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10 March 2017

Dear Councillor

I am now able to enclose, for consideration at the meeting of the **SCRUTINY (POLICY AND PERFORMANCE) COMMITTEE** on Monday 13 March 2017 at 6.00 pm, the following reports that were unavailable when the agenda was printed.

4 **MINUTES** (Pages 2 - 12)

To confirm the attached Minutes of the meeting of the Committee held on 14 February 2017.

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", written over a white background.

Chief Executive

Minutes of the meeting of the **SCRUTINY (POLICY AND PERFORMANCE) COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 14 February 2017 at 6.00 pm.

Present:

Chairman: Councillor M I Cosin (Vice-Chairman in the Chair)

Councillors: T A Bond
R J Frost
B J Glayzer
J M Heron
P J Hawkins (as substitute for Councillor K Mills)
M J Holloway
S C Manion

Officers: Chief Executive
Director of Environment and Corporate Assets
Director of Finance, Housing and Community
Director of Governance
Head of Finance

144 APOLOGIES

An apology for absence was received from Councillor K Mills.

145 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that, in accordance with Council Procedure Rule 4, Councillor P J Hawkins had been appointed as substitute for Councillor K Mills.

146 DECLARATIONS OF INTEREST

Councillor T A Bond declared a Disclosable Pecuniary Interest in Minute No. 158 (Your Leisure Funding Arrangements) by reason of his wife's employment with Your Leisure and withdrew from the meeting for the consideration of the matter.

147 MINUTES

The Minutes of the meeting held on 17 January 2017 were approved as a correct record and signed by the Chairman.

148 PUBLIC SPEAKING

The Team Leader – Democratic Support advised that no members of the public had registered to speak on items on the agenda to which the public speaking protocol applied.

The Vice-Chairman announced that with the consent of Members she would permit public speaking in respect of the item on the Regent Cinema.

149 ISSUES REFERRED TO THE COMMITTEE BY COUNCIL, CABINET, SCRUTINY (COMMUNITY AND REGENERATION) COMMITTEE OR ANOTHER COMMITTEE

There were no items of business.

150 ITEMS CALLED-IN FOR SCRUTINY OR PLACED ON THE AGENDA BY A MEMBER OF THE COMMITTEE, ANY INDIVIDUAL NON-EXECUTIVE MEMBERS OR PUBLIC PETITION

There were no items of business.

151 VARIATION TO THE ORDER OF BUSINESS

The Vice-Chairman proposed that, with the consent of meeting, the order of business be varied to take Agenda Items 11 (Regent Cinema) and 15 (Performance Report – Quarter 3, 2016/17) next in proceedings.

RESOLVED: That the order of the agenda be varied to take Agenda Items 11 (Regent Cinema) and 15 (Performance Report – Quarter 3, 2016/17) next in proceedings.

152 REGENT CINEMA

The Director of Environment and Corporate Assets presented the update on the Regent Cinema.

Members were advised that the following progress had been made against the decision made by Cabinet at its meeting held on 3 October 2016:

CAB61(a)(a): That Planning Officers be instructed to immediately cease providing pre-application advice to the developers of the Regent Cinema. Cabinet noted that the developers had recently been advised by the Chief Executive that the pre-application advice process had been exhausted and that they should proceed with a planning application as soon as possible.

Members were advised that officers had ceased providing pre-application advice although they remained in contact with the developers.

CAB61(a)(b): That the developer be given 3 months to submit an outline planning application and 6 months to submit a full planning application for the Regent Cinema building and, if these deadlines are not met, the Council take enforcement action in respect of the building.

As of 14 February 2017 no application had been received. It was noted that an outline planning permission was not a requirement and that a full application could be submitted directly instead.

The Director of Environment and Corporate Assets advised that the deadline for the six months was considered to be 3 April 2017 and if no application had been received at that time the Council would explore the options available to it.

