

# MORAY COUNCIL

## Minute of Meeting of the Moray Council

Wednesday, 12 May 2021

### Various Locations via Video Conference

#### **PRESENT**

Councillor George Alexander, Councillor James Allan, Councillor David Bremner, Councillor Theresa Coull, Councillor John Cowe, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Lorna Creswell, Councillor John Divers, Councillor Ryan Edwards, Councillor Donald Gatt, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Maria McLean, Councillor Shona Morrison, Councillor Louise Nicol, Councillor Laura Powell, Councillor Derek Ross, Councillor Amy Taylor, Councillor Sonya Warren

#### **APOLOGIES**

Councillor Frank Brown, Councillor Tim Eagle, Councillor Claire Feaver, Councillor Ray McLean, Councillor Walter Wilson

#### **IN ATTENDANCE**

Chief Executive, Depute Chief Executive (Economy, Environment and Finance), Depute Chief Executive (Education, Communities and Organisational Development), Head of Governance Strategy and Performance, Head of Environmental and Commercial Services, Chief Financial Officer, Head of HR, ICT and Organisational Development, Head of Economic Growth and Development, Consultancy Manager, Mr W Burnish, Senior Engineer (Flood Risk Management) and Mrs L Rowan, Committee Services Officer as Clerk to the meeting.

#### **1 Chair**

Councillor Morrison, being Convener of the Council, chaired the meeting.

#### **2 Congratulations**

The Council joined the Chair in congratulating Karen Adam MSP and Richard Lochhead MSP who were elected and re-elected to the Scottish Parliament representing Moray and also congratulated other members on the list elected to represent the Highland and Islands Region. The Council joined the Chair further in commending the efforts of the Returning Officer and staff in carrying out a very successful polling day and count in exceptional circumstances.

#### **3 Covid Update**

The Leader advised that he had been in recent discussions with the Scottish Government, Public Health and other agencies in relation to the change in levels and the high probability that Moray will stay in level 3 with a final decision expected

by the end of the week. He stated that assurance had been sought that this would be under continuous review so that, should the covid levels in Moray decrease, the protection level will reduce in line with the rest of Scotland. The Leader went on to commend the work of Public Health in partnership with the Council and other agencies as well as schools and noted that there had been no significant transmission within schools as a result of safety protocols put in place. He stated that there was a vaccination increase in Moray and that every adult over 18 should have been offered a first vaccine by the end of the month. This was noted.

#### **4 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.

#### **5 Written Questions**

The Council noted that no written questions had been submitted.

#### **6 Minute of Meeting of Moray Council dated 10 March 2021**

The minute of the meeting of Moray Council dated 10 March 2021 was submitted and approved.

#### **7 Minute of Special Meeting of Moray Council dated 3 March 2021**

The minute of the meeting of the special meeting of Moray Council dated 3 March 2021 was submitted and approved.

#### **8 Minute of Meeting of Moray Council dated 20 January 2021**

The minute of the meeting of Moray Council dated 20 January 2021 was submitted and approved.

#### **9 External Audit Plan for the Year 2020/21**

A report by the Depute Chief Executive (Economy, Environment and Finance) provided the Council with a copy of the External Auditor's Annual Plan for the Annual Accounts for 2020/21.

Mr Brian Howath, Audit Scotland introduced the report and advised that the Council is in a better financial position than what was expected 3-4 months ago and that it was hoped that the annual accounts would be signed off by November 2021.

Following consideration, the Council joined the Chair in thanking Mr Howath and Audit Scotland for the flexibility shown to Local Authorities in recognising the pressures on services as a result of the Covid-19 pandemic and thereafter agreed

to note the contents of the External Auditor's Annual Plan for the Annual Accounts of the Council and of the Trusts administered by the Council for 2020/21.

## **10 Best Value Assurance Report Strategic Action Plan - Progress Report**

Under reference to paragraph 3 of the Minute of the special meeting of Moray Council dated 7 October 2020, a report by the Chief Executive informed the Council of progress on the Best Value Assurance Report Strategic Action Plan.

