



Moray Council

Wednesday, 23 January 2019

NOTICE IS HEREBY GIVEN that a Meeting of the **Moray Council** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Wednesday, 23 January 2019** at **09:30**.

BUSINESS

- 1 **Sederunt**
- 2 **Declaration of Group Decisions and Members Interests**
*
- 3 **Minutes**
 - 3(a) **Minute of Meeting dated 31 October 2018** 5 - 10
 - 3(b) **Minute of Special Meeting dated 22 November 2018** 11 - 20
 - 3(c) **Minute of Special Meeting dated 12 December 2018** 21 - 30
 - 3(d) **Minute of Special Meeting dated 18 December 2018** 31 - 36
- 4 **Written Questions ****
- 5 **Review of Council's Constitutional Documents** 37 - 44
Report by the Corporate Director (Corporate Services)
- 6 **Financial Planning 2019/20 onwards**
To follow

Any person attending the meeting who requires access assistance should contact customer services on 01343 563217 in advance of the meeting.

GUIDANCE NOTES

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

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THE MORAY COUNCIL

Moray Council

SEDERUNT

Councillor Shona Morrison (Chair)
Councillor Graham Leadbitter (Depute Chair)
Councillor George Alexander (Member)
Councillor James Allan (Member)
Councillor David Bremner (Member)
Councillor Frank Brown (Member)
Councillor Theresa Coull (Member)
Councillor John Cowe (Member)
Councillor Gordon Cowie (Member)
Councillor Paula Coy (Member)
Councillor Lorna Creswell (Member)
Councillor John Divers (Member)
Councillor Tim Eagle (Member)
Councillor Ryan Edwards (Member)
Councillor Claire Feaver (Member)
Councillor Donald Gatt (Member)
Councillor Louise Laing (Member)
Councillor Marc Macrae (Member)
Councillor Aaron McLean (Member)
Councillor Maria McLean (Member)
Councillor Ray McLean (Member)
Councillor Amy Patience (Member)
Councillor Derek Ross (Member)
Councillor Ron Shepherd (Member)
Councillor Sonya Warren (Member)
Councillor Walter Wilson (Member)

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Minute of Meeting of the Moray Council

Wednesday, 31 October 2018

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor George Alexander, Councillor James Allan, Councillor David Bremner, Councillor Frank Brown, Councillor Theresa Coull, Councillor John Cowe, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Lorna Creswell, Councillor John Divers, Councillor Tim Eagle, Councillor Claire Feaver, Councillor Donald Gatt, Councillor Louise Laing, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Maria McLean, Councillor Shona Morrison, Councillor Amy Patience, Councillor Derek Ross, Councillor Ron Shepherd, Councillor Sonya Warren, Councillor Walter Wilson

APOLOGIES

Councillor Ryan Edwards, Councillor Ray McLean

IN ATTENDANCE

Also in attendance at the above meeting were the Chief Executive, Corporate Director (Corporate Services), Acting Corporate Director (Education and Social Care), Head of Adult Services, Head of Financial Services, Head of Development Services, Equal Opportunities Officer, Principal Officer Economic Development) and Tracey Sutherland, Committee Services Officer as Clerk to the meeting.

1. Declaration of Group Decisions and Members Interests *

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

2. Minutes

(a) MORAY COUNCIL - MINUTE OF MEETING DATED 5 SEPTEMBER 2018

The minute of the meeting of Moray Council dated 5 September 2018 was submitted and approved.

(b) MORAY COUNCIL - MINUTE OF SPECIAL MEETING DATED 26 SEPTEMBER 2018

The minute of the special meeting of Moray Council dated 26 September 2018

was submitted and approved.

3. Written Questions **

No written questions were submitted.

4. Financial Reserves Policy

A report was submitted by the Corporate Director (Corporate Services) seeking approval for the Council's revised Reserves Policy.

Following consideration, Councillor Gatt stated that given the dire situation the Council is currently in with regards to the budgets, the review should be carried out by Moray Council and not Policy and Resources Committee. He thereafter proposed, seconded by Councillor Brown that recommendation 2.1 (ii) is amended to read 'approves that the next review by Moray Council takes place no later than October 2021.'

As an amendment Councillor Leadbitter, seconded by Councillor Aaron McLean moved that the recommendation stand as printed that the next review will be no later than October 2021.

On a division there voted:

For the Motion Councillors Gatt, Brown, Allan, Cowie, Creswell, Eagle, Feaver,
(10): M McLean, Macrae and Shepherd.

For the Councillors Leadbitter, A McLean, Bremner, Coull, Coy, Divers,
Amendment (12): Laing, Morrison, Patience, Ross, Warren and Wilson.

Abstentions (2): Councillors Alexander and Cowe.

Accordingly the Amendment became the finding of the meeting and it was agreed that recommendation 2.1 (ii) would stand as printed.

Thereafter the Council approved the Reserves Policy as detailed in the appendix to the report and that the next review will be no later than October 2021.

5. Annual Report of the Chief Social Work Officer 2017-2018

A report was submitted by the Chief Social Work Officer providing the Council with the annual report of the Chief Social Work Officer on the statutory work undertaken on the Council's behalf during the period 1 April 2017 to 31 March 2018.

Following consideration the Council agreed to note the annual report of the Chief Social Work Officer.

6. Short Breaks Services Statement

A report was submitted by the Acting Corporate Director (Education and Social Care)
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informing the Council of the statutory requirement for the production and publication of a Short Break Services Statement for Moray as required under section 35 of the Carers (Scotland) Act 2016.

Following consideration the Council approved, for its interest, the Short Breaks Services Statement for publication as required under section 35 of the Carers (Scotland) Act 2016.

7. British Sign Language (BSL) Plan

Under reference to paragraph 5 of the Minute of the Communities Committee dated 26 June 2018, a report was submitted by the Chief Executive inviting the Council to approve the British Sign Language (BSL) Plan for Moray.

Following consideration the Council approved the British Sign Language (BSL) Plan for Moray.

8. Rural Tourism Infrastructure Fund – Pluscarden Abbey

A report was submitted by the Corporate Director (Economic Development, Planning & Infrastructure) informing the Council of the Rural Tourism Infrastructure Fund and asking the Council to homologate the decision by the Convener and Leader of the Council to submit an Expression of Interest to the fund and thereafter if successful, to seek permission to act as a lead applicant for a full application for Pluscarden Abbey.

Following consideration the Council agreed to:

- i. act as a lead applicant to the Rural Tourism Infrastructure Fund for Pluscarden Abbey with no financial implications for the Council;
- ii. homologate the decision by the Convener and Leader of the Council to submit an Expression of Interest to the fund and if successful;
- iii. authorise a stage II application.

9. Forres Conservation Area Regeneration Scheme

A report by the Corporate Director (Economic Development, Planning and Infrastructure) informed Council of the recently opened round of Historic Environmental Scotland Conservation Area Regeneration Scheme and to authorise funding application for Forres.

Following consideration the Council agreed:

- i. to authorise the submission of a funding application for a Forres Conservation Area Regeneration Scheme (CARS) with no financial implications for the Council; and
- ii. if successful, to employ a CARS officer, subject to confirmation of match funding by HIE.

10. Transforming Boards - Membership

Under reference to paragraph 13 of the Minute of Moray Council dated 5 September 2018, a report was submitted by the Chief Executive inviting the Council to approve the membership of the Transforming Boards as outlined in Section 4 of the report.

