

Cabinet Scrutiny Committee

**Minutes of the Meeting Held on Tuesday 20 May 2014 at 2pm
in the Edwards Room, County Hall, Norwich**

Committee Members Present:

Mr B Borrett (Chairman)

Mr R Bearman

Mrs J Brociek-Coulton

Mr R Coke

Mr D Collis

Mr J Dobson

Mr T FitzPatrick

Mr T Garrod

Mrs S Gurney

Mr C Jordan

Mr B Long

Mrs E Morgan

Mr R Parkinson-Hare

Dr M Strong

Mr J Timewell

Mr M Wilby

Other Members Present:

Mr S Morpew

Cabinet Member for Finance, Corporate & Personnel.

Mr J Law

In support of the Call-in

Mr A White

Mr W Richmond

Ms S Whitaker

Officers Present:

Mr H Bullen

Head of Budgeting and Financial Management

Karen Haywood

Scrutiny Support Manager

Peter Timmins

Interim Head of Finance

Chris Walton

Head of Democratic Services

Julie Mortimer

Committee Officer

1 Apologies and substitutions.

- 1.1 Apologies were received from Alison Thomas (John Dobson substituted); Harry Humphrey (Tom FitzPatrick substituted); Stan Hebborn (Rex Parkinson-Hare substituted); Roger Smith (Tom Garrod substituted); Terry Jermy (Julie Brociek-Coulton substituted); Brian Watkins (John Timewell substituted); Judy Leggett (Brian Long substituted); Sara Vertigan and Kirsty Byrne, Parent Governor representatives.

2 Declarations of Interests

- 2.1 The following Members declared an 'other' interest in item 5 (Call in – Replenishment of the General Reserve) as Members of District Councils:

Mr B Borrett – Breckland District Council.

Mr M Wilby – South Norfolk District Council

Mr T FitzPatrick – North Norfolk District Council

Mr B Long – Borough Council of King's Lynn and West Norfolk

Mr C Jordan – Breckland District Council

Mrs S Gurney – Broadland District Council
Mr D Collis – Borough Council of King's Lynn and West Norfolk
Mrs J Brociek-Coulton – Norwich City Council.

3 Minutes

- 3.1 The minutes of the meeting held on 29 April 2014 were confirmed as a correct record and signed by the Chairman.

4 Items of Urgent Business

- 4.1 There were no items of urgent business.

5 Call-in item – Replenishment of the General Reserve

- 5.1 The Committee **agreed** to adjourn the meeting for 15 minutes to allow adequate time for Members to read the tabled paper from the Interim Head of Finance. A copy of the paper is attached at Appendix A.

The meeting was adjourned at 2.05pm and reconvened at 2.20pm.

- 5.2 Cabinet, at its meeting on 12 May 2014, considered a report entitled 'Replenishment of the General Reserve' which stated that:

"Cabinet is recommended to agree:

1. The 2013-14 and 2014-15 savings of £7.82m set out in paragraph 2.3 of the report;
2. To recommend to County Council that the 2013-14 and 2014-15 budgets are reduced by £3.48m as set out in paragraph 2.3 of the report;
3. That, if savings options which have less direct impact on services emerge during 2014, substitution of these is an acceptable policy option."

- 5.3 Cabinet **RESOLVED** that:

1. The £7.82m savings from 2013-14 and 2014-15 set out at 2.3 of the Cabinet report be agreed;
2. If savings options which have less direct impact on services emerge during 2014, substitution of these is an acceptable policy option;

RESOLVED TO RECOMMEND TO COUNCIL that:

The 2013-14 and 2014-15 budgets be reduced by £3.48m as set out in paragraph 2.3 of the Cabinet report, subject to hearing further representations from District Councils and those affected by the recommendation set out at 3.6 of the Cabinet report.

- 5.4 The Chairman welcomed John Dobson, Brian Long and Jason Law who had called in the decision, to the meeting and outlined the procedure format. The Chairman also welcomed Steve Morphew, the Cabinet

Member for Finance, Corporate and Personnel, Peter Timmins the Interim Head of Finance and Harvey Bullen the Head of Budgeting and Financial Management.

5.5 Mr Dobson introduced the call-in and a copy of his report is attached at Appendix B to these minutes. Mr Dobson pointed out that he had amended the text of the call-in which had been circulated to Members. Mr Long and Mr Law then addressed the meeting in support of the call-in, in particular outlining their disagreement with using the second homes council tax money to finance the compensation payment, especially as the allocation of money was disproportionate across the District Councils.