During his introduction, the Chief Executive advised that overall the report revealed that the Council's progress was reasonable to good in the current circumstances and that there had been a change to some of the target dates as the Best Value Team within Audit Scotland are aware of the challenges to the Council as a result of the Covid-19 pandemic.

Following consideration, the Council agreed to note progress made on the Best Value Assurance Report Strategic Action Plan as set out in Appendix 1 of the report.

## **11 Legal Services Staff Resources**

Under reference to paragraph 7 of the Minute of the meeting of Moray Council dated 27 February 2019, a report by the Depute Chief Executive (Education, Communities and Organisational Development) asked the Council to consider staffing resources within Legal Services and sought approval for an additional resource to support delivery of priority work.

Following consideration, the Council agreed to approve additional revenue budget within Legal Services of up to £54,000 to establish the post of Solicitor on Grade 9 in order to meet increased service demand.

## **12 ICT Resourcing**

A report by the Depute Chief Executive (Education, Communities and Organisational Development) asked the Council to note the content of the report and authorise the request for budget for increased staff in order to secure the future resilience of the ICT Service.

Following consideration, the Council agreed:

1. the staffing resources proposed in section 7e of the report; and
2. the budget of £386,000 is allocated, reducing to £293,000 after 12 months and £93,000 thereafter.

## **13 Improvement and Modernisation Programme**

Councillor Edwards lost connection during discussion of this item and took no part in the remainder of the meeting.

Under reference to paragraph 34 of the Minute of the meeting of the Education, Communities and Organisational Development Committee dated 18 November 2020, a report by the Depute Chief Executive (Education, Communities and Organisational Development) sought direction on the next stage of development of the Council's Improvement and Modernisation programme: Transformation to Achieve based on developing a programme of investment to improve the future efficiency and sustainability of Council services.

The Council joined the Leader in commending the Depute Chief Executive (Education, Communities and Organisational Development) and the wide team for their work in preparing the Improvement and Modernisation Programme as this was recognised as being a large piece of work. He stated that this had been discussed amongst Councillors at several Budget Development Group meetings and stated that the bulk of the investment is within Education projects with further financial investment needed to take the remaining projects forward. He stated that the Administration is pleased that the Poverty project is top of the priority list as this is particularly important due to people struggling as a result of the Covid-19 pandemic however acknowledged that Education remains a high priority across all groups within the Council.

During discussion, Councillor Gatt noted the references within the Improvement and Modernisation Programme in relation to poverty and climate change and stated that, whilst he recognised the importance of each of these projects, he was concerned that these were unfunded projects. Councillor Gatt further noted that the governance of the projects would take place via the Transformation Boards however was of the view that Transformation Boards do not provide due governance, are a drain on officers time and capacity and are not held in a public forum and that, in his opinion, the governance of these projects should take place via the relevant Service Committee as these meetings are available for viewing by the public. Councillor Gatt therefore moved that the Council agree the recommendations as printed subject to the poverty and climate change projects being deferred at this stage from the programme until there is clear Scottish Government funding and that references to Transformation Boards are deleted and replaced with the relevant Service Committee. This was seconded by Councillor Macrae.

The Chief Executive raised a question, as principle policy adviser to the Council, in relation to the competency of Councillor Gatt's motion given that it is Council policy for major projects to be overseen by the Transformation Boards and also advised that the Council's budget aligns with the priorities of the Scottish Government of which climate change is one.

In response, the Head of Governance Strategy and Performance suggested that Councillor Gatt may wish to amend his motion to reflect that the governance of projects takes place through Service Committees and acknowledged that the Council's Corporate Plan reflects national priorities such as climate change therefore asked for a short recess so that he could provide Councillor Gatt with advice in relation to the terms of his motion. This was agreed.

On resumption of the meeting and after considering the advice from the Monitoring Officer, Councillor Gatt agreed to amend his motion and moved that the Council agree the recommendations as printed subject to the poverty and climate change projects being deferred at this stage from the programme until there is clear Scottish Government funding and that the governance for the remaining projects take place through the normal Committee reporting process and not through

Transformation Boards. Councillor Macrae, as seconder to Councillor Gatt's original motion agreed with the amended wording and seconded the revised motion.