Following consideration the Council approved the membership as outlined in Section 4 of the report as follows:

Transforming - Learning

Councillor S Warren
Councillor D Ross
Councillor J Allan
Councillor C Feaver

Councillor G Leadbitter – Ex-officio
Councillor S Morrison – Ex-officio

Transforming – Economy

Councillor G Leadbitter
Councillor J Divers
Councillor J Cowe
Councillor D Gatt

Councillor S Morrison – Ex-officio

Transforming – The Council

Councillor A McLean
Councillor J Divers
Councillor G Cowie
Councillor F Brown

Councillor G Leadbitter – Ex-officio
Councillor S Morrison – Ex-officio

11. Question Time ***

Under reference to paragraph 5 of the minute of the meeting of Moray Council on 5 September 2018, Councillor Eagle sought an update on the Transforming Boards and what will be presented to the Boards. He further sought assurance that the updates will continue to allow the Boards to develop.

In response, the Chief Executive advised that the Improvement and Modernisation programme will go through the Admin Group and Group Leaders prior to a report to Moray Council on 12 December 2018.

Under reference to paragraph 13 of the minute of the meeting of Moray Council on 5 September 2018, Councillor Creswell sought an update on the Council's Grampian NHS Board representative.

In response, the Convener confirmed that she had received the nomination, which

she had accepted and was appointed to the Board by the Cabinet Secretary several weeks ago and had already attended her first meeting.

Under reference to paragraph 2 of the minute of the meeting of Moray Council on 26 September 2018, Councillor Gatt questioned whether the minute could details of the specific paragraph Number of Schedule 7A of the Local Government (Scotland) Act 1973 and not just the paragraph number.

Under reference to paragraph 7 of the minute of the meeting of Moray Council on 26 September 2018, Councillor Gatt raised a concern regarding the refence to the confidential appendix which the public do not have access too and stated that in his view it restricted the Council's transparency with the public.

In response to Councillor Gatt's first question the Head of Legal and Democratic Services confirmed that providing the paragraph wording would not be an issue and that he would discuss the matter with the Democratic Services Manager for future meetings.

With regards to the reference of the appendix in the minute, the Local Government Act requires the minute to reflect a flavour of what happened at the meeting as a record and not the detail as the item was confidential. He further added that there were valid reasons why the item was confidential as it related to members of staff and their future employment with the Council. He continued that what often happens is the Convener or Chair will give a public press statement following the meeting to give the press information but it is a sensitive situation to manage.

Councillor Leadbitter, following on from Councillor Gatt's question regarding the confidential paragraph wording asked whether it would be easier to include all confidentiality reasons on the agenda for ease of reference.

In response the Head of Legal and Democratic Services agreed that this would be his intention.

Councillor Ross requested, following his attendance at the Joint Consultative Committee (JCC) meeting the previous day, whether the Trade Union Representatives could be given the opportunity to address all Councillors with their members concerns regarding the budget proposals.

In response, Councillor Leadbitter, who had also attended the JCC meeting agreed that he had noted the request and had agreed to discuss further with the admin group and CMT to see if a briefing would be feasible but saw no reason why not.

The Chair wholeheartedly joined Councillor Alexander in congratulating the Corporate Director (Economic Development and Infrastructure) and her team on receiving the announcement from the Westminster Government that the negotiations are starting on the Moray Growth Deal.

Councillor Alexander raised a staffing issue which the Chief Executive undertook to respond to him in confidence.

MINUTE OF THE SPECIAL MEETING OF MORAY COUNCIL

22 NOVEMBER 2018

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors S Morrison (Chair), G Leadbitter (Depute Chair), G Alexander, J Allan, D Bremner, T Coull, G Cowie, P Coy, J Divers, C Feaver, D Gatt, L Laing, M Macrae, A McLean, R McLean, A Patience, D Ross and S Warren.

APOLOGIES

Apologies were intimated on behalf of Councillors F Brown, J Cowe, L Creswell, T Eagle, R Edwards, M McLean, R Shepherd and W Wilson.

IN ATTENDANCE

The Head of Development Services, the Manager (Development Management), Mr N MacPherson, Principal Planning Officer (Development Management), Mrs D Anderson, Senior Engineer (Transport Development), Mr A McEachan, Head of Legal and Democratic Services, as Legal Adviser to the Committee and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

2. PUBLIC HEARING – PLANNING APPLICATION 18/01046/EIA

Ward 2: Keith and Cullen

Construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay, underground cable circuits, construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network at Blackhillock including temporary construction compounds, access track laydown areas and other associated works from within the vicinity of Redhythe Point in Aberdeenshire Council area to Whitehillock Farm, Keith, Moray for Moray Offshore Windfarm (West) Limited.

A report by the Head of Legal and Democratic Services asked the Council to consider the recommendation from the Planning and Regulatory Services Committee, following a Pre-determination Hearing at its Special Meeting on 22 November 2018, in respect of Planning Application 18/01046/EIA.

Following consideration the Council agreed to grant planning permission in respect of Planning Application 18/01046/EIA, as recommended, subject to the following conditions and reasons:

1. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions below shall be obtained from Moray Council, as Planning Authority. In relation to all the conditions below the submission of matters conditioned below may be submitted in relation to the proposal within Moray in its entirety, or may be confined to each phase of the proposal individually or combined, namely either the transmission cables/jointing bays or the electricity substation.

Reason - In order to ensure that the matters specified can be fully considered prior to the commencement of development.

2. i) The grant of planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with detailed drawings/details which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings/details shall show the matters specified below;-
 - a. All elevations and floor plans of structures, buildings, apparatus and fencing proposed for the substation. Plans must include details of the proposed finished levels or cross sections through the site.
 - b. Details of the proposed building materials and materials used for enclosures and gates to the substation compound.
 - c. Details of the intended lighting strategy for the substation.
 - d. Details of any proposed landscaping scheme to surround the substation compound, identifying the species, density and height of trees to be planted. A landscaping maintenance schedule must also accompany any landscaping scheme.
- ii) All works identified in 2(i) shall be completed in accordance with the approved details.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

3. Prior to the commencement of any phase of development:
 - (i) The following details must be submitted for approval to the Council, as Planning Authority,
 - a. Plan(s) (Scale 1:10000 minimum) showing all proposed construction access route(s) (including abnormal load routes);
 - b. Detailed assessment of the proposed construction access route(s) (See Condition 3(i) a) including vehicle swept path analysis as appropriate for abnormal load requirements and construction traffic and detailed proposals for mitigation required. e.g. road widening and suitably located, intervisible passing places, holding areas to accommodate construction traffic, abnormal load delivery vehicles all on ground over which the applicant has or can obtain control at location(s) and constructed in accordance with The Moray Council specification;

- c. Details of all proposed access locations onto the public road for construction vehicles including visibility splays, access construction, fencing/gating, signing;
- d. Details confirming locations of cable road crossings and proposed works e.g. directional drilling or open trench, access to works areas and crossings of the public road;
- e. Details confirming location of site compounds and access routes from the public road;
- f. Phasing plan(s) for the cable and sub-station works which confirms road improvement works required prior to commencement of each phase;
- g. A detailed survey of the construction access route shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and/or abnormal indivisible load vehicle movements;
- h. Road improvements/strengthening (either temporary or permanent) required as a result of the survey prior to any movements of any construction and abnormal load traffic shall be completed;
- i. Construction Traffic Management Plan. (Details must include, parking provision for staff and the loading/unloading of vehicles, the methods of dealing with large and/or abnormal delivery vehicles, vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network, provision for the prevention of material being deposited onto the public road including wheel cleaning and for road sweeping at construction access(es) to the public road, a programme for monitoring and provisions for interim maintenance to be undertaken to ensure safe and suitable access is maintained for the construction access routes for the duration of the works will be required.

(ii) All works identified in 3(i) shall be completed in accordance with the approved details.

Reason - To ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

Delivery and Trigger Points

The required works to the public road network shall be completed prior to the delivery of any materials associated with each phase (Condition 3(i) f).

