

EAST AYRSHIRE COUNCIL

COUNCIL MEETING – 24 MARCH 2011

APPOINTMENTS TO OUTSIDE ORGANISATIONS

Report by the Executive Director of Finance and Corporate Support

1. PURPOSE OF REPORT

- 1.1** To invite Council to consider Elected Member appointments to the Robert Crawford Bequest and the Robert Cummings Bequest, for the purpose of progressing reorganisation proposals.

2. THE CHARITIES AND TRUSTEE INVESTMENT (SCOTLAND) ACT 2005: REORGANISATION PROVISIONS

- 2.1** The Charities and Trustee Investment (Scotland) Act 2005 introduced new provisions for charity reorganisation schemes. Application can be made for a reorganisation scheme where there is some “failure” of the current purposes of a charity; or another aspect of a charity’s constitution is no longer practicable or desirable in light of changes in social and economic circumstances since it was established.
- 2.2** As part of an ongoing review of East Ayrshire Council’s Charitable Trusts by the Head of Democratic Services, the Robert Crawford Bequest and the Robert Cummings Bequest have been identified as Charities which are “failing” to provide public benefit, both being dormant due to an insufficiency of funds to enable them to achieve their respective purposes.

3. ROBERT CRAWFORD BEQUEST

- 3.1** This Charity was established in 1844 by the late Mr Robert Crawford who left a sum of money to the Provost, Magistrates and Town Council of Kilmarnock, to be invested and the annual interest spent on books for the Town Library of Kilmarnock.
- 3.2** Since transferring to East Ayrshire Council in 1996, this Charity has been dormant as a result of expenditure being restricted to annual interest (£135 for financial year ended 31 March 2010), this sum being insufficient to justify the financial and administrative burden of disbursing it.
- 3.3** In the absence of Trustees, the Head of Democratic Services, being Clerk to the Charity and Registered Principal Contact, submitted an application to the Office of the Scottish Charity Regulator (OSCR) to vary the founding document of the Robert Crawford Bequest to allow the whole fund, including capital, to be spent on books for the Town Library of Kilmarnock and the Charity to be wound up.
- 3.4** OSCR agreed that this proposal would enable the Bequest to be used to best effect in the short term for a one of significant investment in East Ayrshire Council’s Libraries Service.

- 3.5** Following a formal period of publication, OSCR approved the application on 5 August 2010, the reorganisation to be given effect to within 12 months of that date.
- 3.6** OSCR's approval does not in itself reorganise a charity; the charity needs to take action to effect the changes. In the case of the Robert Crawford Bequest, this requires the appointment of Trustees to take the necessary action to reorganise. It is anticipated that appointments will be for a short period of time and for the specific purpose of meeting to agree to expend the balances in their entirety and wind up the Charity. Further details will be provided to Trustees on their appointment, in respect of their specific responsibilities.
- 3.7** The total assets of the Robert Crawford Bequest (capital and interest) were valued at £9947.00 as at 31 March 2010. This figure will require to be adjusted to take account of any further interest earned on investments in the interim, and re-sale of stock. The final figure will be available in full for expenditure on books.
- 3.8** Accordingly, to enable the reorganisation to be progressed, Council is invited to appoint Trustees to the Robert Crawford Bequest, as follows, viz:-

ORGANISATION	REPRESENTATION REQUESTED	FORMULA
Robert Crawford Bequest	Provost and 4 Elected Members	2/2/1

4. ROBERT CUMMINGS BEQUEST

- 4.1** This Charity was established in 1932 by the late Mr Robert Cummings who left a sum of money to the Provost, Magistrates and Town Councillors of the Burgh of Kilmarnock in trust for the maintenance and/or instruction of indigent orphans, natives of Kilmarnock, and, if the funds would allow, for needy orphans, natives of Ayrshire.
- 4.2** On transferring to East Ayrshire Council in 1996, this Charity was promoted annually, and on average each year 20 qualifying applicants, all natives of East Ayrshire, received a monetary allowance in accordance with the provisions in the Scheme for the Administration of the Bequest.
- 4.3** However, a provision in the Scheme restricts annual expenditure to revenue and not more than 30% of the total capital balance. As a consequence, since 2004, the Charity has been dormant due to lack of funds (£1819.00 capital and £14.00 revenue as at 31 March 2010). No further promotion has been carried out to avoid raising expectations that cannot be met. Notwithstanding, unsolicited applications have been received and modest awards made.
- 4.4** At a meeting on 12 March 2010, the Trustees of the Robert Cummings Bequest agreed to submit an application to OSCR for a reorganisation scheme to lift the 30% capital spending restriction to enable the whole fund to

be disbursed in accordance with the provisions in the Scheme for Administration and the Charity to be wound up. Following discussion with OSCR it has been agreed that the Scheme for Administration of the Bequest makes provision for future revisions and the Trustees are able to progress changes to the Scheme and notify OSCR accordingly.

4.5 The Scheme for Administration has consequently been amended by Legal Services for approval by the Trustees and as with the original Scheme it entitles the Provost to be appointed as a Trustee. Accordingly, Council is invited at this time, to take the opportunity to appoint the Provost as a Trustee of the Robert Cummings Bequest, to progress the above activity.

4.6 Following reorganisation of the Charity, the total assets of the Robert Cummings Bequest detailed in para 4.3 above, subject to any final adjustment, will be available for disbursement in accordance with the Charity's purpose, to provide for the maintenance and/or instruction of orphaned young people who were born in Kilmarnock and, if funds allow, for those native of Ayrshire.

5. FINANCIAL IMPLICATIONS

Minor administrative costs associated with Members' entitlement to allowances and expenses under the existing Scheme.

6. LEGAL IMPLICATIONS

East Ayrshire Council as statutory successor to the Provost, Magistrates and Town Council of Kilmarnock, is responsible for making the necessary Trustee appointments to both Trusts, in accordance with the Council's arrangements for making, from time to time, appointments to outside organisations.

7. POLICY/COMMUNITY PLANNING IMPLICATIONS – Nil.

8. RECOMMENDATIONS

9. Council is invited to:-

- (i) appoint Members to the Robert Crawford Bequest as shown in paragraph 5.2 above;
- (ii) appoint the Provost as a Trustee of the Robert Cummings Bequest; and
- (iii) otherwise to note the report.

Alex McPhee
Executive Director of Finance and Corporate Support

14 March 2011
GH/SW

LIST OF BACKGROUND PAPERS

1. Application for a Re-organisation Scheme for the Robert Crawford Bequest.
2. Correspondence from OSCR pertaining to the reorganisation of the Robert Crawford Bequest and the Robert Cummings Bequest.

Any person wishing to inspect background papers should contact Gillian Hamilton, Administrative Officer on Tel: (01563) 576093. Any person wishing further information on this report should contact Bill Walkinshaw, Head of Democratic Services on Tel No (01563) 576135.

Implementation Officer: Gillian Hamilton, Administrative Officer.