

MORAY COUNCIL

Minute of Meeting of the Moray Council

Wednesday, 05 September 2018

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

PRESENT

Councillor George Alexander, 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 Ray McLean, Councillor Shona Morrison, Councillor Amy Patience, Councillor Ron Shepherd, Councillor Sonya Warren

APOLOGIES

Councillor James Allan, Councillor Ryan Edwards, Councillor Derek Ross, Councillor Walter Wilson

IN ATTENDANCE

The Chief Executive, the Acting Corporate Director (Education and Social Care), the Corporate Director (Economic Development, Planning & Infrastructure), the Head of Legal and Democratic Services, the Head of Financial Services, the internal Audit Manager, the Educational Resources Manager and the Democratic Services Manager 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, all Group Leaders advised that their respective groups had discussed Item 14 on the agenda 'Appointments to Committees and Outside Bodies'. Councillor Patience declared an interest in Items 12 and 16 on the agenda as a Board Member and advised that she would leave the meeting during the discussion of those items. Councillors Brown and Macrae also declared an interest in these items as Board Members but advised that they did not consider the content of the reports merit them having to leave the meeting during discussion of them. Thereafter 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.

2 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.

Paragraph Number of Minute	Paragraph Number of Schedule 7A
16	1
17	6&9

3 Economic Development and Infrastructure Services Committee - Change of Date

In response to a request from Councillor Leadbitter in his capacity as Chair of the Economic Development and Infrastructure Services Committee the meeting agreed to amend the date of the next scheduled meeting of the ED&I Committee to a date to be decided during the week commencing 15 October 2018 and that the date be advised to Committee Services accordingly.

4 Minutes

(a) MORAY COUNCIL - MINUTE OF SPECIAL MEETING DATED 28 JUNE 2018

The Minute of the special meeting of the Moray Council dated 28 June 2018 was submitted and approved.

(b) MORAY COUNCIL - MINUTE OF SPECIAL MEETING DATED 2 JULY 2018

The Minute of the special meeting of the Moray Council dated 2 July 2018 was submitted and approved.

(c) POLICY AND RESOURCES COMMITTEE - MINUTE OF MEETING DATED 7 AUGUST 2018

The Minute of the meeting of the Policy and Resources Committee dated 7 August 2018 was submitted and approved.

5 Written Questions **

The Council noted the following written question submitted by Councillor Eagle and the responses thereto:-

Question Submitted By Councillor Eagle

In light of the financial uncertainty facing the council three programme boards were set up to look at both ongoing projects but also reform and transformation. The setup of these boards was approved at the meeting of the full council meeting on 28th February 2018. To date the programme boards have covered current projects in the council. When will the boards look at reform and transformation as originally agreed?

Response

A number of transformational projects are already being reported through the boards including the Joint Energy from Waste Project with Aberdeen City and Aberdeenshire, Moray Growth Deal, the Leisure Services Review and Digital Services. Mandates have been prepared setting out the briefs for the remaining projects that make up the Modernisation and Improvement Programme and these will be fed into the next cycle of board meetings. There will also be the opportunity to review and refine the agendas for the transformation boards in light of the new projects coming forward.

6 Revenue Budget Monitoring to 30 June 2018

A report was submitted by the Corporate Director (Corporate Services) advising the Council of the revenue budget monitoring position to 30 June 2018.

Following lengthy discussion the Council agreed to note:

- i. the budget monitoring position of £156,000 under budget for 2018/19 as at 30 June 2018;
- ii. that this position consists of an underspend on Devolved School budgets of £186,000, an overspend on Social Care services delivered on behalf of the Moray Integration Joint Board (MIJB) of £478,000 and an underspend on other services of £448,000;
- iii. movement of £678,000 in the General Revenue Grant, as detailed in paragraph 3.4 of the report;
- iv. emerging budget pressures as summarised in paragraph 6.2 of the report;
- v. the position regarding the MIJB as described in paragraph 6.10 of the report, with cost implications of £1.3 million for the Council, and
- vi. further commitments of £5.11 million against reserves as summarised in Section 8 of the report.

7 Capital Plan 2018-19

A report was submitted by the Corporate Director (Corporate Services) advising the Council of the expenditure to 30 June 2018 under the capital plan for financial year 2018/19 and of the estimates of projected expenditure profiled into quarters.

