

The Executive – 11 August 2020

Minutes of the meeting of **The Executive** held on **11 August 2020** when there were present:-

Chairman: Cllr S E Wootton
Vice Chairman: Cllr Mrs C E Roe

Cllr D S Efde
Cllr S P Smith
Cllr I H Ward

Cllr M J Webb
Cllr A L Williams

VISITING MEMBERS

Cllr M Hoy
Cllr G J Ioannou
Cllr Mrs C M Mason
Cllr J E Newport
Cllr Mrs L Shaw
Cllr M J Steptoe
Cllr M G Wilkinson

OFFICERS PRESENT

S Scrutton	- Managing Director
A Law	- Assistant Director, Legal and Democratic
M Harwood-White	- Assistant Director, Assets and Commercial
M Hotten	- Assistant Director, Place and Environment
N Lucas	- Assistant Director, Resources
S Worthington	- Principal Democratic and Corporate Services Officer
L Morris	- Democratic Services Officer

122 MINUTES

The Minutes of the meeting held on 8 July 2020 were agreed as a correct record and would be signed by the Chairman in due course.

123 REMOBILISATION OF LEISURE FACILITIES

The Chairman advised that, given the level of interest in this item of business, it had been agreed that one question from each of the group leaders could be submitted in advance of the meeting.

Question from Cllr M Hoy

“The Council has implemented a review process over the financial aspects of the funding being given to Fusion Lifestyle; however, I have seen and had numerous complaints on social media, in person and by email, over the failure of Fusion to tell customers what is happening including, but not limited to, problems with the £10 payment, people with weddings booked who have not been able to contact anyone and general queries on what is happening.

What measures are being implemented to check on the customer service side of the operation, to make sure our residents are dealt with promptly, politely and fairly?"

Response from the Portfolio Holder for Community

"As part of the contract monitoring process, officers have raised the issue of customer communication with Fusion Leisure. Fusion Leisure will send the Council a weekly log of all complaints, comments and compliments received and the outcome. This will greatly assist officers with the ongoing monitoring of the service. As is always the case, anyone who isn't satisfied with Fusion's response can contact the Council's Leisure and Cultural Services team who will investigate their complaint further. Fusion will also monitor their social media accounts to ensure they pick up any complaints or questions raised through those channels. They will also post an online video of what visitors can expect from a visit to one of the centres with the restrictions that will be in place and an example of this can currently be viewed on the Witham Leisure Centre Facebook page dated 31 July."

Question from Cllr Mrs C M Mason

"The report gives emphasis and detail on the preferred option yet although it states that alternative options were considered there is no detail, analysis or weight given to alternative options, just a dismissive summary. The report effectively gives the preferred option as the only option and gives no alternative solutions for debate or consideration. Why were the alternative options not given equal consideration and presented to the Committee?"

Response from the Portfolio Holder for Community

"The Council values its leisure facilities and the important role that they play in the health and wellbeing of residents although this needs to be balanced and considered with the impact that Covid-19 has had on the industry nationally and the local impact on the increased costs to manage these facilities. As set out in the report, alternative options include re-opening none, some, or all of the leisure facilities. The estimated cost of operating each site until March 2021 is also set out in the report. The preferred option will see a phased Covid secure reopening of all the facilities bar The Freight House, since this is one of the buildings proposed for early redevelopment as a new Community and Civic Space within the Council's Asset Delivery Programme."

Question from Cllr J E Newport

"What representation has the Council made about the continued charging of membership by Fusion to its members whilst the facilities have been

closed?”

Response from the Portfolio Holder for Community

During normal operation, centre members can access a range of membership options or use the facilities on a pay and pay basis. While the centres have been forced to closed, centre members were charged a no charge freeze option and a paid freeze option. The paid option came with a associated benefits, including a range of online workout resources.”

Question from Cllr M G Wilkinson

“I am concerned that this Council is looking to input nearly half a million pounds into the company managing the leisure centres when this company has already had financial support during the Covid-19 lockdown and our district has numerous examples of businesses wo are in serious need of financial support.

This money is Rochford District taxpayers money and as such, should be put to a full debate by all Members of the Council, especially at a time when we hear time and again how short of money the Council is and that the financial gap is increasing year on year.

Please can Members be advised why it is that when the Council is clearly able to convene and emergency meeting of the Executive, consideration was not given to an emergency meeting of Full Council instead so that all Members could have the opportunity to properly debate this issue and, if consideration was given to an Extraordinary Council meeting, why was this dismissed?”

Response from the Portfolio Holder for Community

“Ordinarily, there would be two meetings; one for the budget element of the decision which would be a matter for Full Council, and the discussion regarding the contract is a discussion reserved for the Executive.

The decision with regards to the contract would be a key decision requiring it to be placed on the Key Decisions Document for it to be cleared for 28 days. However, under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulation 2012, Regulation 10 allows for an exception to the 28 day rule if it is impracticable to do so subject to agreement from the Chairman of the Review Committee.

The decision should be taken as a matter of urgency and not subject to call-in because any delay would seriously prejudice the interest of the Council in that it would have an impact on the delivery of the current leisure contract, specifically delaying the reopening of the facilities. To arrange two meetings would inevitably delay the reopening of the facilities.

As this decision is considered to be urgent, there are mechanisms under Legislation and our Constitution to deal with such matters outside the normal

rules of procedure. A report explaining the reason for taking an urgent budget decision will be made to the next Full Council meeting.”

The Council's Monitoring Officer confirmed that contractual matters of this kind were functions reserved to the Executive and that budgetary matters were for Council to decide; she endorsed the Portfolio Holder's statement that there is a mechanism in place to allow the Executive to make urgent decisions and emphasised that in this case it was not practical to refer the decision to Council due to the disruption to residents. The Monitoring Officer further reiterated that the agreement of the Review Committee Chairman had been sought and that in ordinary circumstances the decision in respect of the budget element would have been taken to Council.

