

**THE MORAY COUNCIL**  
**MINUTE OF MEETING OF THE MORAY COUNCIL**  
**WEDNESDAY 30 JANUARY 2008**  
**COUNCIL OFFICE, ELGIN**

**PRESENT**

Councillors L A Bell, A Bisset, G S Coull, J S Cree, J Hamilton, J C Hogg, B Jarvis, G Leadbitter, J Mackay, M J McConachie, A D McDonald, G McDonald, E M McGillivray, G McIntyre, A C McKay, F J Murdoch, I Ogilvie, P Paul, D G Ross, J G Russell, M Shand, R H Shepherd, D C Stewart, A G Wright, I R Young

**IN ATTENDANCE**

The Chief Executive, the Director of Community Services, the Director of Environmental Services, the Director of Educational Services, the Chief Financial Officer, the Chief Legal Officer, the Chief Housing Officer, the Head of Personnel Services, the Revenues Manager, the Taxation Manager and the Principal Committee Services Officer, Clerk to the Meeting.

**APOLOGIES**

Apoloiges for absence were intimated on behalf of Councillor J A Divers.

**1. DECLARATION OF GROUP DECISIONS:-**

In terms Standing Order 20 the Meeting noted the following declarations:-

In respect of the Independent Members, the Chairman confirmed that the Independent Members had discussed Agenda Items 4 'Appointment of Depute Convener' and 17 'Appointments to Committees' but that it should, however, be appreciated that Independent Councillors are free to vote as they see fit. There was no whip on the decision of Independents and no sanctions in place to encourage them to vote in any particular way.

Councillor Stewart declared a personal interest in Agenda Item 19 'Cash Collection Review'.

Councillor Murdoch declared a personal interest in Agenda Item 25 'Application for Grant Assistance by Moray Twinning Association'.

**2. EXEMPT INFORMATION**

The Meeting 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 27 and 28 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.

<b><u>Para. No. of Minute</u></b>	<b><u>Para. No. of Schedule 7A</u></b>
27	6 & 9
28	1
29	1

### 3. APPOINTMENT OF DEPUTE CONVENER

The Convener invited nominations for the office of Depute Convener of The Moray Council.

On a motion by Councillor McIntyre, seconded by Councillor Russell, Councillor Wright was unanimously elected as Depute Convener of the Council.

Councillor Paul congratulated Councillor Wright on behalf of the SNP Group on his appointment.

### 4. WRITTEN QUESTIONS

In response to a written question from Councillor Ross seeking the rationale for the post office questionnaire the Meeting noted that a committee report was submitted to the Environmental Services Committee on 10 October 2007. From this report, authority was given to set up a Post Office Working Group. The Working Group includes three elected members: Councillors Murdoch, McConachie and A McKay.

The Working Group decided at their meeting to send out consultation questionnaires to local community groups regarding post offices.

The main reasons for this were:

- Raising awareness of the issue - 18% of post offices in the UK are to be closed as part of Post Office Ltd's Network Change Programme. By sending out the questionnaires and with a corresponding press release, the Working Group aimed to encourage communities to get involved in the decision-making process.
- Information gathering - Moray Council have been asked by Post Office Ltd to send them local information which may be taken into account when they decide on which post offices to close. Post Office Ltd are themselves undertaking a 6-week public consultation commencing from the date of the closure announcements (currently scheduled for 28<sup>th</sup> May 2008). With this being such a short period for consultation, the Working Group aimed that the questionnaires would enable them to find out any local issues and give them plenty of time to prepare any required responses.

48 questionnaires were sent out to local area forums, community councils, tenants organisations and village hall associations. The postage and paper cost was £16.80. The Working Group have had 25 responses and these will be passed on to Post Office Limited along with other demographic, economic and transport data which the Working Group have been gathering.

There was submitted a 3 part written question from Councillor Hogg in the following terms:-

- Could it be confirmed that the nuisance arising from the free issue of polythene carrier bags by Moray retailers, particularly some supermarkets, has reached a level likely to be judged as a 'nuisance' in the context of the Local Government (Scotland) Act 1973, s. 201 (1) which covers local authority powers to make byelaws?
- If the above can be confirmed as a reasonable supposition, and subject to the Council's constitutional regulations could a letter of enquiry be submitted to Scottish Ministers with a view to testing the 'nuisance' definition in the context of Byelaw-making legislation and, thereby, testing the probability of Scottish Ministerial approval of a Byelaw banning the free issue of polythene carrier bags throughout Moray?
- If the Scottish Ministers' response is positive, and in view of the financial and environmental benefits referred to in the note below, could a report on the preparation of a Byelaw banning Moray retailers from issuing free polythene carrier bags be brought before Full Council for consideration and approval?

