

**THE MORAY COUNCIL**  
**MINUTE OF MEETING OF THE MORAY COUNCIL**

**WEDNESDAY 17 SEPTEMBER 2008**

**COUNCIL OFFICE, ELGIN**

**PRESENT**

Councillors G McIntyre ( Convener), A Wright (Depute Convener), G Coull, S Cree, J Divers, J Hamilton, J Hogg, B Jarvis, G Leadbitter, J MacKay, M McConachie, G McDonald, A McKay, F Murdoch, I Ogilvie, P Paul, D Ross, J Russell, M Shand, J Sharp, R Shepherd, D Stewart, I 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 and the Principal Committee Services Officer, Clerk to the Meeting.

**APOLOGIES**

Apologies for absence were intimated on behalf of Councillors L Bell, A McDonald and E McGillivray.

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

In terms of Standing Order 20 and the Councillors' Code of Conduct the meeting noted that 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 nor any declarations of Members Interest in respect of any Item on the Agenda.

**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 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.

**Para. No. of Minute**

**Para. No. of Schedule 7A**

13

9

### 3. ORDER OF BUSINESS

Under the terms of Standing Order 37, Councillor Ross advised the meeting that, in consultation with Councillor Young as seconder, he wished to withdraw his Notice of Motion listed as Agenda Item 7.

### 4. WRITTEN QUESTIONS

The Meeting noted that there were no written questions.

### 5. MINUTES

#### (a) THE MORAY COUNCIL – MINUTE OF MEETING DATED 02 JULY 2008

The Minute of the meeting of The Moray Council dated 02 July 2008 was submitted and approved.

Under reference to paragraph 20 relating to the question raised by Councillor Divers, it was noted that a copy of the information on the levels of council tax increases had not been circulated to all Members and it was agreed that this would be done.

#### (b) SPECIAL LICENSING COMMITTEE – MINUTE OF MEETING DATED 15 JULY 2008

The Minute of the meeting of the Special Licensing Committee dated 15 July 2008 was submitted and approved.

#### (c) POLICY & RESOURCES COMMITTEE – MINUTE OF MEETING DATED 05 AUGUST 2008

The Minute of the Meeting of the Policy and Resources Committee dated 05 August 2008 was submitted and approved.

#### (d) HEALTH & SOCIAL CARE SERVICES COMMITTEE – MINUTE OF MEETING DATED 06 AUGUST 2008

The Minute of the Meeting of the Health & Social Care Services Committee dated 06 August 2008 was submitted and approved.

#### (e) PLANNING & REGULATORY SERVICES COMMITTEE – MINUTE OF MEETING DATED 12 AUGUST 2008

The Minute of the Meeting of the Planning & Regulatory Services Committee dated 12 August 2008 was submitted and approved.

**(f) SPECIAL PLANNING & REGULATORY SERVICES COMMITTEE –  
MINUTE OF MEETING DATED 12 AUGUST 2008**

The Minute of the Meeting of the Special Planning & Regulatory Services Committee dated 12 August 2008 was submitted and approved.

**(g) COMMUNITIES COMMITTEE – MINUTE OF MEETING DATED 19  
AUGUST 2008**

The Minute of the Meeting of the Communities Committee dated 19 August 2008 was submitted and approved.

**(h) CHILDREN & YOUNG PEOPLE’S SERVICES COMMITTEE –  
MINUTE OF MEETING DATED 20 AUGUST 2008**

The Minute of the meeting of the Children & Young People’s Services Committee dated 20 August 2008 was submitted and approved.

Under reference to paragraphs 9 to 12 of the Minute it was agreed that the names of the organisations the subject of inspections be included in the Minute and in future Minutes thereafter.

**(i) EDUCATIONAL SERVICES GENERAL PURPOSES SUB-  
COMMITTEE – MINUTE OF MEETING DATED 20 AUGUST 2008**

The Minute of the meeting of the Educational Services General Purposes Sub-Committee dated 20 August 2008 was submitted and approved.

**(j) ECONOMIC DEVELOPMENT & INFRASTRUCTURE SERVICES  
COMMITTEE – MINUTE OF MEETING DATED 26 AUGUST 2008**

The Minute of the meeting of the Economic Development & Infrastructure Services Committee dated 26 August 2008 was submitted and approved subject to the spelling of ‘Whisky’ at paragraph 11 being amended and substituting the letters XX with the number 66 reference to Standing Orders being amended at paragraph 24.

**(k) SPECIAL PLANNING & REGULATORY SERVICES COMMITTEE –  
MINUTE OF MEETING DATED 26 AUGUST 2008**

The Minute of the meeting of the Special Planning & Regulatory Services Committee dated 26 August 2008 was submitted and approved.

