

# **MORAY COUNCIL**

## **Minute of Meeting of the Moray Council**

**Wednesday, 13 March 2019**

**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 Derek Ross, Councillor Ron Shepherd, Councillor Amy Taylor, 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 Head of Legal and Democratic Services, the Head of Financial Services, the Senior Project Manager: Early Learning and Childcare Expansion and the Democratic Services Manager as Clerk to the Meeting.

## **1 Chair of the Meeting**

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 Alexander declared a personal interest in Agenda Item 7. The meeting noted that there were no other 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 Order of Business**

In terms of Standing Order 28, the meeting agreed to vary the order of business set down on the Agenda and to take Item 10 on the agenda 'Commission of Services to Moray Council' into the open section of business prior to question time.

## **4 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.

## **5 Minutes**

### **a Minute of Meeting dated 23 January 2019**

The Minute of the Meeting of Moray Council dated 23 January 2019 was submitted and approved.

### **b Minute of Meeting of Joint Consultative Committee dated 7 February 2019**

The Minute of the Meeting of the Joint Consultative Committee dated 7 February 2019 was submitted and approved.

### **c Minute of Special Meeting dated 27 February 2019**

The Minute of the Special Meeting of Moray Council dated 27 February 2019 was submitted and approved.

### **d Minute of Special Meeting dated 4 March 2019**

The Minute of the Special Meeting of Moray Council dated 4 March 2019 was submitted and approved.

## **6 Written Questions \*\***

The Council noted the following written question submitted by Councillor Macrae and the response thereto:-

To ask council what communication is on-going with the Scottish Government regarding Moray Council's financial situation and to confirm to members information on any written or recorded communication between Administration group councillors, the chief executive or any other officer of the council and the Scottish Government, either at Ministerial or official level relating to the council's financial settlement for 2019-20, its budget for 2019-20 and the further cuts necessary for 2020-21 since January 2019.

### **RESPONSE**

The Local Government Finance Circular No 2/2019 (the "Settlement" letter) dated 7

March 2019 from the Deputy Director, Local Government Analytical Services Division and other similar and related formal correspondence, has been received by the Chief Executive and Chief Financial Officer respectively.

The Chief Executive advised the councils Scottish Government Location Director informally by email of the outcome of the council's budget meeting on 27 February 2019.

The Council Leader will update the meeting orally with regard to communications between the Administration Group Councillors.

Thereafter the Council Leader stated that since the 20 December 2018 he and the Convener had attended the following meetings:

- 20 December 2018 - a meeting in the Scot Conference Suite at the Millenium Hotel in Glasgow at an SNP Leaders meeting with Derek McKay MSP;
- 20 January 2019 - via teleconference an SNP Leaders Information Sharing Meeting at the Highland Hotel in Stirling attended by Aileen Campbell MSP;
- 24 January 2019 - SNP Leaders took part in a conference with Derek McKay MSP;
- 31 January 2019 - an SNP Leaders Conference with Derek McKay MSP.

In addition between 3 January 2019 and the budget setting meeting on 27 February 2019 he also had conversations with Kate Forbes MSP the Minister for Local Government Finance, and Kevin Stuart MSP the Minister for Local Government, both of whom have local government ministerial portfolios and he has raised Moray Council budget issues with them. Councillor Leadbitter further stated that on every occasion he has met with Derek McKay or been involved in a teleconference has raised specific Moray budget issues with him. At present he is continuing to work on a range of local government issues with SNP colleagues from across the country, with Highlands and Islands Leaders and with other Council Leaders and Cosla officers and these discussions feed into correspondence and into face to face discussions with Scottish Government Ministers and happen on a regular basis.

Councillor Leadbitter stated that in the coming month he expects to be attending meetings with SNP Leaders, CoSLA Leaders, CoSLA Convention and there will be a further opportunity to lobby Ministers directly at the SNP Conference which is in 3-4 weeks time. He stated that he viewed the job of lobbying for additional finance through a range of means as a continuous ongoing part of the day job as Council Leader.

