

## **WEST DUNBARTONSHIRE COUNCIL**

At the Special Meeting of West Dunbartonshire Council held in the Council Chambers, Council Offices, Garshake Road, Dumbarton, on Tuesday 11 December 2007 at 7.00 p.m.

**Present:** Provost Denis Agnew and Councillors George Black, Jim Bolland, Jim Brown, Geoff Calvert, Gail Casey, Jim Finn, William Hendrie, Douglas McAllister, David McBride, Jonathan McColl, Ronnie McColl, Jim McElhill, Patrick McGlinchey, Marie McNair, Craig McLaughlin, Willie McLaughlin, John Millar, Iain Robertson, Martin Rooney and May Smillie.

**Attending:** David McMillan, Chief Executive; Liz McGinlay; Executive Director of Educational Services; David Connell, Head of Finance; Terry Lanagan, Head of Service, Educational Services; Alan Douglas, Manager of Best Value and Special Projects; David Clarke, Manager of Schools' Estate; Iain Carmichael, Stephen Ross and Crawford Howat, Schools' Estate Unit; Stephen Brown, Head of Legal, Administrative and Regulatory Services and George Hawthorn, Senior Administrative Officer.

**Apology:** An apology for absence was submitted on behalf of Councillor Margaret Bootland.

### **Provost Denis Agnew in the Chair**

#### **SCHOOLS' PPP PROJECT: SUBMISSION OF FINAL BUSINESS CASE AND AUTHORITY TO PROCEED TO FINANCIAL CLOSE**

A report was submitted by the Chief Executive:-

- (a) informing the Council of the scope, nature, commercial terms and financial consequences of the proposed Schools' PPP project; and
- (b) seeking approval for officers to proceed to financial close of the project.

The Head of Service was heard in further explanation of the report.

Councillor Robertson, seconded by Councillor Rooney, moved:-

That the recommendations of the report be approved as follows:-

- (a) that, the Council notes the report relative to the design, construction, financing and operation of three new community learning centres at (1) St Peter The Apostle High School, St Eunan's Primary and St Eunan's Early Education and Childcare Centre, Clydebank; (2) Clydebank High

School, Clydebank; and (3) Vale of Leven High School, Alexandria and the provision of associated services in accordance with the Government's Public Private Partnership Programme;

- (b) in pursuance of the Project the Council authorises David McMillan, Chief Executive, to negotiate, agree and enter into on behalf of the Council, and resolves that the Council will perform the obligations contained in, *inter alia*, the Project Agreement (the "Contract") between the Council and West Dunbartonshire Schools Limited, (the "Contractor"), the Funders Direct Agreement between the Council, the Contractor and Dexia Management Services Limited to be provided in connection with the Project (the "Direct Agreement"), all Project Documents to which the Council is a party and all other documents which the Council may require to enter into in relation to the Project;
- (c) that, the Council has the power to enter into the Contract and the Direct Agreement in terms of Section 1, Section 6, Section 17, Section 20 and Section 53 of the Education (Scotland) Act 1980; Section 14 and Section 15 of the Local Government and Planning (Scotland) Act 1982; Section 69, Section 123 and Section 163 of the Local Government (Scotland) Act 1973; and Section 20 of the Local Government in Scotland Act 2003;
- (d) that, Stephen Brown, Head of Legal, Administrative and Regulatory Services, Alan Douglas, Manager: Best Value and Special Projects, Nigel Ettles, Principal Solicitor, and/or Sally Michael, Principal Solicitor are duly authorised to sign and deliver on behalf of Council the Contract and the Direct Agreement, the Project Documents to which the Council is a party and all other documents which the Council may require to enter into in relation to the Project;
- (e) that, the Contract and the Direct Agreement shall be certified contracts within the meaning of Section 2 of the Local Government (Contracts) Act 1997 (the "1997 Act") and shall meet the certification requirements within Section 3 of the 1997 Act and that the said Stephen Brown, Head of Legal, Administrative and Regulatory Services; Alan Douglas, Manager: Best Value and Special Projects; Nigel Ettles, Principal Solicitor, and Sally Michael, Principal Solicitor are duly authorised to sign and issue the certificates in terms of the 1997 Act;
- (f) that, the provision of the Cleaning and Grounds Maintenance Services comprised in MV3 be the responsibility of the Council's in-house service provider and that they operate the services in accordance with the specification and terms and conditions negotiated with the Project Team;

- (g) that the Chief Executive be authorised to enter into an Advance Works Agreement with the SPV, BAM and/or HBG Construction Limited if deemed necessary and advisable to preserve the programme of works and prevent cost overruns;
- (h) to approve the Council's Project Management Arrangements for the Construction and Operational phases as outlined in this Report; and
- (i) to approve the establishment of a sinking fund which will receive interest at the Council's rate for interest on revenue balances. This fund will be applied to offset the estimated shortfall between the annual payments in respect of the project and the funding available from the Scottish Government combined with operational/administrative cost savings. The insurance receipt from the fire at Vale of Leven Academy will be immediately deposited in the Fund and the sum required from the sale of sites will be deposited as and when received.