CAB61(a)(e): That an immediate inspection of the Regent Cinema building be undertaken by Officers to look at whether a Section 215 notice can be issued and a report be provided to a future meeting of the Scrutiny (Policy and Performance) Committee outlining the action taken. Cabinet noted that Officers had visited the site the preceding week, and that the Section 215 process could potentially take up to 5 months should the developer appeal against the notice.

Planning Enforcement officers had visited the site on several occasions and the site was now tidier. In addition, the owners had undertaken the work that officers had requested to be made to the site. At this point there was no need to use Section 215 powers.

CAB61(a)(g): That a local Fire Officer be requested to conduct an immediate inspection of the Regent Cinema building. Cabinet noted that the request had already been made and the outcome was awaited.

An inspection was undertaken and limited recommendations were made which have subsequently been completed.

CAB61(a)(h): That the Director of Environment and Corporate Assets be requested as a matter of urgency to investigate if the condition of the Regent Cinema building is adversely affecting the Timeball Tower and take appropriate action. Cabinet noted that this matter was being investigated.

There were no concerns in the short term about the Regent Cinema building impacting on the Timeball Tower.

CAB61(a)(i): That Officers be asked to investigate whether the correct level of business rates has been paid on the Regent Cinema building for its actual use over the last six years and the findings, including any action taken as a result, be reported to a future meeting of the Scrutiny (Policy and Performance) Committee. Cabinet noted that this matter was being investigated.

It was confirmed that the correct level of business rates had been paid.

CAB61(a)(j): That a report be submitted to a future meeting of the Scrutiny (Policy and Performance) Committee on the feasibility of the

Council undertaking a Compulsory Purchase Order in respect of the Regent Cinema building in the event the developer does not take the requested actions. Cabinet noted that the Compulsory Purchase procedure should be considered as a measure of last resort and that provision of a report should be subject to the expiry of the planning application deadlines at (b) above.

A Compulsory Purchase Order was a measure of last resort and the Council was waiting for the six month deadline on submitting a planning application to expire. The Director of Environment and Corporate Assets would also be meeting with the Reopen the Regent campaign over the possibility of forming a community interest company.

Members were advised that the owners of the Regent Cinema had been reducing the use of the building for other purposes and at the end of the six month period the Council would review the usage of the building.

In respect of the covenant on use of the site, it was stated that this would apply indefinitely and could not be released without the Council's agreement.

The members of the public present raised the following points:

- Whether the reports on the state of the Regent Cinema building would be made public. The Director of Governance advised that ownership of the reports would need to be confirmed but if they were in the Council ownership they could be made public.
- The circumstances under which the Council would lift the covenant. The Chief Executive advised that this would be for the Council to determine and no such request had been received at this time.

The example of the St James's Development was cited as an example of where the Council had used its powers to facilitate others in delivering a proposal and it was suggested that if a viable alternative proposal for the Regent Cinema existed the Council would look at it.

Members were reminded that an Asset of Community Value application had been accepted for the Regent Cinema which would give six months for an offer to be made to purchase the property for community use should the property be put up for sale. The example of Sandwich Town Council supporting local community assets in its area was cited as something that might want to be considered in Deal.

The Leader of the Council stated that the Council had sold the Regent Cinema in good faith with the intention that it be used as a cinema.

Members discussed when it would be appropriate to receive a further report on the Regent Cinema and it was suggested that an interim report would be appropriate in April 2017. It was agreed that it would be appropriate to invite the owner of the Regent Cinema to the April 2017 meeting.

RESOLVED: (a) That it be recommended to the Cabinet that a report on the progress in respect of Cabinet Decision CAB61 (Regent Cinema) be provided to the Scrutiny (Policy and Performance) Committee at its meeting to be held on 18 April 2017.

- (b) That the developer of the Regent Cinema be invited to the meeting of the Scrutiny (Policy and Performance) Committee on 18 April 2017.

153 PERFORMANCE REPORT - QUARTER 3 2016/17

The Director of Governance presented the Performance Report for Quarter 3, 2016/17.

