

THE MORAY COUNCIL
MINUTE OF MEETING OF THE MORAY COUNCIL

WEDNESDAY 17 JUNE 2009

COUNCIL OFFICE, ELGIN

PRESENT

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

APOLOGIES

Apologies for absence were intimated on behalf of Councillor J Divers.

1. DECLARATION OF GROUP DECISIONS

In terms of Standing Order 20 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.

2. ORDER OF BUSINESS

The Meeting noted that Item 12 "Offer to Purchase House" as detailed on the Agenda had been withdrawn.

3. EXEMPT INFORMATION

Para No of Minute

11

Para No of Schedule 7A

8 & 9

4. MINUTES

(a) EDUCATIONAL GENERAL PURPOSES SUB COMMITTEE - MINUTE OF MEETING DATED 25 MARCH 2009

The Minute of the Meeting of the Educational General Purposes Sub Committee dated 25 March 2009 was submitted and approved.

(b) PLANNING AND REGULATORY SERVICES COMMITTEE - MINUTE OF SPECIAL MEETING DATED 22 APRIL 2009

The Minute of the Special Meeting of the Planning and Regulatory Services Committee dated 22 April 2009 was submitted and approved.

(c) THE MORAY COUNCIL - MINUTE OF MEETING DATED 22 APRIL 2009

The Minute of the Meeting of the Moray Council dated 22 April 2009 was submitted and approved subject to Councillor McIntyre being recorded as present at the Meeting.

(d) POLICY AND RESOURCES COMMITTEE - MINUTE OF MEETING DATED 5 MAY 2009

The Minute of the Meeting of the Policy and Resources Committee dated 5 May 2009 was submitted and approved.

(d) (i) CHILD PROTECTION SUB COMMITTEE - MINUTE OF MEETING DATED 5 MAY 2009

The Minute of the Meeting of the Child Protection Sub Committee dated 5 May 2009 was submitted and approved subject to Councillor Hamilton being recorded as being present at the Meeting.

(e) HEALTH AND SOCIAL CARE SERVICES COMMITTEE - MINUTE OF MEETING 6 MAY 2009

The Minute of the Health and Social Care Services Committee dated 6 May 2009 was submitted and approved.

(f) PLANNING AND REGULATORY SERVICES COMMITTEE - MINUTE OF MEETING DATED 12 MAY 2009

The Minute of the Meeting of the Planning and Regulatory Services Committee dated 12 May 2009 was submitted and approved.

(g) PLANNING AND REGULATORY SERVICES COMMITTEE - MINUTE OF SPECIAL MEETING DATED 12 MAY 2009

The Minute of the Special Meeting of the Planning and Regulatory Services Committee dated 12 May 2009 was submitted and approved.

**(h) THE MORAY COUNCIL - MINUTE OF SPECIAL MEETING DATED
12 MAY 2009**

The Minute of the Special Meeting of the Moray Council dated 12 May 2009 was submitted and approved.

**(i) COMMUNITIES COMMITTEE - MINUTE OF MEETING DATED 19
MAY 2009**

The Minute of the Meeting of the Communities Committee dated 19 May 2009 was submitted and approved.

**(j) CHILDREN & YOUNG PEOPLE'S SERVICES COMMITTEE -
MINUTE OF MEETING DATED 20 MAY 2009**

The Minute of the Meeting of the Children & Young People's Services Committee dated 20 May 2009 was submitted and approved.

**(k) ECONOMIC DEVELOPMENT & INFRASTRUCTURE SERVICES
COMMITTEE - MINUTE OF MEETING DATED 26 MAY 2009**

The Minute of the Meeting of the Economic Development and Infrastructure Committee dated 26 May 2009 was submitted and approved.

**(l) PLANNING & REGULATORY SERVICES COMMITTEE - MINUTE OF
SPECIAL MEETING DATED 26 MAY 2009**

The Minute of the Special Planning and Regulatory Services Committee dated 26 May 2009 was submitted and approved.

