COUNCIL

Minutes of the proceedings of a Meeting of the Scarborough Borough Council held in the
on Monday, 4th November, 2019 pursuant to Summons.

Present:-
The Mayor (Councillor Mrs Hazel E Lynskey) in the Chair;
Councillors A Abbott, J Atkinson, G A Backhouse, A Bailey, D J Bastiman,
E Broadbent, S Campbell, W Chatt, M J Cockerill, Ms E Colling, G Coulson,
S Cross, Ms M Donohue-Moncrieff, G Goodberry, S B Green, J Grieve, N Heritage,
D C Jeffels, Mrs J Jefferson, P Kershaw, Mrs H F Mallory, C D Maw, Ms J Maw,
R Maw, Mrs J E Mortimer, Mrs E Murphy, Miss R K Murphy, Ms T Norton,
C Pearson, Mrs H Phillips, P G Popple, T Randerson, P Riley, S Sharma,
S Siddons, G W L Smith, M Stonehouse, Ms R Swiers, P H Trumper, Ms S Tucker
and Mrs M Watson

Apologies
Councillors J Casey, D A Chance, W Forbes and N Robinson

1. DECLARATIONS OF INTERESTS.
Councillor Backhouse declared a personal interest in agenda item 8, Motion in
respect of the Yorkshire Coast DBID since he cast votes on behalf of his
employer in the DBID ballot.

Councillor Roxanne Murphy declared a personal interest in agenda item 8,
Motion in respect of the Yorkshire Coast DBID since her employer qualified
for the DBID scheme.

2. APOLOGIES FOR ABSENCE.
See above.

3. MINUTES OF THE MEETING OF THE COUNCIL HELD ON 16 SEPTEMBER 2019 TO BE READ OR TAKEN AS READ AS THE CASE MAY BE.
RESOLVED that the minutes of the meeting held on 16 September 2019 be
taken as read and signed by the Chairman as a correct record.

4. TO CONSIDER ANY ANNOUNCEMENTS BY THE CHIEF EXECUTIVE
The Chief Executive announced with great sadness the recent death of a
dedicated and long serving member of the Council’s Street Cleansing Team,
Mr Malcom Crawford.

5. TO CONSIDER AND PASS RESOLUTIONS ON THE FOLLOWING 'A' ITEMS:-
(i) New Adult, Children and Young People Safeguarding Policy
(19/201)
The recommendations in the extract minute from the Cabinet were proposed by Councillor Siddons and duly seconded. **RESOLVED** that the Council adopts the Adult, Children and Young People Safeguarding Policy (October 2019) as part of the Council’s Policy Framework.

**Reasons**

It is a requirement under section 11 of the Children’s Act 2004 for District Councils to make arrangements to ensure their functions safeguard and promote the welfare of children. District Councils also have a responsibility to work with partners to ensure that adults at risk receive protection and support. The Council also operates within the context of Joint Multi-agency Safeguarding Adults Policy and Procedures for North Yorkshire.

(ii) **Local Code of Corporate Governance / CIPFA Financial Management Code (19/212)**

The recommendations in the extract minute from the Audit Committee were proposed by Councillor Siddons and duly seconded. **RESOLVED** that the Council adopts the revised Local Code of Corporate Governance as set out at Appendix B to the report.

**Reasons**

To ensure the Council has appropriate governance arrangements in place.

6. **TO CONSIDER THE FOLLOWING MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN IN ACCORDANCE WITH PARAGRAPH 12.1 OF THE COUNCIL PROCEDURE RULES:-**

(i) **Motion in respect of Fair Trade**

The Council considered the following motion which was proposed by Councillor Sharma and seconded by Councillor Eileen Murphy:

This Council notes that:

- 2019 marks 25 years since the FAIRTRADE Mark was launched in the UK.
- Since 1994, consumer demand for Fairtrade has grown thanks to the efforts of grassroots campaigners, and pioneering Fair Trade businesses.
- There are now over 600 Fairtrade Communities in the UK and more than 2,000 globally.
- As a result of Fairtrade commitments from mainstream brands and retailers, the UK Fairtrade market is now one of the biggest in the world.
- Global Fairtrade sales last year generated £142 million in Fairtrade Premium.
- Farmers in 73 countries have invested this money in their communities, increasing business productivity and contributing to the achievement of the global Sustainable Development Goals (SDGs).
- Despite this positive news, exploitation remains rampant in global supply chains.
• More than 40 million people are trapped in modern slavery, including forced labour, and 152 million young people in child labour. Hundreds of millions more are earning less than a living income or wage.