Following consideration the Council agreed to:

- i. note expenditure to 30 June 2018 of £3,015,000;
- ii. note the current projected expenditure of £44,246,000 for 2018/19 profiled into quarters;
- iii. note the projected overall expenditure for projects spanning more than one

financial year, as set out in Appendix 2 of the report;

- iv. approve proposed budget deferments of £14,389,000 arising from slippage and expenditure reprofiling from 2018/19 to 2019/20 as detailed in paragraph 5.9 of the report;
- v. approved proposed budget advancement of £250,000 from future years to 2018/19 as detailed in paragraph 5.10 of the report, and
- vi. note that in light of the very serious financial position, capital commitments for 2018/19 and 2019/20 are being reviewed to assess options to reduce spend in uncommitted areas.

8 Proposed Response to the Scottish Government Consultation on Implementation of the Barclay Review of Non Domestic Rates in Scotland

A report was submitted by the Corporate Director (Corporate Services) asking the Council to consider a response to the Scottish Government's consultation on the implementation of the provisions of the Barclay Review of non-domestic rates in Scotland.

Following consideration the Council agreed that the content of the Appendix represented a reasonable response to the consultation subject to:

- i. the inclusion of an additional comment to the response that the Scottish Government consider whether there would be a wider benefit to the public purse by preventing appeals by the public sector; and
- ii. the regard to the response to Question 21 in relation to the exceptional circumstances to extend this to include exceptional circumstances in which it may not be possible for the ratepayer to lease the property for 70 days per annum.

It was further agreed that copies of the additions to the response be circulated to all members.

9 Monitoring Officer report

A report was submitted by the Monitoring Officer advising the Council on the range of activities undertaken by the Monitoring Officer from 1 June 2017 to 31 July 2018.

Following consideration the Council agreed to note the activities of the Monitoring Officer over the period 1 June 2017 to 31 July 2018 as outlined in the report.

10 Review of Moray's Leisure Estate

A report was submitted by the Acting Corporate Director (Education and Social Care)

informing the Council of the progress made in relation to the Review of Moray's Leisure Estate and asking the Council to agree that the Leisure Estate Project Board continues to identify the relative strategic importance of the Leisure Estate, investigate governance options and report back to Council in early 2019.

Following consideration the Council agreed:

- i. to note the progress made in relation to the Review of Moray's Leisure Estate;
- ii. that the Leisure Estate Project Board identify the relative strategic importance of the Council's various leisure facilities and services;
- iii. that the Leisure Estate Project Board continue to investigate governance options for the Leisure Estate in the order as indicated at paragraph 3.10 of the report; and
- iv. that the Leisure Estate Project Board report back to Council in early 2019 on the outcome of investigations into (ii) and (iii) above.

11 Moray Leisure Centre - Internal Audit Overview

Under reference to paragraph 3 of the Minute of the Meeting of the Council dated 16 May 2018, a report was submitted by the Chief Executive providing the Council with a commentary prepared by the Internal Audit Manager in respect of the Council's relationship with Moray Leisure Centre, following a request for an independent report at the meeting of the Council on 16 May 2018.

Following consideration the Council agreed:

- i. to note the findings from the overview of the Moray Leisure Centre's operation over its initial 25 year period and the subsequent interim arrangements agreed with the current Board;
- ii. to acknowledge that, with hindsight, 25 years was too long a period to expect the initial funding agreement to operate in a manner acceptable to all parties, all the more so when reflecting on societal changes and the financial downturn and its impact on the public sector during that time;
- iii. to give impetus to the wider leisure services review, which has been under consideration for some time, to provide greater certainty and enable planning for an investment in those services that are to remain part of the leisure estate;
- iv. that, should the Leisure Centre be retained and operate as an Arms' Length External Organisation, any agreement entered into will need to reflect current circumstances; securing continuity of service while supporting the council's obligations to achieve best value.

12 Relocation of Polling Place - Cullen and Rathven Rural

A report was submitted by the Corporate Director (Corporate Services) seeking

approval of a proposed change of polling place in Ward 2 - Keith and Cullen for polling district BM0202 - Cullen and Rathven due to uncertainty of the availability of the existing venue.

Following consideration the Council approved the relocation of the polling place for Polling District BM0202 Cullen and Rathven Rural to the Cullen and District Bowling and Tennis Club, Reidhaven Place, Cullen.

13 Appointments to Committees and Outside Bodies

A report was submitted by the Corporate Director (Corporate Services) inviting the Council to consider making appointments to the committees and outside bodies as detailed in sections 4 and 5 of the report.

