

Executive – 16 July 2008

- Present:** Councillor Henley (Chairman)
Councillors Brooks, Coles, Horsley, R Lees, Mullins, Prior-Sankey, Mrs Smith and A Wedderkopp.
- Officers:** Penny James (Chief Executive), Shirlene Adam (Strategic Director), Joy Wishlade (Strategic Director), Tonya Meers (Legal and Democratic Services Manager), Michele Hale (Policy Support Co-ordinator), Ruth James (Communications and Information Manager), Simon Lewis (Procurement Change Manager), Helen Phillips (Policy Support Co-ordinator), Debbie Rundle (Media and Public Relations Officer), Phil Sharratt (Economic Development Manager), Jill Sillifant (Acting Head of Client), John Williams (Chief Housing Officer), Brian Yates (Building Control Manager) and Donna Durham (Democratic Services Officer)
- Also present:** Councillors Brockwell, Cavill, Mrs Court-Stenning, Farbahi, Govier, Hall, Hayward, Ms Herbert, Miss James, Mrs Lewin-Harris, Meikle, Morrell, Mrs Stock-Williams, Stuart-Thorn, Mrs Waymouth, Ms Webber, D Wedderkopp, Williams and Mrs Wilson
Teresa England, Tone Leisure Limited

(The meeting commenced at 6.15 pm)

171. Minutes

The minutes of the meeting held on 18 June 2008, copies of which had been circulated, were taken as read and were signed.

172. Public Question Time

Mr Paul Partington asked a number of questions concerning diversions of Public Rights of Way.

Councillor Coles agreed to provide Mr Partington with a written answer.

Councillor Mrs Lewin-Harris as a member of the public, asked Executive Councillor Mullins why a leaflet concerning recycling had not been sent out in July. She was also concerned that a paper and cardboard recycling facility in Bishops Lydeard might be removed.

Councillor Mullins acknowledged that the leaflet had not been issued. He also explained that when cardboard and paper were included in the waste collections, such facilities as the one at Bishops Lydeard would not be required. He would however discuss both matters with the Somerset Waste Partnership.

Mrs Cautley, a Tone Leisure patron, expressed her delight that crèche facilities and concessions for Old Aged Pensioners (OAP's) would be

supported. She was not opposed to the development of leisure centres but was opposed to the removal of facilities.

Mr Lary, a Tone Leisure patron, asked if the decisions of the Council were binding. He also enquired of the Executive how rate payers were likely to respond if a decision of the Council was overturned by the Executive.

Ms Fry and other members of Tone Leisure, were concerned that the decision made at Council, could now be overturned by the Executive and stated that the primary role of Tone Leisure was to provide facilities for the community, rather than make profits. They were also disappointed that there had been no consultation process.

Councillor Henley replied that these views would be taken into account when the matter was discussed and added that he would report their concerns at the next Tone Leisure Board meeting.

173. Declaration of Interests

The Chairman (Councillor Henley) and Councillor Govier declared personal interests as Members of both Somerset County Council and the Wyvern Club. Councillor Brooks declared personal interests as a Member of both Somerset County Council and the Wyvern Club and a prejudicial interest as a Member of Taunton East Action Group. Councillor Coles declared personal interests as a Director of Southwest One and a Member of Somerset County Cricket Club. Councillor Prior-Sankey declared personal interests as a Member of Somerset County Council, the Wyvern Club and the Somerset Waste Board. Councillor Mrs Smith declared a personal interest as an employee of Somerset County Council.

174. Business requiring to be dealt with as a matter of urgency

The Chairman reported that he had certified that the item covered by Minute No.175 below should be dealt with as an urgent matter.

175. Motion to Full Council regarding Funding to Tone Leisure Limited

Tone Leisure had been asked to find savings of £20,000 as part of the Council's 2008/2009 budget setting process. In addition, the Council had requested Tone Leisure to make 3% cash savings each year from 2009/2010, 2010/2011 and 2012/2013. Tone Leisure had considered how they could best meet these objectives and had decided on the following savings measures:

- Efficiencies generated by the business growth of Tone Leisure;
- Amendments to Old Age Pensioner (OAP) subsidy;
- Removal of crèche provision; and
- Gym expansion and investment.

