

# BIRMINGHAM CITY COUNCIL

<b>TRUSTS AND CHARITIES COMMITTEE 23 SEPTEMBER 2015</b>
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**PRESENT:** Councillor Phil Davis in the Chair

Committee Members:  
Councillor John Alden (JA)  
Councillor Hendrina Quinnen (HQ)  
Councillor Ansar Ali Khan (AAK)  
Councillor John Alden (JA)

Officers:  
Sanjeev Bhopal, (SKB) Senior Solicitor, Legal & Democratic Services  
Mark Szurminski, Senior Business Analyst, Corporate Finance  
Nigel G Oliver, Property Manager, BPS

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721      **NOTICE OF RECORDING & PRELIMINARY MATTERS**

The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

The Chairman also welcomed Cllr Ansar Ali Khan to his first meeting of the Committee.

SKB explained to Members that due a technical issue, the hard copy of the Committee Papers were incomplete, in that some pages had been omitted from the Committee Pack. This was not the case in relation to the electronic papers that were loaded on to CMIS.

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722      **APOLOGIES**

Apologies for non-attendance were submitted on behalf of:

Councillor David Pears  
Councillor Paul Tilsley

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723      **MINUTES**

The public minutes of the meeting on 22 July 2015, were confirmed as an accurate record.

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724      **MATTERS ARISING**

Minute 710

## 2014/2015 CROPWOOD ANNUAL REPORTS AND ACCOUNTS

In response to the query raised by Cllr John Alden (JA) re Trust Investments, MS confirmed that the Trust's investments have been transferred to CCLA's COIF deposit account as part of the Council's overall investment strategy for Trust Funds.

Minute 712

## ANNUAL REPORT AND ACCOUNT -2014/2015 CENTRE FOR THE CHILD

MS confirmed that with regard to Note 7 of the Accounts, £5,168.00 (debtor), is in the process of being transferred to CCLA's COIF deposit account . MS also advised Members that Linda Monk was unable to attend today's meeting. However, she has now confirmed her attendance at the next Committee Meeting on the 12 November 2015 to provide an update and answer questions raised at July's Committee.

The Chairman took the opportunity of providing Cllr Ansar Ali Khan, with some background information to the charitable trusts that were ordinarily reported on at Committee. A summary of these was set out at page 39 of the Committee Pack, but this did not include various Parks and Gardens, which were also held in Trust. The Chairman also explained the distinction between the charities where the Council was Sole Corporate Trustee, and Custodian Trustee.

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725

### **DECLARATIONS OF INTERESTS**

The Chairman reminded Members that they must declare all relevant pecuniary interests and/or non-pecuniary interests relating to any items of business to be discussed at this meeting. If a pecuniary interest is declared a Member must leave the room or Chamber where the meeting is being held, unless a dispensation has been obtained from the Authority's Standards Committee. Any declarations or leaving of the room/chamber will be recorded in the minutes of the meeting.

None were declared.

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726

### **ELECTION OF DEPUTY CHAIR**

Nominations were invited from Members to elect a Deputy Chair to substitute for the Chair if absent, for the Municipal Year 2015/16.. Cllr Ansar Ali Khan was nominated by the Chairman.. This was seconded by Cllr John Alden, and agreed unanimously by the Committee.

### **RESOLVED:-**

That Cllr Ansar Ali Khan be elected as Deputy Chair to substitute for the Chair if absent, for the Municipal Year 2015/16

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**ANNUAL REPORT AND ACCOUNTS – J K GILBERT FOR PERIOD  
ENDING 31 DECEMBER 2014**

MS introduced the Report and informed Members that BCC is the Custodian Trustee for the charity, and the Report is presented to Members for their information and for noting.

The City Council acts as Sole Trustee for a number of charitable and non-charitable trusts and has delegated the management of these trusts to the Trusts and Charities Committee. Charitable trusts are governed by charity law and are regulated by the Charity Commission. However, as the Council is Custodian Trustee of the J K Gilbert Charity, day to day management decisions are made by a separate and independent group of managing Trustees. The Report was therefore presented to Committee for information only, because it cannot as a matter of law be involved in managing the Charitable Trust. The Council's role is limited to holding legal title to the charity's asset. Committee Members are of course able to pass on pertinent observations to the managing Trustees for them to consider as appropriate.

**RESOLVED:**

Committee noted the Report.