As a supplementary question Councillor Macrae stated that he saw little to demonstrate to the public that our case is being pursued at the highest level and referred to two Freedom of Information Requests sent to both the Scottish Government and the Council coving the period of 28 December 2018 and January 2019 and the budget asking the same question regarding what level of communications had been entered into and that the answer that came back from the Scottihs Government vaired wildly from the response given today and asked that the Council Leader that we do leave no stone unturned in future communications with the Scottish Government at any level be that lobbying MSPs, Ministers or Cabinet Secretaries and that this is transparent for both Councillors and the public to see that the Administration is working on their behalf.

The Chief Executive advised that Officers will continue where appropriate to discuss the Council's position with key organisations such as the Scottish Government, Audit Scotland and CoSLA.

## **7 Establishment of Post of Early Years Service Manager**

A report was submitted by the Chief Executive inviting the Council to consider Suspending Standing Order 82 and approve the establishment of the post of Early Years Service Manager at a salary grade 13 on a permanent basis, as outlined in the Delivery Plan for the expansion of Early Learning and Childcare provision across Moray.

The Meeting noted that given that it is less than six months since it was agreed to approve the establishment of the post until August 2020, then should the Council determine that there has been a relevant and material change in circumstances and agree to the establishment of the post on a permanent basis it would be necessary to suspend Standing Orders and in so doing the relevant and material change in circumstances should be specified in the motion proposing the suspension.

The Head of Financial Services advised that in regard to the relevant and material change in circumstances, since the advice presented to the Council on 18 December 2018 which stated that Scottish Government funding was in place until August 2020, more detailed information regarding the funding in relation to the Expansion of Early Learning and Childcare in Scotland has been provided in that ring-fenced funding is in place until March 2022 and that on-going funding will be provided through the Local Authority block grant post March 2022 as outlined in paragraph 3.7 of the report.

There being no one otherwise minded the Meeting unanimously agreed that the change in circumstances as set out in paragraph 3.7 of the report represented a relevant and material change in circumstances, in terms of Section 82 of the Council's Standing Orders and agreed to suspend Standing Order 83 and reconsider the establishment of the post of Early Years Service Manager.

Thereafter following lengthy discussion Councillor Alexander, seconded by Councillor Warren moved approval of the recommendation as detailed in the report. There being no one otherwise minded the Council agreed the establishment of the post of Early Years Service Manager on a permanent basis as detailed within the report.

## **8 Transfer of Financial Inclusion Team**

A report was submitted by the Corporate Director (Corporate Services) seeking authority to transfer responsibility for the Financial Inclusion Team and the Council's Citizen Advice Bureau budget from the Head of Development Services (Trading Standards Team) to the Head of Legal and Democratic Services (Customer Services Team) in order to align existing welfare advice and support services.

Following consideration the Council agreed that subject to consultation responsibility for the Financial Inclusion Team and the Council's Citizen Advice Bureau budget transfers from the Head of Development Services to the Head of Legal and Democratic Services with effect from 1 April 2019 and that the Scheme of Delegation is amended accordingly.

## **9 Forres Common Good - Forres Mechanics Football Club**

Prior to discussion of this Item Councillor Alexander declared a personal interest in this item and left the meeting taking no part in the discussion or decision.

A report was submitted by the Corporate Director (Corporate Services) inviting the Council to consider an application from Forres Mechanics Football Club for financial assistance from Forres Common Good Fund towards the cost of the upkeep of their football pitch.

Following lengthy discussion Councillor Feaver moved that the Council do not transfer a further £3000 in this financial year to Forres Mechanics Football Club to defray the running costs of their business. Councillor Macrae seconded the motion.

As an amendment Councillor Creswell, seconded by Councillor Cowe, moved that the Council approve the application from Forres Mechanics Football Club for financial assistance of £3000 from Forres Common Good Fund towards the cost of the upkeep of their football pitch.

