

COUNTY COUNCIL

Minutes of a meeting of the County Council held in the Council Chamber, County Hall, Ruthin LL15 1YN on Thursday, 30 May 2019 at 10.00 am.

PRESENT

Councillors Brian Blakeley, Joan Butterfield, Jeanette Chamberlain-Jones, Ellie Chard, Ann Davies, Gareth Davies, Meirick Davies (Chair), Hugh Evans, Peter Evans, Bobby Feeley, Rachel Flynn, Tony Flynn, Huw Hilditch-Roberts, Martyn Holland, Alan James (Vice-Chair), Brian Jones, Pat Jones, Tina Jones, Gwyneth Kensler, Richard Mainon, Christine Marston, Barry Mellor, Melvyn Mile, Bob Murray, Merfyn Parry, Paul Penlington, Pete Prendergast, Arwel Roberts, Anton Sampson, Glenn Swingler, Andrew Thomas, Rhys Thomas, Tony Thomas, Julian Thompson-Hill, Graham Timms, Joe Welch, Cheryl Williams, David Williams, Emrys Wynne and Mark Young

ALSO PRESENT

Chief Executive (JG), Corporate Director: Economy and Public Realm (GB), Head of Legal, HR and Democratic Services / Monitoring Officer (GW), Head of Finance / Section 151 Officer (RW) and Democratic Services Manager (SP).

1 APOLOGIES

Apologies for absence were submitted by Councillors Mabon ap Gwynfor, Hugh Irving, Huw Jones, Geraint Lloyd-Williams and Peter Scott.

2 DECLARATIONS OF INTEREST

The following members declared a personal interest in agenda item 4: Implementation of an Alternative Delivery Model (ADM) for Various Leisure Related Activities / Functions:

Councillor Gwyneth Kensler – as secretary of Theatr Twm o'r Nant because the Theatre received support from leisure for the 'Night Out – Noson Allan' scheme and assistance from the Pavilion Theatre technical team. In addition, her husband was a member of one of the Council's leisure centres.

Councillor Joseph Welch – as his children accessed leisure services provided by the Council.

Councillor Emrys Wynne – as a member of Ysgol Brynhyfryd's Governing Body. The personal interest related to the school's use of the Ruthin leisure centre's facilities during school hours.

Councillors Gareth Davies, Rachel Flynn and Paul Penlington declared personal interests from their memberships of Denbighshire Leisure.

Councillor Tony Flynn queried whether his former role as a director of Clwyd Leisure represented a personal interest? The Monitoring Officer advised that as Clwyd Leisure no longer existed the role did not constitute a personal interest under the Code of Conduct.

3 URGENT MATTERS AS AGREED BY THE CHAIR

There were no urgent matters.

4 IMPLEMENTATION OF AN ALTERNATIVE DELIVERY MODEL (ADM) FOR VARIOUS LEISURE RELATED ACTIVITIES/FUNCTIONS

Before proceeding with this item Councillor Bobby Feeley paid tribute to the election team responsible for the efficient running of the recent elections to the European Parliament. Councillor Arwel Roberts endorsed Councillor Feeley's comments.

Councillors Bobby Feeley and Julian Thompson-Hill presented the joint report seeking Council's view in respect of the draft Business Case (Appendix A) for establishing a Local Authority Trading Company (LATC), for a range of previously agreed "in scope" leisure related activities/functions.

Councillor Feeley reported on the 'vastly improved' services and improvements achieved in respect of Denbighshire's leisure facilities and activities over the last 10 years. She outlined some of the new and improved facilities and advised that the total subsidy to support leisure services was roughly the same as it had been in 2012. She noted that many of the improvements had been secured using existing resources or self-funded borrowing to invest in new or improved facilities.

Members were provided with details of the Board that would oversee the LATC together with an indicative membership of that Board. Councillor Feeley highlighted the proposed arrangements that would allow the LATC to be successful and continue to flourish in a commercial environment whilst protecting and retaining the Council's interests and ultimate control of Denbighshire Leisure.