**(l) LICENSING COMMITTEE – MINUTE OF MEETING DATED 27  
AUGUST 2008**

The Minute of the meeting of the Licensing Committee dated 27 August 2008 was submitted and approved.

Under reference to the 'Declaration of Group Decisions' at paragraph 1 of the Minute it was agreed that the form of wording be revised to avoid confusion between the number of an item on the agenda and how it appears in the Minute.

**(m) FLOOD ALLEVIATION SUB-COMMITTEE – MINUTE OF MEETING  
DATED 27 AUGUST 2008**

The Minute of the meeting of the Flood Alleviation Sub-Committee dated 27 August 2008 was submitted and approved subject to the recording of Councillor Ogilvie as being present at the meeting.

**(n) POLICY AND RESOURCES COMMITTEE – MINUTE OF MEETING  
DATED 02 SEPTEMBER 2008**

The Minute of the meeting of the Policy and Resources Committee dated 02 September 2008 was submitted and approved.

**(o) AUDIT AND PERFORMANCE REVIEW COMMITTEE – MINUTE OF  
MEETING DATED 03 SEPTEMBER 2008**

The Minute of the meeting of the Audit and Performance Review Committee dated 03 September 2008 was submitted and approved.

Under reference to paragraph 17 Councillor Young asked for an assurance that the information requested in regard to the list of local authorities would be passed to Members as previously agreed.

**(p) HOUSING SUB-COMMITTEE – MINUTE OF MEETING DATED 08  
SEPTEMBER 2008**

The Minute of the meeting of the Housing Sub-Committee dated 08 September 2008 was submitted and approved.

**6. NOTICE OF MOTION BY COUNCILLORS G LEADBITTER AND M  
McCONACHIE**

There was submitted a Notice of Motion by Councillor Leadbitter seconded by Councillor McConachie asking that the Council note that the current contract for the Post Office Card Account (POCA) expires in 2010 and the Department for Work and Pensions is currently tendering for the successor to the POCA from 2010 onwards. The Notice of Motion also asked the Council to support the view of the National Federation of Sub-Postmasters that any decision not to award the new contract to the Post Office would be "an absolute" disaster, threatening the future of over 3,000 post offices on top of the 2,500 closures already in the pipeline, many of which support the only shop in their communities. The Motion further requested that the Council instruct the Chief Executive to write to the Secretary of State for Work and Pensions pointing

out that the Post Office is best placed to provide this service because of its unrivalled geographical reach, its status as a trusted brand and that it is The Moray Council's view that retaining the successor of the POCA as Post Office product is essential to the viability of the Post Office network.

Following consideration the Meeting unanimously agreed to support the Motion and instruct the Chief Executive to write to the Secretary of State for Work and Pensions in the terms outlined within the Motion.

## **7. APPROVAL OF SHORTLIST OF BIDDERS FOR PPP PROJECT**

There was submitted a report by the Director of Educational Services asking the Council to approve the short list of Bidders to be invited to participate in dialogue with the Council's PPP Project Team and its advisers, as recommended by the PPP Project Board.

Following consideration the Meeting approved the short list of Bidders as detailed in the report to be invited to participate in dialogue with the Council's PPP Project Team.

## **9. LOCAL AREA COMMITTEES**

Under reference to paragraph 27 of the Minute of the Meeting of the Moray Council dated 26 March 2008 and paragraph 41 of the Minute of the Policy Committee dated 30 April 2008, there was submitted a report by the Chief Executive inviting the Council to consider the outcome of the consultation exercise concerning the implementation of local area committees.

Councillor Wright stated that the response to the public consultation had produced eighty responses from a mailing of over four hundred and of the responses approximately sixty percent had responded in the negative either on the principle of area committees or in some of the detail. Following the outcome of that process he therefore suggested that, for the meantime, the Council do not proceed with area committees. He further stated that whilst he believed this to be a missed opportunity, he was also of the belief that the community planning structure already in place will allow the Council to meet the demands of community engagement and empowerment as demanded of it. He advised that the Community Engagement Group, which includes representation from area forums and community councils as well as the voluntary sector, was in his opinion well placed to deliver recommendations to the Community Planning Board and to the Communities Committee for delivery. He stated however that he was of the view that a review was required of how the Council delivered both financial and officer support to these groups on a fair and equitable basis. In conclusion he moved that this Council, having consulted on area committees, now agree in the light of that consultation, not to proceed at this time with the formation of area committees.

