



WMCA Board

Friday 16 December 2022 at 11.00 am

Minutes

Constituent Members

Andy Street (Chair)

Councillor Bob Sleight (Vice-Chair)

Councillor Mike Bird

Councillor Ian Brookfield

Councillor Steve Clark

Councillor George Duggins

Councillor Patrick Harley

Councillor Peter Hughes

Councillor Stephen Simkins

Mayor of the West Midlands Combined Authority

Solihull Metropolitan Borough Council

Walsall Metropolitan Borough Council

City of Wolverhampton Council

Dudley Metropolitan Borough Council

Coventry City Council

Dudley Metropolitan Borough Council

Sandwell Metropolitan Borough Council

City of Wolverhampton Council

Co-Opted Member

Rob Johnston

Midlands Trade Union Congress

Observer Members

Councillor Greg Brackenridge

West Midlands Fire Authority

In Attendance

Councillor Cathy Bayton

Simren Johal

Khuram Mahmood

Mark Smith

Overview & Scrutiny Committee

Young Combined Authority

Young Combined Authority

Audit, Risk & Assurance Committee

In Virtual Attendance Online

Councillor Matthew Dormer

Councillor Mary Locke

Councillor Sebastian Lowe

Councillor Sue Markham

Councillor Izzi Seccombe

Councillor Ian Ward

Redditch Borough Council

Transport Delivery Committee

Rugby Borough Council

Nuneaton & Bedworth Borough Council

Warwickshire County Council

Birmingham City Council

Item No.

Title

64. Apologies for Absence

Apologies for absence were received from Lee Barron (Midlands TUC), Anita Bhalla (Greater Birmingham & Solihull LEP), Councillor Kerrie Carmichael (Sandwell), Councillor Ian Courts (Solihull), Councillor Shaun Davies (Telford & Wrekin), Councillor Brigid Jones (Birmingham), Councillor Olivia Lyons (Cannock Chase) and Councillor Kristofer Wilson (Nuneaton & Bedworth).

65. Chair's Remarks

(a) Satish Mistry, Interim Director of Law & Governance

The Chair noted that this was the final meeting that Satish Mistry would be attending before Helen Edwards commenced her employment as Director of Law & Governance on 9 January 2023. He thanked Satish Mistry for all of the advice and guidance he had provided to the board since May 2021 and wished him well for the future.

66. Minutes - 28 October 2022

The minutes of the meeting held on 28 October 2022 were agreed as a correct record.

67. Forward Plan

The forward plan of items to be reported to future meetings of the board was noted.

68. Regional Activity & Delivery Update

The board received an update from the Chief Executive on recent activity of the WMCA, including recognition from the Carbon Disclosure Project for providing leadership on environmental action and transparency, the award of £1m to Act on Energy to help people across the region keep warm during the winter months, and the saving of 27 bus routes that had been placed at risk due to increases in fuel costs, the availability of drivers and reduced passenger numbers.

The Chief Executive also highlighted the work of the WMCA in investing £9m in homelessness services to enable Tamworth-based social enterprise Cornerstone to nearly double the number of properties it owned and used to help families in need of accommodation. She undertook to provide Councillor Stephen Simkins with further information on this project.

Councillor George Duggins noted the continued poor performance of services operated by Avanti West Coast, and urged this board to take further lobbying of the Department for Transport to express its dissatisfaction.

Resolved:

- (1) The update be noted.

- (2) The Chair write to the Secretary of State for Transport on behalf of the board to express its dissatisfaction with the operation of the Avanti West Coast franchise, including the belief that the franchise should be handed back if the service currently being provided did not substantially improve.

69. Review and Funding of West Midlands Growth Company

The board considered a report from the Executive Director of Economic Delivery, Skills & Communities providing an interim update on the progress of the review of the West Midlands Growth Company.

At its meeting on 23 September 2022, the Economic Growth Board agreed to initiate a detailed options review of the West Midlands Growth Company to identify and secure funding to deliver agreed priorities. In doing so, this would take forward the recommendations of the West Midlands Business Support review, which would ensure the West Midlands Growth Company was fully embedded into the business support ecosystem, removing any duplication and ensuring activities were streamlined with appropriate governance and accountability.

Councillor Ian Ward considered that the ‘project sponsors’ of the review should be broadened to include a wider representation to ensure that all key stakeholders considered that they were able to give direction to the review. The Chair accepted this suggestion, and indicated that the terms of reference for the review should be considered again by the Economic Growth Board in order to address the concerns being expressed by Councillor Ian Ward.

Councillor Mike Bird stressed the importance of ensuring that a properly independent review was undertaken that was able to assess how the West Midlands Growth Company undertook its activities. He also considered that improvements were needed to the reporting back on growth company activity to ensure that local authorities were more clearly sighted.

The Chief Executive, West Midlands Growth Company welcomed these comments and stressed the importance of each local authority, during the course of the review, making clear what its priorities for the growth company were. He also gave his support to improving the accountability of the growth company to ensure that all funding partners felt involved in its work.

Resolved:

- (1) The terms of reference of the review of the West Midlands Growth Company, initiated by the Economic Growth Board on 23 September 2022, be noted, including that the findings of the review would be reported to the WMCA Board on 10 February 2023 to support and agree activity to be undertaken by the West Midlands Growth Company in relation to the decision over funding for 2023/24 made at this meeting.

- (2) An agreement to provide £4m of funding for the period 1 April 2023 to 31 March 2024 to the West Midlands Growth Company, following the approval of the business case by the Investment Board on 12 December 2022, be approved, with the funding to be provided through paying the agreed service level agreement fee in return for the West Midlands Growth Company fulfilling its contractual obligations to the WMCA for various services and the £4m funding being comprised of three income streams, namely:
- (i) £700,000 from the WMCA core budget;
 - (ii) £1.6m from the UK Shared Prosperity Fund;
 - (iii) £1.7m contribution from securing a share of the Commonwealth Games Legacy Funds;

and all funding being directed through the WMCA and then paid to the West Midlands Growth Company as part of a single commissioning process.

- (3) It be noted that the WMCA received notification from the Government on 5 December 2022 that its UK Shared Prosperity Fund Investment Plan had been approved, along with the confirmation of funding for 2022/23 and indicative allocations for 2023/24 and 2024/25, with further details expected ahead of the WMCA Board meeting on 10 February 2023.
- (4) It be noted that the £1.7m Commonwealth Games Legacy Fund contribution was part of an overall larger package of funding that the West Midlands Growth Company hoped to secure from the legacy fund under minute no. 70 below, and it was noted that the formal confirmation letter of receipt of funding was still awaited by the WMCA from the Government.

[NB. Councillor Ian Brookfield, Councillor Patrick Harley and Councillor Ian Ward all declared personal interests in this item due them being members of the board of the West Midlands Growth Company. However, under s31 of the Localism Act 2011, the Monitoring Officer granted a dispensation to allow the councillors to debate and vote on this item.]

70. Proposal for WMCA Acceptance of a Share of Unallocated Contingency Funding from Birmingham 2022 Commonwealth Games

The board considered a report from the Executive Director of Strategy, Integration & Net Zero on the scoping of the Commonwealth Games Legacy Fund, a £70m resource investment that the WMCA would be granted by the Department for Digital, Culture, Media & Sport from 75% of the unallocated contingency funding in the Commonwealth Games budget.

There was unspent contingency funding from the Birmingham 2022 Commonwealth Games which the Department for Digital, Culture, Media & Sport had indicated it would allocate to the WMCA to spend on a Commonwealth Games Legacy Programme across 2023/24 and 2024/25. The WMCA and constituent authorities had agreed the following:

- The overall split of unspent contingency funding between WMCA and Birmingham City Council to be 75% and 25% respectively;
- The principle of allocating the 75% WMCA share in line with the B2022 Legacy Programme, other existing strategies and with WMCA governance and decision making processes;
- Four thematic programme pillars and the indicative proportions to be shared between them;
- The governance and decision-making process under which the 75% WMCA share would be managed.

Councillor Ian Ward indicated that Birmingham would wish this funding to be available to support future sporting events in the city, including athletics and football tournaments, but that the requirement to spend the money within the next two years would prevent this from happening. He therefore requested the Government to extend this timeframe in order for the region to maximise its long-term legacy programme.

Councillor Izzi Seccombe expressed disappointment at the level of funding proposed to be allocated to wellbeing and sustainability projects, given the important role it played in creating sustainable communities. The Executive Director of Strategy, Integration & Net Zero considered that a number of the pillars would be cross-cutting, and therefore he expected a significant number of them to include wellbeing-related activity. Councillor Peter Hughes indicated that he hoped the bidding process for this funding could avoid being overly bureaucratic so as to ensure as many expressions of interest as possible.

Resolved:

- (1) The acceptance by the WMCA as the accountable body for the receipt of approximately £70m resource grant funding from the Department for Digital, Culture, Media & Sport be approved subject to agreement of suitable terms and conditions.
- (2) The funding delegations to the Monitoring Officer and s151 Officer to enter into the various funding agreements and contracts which would be reasonably required to enable delivery of the programmes be approved.
- (3) Authority to carry out overall commissioning of the Commonwealth Games Legacy Fund, including any procurement activity as required, be delegated to the Executive Director for Strategy, Integration & Net Zero, in consultation with the s151 Officer.
- (4) The WMCA retaining 2% of the funding for accountable body costs in accordance with standard policy, including covering the costs for temporary resourcing support to design and manage the Commonwealth Games Legacy Programme be agreed.
- (5) The funding allocations between the four programme pillars, based on the new higher quantum of funding that the WMCA would receive as its share, be agreed.

- (6) The principle of the reallocation of funding between programme pillars in the event of in-year underspends arising within individual pillars, using the WMCA's change control process enabled by the Single Assurance Framework, be agreed.
- (7) The proposed decision-making and delivery processes for each pillar be agreed.
- (8) That the delivery timeline was likely to be constrained given the two-year spending profile and the limited preparation time ahead of the funding coming on-stream in financial year 2023/24 be noted, subject to the WMCA making further representations to the Government with the aim of securing an extension to this time period so that the underspend could be maximised to deliver a long-term legacy programme, and a draft letter of consent being requested from the Department for Digital, Culture, Media & Sport so that constituent members could satisfy themselves on the conditions being set.
- (9) The West Midlands Growth Company being allocated at least £1.7m of this funding in 2023/24, be agreed subject to confirmation of the full funding coming to the WMCA, in line with the funding proposal set out in the separate West Midlands Growth Company report (see minute no. 69 above).
- (10) It was noted that the next steps and intended decisions would be brought to the WMCA Board meeting on 13 January 2023.

71. Updated Single Assurance Framework

The board considered a report of the Executive Director of Finance & Business Hub providing the background to the updated Single Assurance Framework, highlighting a number of key changes.

The WMCA was required to undertake an annual refresh of its Single Assurance Framework document in accordance with Department for Levelling Up, Housing & Communities document 'The National Local Growth Framework (September 2021)'. This framework set out the Government's guidance for places that were required to develop their own local assurance framework and applied to mayoral combined authorities with a single pot and local enterprise partnerships. The Single Assurance Framework ensured that the mandatory role that the WMCA had as an accountable body for funding and the assurance requirements the WMCA needed to ensure were met.

Resolved:

The refreshed Single Assurance Framework, which had been updated in accordance with annual review requirements mandated by the Government, and which now met the National Local Growth Assurance Framework requirements published by the Department for Levelling Up, Housing & Communities in September 2021, be approved.

72. Transport for West Midlands Capital Pressures

The board considered a report from the Executive Director of Transport for West Midlands and the Executive Director of Finance & Business Hub providing an update on the current budget pressures being experienced on transport capital projects in delivery, the reasons for these and to advise on potential solutions to ensure that they could be completed successfully within a managed way which prevented any revenue cost exposure to the WMCA and the local authorities.

Over the last couple of years, there had been a number of projects increase in costs due to scope changes and construction challenges which had emerged on site. Standard practice was to allow for programme and budget contingencies to accommodate these pressures and this had been the case in all Transport for West Midlands projects. However, the last few years had thrown up a number of extraordinary further challenges, notably in relation to hyperinflation which was a national and global issue. The potential scale meant that Transport for West Midlands was unable to contain this within the existing capital resources and were therefore required to take some actions to mitigate any cost exposure to the WMCA.

The WMCA was heavily constrained in terms of the discretion it could exercise over its capital funding. Whilst the overall programme was substantial, many projects were funded on a project specific basis. The Transforming Cities Fund was the only pot of funding which was fully devolved to the region for local leaders to make the ultimate investment decisions. Whilst the City Region Sustainable Transport Settlement was also a devolved pot, the Department for Transport and the Treasury did retain some influence in how the funding was used to deliver clearly documented deliverables and outcomes.

Councillor Ian Ward requested that the findings of the investigation to be undertaken by the Chair of the Audit, Risk & Assurance Committee should be reported to the constituent authority Leaders. The Executive Director of Finance & Business Hub explained that immediately she was notified of the breach of financial regulations in one of the transport schemes she had initiated an investigation and then notified the Mayor of this within 24 hours.

Resolved:

- (1) The extent to which the WMCA's transport capital programme had been impacted by cost pressures be noted.
- (2) It be noted that in respect of one scheme, the cost control issues had resulted in a breach of financial regulations.
- (3) A formal independent investigation be commissioned through the Chair of the Audit, Risk & Assurance Committee in respect of the scheme referred to in (2) above, and the results of this investigation be reported to the WMCA and constituent authority Leaders.
- (4) The limited funding options open to the WMCA to meet these additional pressures be noted.

- (5) The approach towards dealing with the most urgent budgetary pressures, including the release of capital funding allocated within the Transforming Cities Fund programme, be approved.
- (6) It be noted that approval for immediate budget increases to three specific project budgets (totalling up to £17.8m) was requested within minute no. 80 below.
- (7) Subject to the Department for Transport's approval and following the WMCA's Single Assurance Framework process, it be approved that a number of projects previously funded by the Transforming Cities Fund and the WMCA's capital investment programme should subsequently be funded from the City Region Sustainable Transport Settlement programme.
- (8) The early warning of further capital pressures be noted.
- (9) Authority be delegated to the s151 Officer and Executive Director of Transport for West Midlands (in consultation with the Mayor and the Portfolio Lead for Transport) to make a formal change control application for the City Region Sustainable Transport Settlement programme to the Department for Transport in parallel to the WMCA's Single Assurance Framework process.
- (10) The risk be noted that in a worst-case scenario where no funding alternatives could be identified or costs avoided, a levy increase or corresponding transport budget savings to the value of approximately £11m to £20m would be required to meet the full extent of the capital cost pressures, and that any precise levy increase, should this be required, would be subject to a further report to this board.
- (11) The work being committed to enhance the robustness of management and reporting of capital projects in the WMCA's transport capital programme be noted.

73. Overview & Scrutiny Committee - 20 October 2022

The board considered the minutes of the Overview & Scrutiny Committee held on 20 October 2022.

Resolved:

The minutes of the meeting held on 20 October 2022 be noted.

74. Investment Board - 14 November 2022

The board considered the minutes of the meeting of the Investment Board held on 14 November 2022.

Resolved:

The minutes of the meeting held on 14 November 2022 be noted.

75. Transport Delivery Committee - 14 November 2022

The board considered the minutes of the Transport Delivery Committee meeting held on 14 November 2022.

Resolved:

The minutes of the meeting held on 14 November 2022 be noted.

76. Housing & Land Delivery Board - 16 November 2022

The board considered the minutes of the Housing & Land Delivery Board meeting held on 16 November 2022.

Resolved:

The minutes of the meeting held on 16 November 2022 be noted.

77. Economic Growth Board - 2 December 2022

The board considered the minutes of the Economic Growth Board meeting held on 2 December 2022.

Resolved:

The minutes of the inquorate meeting held on 2 December 2022 be approved.

78. Young Combined Authority Update - December 2022

The board received an update from Simren Johal and Khuram Mahmood setting out the activity of the Young Combined Authority during December.

During the last month, the YCA had looked at a number of issues affecting young people in the region, including cost of living pressures, and was also inputting into the deliberations of the Mental Health Commission. The YCA was looking forward to meeting with the Mayor on 4 January 2023 to discuss a number of policy initiatives.

Khuram Mahmood led the board in observing a minute's silence in memory of Finlay Butler, Samuel Butler, Jack Johnson and Thomas Stewart who had tragically lost their lives after falling through ice at Babbs Mill lake, Kingfisher Country Park, Solihull on 12 December.

Resolved:

The update be noted.

79. Exclusion of the Public and Press

Resolved:

In accordance with s100(A) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business as it was likely to involve the disclosure of exempt information as specified in paragraph 3 of the Act.

80. Transport for West Midlands Capital Pressures

The board considered a report from the Executive Director of Transport for West Midlands and the Executive Director of Finance & Business Hub providing the board with the scheme specific details concerning the Transport for West Midlands capital pressures which were considered commercially sensitive.

The report summarised the projects which were exposed to the issues highlighted in minute no. 72 above, together with indicative estimates of additional budget requirements post mitigation. Three schemes required an immediate uplift in budget, which this report sought to address. The remaining schemes were shown as early warnings, but all were highly likely to mature into a cost pressure to some degree over the short to medium term.

In respect of the investigation to be undertaken by the Chair of the Audit, Risk & Assurance Committee, Mark Smith confirmed that he would be speaking to the Monitoring Officer and Responsible Financial Officer shortly to commence this work, and he understood the importance of this matter and the urgency with which the board would like his investigation to be conducted.

Resolved:

- (1) The requirement for this private item, which was intended to protect the WMCA's commercial interests in any subsequent negotiations with its contractors, be noted.
- (2) Following consideration at minute no. 72 above, increases to project budgets up to the following maximum values be approved:
 - University Station - £5m
 - Wolverhampton Metro - £10.8m
 - Westside Metro - £2m

with the power to agree these adjustments delegated to the s151 Officer, following adequate assurance that a thorough commercial and technical challenge had taken place and the value for money remained appropriate.

81. Date of Next Meeting

Friday 13 January 2023 at 11.00am.

The meeting ended at 12.40 pm.