

URGENT BUSINESS COMMITTEE

ABERDEEN, 12th May, 2008 - Minute of Meeting of the URGENT BUSINESS COMMITTEE. Present:- Councillor Dean, Convener; and Councillors Allan, Clark, Dunbar (substituting for Councillor May), Farquharson (substituting for Councillor Wisely), Fletcher, Graham (substituting for Councillor Young), Ironside, McDonald (substituting for Councillor Kiddie), Milne, John Stewart, Kevin Stewart and Kirsty West (substituting for Councillor Cassie).

DETERMINATION OF URGENT BUSINESS TO BE CONSIDERED

1. In terms of Standing Order 28 (3)(iv), and in accordance with Section 50(B)(4)(b) of the Local Government (Scotland) Act 1973, the Committee was informed that it had to determine (1) that the item on the agenda was of an urgent nature, and (2) that the Committee required to consider the item and take a decision thereon.

The Convener, seconded by Councillor Kevin Stewart, moved:-

That the matter was of an urgent nature by virtue of the need to undertake works in accordance with the approved School Estate Strategy over the summer break and prior to 18th August, 2008.

Councillor Ironside, seconded by Councillor Allan, moved as an amendment:-

That the item was not of an urgent nature.

On a division there voted:- for the motion (8) - the Convener; and Councillors Clark, Dunbar, Fletcher, McDonald, John Stewart, Kevin Stewart and Kirsty West; for the amendment (3) - Councillors Allan, Graham and Ironside; declined to vote (2) - Councillors Farquharson and Milne.

The Committee resolved:-

to adopt the motion.

In determining whether the item required to be considered, the Committee was advised by the Head of Democratic Services that, in terms of Standing Order 28(3)(vii), it was acting with the powers of the Resources Management Committee and that following any resolution not to consider the matter, the report would be placed on the agenda for the next meeting of the Resources Management Committee on 3rd June, 2008; and that, at this stage, it would not be competent to propose that the matter be considered by the Council on 21st May, 2008.

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The Committee further resolved:-

that the item required to be considered and a decision taken thereon at this meeting.

COMPOSITION OF COMMITTEE

2. The Head of Democratic Services confirmed that the composition of the Committee had not been amended to reflect the revised composition of the Council following the local government by-election in August, 2007, and that this would be undertaken immediately following the meeting.

The Committee resolved:-

to instruct the Head of Democratic Services to amend the composition of the Committee to reflect the revised composition of the Council in light of the local government by-election held in August, 2007.

SCHOOL ESTATE STRATEGY - PROPOSED PROGRAMME AND REQUIRED APPROVAL FOR CONSTRUCTION WORKS

3. With reference to the minute of meeting of the Council of 30th April, 2008, the Committee had before it a report by the Head of Resources Development and Delivery (1) providing a summary of actions taken, subsequent to the decisions taken by the Council on that date, to develop a programme for the proposed scope of construction works necessary to implement the School Estate Strategy; and (2) proposing a method for enabling these works to progress within the approved timetable.

The report (1) made reference to the decision of the Council at its meeting on 30th April, 2008 to approve the proposals to close seven schools as part of the School Estate Strategy, to instruct the Head of Resources Development and Delivery to (a) prepare a programme of works to allow the timetable to be met, (b) prepare the schedule of core rates and (c) approach contractors to allow this to be done, and to note that a meeting of an Urgent Business Committee may be necessary if a suspension of Standing Orders were required to enable the works to proceed; (2) described the steps taken since 30th April to confirm the specific scope of the works and the timescales involved, and to identify the risks involved; (3) advised that officers had met with potential contractors on 6th and 7th May, and that tender documents based on a schedule of rates for the main scope of works within each project were currently being prepared; (4) explained that in three out of the five

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projects (Westerton, Donbank, Walker Road, Cornhill, Skene Square), nine weeks would be required to complete the works, which would be undertaken in two phases, phase 1 to be completed by 18th August and phase 2 during the October holidays and at weekends, and that procurement of works in compliance with the timescale required to meet the programmed completion dates did not permit compliance in all aspects with the Council's current standing orders; (5) appended a proposed programme specifying tender issue and return dates, start dates, completion dates and estimated costs for each of these five projects; and (6) sought direction as undernoted in relation to the Standing Orders:-