On a division there voted:

For the Motion: 9 Councillors Feaver, Macrae, Allan, Brown, Eagle, Gatt, M McLean, Ross and Warren

For the Amendment: 13 Councillors Creswell, Cowe, A McLean, Bremner, Coull, Cowie, Coy, Divers, Laing, Leadbitter, Morrison, Shepherd and Taylor

Abstentions: (0)

Accordingly the Amendment became the finding of the Meeting and the Council agreed to approve the application from Forres Mechanics Football Club for financial assistance of £3000 from Forres Common Good Fund towards the cost of the upkeep of their football pitch.

## **10 Applications for Funding from Common Good**

A report was submitted by the Corporate Director (Corporate Services) asking the Council to approve a streamlining of the procedures for processing applications for funding from the Common Good.

Following discussion Councillor Feaver stated that from the discussion, in her opinion, the change was being requested due to the administration of the system being an onerous task rather than looking at it from a democratic or trustee's point of view and stated in her opinion, the current system provides a safety net which helps to prevent an impression of favoured bodies getting preferential treatment and encourages Councillors to show independence of mind and moved against the recommendation and keep the status quo in order to maintain the democratic process. Councillor Macrae seconded the motion.

As an amendment Councillor Leadbitter, seconded by Councillor Cowe, moved approval of the recommendations as outlined in the report.

On a division there voted:

For the Motion: (11) Councillors Feaver, Macrae, Brown Cowie, Creswell, Eagle, Gatt, M McLean, Ross, Shepherd and Warren

For the Amendment: (11) Councillors Leadbitter, Cowe, A McLean, Allan, Bremner, Coull, Cowe, Coy, Divers, Laing, Morrison and Taylor

Abstentions: (1) Councillor Alexander

There being equality of votes, and in terms of Standing Order 63(e), the Chairman cast her casting vote in favour of the Amendment.

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

i) applications for funding from Common Good continue to be considered by local members in the first instance and that if two thirds or more of local members are in agreement that should be sufficient authority to proceed under the delegated authority of the Head of Financial Services, and

ii) if the agreement of at least two thirds of local members cannot be obtained on an application for funding from the Common Good then the application will be reported to Policy and Resources Committee.

## **11 Commission of services to Moray Council [Para 8]**

A report was submitted by the Chief Executive asking the Council to agree to commission an external service to provide additional capacity and expertise to produce an Improvement Plan for the education function of the Council.

The Chief Executive advised the meeting that it had been rightly pointed out to his attention that the rationale for not having followed the normal process set out in the Financial Regulations, i.e. to tender the work competitively by seeking quotes, is not explicit in the report and welcomed the opportunity to provide the necessary clarity.

The Chief Executive advised that faced with risks identified in the report there was a need to react swiftly and decisively for there to be a council led self evaluation and improvement process commissioned by the Council and reconfirmed by the commitment of Members, hence the report before Members today. To do that a plan needed to be provided by the end of February. This led to the urgent identification of someone with the relevant skills and background to undertake the improvement work with immediate effect, hence the appointment of Mr Robertson.

He further advised that Education Scotland wish to see this as a Moray Council led process with Education Scotland providing support as required and he is to formally approach Education Scotland in writing to which will seek their support and advice in regard to the arrangements being put in place. In the meantime the Head of Schools and Curriculum Development and Mr Robertson will flesh out the required processes, timescales and implications of this course of action as recommended in the report.

The Chief Executive advised that he was conscious that Members may not be fully aware of the background to the concerns and was aware that in October 2018 a briefing was given by David Gregory the then Inspector for Moray and proposed that

a further briefing would be useful in terms of the project plan going forward in order to fully brief members on what the issue and challenges are. The Plan itself will be high level but likely to focus on key performance outcomes such as leadership, the impact on learners, staff and parents and also the capacity for improvement. The Chief Executive further advised that he believed the focus will begin to address the staff have in terms of leadership and capacity for improvement.

In conclusion he advised that if this review was to commence during the summer term, a report would be brought back to the Council in August 2019 following the summer recess.

