10, funded from general contingency, be agreed, to cover the costs of the actions set out under the recommended option.
  - (vi) That Officers be instructed to ensure that, within the next fortnight, posters are displayed at the Barbican, signposting residents as to how they can access alternative leisure opportunities in the City.

(vii) That Officers contact the organisers of the Festival of Remembrance and the Carol Service, to review how their events will fit into the programme of bringing the Barbican Auditorium back into use.

REASON: To enable future plans for public use of the Barbican Auditorium to be developed and progressed as soon as possible, and to ensure that the public and other interested parties are kept informed.

*\*Note: At a meeting of the Executive (Calling In) held on 19 May 2009, these decisions were amended in accordance with the advice offered by the Scrutiny Management Committee (Calling In) at their meeting on 18 May 2009.*

Action Required

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|--|----|
| 1. Take steps to ensure that all work on the Barbican remains focused on these aspirations | CB |
| 2. Prepare brief with Drivers Jonas, as agreed   | CB |
| 3. Carry out essential repairs etc. to the building, as agreed                             | CB |
| 4. Commission independent legal advice on procurement                                      | CB |
| 5. Schedule options report on the Executive Forward Plan                                   | CB |

## **231. COMMUNITY STADIUM - UPDATE REPORT**

Members considered a report which provided an update on the progress of the Community Stadium project since the last update report to Executive on 20 January 2009.

On 20 January, approval had been given to establish a Project Board, including representatives from all key partners, to take responsibility for the strategic development of the project. The Board would hold its first meeting in May 2009. The Board was supported by two working groups – a Partnership Group and an Internal Officer Group – which met on a regular basis.

The first main output of the project would be the preparation of the outline business case, for consideration by the Executive in June 2009. Specialist consultants had been engaged to undertake a feasibility study and provide specific evidence to support the business case. A fundamental element of the feasibility work was the extent to which the stadium could benefit the wider community. Relevant stakeholders had been approached to identify need and gaps in provision. Officers were exploring the potential for bringing together key stakeholders in the City and were currently speaking to the PCT, the Health Trust, universities and colleges and other service providers. On 5 February, the Partnership Group had agreed a Communication Strategy, supported by a Communication Plan and Media Protocol. The latter two documents were attached as Annexes 1 and 2 to the report.

Having noted the comments of the Shadow Executive on this item, it was

RESOLVED: (i) That the progress made to date on the Community Stadium project be noted.

(ii) That the approach set out be agreed and that the feasibility work and testing of potential partnerships to achieve wider community benefits be continued.<sup>1</sup>

(iii) That a report summarising the outline business case be brought to the Executive in June 2009.<sup>2</sup>

REASON: For information and to ensure the continuing involvement of the Executive in the progress of this project.

Action Required

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| 1. Continue this feasibility work, as agreed                              | SS |
| 2. Schedule report on outline business case on the Executive Forward Plan | SS |

**232. ACCESS YORK PHASE 1 PARK & RIDE DEVELOPMENT - UPDATE AND OUTCOME FROM THE CLIFTON MOOR SITE OPTIONS CONSULTATION**

Members considered a report which provided an update on the progress of the Access York project and the results of consultation on the Clifton Moor Park & Ride site options.

With regard to the project as a whole, all of the Access York Phase 1 actions approved by the Executive on 29 July 2008 were being progressed. The outline design for Askham Bar Park & Ride was complete for planning purposes and an application would be submitted at the end of May. At the Poppleton Bar Park & Ride site, the challenge had been the outline design of the A59/A1237 roundabout. It was suggested that proposals for the roundabout be included in the supporting information for the Park & Ride site planning application, to provide an opportunity for public comment at the most appropriate time. It was now planned to be deliver and construct the scheme as one single large project, in order to maximise economies of scale and simplify the approvals process. This meant that the programme was dependent upon waiting for the outcome of the planning application for the Clifton Moor site, but completion was still planned for late 2011 or early 2012.

