

## URGENT BUSINESS COMMITTEE

ABERDEEN, 28<sup>th</sup> May 2009 - Minute of Meeting of the URGENT BUSINESS COMMITTEE. Present:- Councillor Dean, Convener; Depute Provost John West (substituting for Councillor Kiddie); and Councillors Allan, Cassie, Cormie (substituting for Councillor McDonald), Crockett (substituting for Councillor Ironside), Fletcher, May, Penny (substituting for Councillor Clark), John Stewart, Kevin Stewart, Wisely and Young.

### **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 Committee resolved:-**

to agree that the item was of an urgent nature and required to be considered and a decision taken thereon.

### **EXEMPT INFORMATION**

**The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the press and public from the meeting during consideration of the following item of business so as to avoid disclosure of exempt information of the class described in paragraph 6 of Schedule 7(A) to the Act.**

### **DECLARATION OF INTEREST**

**Councillor Fletcher declared a pecuniary interest in the following item of business by virtue of his paid position as Vice President of COSLA, however he did not consider that the nature of his interest required him to leave the meeting.**

### **3Rs PROJECT - FUNDING ARRANGEMENTS**

2. With reference to Article 27 of the minute of Council of 20<sup>th</sup> May 2009, the Committee had before it a report by the Corporate Director for Resources Management which advised of progress of the consortium in attempting to refinance the 3Rs Project, the options available to the Council and the advantages and risks associated with each option.

The report reminded members that the Urgent Business Committee on 18<sup>th</sup> November 2008 had agreed an interim financing package with the consortium (NYOP) led by Landsbanki, which included the provision of £5million of bridging loan finance to support the project until 31<sup>st</sup> March 2009, and that this be matched by £7.5million from Landsbanki itself. The Interim Project Support Agreement (IPSA) recognised that the refinancing might not be complete by 31<sup>st</sup> March 2009, and therefore allowed the refinancing period to be extended to 31<sup>st</sup> May 2009 providing that certain conditions were met.

The Urgent Business Committee on 27<sup>th</sup> March 2009 was advised that Landsbanki had requested that the two month extension to 31<sup>st</sup> May be enacted as negotiations with prospective funders had taken longer than anticipated due to the extensive due diligence exercises which required to be completed. The Urgent Business Committee agreed to a further loan of £4.6million, with a £2.3million loan from the consortium.

The report advised that Landsbanki had very recently indicated to the Council that the refinancing process would not be complete by 31<sup>st</sup> May but they believed they still had a deliverable funding structure. The report then provided an update on the progress Landsbanki were making in respect of refinancing negotiations. Progress had been slower than expected, which reflected the significant uncertainty in the current financial markets and higher levels of due diligence. However, the refinancing process had gained significant momentum in recent weeks and prospective funders had indicated that there were, at this stage, no “deal breaker” issues emerging from the due diligence completed to date, although there were still real risks around deliverability.

The report then set out the options which were available to the Council at 31<sup>st</sup> May 2009 and appraised each option, with a more detailed analysis of the costs, risks and benefits included in an appendix to the report.

The report made reference to the Scottish Futures Trust, which had been appointed by the Scottish Government to review some changes to the contract required under the refinancing. The Scottish Futures Trust had also offered a wider advisory service, but in view of the imminent conclusion of the refinancing no new advice would be commissioned by the Council, however the Scottish Government was seeking to be assured through the Scottish Futures Trust that their revenue support grant conditions would continue to be met under the refinancing.

The report concluded that following an assessment of the risks and benefits of the various options, the Committee was recommended to approve a one month extension to the interim arrangements - contingency work would continue to enable the Council to manage and implement a termination of the project if required.

**The report recommended:-**

that the Committee -

- (a) note the developing position regarding the funding arrangements for the 3Rs Project;
- (b) consider the various options detailed in the report and approve the extension to the refinancing period for one month until 30<sup>th</sup> June 2009 to allow the refinancing to be completed;

- (c) agree that officers should continue to examine and develop contingency plans including the provision of senior funding by the Council, in the event that there was a shortfall in the funds available to refinance the project; and
- (d) agree that further meetings of the Urgent Business Committee be held as appropriate.

The Corporate Director for Resources Management spoke in furtherance of the report, explaining that it had not been possible to refinance the project by 31<sup>st</sup> May, however he believed that there was still a bankable deal to be done, which would require a further extension to the interim arrangements. Landsbanki's Resolution Committee had met that morning to discuss the situation and a message had come through which seemed to indicate a positive response, however this required to be clarified. The Committee then asked a number of questions, which were answered by the Corporate Director, in conjunction with Vivienne Cockburn (Caledonian Economics), Roger Cotton (Brodies) and Graeme Traill, 3Rs Education Adviser.

**At this juncture the Committee agreed to a brief adjournment to enable officers, and the Council's external advisers, to receive a telephone message from Landsbanki to clarify the position.**

Following the recommencement of the meeting, the Committee was advised that Landsbanki were willing to continue to support the project on an interim basis and fully fund a further interim period of up to six weeks with no additional funding required of the Council. Landsbanki believed that a refinancing deal would be concluded within six weeks. It was recommended that the Committee agree to the proposal but reconsider the matter within four weeks.

**The Committee resolved:-**

- (i) to note the developing position regarding the funding arrangements for the 3Rs Project;
- (ii) to agree that the refinancing period be extended to 10<sup>th</sup> July 2009, noting that Landsbanki would fully fund the extended period with no financial contribution required of the Council;
- (iii) to instruct officers to further pursue the Scottish Government for a definitive response regarding the continuation of the revenue support grant in the event that the project was no longer a Public Private Partnership scheme;
- (iv) to agree that officers should continue to examine and develop contingency plans including the provision of senior funding by the Council, in the event that there was a shortfall in the funds available to refinance the project; and
- (v) to instruct officers to report to Council on 24<sup>th</sup> June, that being during the fourth week of the six week extension, on the most up-to-date position, and with all of the relevant information and figures in the event of the Council having to implement a termination of the contract.

**- KATHARINE DEAN, Convener.**