In response the Meeting noted that the Local Government (Scotland) Act 1973 as amended provides a procedure for the making and confirmation of Byelaws.

Whilst a Byelaw can be made by resolution of the Council it would not have effect until confirmed by the Scottish Ministers. (Ministers may confirm Byelaws with or without modification or refuse to confirm Byelaws.)

As the Scottish Ministers will scrutinise a Byelaw submitted for confirmation, it is therefore considered the most appropriate response to the question would be for the Chief Legal Officer to seek the advice and guidance of the Scottish Ministers in respect of both the expediency and legality of such a Byelaw and report to the next meeting of Council on the outcome. This was agreed by the meeting.

#### **5. ENVIRONMENTAL SERVICES COMMITTEE – MINUTE OF SPECIAL MEETING DATED 22 OCTOBER 2007**

The Minute of meeting of the (Special) Environmental Services Committee dated 22 October 2007 was submitted and approved.

#### **6. ENVIRONMENTAL SERVICES COMMITTEE – MINUTE OF SPECIAL MEETING DATED 6 NOVEMBER 2007**

The Minute of the meeting of the Environmental Services Committee dated 6 November 2007 was submitted and approved.

#### **7. HOUSING SUB-COMMITTEE – MINUTE OF MEETING DATED 7 NOVEMBER 2007**

The Minute of the meeting of the Housing Sub Committee dated 7 November 2007 was submitted and approved.

#### **8. THE MORAY COUNCIL – MINUTE OF MEETING DATED 14 NOVEMBER 2007**

The Minute of the meeting of The Moray Council dated 14 November 2007 was submitted and approved subject Item 12 of the Minute being amended to recorded that Councillor B Jarvis seconded the Notice of Motion by Councillor Divers and that the initial J be replaced by the initial G at paragraph 6 of Item 15 relating to Councillor McDonald.

#### **9. THE MORAY COUNCIL MINUTE OF SPECIAL MEETING DATED 28 NOVEMBER 2007**

The Minute of the meeting of the (Special) Moray Council dated 28 November 2007 was submitted and approved.

#### **10. AUDIT AND PERFORMANCE REVIEW COMMITTEE MINUTE OF MEETING DATED 21 NOVEMBER 2007**

The Minute of the meeting of the Audit & Performance Review Committee dated 21 November 2007 was submitted and approved.

#### **11. EDUCATION AND SOCIAL SERVICES COMMITTEE – MINUTE OF MEETING DATED 28 NOVEMBER 2007**

The Minute of the meeting of the Education and Social Services Committee dated 28 November 2007 was submitted and approved subject to:

- (i) Item 3 being amended to read that Councillor Stewart declared an interest in Agenda Item 42;

- (ii) The second paragraph of Item 27 being amended to read ' Maybank Project';
- (iii) Item 13 of the Minute being amended to read that ' Councillor Divers expressed his disappointment with the whole process and felt that if it was not for the delaying tactics of Senior Member of the past Administration.....etc'; and
- (iv) Item 45 being amended to read that Councillors Leadbitter and Wright be appointed to the Moray Women's Aid Board of Directors.

Under reference to Item 18 of the Minute, Councillor A McDonald stated that in regard to the recent appointment of Mrs Stewart to Milnes High School, elected members had not been made aware of the appointment and sought an assurance that this situation would not reoccur in the future. Thereafter she took the opportunity to congratulate Mrs Stewart on her appointment.

#### **12. ENVIRONMENTAL SERVICES COMMITTEE – MINUTE OF MEETING DATED 5 DECEMBER 2007**

The Minute of the meeting of the Environmental Services Committee dated 5 December 2007 was submitted and approved.

#### **13. LICENSING COMMITTEE – MINUTE OF MEETING DATED 12 DECEMBER 2007**

The Minute of the meeting of the Licensing Committee dated 12 December 2007 was submitted and approved.

#### **14. FLOOD ALLEVIATION SUB-COMMITTEE – MINUTE OF MEETING DATED 12 DECEMBER 2007**

The Minute of the meeting of the Flood Alleviation Committee dated 12 December 2007 was submitted and approved subject to Item 3 relating to 'Declaration of Group Decisions being completed.

#### **15. POLICY COMMITTEE – MINUTE OF MEETING DATED 19 DECEMBER 2007**

The Minute of the meeting of the Policy Committee dated 19 December 2007 was submitted and approved subject to Councillor McDonald's initial being amended to read 'G' and not 'J' .

