



Minutes of the meeting of the Overview & Scrutiny Committee held on 30 July 2024 when there were present:-

Chair: Cllr G Watson

Cllr S Ainsley
Cllr N Benson
Cllr K Bowker
Cllr L Breading

Cllr S Brooke
Cllr M Cortes
Cllr D Thomas
Cllr B Wimbledon

VISITING MEMBERS

Cllr B Palmer

APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs A Edwards, D Jones and K Knott.

OFFICERS PRESENT

A Hutchings	- Chief Executive
A Law	- Assistant Director, Legal & Democratic Services
A Parrott	- Assistant Director, Climate & Growth
S Worthington	- Democratic Services Manager

1 DECLARATIONS OF INTEREST

Cllr S Brooke declared a non registerable interest in item 4 of the agenda relating to the re-negotiation of the existing lease and management agreement for Canvey Lake by virtue of membership of Canvey Island Town Council.

2 MINUTES

The Minutes of the meeting of Scrutiny Committee held on 6 March 2024 were agreed as a correct record and signed by the Chair.

In response to a Member question as to whether the recent local elections had impacted on the Joint Committee of South Essex Councils (SEC), the Chief Executive advised that there had been a number of changes in overall control in the member councils of SEC and a new Joint Committee was due to

be set up for the election of a new Chair and Vice-Chair. A date would be agreed following the summer recess.

3 RE-NEGOTIATION OF EXISTING LEASE AND MANAGEMENT AGREEMENT FOR CANVEY LAKE

The Committee considered the report of the Chief Executive presenting a draft Deed of Variation for the lease for Canvey Lake for pre-scrutiny by the Committee with a view to providing recommendations to the Cabinet before the document is legally executed.

A decision was taken by the Scrutiny Committee in February 2024 that the lease that existed between the Borough Council and the Town Council for Canvey Lake should be amended. The Borough Council granted a lease to the Town Council on 1 March 2010 in respect of land known as Canvey Lake and surrounding landscaped areas on a peppercorn rent of £1 for a term of 99 years. The lease obligations require the Town Council to maintain the land in accordance with the management agreement and feasibility study which are both defined within the lease. The lease created the Common Liaison Committee – a committee of the Town Council – as the body to oversee the way in which the agreement was developed. The Common Liaison Committee comprised of representatives from the Borough Council and the Town Council and was chaired by an independent person defined within the lease as representing a nationally recognised environment organisation. That arrangement continued for some time and was suspended during the pandemic as it couldn't meet. Subsequent to that the arrangements had lapsed.

Following the summer of 2022, the Borough Council became involved again with the Town Council to deal with an environmental crisis that arose as a result of extreme heat that had resulted in evaporation and deoxygenation of waters within the lake and therefore harm was caused to wildlife, and predominantly the fish, that were in the waters. That was the first time that the current Chief Executive – having taken up post in June 2022 - became involved with the Town Council in the way in which the lake was overseen. Having looked at the terms of the lease and recognising that the stewardship of the lake – the day to day management of the lake and overall operation - sits within the Town Council, the Borough Council nevertheless has a strategic stakeholder role to assist the Town Council in the way in which the lease is operated in terms of future sustainability. This applies to other agencies, including the Environment Agency, who are responsible for discharge of water from the lake out to sea. The Environment Agency is also responsible for monitoring water quality. Anglian Water is also a strategic partner as the waste water authority for the area. Essex County Council, as the local lead flood authority, is also a key stakeholder for the lake in respect of water attenuation as a major part of managing flood liability for Canvey.

The lake itself is a water attenuation unit. It operates like an overflow; when certain levels within the lake are reached water is discharged into the pumping

system and then removed into the sea. As with all water attenuation units, when too much water comes into it, it can't disperse it quickly enough, which is when flooding events occur. The lake had been used for fishing since 2010, and probably before that; the fish population had increased exponentially over that time and the diversity of the lake was damaged by the fish as the apex predators in that environment. Also the fish had become diseased and therefore needed to be safely removed rather than euthanised. The Borough Council supported the Town Council to work with the Environment Agency to ensure that they were safely removed.

There continue to be ongoing challenges to the Town Council around the future management of the lake. The Borough Council continues to be a key stakeholder to support that future strategic direction. It is clear that because the Town Council has the benefit of a 99-year lease, the responsibility lies with the Town Council to manage the stewardship of the lake and they are putting in place plans for a number of solutions that will look at the long term biodiversity and financial sustainability of the lake going forward. The suggestion is therefore that the Common Liaison Committee and the arrangements that had been put in place back in 2010 are no longer fit for purpose and that that mechanism for oversight and scrutiny needs to be updated in the lease. The Monitoring Officer (Assistant Director, Legal & Democratic Services) has put together a deed of variation, a legal instrument that will amend the terms of the lease that relate to the Common Liaison Committee and potentially removing those and replacing with a Stakeholder Forum, as set out in the report.