The meeting also noted that under reference to paragraph 17 of the minute of this Council dated 7 December 2016, it was agreed the Social Work Complaints Review Committee would cease to have statutory functions from 1 April 2017 save for dealing with any outstanding referrals. Since that time an outstanding case has been referred by the Scottish Public Services Ombudsman which therefore requires the temporary re-instatement of the Social Work Complaints Review Committee.

Following consideration the Council approved the undernoted appointments to committees as follows:

- i. Social Work Complaints Review Committee – Councillors Brown and Warren
- ii. Transforming Boards – agreed that the membership be deferred for consideration in order for further discussion at a Group Leaders’s meeting due to be held later that afternoon and brought back to the special meeting on 26 September 2018.
- iii. Leisure Estate Review Project Board – agreed that Councillor Warren be included as a member of this Board.

Following further consideration the Council noted the previously agreed changes to the outside bodies which had been circulated to all members and that consideration would require to be given separately to those where agreement had not been reached. Thereafter the undernoted appointments were agreed as follows:

ARMED FORCES AND VETERANS CHAMPION

Councillor D Gatt

AUCHERNACK TRUST

Councillors G Alexander, L Creswell, C Feaver and A McLean

BANFFSHIRE EDUCATIONAL TRUST JOINT BOARD OF GOVERNORS

Councillors T Coull, D Ross and S Warren

BOARD OF BUSINESS LOANS SCOTLAND

Councillor T Coull

BUSINESS GATEWAY

Councillor J Cowe

CAIRNGORMS NATIONAL PARK

Councillor Coull seconded by Councillor Warren moved that Councillor Laing be appointed to the Board

As an amendment Councillor Divers , seconded by Councillor Macrae moved that Councillor Ross be appointed

On a division there voted:

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

For the Amendment (13): Councillors Diver, Macrae, Alexander, Brown, Cowe, Cowie, Creswell, Eagle, Feaver, Gatt, M McLean, R McLean and Shepherd

Abstentions (0)

Accordingly the amendment became the finding of the meeting and Councillor Ross was appointed.

CASTLE TO CATHEDRAL

Councillor R McLean

CITIZENS ADVICE BUREAU (CAB) BOARD OF DIRECTORS (ADVISERS)

Councillors J Divers and S Morrison

CITY OF ELGIN BUSINESS IMPROVEMENT DISTRICT (BID)

Councillor J Divers

Councillor Coy (Observer)

CONVENTION OF SCOTTISH LOCAL AUTHORITIES (COSLA)

Councillors G Leadbitter, S Morrison and T Eagle

COSLA LEADERS MEETING

Councillor G Leadbitter

COSLA BOARDS

Children and Young people	-	Councillor S Warren
Community and Wellbeing	-	Councillor L Laing
Environment and Economy	-	Councillor G Leadbitter
Health and Social Care	-	Councillor S Morrison

CONVENTION OF THE HIGHLANDS & ISLANDS

Councillor G Leadbitter

COUNTY OF BANFF BURSARY FUND: BOARD OF GOVERNORS

Councillor Shepherd

DICK BEQUEST TRUST SCHEME

Councillor D Ross

EQUALITIES CHAMPION

Councillor S Morrison

FINDHORN BAY LOCAL NATURE RESERVE MANAGEMENT COMMITTEE

Councillor C Feaver

FINDHORN, NAIRN, SPEYSIDE LOCAL PLAN DISTRICT STRATEGIC STEERING GROUP

Councillor Coy seconded by Councillor Bremner moved that Councillor A McLean be appointed to the Group.

As an amendment Councillor Eagle seconded by Councillor M McLean moved that Councillor Feaver be appointed

On a division there voted:

For the Motion (12): Councillors Coy, Bremner, Coull, Cowe, Cowie, Laing, Leadbitter, A McLean, Morrison, Patience, Shepherd and Warren.

For the Amendment (7): Councillors Eagle, M McLean, Brown, Feaver, Gatt, Macrae and R McLean.

Abstentions (3): Councillors Alexander, Creswell and Divers.

Accordingly the motion became the finding of the meeting and Councillor A McLean was appointed.