Under reference to paragraph 2 of the Minute the Director of Environmental Services advised the Meeting that Scheme of Delegation has now been approved by the Scottish Government and a report on the matter will be brought to the special meeting of the Planning & Regulatory Services Committee on 23 June 2009.

**(m) LICENSING COMMITTEE - MINUTE OF MEETING DATED 27 MAY
2009**

The Minute of the Licensing Committee dated 27 May 2009 was submitted and approved subject to confirmation of the accuracy of the details of each of the seconders to the motion and amendment in regard to the vote recorded in respect of paragraph 10 of the Minute.

**(n) FLOOD ALLEVIATION SUB COMMITTEE - MINUTE OF MEETING
DATED 27 MAY 2009**

The Minute of the Flood Alleviation Committee dated 27 May 2009 was submitted and approved subject to the word 'Blackburn' being substituted by the word 'Backburn' at Item 10.

**(o) HOUSING SUB COMMITTEE - MINUTE OF MEETING DATED 27
MAY 2009**

The Minute of the Housing Sub Committee dated 27 May 2009 was submitted and approved.

**(p) POLICY AND RESOURCES COMMITTEE - MINUTE OF MEETING
DATED 2 JUNE 2009**

The Minute of the Policy and Resources Committee dated 2 June 2009 was submitted and approved subject to Councillor E. McGillivray being recorded as present at the Meeting and to the word 'Keith' being substituted by the word 'Reidhaven' at paragraph (ii) of Item 20.

**(q) AUDIT AND PERFORMANCE COMMITTEE - MINUTE OF MEETING
DATED 3 JUNE 2009**

The Minute of the Audit and Performance Committee dated 3 June 2009 was submitted and approved subject to Councillor Wright being recorded as present at the Meeting.

**(r) SPECIAL LICENSING COMMITTEE - MINUTE OF MEETING
DATED 4 JUNE 2009**

The Minute of the Special Licensing Committee dated 4 June 2009 was submitted and approved.

**5. FIRST PERIODICAL REVIEW OF SCOTTISH PARLIAMENT
BOUNDARIES - PUBLICATION OF FINAL PROPOSALS FOR
CONSTITUENCIES**

There was submitted a report by the Chief Executive informing the Council that the Boundary Commission for Scotland (BCS) published its final proposals for revised constituencies for the Scottish Parliament on 21 May 2009 followed by a consultation period of one month during which representations concerning the proposals are invited.

Following consideration the Council agreed to note the publication of the Boundary Commission for Scotland's final proposals for revised constituencies for the Scottish Parliament and that the Council reiterate its view to the Boundary Commission that the boundaries for the Scottish

Parliamentary Constituency of Moray be contiguous with those of The Moray Council.

Councillor G McDonald thanked the council's Legal Department for the presentation made to the Boundary Commission public hearing meeting in Buckie.

6. GOOD GOVERNANCE - ANNUAL GOVERNANCE STATEMENT

There was submitted a report by the Chief Executive seeking approval of a draft Annual Governance Statement for inclusion with the published annual accounts for 2008 / 09.

Following consideration the Council agreed:

- to approve the annual governance statement given as Appendix 1
- to note that the statement will be published with and form part of the Council's Annual Accounts.

7. REVIEW OF STYLE OF MINUTES OF COUNCIL ETC MEETINGS

There was submitted a report by the Chief Legal Officer reviewing the style of Minutes of Meetings of the Council and its Committees of a non-regulatory or quasi-judicial nature.

Prior to discussion of the item, the Principal Solicitor advised the meeting that in regard to the regulatory committees (Planning and Licensing), the Chief Legal Officer had suggested that these be looked at separately and a report brought back to a future meeting in relation to them.

Thereafter, and following discussion during which Members expressed various views on the issue, Councillor Wright, seconded by Councillor Hamilton moved the recommendations as detailed in the report, include the additional recommendation that the regulatory committees are looked at separately and a report brought back to a future meeting in relation to them.

As an Amendment, Councillor Paul, seconded by Councillor Shand, moved the status quo in regard to the style of minutes of meetings of the Council and its committees of a non-regulatory or quasi-judicial nature and that the regulatory committees are looked at separately and a report brought back to a future meeting in relation to them.