There were 23 Green, 3 Amber and 8 Red Performance Indicators for Quarter 3, 2016/17, which was an unchanged total from Quarter 2, although the performance of individual indicators had changed. The red performance indicators for Quarter 3, 2016/17 were as follows:

- EKHC2 (Rent arrears as percentage of annual debit)
- HOU010a (Number of households living in temporary accommodation including B&B)
- HOU010b (Number of households in bed and breakfast.
- WAS010 (Residual household waste per household)
- PLA001 (The percentage of appeals against planning decisions which were successful for the applicant)
- PLA002 (Percentage of major planning applications determined in 13 weeks (exc. section 106 agreements) or within an agreed extension of time or Planning Performance Agreement)
- PLA003 (Percentage of minor planning applications determined in 8 weeks (exc. section 106 agreements) or within an agreed extension of time or Planning Performance Agreement)
- PLA004 (Percentage of other planning applications determined in 8 weeks (exc. section 106 agreements) or within an agreed extension of time or Planning Performance Agreement)

In respect of indicators PLA001-004, Members were advised that there was a national shortage of planning officers which was impacting on the Council's ability to recruit staff. The Council was working to train new planning officers and was using external contractors as well. In the event that the East Kent Council merger did not happen there was the potential for a shared service solution to provide increased resilience, such as the Council had done with other services such as ICT.

The Director of Customer Services (East Kent Housing) advised in respect of red indicator EKHC2 (Rent arrears as percentage of annual debit) that the arrears were lower than at the same time a year ago and that it was projected that the indicator would be achieved by year end. The impact of Universal Credit on arrears whilst a factor had not been as significant as had originally been expected.

In response to a question from Councillor S F Bannister concerning why indicator ENH15 (Number of Fixed Penalty Notices issued for dog fouling) had no target, it was stated that this was due to a combination of the intention to achieve

behavioural change through education and the difficulty of catching offenders in the act.

The Head of Community Services advised that the new restructured community team bringing together community safety, community development and communication and engagement had settled in well and provided a renewed focus to how the Council worked with and supported the local community. There would be an open day held for Members to meet the restructured team.

The Council was able to reach 57,000 unique followers through 'Keep Me Posted' email alerts and inform them of Council initiatives and activities.

In November 2016 a successful Dover Skills and Business Expo was held to showcase local employers, colleges, universities and community organisations and was attended by over 300 people. In response to Councillor T A Bond's question as to whether the event would be better held in September the Head of Community Services advised that ways of getting local schools to engage with the skills fair better were being explored.

The Kearsney Parks Project was progressing well with both the Projects Officer and Community Engagement Officer in post and planning for key contractor appointments was underway.

RESOLVED: That it be recommended to the Cabinet that Decision CAB146 be endorsed and the Performance Report and Actions for the 3rd Quarter 2016/17 be noted.

154 COUNCIL BUDGET 2017/18 AND MEDIUM-TERM FINANCIAL PLAN 2017/18–2020/21

The Director of Finance, Housing and Community introduced the report on the Council Budget for 2017/18 and the Medium Term Financial Plan 2017/18-2020/21.

Members were advised that the General Fund budget for 2017/18 was balanced and General Fund reserves of £2.69 million were set. The proposed Council Tax increase for Dover District Council was £4.95.

In respect of the Housing Revenue Account for 2017/18 this was also balanced with significant reserves maintained for 2017/18. There were future budget pressures arising from the 1% reduction in rents imposed by Government and the impact on any requirement to sell high value housing was uncertain.

The current Capital Programme was funded subject to the borrowing arrangements for the Dover Leisure Centre and the Property Investment Strategy.

Q1. Can you explain why at full Council Members were advised that the Council would be in dire financial straits by 2019 when the budget for 2017/18 indicates differently?

Members were advised that if the Council did nothing to address its financial situation it would face significant difficulties in future years as Government funding streams were reducing and expectations for service delivery were increasing.