The Leader stated that each project within the Improvement and Modernisation Programme is important and moved the recommendations as printed within the report. This was seconded by Councillor A McLean.

On a division there voted:

For the Motion (6):	Councillors Gatt, Macrae, Allan, M McLean, Powell and Ross
For the Amendment (14):	Councillors Leadbitter, A McLean, Alexander, Bremner, Coull, Cowe, Cowie, Coy, Creswell, Divers, Morrison, Nicol, Taylor and Warren
Abstentions (0):	Nil

Accordingly, the Amendment became the finding of the Council and it was agreed:

1. to note the progress made against the existing projects within the IMP and agreed the re-prioritisation of the existing projects, as set out in Appendix B of the report;
2. to add the design principles of targeting early intervention and prevention and developing the skills, knowledge and capacity of the workforce to deliver better into the Council's transformation programme;
3. to note the range of investment opportunities identified which add a focus on the above new objectives and contribute to improving the long term sustainability of Council services as set out in Appendix D of the report;
4. to proceed with the development of a programme of investment as the next stage of the Council Improvement and Modernisation Programme, and release £5 million of the reserves ear-marked for transformation and Council priorities to fund the programme of investment, retaining £1.2m (20% of ear marked transformation fund) as a contingency to address emerging issues as projects develop.
5. in order to develop the investment programme as set out below, to approve a project team to support the delivery of the projects:
  - initially the appointment of the preliminary team set out in para 4e; and
  - further project resources to be drawn upon as required as projects develop, up to the level in para 4e with approval for release of resources delegated to CMT in liaison with Transform Boards;
6. to approve a programme of investment as the next stage of development of the Improvement and Modernisation Programme, with detail to be reported further to the Council per (vii) below as follows and as set out in Appendix C to the report:
  - the efficiency projects, which offer cashable efficiency savings, to be funded from capital receipts; (project numbers 7,8,9 as set out in Appendix C of the report);

- the identified investment projects (project numbers 1,2,5 and 6 as set out in Appendix C of the report);
  - education projects (project numbers 3 and 4 as set out in Appendix C of the report) to be developed further in two workstreams both aimed at Raising Attainment, as set out in Appendix E:
    - a) Education Project A: Well-being (comprising of projects 7,11 &15 as set out in Appendix D of the report)
    - b) Education Project B: Curriculum Breadth and Digital (comprising of projects 8 &10 as set out in Appendix D of the report); and
  - instructs further development of these 2 Education workstreams to clarify the scope, outcomes and level of investment within an indicative funding bracket of up to £3.2m with further detail on these projects to be reported back to a future meeting of the Council for determination of how to proceed;
7. in relation to the remaining projects, agrees to:
- defer lower priority projects (project numbers 10-14 as set out in Appendix C of the report) to be re-considered should funds become available for investment; and
  - put on hold the set of low cost projects (project numbers 16-19 as set out in Appendix C of the report) to be considered as part of the 2022/23 budget setting process, or at such earlier time as funds may become available or circumstances change;
8. that governance for project management takes place via Transform Boards and that reports are brought back to the Council on the definition of the full programme of investment with further developed specification of projects and costs for projects as they develop.

## **14 Living Wage Consolidation**

Under reference to paragraph 13 of the Minute of the Meeting of the Education, Communities and Organisational Development Committee dated 31 March 2021, a report by the Depute Chief Executive (Education, Communities and Organisational Development) asked the Council to approve the recommendation from the Education, Communities and Organisational Development Committee to establish budget provision to secure expert consultancy to undertake the specialist work required for consolidation to the Living Wage.

Following consideration, the Council agreed to:

1. approve the recommendation from the Education Communities and Organisational Development Committee to establish budget provision budget of £30,000 to engage external expertise on pay and grading design and equal pay to be funded from free general reserves; and
2. note that the financial implications of the consolidation of the Living Wage will be reported in due course as the specialist work is progressed.