- 4. (i) Prior to commencement of construction on any phase of construction identified in Condition 3(i)f the following must be complied with/submitted:
 - a. Evidence to confirm that a Section 96 'Wear and Tear' Agreement has been completed and agreed by the developer or their representative and the local roads authority to ensure that the costs of works to repair damage to the public road as a result of construction traffic on the roads identified in Condition 3(i)a will be met.
 - b. Details shall be submitted for approval to the Council, as Planning Authority to confirm the provision and control of appropriate visibility splays at each proposed construction access in the construction phase.
 - c. A detailed programme for the works associated with the laying of the cable, including the timing of any temporary road closure to facilitate the opening of any road.

- d. Diversion routes for local footpaths and cycleways during the construction period shall be agreed with the Council as, Planning Authority (Core Paths). All signage associated with the diversion routes shall be agreed with the Council as Planning Authority.
- e. Verge hardening shall be undertaken at any locations determined by the vehicle swept path analysis and abnormal load trial run to accommodate the wide turning circle of the abnormal load vehicles transporting sub-station components over the areas determined within the Construction Traffic Management Plan. Any dropped kerbs required must be installed during the construction period to enable over running onto the hardened verge.
- f. Unless otherwise agreed in writing by the Council abnormal load trial run(s) must be undertaken for the delivery route prior to the commencement of construction and deliveries. Representatives from the Moray Council Transportation (Traffic), the Trunk Road Authority, Police Scotland and any other roads authorities where roads will form part of the route of the delivery must be invited to the trial run.

- (ii) All works identified in 4(i) shall be completed in accordance with the approved details.

Reason - The provision of information currently lacking from the submission to ensure acceptable infrastructure at the development access in the interests of road safety.

- 5. At the start and end of each phase (as per condition 3(i)f) 'before and after' condition video surveys of the proposed delivery and construction traffic routes shall be undertaken jointly with the Roads Authority and a copy of the survey provided to the Planning and Roads Authority.

Reason - The provision of information currently lacking from the submission to ensure acceptable infrastructure is provided in the interests of road safety.

- 6. Dedicated parking areas shall be provided during construction to prevent vehicles parking on the public road verge, the locations of which shall be agreed with the Council as, Planning Authority following consultation with Moray Council Transportation.

Reason - To ensure acceptable development in the interests of road safety.

- 7. Prior to the commencement of construction the diversion routes for local footpaths and cycleways during the construction period shall be agreed with Moray Council as, Planning Authority in consultation with the Access Manger. All signage associated with the diversion routes shall be agreed with Moray Council as, Planning Authority.

Reason - The provision of information currently lacking from the submission to ensure acceptable development in the interests of road safety.

- 8. No works shall commence on site until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to ensure that no water or loose material shall drain or be carried onto the public footpath/carriageway for the life-time of the development.

Reason - To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.

9. Any existing ditch, watercourse or drain under any access or passing place or holding area as a result of this development shall be re-routed or piped using a suitable diameter of pipe, in agreement with Moray Council as, Planning Authority in consultation with Transportation Manager. Any pipe shall be laid to a self-cleansing gradient.

Reason - The provision of information currently lacking from the submission to ensure acceptable development in the interests of road safety.

10. For the cables details must be provided of their final route and identify any proposed micro siting limits. The proposed route must demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs)
- Peatland
- Private water supplies
- Groundwater
- Engineering works in the water environment, including watercourse crossings
- Flood Risk

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

11. For each phase of development a Construction and Temporary Works Schedule including plans showing all construction and temporary works must be provided. The schedule must include details to demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs),
- Peatland
- Private water supplies
- Engineering works in the water environment
- Flood risk in association with existing field drains

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

12. For the substation full details of the layout, siting and elevations of the substation and any associated access road must be provided. This must include details to demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs)
- Peatland

- Private water supplies
- Engineering works in the water environment
- Flood risk in association with existing field drains
- Full details of the proposed means of disposal of foul (septic tank) and surface water from the substation supported, if required, by a Drainage Impact Assessment.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

13. A specific Construction Environmental Management Plan (CEMP) for each phase is required to be submitted including details of a Site Waste Management Plan, disposal of any surplus material and pollution prevention measures once operational. The CEMP must also contain a Phasing Plan outlining details of the phasing of all construction works including top soil stripping. Thereafter, development must accord with the agreed Phasing Plan unless otherwise agreed in writing with Moray Council as, Planning Authority in consultation with SEPA.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

14. Unless otherwise agreed in writing with the Council as, Planning Authority, the imbedded mitigation and proposed additional mitigation measures as specified in Chapter 15 Summary of the Environmental Impact Assessment of the EIA Report must be carried forward and implemented in the detailed design, layout and position of the transmission cables and substation in any approval of reserved matters application.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

15. The pre-construction verification check surveys referred to in the mitigation proposals summarised in Chapter 15 of the EIA Report must be carried out by suitably qualified individuals and include a contingency for the protection of species if found (such as ground nesting birds). Furthermore, measures such as avoiding ground stripping during the nesting season in line with the methodology suggested in the last bullet point of page 45, Paragraph 6.4.3.3 within EIA report, Chapter 6 Ecology and Nature Conservation must be included in that contingency plan in the event that pre-construction verification checks identify the presence of ground nesting birds and other protected species or nesting birds and their nests.

Reason - To ensure that the mitigation measures proposed in the EIA Report are transferred into actionable contingency plans in the event that the pre-construction verification check surveys identify ground nesting birds and other protected species or nesting birds and their nests.

16. In the event that the proposed cable route requires substantive tree felling, details for the transmission cables must be accompanied by a detailed tree survey and include the specific locations along the finalised cable route where trees would require to be felled and need to remain free of trees in perpetuity. This must be accompanied by a requisite scheme detailing the quantity, type and location of compensatory tree planting to account for any loss of woodland or land designated within the National Forest Inventory.

The approved compensatory woodland planting scheme, must thereafter be provided in accordance with the approved details in the first planting season following the substation and transmission cable being electrified. The applicant must notify the Council as, Planning Authority in writing within 21 days of the cable being electrified.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified in the event that significant woodland removal is required.

17. That within a period not less than 6 months prior to the cessation of operations, or an alternative timeframe as agreed in writing by Moray Council as, Planning Authority, a decommissioning plan is to be prepared in line with best practice at the time of preparation and submitted for the written approval of Moray Council as, Planning Authority in consultation with SEPA and Aberdeenshire Council. The decommissioning of the development must thereafter be undertaken in accordance with the approved decommissioning plan.

Reason - To ensure provision is in place to facilitate a move towards a “Circular Economy” and future proof the development against future environmental requirements or considerations in the interests of the protection of the natural environment.

18. Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Friday and 0700 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with Moray Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason - In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

19. Prior to any development commencing on any agreed phase of development a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Council as planning Authority. The CEMP shall include the following matters (notwithstanding other consultees may require other considerations) –
 - a. A construction noise and vibration management plan including proposed measures for the mitigation of construction noise and vibration, where necessary.
 - b. A dust and air quality management plan including proposed measures for the mitigation of dust arising from construction activities, where necessary. All measures works identified in 19 a and b shall be implemented in accordance with the approved plans.

Reason - In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

20. A further Noise Impact Assessment (NIA) will require to be undertaken in accordance with BS 4142 : 2014 Method for rating and assessing industrial and

commercial sound in relation to the substation. The assessment findings shall be reported in writing to and approved by the Council as Planning Authority. The approved operational noise rating levels arising from this further NIA shall not be exceeded during the operational lifetime of the development.

Reason - In order to minimise the impact of the development on the amenity of the surrounding area including local residents.

21. No private water supply shall be used during or post construction for any phase of the project, until details have been submitted in order that its wholesomeness and adequacy can be assessed by the Environmental Health Manager of Moray Council.

Reason - To ensure detailed consideration can be given to the possible use of private water supplies for the development hereby approved.