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**ANNUAL REPORT AND ACCOUNTS – CB & AB HOLINSWORTH FOR  
THE PERIOD ENDING 31 MARCH 2015**

Again, MS introduced the Report and informed Members that BCC is Custodian Trustee for the charity, and the Report is presented to Members for their information and for noting.

The Chairman enquired whether Members wished to raise any queries. JA responded by enquiring what the current position was in relation to the appointment of representative and co-opted Trustee vacancies for the charity. Furthermore, he enquired whether the Trustees had met to consider the issue of Support Costs and how these would be funded?

The Chairman explained the background to the Supports Costs exercise currently being undertaken by officers, namely to:-

- 1) Identify by discipline, what officer support is provided to various charities;
- 2) Establish the financial value of this support on an annual basis;
- 3) Review individual charity finances to establish how many can potentially afford to meet the costs of support services;.
- 4) For those charities that can afford to meet the costs, to invite them to do so on a formal basis, or alternatively, should they determine that the charity is not financially viable, to consider merger with another charity with comparable objects/purposes.
- 5) Letters were sent out to various charities on behalf of Jon Warlow and the Chairman explaining the above.

Officers agreed to provide Members with an update on these matters under Agenda Item 11 (see Minute 731 below).

**RESOLVED:**

Committee noted the Report.

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729

**REVENUE BUDGET MONITORING 2015/16 - QUARTER 1 (TO 30 JUNE 2015)**

MS introduced the Report for noting by Members.

As per the earlier discussions, MS reminded Members that the information within Appendix 2 was split by charities where the Council is Sole Corporate Trustee and Custodian Trustee. Referring to Appendix 2 he highlighted the Closing Balance as at 30 June 2015 (page 39 of the Committee Papers), movements in the quarter, and that the balances were a combination of cash, investments, buildings and land.

The Chairman reminded Members of the distinction between Sole Corporate Trustee charities and Custodian charities as set out above. JA commented that the list did not include various charitable Parks and Gardens which also fell within the purview of the Committee e.g. Cannon Hill Park, Cofton Park, Calthorpe Park, Victoria Park, Small Heath etc. These were excluded from the list as they had no cash income / balances. MS confirmed that this was correct. NGO suggested that the definitive list of charities should be re-circulated to Members. He also reminded Members that further charities could come to light as and when their property deeds were reviewed.

The Chairman commented that the Council was a lot better at determining which assets were held in the Trust at an early stage, so that they are correctly dealt with in accordance with charity law. The Chairman enquired whether the information could be presented by category i.e. land, cash, fixed assets, investments - restricted and unrestricted balances etc. MS confirmed it could subject to a further analysis of the information. The Chairman reminded officers of the need to report to next Committee re options for funding grant applications across the portfolio, how this could be opened up and publicised to the public/community groups for charitable purposes.

**RESOLVED:**

Committee noted the Report.

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730

**ANNUAL REPORT AND ACCOUNTS – SIR WHITWORTH WALLIS CHARITY FOR THE PERIOD ENDING 31 MARCH 2015**

MS presented the Report to Members, who having considered the same, agreed to note the Report.

## **RESOLVED:**

Committee noted the Report.

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731

### **SUPPORT COSTS CHARGES UPDATE**

At the Chairman's request MS provided Members with a verbal update on the above. He began by providing Members with the background to implementing support costs to custodian trusts and set out the current position. At present, responses are outstanding from the Trustees of CB & AB Holinsworth Charity and Alderson Trust.

The Trustees of Jane Kate Gilbert and John Billingsley the Elder have resolved to transfer the assets of each respective charity to the Birmingham Municipal Charity. The Lord Mayors Charity, was exempt from the process, Sir Whitworth Wallis and Moseley Road Friends Institute did not have the ability to pay and BCC will continue to provide professional support to the respective trusts free of charge. Clara Martineau and Bodenham Trust have confirmed that they wished BCC officers to continue providing support at a chargeable rate.

SKB informed Members that at its meeting on the 14<sup>th</sup> September 2015, the Trustees of CB & AB Holinsworth Charity has discussed the issue of support costs, and were minded to approve a transfer of its assets into the Birmingham Municipal Charity. However, some Trustees expressed concerns over the geographical restriction within the BMC objects/purposes clauses which was limited to the citizens of Birmingham, as opposed to the provisions of their charity which provided benefit for the relief of the poor for people resident in or **near the City of Birmingham**.

