

BRIGHTON & HOVE CITY COUNCIL

ENVIRONMENT, TRANSPORT & SUSTAINABILITY URGENCY SUB-COMMITTEE

11.00am 24 MARCH 2020

HOVE TOWN HALL - COUNCIL CHAMBER

MINUTES

Present: Councillors Pissaridou (Chair), Wares and West

PART ONE

1 PROCEDURAL BUSINESS

1(a) Declarations of substitutes

1.1 There were none.

1(b) Declarations of interest

1.2 There were none.

1(c) Exclusion of press and public

1.3 In accordance with section 100A of the Local Government Act 1972 (“the Act”), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the business to be transacted or the nature of proceedings, that if members of the press and public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100(I) of the Act).

1.4 Councillor Wares stated that a considerable amount of the confidential report listed on the agenda should be in the public domain.

1.5 The Legal Officer explained that one of the exempt categories defined in the Local Government Act was any information relating to the financial affairs of a person including a company. The Legal Officer explained that consideration had been given to redacting some of the report but that would have led to the report not providing clear or readable information. The Legal Officer added that the report detailed highly sensitive financial information relating to the operator and if the information was in the public domain, it could be used do damage the businesses operation and the information had been provided by the operator in confidence. Furthermore, disclosure of the confidential information could lead to a claim being brought against the council for breach of confidentiality which would not be in the public interest. In addition, damage to the

operator could lead to the failure of the Bikeshare scheme itself. The Legal Officer stated that the advice provided to the committee was that the information in the confidential report remain so.

- 1.6 Councillor Wares stated that he did not believe paged 179 on the agenda onward should be confidential as it was likely the information therein would have to be disclosed via a Freedom of Information request. Councillor Wares asked if the information could be reviewed after the meeting to examine what further could be put in the public domain.
- 1.7 **RESOLVED-** That the press and public not be excluded from the meeting.

2 2020/21 LOCAL TRANSPORT PLAN CAPITAL PROGRAMME

- 2.1 The Urgency Sub-Committee considered a report of the Executive Director, Economy, Environment & Culture that requested recommendation to the Policy & Resources Committee of the 2020/21 Local Transport Plan (LTP) capital programme budget of £8.658 million to projects and programmes.
- 2.2 Councillor West noted that the All-Party Working Group on cycling recommended that Highway Authorities spend approximately £20 per person on cycling improvements every year. The proposal in the report recommended just over £1 per person in Brighton & Hove and was therefore some way off that recommendation and was not sufficient to tackle the health crisis and take action on climate change. Councillor West noted the additional £3.9m capital funding for transport expenditure identified by a Green Group amendment passed at Budget Council and he believed it vital that there be democratic oversight and input as to how that funding was allocated. Councillor West noted that it was critical that funding be invested where it would best benefit meeting carbon neutrality targets and the work of the Climate Assembly and Local Cycling Walking Infrastructure Plan needed to feed into those decisions. Councillor West expressed his opinion that the Sustainability and Carbon Reduction Investment Fund Member Oversight Group (SCRIF MOG) should steer the committee on the allocations proposed at paragraph 3.8.
- 2.3 The Executive Director, Economy, Environment & Culture confirmed that SCRIF MOG would steer the allocations in line with the objectives identified at paragraph 3.8 and those allocations would be submitted to the committee to decide upon.
- 2.4 Councillor Wares asked for confirmation that the high-risk road safety sites identified would be in addition to the eleven sites agreed by the committee in 2016 and asked if site priority would remain the same. Councillor Wares noted that £180,000 was allocated to freestanding pedestrian crossing sites and asked where these sites specifically were. Councillor Wares noted that the Bikeshare report listed separately on the agenda referred to an investment from the LTP and asked where this investment would be made as it was not clear within the report. In addition, Councillor Wares noted that this was now the third year in succession that the LTP had been used to fund the overspend on the redevelopment of Shelter Hall and asked if that repayment could be restructured to boost the overall LTP budget figure given it was an internal borrowing debt.
- 2.5 The Head of Transport Policy & Strategy explained that priority schemes previously agreed by the committee would be continued and met within the LTP budget. Road

safety and collision sites were reviewed on an annual basis using the most up to date information and data and the programme for specific use of the allocation of £173,000 was still being drawn up by council officers. In relation to pedestrian crossing prioritisation, the primary scheme that was intended to be taken forward was improvements adjacent to Hove Station, a site that was currently in the top ten pedestrian crossing priority sites list with the remaining sum to be used to supplement improvements at the junction of Hangleton Link Road and Hangleton Lane following developments in the nearby school. In relation to payments for the Shelter Hall projects, the Assistant Director, City Transport clarified that the project was nearing an end and this year's payment would be the final one made from the LTP. In answer to the query raised in relation to the Bikeshare scheme, the Head of Transport Policy & Strategy explained that this related to two amendments passed at Budget Council to consider feasibility and options for expansion of the scheme and would be revenue not capital funding.