The results of public consultation on the four potential sites for Clifton Moor Park & Ride were summarised in paragraph 20 of the report. Feedback from the three affected ward committees was outlined in Annex 3. The majority (63%) of the consultation responses had shown a strong preference for Site 4. Subject to Executive approval, it was therefore proposed that the planning consultation process be progressed on the basis of Site 4 as the preferred site.

Officers at the meeting confirmed that consultation had also been carried out with businesses at Clifton Moor, the outcome of which was similar to the consultation with residents and showed a preference for Site 4.

Having noted the comments of the Shadow Executive on this item, it was

RESOLVED: (i) That Site 4 be approved as the preferred location for the Clifton Moor Park & Ride site and that the planning consultation process be progressed on the basis of this site.<sup>1</sup>

REASON: In accordance with the results of public consultation on the four potential sites.

(ii) That the outline design for the A59 roundabout with the Outer Ring Road be approved, so that it can form part of the consultation process associated with planning matters for the Poppleton Bar Park & Ride site application.<sup>2</sup>

REASON: To enable the Major Scheme Bid to progress.

Action Required

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| 1. Proceed with planning consultation on the basis of Site 4 as the preferred site | SS |
| 2. Include the approved A59 roundabout design in the consultation                  | SS |

### **233. LOCAL AREA AGREEMENT (LAA) DELIVERY FUND**

Members considered a report which presented the outcome of the assessment of bids made to the LAA Delivery Fund, together with a list of the projects recommended for funding.

Following the launch of the Fund in September 2008, a total of 88 bids had been submitted by the closing date of 30 January 2009. Of these, five had been registered as ineligible and one had been withdrawn. The remaining 82 bids, after an initial assessment by Officers, had been ranked in order of preference by members of the LAA Assessment Panel. On 9 March, the Panel had met to consider the overall scores and agree a prioritised list of bids. The scores awarded to each bid were attached as Annex A to the report, the Panel's final recommendations were set out in Annex B and a summary of project deliverables for each recommended scheme was provided in Annex C.

The Without Walls Executive Delivery Board had met on 1 April to discuss the Panel's views and had concluded that the list of recommended schemes represented a broad spread of projects, which would tackle many issues classed as 'high risk' by the delivery partnerships. However, they had agreed that scheme no. 39, Taking action against graffiti, was an issue for the Council to pursue and should therefore be removed from the short list and replaced by scheme no. 28, Capable Guardian. As a condition of funding, Capable Guardian should be asked to extend geographic

coverage of their scheme. Members were asked to support the Board's recommendations.

Having noted the comments of the Shadow Executive on this item, it was

**RESOLVED:** That the Without Walls recommendation be accepted and that:

- a) Funding be awarded to the organisations set out in Annex B, subject to scheme 39 - Taking action against graffiti (£49,035) being replaced by scheme 28 - Capable Guardian (£50,000), in all totalling £611,697;<sup>1</sup>
- b) The remaining funding be allocated to the first reserve scheme, no. 25 – Castlegate Meeting Need (£46,984), should appeals not be forthcoming.<sup>1</sup>

**REASON:** To ensure that a wide range of projects are instigated to support delivery of outcomes for York's Local Area Agreement (2008/09 – 2010/11).

Action Required

1. Allocate the LAA funding as agreed and inform the relevant organisations SS

**234. PETITION FROM SOVEREIGN PARK RESIDENTS**

Members considered a report which provided a response to a petition presented at Full Council in January 2009, on behalf of residents of the Sovereign Park development, seeking a rebate and reduction in Council Tax.

The residents' request was based upon the premise that the Council Tax charge covered services that were not being received in their neighbourhood. However, the valuation for each chargeable dwelling under the Local Government Finance Act 1992 was carried out by the Valuation Office and not by the Council. There was no basis on which the Council could vary the sum payable according to which particular services were received and / or used by particular residents. The Council would fail to comply with the law if it did not carry out its duty to levy taxes in line with Council Tax bandings based upon property valuations.