## **15 Regulation of Investigatory Powers (Scotland) Act 2000 and Regulation of Investigatory Powers Act 2000**

Under reference to paragraph 7 of the Minute of the meeting of the Policy and Resources Committee dated 27 April 2010, a report by the Depute Chief Executive (Economy, Environment and Finance) invited the Council to note the use made of covert surveillance by Council employees in the course of their duties for the years 1 April 2018 to 31 March 2021 and the acquisition of communications data by Council employees in the course of their duties for the years 2018 to 2021.

During her introduction, the Depute Chief Executive (Economy, Environment and Finance) advised that the Council had recently undergone an independent inspection with regard to compliance with RIPSAs legislation and that a report detailing the outcome of this inspection will come to a future meeting of Council.

The Leader acknowledged the comments from the Depute Chief Executive (Economy, Environment and Finance) with regard to the independent inspection and stated that the report shows strong governance in place to comply with RIPSAs legislation.

Following consideration, the Council agreed to note the use of covert surveillance by Council employees in the course of their duties for the 3 years to 31 March 2019 and to 31 March 2020 and to 31 March 2021 and the acquisition of communications data by Council employees in the course of their duties for the years to 31 December 2019 and 2020 and 2021 for information purposes only.

## **16 Concessionary Rentals**

A report by the Depute Chief Executive (Economy, Environment and Finance) requested that the Council approve a simplified process for dealing with requests for concessionary rental of low value and short duration.

Following consideration, the Council agreed to:

1. approve the process for dealing with requests for concessionary rentals of low value and short duration as set out in paragraphs 3.4 to 3.7 of the report; and
2. grant delegated authority to the Chief Financial Officer accordingly.

## **17 Lossiemouth East Beach Footbridge Replacement**

Under reference to paragraph 4 of the Minute of the meeting of Moray Council dated 17 December 2019, a report by the Depute Chief Executive (Economy, Environment and Finance) informed the Council of the outcome of the Option Appraisal to replace the footbridge from Lossiemouth to East Beach and Scottish Governments decision with regard to funding the design and construction of the new bridge.

Councillor Cowe welcomed the report and thanked the Lossiemouth Community Development Trust and the Moray Council for their efforts in ensuring a replacement footbridge. He stated that the current bridge is an iconic landmark and

moved that the Council agree to defer the decision as to whether the old bridge be demolished or not until the new bridge has been built.

In response, the Head of Environmental and Commercial Services advised that if the demolition takes place whilst the new bridge is being constructed then the contractor will carry this out however if it is deferred until the new bridge is completed then this will incur an additional cost to the council.

At this point in the meeting, the Chair sought the agreement of the Council to adjourn the meeting so that Members may attend a briefing by NHS Grampian Public Health on Covid levels in Moray, with a view to resuming the meeting at 2:00 pm. This was unanimously agreed.

## **Resumption of Meeting**

### **PRESENT**

Councillor George Alexander, Councillor James Allan, Councillor David Bremner, Councillor Theresa Coull, Councillor John Cowe, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Lorna Creswell, Councillor John Divers, Councillor Donald Gatt, Councillor Graham Leadbitter, Councillor Marc Macrae, Councillor Aaron McLean, Councillor Maria McLean, Councillor Shona Morrison, Councillor Louise Nicol, Councillor Laura Powell, Councillor Derek Ross, Councillor Amy Taylor, Councillor Sonya Warren

### **APOLOGIES**

Councillor Frank Brown, Councillor Tim Eagle, Councillor Ryan Edwards, Councillor Claire Feaver, Councillor Ray McLean, Councillor Walter Wilson

## **17 Lossiemouth East Beach Footbridge Replacement Continued**

On resumption of the meeting, the Council continued to consider a report by the Depute Chief Executive (Economy, Environment and Finance) informing the Council of the outcome of the Option Appraisal to replace the footbridge from Lossiemouth to East Beach and Scottish Governments decision with regard to funding the design and construction of the new bridge.

