

EAST AYRSHIRE COUNCIL

MEETING OF THE COUNCIL - 13TH DECEMBER 2001

PROPOSED RESIGNATION OF THE CHAIR OF THE COMMUNITY SERVICES COMMITTEE FROM THE KILMARNOCK LEISURE CENTRE TRUST

Report by Head of Administrative & Legal Services

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to ask the Council to consider whether to agree that the Chair of the Community Services Committee should resign from his post of ex officio Trustee of the Kilmarnock Leisure Centre Trust.

2. BACKGROUND

- 2.1 The Kilmarnock Leisure Centre Trust was created in 1985 by virtue of a Trust Deed by Kilmarnock & Loudoun District Council dated 30th October 1985. The Trust was created for the purpose of funding, constructing and managing a leisure and recreation centre with a view to encouraging the widest use of recreational facilities by residents and visitors to Kilmarnock and Loudoun District.
- 2.2 The Deed creating the Trust appointed its Trustees from the Councillors and officers of Kilmarnock & Loudoun District Council on an ex officio basis. The individuals who were nominated were the Provost (and Chairman), the Convenor and Sub-Convenor of the Leisure Committee, the Chief Executive, and the District Leisure Services Manager.
- 2.3 Following the reorganisation of local government in 1996, the ex officio appointments were transferred to Members and officers of East Ayrshire Council as follows: the Provost; the Chair and Vice Chair of the Community Services Committee; the Chief Executive; and the Director of Community Services.
- 2.4 Two further Trustees, were appointed to the Trust on 13th May 1999, both of whom are Members of East Ayrshire Council.

The Chief Executive and Director of Community Services have since stood down as ex officio Trustees. This was agreed by Council at their meeting of 4th November 1999.

- 2.5 Four new Trustees have since been appointed, as requested by the Trust and agreed by East Ayrshire Council at its meeting on 4th November 1999. Two of those Trustees are from the local business community and two are from East Ayrshire Sports Council.
- 2.6 The Trustees have agreed, at their meeting on 6th November 2001, that it would be in the Trust's best interest for the Chair of the Community Services Committee to stand down the ex officio post. The Trustees agreed with the concerns of the Chair of the Community Services Committee himself of the possibility of a potential conflict of interests by carrying out both roles, as is considered more fully at paragraph 3.1 below.

3. CONSIDERATIONS

- 3.1 The development and refinement of Codes of Conduct for holders of public office have given public bodies an extra impetus to examine their accountability, openness and transparency in the conduct of their business. In this context there is the need to ensure that, not only does conflict of interest not arise, but also that the perception of conflict of interest does not arise. As the Trust is funded by East Ayrshire Council, by way of a block subsidy from the Community Services budget, the continued inclusion, as an ex officio Trustee, of the Chair of the Community Services Committee, could be perceived to give rise to occasions where there may be a conflict of interest.
- 3.2 Should the resignation of the Chair of the Community Services Committee be effected, the Kilmarnock Leisure Centre Trust will then have eight Trustees remaining, made up of the following persons: Provost Boyd and Councillor Carmichael both ex officio posts (Provost and Vice Chair of Community Services Committee); Councillor Darnbrough and Councillor W Coffey - both Members of East Ayrshire Council; John Armstrong and Graham Niven - both representatives of the business community; Arthur Cowley and Janice Miller - both representatives of the Sports Council.

Against this background, Council is invited to consider whether, in the event of agreeing the proposed resignation of the Chair of the Community Services Committee, they would wish to recommend that the Trust consider the appointment of a further Member of the Council as a Trustee in his place.

4. LEGAL IMPLICATIONS

- 4.1 The Kilmarnock Leisure Centre Trust Deed contains no specific provisions relating to the resignation of Trustees. However, the resignation can take place by way of the statutory power to resign under the Trusts (Scotland) Act 1921, Section 19. This is done by signing a Minute of Resignation which must be intimated to all of the co-Trustees. The Trustee who is resigning and the other co-Trustees should all sign the Minute of Resignation and the resignation will take effect from the date of the last signature.
- 4.2 The Kilmarnock Leisure Centre Trust Deed contains the specific provision that allows other persons to be appointed to the office of Trustee as may from time to time be determined.
- 4.3 Appropriate documentation would have to be drafted and executed to give effect to any change in membership of the Trustees.

5. POLICY IMPLICATIONS

- 5.1 Nil.

6. CONCLUSIONS

- 6.1 The Council should consider whether it is appropriate to agree the proposed resignation of the Chair of the Community Services Committee from his post of ex officio Trustee of the Kilmarnock Leisure Centre Trust.
- 6.2 The Council should consider whether it is appropriate, should the resignation of the Chair of the Community Services Committee be effected, to recommend to the Trust that another Trustee be appointed.
- 6.3 The Council should consider whether it is appropriate to recommend that future appointees to the post of Chair of the Community Services Committee decline to act as an ex officio Trustee of the Kilmarnock Leisure Centre Trust.

7. RECOMMENDATIONS

- 7.1 That the Council considers whether the proposed resignation of the Chair of the Community Services Committee be effected for the reasons stated at paragraph 3.1 above.
- 7.2 That the Council approve the recommendation that the future appointees to the post of Chair of the Community Services Committee should decline to accept the office of ex officio Trustee of the Kilmarnock Leisure Centre Trust.

- 7.3 That the Council consider whether to recommend to the Trust to appoint a further Member of the Council as Trustee and, if appropriate, nominate that Member.
- 7.4 Advise the Trust of the decision.

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29th November 2001

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report-lc trust/gm/jb

AGENDA