In response to Members concerns regarding the issue of replacement pages and typing errors, the Chief Legal Officer assured the Meeting that checking procedures would be tighter in future and that any changes made to minutes would be highlighted on the replacement pages for ease of reference.

Under reference to Item 47 of the Minute, in response to Councillor Paul's request for an update on the position regarding the Scottish Licensed Trade Association Annual Conference, the Chief Legal Officer advised that he would be contacting the Chairman of the local Licensing Trade within the next 7 – 10 days and will inform Members accordingly.

#### **16. APPOINTMENTS TO COMMITTEES**

There was submitted a report by the Chief Legal Officer inviting the Council to appoint a Member to the Policy Committee and the Licensing Board for the Moray Council.

Following discussion Councillor Leadbitter, seconded by Councillor Stewart moved that consideration of the appointments be deferred until the first meeting of The Moray Council following the by-election on the 14 February 2008.

Councillor McIntyre, seconded by Councillor Wright, moved as an amendment that the appointments be made at this Meeting of The Moray Council.

On a division there voted:-

For the Motion (10)	Councillors Leadbitter, Stewart, Coull, Jarvis, McConachie, A McDonald, G McDonald, Ogilvie, Paul and Shand.
For the Amendment (14)	Councillors McIntyre, Wright, Bell, Cree, Hamilton, Hogg, J MacKay, McGillivray, McIntyre, A McKay, Murdoch, Ross, Russell, Shepherd and Young.
Abstentions (0)	Nil

Accordingly the Amendment became the finding of the Meeting and it was agreed that the appointments detailed in the report be made at this meeting.

Thereafter the Meeting agreed that Councillor Russell be appointed to the Policy Committee and that Councillor Wright be appointed as Chairman of the Policy Committee (Remit 1).

Following further discussion regarding the appointment of a Member to serve on the Moray Licensing Board, Councillor Young, seconded by Councillor Cree, proposed that Councillor Ross be appointed as a Member to serve on the Moray Licensing Board.

As an amendment, Councillor Paul, seconded by Councillor A McDonald proposed that Councillor Coull be appointed as a Member to serve on the Moray Licensing Board.

On a division there voted:

For the Motion (14)	Councillors Young, Cree, Bell, Hamilton, Hogg, J MacKay, McGillivray, McIntyre, A McKay, Murdoch, Ross, Russell, Shepherd and Wright
For the Amendment (9)	Councillors Paul, A McDonald, Coull, Leadbitter, McConachie, G McDonald, Ogilvie, Shand and Stewart
Abstentions (1)	Councillor Jarvis

Accordingly the Motion became the finding of the Meeting and it was agreed that Councillor Ross be appointed as a Member to serve on the Moray Licensing Board.

## **17. ADMINISTRATIVE ISSUE: DATES OF COMMITTEE AND SUB-COMMITTEE MEETINGS**

There was submitted a report by the Chief Legal Officer inviting the meeting to consider an interim review of the current Committee and Sub-Committee timetable and to amend the dates of meetings of the Audit and Performance Review Committee and the Education & Social Services Committee.

Following consideration the Council agreed to swap the dates of the Audit & Performance Review Committee meetings with the dates of the Licensing Committee and Flood Alleviation Sub-Committee and that the amendment take effect from the Committee Cycle commencing after the next Full Council meeting on 26 March 2008.

The meeting further agreed not to change the date of the April meeting of the Education & Social Services Committee from 9 April (am) to 23 April (pm) but that in future Officers leave be taken into consideration when determining the date of the Education and Social Services Committee Meetings.

## **18. NOTICE OF MOTION BY COUNCILLOR P PAUL SECONDED BY COUNCILLOR I OGILVIE**

There was submitted a notice of motion by Councillor P Paul, seconded by Councillor I Ogilvie requesting that "The Moray Council asks the UK Government to invest in the high resolution radar necessary to provide flash flooding information as a matter of urgency."

Following consideration the Meeting agreed unanimously to support the Notice of Motion.

## **19. CASH COLLECTION REVIEW**

There was submitted a report by the Chief Financial Officer providing Members with details from the consultation process undertaken in relation to the proposed changes to cash collection services and seeking a decision on future service delivery for cash collection.

Following discussion Councillor Ogilvie, seconded by Councillor Stewart proposed that consideration of this matter be deferred until the outcome of the Post Office review is known.

