

THE MORAY COUNCIL
MINUTE OF MEETING OF THE MORAY COUNCIL

WEDNESDAY 20 JANUARY 2010

COUNCIL OFFICE, ELGIN

PRESENT

Councillors A Wright (Depute Convener), L Bell, G Coull, S Cree, J Divers, J Hamilton, J Hogg, B Jarvis, G Leadbitter, J MacKay, M. McConachie, A McDonald, G McDonald, E McGillivray, 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 Educational Services, the Director of Environmental Services, the Director of Community 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 Councillor G McIntyre (Convener).

2. CHAIR

In the absence of the Convener, Councillor A Wright (Depute Convener) chaired the meeting.

3. DECLARATION OF GROUP DECISIONS

In terms of Standing Order 20 and the Councillors' Code of Conduct the meeting noted 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.

4. MINUTES

The following Minutes were submitted and approved:

**(a) THE MORAY COUNCIL - MINUTE OF MEETING DATED 4
NOVEMBER 2009**

- (b) POLICY AND RESOURCES COMMITTEE - MINUTE OF MEETING DATED 17 NOVEMBER 2009**
- (c) THE MORAY COUNCIL - MINUTE OF SPECIAL MEETING DATED 17 NOVEMBER 2009**
- (d) HEALTH AND SOCIAL CARE SERVICES COMMITTEE DATED 18 NOVEMBER 2009**
- (e) PLANNING AND REGULATORY SERVICES COMMITTEE - MINUTE OF MEETING DATED 24 NOVEMBER 2009**
- (f) COMMUNITIES COMMITTEE - MINUTE OF MEETING DATED 1 DECEMBER 2009**
- (g) CHILDREN AND YOUNG PEOPLE'S SERVICES COMMITTEE - MINUTE OF MEETING DATED 2 DECEMBER 2009**
- (h) ECONOMIC DEVELOPMENT AND INFRASTRUCTURE COMMITTEE - MINUTE OF MEETING DATED 8 DECEMBER 2009**
- (i) FLOOD ALLEVIATION SUB COMMITTEE - MINUTE OF MEETING DATED 8 DECEMBER 2009**
- (j) LICENSING COMMITTEE - MINUTE OF MEETING DATED 9 DECEMBER 2009**
- (k) HOUSING SUB COMMITTEE - MINUTE OF MEETING DATED 10 DECEMBER 2009**
- (l) POLICY AND RESOURCES COMMITTEE - MINUTE OF MEETING DATED 15 DECEMBER 2009**
- (m) AUDIT AND PERFORMANCE COMMITTEE - MINUTE OF MEETING DATED 16 DECEMBER 2009**
- (n) THE MORAY COUNCIL - MINUTE OF SPECIAL MEETING DATED 16 DECEMBER 2009**
- (o) POLICY AND RESOURCES COMMITTEE - MINUTE OF SPECIAL MEETING DATED 11 JANUARY 2010**

4. WRITTEN QUESTION

The meeting noted the following written question submitted by Councillor Ross and the Council's response thereto:

To ask what response there has been from (i) unions, (ii) legal agents acting on behalf of staff and, (iii) staff, to the offers made by the council to settle equal pay claims as agreed by the Policy and Resources Committee on 15th December 2009?

COUNCIL RESPONSE

- (i) The Trade Unions were notified of the Council's intentions in this regard and no official response has been received.
- (ii) Legal agents acting on behalf of Unison and Unite have requested that all communications with their clients are directed through them.
- (iii) A range of queries have been raised from some of the staff in this situation. In general terms the queries have been around the administrative aspects of the process e.g. what form the legal agreement will take and clarification of details such as length of service.

As a supplementary question Councillor Ross asked that in terms of timing as these offers were issued just prior to the Christmas break and in light of there being no one available to answer queries due the holiday break, would an extension of time for responding be offered to those staff and where people have sought clarification on details such as length of service, will they be reassessed and given another offer or will they simply have to refuse the offer by the Council and go forward to a Tribunal?

In response the Chief Legal Officer advised that the deadline for acceptance of offers is 31 January 2010 (for those wishing to receive payment with their January pay, the deadline is 21 January 2010). Beyond that he advised that he was not in a position to comment publically on individual cases where the parties concerned are legally represented. He advised that he would be happy for Councillor Ross to appraise him of the individual issues that Councillor Ross is aware of so that he could provide Councillor Ross with individual responses to the issues of concern. In conclusion he could not comment in general nor give assurances on a matter which was being dealt with on a case by case basis.

5. REVIEW OF STANDING ORDERS AND SCHEME OF ADMINISTRATION

There was submitted a report by the Chief Legal Officer inviting the Council to note the publication and distribution of a revised set of Standing Orders and Scheme of Administration.

Following consideration the Meeting noted the publication and distribution of a revised set of Standing Orders and Scheme of Administration subject to the wording at Section (I) paragraph (6) of the Scheme of Administration being amended for clarity and to the statutory definition for the Emergency Planning Committee being included within the Scheme.

6. A96 TRUNK ROAD (FOCHABERS & MOSSTODLOCH BYPASS) COMPULSORY PURCHASE ORDER 2005

There was submitted a report by the Head of Estates Services asking the Council to note that the Scottish Government has acquired from the Council land necessary for the construction of the Fochabers and Mosstodloch Bypass using compulsory purchase powers and asking that the Meeting approve provisionally agreed terms of compensation.