Councillor Thompson-Hill reported on the financial reasons behind the establishment of an Alternative Delivery Model (ADM) which was forecast to provide significant savings for the Council whilst enabling the service to trade more commercially to help sustain facilities for the future. In summary, the savings were estimated at £1,107k with large savings on National Non-Domestic Rates (NNDR) and VAT payments. After outlining known costs and contingencies, it was estimated that net annual savings in the first year would be £800k. Currently, the 'in scope' facilities and services, i.e, those proposed to be transferred to the LATC, received a Council subsidy of around £3 million a year, but that subsidy would be lowered by the savings achieved by the LATC model.

Members discussed the following points:

- The buildings/grounds currently used for the delivery of the in scope leisure services would be leased to the LATC on peppercorn rents for a 10 year period. Provision would be made within the leases to protect the existing

service level agreements with schools, and maintain the current access to the buildings for elections and emergency requirements, etc.

- The lessons learnt from Denbighshire's experience of using Clwyd Leisure to manage facilities and those from other local authorities' experience of ADMs.
- The level of assurance and risk around achieving savings through reductions in NNDR and VAT payments and the risk to the model if future legislation changed and prevented the forecast savings from being realised. Members were advised that these risks existed and had been explored within the business case. As a result of the Council retaining ownership, the lease agreement would provide for recovery of LATC assets by the Council under certain conditions.
- Confirmation that affected staff would be transferred to the new LATC under TUPE regulations and be subject to the same terms and conditions as other Denbighshire staff. The Head of Legal clarified that because the Council would own the company, the LATC would not be able to vary the pay and conditions of its staff from those employed directly by the Council without the Council's agreement, which was very unlikely to be given. Additionally, he advised that because the LATC would be owned by the authority any differential in pay and conditions could lead to equal pay claims from staff who were subsequently left with less favourable pay or conditions. This legal challenge provision for equal pay was another reason why the same pay and conditions would be maintained by the LATC and the Council.
- There were potential opportunities for the LATC to commercially trade to a value of up to 20% of its annual turnover and to add other activities or functions to the LATC in the future if the model was as successful as expected. These aspects were not built into the business plan as the intention was to focus at this point on successfully establishing the LATC.
- The advantages to the Council of retaining profits made from having its own LATC run leisure services rather than outsourcing them to a commercial operator.
- Following a transitional period to prepare for the transfer of services, it was intended for the LATC to go live in April 2020.

At this juncture the meeting adjourned for a short comfort break and on resuming members considered excluding the press and public from the meeting.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 14 of Part 4 of Schedule 12A of the Act.

Members reviewed the proposed senior staffing arrangements and appointments processes for the LATC. The Chief Executive confirmed that the proposals would necessitate some restructuring of staff and management arrangements and she would keep members appropriately informed about changes.

(At this juncture the meeting resumed in open session.)

RESOLVED that Council:

- (i) Supports the final Business Case for the Project;*
- (ii) Supports the establishment of a not for profit Local Authority Trading Company limited by Guarantee (LATC);*
- (iii) Supports the appointment of the Corporate Director: Economy and Public Realm to the Board of the LATC;*
- (iv) Supports the retention of the current name 'Denbighshire Leisure' for the LATC; and*
- (v) Confirms that it has read, understood and taken account of the Well-being Impact Assessment, (Appendix B, Ref no 564), as part of its consideration.*

The Lead Member for Finance, Councillor Julian Thompson-Hill, took the opportunity to note that the Head of Finance / Section 151 Officer, Richard Weigh, was leaving Denbighshire County Council and today was his last full Council meeting. He highly commended Mr Weigh's contribution and achievements in successfully fulfilling a difficult role during a challenging financial climate. Members warmly endorsed Councillor Thompson-Hill's tribute.

5 COUNTY COUNCIL FORWARD WORK PROGRAMME

The Head of Legal, HR and Democratic Services presented Council's forward work programme (previously circulated). Members agreed to defer the Annual Report of the Scrutiny Committees from the July meeting to the October 2019 meeting of Council.

RESOLVED – *that, subject to the above, Council approves the forward work programme.*