Councillor Warren, in her capacity as Chairman of Children and Young Peoples Services Committee, stated that she welcomed the report and the opportunity to use Mr Robertson who will provide a fresh pair of eyes and another pair of hands. She stated that in her opinion it is important when looking at transformational change and improvements to be able to continue with the day job but also have the capacity and people who can look at the transformational change and look at areas for improvement while supporting the staff within Education who are working under exceeding pressure and she commended them for all their work thus far.

There followed lengthy debate during which the Chief Executive responded to Members questions in regard to the need to employ a consultant to undertake the work; the process followed in regard to this and whether any other support had been sought or was available to the Council from organisations such as Education Scotland and the Northern Alliance .

Thereafter Councillor Morrison, seconded by Councillor Leadbitter, moved that the Council agree the recommendation as outlined in paragraph 3.1 of the report.

As an amendment Councillor Ross, seconded by Councillor Macrae, moved that the Council do not agree the recommendation.

On a division there voted:

For the Motion (10) Councillors Morrison, Leadbitter, Bremner, Coull, Coy, Divers, Laing A McLean, Taylor and Warren

For the Amendment (11) Councillors Ross, Macrae, Allan, Brown, Cowie, Creswell, Eagle, Feaver, Gatt, M McLean and Shepherd

Abstentions (2) Councillors Alexander and Cowe

Accordingly the Amendment became the finding of the Meeting and the Council agreed not to approve the appointment of Bruce Robertson Education Limited to provide on a consultancy basis, between March 2019 and June 2019, additional capacity and expertise to co-ordinate, prepare and complete an Improvement Plan for the education function of the Council.

## **12 Question Time \*\*\***

Councillor A McLean stated that he had concerns regarding the previous decision, the risks associated with it and the resultant delay this meant in addressing this very important issue and asked where the Council goes from here and how soon could a

timetable in addressing this issue be available to Members?

In response the Chief Executive advised that he did not have an answer to this and would be happy to explain in private what the concerns are in regard to this.

In regard to the question of a timetable Councillor Morrison stated that considering the implications arising from the decision, time will be needed in order for a timetable to be formulated.

Councillor Alexander asked if all of the Employee Review and Development Process's (ERDPs) were up to date in respect management staff, in particular the Corporate Management Team (CMT)?

In response the Chief Executive advised that he did not have that answer to hand and would advise Councillor Alexander outwith the meeting.

Councillor Alexander, in referring to the voting process relating to the previous item, queried why no further debate had been allowed following Councillor Ross's amendment as had this been allowed he would have asked the same question raised by Councillor A McLean as to what the repercussions would be to go against the recommendation and that this may have had a bearing on how he voted.

In response the Democratic Services Manager advised that at the time Councillor Alexander had intimated he wished to ask a question, the meeting had already moved into the summing stage of the voting procedure and therefore no further debate or discussion could be entered into at this point.

Councillor Morrisn further stated that this question should have been an intrinsic part of the debate and if the question had not been asked before that point then it should have been and everyone should have been aware of the implications, and therefore if no one decided or chose to ask that question, this, in her opinion, was a failing.

### **13      Budget 2019-20 - Workforce Implications [Paras 1 and 11]**

Under reference to paragraph 6 of the Minute of the special meeting of Moray Council dated 27 February 2019, a report was submitted by the Corporate Director (Corporate Services) asking the Council to suspend Standing Order 83 and agree to withdraw an application for voluntary retirement previously agreed due to an administrative error.

The Meeting noted that given that it is less than six months since it was agreed to approve the application for voluntary retirement, then should the Council determine that there has been a relevant and material change in circumstances and agree to withdraw the applicaiton it would be necessary to suspend Standing Orders and in so doing the relevant and material change in circumstances should be specified in the motion proposing the suspension.

Following consideration the Council unanimously agreed that the change in circumstances as detailed in paragraph 4.4 of the report represented a relevant and material change in circumstances, in terms of Seciton 82 of the Council's Standing Orders and agreed to suspend Standing Order 83 and thereafter agreed to withdraw the application for voluntary retirement.