FORRES GOLF COURSE: BOARD OF TRUSTEES

Councillors L Creswell and A McLean

FOUNDATION OF THE UNIVERSITY OF THE HIGHLANDS & ISLANDS (UHI)

Councillors C Feaver and A Patience

GRAMPIAN NHS BOARD

Under reference to paragraph 12 of the Minute of the meeting of Moray Council dated 22 May 2013 Councillor A McLean moved that Councillor S Morrison be nominated as the Council's nominated representative on the Grampian NHS Board stating that previous guidance as minuted at that meeting stated that appointment to this Board is restricted to the Council Leader, Depute Leader (Convener), or Chairperson of the Health and Social Care Services Committee which has since been overtaken by the Moray Integration Joint Board (MIJB). He was of the opinion that, as this guidance still stands and stressed the strong link needed between the Council's Administration, the MIJB and the NHS Board, and as the Convener currently holds two of those roles, she would be the ideal person to go forward in this role.

For clarification Councillor Leadbitter stated that as this was a Ministerial appointment, the Administration Group were not proposing the appointment of Councillor Morrison, they were proposing that a request be made to the Scottish Government Minister to change the appointment to the Board.

The Head of Legal and Democratic Services confirmed that it was competent for the

Council to write to the Chairman of the NHS Board expressing its preference in regard to its nominated representative and that the Board make that onward recommendation to the Scottish Minister.

Councillor Brown stated that he would not resign nor had any intention of so doing for the following reasons. In terms of the information the Council had in relation to the time commitment to NHS Grampian Board of one day per month, this was not accurate, with the real time commitment necessary to properly fulfil the role was approximately 30 days per year which included attendance at other NHS Board committees, development days and ad hoc meetings. He stated that he would question whether a Senior Member of this minority Administration is in a position to dedicate that amount of time to the role. He further stated that whilst he had previously thought that this appointment and the role of the Chair of the MIJB had congruency but the reality of the last year had confirmed the reverse as in his opinion there are inherent conflicts in these roles driven by the financial difficulties of all of the parties resulting in conflicts in relation to the roles of governance which he advised have been identified by NHS Boards across Scotland. He further referred to the difference between the role of a Board member and that of a Councillor, stating that an NHS Board functions as a team and not a committee and he has made it his mission to be a full member of the team and to gain the trust and respect of the other Board Members which is an essential element to successfully influence policy. He further referred to the investment made by the NHS Board in his personal development. He also referred to the speculation in regard to the stability of the NHS Board following the retirement of the NHS Grampian Chief Executive, the current Board chair not seeking to renew his term of office which expires in the new year and the term of office of the Vice Chair ending this month and was of the opinion that it was not right at this point to add to the number of Board changes in NHS Grampian and therefore would not be resigning. Whilst it was clearly the Council's choice to write to the Minister to remove him from office, he would also be in a position to make his own representation to the Minister.

Thereafter Councillor A McLean, seconded by Councillor Alexander moved that the Council write to the Chairman of the NHS Board expressing its preference that Councillor S Morrison be the Council's nominated representative on the Grampian NHS Board and that the Chairman make representation to the Scottish Minister to appoint her in preference to the current appointee Councillor Brown.

As an amendment Councillor Gatt, seconded by Councillor Eagle moved that Councillor Brown remain as the Council's nominated representative on the Grampian NHS Board.

On a division there voted:

For the Motion: (14) Councillors A McLean, Alexander, Bremner, Coull, Cowe, Cowie, Coy, Creswell, Laing, Leadbitter, Morrison, Patience, Shepherd and Warren.

For the Amendment: (7) Councillors Gatt, Eagle, Brown, Feaver, M McLean, Macrae and R McLean

Abstentions: (1) Councillor Divers.

Accordingly the Motion became the finding of the meeting and it was agreed that the Council write to the Chairman of the NHS Board expressing its preference that Councillor S Morrison be the Council's nominated representative on the Grampian

NHS Board and that the Chairman make representation to the Scottish Minister to appoint her in preference to the current appointee Councillor Brown.

GRAMPIAN VENTURE CAPITAL FUND LIMITED

Councillors J. Cowe and D Bremner – no further meetings but both required to sign off final accounts.