The Meeting approved the following provisionally agreed terms; namely payment of:

- (a) Compensation of £7,100 with interest paid at the statutory rate from 11 July 2008 until the date of payment;
- (b) The Council's legal expenses in full; and
- (c) The Council's surveyor's expenses of £1,043.78;

7. POLLING PLACE REDESIGNATION

There was submitted a report by the Chief Executive seeking approval for change of venue for a number of Moray's Polling Places for forthcoming and future elections and seeking delegated authority for future changes to the Polling Scheme.

Following consideration the Meeting agreed to:

- (a) note and approve the change of Polling Place venues as noted in Appendix 1.
- (b) grant delegated authority to the Chief Executive in his capacity as Returning Officer, in consultation with the Convener and the

relevant Ward Members, to designate Polling Places and approve the Polling Scheme for future elections.

8. MORAY HOUSING PARTNERSHIP - REVISED MODEL RULES

There was submitted a report by the Chief Executive asking the Council to note the Moray Housing Partnership revised Model Rules; and to nominate a single representative to the Partnership's Committee of Management in accordance with the revised Rules.

Following consideration the Meeting:-

- (i) agreed to note the Moray Housing Partnership revised Model Rules;
- (ii) agreed unanimously to nominate Councillor Jarvis as the Council's representative in accordance with the revised Model Rules.

8. QUESTIONS ON COUNCIL MINUTES

- (i) Meeting of the Policy and Resources Committee dated 17 November 2009

Under reference to Paragraph 9 (iii) of the Minute Councillor Paul sought an update on the progress with the libraries integration programme and in particular the Rothes Library.

In response the Director of Educational Services advised that a report on the programme would be submitted to the Policy and Resources Committee on 2nd February 2010 and this would provide an update to Councillor Paul on the Rothes Library.

Under reference to Paragraph 15 of the Minute Councillor Paul sought an update on progress regarding amending the Administration Scheme to allow delegation to be given to allow local members to decide on issues of sale regarding small strips of land.

In response the Chief Legal Officer advised that preliminary discussion had taken place with the Acting Head of Estates Services and now that the Minute had been formally approved there would be a report with proposals to Members in due course.

(ii) Minute of the Children and Young People's Services Committee dated 2 December 2009

Under reference to Paragraph 9(ii) of the Minute Councillor Shand sought an update on the negotiations with Aberdeenshire and Aberdeen City on the establishment of a joint Curators ad Litem & Reporting Officers Panel.

In response the Chief Legal Officer advised that he had met with the senior officer of the Council concerned prior to the Christmas break and the indication was that the negotiations were progressing satisfactorily and he would provide Councillor Shand with fuller details of progress in writing.

(iii) Minute of the Economic Development and Infrastructure Services Committee dated 8 December 2009

Under reference to paragraph 19 of the Minute Councillor Coull asked whether it would be possible to receive an update on the Rothiemay Bridge and stated that Members had not received the weekly updates which the Head of Direct Services had undertaken to provide.

In response the Director of Environmental Services apologised to Members if updates were not being received, but that this might have been a consequence of the absence of the Transportation Manager due to illness and advised that he would ensure Members are provided with updates.

(iv) Minute of the Flood Alleviation Sub Committee dated 9 December 2009

Under reference to paragraph 2 of the Minute Councillor Ross asked, that following the successful meeting held in Garmouth on 15 January 2010, what the response was from the Director of Environmental Services to the six month timeframe given for the meeting to be reconvened and what the Council can do in the next six months to provide some answers to the queries raised at the meeting. In regard to the shingle bank at Kingston he further asked if he and other local members could be provided with copies of the monitoring reports which were carried out every three months.

In response the Director of Environmental Services advised that:-

- (a) he accepted that the need for another meeting in 6 months to report what has happened in the intervening months;
- (b) it had been made clear at the meeting on 15 January that there are a number of decisions that have to be taken both by the Moray Council in terms of its own budget and in terms of the Scottish Government and what it will make available to the Council in terms

of a capital grant and that these will have implications in terms of what the Council can and cannot do.

- (c) he was also aware that there was the question of additional funding which may or may not come in the Council's direction and of other local authorities in terms of the new responsibilities as a consequence of Flood Risk Management legislation.
- (d) he would suggest that the first stage would be for a meeting of the Lower Spey Forum to be called by the Scottish Environmental Protection Agency (SEPA), the body which chairs the Forum, to review the information that is available in the first instance.
- (e) Beyond (a) - (d) above he had not considered further immediate measures to be taken as he believed there to be confusion as to the powers and duty of the Council which relate to trying to prevent or reduce flooding as opposed to powers to prevent or reduce erosion as in many cases it is erosion which is the problem at present rather than flooding.

Under reference to the same paragraph Councillor A McDonald asked that the monitoring reports for the shingle bank be provided to members and that a site visit be undertaken to Garmouth and Kingston.

In response the Director of Environmental Services agreed that the monitoring reports would be provided as requested.

In response to the request for a site visit, the Chairman suggested that as the first action was to re-establish the Forum, it would perhaps be better to do this and then consider a site visit thereafter. This was agreed.

(v) Minute of the Special Meeting of the Moray Council dated 16 December 2009

Under reference to paragraph 7 of the Minute Councillor Divers referred to the press release about to the decision taken relating to the Management Arrangements and the subsequent press release which stated that Opposition Members had taken a "u-turn" on a previous decision of the Meeting of the Moray Council on 4 November 2009 and stated that he was of the opinion this was not the case as the previous decision had been subject to consultation. He could only assume therefore that the Council's PR department had been used for the benefit of this Administration and not for the benefit of the 26 Members of this council and asked for an answer on the use of the PR department as to whether they were here for the use of all 26 Members or only for the use of the Administration?

The Chief Executive advised that he would look into this issue and respond to Councillor Divers.