22. In the event that the wholesomeness or adequacy of any private water supply becomes affected by construction activity, all users of such supplies and Environmental Health Manager of Moray Council must be contacted to discuss remediation measures as a priority. Thereafter repair of any affected private water supply must be carried out to the satisfaction of the Council as Planning Authority in consultation with the Environment Health Manager. The Council shall be the final arbiter whether any supply has been affected by this development.

Reason - To ensure that the adequacy and wholesomeness of private water supplies are protected at all phases of the project.

23. Unless otherwise agreed in writing, no development shall commence on any phase until a strategy to assess and then, where subsequently appropriate, a strategy to deal with potential contamination on the finalised cable route have been submitted to, and accepted in writing by the Council as, Planning Authority. The strategies shall be devised and overseen by an appropriately qualified person in accordance with relevant up-to-date authoritative technical guidance, e.g. BS10175 'The Investigation of Potentially Contaminated Sites - Code of Practice', and shall include:

- a. an appropriate level of characterisation of the type, nature and extent of contamination and accompanying risk assessment as described in Planning Advice Note 33 Development of Contaminated Land (Revised 2000);
- b. how any identified contamination will be dealt with during construction works;
- c. details of remedial measures required to treat, remove or otherwise mitigate contamination to ensure that the site is suitable for the proposed use, and that it does not represent a risk to health or of pollution in the wider environment; and
- d. a means of verifying the condition of the site on completion of the works.

Thereafter, the works shall be implemented in accordance with agreed details.

Reason - To ensure that the site that risks to the wider environment and future users of the site and neighbouring land from on-site contamination are appropriately assessed and managed.

24. For each phase of the development a programme of archaeological mitigation including recording, monitoring and, or excavation as appropriate will be undertaken in accordance with a Written Scheme of Investigation to be prepared in consultation with Moray Council and Aberdeenshire Council Archaeology Service in accordance with the additional mitigation proposed in Chapter 15 'Summary of the Environmental of Impact Assessment' of the EIA Report.

Reason - To safeguard and record the archaeological potential of the area.

25. For either phase (cable route or substation), the following details to be submitted for consideration by Moray Council as Planning Authority in consultation with the Moray Flood Risk Management team:
- a. Drainage Impact Assessment (DIA) for the substation area.
 - b. SUDS scheme for the substation area.
 - c. Construction phase surface water management plan.
 - d. Detailed plans and calculations showing that the capacity of all over water crossings allowing free passage of 1:200 year flow + climate change (20%).

The development must then be constructed and operated in accordance with the approved Drainage Impact Assessment and SUDS Scheme.

Reason - In order to allow for consideration and approval of the drainage matters specified.

26. The proposed access(es) to the trunk road shall be constructed by the applicant in accordance with the Design Manual of Roads and Bridges (DRMB). The junctions shall be constructed in accordance with details that shall be submitted and approved by the Planning Authority, before any part of the development is commenced. All necessary costs associated with the construction, supervision and safety audits, including all additional work identified by the audit as being necessary for the safety of the users of the trunk road, shall be funded by the developer.

Reason - To ensure that the standard of access layout complies with the current standards and the safety of the traffic on the trunk road is not diminished and to ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road.

27. Prior to commencement of deliveries to site, a Construction Traffic Management Plan including swept path analysis must be submitted to and approved by Transport Scotland to ensure that abnormal loads can be transported along the trunk road network safely. The complete report shall detail any accommodation measures required including the temporary removal of street furniture, junction widening, traffic management etc. and show that the transportation will not have any detrimental effect on structures within the route path.

Reason - To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development.

28. During the delivery period of the construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised Quality Audit traffic management consultant, to be approved by Transport Scotland before delivery commences.

Reason - To ensure that transportation will not have any detrimental effect on the road and structures along the route.

29. Prior to commencement of deliveries to site, the proposed route for any abnormal loads on the trunk road network must be approved by the trunk roads authority prior to the movement of any abnormal load. Any accommodation measures required including the removal of street furniture, junction widening, traffic management must similarly be approved.

Reason- To ensure that the transportation will not have any detrimental effect on the road and structures along the route.

Minute of Meeting of the Moray Council

Wednesday, 12 December 2018

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor George Alexander, Councillor James Allan, Councillor David Bremner, Councillor Frank Brown, Councillor Theresa Coull, Councillor John Cowe, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Lorna Creswell, Councillor John Divers, Councillor Tim Eagle, Councillor Claire Feaver, Councillor Donald Gatt, Councillor Louise Laing, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Maria McLean, Councillor Shona Morrison, Councillor Amy Patience, Councillor Derek Ross, Councillor Ron Shepherd, Councillor Sonya Warren

APOLOGIES

Councillor Ryan Edwards, Councillor Ray McLean, Councillor Walter Wilson

IN ATTENDANCE

The Chief Executive, the Corporate Director (Corporate Services), the Corporate Director (Economic Development, Planning and Infrastructure), the Acting Corporate Director (Education and Social Care), the Head of Legal and Democratic Services, the Head of Financial Services, the Head of Housing and Property, the Estates Manager and the Democratic Services Manager as Clerk to the Meeting.

ALSO IN ATTENDANCE

Maggie Bruce, External Auditor

1 Chair

The Meeting was chaired by Councillor S Morrison.

2 Declaration of Group Decisions and Members Interests *

In terms of Standing Order 20 and the Councillors' Code of Conduct, Councillor Leadbitter on behalf of the SNP Group declared that the SNP Group had discussed Item 7 - "Financial Planning" on the agenda. Councillors Eagle and Alexander on behalf of the Conservative and Councillors Open Groups respectively also declared that their respective Groups had discussed Item 7. The Meeting noted that there were no further declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

3 Resolution

The Council resolved that, in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business appearing at the relevant paragraph of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

<u>Paragraph Number of Minute</u>	<u>Paragraph Number of Schedule 7A</u>
8	1
9	1
10	6 & 9

4 Improvement and Modernisation Programme

A report was submitted by the Corporate Director (Corporate Services) updating the Council on progress in the development of the Improvement and Modernisation (I&M) programme and seeking homologation and agreement on how to progress the work, including allocation of resources to initiate and advance projects.

Prior to discussion of this item a copy of revised recommendations 2.2 (i) – (iii) were circulated as follows:

“2.2 In order to progress the findings of the i-ESE diagnostic in relation to the 3 main areas of work , it is recommended that the Council agrees the following:

- (i) Customer Services: Change to an enabling model of customer services, supported by accelerated and widely applied digital solutions and that this is incorporated into the I&M programme with support secured from i-ESE to be considered further once a proposal is received;
- (ii) Children’s Services: reviews to proceed as specified in the I&M programme, including the development of technology to support changes in service delivery and new ways of working with further consideration to be given to external support (including from i-ESE) for the work required to deliver change and reported back to the council once proposals are further developed;
- (iii) Leisure and Libraries: it is recommended that the Council provides direction in respect of the re-consideration of Leisure Review and consideration of options for Libraries”

Councillor Leadbitter stated that a considerable amount of work had gone into producing the report which included a number of discussions with both Group Leaders and a variety of briefings to Councillors and it was clear to him that this is the way forward to avoid having to go through another very difficult budget process in the future. The Council need to progress a variety of strategic projects in a bid to change how the Council delivers its services. In regard to the recommendations he proposed to amend recommendation 2.2 (iii) to read “ Leisure and Libraries Service: Reviews to proceed to profile customer demand, assess commercialisation options, future service models and consider alternative ways of working with the understanding that the closure of swimming pools is unlikely to have strong political support.”

Councillor Warren in referring to the I&M Programme Stream 7: Transforming Education stated that the Administration Group’s main priority is education and getting it right for every child. She further stated that the learning experience of educational attainment of young people is vitally important and it is crucial to look at the quality

and consistency of education in entirety and that the first bullet point should focus on educational attainment and outcomes and moved that this be included under Stream 7. There being no one otherwise minded this was agreed.