Members noted that the underlying issue related to a delay in the adoption of public services on the development by the relevant authorities. Officers from City Strategy reported at the meeting that the adoption of the highways and open space / leisure areas by the Council should be completed within the next few weeks and that Yorkshire Water were also close to finalising the adoption of the services within their remit.

Having noted the comments of the Shadow Executive and the comments made under Public Participation on this item, it was

RESOLVED: (i) That the reasons for the petition, and the Council's response, be noted.

(ii) That the Scrutiny Management Committee be invited to consider whether a scrutiny review considering the reasons, and possible remedies, for the non-adoption of public services in new estates and roads in the City, might be a worthwhile use of their resources.<sup>1</sup>

REASON: In order to respond appropriately to the issues raised in the petition.

Action Required

1. Ensure that this suggestion is referred to SMC

SS

**235. CODE OF CORPORATE GOVERNANCE**

Members considered a report which presented a draft Code of Corporate Governance for their consideration and approval.

The draft Code, detailing the governance arrangements that the Council currently had in place and structured around the six core principles set out in the CIPFA/SOLACE Framework, was attached as Annex 1 to the report. Overall responsibility for each element of the governance framework was identified in section 5 of the Code. Arrangements for monitoring compliance and effectiveness were set out in section 4.

The Officer Governance Group supporting production of the draft Code had been responsible for co-ordinating an overall review of the Council's governance arrangements, the early outcomes of which had been reported to Audit & Governance Committee on 31 March 2009. In addition, Internal Audit had conducted an annual review of the Council's internal control environment. Any areas of significant control weaknesses identified would be published in the Annual Governance Statement (AGS) and might feature as priorities in the refreshed Single Improvement Plan for 2009/10. The Code of Governance would be updated as required, in line with any improvements. Responsibility for monitoring the Code would rest with the Audit and Governance Committee.

Having noted the comments of the Shadow Executive on this item, it was

RESOLVED: (i) That the Code of Corporate Governance at Annex 1 to the report be approved.<sup>1</sup>

(ii) That the intention to prepare an action plan to address any identified weaknesses in the Council's existing governance arrangements within the Annual Governance Statement and, where agreed, in the Single Improvement Plan be noted.

REASON: To enable the Council to comply with best practice and legislation in respect of its corporate governance arrangements.

Action Required

1. Publish the Code of Governance as the final version and publicise as required SA

**236. REFUSE VEHICLE PROCUREMENT**

Members considered a report which provided details of the procurement process for the replacement of six new refuse collection vehicles (RCVs) and one additional cage collection vehicle and sought approval to make a purchase order on the basis of the outcome of the evaluation process.

Members were reminded of the current funding and contract arrangements following the decision by the Bank of Scotland to exit the public sector operating lease market and the withdrawal of current contractors, DSG, from all non defence contracts. In the short term, the Council could fund vehicles through its own lease framework contract and use the Braintree Framework for the supply of refuse collection vehicles, thus removing the need to go through the OJEU procurement process until the best option for the fleet operations had been identified.

Tenders had been sought from six suppliers through the Braintree Framework Agreement and evaluated using the Most Economically Advantageous Tender (MEAT) analysis. For the six replacement RCVs, Terberg had received the highest score. For the new cage vehicle, LinkTip had scored the highest.

Having noted the comments of the Shadow Executive on this item, it was

RESOLVED: (i) That the procurement process outlined in the report be noted and the outcome of the evaluation process approved.

(ii) That approval be given for a purchase order to be made, so that the successful tenderers can be notified and orders placed.<sup>1</sup>

REASON: In order to provide a suitable procurement solution in the short term, without incurring the additional costs of entering into a funding agreement with an alternative bank.

Action Required

1. Make the purchase order and notify successful tenderers KS

A Waller, Chair

[The meeting started at 2.00 pm and finished at 3.15 pm].

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