HIGHLAND AND MORAY AREA SUPPORT TEAM

Councillor F Brown and S Warren

HIGHLAND RESERVE FORCES & CADETS ASSOCIATION – NORTHERN AREA COMMITTEE

Councillor F Brown

HIGHLANDS AND ISLANDS EUROPEAN PARTNERSHIP

Councillor G Leadbitter

HIGHLANDS AND ISLANDS STRATEGIC TRANSPORT PARTNERHSIP (HITRANS)

Councillor J Cowe

Substitute - Councillor G Leadbitter

HIGHLANDS AND ISLANDS TERRITORIAL COMMITTEE

Councillor G Leadbitter

JOINT ENERGY FROM WASTE PROJECT - ELECTED MEMBERS ENGAGEMENT GROUP

Councillors G Cowie, J Divers and G Leadbitter

Substitute – Councillor D Bremner

KNOCKANDO WOOLMILL TRUST

Councillor D Ross

MORAY CHAMBER OF COMMERCE

Councillor G Leadbitter

MORAY COMMUNITY JUSTICE

Councillor Coull seconded by Councillor Warren moved that Councillor Coy be appointed to Moray Community Justice.

Councillor Macrae, seconded by Councillor Leadbitter moved that Councillor Divers be appointed to Moray Community Justice.

Councillor Alexander, seconded by Councillor Shepherd moved that Councillor Creswell be appointed to Moray Community Justice.

In noting that there were 3 nominations for 2 appointments, and in terms of Standing Order 63(b) a secret ballot was held between the 3 nominations from which those candidates with the highest number of votes were appointed.

Councillor Creswell – 12 votes

Councillor Coy – 10 votes

Councillor Divers – 22 votes

Accordingly Councillors J Divers and L Creswell were appointed to Moray Community Justice.

MORAY ECONOMIC PARTNERSHIP

Councillor G Leadbitter

MORAY LEISURE CENTRE BOAD OF DIRECTORS

Councillors F Brown, M Macrae and A Patience

MORAY LOCAL OUTDOOR ACCESS FORUM (LOAF)

Councillor L Laing

MORAY TWINNING ASSOCIATION

Councillor J Allan

MORAY WOMEN'S AID - BOARD OF DIRECTORS

Councillors G Leadbitter
Substitute: Councillor P Coy

NORTH EAST SCOTLAND AGRICULTURAL ADVISORY GROUP

Councillors D Bremner and T Eagle

NORTH EAST LOCAL PLAN DISTRICT STEERING GROUP

Councillor D Bremner

NORTH EAST SCOTLAND FISHERIES DEVELOPMENT PARTNERSHIP STRATEGY GROUP

Councillors M Macrae and S Warren

NORTH EAST SCOTLAND PENSION FUND – PENSIONS BOARD

Councillor J Cowe

NORTH EAST SENSORY SERVICES (OBSERVER)

Councillor T Coull

NORTHERN ROADS COLLABORATION COMMITTEE

Councillors Cowie and G Leadbitter

SCOTLAND EXCEL JOINT COMMITTEE

Councillor A McLean

SCOTTISH JOINT COUNCIL FOR LOCAL GOVERNMENT EMPLOYEES

Councillor J Divers

SCOTTISH NATIONAL WAR MEMORIAL

Councillor D Gatt

VICTIM SUPPORT

Councillor P Coy

A report was submitted by the Acting Corporate Director (Education and Social Care) asking the Council to approve a change to the Scheme of Delegation to reflect the change of appointment of the Chief Social Work Officer post.

Following consideration the Council approved a change to the Scheme of Delegation to reflect the change of appointment of the Chief Social Work Officer post from the Head of Integrated Children's Services to the Head of Adult Services.

15 Question Time ***

No questions were raised.

16 Moray Leisure Centre - Governance and Staffing

[Para 1]

A report was submitted by the Chief Executive on specific issues relative to management and staffing of the Moray Leisure Centre.

Following consideration the Council agreed to note the interim management and staffing arrangements now in place which, it is expected, will continue in present form until the council's leisure service review is concluded.

17 Cullen Town Hall - Proposed Sale

[Paras 6 & 9]

A report was submitted by the Acting Corporate Director (Education and Social Care) inviting the Council to consider the results of the consultation exercise in relation to the proposal to sell Cullen Town Hall.

Following consideration the Council agreed to:

- i. Note the results of the consultation exercise in relation to the proposal to sell Cullen Town Hall;
- ii. confirm the decision of the Policy and Resources Committee on 13 March 2018 to sell Cullen Town Hall subject to court approval as detailed in paragraphs 5.1 and 5.2 of the report;
- iii. authorise the Legal Services Manager (Litigation & Licensing) to apply to Elgin Sheriff Court for permission to proceed with the sale of Cullen Town Hall, and
- iv. authorise the Estates Manager and the Legal Services Manager (Property & Contracts) to finalise the detailed terms and conclude the conveyancing.