Councillor Alexander sought further clarification in regard to the changes that had been circulated.

In response the Corporate Director (Corporate Services) advised that it had been hoped to have had discussions with i-ESE in advance of this meeting to firm up on the proposals that they could offer in relation to the three areas where they had undertaken some work and identified some potential projects. Unfortunately those discussions had not progressed as far as had been hoped and there was not a proposal in relation to Customer Services nor an updated proposal in relation to Children's Services. She further advised that in light of the foregoing she did not consider it appropriate to ask for agreement to proceed with that work until it was fully defined and costed hence why it was suggested that the recommendations be altered to allow that work to progress before a final decision is taken.

During further discussion Councillor Gatt sought clarification in regard to recommendation 2.4 (ii) relating to the remit of the Transformation Boards as it was his understanding that they were advisory bodies that would make recommendation to committee and they were not in his opinion the correct body for approving anything.

In response the Chief Executive advised that Transformation Board is part of the Council's policy in terms of project management and the recommendation is in accordance with that policy.

Councillor Gatt stated that he did not accept what the Chief Executive had advised and asked if the word 'approval' could be removed and leave the word 'monitoring'.

Following further discussion on this issue during which Councillor Gatt stated that it would be useful for the recommendation to be made clearer, the Chief Executive advised that, in consultation with the Head of Legal and Democratic Services and Councillor Gatt, would amend the wording in order to clarify more fully the role of the Boards and that of the committees.

Following lengthy discussion clarification was sought in regard to which version of the recommendations 2.2 (i) – (iii) were being considered for approval and it was noted that it was the amended version of the recommendations as circulated at the meeting.

Councillor Feaver, in referring to the clarification sought by Councillor Gatt regarding the role of the Transformation Boards and that of the committees, asked that this clarification be provided prior to consideration of recommendation 2.4 (ii). This was agreed and thereafter the Chief Executive advised the amended wording of recommendation 2.4 (ii) as "that this is reported to the relevant Transformation Boards for approval and monitoring within the remits agreed by Council".

Following clarification sought by the Clerk, it was noted in terms of Recommendation 2.2 (iii), the motion proposed by Councillor Leadbitter at the beginning of the debate on this item, was seconded by Councillor Coy.

The Chair stated that the recommendations should now be considered in order.

Thereafter the Council agreed recommendations 2.1, 2.2 (i)–(iii), 2.3 and 2.4 (i)–(iii) as follows:

- 2.1 the content of projects and overall direction set out in the current I&M programme, including those areas identified as not being part of the current programme (as detailed in Appendix A of the report);
- 2.2. that in order to progress the findings of i-ESE diagnostic in relation to the 3 main areas of work, agreed the following:

i) Customer Services:

Councillor Eagle, seconded by Councillor Brown, moved that this be amended to read: Customer Services: Change to an enabling model of customer services, supported by accelerated and widely applied digital solutions and that this is incorporated into the I&M programme with support secured from i-ESE to be considered further by the full council once a proposal is received.

As an amendment Councillor Leadbitter, seconded by Councillor Bremner, moved that the wording remain as printed.

On a division there voted:

For the Motion (13) Councillors Eagle, Brown, Alexander, Allan, Cowe, Cowie, Divers, Feaver, Gatt, M McLean, Macrae, Ross and Shepherd.

For the Amendment (9) Councillors Leadbitter, Bremner, Coull, Coy, Laing, A McLean, Morrison, Patience and Warren.

Abstentions (1) Councillor Creswell

Accordingly the Motion became the finding of the meeting and the Council agreed:

Customer Services: Change to an enabling model of customer services, supported by accelerated and widely applied digital solutions and that this is incorporated into the I&M programme with support secured from i-ESE to be considered further by the full council once a proposal is received;

ii) Children's Services:

Councillor Leadbitter, in terms of Children's Services, queried whether this should be reported to Children and Young People's Services Committee before a decision is taken.

In response the Corporate Director (Corporate Services) advised that there were some general issues relating to governance arising from the debate. In terms of how the project management process should work, projects go through a gateway and in essence the Council is acting as that gateway and is saying today that this is the range of work that we wish carried out. We then use the governance arrangements through the Transformation Boards in order to take that forward which is the Council's agreed process for governing projects. The Policy and Resources Committee would be the Committee delegated by the Council to oversee financial matters and matters of policy

and strategy.

She further suggested that a programme of this scale is a strategic one which should be reported through Policy and Resources Committee. If there are other views in regard to adding additional reporting through the Council's service committees this would add burdens to the existing governance arrangements and careful consideration would need to be given as to how that impacts on the progress of the projects and how it impacts on officers and Councillors time in terms of taking it forward in a different way. She further advised that there are some issues which are exceptional given the Council's financial position and the nature of the projects that we are engaging in and she was of the opinion that in relation to Children's Services it is a significant piece of work looking at how we transform how that service operates and that the Council may have an interest in determining the future support. If there are concerns about the overall governance arrangements for projects there is a need to give that fuller consideration rather than determining it today given the implications it could have.

Thereafter the recommendation was agreed as follows:

Children's Services: reviews to proceed as specified in the I&M programme, including the deployment of technology to support changes in service delivery and new ways of working with further consideration to be given to external support (including from i-ESE) for the work required to deliver change and reported back to the full council once proposals are further developed.

iii) Leisure and Libraries Service:

Councillor Leadbitter, seconded by Councillor Coy, moved recommendation 2.2 (iii) be amended to read "Leisure and Libraries Service: Reviews to proceed to profile customer demand, assess commercialisation options, future service models and consider alternative ways of working with the understanding that the closure of swimming pools is unlikely to have strong political support.

Councillor Eagle, seconded by Councillor Brown moved that the recommendation read "Leisure and Libraries Service: that the Council continues in the direction agreed on 5 September 2018.

On a division there voted:

For the Motion (13) Councillors Leadbitter, Coy, Alexander, Bremner, Coull, Cowe, Cowie, Creswell, Laing, McLean, Morrison, Patience and Warren.

For the Amendment (10) Councillors Eagle, Brown, Allan, Divers, Feaver, Gatt, M McLean, Macrae, Ross and Shepherd.

Abstentions (0)

Accordingly the Motion became the finding of the meeting and the Council agreed: Leisure and Libraries Service: Reviews to proceed to profile customer demand, assess commercialisation options, future service models and consider alternative ways of working with the understanding that the closure of swimming pools is unlikely to have strong political support.

2.3 the allocation of £700K funding to be ear marked in reserves and used flexibly over a period of up to 2 years to initiate and advance projects as requirements develop, based on the estimates indicated in paragraph 4.c of the report;

2.4 the Council further agreed:

- i) to note that further work will be undertake to develop the projects in the programme including clarifying the investment required and the benefits that will accrue;
- ii) that this is reported to the relevant Transformation Boards for approval and monitoring within the remits agreed by Council, and
- iii) Councillor Brown, seconded by Councillor Gatt, moved that the recommendation be amended to read that regular progress reports on the whole programme are submitted to the full council.

The Chief Executive advised that further to the earlier advice regarding the governance arrangmenets provided by the Corporate Director (Corporate Services), the propsed motion does have governance implications and these will require to be considered by officers and reported back.

As an amendment Councillor A McLean, seconded by Councillor Leadbitter, moved the recommendation as written.

On a division there voted:

For the Motion (10) Councillors Brown, Gatt, Allan, Cowe, Eagle, Feaver, M McLean, Macrae Ross and Shepherd

For the Amendment (12) Councillors A McLean, Leadbitter, Alexander Bremner, Coull, Coy, Creswell, Divers, Laing, Morrison, Patience and Warren.