On a division there voted:

For the Motion (12): Councillors McIntyre, Wright, Hamilton, Bell, Cree, Hogg, J MacKay, McGillivray, Ross, Russell, Shepherd and Young

For the Amendment (12): Councillors Paul, Shand, Coull, Jarvis, Leadbitter, McConachie, A McDonald, G McDonald, Murdoch, Ogilvie, Sharp and Stewart

Abstentions (1): Councillor A McKay

There being an equality of votes the Chairman exercised his casting vote in favour of the Motion and accordingly the Motion became the finding of the meeting and the Council agreed:-

(a) the adoption of an alternative style for Minutes of Meetings of the Council and its Committees of a non-regulatory or quasi-judicial nature based on the following criteria:

1. Where the business of a Committee is one of policy discussion and debate, debate will usually lead to a consensus of opinion. As a formal vote is unnecessary in these circumstances the Minutes will reflect the consensus reached and not the views of individuals. Where necessary, for the sake of clarity, background information on which the debate and decision is reached will be included.
2. It may be appropriate to include an account of recommendations which were not adopted, together with reasons for the rejection. It may also be necessary for the sake of clarity, to include background information which figured in the discussion explicitly or by implication. When minuting a discussion or debate which is based on recommendations not adopted or rejected or on a background paper their contents will be summarised at least in sufficient outline to put the discussions and debate into perspective

[Note: where an item of business is conducted on strictly formal lines, for example a Notice of Motion and can only be changed by equally precise amendments and where the final issue is determined by a formal vote, this procedure will continue to be recorded in all its formality.]

(b) that the regulatory committees (Planning and Licensing) are looked at separately and a report brought back to a future meeting in relation to them.

8. PROGRESS REPORT ON CONCORDAT COMMITMENTS

There was submitted a report by the Chief Executive asking the Council to note the progress towards meeting the commitments agreed to within the Concordat signed with the Scottish Government in November 2007.

Following consideration the Council agreed to note the progress made towards meeting the Single Outcome Agreement Concordat commitments.

9. LOCAL REVIEW BODIES

There was submitted a report by the Director of Environmental Services asking the Council to note the arrangements agreed by the Planning and Regulatory Services Committee and to appoint Councillors to serve on a Local Review Body.

Following consideration the Council agreed:

- (i) that the undernoted 8 Councillors (one from each Ward) be appointed to form a "pool" :

Councillors Paul, Shepherd, J McKay, Ross, Hogg, Jarvis, Sharp and Young
- (ii) the Local Review Body should comprise 3 members with 4 substitutes, selected in order (with exclusion of Local Member);
- (iii) membership of the Local Review Body to rotate on a 3 monthly basis;
- (iv) that officers of Committee Services, Legal and Planning be instructed to develop the necessary administrative and procedural arrangements to service the new Body, and
- (v) that a subsequent report should be submitted to the Policy and Resources Committee, once staffing and financial requirements have been identified, seeking special budget approval to cover any required costs.

9. QUESTIONS ON COUNCIL MINUTES

Meeting of The Moray Council dated 22 April 2009

Under reference to paragraph 9 of the Minute Councillor Murdoch asked if parents were fully aware of what is happening in regard to the conversion of the kitchens to serveries at Logie, Glenlivet and Crossroads Primary Schools?

In response the Director of Environmental Services advised that whilst he did not have the full details before him at this meeting he was aware that initial contact had been made with the staff following which it would be with parents. He further stated that he was aware of correspondence with parents in regard to Cabrach Primary School and was aware of correspondence between the various schools, particularly Glenlivet and Crossroad. However he could check on this and come back to Members.

The Chairman suggested that this information be provided to each of the Ward Councillors. This was agreed.

Councillor Coull also sought information in regard to how up to date staff and the schools were on the decisions regarding the serveries and what progress had been made into investigating the concerns he and others had raised in regard to the figures which were included in the consultation document.

In response the Chairman advised that the first part of the question had been answered in response to Councillor Murdoch's question and in regard to the second part of the question he advised that this should be taken up with Officers directly.