The Portfolio Holder for Community introduced the report with information on how to reopen the leisure facilities which had been forced to close due to Covid-19. It was noted that the lockdown period had caused economic distress within the industry; while workers had been placed on furlough the fixed costs to maintain the facilities had remained. There was likely to be a lasting impact due to expected activity levels of 60% of pre-Covid levels due to the necessity of adhering to social distancing measures. The report set out the steps planned by Fusion to reopen the leisure facilities in a phased, Covid secure way, along with the commercial considerations required.

It was emphasised that this was a challenging decision due to the financial implications, but necessary in order to provide services for residents; if the Council did not provide the necessary funds, Fusion could argue that the current contract was frustrated, leaving RDC to run leisure facilities which was unviable due to the lack of resources and expertise. The point was also made that it would be unlikely for the Council to secure another leisure provider at such short notice given the current circumstances.

The Portfolio Holder for Community confirmed that RDC and Fusion were preparing to open Clements Hall, The Mill, Castle Hall and Rayleigh Leisure Centre.

The Portfolio Holder for Finance advised that all questions above raised by the Group Leaders had been considered at length; although the money quoted was substantial it would nevertheless be subject to independent, monthly review. The authority was sensitive to the financial commitment beyond the end of the current financial year, and would be looking to minimise, mitigate, or remove the burden from April 2021, with an update provided to Council in December 2020.

In response to a Member question regarding the RDC funding, officers advised that this was not a situation unique to Rochford; Braintree District Council, for example, had also given substantial funds to Fusion to support its leisure facilities. There would be close scrutiny of the finances granted to Fusion with a clear sight of financial dealings via the open book process, working with industry experts.

In response to Member concern in respect of the cleanliness of facilities following previous complaints from residents, it was confirmed that this was addressed in the report; standards would be higher and would need to comply with Covid-19 regulations. The Assistant Director, Assets and Commercial had previously raised the issue of shortcomings in cleanliness with Fusion and an update would be provided to Members in due course.

In response to a Member concern regarding the resilience of Fusion going forward, it was advised there was a risk that the centres would need to close if the Council did not invest in them,.

A Member questioned the potential of looking at other leisure contractors along with the potential of extending opening times later on. It was emphasised that the Council had already followed the existing procurement framework; however, the market was at a low ebb and it was unlikely that any bids would be made at this time for a leisure contract. If, however, the Council delayed going out to market by a year, it was possible that the leisure industry might improve in the interim and further funding would also be sought from Central Government. It was further confirmed that opening times were likely to be extended in the future.

One Member commended the recommendations set out in the report and praised the careful budgeting which had resulted in funding being available for Fusion.

A Member also made reference to careful budgeting which had enabled progress on the Asset Programme to continue through lockdown. The point was also made that it would be prudent not to re-open the Freight House, as this was due to be redeveloped. Reference was also made to representations that had been made to Central Government regarding further grants for the industry, which was a national problem.

The Leader of the Council emphasised that the option set out in paragraph 5 of the report was the best option in terms of financial bailout; he further stressed that the option should be referred to as 'chosen', rather than 'preferred' option. In addition, he drew attention to the fact that keeping the premises closed was a costly option, at no benefit to residents, and echoed Members' concerns in respect of cleanliness of facilities and the communication skills of Fusion, while emphasising that these areas would be closely monitored, as well as the funding.

In response to a question from the Leader about the potential of funding from Central Government, the Assistant Director, Resources advised that financial pressures estimates had been provided to Central Government, details of which would be circulated to all Members; further provision had been promised by Government although details had not yet been confirmed. This was in addition to the £1million of grant funding that had already been provided. She further advised that reserves could be drawn on should central funding prove insufficient.

The Leader emphasised that an update on progress would be provided at the October Council Meeting.

The Leader of the Council moved an amendment to the Motion, seconded by the Deputy Leader that in paragraphs 1.1 and 1.2 the word 'preferred' be replaced with 'selected' and that the words 'hopefully with non-reliance on RDC subsidy' be inserted after '2020/21' in paragraph 1.3.

The amendment to the Motion was unanimously carried.

Resolved

- (1) That, following consultation with the Portfolio Holder for Community and the Portfolio Holder for Finance, the selected option set out in paragraph 5 of the report for the re-opening of leisure facilities within the District be approved.
- (2) That additional budget of up to £429,500 be approved to enable the selected option to be implemented to the end of the financial year 2020/21, subject to agreement by Fusion Lifestyle to the proposed letter of variation to the current contract. The Council would seek to fund the additional costs through application of general COVID-19 grant funding, subject to there being sufficient to meet the Council's total financial pressures in 2020/21. Any balance of funding required would need to be drawn from the Council's reserves.
- (3) That, in consultation with the Portfolio Holder for Community and Portfolio Holder for Finance, the Assistant Director, Commercial & Assets initiates negotiations with Fusion Lifestyle to agree a new commercial arrangement for the operation of the facilities beyond the 2020/21 financial year, hopefully with non-reliance on RDC subsidy, and brings a report to the Executive in December 2020 setting out the terms of the proposed agreement.
- (4) That a draw-down from reserves of up to £25,000 be approved for external legal, financial and technical advice to support contract negotiations and the financial scrutiny of Fusion Lifestyle's accounts during 2020/21, to ensure that longer term value for money is achieved for the Council. (ADAC)

(7 Members voted for the Motion, 0 voted against and 0 abstained.)

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The meeting closed at 8.36 pm.

Chairman

Date

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