As an amendment Councillor Hamilton, seconded by Councillor Ross moved that the matter be dealt with at this meeting and moved approval of the recommendation to extend collection services through making the post office and paypoint facilities available to all and also generate income cost savings through the closure of Council cash collection facilities with effect from 5<sup>th</sup> May 2008.

On a division there voted:

For the Motion (8)	Councillors Ogilvie, Coull, Leadbitter, McConachie, A McDonald, G McDonald, Paul and Shand.
For the Amendment (15)	Councillors Hamilton, Ross, Bell, Cree, Hogg, Jarvis, J MacKay, McGillivray, McIntyre, A McKay, Murdoch, Russell Shepherd, Wright and Young.
Abstentions (1)	Councillor Stewart

Accordingly the Amendment became the finding of the Meeting and it was agreed to extending collection services through making the post office and paypoint facilities available to all and also generate cost savings through the closure of Council cash collection facilities with effect from 5th May 2008.

## **20. NON-DOMESTIC RATES – RATES RELIEF FOR ROYAL BRITISH LEGION CLUBS**

Councillors Young, Hamilton and Shepherd declared an interest in this item as members of the Royal British Legion.

Under reference to paragraph 12 of the Minute of the meeting of The Moray Council dated 14 November 2007, there was submitted a summary report by the Chief Financial Officer informing the Council on the status of the application from the four Royal British Legion branches situated in Moray for rates relief on the Non-Domestic Rates payable for their social club premises.

Prior to discussion of this item Councillor McIntyre advised the Meeting that in response to this issue Richard Lochhead MSP had advised that he had referred the matter to John Swinney MSP for his attention asking him to consider if this is a matter to take to legislation.

The report provided the Meeting with a summary of the current rating legislation governing the award of mandatory rates relief and gave details of two judicial rulings which have clarified rating law on the entitlement of charities to rates relief.

Following discussion during which Members expressed their concerns that despite the legal advice being given by the Chief Legal Officer, other local authorities within Scotland had awarded discretionary rates relief to Royal British Legion Clubs in their areas, Councillor Coull, seconded by Councillor Paul, moved that this matter be deferred to the special meeting of the Moray Council on 14 February 2008 in order that, as advised by the Chief Legal Officer further detailed information is sought and a report prepared for the special meeting on which Members will be able to consider the full facts.

As an amendment, Councillor Ross, seconded by Councillor A McKay, moved that the matter be deferred to the next meeting scheduled meeting of The Policy Committee on 5 March 2008 as he was of the opinion that the Agenda for the Special Meeting on 14 February will be very full with important decisions to be made by Members that day.

On a division there voted:-

For the Motion (11)	Councillors Coull, Paul, Jarvis Leadbitter, McConachie, A McDonald, G McDonald, Ogilvie, Shand, Shepherd and Stewart.
For the Amendment (13)	Councillors Ross, A McKay, Bell, Cree, Hamilton, Hogg, J MacKay, McGillivray, McIntyre, Murdoch, Russell, Wright and Young.
Abstentions (0)	Nil

Accordingly the Amendment became the finding of the Meeting and it was agreed to defer consideration of this matter to the Policy Committee to be held on 5 March 2008 and that the Chief Legal Officer investigate the issues raised by Members and report back to the Policy Committee.

## **21. PUBLIC CONVENIENCES**

Under reference to paragraph 10 of the Minute of the Special Meeting of The Moray Council dated 8 February 2007, there was submitted a report by the Director of Environmental Services inviting the Council to reconsider the decision taken to close eight Public Conveniences as of June 2007.

Following consideration and on the Motion by Councillor Hamilton, seconded by Councillor G McDonald, the Council agreed to the cessation of the current programme of public convenience closures and that this will include the re-opening of the toilets at the Dunes area of Findhorn and the re-opening of the toilets at the Town House in Buckie. Furthermore due to actions already taken, the toilets at North Street, Elgin will remain closed.

The Meeting further agreed that officers examine the 'Comfort Scheme' approach to service provision and that any pilot of the Comfort Scheme will be run and evaluated in Elgin and report back to the Service Committee with details of a Moray scheme following engagement with the level of support for such a scheme and consultation with communities as set out in the Background section of the report.

## **22. 'FIRM FOUNDATIONS – THE FUTURE FOR HOUSING IN SCOTLAND' DISCUSSION PAPER**

There was submitted a report by the Director of Community Services summarising the main points detailed in the Scottish Government's Discussion Paper on housing and setting out the proposed response to the paper.