In seconding the Motion, Councillor Ross stated that it was commendable of the Administration to listen to the response of the consultation and to admit to have taken the wrong route on this occasion and that this was a strong sign that the Administration, whilst it may not have been what they wanted to hear, have listened to the view of the public.

In response to Councillor G McDonald's query regarding the need to suspend Standing Orders in this matter, the Chief Legal Officer advised that, in his opinion there was no requirement to suspend Standing Orders. He further advised that his opinion was based on his reading of the Minute of the Moray Council of 26 March 2008 and the Policy and Resources Committee of 30 April 2008, and in particular to the Minute of the Policy Committee where it was asked to further consider the establishment of area committees and after considering this the Committee agreed to the consultation exercise. Arguably the Council never came to a final conclusion on area committees and still has it under active consideration.

Councillor Paul stated that the consultation highlighted the value of actually listening to the public as in her opinion, it assists Members to concentrate their minds and steer the way forward and that the usefulness of going to consultation should never be underestimated.

Following further discussion the Meeting noted the comments made by Councillor Stewart relating to the Laich Forum and the success, which this Forum had enjoyed.

Thereafter, there being no one otherwise minded, the Meeting agreed that this Council, in the light of the consultation, does not to proceed at this time with the formation of area committees.

## **8. ORDER OF COUNCIL BUSINESS: PROTOCOL ON QUESTIONS ON COUNCIL MINUTES AND OTHER RELEVANT QUESTIONS**

There was submitted a report by the Chief Legal Officer inviting the Council to consider a protocol on questions on Council minutes and other relevant questions.

Councillor McIntyre moved approval of the protocol as it relates to questions on council minutes and other relevant questions to council.

On seconding the Motion Councillor Paul stated that whilst she was of the opinion that this was a positive step forward and was happy to support the Motion she did have concerns in regard to the continuation of written questions as there were reservations as to whether these were democratic or not and would be looking to review the position regarding written questions in six months.

Councillor Divers sought clarification on how the protocol would work in practice, and in response the Chief Legal Officer advised that Members would

be able to raise a question on the Minutes at the time they were being approved for accuracy and all that is changing is that the answer to that question will be taken later on in the Agenda and there will be a formal agenda item to reflect that.

In response Councillor Divers stated that he had some concerns regarding the protocol and was of the opinion that it would be preferable if the report could be deferred to the next meeting of the Council in order to allow discussion between Group Leaders as he was of the view that the difficulties arising within the Chamber were due to Members not raising issues with officers prior to a meeting. He further stated that if the existing long standing protocols were followed, there would be no requirement for the proposed protocol and suggested that previous agreements be looked at, discussed with Group Leaders and their respective members and the outcome of these discussion brought back to the next meeting of the Council where the protocol can be further discussed.

The Chairman stated that he was of the view that there were no major changes contained within the document and accepted that it must be ensured that Members go through the correct channels and that this be carefully monitored.

Following further discussion during which the timing of the issue of the report was raised, the Chief Legal Officer advised that whilst it was unfortunate that he had been unable to discuss the paper with Councillor Divers until the day of the Meeting, he would be willing to take instruction from the Council and meet with him, in his capacity as Labour Group Leader, following the meeting to discuss the paper in more detail and hopefully reassure him that the effective and constructive scrutiny of council business will still be maintained. He reassured the Meeting that Members would still be able to ask questions on the Minutes, the only change being that the response to those questions will be taken at a later stage on the agenda. He further advised that in terms of the seconding of the motion, it would be recorded that any decision will be reviewed within six months and that this would effectively act as a safeguard and if any issues arose they would likely be brought back within that time.

The Chairman stated that, as Councillor Paul had indicated in seconding his Motion to adopt the protocol that she would wish there to be a review of the protocol within 6 months, he would be happy to amend his motion to include this.

Following further discussion during which clarification was sought regarding the ten-minute rule relating to questions, the Chief Legal Officer advised that the ten-minute rule will depend upon the number and volume of questions and given that the Chair does have discretion in terms of council business he would anticipate that the volume of questions, which will be known, will allow a judgement to be taken by the Chair as to whether they can be accommodated within the 10-minutes and he would anticipate that in the interests of effective scrutiny that should the questions merit more than ten

minutes that the Chair would rule accordingly. This would be in his opinion a reasonable and appropriate approach.

Following further discussion Councillor Ross, seconded by Councillor Young, proposed as an amendment that in addition to the terms of the motion, that the Council introduce a ten-minute open question time from Members at Full Council meetings where Members would be given the opportunity to ask questions which were within the remit of the Council, as in his opinion this would mean that the Full Council would be the only meeting at which Members were not allowed to put general questions and if this opportunity were lost that this would be unfortunate both to Members and the public. He further stated that his amendment would bring the Full Council in line with the Standing Committees of the Council.