While the East Kent Councils merger solution was one solution to this the Committee was advised that there were pros and cons to it and that there were other possible solutions.

Q2. What happens if a business cannot pay its business rates during the process of appealing?

Members were advised that when a bill for business rates was issued it was collectable by the Council.

The recent revaluation for business rates by the Valuation Office Agency (VOA) saw an average increase of 2%, although within that there were some significant variances. The Council was also dependent on a small number of businesses for a significant portion of its business rates with the Channel Tunnel accounting for 32%.

The Council had undertaken the best modelling it could on the business rate revaluation and taken the most reasonable cautious view on business rates.

Q3. How does the Council monitor and manage financial risk ('red flags') should they happen?

The quarterly Performance Report contained a summary of the risks facing the Council and Corporate Management Team monitored these and where appropriate recommended action to the Cabinet. In addition, the Portfolio Holder for Corporate Resources and Performance, Councillor M D Conolly, had fortnightly meetings with the Director of Finance, Housing and Community to identify and discuss issues.

Members had also requested further supporting information on a number of points as followed:

S1. Please provide further information on the investment needed to generate a return of £500,000 and the likely split between borrowing and reserves.

Members were advised that investments were expected to yield c.6% gross and between 1.4 - 2% minimum net revenue provision. The biggest returns would be made from the use of reserves or cash balances as there were no loan repayment costs.

S2. Please advise the number of FTE staff for 2016/17 and the projected number of FTE staff for 2017/18.

The average FTE staffing for 2016/17 (to end of third quarter) was 226 and it was projected to be similar for 2017/18 subject to an increase of 25 FTE for the in-house Grounds Maintenance Service.

S3. Please provide the gross figure for business rate appeals for the period 2010 – 2016 (broken down by year)

The Council didn't monitor appeals until 2014 and it was difficult to project the value of the appeal due to the fact that appellants were not required to specify which element of the valuation they were appealing against.

S4. Please provide a list of corporate assets and the receipts that the Council makes from them. Also please provide details of any outstanding debts on those assets.

A list of the properties with a rental income of £1000 or more was circulated to Members. However, in the timeframe available it was not possible to provide Members with a detailed list of any outstanding debts.

There were also concerns over providing information that could lead to the identification of an individual without excluding the press and public.

RESOLVED: That it be recommended to Cabinet and Council:

- (a) That the draft General Fund Revenue Budget, the Capital and Special Projects Programmes, the Housing Revenue Account budget, and the content of the Medium Term Financial Plan (MTFP) as proposed in Appendix 1 be approved.
- (b) That it be noted that the Council Tax Resolution and Treasury Management Strategy will be added to the MTFP and other minor adjustments will be made before being presented to Council in March.
- (c) That the various recommendations at the end of the sections within the Budget and MTFP report, as consolidated at Annex 14 of the report, be approved as follows:
 - (i) Continue the practice of delegating authority to the Director of Finance, Housing and Community to approve the revenue budget carry forwards within the guidelines set out.
 - (ii) Approve the grants to organisations detailed at Annex 11 of the report.
 - (iii) Approve the General Fund Revenue Budget for 2017/18 and the projected outturn for 2016/17.
 - (iv) Approve the policies and protocols regarding the General Fund balances and earmarked reserves, and transfers between reserves as set out at Annex 6 of the report.
 - (v) Delegate to the Director of Finance, Housing and Community, in consultation with the Portfolio Holder for Corporate Resources and Performance, the setting of the level of the on-going HRA minimum balance, the transfer of balances to the Housing Initiatives Reserve (HIR), the use of prudential borrowing, and adjustment of the resources of the HIR accordingly.
 - (vi) Delegate to the Director of Finance, Housing and Community, in consultation with the Portfolio Holder for Corporate Resources and Performance, the approval of offers, tenders or bids for the purchase of properties on

the open market or at auction, in order to respond to market opportunities.