- 2.6 Councillor Wares explained that in relation to the Shelter Hall repayments, his question specifically concerned whether the £1m payment to reserves could be restructured to release in-year expenditure for the LTP.
- 2.7 The Assistant Director, City Transport explained that the repayment terms reflected decisions previously made however, the feasibility of restructuring would be taken up with the council's finance officers.
- 2.8 Councillor Wares expressed his concern regarding the response provided on high-risk road safety sites as it appeared that projects previously agreed by committee were being shifted from one year to the next without being completed and restating financial commitments to decisions made in 2016. Councillor Wares added that the report should have been clear that a decision on location for pedestrian crossing improvements had been made.
- 2.9 The Head of Transport Policy & Strategy stated that it may be useful to hold a briefing with Members for officers to go through road safety schemes and the differences and changes that had occurred since 2016.
- 2.10 Councillor West stated that Hove Station Footbridge required a proper proposal for replacement or other solution as using capital funding to prop up the structure was not sustainable. Councillor West noted that he was aware that £900,000 of damage was caused by pavement parking every year. It was therefore very likely that the proposed £600,000 capital allocation would be for repairing damage and not for improvement or new pedestrian facilities. Returning to the SCRIF MOG, Councillor West stated that the new investment meant that the Group's terms of reference required revising and updating. Councillor West stated that the target for carbon neutrality by 2030 would very likely need community ownership and community initiatives in working with the council and it was important for those groups to be able to access funding from the council.
- 2.11 The Executive Director, Economy, Environment & Culture explained that the LTP was capital funding and therefore could only be used for capital projects as set out in Section 55 of the Road Traffic Regulation Act 1984.
- 2.12 **RESOLVED TO RECOMMEND-**

That the Environment, Transport & Sustainability Committee Urgency Sub-Committee:

- 1) Recommends that Policy & Resources Committee agrees the 2020/21 Local Transport Plan capital programme budget allocation of £8.658 million, as set out in Appendix 1 of this report.

3 DYKE ROAD WAITING RESTRICTIONS EXPERIMENTAL TRO (TRO-12-2019)

- 3.1 The Urgency Sub-Committee considered a report of the Executive Director, Economy, Environment & Culture that set out the objections and officer responses to the Experimental Traffic Order for the southbound bus stand in Dyke Road, Brighton and sought approval to make the order permanent.
- 3.2 Councillor West stated that the ward councillors welcomed the changes being made permanent and they would benefit residents and ease congestion around the Clock Tower.
- 3.3 **RESOLVED-** That the Urgency Sub-Committee, having taken account of all duly made representations, approves as advertised the Dyke Road Waiting Restrictions Experimental TRO (TRO-12-2019) which relates to the provision of a southbound bus stand at the bottom of Dyke Road.

4 TRAFFIC REGULATION ORDERS - OBJECTIONS TO ORDERS RELATED TO NEW DEVELOPMENTS

- 4.1 The Urgency Sub-Committee considered a report of the Executive Director, Economy, Environment & Culture that set out the objections and officer responses to traffic regulation orders [TRO] relating to four separate developments and requested approval of the TRO's.
- 4.2 Councillor West noted that the local cycle lobby had written to Members with their observations against the proposals for Circus Street and Freehold Terrace and had asked the committee to revisit the design. That was on the basis that the current design created a barrier to cycling as both sites could incorporate contraflow measures for cyclists. Councillor West stated that he was minded to agree to that request and could not support the recommendations that dealt with those locations. Councillor West noted that he was also aware that there were some objections to the consultation period and advertising of the TRO.
- 4.3 The Head of Transport Policy & Strategy explained that the primary consideration for the design at those two sites stemmed from issues associated with safety for all road users and reflected the findings and recommendations of the independent road safety audit conducted at the sites.
- 4.4 Councillor Wares observed that there was some similarity with this matter and the Valley Gardens project whereby comments had been received outside the formal consultation period. Councillor Wares stated that he supported Councillor West's proposal for a delay as he shared the view that the council should reconsider proposals where that could be facilitated, even if that fell outside formal processes as it could improve and refine

proposals. Councillor Wares stated that he hoped that Councillor West would hold a similar view on future decisions on the Valley Gardens project.