Abstentions (1) Councillor Cowie

Accordingly the Motion became the finding of the meeting and the Council agreed that regular progress reports on the whole programme are submitted to the Policy and Resources Committee.

5 Property Asset Management Appraisal

A report was submitted by the Corporate Director (Economic Development, Planning and Infrastructure) presenting the findings arising from the Property Asset Management Appraisal (2018) (PAMA) and seeking approval of various recommendations arising from the appraisal.

During discussion clarification was sought as to how buildings are assessed and how condition ratings etc. are arrived at and it was agreed that a briefing be arranged for Members to provide this clarification

Thereafter following further lengthy discussion the Council agreed:

- i) the main findings and recommendations as set out in the PAMA;
- ii) to note the financial implications set out in Sections 4.3 and 6 and Section 15 of Appendix 1 of the report;
- iii) to consider and decide in due course whether to retain all or part of the non-operational assets (industrial estate) and if retained, introduce an annual review of individual units to consider their retention or possible sale;
- iv) to implement the Improvement Plan set out in Section 16 of the PAMA;
- v) to progress the review of offices, depots and storage facilities in 2019/20 based on early estimates or recurring savings £200k (revenue) and £250k (capital) as detailed in para 6.4 of the report;
- vi) to develop a new Asset Management Staffing Structure in 2019/20;
- vii) to fund a dedicated resource from Reserves at a cost of £86k for 9 months to complete the review of offices, depots and storage facilities and implement the new Asset Management Structure;
- viii) that progress on the Improvement Plan will be reported to the Policy and Resources Committee as and when required in 2019/20 and thereafter on an annual basis, and
- ix) that a briefing for Members be arranged to provide clarification on how buildings are assessed and how condition ratings etc. are arrived at.

6 Capital Strategy

A report was submitted by the Corporate Director (Corporate Services) asking the Council to approve the Capital Strategy presented in draft as Appendix 1 to the report.

Following consideration the Council agreed to approve the Capital Strategy as presented as Appendix 1 to the report.

7 Financial Planning [Para 1]

A report was submitted by the Chief Executive reporting on the progress of the development and communication of a range of measures aimed at reducing the predicted budget gap for 2019/20 as agreed by the Council on 26 September 2018 and updating on the current financial forecasts and seeking agreement on the next steps in the Council's preparations for setting a budget in February 2019.

Following consideration the Council agreed:

- i. following consideration of the feedback from the public and the workforce, to proceed with implementation of savings agreed by the Council on 26 September (as detailed in Appendix A of the report) with the following amendments:
 - a) Direct Services as noted in paragraph 3.4.3 of the report, with the revised saving in Waste being agreed subject to further consultation with the workforce;
 - b) Elgin and Forres Community Centres - defer decisions to enable further work to be completed and reported to the Council for decision in January 2019;
 - c) Employee Assistance Programme - remove the saving for 2019/20.
- ii. to advance the timing for the savings listed in Appendix E of the report from 202/21 to 2019/20, and
- iii. that in order to assess the financial position following the grant information announced in the Scottish Government's budget, a report be provided to the Council meeting in January 2019 with an updated financial position and further measures to reduce the budget shortfall.

8 Budget 2018-19 Workforce Implications [Paras 1 and 11]

A report was submitted by the Corporate Director (Corporate Services) asking the Council to consider applications under the terms of the agreed Voluntary Severance (VS) and Voluntary Early Retirement (VER) Schemes.

Following consideration the Council agreed:

- i. to approve the applications for Voluntary Early Retirement and Voluntary Severance as detailed in Appendix A of the report, and
- ii. that under the terms of the Council's Discretionary Pension Policies, agreed to afford Case number 9 as detailed in the Appendix A of the report, access to their deferred pension benefits.

9 Restructuring Economic Development to Address Growth Deal Requirements and Job Evaluation Re-Grading in Planning and Economic Development [Para 1]

A report was submitted by the Corporate Director (Economic Development, Planning and Infrastructure) asking the council to approve the restructuring of the Planning and Economic Development Team to reflect the demands and challenges created in undertaking the Growth Deal.

Following consideration the Council agreed to approve the restructuring of the Planning and Economic Development Team to better align with future economic development priorities including resource needs created by the Growth Deal as outlined in Section 5 of the report.

10 Council New Build Phase 7 - Report on Tender [Paras 6 and 9]

Due to time constraints the Meeting agreed to defer consideration of this item to the special meeting of Moray Council scheduled to take place on 18 December 2018.

Minute of Special Meeting of the Moray Council

Tuesday, 18 December 2018

Council Chambers, Council Office, High Street, Elgin, IV30 1BX

PRESENT

Councillor George Alexander, Councillor James Allan, Councillor David Bremner, Councillor Frank Brown, Councillor Theresa Coull, Councillor John Cowe, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Lorna Creswell, Councillor John Divers, Councillor Tim Eagle, Councillor Ryan Edwards, Councillor Claire Feaver, Councillor Donald Gatt, Councillor Louise Laing, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Maria McLean, Councillor Shona Morrison, Councillor Amy Patience, Councillor Derek Ross, Councillor Sonya Warren

APOLOGIES

Councillor Ray McLean, Councillor Ron Shepherd, Councillor Walter Wilson

IN ATTENDANCE

The Chief Executive, the Head of Direct Services, the Head of Development Services, the Head of Financial Services, the Acting Head of Lifelong Learning, Culture and Sport, the housing Strategy and Development Manager, the Head of Legal and Democratic Services, Paul Kendirck, Project Officer Lifelong Learning, Culture and Sport and the Democratic Services Manager as Clerk to the Meeting.

1 Chair

The Meeting was chaired by Councillor S Morrison.

2 Declaration of Group Decisions and Members Interests *

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Member's interests in respect of any item on the agenda.

3 Resolution

The Council resolved that, in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business appearing at the relevant paragraphs of this minute as specified below, so as to avoid

disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

<u>Paragraph Number of Minute</u>	<u>Paragraph Number of Schedule 7A</u>
7	9
8	6& 9

4 Green Infrastructure Fund – Cooper Park

A report was submitted by the Corporate Director (Economic Development, Planning and Infrastructure) informing the Council of the Green Infrastructure Fund and asking the Council to authorise a funding application for Cooper Park, this being part of the Cultural Quarter Growth Deal proposal.

Following consideration the Council agreed to authorise the submission of funding applications to the Green Infrastructure Fund on the condition that:

- i) the application is clearly submitted as subject to:
 - a. additional funding being attracted through the Growth Deal Bid, and
 - b. business cases to provide sustainable revenue support for any investments provided through the GIF funding being agreed; and
- ii) a further report be submitted to Council to enable consideration of any final offer of grant, any financial implications for the Council being confirmed at that time.

5 Establishment of Post of Early Years Service Manager

Under reference to paragraph 20 of the Minute of the meeting of Moray Council dated 27 September 2018, a report was submitted by the Acting Corporate Director (Education and Social Care) inviting the Council to approve the establishment of the post of Early Years Service Manager at salary grade 13, as outlined in the Delivery Plan for the expansion of Early Learning and Childcare provision across Moray.

During discussion concern was raised in regard to the continued funding of the Early Years Expansion Programme and clarification was sought in regard to the provision of funding for the post and whether this would be provided by the Scottish Government and for how long. In response the Acting Corporate Director (Education and Social Care) advised that Scottish Government Funding was in place until August 2020 but that the Scottish Government have not advised how this will be funded post 2020 and therefore the Service was working to August 2020 and other service managers are contracted to August 2020.

Following further discussion the Council agreed to approve the establishment of the post of Early Years Service Manager as detailed in the report and to note that the Scottish Government funding for this was in place until August 2020.