Following consideration the Council agreed the response to the Housing Discussion Paper to be submitted to the Scottish Government as detailed in the report.

### **23. LEISURE AND HEALTHY LIVING PROGRAMME UP-DATE**

There was submitted a report by the Director of Educational Services apprising Members on the progress made to date in relation to the Leisure and Healthy Living Programme and seeking delegated authority for Officers to accept the lowest tender for Buckie Skate Park.

Following consideration the Council agreed to: \_

- (i) Note the progress made in relation to the Leisure and Healthy Living Programme;
- (ii) grant delegated authority to Officers to accept the lowest tender for Moray Wheels Project (Buckie Skate Park) subject to the cost being within the agreed budget; and
- (iii) that demolition of the pavilion at Ian Johnston Park be deferred in order that enquiries can be made with the Moray Wheels Project (Buckie Skate Park) to determine whether they may wish to make use of the pavilion.

### **24. HOUSING MAINTENANCE PARTNERSHIP EXTENSION**

There was submitted a report by the Director of Community Services seeking Council approval for a further extension to the existing Maintenance Partnership Agreement (incorporating Planned Maintenance & Response Repairs, Disabled Adaptations and Gas & Solid Fuel Servicing) in order that the ongoing Best Value Review can be completed.

Following consideration the Council agreed to approve a twelve-month extension to the existing Maintenance Partnership Agreement (incorporating Planned Maintenance & Response Repairs, Disabled Adaptations and Gas & Solid Fuel Servicing).

### **25. APPLICATION FOR GRANT ASSISTANCE BY MORAY TWINNING ASSOCIATION**

There was submitted a report by the Director of Environmental Services inviting the Council to consider an application for grant support from the Moray Twinning Association.

Following consideration the Council agreed to award £6,000 grant aid to the Moray Twinning Association.

Councillor Murdoch left the meeting at this juncture.

### **26. SCHEDULE OF OUTSTANDING BUSINESS**

There was submitted and noted a report by the Chief Legal Officer providing the Council with a note of the schedule of outstanding business as at 22 January 2008.

Councillor Hamilton left the meeting at this juncture.

### **27. SCHOOLS PFI REPLACEMENT OPTION APPRAISAL [PARAS 6 & 9]**

There was submitted a report by the Chief Financial Officer inviting the Council to consider options for the replacement of the current contract for ICT in schools currently awarded to Fujitsu Services.

Following consideration the Council agreed Option b to end the current contract and to transfer the schools ICT support service to the Council's internal ICT section.

## **28. TOURIST INFORMATION: TOMINTOUL MUSEUM AND TOURIST INFORMATION CENTRE [PARA 1]**

There was submitted a joint report by the Director of Educational Services and Director of Environmental Services asking the Council to approve the proposed merger of the Tomintoul Tourist Information Centre and Tomintoul Museum and to agree that the principle of integration at Tomintoul be established at the three other Moray Tourist Information Centres if appropriate.

Following consideration the Council agreed:-

- (I) to approve the merger of the Tomintoul Tourist Information Centre and Tomintoul Museum under the management of the Libraries & Museums Services in a partnership agreement with Visit Scotland;
- (II) to note the Job Description and salary grading;
- (III) to note that the cost of this new arrangement at £38,688 can be met from the existing budgets for the Tomintoul Museum and tourism;
- (IV) in principle to the transfer of £19,120 from the relevant Environmental Services budget to the Libraries and Museums budget to enable integrated service delivery to the agreed level;
- (V) that the principle of integration informs the review of the Tourist Information Centres at Dufftown, Elgin and Forres, and
- (VI) Note that the conclusions of the review of these three tourist information centres at Dufftown, Elgin and Forres will be brought back to a future meeting of this Council.

## **29. INFORMATION AND CONSULTATION OF EMPLOYEES REGULATIONS [PARA 1]**

There was submitted a report by the Head of Personnel Services updating the Council on a challenge by a Council employee to the Council's arrangements for consultation with employees under the Information and Consultation of Employees Regulations 2004 (ICE).

Following consideration the Council agreed to:-

- (i) note that the employee information and consultation agreement in place does not meet the requirements of the Information and Consultation of Employees Regulations due to two technicalities and that as a result the Council must follow the standard provisions contained in the Regulations;
- (ii) that a complaint about the arrangements has been lodged by an employee with the Central Arbitration Committee and that the outcome of this is awaited;
- (iii) note that the Chief Legal Officer will be investigating the circumstances giving rise to (i) above,
- (iv) that the Head of Personnel Services re-look at how the election process is dealt with.