At its meeting on 15 July 2008, the Council had considered and approved the following Motion:

- The reinstatement of funding to Tone Leisure to the extent that removal of concessions to the elderly and crèche facilities for the young were not necessary;
- To enter into consultation with representatives from the squash playing community to ensure they were fully aware of, and accepted, the proposals for change before implementation which would involve the removal of the last public courts in Taunton;
- That although accepting the need for tight budgetary control of the Council's finance, this should not be at the expense of front line services that were valued by some of the most vulnerable in our community.

The matter was considered urgent as Tone Leisure had signed contracts with Alliance Leisure to begin works at all three major leisure centres on Monday, 28 July 2008.

The Chief Executive had requested the Leader and Chairman of the Overview and Scrutiny Board that any decision made by the Executive, be implemented immediately. However, the Chairman of the Overview and Scrutiny Board had, up to now, refused to waive his right to call-in the decision. Councillor Williams did confirm however that if the ramifications of delaying the contract with Alliance Leisure were substantiated he was likely to waive his right to call in any further decisions made by the Executive.

The Council's Statutory Officers had considered the impact on the Council of acting on the above Motion.

They had concluded that the Executive had the power to decide whether to act on the Motion, as it did not fall within the powers of the Council.

If implemented, the decision had serious financial and contractual implications for the Council. Tone Leisure had entered into a contract with Alliance Leisure for a substantial investment into three of their centres and part of these works required the removal of the squash courts at Blackbrook.

The contract had been entered into following discussions at the Overview and Scrutiny Board and the Executive had given its approval for the Council to act as guarantor for this contract at the meeting on 18 June 2008.

The Chief Finance Officer stated that she owed an independent duty to the Authority and tax payers and had the ability to make a report (Section 114 1988 Finance Act) if she felt that the Council:

- Had made, or was about to make, a decision which involved or would involve the Authority in incurring expenditure which was unlawful;
- Had taken, or was about to take, a course of action which, if pursued, would be unlawful and likely to cause a loss or deficiency on the part of the Authority; or
- Was about to enter an item of account which was unlawful.

The Chief Finance Officer felt that at the moment a Section 114 report was not required. However, Members were asked to consider the consequences of the recommendations being considered by the Executive.

The Chief Finance Officer detailed the potential financial implications of the Motion.

Consideration was given to the effect that a breach of contract would have on the Council and also the associated legal costs.

During the discussion of this item, a view was expressed that insufficient information had been provided to Members relating to the financial consequences of the Motion, particularly that relating to the squash courts.

The Chief Executive confirmed that although advice as to the whether the wording of the Motion was technically sound had been provided, no such advice had been sought concerning the financial aspects.

Resolved that:

- (1) the contract as entered into by Tone Leisure with Alliance Leisure be fully supported and that no action to frustrate that contract be taken;
- (2) Tone Leisure's new revised proposals for crèche provision be supported and they be requested to consult with parents on these proposals; and
- (3) Tone Leisure be requested to reconsider their proposals on the issue of OAP subsidies as part of the Council's forthcoming budget setting process.

176. Building Control Service

Considered report previously circulated, concerning the creation of efficiencies and improvement of service delivery by sharing management and professional staff resources.

A formal Building Control Partnership project had been set up under the control of Strategic Directors in Sedgemoor District Council, West Somerset District Council and Taunton Deane Borough Council.

A Project Initiation Document had been agreed and a Project Management Board set up. The viability of the business case had been investigated by business consultants The Helm Corporation and was found to be compelling.

Partnership working would provide a range of service and financial benefits and these could be delivered through shared management. Details of the savings and benefits were submitted.

There were a number of models for sharing arrangements and details of these were also submitted.

To maximise the potential benefits of shared management, staff flexibility, inter-authority and cross-boundary working were essential.