5.6 The Cabinet Member for Finance, Corporate and Personnel addressed the meeting and advised that Cabinet had been required to find £30m within a very short timetable. The reason for the additional amount was to cover the increased exchange rates and hedging costs. He added that Cabinet had made a recommendation that all Members would be able to participate in a full discussion on the proposed savings at the full Council meeting on 27 May and that any other options to find the sum of money required could be considered at that time.

The Cabinet Member also advised that it would not be appropriate to sell the Willows site at the present time. The site had been purchased as it had been identified as having the potential for the development of a building to be used to dispose of the county's waste in whatever format was eventually agreed. Once the options for dealing with the county's waste had been finalised, the site could either be developed or sold and the money from the sale used to purchase a site elsewhere in Norfolk.

5.7 The Interim Head of Finance advised that the funds needed to be available for payment by 14 July, although the final invoice had not yet been received from Cory Wheelabrator. He added that the savings to be made needed to be demonstrable and also needed to identify the consequences of the savings. The savings in the report to Cabinet were the options available that would have the least impact on County Council services.

5.8 The following points were noted in response to questions from the Committee:

5.8.1 The Government Legislation for the use of second home income had been implemented to assist district councils in providing affordable housing in their areas. North Norfolk District Council and the Borough Council of King's Lynn and West Norfolk had the highest proportion of second homes in the county. Members felt that the consequences of a 50% reduction in other district council areas was less damaging in comparison to North Norfolk and King's Lynn and West Norfolk but that this option should not be progressed further.

5.8.2 Officers from the County Council would be holding discussions with officers from the District Councils to ascertain if it would be possible to progress the offer from the District Councils to lend the money to the County Council to assist with the compensation payment. Once the discussions had taken place a report would be submitted to Members for their consideration.

5.8.3 The option for 2015-17 of reducing the amount of second homes funds to

District Councils was discussed at a meeting of Finance Officers on 23 January 2014. This had been in terms of a 50% reduction in 2015-16, followed by a 100% reduction in 2016-17. During the budget discussions a suggestion had been made to reduce the amount of second home money paid to the District Council. Once that suggestion had been deemed viable, Chief Executives had been telephoned on 2 May to ascertain their views. These phone calls had been followed up with conversations with the Finance Directors in the District Councils. The discussions in January had been in the context of budget setting in 2015-17 and had not been about compensation payments and the Committee were reassured that there had been no discussion on this topic prior to the abandonment of the Willows contract.

5.8.4 Members stressed that the second homes money, particularly in North Norfolk District Council and the Borough Council of King's Lynn and West Norfolk was being used to assist with rural isolation in areas disproportionately affected by high numbers of second homes. Members felt that cutting second homes money would be disproportionate across the county and had been considered without proper consultation at political level and would exacerbate rural isolation in some areas.

5.8.5 The Interim Head of Finance confirmed that it would be feasible to guarantee that using the second homes money would be a one-off arrangement.

5.8.6 The following breakdown of the amounts for second homes money was provided:

	£
Breckland District Council	53,713
Broadland District Council	47,526
BC King's Lynn & West Norfolk	358,863
Norwich City Council	37,557
Great Yarmouth Borough Council	50,678
North Norfolk District Council	428,656
South Norfolk District Council	63,019
Total	£1,040,012

5.9 During his summing up, Mr Dobson said he felt a good debate had taken place. He added that the legislation for second homes money had been designed to help areas with high proportion of second homes and he felt that administratively it would not be possible to extract this money from the District Councils. The cuts would also increase rural isolation in some areas of the county.

Mr Dobson said he was pleased that there appeared to be support for asking Cabinet to consider other options and he said that one option had already been raised and that the loan of money from District Councils should be pursued.

5.10 Mr J Dobson proposed, seconded by Mr B Long, that

The Cabinet Scrutiny Committee resolves to send the Cabinet's called in decision back to Cabinet with the recommendation that they review it, in

particular the service cuts identified in the call-in and this detailed report as being ill-thought through and provocative (road patching, library book fund, second homes monies) and substitutes that small amount of money with funding not involving service cuts.

With 13 votes for and 2 votes against, the proposal was **CARRIED**.

5.11 Mr B Long proposed, seconded by Mr J Dobson that:

The Cabinet should decide immediately to offer to sell the Willows site at valuation to the West Norfolk Borough Council.

5.12 Mr C Jordan proposed, seconded by Mrs S Gurney, the following amendment:

The Cabinet should decide immediately to offer to sell the Willows site at valuation to the ~~West Norfolk Borough Council~~.

With 3 votes for and 12 votes against the amendment was **LOST**. A vote was then taken on the original motion.