This Council believes that:
• Fairtrade and the wider Fair Trade movement has a significant contribution to make towards ending exploitation in global supply chains and achieving the SDGs.
• The recently agreed International Fair Trade Charter should be welcomed, with its vision of transforming trade to work for people and planet.
• The Fairtrade principles of paying a 'premium' that is wholly managed by farmers and workers themselves, and of minimum prices to protect producers from market volatility, are crucial to systemic change.
• Public bodies, including local authorities, should support ethical procurement policies, using their purchasing power to support Fairtrade and ensure their supply chains, at home and abroad, are free of exploitation, including modern slavery.
• Companies operating through global supply chains should go further and take steps to require the payment of living wages and achievement of living incomes for all.

This Council resolves to:
• Renew its commitment/commit to achieve 'Fairtrade Community’ status.
• Actively promote Fairtrade locally, through support for local groups, in the media including social media, and events, including during Fairtrade Fortnight.
• Support local Fairtrade Schools and Universities, and actively promote Fairtrade teaching materials in local schools and educational institutions.
• Celebrate and incentivise businesses championing Fairtrade products in the local community.
• Review its procurement policy, including its catering offer, to ensure that Fairtrade produce is chosen wherever possible, and that Fair Trade considerations are included as a preference in any contracts going out to tender.

It was agreed that Council Procedure Rules be suspended for this item to enable the motion to be debated. Councillor Sharma introduced the motion citing the importance of Fairtrade in securing a basic guarantee of income and standard of living for farmers and growers in some of the poorest countries in the world. On being put to the vote, the motion was carried.

(ii) Motion in respect of the Yorkshire Coast DBID
The Council considered the following motion which was proposed by Councillor Abbott and seconded by Councillor Chatt:

Following meetings with business proprietors throughout the Borough, including members of the Yorkshire Coast Levy Payers Association (YCLPA),
in our opinion it is readily apparent that there exists sufficient evidence casting doubt on the integrity of the ballot process underpinning the establishment of the Yorkshire Coast DBID as to render the Council's involvement unsafe in the present circumstances.

YCLPA is in the process of conducting a formal consultation of qualifying businesses. In our opinion, early results demonstrate that a lack of clarity regarding both the definitive geographical boundary of the scheme and the criteria applied to establish which businesses are genuinely tourism-related have resulted in certain qualifying businesses having been omitted from the original ballot, while certain non-qualifiers have been wrongly included. This data falls within the remit of a revised appeal to the Secretary of State.

**Motion**

I therefore propose that in the interests of prudence and good practice, this Council instigates an independent and impartial investigation of the legitimacy of the Yorkshire Coast DBID ballot process.

It was agreed that Council Procedure Rules be suspended for this item to enable the motion to be debated. The Portfolio Holder, Councillor Colling commented that the Council did not have the authority to undertake an investigation of an independent organisation, but recognised that the Council’s role in the ballot process should be open to scrutiny and that businesses had raised some legitimate concerns which required answers. Accordingly, she proposed the following amendment to the motion: ‘I therefore propose that in the interests of prudence and good practice, this Council instigates an independent and impartial investigation of the role of Scarborough Borough Council in carrying out the DBID ballot and that the Council urges the Yorkshire Coast BID Company to fully participate in that investigation.’

This amendment was then seconded and debated. Councillor Chatt opposed the amendment maintaining that the Yorkshire Coast BID company and its predecessor organisation played a key part in the DBID ballot process, and that without a guarantee of their participation the review would be incomplete. Councillor Donohue-Moncrieff agreed with Councillor Chatt that it would be artificial to examine solely the Borough Council’s part since information flowed between the Council and the DBID organisation, but she felt it would be naïve of the DBID company not to cooperate in the investigation. She also called for clear terms of reference and the ability for non-executive councillors and affected businesses to contribute to the process. The Monitoring Officer confirmed that the Council did not have the powers to investigate a third party. Councillor Cockerill then cast doubt on the correctness and completeness of the DBID ballot process, in particular with regard to the addresses used for qualifying businesses in Filey. He added that having the correct list of businesses with a rateable value of over £12,000 was vital to the integrity of the whole DBID process, and the list of relevant businesses was prepared by the Borough Council from its records. He felt that the collection of the levy should be suspended pending the outcome of the independent investigation. Councillor Chatt also provided further evidence of the contention in his motion
that certain qualifying businesses were omitted from the original ballot, while certain non-qualifiers had been wrongly included. Other councillors commented on the motion, concurring with the need for an investigation, but asking why questions had not been raised at the time of the ballot. Councillor Backhouse proposed a further amendment that the Yorkshire Coast DBID Company’s predecessor organisation should also be urged to participate fully in the investigation. Councillor Colling agreed with this amendment and also with councillors’ concerns that the investigation should be independent, suggesting that it be conducted by an independent person who would report their findings to the Audit Committee. The Monitoring Officer confirmed in relation to Councillor Cockerill’s request that it would not be lawful for the Council to suspend collection of the levy at this time. Councillor Colling’s original amendment was put to the vote and was carried, becoming the substantive motion. Councillor Colling then moved Councillor Backhouse’s proposed alteration which was seconded, put to the vote and was carried. No further amendments were proposed.