Building Control was an enforcement service that imposed liability in negligence on the responsible authorities and it would be necessary for each authority to indemnify the other against the actions/omissions of its officers when working across district boundaries.

The factors that needed to be taken into account were submitted and these included the following:

- The management role in each authority was not purely strategic but had an operational element attached;
- Both establishments were 'lean' and could not afford to lose any more operational capacity; and
- Any arrangements made to share a manager should take into account the loss of operational strength that would ensue if compensatory arrangements were not in place.

Therefore, the preferred option was a combination of a shared management, coupled with staff sharing and supported by formal indemnity agreements.

The proposals for implementing the shared management arrangements were:

(1) The existing Taunton Deane Building Control Manager would jointly manage the Building Control services of Sedgemoor and Taunton Deane for as long as he remained in post. In the event of his ceasing to be employed by the Council, the position would be filled from within the existing combined establishments and hosted by the employing authority of the new joint manager. The gross salary, benefits and other costs of employment would be equally shared by the host and non-host authorities;

(2) Each authority would lose 0.5 of a technical FTE as a result of this and other circumstances. It was unlikely that suitable part-time staff could be recruited. It was therefore proposed that Sedgemoor and Taunton Deane should jointly recruit a Building Control Surveyor and share the gross salary costs of the post;

(3) The following indemnity resolution should be passed by both authorities: "Each authority agrees to indemnify and keep indemnified each other, their officers, persons and bodies against all losses, damages, proceedings, costs and expenses whatsoever in respect of the shared working arrangements described in this document, and shall obtain the approval of its public liability insurer in respect of this undertaking".

The shared salary of the Building Control Manager and the employment of a Building Control Surveyor would provide significant savings. A net saving of £7,800 would be made by each authority in the first year.

Resolved that the proposals set out to share the services of a Building Control Manager; to share the services of an additional Building Control Surveyor; to equally share the salary, benefits and costs of employment of both these posts; and to ratify the indemnity agreement, be all agreed.

177. A Review into Affordable Housing in Taunton Deane

Resolved that consideration of the recommendations made by the Affordable Housing Task and Finish Group be deferred until the next meeting of the Executive.

178. A Review into Renewable Energy and Energy Efficiency

Resolved that consideration of the recommendations made by the Renewable Energy and Energy Efficiency Task and Finish Group be deferred until the next meeting of the Executive.

179. Approval of the Annual Report 2007/2008

Considered report previously circulated, concerning the production of the Council's Annual Report.

Although the statutory requirement to produce an Annual Report by 30 June each year had been removed, the Audit Commission still expected the Council to produce a report for 2007/2008.

The purpose of the Annual Report was to 'articulate proposals for improvement for the coming year, including how weaknesses would be addressed, opportunities exploited and better outcomes delivered'. The Council was also required to include outturn data for finance and Best Value Performance Indicators, an Annual Efficiency Statement and progress against past objectives and statutory statements on workforce matters.

The report linked to the Corporate Strategy 2008/2010 describing the Council's aims for the next three years.

The report was in draft form, with some information and data outstanding and had been circulated to Corporate Management Team, Members and all Managers for comment. The Annual Report and Performance Indicators would be audited by the Audit Commission later in the year.

Resolved that the Annual Report 2007/2008 be published.

180. Local Authority Business Growth Incentives Scheme

In 2005/2006 and 2006/2007 the Council had received £138,000 and £245,000 respectively from the Government to fund the Local Authority Business Growth Incentive (LABGI) scheme. The awards had been made in recognition of the growth in income from business rates achieved in the previous two years.

The Council had received details of the final award in this three year programme which was significantly reduced from previous levels of annual award. This amounted to £171,000.

However, the Government had been with-holding sums from the previous years' awards to set against any legal challenges mounted by Local Authorities, and these sums totalling £148,000 had been released and added to the year three award. The final level of grant aid from Government for Year 3 was £319,000.