- 4.5 The Head of Transport Policy & Strategy explained that the driving factor behind the recommendations made in the report were the findings of the independent road safety audit. Whilst the committee were not bound by those findings and recommendations, there were potential liability implications if those findings were not followed.
- 4.6 The Chair stated that whilst comments from local organisations were welcomed, the council had a duty of safety to all residents that it had to abide to.
- 4.7 The Chair then put the recommendations to the vote. Recommendations 2.1 and 2.3 were passed and recommendations 2.2 and 2.4 failed.

4.8 RESOLVED-

TRO-43-2019 Queen Square

- 1) That the Urgency Sub-Committee, having taken into account of all the duly made representations and objection, approves the order above as advertised for Queen Square.

TRO-36-2019 Kingsway

- 2) That the Urgency Sub-Committee, having taken into account of all the duly made representations and objection, approves the order above as advertised for Kingsway.

5 TRAFFIC REGULATION ORDERS UPDATE REPORT

- 5.1 The Urgency Sub-Committee considered a report of the Executive Director, Economy, Environment & Culture that set out the objections and officer responses to two traffic regulation orders [TRO] relating to various areas in the city and requested approval of the TRO's.
- 5.2 Councillor West noted that the proposal for Westdene was fully supported by his colleagues in Withdean ward.
- 5.3 Councillor Wares stated that Deneway was located in his ward and whilst his residents supported the proposals, many did not feel they went far enough. Councillor Wares stated that the proposal may not be the full solution and it was likely that the issue may need to be revisited in the future.
- 5.4 The Assistant Director, City Transport stated that officers would monitor the issue and agree of the report proposals would not preclude the matter returning to the committee in the future.
- 5.5 **RESOLVED-**

- 1) That the Urgency Sub-Committee, having taken into account of all the duly made representations and objection, approves the following order as advertised for Manor Close.

Brighton & Hove Outer Areas (Waiting, Loading and Parking) and Cycle Lanes Consolidation Order 2018 Amendment Order No*202* (TRO-33-2019)

- 2) That the Urgency Sub-Committee, having taken into account of all the duly made representations and objections approves the following order;

Brighton & Hove Outer Areas (Waiting, Loading and Parking) and Cycle Lanes Consolidation Order 2018 Amendment Order No*202* (TRO-41b-2019)

6 BULKY WASTE CONTRACT

- 6.1 The Urgency Sub-Committee considered a report of the Executive Director, Economy, Environment & Culture that sought committee approval to change the service delivery model for bulky waste collection services in Brighton & Hove.
- 6.2 Councillor West noted that there was no recycling of any of the materials collected under the current contract that he found a shame as there were undoubtedly items collected that could be re-used. Councillor West stated that all Members were concerned about Cityclean's capacity to deliver services and the committee would be aware of the problems with the garden collections service that would also operate the new bulky collections service. Councillor West stated that the in-house option was his preference but there needed to be a very honest appraisal on whether the service would work that way.
- 6.3 The Executive Director, Economy, Environment & Culture stated that assurance was required that Cityclean had the capacity to deliver a new service given previous challenges and the new challenges that would arise from the Covid-19 pandemic.
- 6.4 Councillor Wares asked for the level of complaints received from residents about the service currently in place.
- 6.5 The Executive Director, Economy, Environment & Culture replied that those figures weren't to hand but in general it was not a service area that received complaints.
- 6.6 Councillor Wares noted that the committee were not being asked to consider a business case to balance the forecasted outcomes for the service to be brought in-house and there was only the option to review the decision once a decision had been made. Councillor Wares stated his concern that there was little detail in the report about continuing the current contract or re-drafting the current terms. Councillor Wares highlighted the similarities between this proposal and the decision made on bringing the enforcement service in-house that in his opinion, had turned out to be a poor choice. Councillor Wares asked for clarification on the process detailed in paragraph 7.5 and for an update in the compliance issues at Cityclean and whether the service was still in special measures.