- (a) Standing Order 71(2) outlining that no tender shall be invited unless the estimated expenditure had been previously approved by the Council. Initial estimates for the cost of each project had been assessed and were detailed within the appendix.
- (b) Standing Order 71(7)(i) outlining that contracts for the carrying out of works may only be awarded after steps had been taken for the purpose of ensuring genuine competition for any such contract. For some of these five projects competition may not be available due to potentially restricted available contracting resources resulting in only one tender being received.
- (c) Standing Order 76(2) outlining that acceptance of tenders where the value exceeded £150,000, or where it was proposed to accept a tender which was not the lowest submitted, could only be accepted by the City Solicitor on the authority of the appropriate Committee following a report. Timescales for acceptance to meet the proposed programme and the potential due to available resources of not accepting the lowest tender submitted would impact on compliance with these requirements.
- (d) Standing Order 76(4)(ii) outlining that no tender shall be accepted where any revised estimate of costs, including the tender, exceeded the amount provided in the annual estimates unless the additional cost had received prior approval from the appropriate Committee. Uncertainty of tender levels may result in an increase of any of these five projects compared to preliminary estimates of project costs approved by Committee, and timescale for acceptance of tenders in compliance with the programme would prevent the appropriate Committee approval being obtained as required.

For the reasons outlined in (a) to (d) above, the report argued that it was necessary to provide an exemption from the requirements of these standing orders and to delegate authority to the Corporate Director for Resources Management, in conjunction with the City Chamberlain and the City Solicitor, to accept the most appropriate tenders received for each of the five projects as this would enable the overall programme dates to be met, with all acceptances to be reported to the subsequent meeting of the Resources Management Committee. The report emphasised that any delay in the issue and acceptance of tenders would delay the proposed programme to such an extent that the phase 1 works within Westerton, Donbank and Cornhill would not be

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completed within the required timescale and would require either the scope of the works to be reduced, or the amalgamation date to be delayed as further acceleration of these works was not possible given the already short timescale.

The report recommended:-

that the Committee -

- (a) note the present position and the risks identified;
- (b) approve the proposed way forward;
- (c) direct in terms of Standing Order 69(3)(ii) that an exemption from the requirements of Standing Orders 71(2), 71(7)(i), 76(2) and 76(4)(ii) be provided by virtue of special circumstances, namely the need to undertake the specified works before the commencement of the new school year on 18th August, and authorise the Corporate Director for Resources Management, in conjunction with the City Solicitor and the City Chamberlain, to accept the most appropriate tender received for each of the five individual projects; and
- (d) instruct a report, following the tender process and acceptance of tenders, to the next available meeting of the Resources Management Committee.

The Convener, seconded by Councillor Kevin Stewart, moved:-

That the recommendations be approved, subject to the addition at recommendation (c) of the following wording:- “provided that the value of such tenders falls within 10% of the total overall budget. If this is not the case, that the Urgent Business Committee meet again on 29th May at 5.00pm, for which it will be necessary to circulate very late papers.”

Councillor Ironside, seconded by Councillor Graham, moved as an amendment:-

That the matter be referred for consideration to the Council on 21st May, 2008.

On a division there voted:- for the motion (8) - the Convener; and Councillors Clark, Dunbar, Fletcher, McDonald, John Stewart, Kevin Stewart and Kirsty West; for the amendment (3) - Councillors Allan, Graham and Ironside; declined to vote (2) - Councillors Farquharson and Milne.

The Committee resolved:-

to adopt the motion, whereupon Councillors Allan, Graham and Ironside indicated that, in terms of Standing Order 36(3), they wished to refer the matter to the consideration of the Council.

The Convener, on the advice of the Head of Democratic Services and the Head of Resources Development and Delivery, ruled in terms of Standing Order 36(6) that such a referral would have the effect of depriving the Council of the opportunity to make any meaningful or effective determination on the subject matter of the

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Committee's decision as it would prevent the Head of Resources Development and Delivery from issuing tenders on this date which, as outlined in the report, would render unfeasible completion of phase 1 of the works by the start of the 2008/09 school session.

- **KATE DEAN, Convener.**