Following further discussion during which clarification was sought in regard to the proposal within the protocol regarding the ten-minute question time which appeared to relate to other relevant questions i.e. written questions, it was agreed that the ten-minute rule would apply to questions on the minutes but that this would also be subject of review within 6 months.

Thereafter, on a division, there voted:

For the Motion (19)	Councillors McIntyre, Paul, Coull, Cree, Hamilton, Hogg, Leadbitter, J Mackay, McConachie, G McDonald, A McKay, Murdoch, Ogilvie, Russell, Shand, Sharp, Shepherd, Stewart and Wright.
For the Amendment (3)	Councillors Ross, Young and Jarvis
Abstentions (1)	Councillor Divers

Accordingly the Motion became the finding of the meeting and it was agreed to:-

- (i) approve the protocol on questions on Council Minutes and other relevant questions as detailed in the report subject to a review in 6 months time, and
- (ii) remit to the Chief Legal Officer to amend the Council's Standing Orders accordingly.

## **11. APPOINTMENTS TO COMMITTEES AND OUTSIDE BODIES**

There was submitted a report by the Chief Legal Officer inviting the Council to consider the list of Committees and outside bodies to which the Council are entitled to appoint nominees as detailed in the report.



Following consideration the Meeting agreed:-

- (i) that Councillor Ross be appointed to the Flood Alleviation Sub-Committee;
- (ii) to reduce the number of Elected Member representatives on the Moray Community Health and Social Care Partnership and that Councillor Hamilton be removed as a representative on the Partnership, and
- (iii) to decline the invitation to appoint a Member to the Board of the Keith and Strathisla Regeneration Partnership.

## **12. QUESTIONS ON COUNCIL MINUTES**

Under reference to the Minute of the Housing-Sub Committee meeting dated 8 September 2008 Councillor Paul sought clarification regarding the use of substitutes at meetings of Sub-Committees, Working Parties and Theme Groups etc and it was agreed that the Chief Legal Officer would include this issue in the current review regarding the re-alignment of appointments to outside bodies to service committees which would be dealt with as an administrative matter with Group Leaders.

## **13. USE OF MEMBERS CAR PARK BY SCOTTISH COURT SERVICE USERS [PARA 9]**

There was submitted a report by the Chief Legal Officer advising the Council of issues which have arisen since Summary Court Unification regarding the use of the District Court Building and Members' car park in Glover Street, and seeking a decision from Members as to future use.

Following discussion Councillor Hamilton, seconded by Councillor Shepherd moved that no additional spaces be allocated for JPs sitting in the JP Court on a Tuesday; that all current pass holders be issued with a pass which must be displayed in the windscreen and that the Access Point Staff receive instructions to establish the identity and validity of those requesting access to the Members Car Park when using the buzzer intercom at the barrier.

As an amendment Councillor A McKay, seconded by Councillor Ross, moved that an additional car parking space is allocation for JPs sitting in the JP Court on a Tuesday.

On a division there voted:

For the Motion (13)

Councillor Hamilton, Shepherd, Coull, Cree, J MacKay, McConachie, G McDonald, Murdoch, Ogilvie, Paul, Russell, Stewart and Wright.

For the Amendment (6)	Councillors A McKay, Ross, Divers, Hogg, Leadbitter and McIntyre.
Abstentions (4)	Councillors Jarvis, Shand, Sharp and Young.

Accordingly the Motion became the finding of the Motion and it was agreed to:

- (i) Note the informal agreements which have hitherto operated between The Moray Council and the Scottish Court Service regarding:
  - (a) use by Reliance on behalf of the Scottish Court Service of one Council owned space within the Members' car park on a grace and favour basis: and
  - (b) use by SCS of the District Court building in exchange for payment of a daily room rental as and when the building is required.
- (ii) Agree to continuation of the informal arrangement detailed in paragraph 1(a) above unless and until there is a material change in circumstances and to continuation of the informal agreement detailed in paragraph 1(b) above until March 31<sup>st</sup> 2009, after which further approval will be sought.
- (iii) not to extend the arrangement detailed at paragraph 1(a) above to provide and additional parking space for JPs sitting in the JP Court on a Tuesday;
- (iv) that all pass holders be issued with a windscreen pass which must be displayed in vehicles when parked in the Members Car Park, and
- (v) that instruction is given to the Access Point Staff to establish the identity and validity of those requesting access to the Members Car Park when using the buzzer intercom at the barrier.