7. TO RECEIVE A STATEMENT BY THE LEADER AND DEAL WITH ANY QUESTIONS ARISING FROM THAT STATEMENT.
Councillor Siddons presented his Leader’s statement also providing updates on Welcome to Yorkshire, the governance review and devolution. Members were advised that on 7 October Councillor Peter Box became Chair of Welcome to Yorkshire, and further, a new Board and Chief Executive were being recruited. A new Business Plan was being prepared in conjunction with staff, and funding to be delivered in three tranches would only continue on the evidence of improvements. In respect of the governance review, workshops were held in early September run by the Centre for Public Scrutiny. The outcome was somewhat unclear largely due to the lack of engagement by some Members. However, progress was being made amongst those Members keen to see more inclusive decision making. The Chief Executive and officers had worked up a range of proposals that delivered the aims of inclusivity within a cost envelope based on the feedback that had been received to date. Councillor Siddons hoped to present a proposal for discussion in time for a report to the next Council meeting. In respect of regional devolution, the majority of Yorkshire Leaders, including the Mayor of South Yorkshire, Dan Jarvis, supported a One Yorkshire devolution deal. Up to £30bn per year could be added to the Yorkshire economy which would be larger than Greater Manchester, West Midlands and even Scotland. At present, the Government was reluctant to proceed on the basis of One Yorkshire but was prepared to support interim arrangements which would see up to four separate devolution deals in South Yorkshire, Leeds City Region, York and North Yorkshire and Hull and East Riding. Discussions were well advanced with South Yorkshire and Leeds, and the Government did not want to see the remainder of Yorkshire left behind. Leaders of York, North Yorkshire County and district councils, East Riding and Hull were in discussion with the current Minister for Northern Powerhouse, Jake Berry, who had reiterated the Government’s commitment to a One Yorkshire deal. Councillor Siddons added that he had agreed to support continued negotiations and was in regular contact with other Leaders, but remained to be convinced by the likely financial benefits suggested. In his view, One
Yorkshire was clearly better than three or four quarters. The Government seemed to be insisting on a Combined Authority model with an Elected Mayor with powers similar to the Greater Manchester Mayor, but the Leader felt it should be for the people of Yorkshire to decide the governance model. He would be demanding good local representation was retained in any future model, with clear lines of authority directly to the Combined Authority - key to any successful devolution.

Members then put questions to the Leader raising concerns about the potential disruption to the business of the Clock Café from the works to demolish the chalets nearby and reinstate the retaining wall; the inadequate temporary lighting installed as part of the Whitby Church Street Flood Alleviation Scheme; the continuing delays in the governance review and implementation of a new committee structure; despite the Leader’s assertions, the fundamental problems with Welcome to Yorkshire, added to Lord Scriven’s scepticism about the organisation and its benefits to the region; the new administration’s lack of a vision and disproportionate focus and spend on Scarborough town to the detriment of other parts of the Borough; and the ongoing delay in the publication of the report of the Independent Remuneration Panel which conducted its review earlier in the year. In reply, the Leader commented that he would ensure disruption to the Clock Café business was kept to a minimum during the works; he would address the issue of the temporary lighting in Church Street, Whitby; he accepted that the governance review was taking longer than he had hoped, and this was due in part to factors outside his control, but the review was progressing and he urged all Members to get involved. He disagreed with Lord Scriven’s view of Welcome to Yorkshire, defending the good the tourism agency had achieved for the region and the commitment of staff to remedying previous problems, also referring to the adverse economic impact of winding up the organisation, and reiterating that Welcome to Yorkshire was being closely monitored with the Council’s payments divided into three tranches dependent on the performance of the tourism agency. Councillor Siddons confirmed that he was developing a new robust vision for the Council in conjunction with the new Chief Executive which would be shared with Members in due course. As stated in previous minutes, the Independent Remuneration Panel review had been put on hold pending the decision on the new governance structure. He rebutted the assertion that his Cabinet was parochial in its outlook, maintaining that spend on projects in Scarborough was driven by need, not favouritism. The new governance model would ensure more councillors across the Borough were involved in the executive decision-making process. Councillor Cockerill commended the effectiveness of the new diverter wall as part of the Whitby Piers project but sought the Leader’s assurance that work on the Filey Flood Alleviation Scheme would start early in the new year. In response, the Leader was confident that officers were doing everything in their power to progress the scheme as quickly as possible, but there were legal aspects to the project which were outside their control. With regard to the final figures for the Whitby Piers project, the Leader believed the scheme had not exceeded budget, but would provide the questioner, Councillor Trumper with this information, in addition to details of spending options for the underspend as per contractual requirements. In reply to her request, the
Leader undertook to provide Councillor Mortimer with a written update on the Robin Hoods Bay seawall project.

8. TO RECEIVE STATEMENTS FROM EACH OF THE CABINET MEMBERS AND DEAL WITH ANY QUESTIONS ARISING FROM THOSE STATEMENTS.

Councillor Colling presented her statement as Portfolio Holder for Economy, Communities and Commercial, adding two updates: her congratulations to Whitby in Bloom for winning Gold in the Small Coastal Category in this year’s Britain in Bloom competition, and confirming that the Whitby Christmas Festival on 15-17 November would be part funded by the DBID. Members then put questions to Councillor Colling about sports development in the Borough and about what further detail could be provided about the outcome of the Property Investment Governance Board’s meeting on 28 October. In respect of sports facilities in Filey, Councillor Cockerill noted with disappointment that the development of a new Sports Hall at the Ebor Academy had not come to fruition because of lack of external funding, but was pleased that alternative schemes were now under consideration, currently a skateboard park and a pump track for cyclists. He thanked the Leader and Portfolio Holder for their support. Councillor Colling confirmed that capital contributions amounting to £400m from the Borough Council and Filey Town Council had been allocated for alternative schemes in the town. She also confirmed that the new position of sports development apprentice was to support the Council’s sports development programme across the Borough. Finally, Councillor Colling added that the Property Investment Governance Board at its recent meeting had requested further information before making any recommendations about potential property acquisitions.

Councillor Jefferson presented her statement as Portfolio Holder for Finance and Operations, confirming that both the Whitby East Pier Link Bridge and the timber boom in Scarborough Harbour would soon be reinstalled. She added too that the problem with the temporary lighting in Church Street, Whitby was being addressed. Members then put questions to Councillor Jefferson about the Treasury’s decision to increase interest rates on all new loans from the Public Works Loan Board (PWLB) by 1%, and about Beyond Housing’s commitment to consult tenants regarding changes to their services in light of the recent decision to relocate their Whitby office from the town centre to the Green Lane Centre in a less accessible location about a mile away. In reply, Councillor Jefferson commented that the un-consulted, arbitrary 1% increase on all new borrowings from the PWLB would potentially impact upon the viability and cost of delivering both future regeneration schemes and essential coastal protection works and that officers had made representations against this increase. Further, alternative funding options would mitigate some of the impact of the PWLB rate rise, but she could not foresee in the short term borrowing rates reducing back to the previous historic lows. In respect of Beyond Housing, she shared the questioner, Councillor Stonehouse’s concerns about the accessibility of the new Whitby Office which she would take further. Councillor Jefferson understood that Councillor Stonehouse had since received a reply from Beyond Housing including details of their communication with tenants on this matter. She added that the relationship
between Beyond Housing and the Borough Council was set out in various agreements that were renewed and refreshed at the point of merger between Yorkshire Coast Homes and Coast and Country. The commitments agreement between the Council and Beyond Housing ensured that ‘the localised provision of front line services including the continued provision of offices in Scarborough and Whitby is retained’. There was no requirement made by the Council in terms of the location of these offices. There was no requirement made by the Council on Beyond Housing to consult with their tenants on changes to services; this was because the duties on Beyond Housing as a Registered Provider to consult with tenants were set out in statute and by their regulatory body, Homes England. The regulatory framework set by Homes England contained various requirements on Registered Providers to involve and consult with their tenants in the way that services were provided or changed.