The Government had warned in September 2007 that a review of the LABGI scheme would take place during 2008 and that awards could be significantly lower than in previous years. Officers had instigated a 'commitments only' expenditure programme from September onwards and this had enabled a further £91,000 to be carried over into 2008/2009. The final sum available for expenditure in 2008/2009 was therefore £410,000.

The proposed allocations for this years' LABGI award were as follows:

Pioneer Somerset integration	£85,000
Economic Development activity	£245,000
Deprivation Area Regeneration	£80,000

An outline of the individual project proposals in each of the above 'blocks' of activity were submitted for the information of Councillors.

Resolved that the suggested allocations of this years' Local Authority Business Growth Initiative award be approved.

181. **Taunton Unparished Fund Proposal**

Considered report previously circulated, concerning the possibility of establishing an informal arrangement for spending monies held by Somerset County Council and Taunton Deane for the benefit of communities in the Taunton Unparished Area.

Both Authorities had access to separate funding streams that could be used to support projects in the Unparished Area. County Councillors each had access to a Local Initiatives Budget (LIB) of £15,000 and Taunton Deane administered the Taunton Unparished Area Special Expenses Precept Fund which currently had unallocated resources of approximately £82,000.

In the spirit of Pioneer Somerset, both Councils had been keen to develop experimental joint arrangements for the Taunton Unparished Area that were informal and non-bureaucratic.

Reported that it was proposed to create an informal Joint Panel, the Taunton Unparished Fund (TUF) Panel, comprising five County and five Borough Councillors.

The TUF Panel's role would be to explore opportunities for achieving greater benefits for communities in the Taunton Unparished Area by contributing some of the LIB held by County Councillors with £30,000 of Unparished Precept money held by Taunton Deane. The Panel would work in conjunction with local action teams, community partnerships, residents and Ward Councillors as to potential projects which could be funded.

Although the Panel would not have direct jurisdiction over the spending of the available money, it was expected the Panel would make recommendations to the two Councils on suitable projects, which would then be considered, taking into account any particular criteria covering the funds administered by them.

As far as Taunton Deane was concerned, the use of Unparished Area Precept money had been the subject of a scrutiny investigation during 2006. The investigation had concluded that funding should be spent on an equitable basis across the Unparished Area on small capital schemes.

The County Council's LIB Scheme was intended to address local issues and priorities and working towards achieving Local Area Agreement outcomes. Each County Councillor was able to support up to five projects with a minimum project cost of £2,000. The Scheme made provision for Members to work together and pool resources for larger projects.

Further reported that Taunton Deane's representatives on the TUF Panel would comprise those Members who met as an Advisory Panel to consider bids to the Unparished Area Precept Fund.

The five County Council representatives would comprise Councillors with all (or a significant proportion) of their Electoral Divisions within the Taunton Unparished Area. The County Councillors would be invited to contribute their individual LIBs into the Panel's collective budget.

Submitted details of the operational arrangements which had been proposed for the TUF Panel including how often it would meet, how meetings would be facilitated and the officer support it would receive.

A review of the TUF Panel would take place in January 2009 as to whether the arrangements should be continued into 2009/2010.

Noted that it was intended the TUF Panel would run alongside Taunton Deane's own scheme for dealing with bids for funding from the Unparished Area Special Expenses Precept Fund.

Resolved that the Taunton Unparished Fund Proposal be approved.

182. **Medium Term Financial Strategy of the Council**

Considered report previously circulated, concerning the draft Medium Term Financial Strategy.

The Strategy contained current policy and financial issues facing the Council.

The Council was accountable for the stewardship and use of public money and for ensuring its plans delivered financial stability and sustainability in the future.

The financial management arrangements and budget setting process reflected the changing environment of Local Government finance.

The Council faced a challenging financial future and without longer term financial health, the Financial Strategy would not be able to deliver the Corporate Strategy.

Resolved that:

(1) An additional bullet point be added to Section 4.13 of the Financial Strategy as follows:

- to seek investment opportunities; and

(2) Council be recommended to approve the Financial Strategy.