- 6.7 The Chair stated that there had been five waivers on the contract and a further waiver was unpalatable and unsound. In addition, there was insufficient time to re-procure the service.
- 6.8 The Executive Director, Economy, Environment & Culture explained that the council had to adhere to its Contract Standing Orders and therefore would have to re-tender the service to outsource it. Further, it was not appropriate to perpetuate a contract through a series of waivers. The Executive Director, Economy, Environment & Culture acknowledged the Cityclean service delivery issues and clarified that the service was no longer in special measures with the Traffic Commissioner in relation to the operator's licence and a significant amount of work had been undertaken to bring that about.
- 6.9 Councillor Wares stated that he agreed that contract waivers should not be applied perpetually. Councillor Wares noted that only one option had been provided to the committee and that was to bring the service in-house. Councillor Wares recorded his objection that no proposal was made to re-tender the contract and given five waivers had been applied to the contract so far, it seemed insignificant to apply a further waiver in order to start the process for re-tendering the contract.
- 6.10 The Chair then put the recommendations to the vote that passed.
- 6.11 **RESOLVED-** That the Urgency Sub-Committee:
- 1) Approves the bringing in-house, within Cityclean, of the bulky waste collection services at the end of the current contract on 18 June 2020.
 - 2) Agrees for charges to remain the same while a complete review is undertaken, once the service is brought in-house to determine the pricing model moving forward.

7 **BTN BIKESHARE**

- 7.1 The Urgency Sub-Committee considered a report of the Executive Director, Economy, Environment & Culture that provided an update on the current sponsorship arrangements and future procurement needs for the Brighton & Hove Bikeshare Scheme.
- 7.2 On behalf of the Conservative Group, Councillor Wares moved a motion to amend recommendations 2.1 and 2.2 as shown in bold italics and strikethrough below:

That the Environment, Transport & Sustainability Urgency Sub-Committee:

- 2.1 ***Subject to a revised business model being presented to this Committee on 23 April 2020, agrees in principle*** ~~Approves immediate~~ ***to*** variations to the current contract ~~to allow for the change in business model and sponsorship arrangements with effect from 31 March 2020 and to allow for the operational and additional minor amendments referred to in paragraph 3.16 below;~~
- 2.2 ***Subject to a revised business model being presented to this Committee on 23 April 2020, agrees in principle to*** ~~Approves~~ a 12-month contract extension ***subsidising*** ~~and supporting revenue funding for the current operator from 01~~

September 2020 *with sponsorship and operating revenue with a surplus share ratio split 75% for the Council and 25% for the Operator;*

7.3 The motion was not seconded by a member of the Urgency Sub-Committee and therefore failed.

7.4 Councillor Wares noted that he had submitted a Letter to the postponed meeting of the committee that detailed five questions on the Bikeshare scheme and put those questions:

- Tariffs to use the bikes were increased in August 2019. The Administration gave reasons such as the ability to reinvest the revenue citing that the charges were less expensive or comparable with other city's (that it seems are now closing their bikeshare schemes). The confidential briefing dated 25th July 2019 provides entirely different reasons for the need to raise the tariffs. Will the Chair please disclose those reasons?
- Has Hourbike paid all debts due to the council. If not, please could you provide the detail and reasons?
- The council ordered and paid for electric ready bikes. During the contract the supplier was acquired by Uber who subsequently would not supply the electric conversion kits. The council has now received e-ready bikes that cannot be electrified but, in the process paid circa £30k more than had standard bikes been purchased.

Please could it be confirmed what action is being taken to either force Uber to supply the conversion kits the council has paid for or recover the overpaid £30k.

- It is clear (and reinforced in the report) that the original business case was flawed. Costs were under-estimated and revenue over-stated. The scheme relies on sponsorship to supplement revenue from customers. The ability for the scheme to succeed also appears to rely on subsidies and grants to acquire capital infrastructure without borrowing costs. Any further decision should be based on a revised business case taking account of actual data established over the last two years. Please could the Chair request a revised business case to support the procurement options in item 86.
- Please could it be explained why the council condones the use of older diesel vehicles to collect and redistribute (and service) the bikes throughout the city when the premise of the bikeshare scheme is to encourage a healthier lifestyle and tackle climate change.

7.5 The Access Fund Manager provided the following responses to the questions:

In relation to question one, this was the first tariff increase since the scheme began on 1 Sept 2017 and the changes, benchmarked against similar UK schemes including schemes that remain in operation in Edinburgh, Glasgow, Cardiff, Bournemouth and London Boroughs, were designed to improve the scheme's viability. The current sponsor's commitment was due to come to an end on 31 August 2019, but this support

was generously extended to cover the autumn/ winter period up until 31 March 2020 in recognition of the fact that scheme usage varies seasonally. Revenue has increased since the tariff change but was impacted by unusually wet weather in October and November 2019, which was significantly different from the same period in 2018. The true impact of the tariff increase will be easier to assess after a full year of operation including peak usage months from April to September 2020.

In relation to question two, this question covers issues that are commercially sensitive, relating to the current contractual arrangements. Members have had sight of the part 2 report, which will be discussed later on the agenda and which you will be aware addresses this issue.

In relation to question three, these bikes are deployed in the fleet and are generating revenue as pedal only bikes. Pursuit of this debt via a legal route would likely cost council taxpayers more than the sum in question.

In relation to question four, a revised business case will be provided based on actual data.

In relation to question five, this question also covers issues that are commercially sensitive, relating to the current contractual arrangements. Members have had sight of the part 2 report, which will be discussed later on the agenda and which you will be aware addresses this issue.

- 7.6 Councillor Wares stated that he had been raising questions on this matter for the past seven months and he found the answers to be unsatisfactory. Councillor Wares noted that recommendation 2.2 ask for funding to support the scheme and asked what the specific amount was proposed to be. In reference to paragraph 3.8, Councillor Wares asked how much the council would be contributing to the three-way sponsorship. Councillor Wares asked for clarification on the financial figures detailed at paragraph 4.1. In addition, Councillor Wares asked what the options for the scheme were if the recommendations were not agreed by the Sub-Committee.
- 7.7 The Access Fund Manager stated that the amount was commercially sensitive and detailed in the Part Two report. In response to question two, the Access Fund Manager stated that this was not a financial contribution but participation in the relationship between the operator and sponsor. The Access Fund Manager explained that the scheme could not expand further due to the rules around the concession contract and its viability was in question without a sponsor. There was demand for further bikes and hubs as well as e-bikes but this could not be addressed due to the concession contracts regulations.
- 7.8 Councillor Wares stated that it was concerning that the potential contribution from the council could not be disclosed to the public. Councillor Wares asked if the recommendations were not agreed, whether the scheme would survive.
- 7.9 The Assistant Director, City Transport confirmed that the scheme would survive with a restructuring of the business model. The purpose of the report recommendations was to meet demand for the scheme in the city, allow it to grow which it couldn't under the current concession contracts regulations.
- 7.10 Councillor West stated that the current contract needed to be updated for the scheme to move forward and it already stood as one of the most successful schemes of its type in

the country and was very important in keeping people active. Such schemes could be volatile in terms of income but the positives in areas such as health and air quality meant that the right support should be provided. Councillor West stated that e-bikes would be a step change for the scheme as it would mean users were more easily able to tackle the challenging topography of Brighton & Hove and it could expand wider in the city a be a viable form of commuter travel.

7.11 Councillor Wares stated that there was cross-party support for the scheme however, Members had an accountability to the council tax payer. Councillor Wares stated that the scheme had begun as revenue based but was now in a position of being subsidised. Whilst there was nothing wrong in that in principle, the council had not been open or transparent on that mater. Councillor Wares noted that in the original application for funding the LEP had stated that the business case for the scheme was not sufficiently robust or fit for purpose in its current form. The report also suggested that the council had over-estimated the number of daily users of the scheme and under-estimated the level of funding required, both of which had been realised. Councillor Wares stated that if the scheme was to move to a subsidised operation, then the business model needed to be revisited in an open and transparent way. Councillor Wares agreed that the scheme had been a success and brought great benefit, but he fundamentally opposed the report recommendations and the way the process had been handled.

7.12 The Committee moved to confidential session at 1.05pm and reconvened in public session at 1.20pm.

7.13 The Chair then put the recommendations to the vote that passed.

7.14 **RESOLVED-** That the Environment, Transport & Sustainability Urgency Sub-Committee

- 1) Approves immediate variations to the current contract to allow for the change in business model and sponsorship arrangements with effect from 31 March 2020 and to allow for the operational and additional minor amendments referred to in paragraph 3.16 below;
- 2) Approves a 12 month contract extension and supporting revenue funding for the current operator from 01 September 2020;
- 3) Approves the initiation of a full procurement options review to include additional support for service and redistribution and the introduction of e-bikes to the scheme, with the option of considering an in-house operation, and for including wider city region Local Authority partners;
- 4) Agrees that a further report be brought to 23th June 2020 Environment, Transport & Sustainability Committee detailing the outcome of the procurement options review with recommendations for the retender of the new service or an in-house operation.

8 BTN BIKESHARE (EXEMPT CATEGORY 3)

8.1 **RESOLVED** – That the Committee note the information contained in the Part Two appendix.

9 PART TWO PROCEEDINGS

- 9.1. **RESOLVED-** That the information contained in Part Two remain exempt from disclosure to the press and public.

The meeting concluded at 1.25pm

Signed

Chair

Dated this

day of