6 Linkwood Primary School New Build Project

Under reference to paragraph 4 of the Minute of the meeting of Moray Council dated 29 June 2016, a report was submitted by the Acting Corporate Director (Education and Social Care) updating the Council on the cost and funding arrangements for the Linkwood Primary School New Build project and seeking approval to enter in to the design and build agreement.

During discussion concern was raised in regard to the lateness of the report and in particular in respect of the increased cost of the project. In response the Acting Corporate Director (Education and Social Care) advised of previous reports to Members outlining the challenges it has faced and hurdles overcome since it was approved in 2016. He further advised of the backstop date of having occupation of the school by August 2020 and in order to meet this date a construction site needs to be set up in January 2019 with construction commencing mid February 2019 to allow for a completion date of late June 2020. The negotiations around price have been long and difficult and had been on going until late into the evening of 12 December 2018 following which a price was accepted following which the outcome was reported to the Corporate Management Team, where the Chief Executive posed questions to the Team. Thereafter the report was finalised for issue as urgent.

The Chief Executive advised that as indicated by the Acting Corporate Director (Education and Social Care), he had raised some questions in relation to this Project. The first being how could the increased cost be mitigated as detailed in paragraph 5c of the report, and secondly what lessons can be learned from this and whilst not reflected in the report, he assured the Council that he will be asking for a report to him on lessons learned and if appropriate this would also be provided to the relevant service committee and the Audit and Scrutiny Committee.

Thereafter following further lengthy discussion the Council agreed:

- i) to note the cost and funding arrangements set out in paragraphs 3 and 4(c) of the report and that capital budget be approved up to the value of £12,810,000 for Linkwood Primary School;
- ii) to authorise the Head of Legal and Democratic Services (or in their absence the Legal Services Manager (Property and Contracts) to:
 - (a) consider and agree any further amendments to the Linkwood Primary School project documents after the date of this meeting;
 - (b) sign all documentation required for the Linkwood Primary School project on behalf of the Council including:
 - the Design and Build Development Agreement between (1) the Council and (2) hub North Scotland Limited;
 - the Contractor's Collateral Agreement between (1) the Council and (2) Balfour Beatty Construction Limited;
 - the Designers Colleteral Agreements between (1) the Council and (2) each of (one) JMArchitects Limited; (two) DSSR; and (three)

Waterman Group, and

- any additional or ancillary documents in relation to the Project to which the Council is required to be a party;

iii) The Chair of the Council meetings certifies a copy of the Minute of the proceedings of this meeting as verification that approval has been granted; and

iv) to note that financial close is targeted for 11 January 2019.

v) to note that the Chief Executive had requested a report on lessons learned be submitted to him and if appropriate this would also be provided to the relevant service committee and the Audit and Scrutiny Committee.

7 Inter Authority Agreement 2 (Long Stop Date) - Energy From Waste Project [Para 9]

Under reference to paragraph 2 of the minute of the special meeting of Moray Council dated 25 October 2016, a report by the Corporate Director (Economic Development, Planning and Infrastructure) asked the Council to approve extending the current longstop date which relates to agreeing the terms of the Inter-Authority Agreement 3 (IAA3), agreed in the Stage 2 Inter Authority Agreement (IAA2) that commits the Moray Council, Aberdeen City Council and Aberdeenshire Council to work in partnership to procure an Energy from Waste Facility (EfW) from the 21 December 2018 to 1 June 2019.

Following consideration, the Council agreed to:

- i. extending the longstop date which relates to agreeing the terms of the IAA3 as agreed in the Stage 2 IAA2, from the 21 December 2018 to the 1 June 2019 and;
- ii. note that a further report will be submitted to a full Council meeting by the end of March of 2019 to approve final contract award and further formal, binding inter-authority agreement (IAA3), subject to the project meeting the deadlines in Table 1, paragraph 5 of the report.

8 Council New Build Phase 7 - Report on Tender [Paras 6 and 9] - Deferred from Special Full Council 12 December 2018

Under reference to paragraph 15 of the Minute of the meeting of the Communities Committee dated 26 June 2018, a report was submitted by the Corporate Director (Economic Development, Planning and Infrastructure) presenting an evaluation of a tender received for the Council New Build Programme Phase 7 project at Forsyth

Street, Hopeman and making recommendations in respect of land acquisition and tender acceptance.

Following lengthy discussion Councillor Cowe moved approval of recommendations 3.1 (i) - (iii) as detailed in the report. Councillor Alexander seconded the motion.

As an amendment Councillor Feaver moved that the Council did not approve recommendations 3.1 (i) - (ii) as detailed in the report and only approved recommendation 3.1 (iii) as detailed in the report.

On a division there voted:

For the Motion Councillors Cowe, Alexander, Allan, Bremner, Coull, Cowie, Coy, (16) Creswell, Divers, Edwards, Laing, Leadbitter, A McLean, Morrison, Patience and Warren.

For the Amendment (6) Councillors Feaver, Gatt, Brown, Eagle, M McLean and Macrae

Abstentions (1) Councillor Ross

Accordingly the Motion became the finding of the Meeting and the Council agreed to:

- i. accept the tender received for the site at Forsyth Street, Hopeman;
- ii. remit it to the Legal Services Manager (Property and Contracts) to conclude the purchase of the site as shown on Appendix II of the report, and
- iii. note that progress on the delivery of the Council's new build programme is reported to the Communities Committee.



REPORT TO: SPECIAL MORAY COUNCIL ON 23 JANUARY 2019

SUBJECT: REVIEW OF COUNCIL'S CONSTITUTIONAL DOCUMENTS

BY: CORPORATE DIRECTOR (CORPORATE SERVICES)

1. REASON FOR REPORT

- 1.1 To invite the Council to approve changes to Council's constitutional documents as detailed in Section 4 of the report.
- 1.2 This report is submitted to Committee in terms of Section II (15) of the Council's Administrative Scheme relating to the formulation, review and amendment of the Administrative Scheme and Standing Orders.

2. RECOMMENDATION

2.1 The Council is asked to consider and approve the proposed changes to the Council's:-

- (i) Standing orders, as set out in Appendix I;**
- (ii) Scheme of Administration as set out in Appendix II;**
- (iii) Scheme of Delegation as set out in Appendix III;**
- (iv) Financial Regulations as set out in Appendix IV; and**
- (v) Authorisation Policy as set out in Appendix V.**

2.2 Due to the size of the appendices they are available on the Council's Committee Management System at <https://moray.cmis.uk.com/moray/CouncilandGovernance/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/86/Committee/2/Default.aspx>

3. BACKGROUND

- 3.1 In terms of Standing Order 88 the Council is required, at least once every year, to review the standing orders to determine whether any alteration should be considered.
- 3.2 A number of changes are also required to the Council's Standing Orders, Administrative Scheme, Scheme of Delegation, Financial Regulations and Authorisation Policy to reflect approved changes in responsibility for various tasks. These changes are detailed at paragraphs 4.1 to 4.5 below.