183. Southwest One - General Progress Update 2007/2008 and Performance Management 2008/2009

Considered report previously submitted, concerning the general progress made in Southwest One following the transition of services to it at the end of 2007 and since its early months of operation.

Work had been done to embed each service into the new organisation. Development plans had been produced for each service, setting out key initiatives to be implemented, driven by this transition and developmental work, but also by the Council's Corporate Strategy and Corporate Priorities.

A measure of the detailed planning and co-ordination to ensure that service 'mobilisation' was effective, was that no complaints had been received or performance drops noted.

Details of the five transformation projects were submitted:

- Procurement;
- SAP Back Office and Technology Enablement;
- Customer Access Initiation;
- Locality Based Service Delivery; and
- People Excellence Model.

The projects aimed to transform the organisation, to better join up the delivery of our services, focus on the customer and how they could better access the services and to access world class technology.

The success of Southwest One would be determined by whether it delivered our operational services effectively and efficiently and whether the organisational transformation proposed through these projects was delivered and achieved.

The contract contained performance measures that reflected the key elements of the services and would enable performance to be monitored.

Southwest One provided detailed information on these performance indicators on a monthly basis and if service performance fell below the agreed targets, penalties could be imposed on Southwest One.

The Transformation Projects had been monitored through a network of linked arrangements and a summary of the period ending 30 June 2008 was submitted.

A team had been set up to manage the Southwest One contract and to manage the overall relationships.

The Client Team monitored contractual performance, managed payments to and penalties from Southwest One, and managed the overall delivery of the projects.

Details of the Change Managers were also submitted.

Ongoing reporting of the performance and operational services would be done through the Strategy and Performance Panel.

Resolved that the report be noted.

184. **Somerset Waste Board Business Plan 2008 – 2013**

Considered report previously submitted, concerning the Draft Business Plan 2008/2013 for the Somerset Waste Board (SWB).

The Somerset Waste Partnership Constitution required the single client unit to prepare a Draft Business Plan and Action Plan on an annual basis.

The Board approved a draft plan and consulted with the partners.

The Draft Business Plan included:

- A description and brief history of the partnership;
- Aims, objectives and principal functions;
- Analysis of the operating environment;
- Links to the corporate objectives of the partner councils;
- Revenue budget scenarios;
- Risk assessment;
- Budget for 2008/2009; and
- Action Plan.

The plan spanned a five year horizon, but emphasised key actions for the next 12 months.

The partnership was in its first full financial year of operation and the Board would prepare a second iteration of the plan later in 2008. This would bring the process in line with the annual timetable set out in the Constitution and align the annual cycle with the budget planning cycle within the partner authorities.

The Board could amend the Business plan to accommodate any unforeseen circumstances and to achieve the aims and objectives. Partner Councils could request such an amendment at any time.

Resolved that:

- (1) Waste to Energy plants be investigated as a way of dealing with residual waste;
- (2) The planned anaerobic digester should have capacity for commercial waste;
- (3) A PDF of collection times be prepared which could be downloaded from the website; and
- (4) The Draft Business Plan be approved.

185. Exclusion of the Press and Public

Resolved that the press and public be excluded from the meeting for the following item because of the likelihood that exempt information would otherwise be disclosed relating to Clause 7 of Schedule 12A to the Local Government Act, 1972 and the public interest in withholding the information outweighed the public interest in disclosing the information to the public.

186. Procurement Category Plans Update

Considered report previously circulated, which set out Southwest One's proposals to deliver a Procurement Transformation project, which included creating a Strategic Procurement Service and rolling out Category Management.

Reported in detail on eight category plans, each of which had different proposals for saving money. These proposals would be further developed and when approved through the Procurement Steering Group, it would be the Council's responsibility to deliver these savings through new ways of working.

Members suggested that consideration should be given to small enterprises and the affect that the Category Plans could have on them.

Resolved that:

- (1) The savings proposals from the Category Plans be agreed; and

- (2) Consideration be given as to whether the Housing Revenue Account should directly benefit from any long term savings that were made from the procurement savings within the Housing Revenue Account.