5.13 With 9 votes for, 3 votes against and 3 abstentions the substantive motion at paragraph 5.11 was **CARRIED**.

Cabinet should decide immediately to offer to sell the Willows site at valuation to the West Norfolk Borough Council.

As this was the final meeting of the Cabinet Scrutiny Committee, the Chairman thanked the Committee for the business-like way they had addressed scrutiny over the last 12 months. He also thanked Members and the Vice-Chairman for their support and the Cabinet Members for their co-operation, and officers for providing the reports allowing the Committee to reach informed decisions. He wished everyone well for the future.

The meeting ended at 3.40pm

CHAIRMAN



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Paper for Scrutiny Meeting - Tuesday 20 May 2014

1 Background

- 1.1 There were various boundaries that constrained the range of choice available to the County Council in seeking to assemble £30.3m as an earmarked reserve to meet the possible cost of the termination of the Willows contract in the period starting October 2013. These are listed below:-
1. The Council set a **policy** (page 66 agenda 17 February 2014) to have a minimum level of general reserves of £19m for 2014-15. This is to cover unforeseen events. By October, the possibility of having to terminate the Willows contract on the grounds of planning failure could not be placed in such a category.
 2. In any event, general reserves could not be seen as the answer, because the County Council's general reserves are amongst the lowest of any County – the report to the 17 February Council noted that the average for shire counties was 10% of net budget, with NCC's at 5.5%. As a consequence Cabinet agreed that the Council needed to assemble a **specific** (or earmarked) reserve to pay for the possible costs of termination.
 3. Such an earmarked reserve should exist before the payment. The earmarked reserve was assembled in three tranches - £11m during 2013-14, £8m as part of setting the 2014-15 budget, and the balance to be raised during 2014-15, if necessary. At the time of the budget making, there was an expectation that planning permission would be shortly granted. When it became clear this was not the case, the concept of **certainty** guided the creation of the last tranche of the earmarked reserve. Promises of future savings/ income were therefore unacceptable, for they might turn out to be undeliverable.
 4. The allied concept was the **speed** in which the earmarked reserve had to be assembled, for it has to be available to pay the balance of the costs by July 2014.
 5. This year's budget already sees savings of £68.3m of which £37.4m come from efficiencies. Delivering savings of this level is of itself, a monumental task and has seen services trawl over every area of their expenditure. It leaves **little scope** for further savings; had they been obvious or deliverable in-year they would certainly already be in the budget.
 6. These five boundaries - policy; specific; certainty; speed and little scope - limit the choice of finding immediate, readily deliverable further funding sources. However, the recommendation to Cabinet was clear that if, over the coming months we can find other ways of savings to offset those recommended which have less impact, then they should be **substituted** accordingly during 2014.
 7. Finally, the termination amount to be funded, at approximately £30.3m, has increased as a result of the fixing of the exchange rate and interest payable to the banks, on Friday 16 May. The amount the Council will have to pay is now estimated at £33.7m, which is more resource than the 12 May 2014 report (para 1.1) identified.

2 Specific proposals relating to Second Homes monies 2015-17

- 2.1 The County Council now operates a three year rolling budget. As part of assembling the 2014-17 revenue budget, to meet a gap of £189m, the arrangements for spending £2.4m of Second Homes funds came into focus. Most Counties maximise their income and do not have the Norfolk arrangements. The Council reached the view that for 2015-17, it needed to re-direct some of its proportion of second homes monies away from partnership and localism projects to support mainstream services. (The funding for the Norfolk Infrastructure Fund was not affected.) It further signalled a desire to make changes in the agreement with District Councils and highlighted the need for discussions with District partners on this. There is still a shortfall of £22m, phased over the latter two years, £4m in 2015-16 and £18m in 2016-17.
- 2.2 The option for 2015-17 of reducing the amount of Second Homes funds flowing to District Councils was discussed at the 23 January 2014 meeting of Finance Officers in terms of a 50% reduction in 2015-16, followed by a 100% reduction in 2016-17.

3 Proposals relating to Second Homes monies 2014-15

- 3.1 It became clear, by 7 April with the decision of Cabinet and Council, that the County Council would have to quickly assemble an estimated £11.3m. The range of choices was limited by the boundaries set out above 1.1 [1-4]. A report was prepared for the Cabinet meeting of 12 May 2014, which recommended actions to Council on 27 May. The 'either or' recommendation gave the option of not paying £1.04m (or 43%) of the £2.4m Second Homes grant to help fund the £30.3m, essentially, bringing forward the 2015-16 proposal (this came from a review of 15/16 proposals to determine what might be possible to bring forward).
- 3.2 Before that Cabinet report was published, senior County Council officers rang the District Council Chief Executives on 2 May. This was followed up with a similar ring around to the District Council Directors of Finance on 6 and 7 May. A pro forma was sent on 9 May to District Council Directors of Finance, to gather better information for the 27 May meeting.
- 3.3 Discussions with the District Council Directors of Finance explored a technical issue that would, if the County Council were to agree it, give the District Councils more time to re-organise their use of the Second Homes grant. In effect, this would back-end the reduction to the second half of the year.