Under reference to paragraph 10 of the Minute, Councillor Leadbitter sought an update on progress regarding the issue raised relating to the circulation of the minute of the first meeting in the cycle of the Policy & Resources Committee.

In response the Chief Legal Officer advised that the action would be taken forward following the return of the Principal Committee Services Officer from secondment on Election Duties and assured him that this would be taken on.

Special Meeting of The Moray Council dated 12 May 2009

Under reference to paragraph 4 of the Minute Councillor G McDonald asked whether the staff and service users at the locations affected by the decision as detailed in paragraph 2.1(b) of the original report been informed and is it possible for the local Members to discuss the decision with them. This was a confidential item.

In response the Community Development Manager (Operational) advised that a consultation is currently ongoing with staff and users and users parents and carers as to what the new service will look like and as to whether it will meet their needs appropriately.

The Chief Legal Officer advised that the general advice would be that if any of the parties subject to the consultation have any issues that those individuals respond to the consultation with their concerns so that they can be reflected in any report that comes back to Committee. He further advised that it is important that the integrity of the consultation process is maintained. If there are any specific issues which Members have in regard to this he would be happy to address them in terms of legal and procedural advice.

Under reference to paragraph 3 of the Minute Councillor Young sought an update on whether a response had been received from the Scottish Government on the future defence policy for the two air bases at Kinloss and Lossiemouth.

In response the Convener advised that a response had been received and would be circulated to all Members by the afternoon.

Meeting of the Policy & Resources Committee dated 2 June 2009

Under reference to paragraph 10 of the Minute Councillor Murdoch asked whether a lead officer had been identified to proceed with the agreed options relating to the provision of allotments in Moray.

In response the Chief Legal officer advised that this was to be discussed at the meeting of the Corporate Management Team on 18 June 2009 and that he would keep Members advised of progress.

Under reference to paragraph 20 of the Minute Councillor Coull sought an assurance that the application in regard to the Town Centre Regeneration Fund, including all the details required for all the projects involved, have been submitted.

In response the Director of Environmental Services advised that he could confirm that the application had been submitted but as for the details he would need to check this and get back to Councillor Coull.

Meeting of the Audit & Performance Review Committee dated 3 June 2009.

Under reference to paragraph 15 of the Minute, Councillor Paul sought an assurance that a report would be brought back in regard to the investigation whether a mystery shopper monitoring project could be done in-house and at what cost.

In response the Chief Executive gave an assurance that this would be the case.

10. WRITTEN QUESTIONS

QUESTION SUBMITTED BY COUNCILLOR ROSS

To ask when final decisions will be reached with respect to appeals on back dated Equal Pay claims, and what action is the council taking to speed up this process.

COUNCIL RESPONSE

There are no outstanding equal pay appeals within the Council. Some employees are pursuing legal cases against the Council and have lodged equal pay claims with the Employment Tribunal. Progress of these

cases is determined by Employment Judges who manage the Tribunal caseload.

The Council is responding to the cases against it by taking a strategic approach. This is a complex and dynamic area of law and so advice is being taken from external legal experts in this field and our strategy is based on their advice.

11. MORAY FLOOD ALLEVIATION SCHEMES SETTLEMENT OF COMPENSATION CLAIMS (Paras 8 & 9)

There was submitted a report by the Head of Estates Services asking the Council to grant officers extended powers under the Scheme of Delegation to settle compensation claims arising from the Moray Flood Alleviation Schemes and also provide an update on the claims submitted by Speymalt Whisky Distributors Ltd and the Alistair Gordon Cumming 2004 Chapelton Trust.

Following consideration the Council agreed to:

- (a) extend the powers delegated to the Chief Legal Officer to settlement claims from landowners for compensation for losses arising from the exercise of the Council's powers under the Flood Prevention (Scotland) Act 1961 as set out in para 3.3; and
- (b) note the progress reached in processing the compensation claims from Speymalt Whisky Distributors Ltd and the Alistair Gordon Cumming 2004 Chapelton Trust.