Councillor Randerson presented his statement as Portfolio Holder for Legal, Democratic and Governance, adding two points: the fact that this year two free buses would be running to support the Christmas Sparkle event with the aim of ensuring that trade in the town centre did not suffer, and secondly, a public speaking scheme, similar to that operated at the County Council would be trialled at the next Council meeting in January. Members then put questions to Councillor Randerson in respect of the recent RSPCA sponsored motion circulated to councillors about curbing the excessive use of fireworks at this time of year and mitigating the risks fireworks posed to animals and veterans; about whether there were any outstanding monies owed to the Council by the Save the Futurist Group, and the cost to the Council of the recently aborted Employment Tribunal; and to alert the County Council that the traffic lights by the now closed Park and Ride on Seamer Road were no longer required. In reply, Councillor Randerson confirmed that he and officers would work with the Council’s partner organisations in the coming year to address the issues raised by the RSPCA motion in time for Bonfire Night 2020. He undertook to provide the questioner, Councillor Bastiman with a written reply in respect of the Save the Futurist Group and the Employment Tribunal. He thanked Councillor Cockerill for raising the issue about the traffic lights on Seamer Road which he and Councillor Broadbent had already raised with County Council officers.

9. TO RECEIVE A STATEMENT FROM THE CHAIR OF THE OVERVIEW AND SCRUTINY BOARD AND DEAL WITH ANY QUESTIONS ARISING FROM THAT STATEMENT

Councillor Coulson presented his statement as Chair of the Overview and Scrutiny Board, reminding group leaders to nominate councillors for the Climate Change Task Group. There were no questions.

10. TO RECEIVE MINUTES OF THE COUNCIL’S EXECUTIVE AND COMMITTEES PUBLISHED SINCE COUNCIL LAST MET AND APPENDED HERETO.

RESOLVED that the minutes of the meetings be received.
Chairman
COUNCIL – 4 NOVEMBER 2019

QUESTIONS TO THE LEADER AND CABINET MEMBERS WITH THE REPLIES PROVIDED AFTER THE MEETING

The Leader, Cllr Steve Siddons

1. An update was requested on the Robin Hood’s Bay Seawall project (Cllr Mortimer)

   External consultants had prepared an estimate of the works however tenders were received over budget. Post tender interviews have been undertaken and the reasons for the tenders being in excess of budget have been identified, and a way forward is proposed.

   Traditionally within the Borough major construction projects are not progressed over the summer season as this causes disruption to the residents and businesses and interferes with tourism. The RHB Sea Wall project was programmed to be carried out over winter.

   The issues causing the tenders to be over budget are primarily related to this specific location:

   - Winter working and weather risk
   - Short tidal windows only allow 4 hours of work on some days and only 3 days work per week in some weeks
   - Shorter hours of daylight
   - Difficult access

   If these constraints are removed or relaxed the consultants are confident that the tenders can be obtained within the budget they had set.

   The Director has discussed this approach with the Ward Member and a meeting is scheduled in early December with the Parish Council to carry out consultation on the impacts of the proposal.

2. What are the final figures for the Whitby Piers project, and in the event of an underspend, what are the spending options for the additional monies as per contractual requirements? (Cllr Trumper)

   Whilst the Whitby Piers project is very close to completion, contractual completion has not been achieved just yet, and final figures are not available. Final figures are not normally available until the end of the defects liability
period, 12 months after practical completion which is the official end of the project.

However, officers should be able to provide a financial update in the New Year once completion has been achieved and a final account agreed.

If there is an underspend, then any unspent contingency will simply be retained by the contingency funding providers which in this case were the Environment Agency, Local Enterprise Partnership, North Yorkshire County Council and Scarborough Borough Council in various proportions.

Cabinet Member for Legal, Democratic & Governance, Cllr Tony Randerson

3. What are the outstanding monies owed to the Council by the Save the Futurist Group? (Cllr Bastiman)

The case brought by the Save the Futurist Group against the Council in 2017 has been concluded and there are no matters outstanding.

4. What is the cost to the Council of the recently aborted Employment Tribunal? (Cllr Bastiman)

The conduct of the case and the legal advice given in relation to aspects of it, other than those aired in the public hearing, remain confidential. Similarly, I am not able to discuss the conduct of any individual employment tribunal in public.