4 District Council feedback

- 4.1 The District Council feedback can be summarised in the following points:
1. Agreements. District Councils have noted that there were formal agreements in place that had not been changed. Further, they have not been formally consulted on the County's plans to reduce the Second Homes grant up to now.
 2. Reduced saving. Much of the planned expenditure by Districts was closely aligned to the County Council's programmes and would necessitate spending by the County, if the Districts' funding was cut, reducing the net saving for our authority. Evidence for this was sought through the 9 May pro forma.

3. Committed spend. District Councils have also noted that other organisations had made plans, and committed resources, for 2014-15, which would be difficult to unwind. Evidence for this was sought through the 9 May pro forma.
 4. Response. An option for a District is to change the scheme, such that it would reduce the income in 2015-16. The District would suffer to a smaller extent than the County.
 5. Site. A specific request to explore the sale of the site to a District Council, using the offices of the District Valuer.
 6. District Councils requested a meeting to explore the whole issue, which was set for 14.00hrs on 17 May. There is also a Cabinet Scrutiny meeting on 20 May on this issue.
- 4.2 The 17 May meeting with the Leaders of the District Councils led to an agreement for District and County officers to meet (19 May) to explore the level of assistance the Districts could offer.

5 Further developments

- 5.1 The call-in document, released 15 May, proposed four alternative savings. These are listed below, with a comment as to their practicality.

	Proposal	Comment
1	Providing additional funds to pay penalties not involving service cuts	<p>The 12 May report's options were of the lightest impact that could be assembled, given the boundaries in which the problem was posed (set out at 1 Background above).</p> <p>The call-in document requested Cabinet to propose alternatives, which given point 1.1.4 above, that there are £68.3m of savings in 2014-15 to be delivered, led the Cabinet to its recommendation. Council has the option to propose alternatives, but they have to remain inside the 5 boundaries.</p>
2	e.g. increased efficiency savings, to include productivity, targeted further reductions in procurement,	<p>This proposal does not meet the requirement for <u>certainty</u> or <u>speed</u>, and would also be at odds with Council policy on general reserves (taking it below the minimal level). Efficiency savings of £37.4m have been found for 2014-15, and if any more were available, they would already be in the budget. Given the quantum of savings to be delivered, proposals have to be SMART and deliverable. The call-in proposals do not meet that test.</p>

	Proposal	Comment
3	Reducing and/or delaying the penalty	<p>The law and contract is clear on when the amount has to be paid, and by whom. Failure to abide by the terms would be a breach of the contract.</p> <p>The contract provides for the payment of compensation costs if the contract is terminated in various scenarios.</p> <p>Provided that the contractor has been deemed to have used all reasonable endeavours to obtain planning permission, planning is a shared risk under the contract and termination as a result of failure is treated as a force majeure (i.e. neither the fault of the contractor nor County Council).</p> <p>The contract sets out the heads of losses to be paid in this termination scenario and these include bank commitment fees, sub-contractor termination costs and development costs. These are capped at £20.3m plus the costs of hedge breakage.</p> <p>All costs are being scrutinised to ensure that they were properly incurred and relevant, however the contract is specific in this regard and there is no scope to pay a different sum from that calculated in accordance with the contract.</p> <p>The termination sum must be paid within 40 business days of the termination date which was 16 May. If payment is delayed, interest is payable. In addition the hedge breakage amount of £11.84m confirmed on 16 May was payable within three business days.</p> <p>Finally, the County Council must indemnify the contractor for 9/10ths of its properly incurred and evidenced costs above £50,000 relating to the public inquiry and this is payable within 40 business days of an invoice being received.</p>
4	Sell the Willows site	<p>This is a site allocated for waste management treatment (not technology specific) in the Council's statutory Waste Site Allocations Plan. Though the Willows Project, involving incineration has collapsed, the Council will still have need for suitable sites on which alternative means of waste management could be sited and as such this will remain an important strategic asset.</p> <p>At a practical level, the proposal does not meet the requirement for <u>certainty</u> or <u>speed</u>. It also bumps up against the Government rules forbidding the use of capital receipts for revenue purposes.</p>

