



MILLTHORPE SCHOOL

**Minutes of the Extra-Ordinary Meeting of the Board of Governors
Held at the School on Wednesday 21st October 2015 at 7.00pm**

Present:

Mr Trevor Burton (Headteacher)	Mr Richard Newton
Mrs Naomi Heaton	Mr Martyn Pysanczyn
Mr Tim Hooper	Mr Bill Schofield
Mrs Katie Hurrell	Mr Bob Sydes (Chair)
Ms Nicola Mitchell	Mrs Jane Terrett
Mr Tim Moat	Ms Helen Thomas

In Attendance:

Mr Jamie Otter (brownejacobson LLP) (from 7.25pm)
Mrs Barbara Kybett (Clerk)

		Action
1	<p>Apologies, Welcome, Any items for AOB and Declarations of Interest</p> <p>The Chair welcomed governors and thanked them for their attendance at the meeting. He advised governors that Jamie Otter from the legal firm brownejacobson LLP would be joining the meeting as soon as he was able.</p> <p>Apologies for absence were received from Helen Ainsworth, Jenny Kent and Gillian Markland-Zuiderwijk. Dave Merrett did not attend.</p> <p>There were no items of AOB and no declarations of interest.</p>	
2	<p>Articles of Association (previously distributed)</p> <p>The Chair explained that the purpose of the meeting was to consider the Articles of Association, the Commercial Transfer and Funding Agreements which had been drafted in relation to the proposed conversion to academy status. He noted that if the proposed conversion date of January 1st 2016 was to be met, the timescale for agreeing the legal documents was tight. A governor highlighted the need to take time to ensure that governors were happy with all the legal documentation, even if this resulted in a later date of conversion. The Chair agreed that this was entirely appropriate.</p> <p>The Chair highlighted the responsibility of the governing body to ensure as far as possible that the Articles of Association addressed the concerns raised by individuals and groups during the consultation process. However, governors were limited in this endeavour by the legal nature of the document.</p> <p>Bill Schofield reported on behalf of the Academy Working Group and agreed that the proposed conversion date of January 1st 2016 was by no means unalterable.</p> <p>The Chair assured governors that approving the draft Articles of Association, Commercial Transfer and Funding Agreements at the current meeting was not a commitment to conversion. It was noted that any significant changes to the Articles of Association would not be welcomed by the DfE, however, other documents could be drawn up which could be more specific about the desired structure of the MAT. The Headteacher agreed that it was important to establish whether a further document needed to be created which would address the concerns raised in the consultation process, for example those concerning the membership of the MAT Board.</p> <p>Governors were informed that the number of members on the MAT Board should be at least three, but that the DfE recommendation was five. It was noted that if the Board consisted of four members, those being the Chairs of the three schools' governing bodies plus one other, the Chair would have the casting vote in any split decision. A governor favoured a membership of five as this would provide greater depth in the event of a vacancy.</p> <p><i>(Jamie Otter from brownejacobson LLP joined the meeting at 7.25pm)</i></p> <p>Jamie Otter agreed that the membership of the MAT would ideally consist of four or five but expressed concern that a membership of four might ever lead to a split vote as harmony between the Board members</p>	

was so fundamental to the MAT. The Chair agreed and added that the members would lay down a clear ethos for the MAT and, as the DfE was unwilling for the Articles of Association to be varied, the selection of the members was of utmost importance.

A governor asked Jamie to what extent the Articles of Association could be added to or amended. Jamie responded that in his experience any amendments to the Articles were usually rejected but if governors felt strongly enough, they could choose to submit an amended document. A governor asked if there was a more appropriate legal document in which any specific requirements of the schools forming the MAT could be protected. Jamie replied that a Members' Agreement could be drawn up to fulfil this purpose. He added that a Members' Agreement could incorporate a Partnership Agreement which would address specific concerns raised during the consultation process.

The Headteacher noted that whilst the DfE encouraged the selection of members to be skills based, it was also important that the Board should represent the local community. The Chair asked if parents would have any influence over the members of the MAT Board. Jamie responded that the DfE discouraged parents from being members of the Board unless they were selected on the basis of skills. A governor highlighted the need for the members to be equipped with the right skills and that this might result in a school not having a representative on the Board. Governors discussed the need for a balance between skills and representation. Jamie emphasised the importance in a MAT of setting the selection criteria for members at the outset with a balance of skills and experience, as well as representation.

Governors proposed that the MAT Board should consist of four members: the Chair of each school's governing body plus one other who would also be the Chair of the Board of Trustees. It was proposed that the Board of Trustees should consist of the headteachers from the three schools, a representative from the governing body of each school, with four other trustees to be co-opted, giving a total of ten trustees. It was agreed that this structure would need to be flexible to adapt to future needs, for example if another school joined the MAT, the headteacher would want to join the Board of Trustees. Jamie explained that a Members' Agreement needed the agreement of all members to be changed whereas the Articles of Association needed only 75% of the Board to be in agreement.

With reference to the Articles of Association, a governor asked what was meant by the phrase "not used" which frequently appeared. Jamie explained that these referred to historic clauses: they had not been removed completely as the section numbering would be altered leading to difficulties with cross referencing. A governor expressed concern at the number of inaccuracies and typographical errors contained in the document. Jamie responded that these could not be corrected locally.

A governor queried the use of the term "investments" in Section *n*. Jamie replied that if an academy were managed by a commercial sponsor, the management of investments would need to be regulated. In response to a question, he added that any potential financial gain by members or trustees was extremely well-regulated and all interests needed to be declared, including those of any related parties.

A governor asked if the LA had agreed a long lease for the buildings. Jamie replied that he was still awaiting the lease from the LA.

Governors agreed that:

- **There should be four members: the Chair of each school's governing body plus one other who would also be the Chair of the Board of Trustees;**
- **the Board of Trustees should consist of the headteachers from the three schools, one representative from the governing body of each school, and four other co-opted trustees chosen for their skills;**
- **these structures should be written into the Articles of Association.**

Governors agreed to delegate responsibility for negotiating these structures with governors from Scarcroft and Knavesmire Primary Schools to the members of the Academy Working Party and that a draft Memorandum of Understanding would be circulated by the Working Party to all governors.

Governors agreed with the Working Party's proposal that the Articles of Association should be amended as far as possible to reflect that members of the MAT Board and trustees would be recruited primarily on a skills basis.

Governors voted to approve the Articles of Association subject to the above amendment.

For: 11 Against: 1 Abstentions: none

3	<p>Commercial Transfer Agreement (<i>previously distributed</i>)</p> <p>A governor asked if there was a time limit for the guarantees given under TUPE. Jamie replied that there were no time limits.</p> <p>A governor queried the possibility of a legal charge by the LA for the transfer. Jamie responded that most LAs did not charge for the process but he had not had confirmation of this from CYC. He expected that the charge might be around £1k. A governor noted that this would be funded from the grant from the DfE for conversion costs. A governor asked if the conversion process was likely to be slowed by the LA due to reduced staffing in the legal team. Jamie reported that all the relevant legal documents had now been sent to the LA and he offered to follow this up.</p> <p>The Headteacher asked for further information regarding the Local Government Pension Scheme and expressed concern about the school's obligations to the scheme's members should it convert to academy status. Jamie explained that as the scheme was running at a deficit, the school would have an obligation to contribute to it. The actual amount would depend on which non-teaching staff in school were members. He informed governors that the figure would be available before the final agreements were signed. He added that the pension deficit figure would show on the school's accounts which would be shared with the other schools in the MAT.</p> <p>Governors unanimously approved the draft Commercial Transfer Agreement and delegated authority to brownejacobson to complete a final version.</p>	
4	<p>Funding Agreement (<i>previously distributed</i>)</p> <p>The Chair expressed concern regarding the school's debt in relation to the proposal to convert to academy status. Jamie responded that the Funding Agreement did not detail how and when the debt should be repaid. He explained that the DfE would repay the debt to the LA on conversion and that the School Business Manager should then negotiate repayment terms with the DfE. He advised that any agreement should be in writing. A governor emphasised that the debt was not a significant percentage of the school's income and would not be viewed negatively by the DfE. Jamie agreed that the DfE would not wish to see the school fail due to financial difficulties. However, the school would need to negotiate a realistic repayment schedule.</p> <p>The Headteacher asked if the school would be asked to sign a new Funding Agreement each time the DfE made changes. Jamie replied that schools would be referred to changes in the Academies' Handbook.</p> <p>The Chair queried the obligations of an academy trust towards the school's land and buildings. Jamie responded that nothing should be done that would reduce the value of either, although fair wear and tear was acceptable.</p> <p>A governor asked if there was relevant training for trustees in matters pertaining to the legal requirements of academies. Jamie replied that his firm did offer this training.</p> <p>Governors were informed that the daily act of worship referred to in the Agreement was still a statutory requirement.</p> <p>The Headteacher queried the section in the document referring to primary place planning and the suggestion that the Secretary of State could order the school to sub-let. Jamie responded that it would be the decision of the academy as to whether they would sub-let land or buildings for another school.</p> <p>Governors unanimously approved the draft Funding Agreement and delegated authority to brownejacobson to complete a final version.</p>	
5	<p>Next Steps</p> <p>Governors discussed the next steps and agreed to delegate to the Working Party where necessary. It was noted that a member for the MAT Board would need to be elected by 13th November. The Headteacher encouraged the Chairs of the Governing Bodies to meet to discuss the process for appointing the trustees. Jamie agreed that this was an important process as the trustees would be responsible for signing the final agreement.</p> <p>It was agreed that an Extra-Ordinary meeting of the full governing body would be held on Thursday 26th November at 6pm when the Members' Agreement and the Funding Agreement would be scrutinised, the Terms of Reference would be agreed and the final vote on conversion to academy status would be taken.</p>	

6.	<p>Any Other Business It was agreed that the Chair should be formally elected as a member of the MAT Board.</p> <p>Bob Sydes was nominated and elected as Millthorpe School's representative on the MAT Board.</p> <p>Proposed: Trevor Burton Seconded: Martyn Pysanczyn Approved: unanimously</p>	
7.	<p>Confidentiality None.</p>	
	<p>The meeting ended at 9.20pm.</p> <p>_____</p> <p>Mr Bob Sydes Chair</p> <p>_____</p> <p>Date Signed</p>	