- (vii) Approve the 2016/17 Projected Outturn and the 2017/18 HRA budget at Annex 7 of the report.
- (viii) Delegate to Cabinet the approval of individual projects to be financed by the HIR.
- (ix) Continue the practice of delegating authority to the Director of Finance, Housing and Community, in consultation with the Portfolio Holder for Corporate Resources and Performance, to apply capital receipts, revenue resources, grants, Section 106 monies, etc. to finance the approved Capital and Special Revenue Projects Programmes.
- (x) Continue the practice of delegating authority to the Director of Finance, Housing and Community, in consultation with the Portfolio Holder for Corporate Resources and Performance, to authorise projects up to £50,000 that are included in the Capital and Special Revenue Programmes; authorise the allocation of funds to projects from the Capital and Special Revenue Contingencies; authorise virements between regeneration projects and apply Growth Point reserves to regeneration projects.
- (xi) Approve the Capital and Special Revenue Projects Programmes.
- (xii) Approve that capital resources required to finance new projects are secured before new projects commence.
- (xiii) Delegate to the Director of Finance, Housing and Community, in consultation with the Portfolio Holder for Corporate Resources and Performance, the amendment of the level and period of investment in property funds.
- (xiv) Approve the Treasury Management Strategy, including the Prudential Indicators and Minimum Revenue Provision Statement.

155 FEES AND CHARGES 2017/18

The Director of Finance, Housing and Community introduced the report on the Fees and Charges 2017/18.

Members were informed that the variation in the changes to the charges for Deal Pier related to the difference in day/night staffing costs and rounding of increases to whole numbers.

In respect of memorial safety work charges, Members were advised that the Council would undertake the work for safety reasons even if it was difficult to reclaim the charges due to the age of the memorials.

RESOLVED: That it be recommended to the Cabinet:

- (a) That the Fees and Charges (F&Cs) for 2017/18 as set out in Appendices 2 and 5.3 be approved.
- (b) That it be agreed that any Fees & Charges be adjusted by the Service Director and Portfolio Holder to comply with any subsequently received government guidelines (when they are received) without being the subject of a further report unless they are materially different from current charges, or have a material impact on the level of income.
- (c) That the general principle that fees are set at an appropriate inclusive level, irrespective of VAT status, and that the VAT element within the overall fee level is then determined be agreed.
- (d) That the fees and charges approved by Licensing and Regulatory Committees (which includes the Planning Committee) set out in Appendices 3, 4, 5.1 and 5.2 be noted.
- (e) That it be agreed that the Director of Governance can authorise variation of the CON29 Land Charges to take account of the prevailing VAT requirements.

156 NOTICE OF FORTHCOMING KEY DECISIONS

The Team Leader – Democratic Support presented the Notice of Forthcoming Key Decisions to the Committee for its consideration.

RESOLVED: That the Notice of Forthcoming Key Decisions be noted.

157 SCRUTINY WORK PROGRAMME

The Team Leader – Democratic Support presented the Scrutiny Work Programme to the Committee for its consideration.

Members requested that a review of property investment be added to the work programme and that an update on the Regent Cinema be included in the work programme for April 2017.

RESOLVED: That the Work Programme be noted subject to the inclusion of an item on property investment and the update on the Regent Cinema.

158 YOUR LEISURE FUNDING ARRANGEMENTS

The Director of Environment and Corporate Assets presented the report on the Your Leisure Funding Arrangements.

Members were advised that a further report would be considered by the Cabinet in March 2017.

RESOLVED: That it be recommended to Cabinet that Decision CAB140 be endorsed and the proposed funding agreement for 2017/18 be approved.

(Councillor T A Bond declared a Disclosable Pecuniary Interest in Minute No. 158 (Your Leisure Funding Arrangements) by reason of his wife's employment with Your Leisure and withdrew from the meeting for the consideration of the matter.)

The meeting ended at 8.03 pm.