	Proposal	Comment
		<p>Whilst Councils have some small flexibility, to substitute revenue spend on capital schemes with capital receipts (and so releasing revenue), we have exhausted this approach in the Cabinet's proposals.</p> <p>Lastly, the proposal ignores the policy problem that the Council faces on the capital programme, of the need to capture all available capital receipts, to reduce unsupported borrowing. Unbalancing the wider budget settlement for one project will lead to the cancelation of capital projects, such as highways repairs.</p>

Peter Timmins
Head of Finance (Interim)
Norfolk County Council

F:140520 V4
May 20 11:00hrs

CABINET SCRUTINY COMMITTEE

20 May 2014-05-19

SUPPLEMENTARY AGENDA

5 Call.in: Replenishment of the General reserves

More Detailed Report by Cllr John Dobson (as advised in pre-penultimate para of the Call-in report)

More Detailed Report supporting recommendation that the Cabinet reconsider their decision to agree “The £7.82 savings from 2013-2014 and 2014-2015 set out at para 2.3 of the Cabinet report and specifically the Further Savings Options outlined in para 3.6” and by extension the follow on resolution at para 4 “Resolved to recommend.....subject to further representations from District Councils and those affected by the recommendation set out at 3.6 of the Cabinet Report.

The following are additional considerations:

The absence at the time of writing of this additional report of the report asked for from officers is disappointing:

In its absence the following is suggested for the Committee’s consideration as additional reasons why the Cabinet should reconsider their ways of finding the £1.04, other than by the provocative and waspish service cuts which they have agreed to: (reduction in highways patching budget and Library Book fund and/or reduction on 2nd homes money due to be paid to District Councils.

- The sums concerned are so small that it is inconceivable that they could be recommended by Cabinet for other than political reasons.
- The Council Leader’s hopelessly inept recent letter to the Prime Minister seeking financial assistance to help with the penalty payments was couched in terms which virtually guaranteed rejection – clear evidence of political chicanery with regard to seeking funding to pay for penalties. .
- The overall gross financial turn-over of the Council is in excess of £1.5billion – it is palpably nonsense to pretend that our ability to pay the penalties is dependent on these provocative raids on these three important services. Such an assumption would be inconsistent with our external auditor’s annual report on the Council’s financial governance, including risk (clean bill of health)
- The attack on the road patching budget in particular could backfire given the huge sums of compensation which this Council pays out in compensation annually to Norfolk’s motorists who damage their cars because of potholes etc.
- Other ways in which the very small amount of money could be found are to revisit and alter the level of reserves downwards; apply salami slicing to departmental budgets in year in direct proportion to their overall projected in year spend; sell the Willows site to the Borough Council who are ready to buy at the valuation price (also see below)

Sale of Willows Site. This should be proceeded with apace. There is no legal reason why it should not be sold at valuation price to the Borough Council. The money raised can be

used to offset the penalty payments because the rules regarding transfer between capital and revenue budgets are sufficiently flexible to allow this (and indeed to vire between budget heads and sub heads and to bring financial plans forward or delay them in time). The fact that the measures announced in the Cabinet report have included for this purpose at the top of page A5 third line Sale of Property £0.70m demonstrate the ability to do this.

Budgetary Considerations Overall

Many of the penalty payments will not be paid for several months. This is because we still don't know what they are likely to be, indeed the fact that the addition of a further £3.4m (revealed on May 16) is considered not sufficiently pressing to warrant inclusion in this current cabinet process is evidence of this.

The fact is that the overall financial position of the Council is forecast to plummet to much greater depths owing to further substantial reductions in revenue support grant and this means that the whole panoply of measures to reduce our budget will need to be resurrected: efficiency savings, third party transaction savings on contracts, rationalisations, joint working etc; all will have to be readdressed, before we start making further service cuts. This emerged during the members' financial briefing held by finance staff yesterday (19 May). It will not be difficult therefore to target some of these non-service cut savings if necessary in order to provide the relatively small amounts of penalty still to be found.

RECOMMENDATION

The Cabinet Scrutiny Committee resolves to send the Cabinet's called in decision back to Cabinet with the recommendation that they review it, in particular the service cuts identified in the call-in and this detailed report as being ill-thought through and provocative (road patching, library book fund, 2nd homes monies and substitutes that small amount of money with funding not involving service cuts. Further, the Cabinet should decide immediately to sell the Willows site at valuation to the West Norfolk Borough Council.

John Dobson
County Councillor
01485 534989

20 May 2014