The Chief Executive was recommending approval of the deed of variation, as set out in the report, as this did give effect to the changes that the Town Council and the Borough Council have agreed. The deed had been through the Town Council's internal governance processes and was now with the Borough Council for agreement. If the Committee wanted additional amendments to be made to the deed, however, the Monitoring Officer would need to assess those and report back to the Cabinet when the Cabinet considered this Committee's recommendations.

In response to a Member concern about rumours circulating among residents currently that the lake would be filled in and seeking assurance that if the deed of variation was agreed, that this would not happen, the Chief Executive emphasised that this was not true; the lake was an attenuation unit, part of the prime flood prevention measures that exist on Canvey and will not be filled in.

Responding to a further question as to whether any key stakeholders had been approached and asked if they would be willing to take on this responsibility, the Chief Executive confirmed that they had. For the most part these were agencies that had been previously represented in the multi agency group arrangements. These had historically been in terms of crisis management; however, the new arrangements would mean that they would be involved in a more proactive way to help design the strategic future of the lake.

Officers advised, in response to a Member question, that a response would be given to Members outside the meeting on whether there was a break clause in the lease as it was not possible to access the original lease during the meeting. The obligations under the lease that would lead to termination relate to breaches of covenant by the Town Council. That would mean that the Town Council would have to stop doing the things it currently does in terms of stewardship of the lake in order to breach the lease. There is a lot of misunderstanding around the Town Council being solely responsible for the biodiversity and ecology that exists within the lake – it clearly is not solely responsible, which is why a multi agency approach is being taken. As the landowner it is accountable to the Environment Agency to make sure that the water quality is the best that it can be on the basis that it is a water attenuation unit. If, for example, someone is washing their car and the suds go into the drainage system it will go into the lake. The water quality of the lake is routinely monitored by the Environment Agency and is not an area which the Borough Council can force termination of the lease.

In response to another Member question as to what legal obligations the other two stakeholders, Environment Agency and Anglian Water, had and whether these were set out in the lease, the Chief Executive advised that the parties to the lease were the Town Council and the Borough Council as the Borough Council was the landowner and had leased that land to the Town Council. Anglian Water and the Environment Agency weren't parties to the lease. There were, however, multiple agencies who had an interest in securing the future water quality of the lake. The Town Council, as tenant, was responsible for the lake and the land surrounding it but the Borough Council, as landowner, had a vested interest in supporting the Town Council in achieving its outcomes.

Cllr G Watson moved a recommendation, seconded by Cllr Bowker, that recommendation 2, as set out at paragraph 6.2 of the report, be recommended to the Cabinet for approval, and this was agreed unanimously on a show of hands.

Resolved

That Option 2 be recommended to the Cabinet.

4 TOURISM TASK AND FINISH GROUP

The Committee considered the report of the Assistant Director, Legal & Democratic Services seeking nominations for the Tourism Task and Finish Group.

It was noted that following the borough elections in May three of the original Task and Finish Group were no longer Members of the Council and volunteers were therefore sought from the Committee in order to refresh the membership of the Group.

The Chair asked that those wishing to volunteer to join the Task and Finish Group should email her and copy in Democratic Services.

5 WORKPLAN

The Chair emphasised the importance of having in place a workplan for the year, to be included on the agenda for all meetings of the committee. It was also noted that another standing item – to receive an update from the Chair of the Climate Policy & Scrutiny Sub-Committee - would be included on the agenda for future meetings of the Committee.

In response to a Member question as to whether an item could be added to the workplan relating to the discharge of sewage into local rivers, the Chief Executive advised that the regulation of discharge of sewage into water courses was a highly regulated environment. The government imposes fines for any discharge outside of existing licensing. It would be possible to commission a report for the Committee; however, it would also require the attendance of external agencies so should be scheduled towards the end of the year.

Responding to a Member question relating to an invitation to County Highways to attend a meeting of the Committee, the Chief Executive advised that there had been a Motion on Notice to Full Council on this matter and the Leader had invited the Essex County Council Portfolio Holder to attend a meeting of Full Council, not this Committee.

In response to a Member request that the Police be invited to attend a meeting of the Committee as a result of a number of antisocial behaviour incidents and thefts, the Chief Executive advised that it was appropriate for the Committee to review the performance of the Community Safety Partnership across Castle Point and Rochford. A new divisional Commander had been in place for a short period of time, new CCTV cameras had been introduced and the re-energisation of PSPO's along Roscommon Way had been re-energised. The Assistant Director, Housing, Health & Partnerships would be asked to liaise with the Portfolio Holder for People & Community and the new Divisional Police Commander to identify a suitable date to attend a future meeting of the Committee.

It was noted that the workplan would be updated and circulated with the agenda for the next meeting of the Committee.

The meeting closed at 7.27 pm.

Chair

Date

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