(The meeting ended at 9.50 p.m.)

Executive – 24 July 2008

Present: Councillor Henley (Chairman)
Councillors Brooks, Coles, Horsley, R Lees, Mullins, Prior-Sankey,
Mrs Smith and A Wedderkopp.

Officers: Penny James (Chief Executive), Shirlene Adam (Strategic Director),
Brendan Cleere (Strategic Director), Tonya Meers (Legal and
Democratic Services Manager), Steve Hughes (Sports Services
Manager) and Richard Bryant (Democratic Services Manager)

Also present: Councillors Bishop, Bowrah, Cavill, Mrs Court-Stenning, Farbahi,
Ms Herbert, House, Mrs Lees, McMahon, Meikle, Morrell, Murphy,
Slattery, Mrs Stock-Williams, P Smith, Thorne, Watson,
Mrs Waymouth, D Wedderkopp, Mrs Whitmarsh, Williams and
Mrs Wilson

(The meeting commenced at 8.10 pm.)

187. Declarations of Interest

The Chairman (Councillor Henley) and Prior-Sankey and Mrs Smith declared personal interests as de facto Members of the Wyvern Club. Councillor Coles declared a personal interest a Director of Southwest One.

188. Tone Leisure Limited's Proposed Savings Plan

Reference Minute No. 175/2008, reported that decisions made by the Executive at its last meeting had been called in by Councillors Ms Herbert and Thorne.

The call in, which had been made for the following reasons, had been considered at a meeting of the Overview and Scrutiny Board which had immediately preceded this meeting of the Executive:-

- (1) The Executive had failed to take note of the will of Full Council;
- (2) The Executive referred to "frustrating the contract between Tone Leisure and Alliance Leisure – no such frustration was intended or implied; and
- (3) There was still a lack of clarity concerning the continuing provision of crèche facilities.

The Overview and Scrutiny Board had decided to refer back the decisions taken by the Executive on 16 July 2008 for further consideration.

During the discussion of this item Councillor Horsley stated that although the decisions of the Executive should stand, efforts would have to be made to

somehow restore relationships between the politicians and the public.

He felt that a full inquiry would be needed to cover:-

- Members' involvement in this matter;
- The processes involved;
- Tone Leisure's involvement, especially future consultation methods; and
- How, following the original meetings of the Overview and Scrutiny Board and the Executive in June 2008, there had been no indication of the difficulty faced over the past couple of weeks.

Councillor Horsley added that it was clear at the Full Council meeting that the decisions relating to the crèche facilities and the Old Age Pensioner (OAP) subsidy were going to be reversed. However, to try and delay the closure of the squash courts at Blackbrook for consultation with users was, in his view, a "smokescreen". It was clear that people would want the courts retained.

If the call in was accepted, Councillor Horsley felt that this could undermine the future provision of leisure facilities in Taunton Deane.

The Chairman fully understood the frustrations of the public. However, the strong advice from the Statutory Officers about the costs that could arise from delaying the Blackbrook Contract had to be heeded.

In his view, the motion approved at Council did serve a purpose as far as the crèche provision and OAP subsidy was concerned. Although it would be for Tone Leisure to discuss future prices for the crèche with its customers, the views he had received in connection with the OAP subsidy would be taken back to Tone Leisure for consideration.

Resolved that:-

- (1) the agreed arrangements with Tone Leisure for the commencement of its contract with Alliance Leisure be confirmed, to ensure that the contract to improve the gym facilities at Blackbrook was upheld;
- (2) the commitment to support Tone Leisure's proposal to retain crèche facilities at both Blackbrook and Wellington Leisure Centres be confirmed, and that Tone Leisure be called upon to discuss its proposed structures with all users of the crèches; and
- (3) Taunton Deane Borough Council and its partners urgently formalise the agreement with the Wyvern Club to provide additional squash facilities at the earliest opportunity for Tone Leisure's Members.

(The meeting ended at 8.38 p.m.)