At this point, the Head of Service, the Chief Executive and various other officers present were heard in answer to Members' questions.

As an amendment, Councillor McElhill, seconded by Councillor Hendrie, moved:-

This Council recognises the widespread opposition that exists in West Dunbartonshire toward PPP and the amalgamation of schools in Clydebank.

This Council notes that although consultation with the public did take place, the views of people in certain areas were completely ignored making that consultation a sham.

This Council further recognises that current proposals for our schools' estate does not offer value for money and is not in the best interests of improving educational services and standards for secondary school students in Clydebank.

This Council is not therefore prepared to agree to financial closure with BAM PPP.

The Chief Executive informed the Council that the Local Government Ombudsman had investigated claims by members of the public that the consultation was flawed and the Ombudsman had ruled that such claims were unfounded.

As a second amendment, Councillor Bolland, seconded by Councillor Black, moved:-

This Council agrees that PPP is an extremely costly financial model for building new schools. Council Taxpayers will now only get 3 projects for the price of 4. This Council also agrees that no meaningful research into any alternative properly costed procurement methods have been considered by WDC.

This Council also notes from the CEO's report, pages 193 - 198, that there is still no accurate financial information available to Members on the final cost to WDC if the current PPP scheme is accepted.

This Council therefore agrees to:-

- 1) Withdraw immediately from the PPP programme.
- 2) Embark on a meaningful engagement exercise to seek an alternative method of procurement with parents, pupils and the Trade Unions.
- 3) Work towards implementing an alternative financial scheme which will include the SNP's "Scottish Futures Trust" which is scheduled to be published early in 2008.
- 4) This Council further agrees to make the building of a new non PPP Dumbarton Academy as an absolute priority for WDC and gives this commitment unreservedly.

On the request of Councillor Bollan, the Council agreed to proceed by way of a roll call vote.

On a vote being taken, 3 Members voted for the second amendment by Councillor Bollan (namely Provost Agnew, Councillors Black and Bollan), 5 Members voted for the amendment by Councillor McElhill (namely Councillors Brown, Finn, Hendrie, McElhill and C. McLaughlin) and 13 Members abstained (namely Councillors Calvert, Casey, McAllister, McBride, J. McColl, R. McColl, McGlinchey, W. McLaughlin, McNair, Millar, Robertson, Rooney and Smillie).

Councillor McElhill's amendment was accordingly put to the vote against the motion.

On a second vote being taken, 6 Members voted for the amendment by Councillor McElhill (Councillors Black, Bollan, Brown, Finn, Hendrie and McElhill), 14 Members for the motion by Councillor Robertson (namely Provost Agnew, Councillors Bootland, Calvert, Casey, McAllister, McBride, J. McColl, McGlinchey, W. McLaughlin, McNair, Millar, Robertson, Rooney and Smillie) and 1 Member abstained (namely Councillor C. McLaughlin).

The motion was accordingly declared carried.

## **VALEDICTORY**

Provost Agnew informed the Council that this was the last meeting of the Council which Mrs Liz McGinlay, Executive Director of Educational Services would attend as she was retiring from Council service. On behalf of the Council, Provost Agnew thanked Mrs McGinlay for all her hard work and dedication and wished her a long and happy retirement.

Councillor Robertson, on behalf of the Administration, thanked Mrs McGinlay for her help and advice during her time as Director and pointed out that although the job had been very difficult she had always been courteous and helpful to him. Councillor Rooney, on behalf of the Labour Group, thanked Mrs McGinlay for the many years

she had served this Council and the people of West Dunbartonshire. He pointed out that she had worked in West Dunbartonshire for 38 years; initially as a Primary School Teacher and ending with her appointment as Executive Director of Educational Services. He praised her dedication and commitment and wished her a long and happy retirement. Councillor Smillie, Spokesperson for Educational Services, praised Mrs McGinlay for her dedication and commitment to education in West Dunbartonshire and on a personal level, thanked her for her support and advice over the past year.

In response Mrs McGinlay thanked everyone for their kind words and informed the Council that although her duties had been very challenging and at times stressful, she had enjoyed her career in West Dunbartonshire and was sure that her successor, Mr Lanagan, would also be successful in the post of Executive Director of Educational Services.

The meeting closed at 9.00 p.m.