On that basis, the Lord Mayor wished to meet with the Chairman to go through these matters before a final decision was made by the Trustee body. The Chairman confirmed as Alderson Trust had not made a positive decision to receive and pay for professional support services, these would now be withdrawn as per the last correspondence to the charity and Resolution 713.

JA sought an update on Birmingham Wheels Charity. SKB to provide JA with an update outside of the meeting once he had established the same.

## **RESOLVED:**

Committee noted the verbal update from officers.

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732

### **FUTURE OF RESIDENTIAL LODGES HELD IN TRUST**

NGO introduced the Report and referred Members to relevant background and chronology of events, included the two previous Reports which had been presented to Committee on the 5<sup>th</sup> November 2104 and 4<sup>th</sup> March 2015.

In summary of the ten lodges held in trust, 6 were occupied by tenants, 4 were vacant and considered surplus to requirements by the Housing

Department. The Committee had previously approved that the making of necessary applications to gather the appropriate powers to better manage the portfolio including powers for the disposal of the 4 vacant lodges in principle, subject to Charity Commission approval and this report seeks the same powers for the remaining trust parks containing lodges. Cllr Quinnen enquired whether the Housing Department itself would consider buying the lodges. NGO, confirmed that if the lodges were to be disposed of the process of marketing the properties would be open to all but disposal to Housing would also require that the Charity Commission were minded to approve the sale to the Council as a "connected" party. Whatever outcome, all income from rent or the capital receipt would be ring-fenced to the charity in question.

NGO, advised Members that he will encourage officers in Housing to bring forward the additional Report on how the retained lodges would be managed, and contractual terms for the agreement, which would include payment of fees, repairs and maintenance, and accounting for rental income. Senior officers in Housing are aware that this issue is outstanding and needs to be resolved quickly. The Chairman was happy to approach the relevant Cabinet Member (Cllr Cotton) to try and expedite matters if this would assist. He also reminded Members that any decision to dispose of a lodge would need to be agreed by Committee first and determined to be in the best interests of the charity/compliant with the Charities Act 2011.

**RESOLVED:**

The Recommendation s within the Report at paragraphs 2.1-2.5 were approved by Committee.

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733

**HIGHBURY INDEPENDENT TRUST - UPDATE FROM THE CHAIRMAN**

As per his update to Full Council on the 15<sup>th</sup> September 2015, the Chairman informed Members that the recruitment of Chairman of Trustees and other trustees for the new Trust will take place on the 16<sup>th</sup> and 30<sup>th</sup> October 2015 respectively.

The recruitment pack should have been sent to all Members of the Council to forward on to any suitable applicants.

**RESOLVED:**

Committee noted the verbal update from the Chairman.

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734

**SCHEDULE OF OUTSTANDING MINUTES**

Minute 395

Committee resolved to retain this Minute, concerning reports from the Council Departments managing and distributing certain charitable funds. The Chairman would like to ensure officers directly involved in assisting the Committee to manage the relevant charity, provide Committee Members with regular updates on the work of the charity and the charitable activity it undertakes as well as reporting back on public benefit generally.

Minute 651

NGO confirmed that the Parks & Gardens Department would be providing a Report to Committee on the breach of trust. With regard to the value of the existing brickwork and timber of the current outbuildings at the Park, NGO confirmed that the development was now likely to proceed shortly, and that the views of Members had been conveyed to Parks Service, so that the charity would benefit from re-sale or re-use of these items. This would be reported back to Committee in due course.

### **SITE VISITS**

The Chairman has now provided Members with a provisional itinerary of dates and venues and asked if they could all respond to SKB in order for him to collate responses and firm up details of the visits to various trust properties.

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735                    **OTHER URGENT BUSINESS**

None reported to Committee.

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736                    **AUTHORITY TO CHAIRMAN AND OFFICERS**

Chairman to move:-

“That the Chairman is hereby authorised to act until the next meeting of the Committee except that, in respect of the exercise of the Council’s non-Executive functions, the appropriate Chief Officers are hereby authorised to act in consultation with the Chairman and that the Director of Legal and Democratic Services is authorised to affix the Corporate Seal to any document necessary to give effect to a decision of the said officers acting in pursuance of the power hereby delegated to them; further that a report of all action taken under this authority be submitted to the next meeting and that such report shall explain why this authority is used”.

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737                    **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated, the public be now excluded from the meeting.

Minutes of the last meeting

Exempt information paragraph 3

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**Cllr Philip Davis**  
**Chairman of Trusts and Charities Committee**