After considering the earlier advice from the Head of Environmental and Commercial Services in relation to the cost of demolition of the of the old bridge during construction of the new bridge compared to demolition after the new bridge has been constructed, Councillor Cowe withdrew his motion to defer demolition of the bridge until the new bridge is completed and moved the recommendations i-v as printed in the report.

There being no-one otherwise minded, the Council agreed:

1. to note that Scottish Government has agreed to fund the preferred option to construct a new footbridge from the esplanade in Lossiemouth to East Beach;



2. to providing staff resources to progress delivery of the design and construction of the replacement footbridge from Lossiemouth to East Beach. Costs included in Scottish Government funding package, see paragraph 3.7;
3. to give delegated authority to the Legal Services Manager to prepare and sign all Compulsory Purchase Order documentation and to take all necessary steps, including publication of all statutory notices, to secure conformation of the Order by Scottish Ministers and the vesting of the land in the Council, if required;
4. that the Council take ownership of the new bridge on completion of construction; and
5. to use section 20 of the Local Government in Scotland Act 2003 to demolish the old bridge at the same time as building the new one at a cost of £69k with the cost to be met from reserves.

## **18 Staycation Ready Project**

Under reference to paragraph 5 of the Minute of the meeting of Moray Council on 3 March 2021, a report by the Depute Chief Executive (Economy, Environment and Finance) informed the Council of the overall project details and proposals to seek additional funding and request to use the Scottish Crown Estate net revenue allocations for 2020-2021 and 2021-2022 to coastal local authorities for the coastal areas of this project.

Following consideration, the Council agreed to:

1. give delegated authority to the Head of Environmental and Commercial Services in consultation with local ward members to install Phase 1 and 2 of the projects as outlined in paragraphs 3.4 and 3.5 of the report subject to agreement with local community councils on a suitable location, which may differ from those identified in the report;
2. approve proposed waste disposal points charges of £6.82 per use, as outlined in paragraph 3.4 of the report;
3. approve the submission of an Expression of Interest and if successful submission of a stage 2 application to the Rural Tourism Infrastructure Fund, as outlined in paragraph 3.7 of the report;
4. approve the Coastal Communities fund allocation for 20/21 and 21/22 for funding phase 3, as match funding for the application to the Rural Tourism Infrastructure Fund phase 4 and any elements, which are not eligible in the coastal areas, as outlined in paragraph 3.6 of the report; and
5. approve the submission of an application to NatureScot Better Places Fund, as outlined in paragraph 3.8 of the report.

## **19 Question Time**

### **Residual Household Waste**

Under reference to paragraph 10 of the minute of the meeting of Moray Council dated 20 January 2021, Councillor Gatt sought clarification as to when fortnightly collection of residual household waste would resume.

In response, the Head of Environmental and Commercial Services advised that this decision had been deferred until social distancing restrictions had been lifted and that once this had taken place, a comparison would be made between the 2 weekly and 3 weekly collections in conjunction with the Trade Unions and a report would be brought to a future meeting in this regard. This was noted.

### **Dick Bequest Trust**

Councillor Alexander sought clarification in relation to the position the Council should take in light of the recent discovery by the Historian David Alston regarding the Dick Bequest Trust given that the Council significantly uses this fund.

In response, the Head of Governance, Strategy and Performance advised that the Dick Bequest Trust is a statutory Trust of which the Council is a trustee and that the Trust covers the Grampian area providing benefits to pupils. He further advised that Mr Alston, the Historian, has discovered that the Dick Bequest fortune came from profits made in Jamaica and suggested that he provide a short briefing for consideration amongst Group Leaders with a view to providing a fuller report to a future meeting of Council. This was agreed.

### **Use of Social Media during Council Meetings**

Councillor Gatt queried, as part of the governance review, if consideration could be given to include guidance regarding the use of social media during meetings, in particular posts that may be defamatory in nature.

In response, the Head of Governance, Strategy and Performance agreed to consider the use of social media during meetings when carrying out the governance review however acknowledged the wide use of social media platforms that many people use during meetings and reiterated that any defamation to a particular individual should be addressed through the Standards Commission and the Code of Conduct.