4. PROPOSALS

4.1 Amendments to the Council's Standing Orders

SO No	Amendment	Reason
26	Remove wording "The vote shall be taken by means of a show of hands".	Manner of voting is specified in SO 62 (a) and can include other methods. Custom and practice has been electronic or by roll call.
28	Reword to read "The business of an ordinary meeting of the Council shall proceed in the order specified in the notice calling the meeting.....etc	To differentiate between an ordinary scheduled meeting and a special meeting.
28 (e)	Reword to read "Minute(s) of the previous meeting(s) including Sub-Committees"	SO 28(e) and (f) are in effect a duplication of each other. This amendment combines into a single order.
28 (f)	Remove in entirety	Duplication of 28 (e)
28 (g) to (j)	Renumber	Renumber following deletion of 28(f) above
28 (j)	Remove wording in brackets (Question Time for the standing Committees of the Council)	This change is to accommodate the fact that each service committee now approves its own minutes and they are no longer required to be ratified at full council.
28 (k)	Include new 28 (k) 'Question Time'	This better reflects current practice at committees where questions on the minutes are taken separately from Question Time
	Remove wording "*meetings of the Council only, excepting meetings of the Council's standing Committees"	No longer relevant as each service committee now approves its own minutes.
29	Add new para 29 "The business at special meetings shall take place in the same order, except that notice of urgent business, minutes, written questions, petitions, Notices of Motion and Question Time shall not be included." Thereafter renumber current para 29 onwards.	This will formalise what has been ' custom and practice'

4.2 Amendments to the Scheme of Administration

Para Reference	Amendment	Reason
III (B) (59)	Add new para (59) 'To consider all Community Asset Transfer requests including disposals above £100,000 in value and rental concessions over £50,000 per annum.'	Added to reflect requirements arising from Part 5 of the Community Empowerment (Scotland) Act 2015 ("the Act") and the Asset Transfer Request (Review Procedure) (Scotland) Regulations 2016 ("the Review Regulations") as agreed at meeting of Moray Council held on 6 June 2018 (para 12 of the Minute refers).
Contents list and III (VI)	Amend name of Service Development Group to read Corporate Plan Steering Group.	Housekeeping – name of group agreed at meeting of Moray Council dated 17 May 2017 (para 7 of the Minute refers)

4.3 Amendments to the Scheme of Delegation

SECTION 2 – GENERAL DELEGATION TO CHIEF EXECUTIVE AND DIRECTORS – CENTRAL MANAGEMENT TEAM		
Para Reference	Amendment	Reason
2 (10)	Add new para (10) 'Participation Requests Corporate Management Team to consider and respond to participation requests.'	Added to reflect requirements of Part 3 of the Community Empowerment Act which places a duty on public service authorities, as defined by the Act, to consider and respond to participation requests by participation bodies. As agreed at the meeting of Policy and Resources Committee held on 8 May 2018 (para 9 of the Minute refers).
2 (11)	Add new para (11) ' Use of Coat of Arms Chief Executive, in consultation with the Convener and Group Leaders, to consider requests for the use of the Council's Coat of Arms.'	This arose from a request from an outside organisation (WASPI) to the then Council Leader to use the Council's Coat of Arms on a banner for a procession to lobby the Scottish Government in Edinburgh.

SECTION 3 – PROPER OFFICERS AND STATUTORY APPOINTEES		
(2) (a) (i)	<p>Amend to read</p> <p>(i) Section 3 – Chief social Work Officer</p> <ul style="list-style-type: none"> • Head of Adult Services <p>Note: The Chief Social Work Officer post has a statutory designation, in terms of the Local Government Act 1995, with responsibility for oversight of all Social Work services, and a direct line of accountability to the Council for the exercise of those responsibilities.</p>	Amended to reflect the change of appointment of the Chief Social Worker post from the Head of Integrated Children's Services to the Head of Adult Services as agreed at the meeting of the council on 5 September 2018 (para 14 of the minute refers).
SECTION 7 – FINANCIAL SERVICES		
(17)	<p>Add a new para 17 'Procurement Strategy –</p> <p>Future minor amendments delegated to Head of Financial Services subject to consultation with Group Leaders who will determine whether any particular minor amendment should be reported to the P&R Committee.'</p>	As agreed at meeting of Policy and Resources Committee on 8 May 2018 (para 7 of the minute refers).
SECTION 8 – LEGAL AND DEMOCRATIC SERVICES		
(15)	<p>Delete</p> <p>Renumber accordingly</p>	Council ceased to have statutory function for this wef 1 April 2017, functions transferred to the Scottish Public Services Ombudsman.
(30)	Add a new para 30	Housekeeping – bringing into line with changes to delegation from Head of Financial Services to Head of Legal and Democratic Services approved by Moray Council on 3 February 2016 (para 8 of the minute refers).
SECTION 12– INTEGRATED CHILDREN'S SERVICES		
(51)	Delete para (51) - This delegation has been given to the Head of Adult Services and is listed in Section 3 under Statutory Appointees	As agreed at the Meeting of Moray Council dated 5 September 2018 (para 14 of the minute refers).

GENERAL CHANGE -		
	Amend all reference to Chairman to read Chair and Deputy Chair to read Depute Chair	To ensure consistency throughout all constitutional documents.

4.4 Amendments to the Financial Regulations

Para Reference	Amendment	Reason
1.3	Inclusion of reference to the Chief Finance Officer or the Moray Integration Joint Board	To reflect current practice
1.9	New paragraph on breaching or non-compliance of the Regulations	To strengthen existing procedures
2.1	Updated references for Financial Planning	To reflect current practice
2.3	Inclusion of option to report to Moray Council	To reflect current practice
2.11	Updated definitions of Services	To reflect current practice
2.13	Clarification of the process of dealing with proposals that are not funded	To strengthen existing procedures
2.16	Inclusion of "General Revenue Grant"	For clarification purposes
2.17	Updated references for Capital plan	To strengthen existing procedures
2.21	Updated process for the Capital plan	To strengthen existing procedures
3.4	Clarification of the process for emergent situations	For clarification purposes
3.6 & 3.7	Merge of the two paragraphs	For clarification purposes
3.11	Deletion of paragraph as no longer required	To strengthen existing procedures
3.13	Updated process for time records and pay documents	To strengthen existing procedures
3.14	Updated process for staffing establishment lists	To reflect current practice
3.33	Updated procedure for developer obligations/contributions	To strengthen existing procedures
4.5	Amendment to limit for money laundering purposes	To strengthen existing procedures
4.11	Inclusion of reference to the Council's charging policy	To reflect current practice
5.9	Update of process for concessionary rents	To strengthen existing procedures
5.15	Update of process relating to Community Asset Transfers	To reflect current practice
10.7	New paragraph relating to	To reflect change in legislation

	requirements for Common Good under the Community Empowerment Act	
11.5 & 11.6	Update of procedure for receiving hospitality	To reflect current practice
13.2	Update of process of Members interests	To reflect current practice
14.1	Update to reference to legislation	To reflect change in legislation
Appendix 2	General update to links	To reflect current practice

4.5 Amendments to the Authorisation Policy

Para Reference	Amendment	Reason
2.1	Inclusion of the Chief Finance Officer post for the Moray Integration Joint Board	To reflect current practice
2.1	Updated link to procurement procedures	To reflect current practice
4.3	Updated link to purchasing card guidance	To reflect current practice

4.6 The Financial Regulations and the Authorisation Policy will be reviewed on an annual basis, to reflect the pace of change in recent years.

4.7 **APPENDIX IV** and **V** will be amended for page formatting and numbering before publishing, once draft document has been approved.

5. **SUMMARY OF IMPLICATIONS**

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Effective governance arrangements are key to the development and delivery of the Council's stated priorities and plans.

(b) Policy and Legal

Provision of Standing Orders ensures that the Council's affairs are administered in accordance with the law, propriety and proper standards.

(c) Financial implications

None.

(d) Risk Implications

Updated constitutional documents help to promote good governance and reduce the chance of a successful challenge to Council decisions.

(e) Staffing Implications

The proposed amendments can be accommodated within existing staff resources.

(f) Property

None.

(g) Equalities

There are no direct impacts as the Council's constitutional documents regulate the Council's internal procedures only.

(h) Consultations

The review of the constitutional documents has been undertaken in consultation with the Convener, the Leader of the Council and other group leaders and the Corporate Management Team.

6. CONCLUSION

6.1.1 The annual review of the Council's constitutional documents has resulted in a number of improvements being identified and the Standing Orders, Scheme of Administration, Scheme of Delegation, Financial Regulations and Authorisation Policy have been redrafted accordingly. The Council is asked to approve the amendments.

Author of Report:

Background Papers:

Ref:

