

DEVON & SOMERSET FIRE & RESCUE AUTHORITY
(Ordinary Meeting)

29 June 2021

Present:

Councillors Randall Johnson (Chair), Best, Biederman, Bown, Brazil, Dr. Buchan, Chesterton, Clayton, Coles, Corvid, Drean, Hannaford, Healey MBE, Long, McGeough, Napper, Parker-Khan, Peart, Prowse, Radford, Redman, Roome, Scott, Shayer, Thomas and Vijeh.

DSFRA/21/7 Questions and Petitions from the Public

The Clerk to the Authority read the following statement as submitted by Exeter City Councillors Andrew Leadbetter, Rob Newby and Keith Sparkes and Simon Jupp, MP for East Devon:

“Ahead of the sale of the former fire station in Topsham, we, the elected councillors and Member of Parliament for East Devon including Topsham, ask the Fire & Rescue Authority to look favourably on forthcoming bids from local community. We are launching a petition to further demonstrate the strength of feeling in Topsham to retain the building as a community facility to benefit the town and hope this will be taken into account by the Fire & Rescue Authority”.

This Clerk also read the following response on behalf of the Authority:

“The statement will be taken into account by the Authority when the matter is considered later on the agenda at this meeting”.

(See also Minute DSFRA/21/13 below).

DSFRA/21/8 Minutes of Committees

a Human Resources Management & Development Committee

The Chair of the People Committee, Councillor Bown, **moved** the Minutes of the former Human Resources Management & Development Committee meeting held on 3 March 2021 which had considered, amongst other things:

- a progress report on the health, safety and well-being of the Devon & Somerset Fire & Rescue Service (the Service);
- an update report on the Service People Strategy; and
- applications for retirement and re-employment in accordance with the Authority's approved Pay Policy Statement.

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

b Audit & Performance Review Committee

The Chair of the Audit & Governance Committee, Councillor Healey MBE, **moved** the Minutes of the former Audit & Performance Review Committee meeting held on 5 March 2021 which had considered, amongst other things:

- an external audit progress report and sector update;

- the external audit plan 2020-21;
- a report on the provision of group accounts for the Authority's trading company, Red One Ltd.;
- a report on progress against the approved internal audit plan 2020-21;
- a draft internal audit plan 2021-22;
- the draft Annual Statement of Assurance 2020-21;
- a report on the Corporate Risk Register; and
- a report on progress against recommendations in the report following inspection by the Service by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS).

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

c Community Safety & Corporate Planning Committee

The Chair of the Community Safety Committee, Councillor Chesterton, **moved** the Minutes of the former Community Safety & Corporate Planning Committee meeting held on 8 March 2021 which had considered, amongst other things:

- a progress report on the Service Safer Together Programme;
- a report on progress against those recommendations arising from the Grenfell Phase 1 Inquiry; and
- a report on development of a Community Risk Management Plan to replace the current Integrated Risk Management Plan.

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

d Appraisals & Disciplinary Committee

The Chair of the Appointments & Disciplinary Committee, Councillor Randall Johnson, **moved** the Minutes of the former Appraisals & Disciplinary Committee meeting held on 24 March 2021 which had undertaken a process to appoint a new Service Director of Finance & Resourcing (and officer responsible for the proper administration of the Authority's financial affairs in accordance with Section 112 of the Local Government Finance Act 1988).

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

DSFRA/21/9

Strategic Policy Objectives 2021-22

The Authority considered a report of the Chief Fire Officer (DSFRA/21/15) to which was appended proposed Authority Strategic Priority Objectives for 2020-21. The Objectives had been developed with input from Authority Members at recent Members' Forum meetings and three Member workshops.

Councillor Dr. Buchan **moved** (with the Authority Chair seconding):

“that the Strategic Policy Objectives appended to report DSFRA/21/15 be approved subject to:

- (a). adoption of the “or” option for Strategic Priority 1a (i.e. deliver interventions and education events to reduce the risk of fires in the community);

- (b). adoption of the “or” option for Strategic Priority 1(b) (i.e. develop and deliver initiatives to support children and young people in making safe lifestyle choices);
- (c). deletion of the words “identified in our Community Risk Management Plan” from Strategic Priority 2;
- (d). adoption of the “or” option for Strategic Priority 2(a) (i.e. provide response resources at times and in locations relevant to identified risks of fires and other emergencies);
- (e). Priority 4(a) to be split to provide:
 - Priority 4(a) – “We will explore and develop opportunities for collaboration with other agencies, charities and volunteers to enhance our work and deliver efficient and economic services” **and**
 - new Priority 4(b) – “We will invest in technology that: supports new ways of working; improves information governance and data sharing; supports interoperability; improves safety and service outcomes; and provides flexibility and increased productivity”; and
- (f). old Priority 4(b) being renumbered as Priority 4(c) and reworded to read “We will apply “best practice” methodology to planning, risk management and evaluation processes....”.

The motion was put to the vote and declared **CARRIED**, unanimously, whereupon it was

RESOLVED that the Strategic Policy Objectives 2021-22, amended as indicated above, be approved.

DSFRA/21/10 Provisional Financial Outturn 2020-21

The Authority considered a report of the Interim Treasurer (DSFRA/21/16) on the draft financial outturn position for 2020-21 against agreed financial targets.

In particular, outlined the draft outturn spending position against the 2020-21 revenue budget with explanations of the major variations. It was indicated that gross spending would be £1.960m below budget (2.54% of the total budget). Net spending (before transfers to earmarked reserves noted in this report) would be £9.745m below budget (12.61% of the total budget). Of this amount, £7.412m was associated with additional grants received, making the operational underspend £2.333m (3.02% of the total budget).

There had been some significant movements against the original budget (set in February 2020) as a result of organisational focus on the COVID pandemic response, with opportunities taken during the year to fund reserve items such as the full rollout of the Payment for Availability system.

Significant savings had been utilised either within the year or as part of the year end process within officer delegations, with the balance providing an opportunity to invest in the future via the capital reserve. A large amount of additional grant income was accounted for in 2020-21 which had impacted on the year-end position.

In relation to capital, the Authority had initially set its capital programme 2020-21 at £10.7m at its budget meeting on 18 February 2020 (Minute DSFRA/38(b) refers). This had subsequently been revised in-year to £11.3m as a result of timing differences in spending from the previous year, albeit that this increase did not represent any increase to the previously agreed borrowing limit. Capital spending of £4.582m was reported against the final capital programme, resulting from:

- an unspent programme of £6.715m, of which £6.316m related to timing differences to be carried forward to 2021-22; and
- £0.399m savings.

The Authority's reserves position as at 31 March 2021 was £46.348m (subject to approval of the recommendations as set out in the report).

The report indicated that none of the prudential indicators associated with the 2020-21 budget had been breached albeit that the outturn as set out in the report was subject to external audit of the Authority's accounts.

RESOLVED

- (a). that the provisional underspend against the 2020-21 revenue budget of £1.876m be transferred to the Reserve for Capital Funding;
- (b). that, subject to (a) above, the following be noted:
 - (i). the draft position in respect of the 2020-21 Revenue and Capital Outturn position, as indicated in report DSFRA/21/16; and
 - (ii). that the net underspend figure of £1.876m was after
 - A. the transfer of £3.281m to reserves as set out in Appendix C to the report; and
 - B. a transfer of £5.601m to the Grants Unapplied Reserve as required under International Financial Reporting Standards (IFRS) and relating to grants received during the financial year but not utilised as set out in Appendix D to the report; and
- (c). that, subject to b(ii)B above, a virement of £2.846m relating to National Non-Domestic Rates (NNDR) additional reliefs be approved within the 2021-22 budget, in line with accounting requirements;
- (d). that, in accordance with capital control legislation, the following use of capital finance resource be determined:
 - (i). use of £1.528m of external borrowing from previous years to fund the capital programme;
 - (ii). that £2.674m be capitalised and funded from revenue contributions to capital spending, either directly from the 2020-21 revenue budget or from balances in earmarked reserves; and
 - (iii). that £0.380m capital receipts be utilised to fund the capital programme.

DSFRA/21/11 Firefighters' Pension Scheme Immediate Detriment Cases - Further Considerations

The Authority considered a report of the Director of Governance & Digital Services (DSFRA/21/17) recommending a revision to the Authority's discretionary policy on Voluntary Scheme Pays arrangements to enable individual taxation issues to be addressed as required in relation to the treatment of "immediate detriment" Firefighters Pension Scheme issues as approved by the Authority at its Extraordinary Meeting held on 20 April 2021 (Minute DSFRA/82 refers).

RESOLVED that the Authority's discretionary policy on Voluntary Scheme Pays arrangements be amended by the addition of a third clause (c) (shown in ***bold italics***) after the wording "That a Voluntary Scheme Pays arrangement be made available to individuals where one or more of the following circumstances apply":

- (c). where access to the Voluntary Scheme Pays arrangement is necessary to meet additional tax charges resulting from an "immediate detriment" remedy.***

DSFRA/21/12 Exclusion of the Press and Public

RESOLVED that, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in the following Paragraphs of Part 1 of Schedule 12A (as amended) to the Act:

- Paragraph 3 (information relating to the financial and business affairs of any particular person – including the authority holding that information); and
- Paragraph 5 (information in respect of which a claim to legal professional privilege could be maintained in legal proceedings).

DSFRA/21/13 Disposal of former Topsham Fire Station - Further Considerations

(An item taken in accordance with Section 100(A)(4) of the Local Government Act 1972 during which the press and public were excluded from the meeting).

The Authority considered a joint report of the Director of Governance & Digital Services and Lawyer, Plymouth City Council, on legal considerations associated with the disposal of Topsham Fire Station. The report identified, amongst other things:

- the background to disposal of the station by reference to the previous consultation and subsequent decisions by the Authority to reform service delivery; and
- legislation and common law legal principles as applicable to the Authority.

In particular, the report identified that while the General Consent, allowing land to be disposed of at less than the best consideration that could reasonably be obtained, did apply to the Authority, this General Consent did not in itself confer additional legal powers on the Authority. The Authority had no general legal powers to support or promote community use/initiatives to promote economic, social or environmental well-being. Rather, the Authority had a very limited general power, by virtue of section 5A of the Fire & Rescue Services Act 2004, to do anything it considered appropriate **to carry out its functions**, either directly or indirectly. Any use of the General Consent would, as such, need to be linked to providing either a direct or indirect benefit to discharging the functions of the Authority. No such benefits had been identified in relation to the disposal of Topsham fire station for less than the best consideration that might reasonably be obtained.

As such, given the Authority's earlier decisions (including the rationale for those decisions, linked to a reform of service delivery against a backdrop of reducing funding) and in the absence of a defined benefit accruing to the Authority's functions from an undervalue sale, any decision to seek to progress an undervalue sale would expose the Authority to an entirely avoidable risk of legal challenge for failure to act rationally and reasonably, having due regard to all relevant considerations and not having regard to irrelevant considerations.

It was also highlighted that seeking to dispose of Topsham fire station for the best consideration that might reasonably be obtained would not, of itself, preclude any organisation from purchasing the site.

RESOLVED that, in light of the report:

- (a). the Director of Finance & Resourcing be authorised to dispose of the former Topsham Fire Station for the best consideration that can reasonably be obtained; and
- (b). given the very limited scope for the Authority to ever utilise the General Consent without the significant risk of legal challenge, the Authority's former policy on disposal of land be amended to provide that, in all cases, such disposals will be on the basis of the best consideration that can reasonably be obtained in accordance with the provisions of section 123 of the Local Government Act 1972.

DSFRA/21/14 Retirement of former Authority Members

On behalf of the Authority, the Chair paid tribute to the contribution to the Authority's work of retiring Members Councillors Colthorpe, Eastman, Saywell, Trail BEM, Wheeler (who had also served as Authority Vice-Chair since 2018) and Yabsley. Those retiring Members attending were presented with a small token of appreciation.