

**THE MORAY COUNCIL**  
**MINUTE OF MEETING OF THE POLICY & RESOURCES COMMITTEE**  
**TUESDAY 17 NOVEMBER 2009**  
**COUNCIL OFFICE, ELGIN**

**PRESENT**

Councillors A Wright, (Chairman), G McIntyre (Deputy), L Bell, J S Cree, B Jarvis, G Leadbitter, G McDonald, P Paul, J Russell, M Shand, R Shepherd and D Stewart

**APOLOGIES**

Apologies were received from Councillor E McGillivray

**IN ATTENDANCE**

The Chief Executive, Director of Educational Services, Director of Environmental Services, Head of Direct Services (in respect of Item 4), the Chief Financial Officer, the Chief Legal Officer, Mr S Beveridge, Senior Estates Surveyor, Mrs J Mackie, Lead System, Manager and Mrs C. Carswell, Committee Services Officer, Clerk to the Meeting.

The Chair welcomed two representatives from Angus Council who were in attendance to view the webcast.

**1. PRESENTATION BY APPRENTICES WHO REPRESENTED THE COUNCIL  
AT THE YOUTH PARLIAMENT, LANDSHUT**

The Director of Environmental Services advised the Meeting that the twin town of Lanshut had invited a number of their twin towns and international links to send representatives to the city to establish a youth parliament and to discuss a series of motions which were decided by the young people themselves. He further advised that the event was sponsored by the European Union with minimal cost to the Council.

Mr Drysdale, Depute Head Teacher at Lossiemouth High School, who had accompanied the young people to Landshut, introduced the apprentices who had taken part in the visit, which had also been attended by representatives from places such as Russia and the Ukraine. Thereafter the apprentices, Sophie Kleintges, Claire Smith, Niketa Cruickshank, and Scott Little gave a presentation on their attendance at the Youth Parliament, Landshut.

Thereafter the Chairman thanked them for their very professional presentation.

## **2. DECLARATION OF GROUP DECISIONS AND MEMBERS INTERESTS**

In terms of Standing Order 20 and the Councillors' Code of Conduct, 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 member interest in respect of any item on the agenda.

## **3. EXEMPT INFORMATION**

Under reference to paragraphs 15 and 25 of the Minute of the Audit and Performance Review Committee dated 26 August 2009, Councillor G McDonald raised his concern in regard to Item 16 "Deanshaugh" being heard in confidence as the previous reports on this issue had been discussed in public and he was of the opinion that the public should be allowed to know how the Council had reached its conclusion.

In response Councillor Wright stated that whilst he had some sympathy for that argument he was persuaded by paragraph 2.2 of the report to take the item in confidence and would therefore still intend to take the item in confidence.

Councillor G McDonald further stated that it was his understanding that the decision of the Audit & Performance Review Committee in August had been to refer final consideration of this matter to the Policy and Resources Committee at which time the report would be considered jointly by Members of both Committees, although it was agreed that the Policy and Resources Committee would have the final decision and he therefore asked that consideration be given to either this item being referred back to Audit & Performance Review Committee which would require a suspension of Standing Orders or allow the report to be debated at this meeting and that it be discussed in public.

Councillor Wright sought guidance on this matter from the Chief Legal Officer who advised that it was his understanding that the matter was coming before this Committee in terms of the governance issues and the policy issues that that might entail and if there were matters of interest and relevance to the Audit & Performance Review Committee then it would go on to that Committee as the earlier reports were handled. The issue of it being heard in confidence were as the reasons already indicated by the Chairman.

Councillor Wright stated that the Minute of the Audit and Performance Review Committee did indicate that consideration of this report at this meeting of the Policy and Resources Committee would be the final chapter in regard to this issue and that the Members of both Committees could attend and take part in the debate and sought clarification on whether it could be discussed by both Members of each Committee at this meeting.

The Chief Legal Officer advised that it would be highly unusual to consider a report on that format. The proper way to do this would be to establish a joint Committee for that purpose which in itself would be unusual. He referred to how the report had

been dealt with initially which was by reference to this Committee and to Audit and Performance Review Committee and that he took that as this was the way in which the report had been dealt with earlier it would be an entirely appropriate way to deal with it again.

Councillor G McDonald stated that it was his recollection that it was to come to this Committee but that Members of the Audit and Performance Review Committee were to be invited along to this Committee to take part in the debate but that it would be purely for the Policy and Resources Committee to come to a decision. He suggested therefore that the item be deferred to the next meeting of the Policy and Resources Committee in order for this issue to be clarified and as Chairman of the Audit and Performance Review Committee he was aware that Members of the Audit & Performance Review Committee would wish to participate in the debate and it was important that the Council gets this right.

In response Councillor Wright stated that he was of the opinion that this could be accommodated by deferring this report as suggested and sought clarification from the Chief Legal Officer in this regard.

In response the Chief Legal Officer advised that what was being suggested was highly irregular in that Members could come along and raise issues and influence a committee on which they have no rights to participate or vote. He advised that conventionally where Members who were not members of a committee have been entitled through the Chair to speak this has usually been in relation to a constituency matter where there are very detailed issues or perhaps issues best expressed through the knowledge of the Ward Member to that committee and in those circumstances alone has it been the convention to allow individual Members to speak to a Committee to which they are not a party. He further advised that he had some concerns where there could well be a number of Members of the Audit and Performance Review Committee speaking to an issue which is within the remit of this Committee. However, if there were some constitutional issues that Members have concerns about, he suggested that it would be best that this be deferred for discussion to take place between himself, the Chief Executive, the Chairman and Group Leaders about how to progress this matter.

This was agreed.

Thereafter, 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**

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#### **4. WRITTEN QUESTIONS**

The committee noted that no written questions had been submitted.

#### **5. FLOOD RESPONSE - FINANCIAL IMPLICATIONS**

There was submitted a report by the Chief Financial Officer providing the committee with an indication of the financial implications (associated with the roads infrastructure) arising from the flooding incident at the beginning of November and providing an update on the financial implications of the flooding incident in September.

The Meeting noted an update by the Head of Direct Services on the progress in regard to the ongoing work and repairs to the roads, the bridge and Fochabers and lands and parks following the recent flooding incidents in Moray.

During discussion concern was raised regarding the condition of the breakwater at the East Beach Lossiemouth and when emergency repairs would be carried out.

The Chairman stated that the funding for the works on the breakwater would be part of the five year capital plan which was due to be reviewed by Members in December and asked whether the Council would be in a position at that time to allow the work to proceed.

In response the Head of Direct Services advised that there were two issues in regard to undertaking this work; one being that various permissions require to be sought from other agencies which could not be avoided and the other was that due to the nature of the works being marine based, weather related and tide related, there were particular times of the year when it would be best to carry out this work. He further advised that the task for officers was to look at a repair method and prioritising that repair within the capital plan.

Following further discussion the Chairman proposed that the recommendations be amended to read that the meeting note the contents of the report and that funding decisions on the projects will be taken within the revised capital plan which will be considered by this Committee in December.

The Chief Financial Officer advised that details of officers progress with the financial plan review would be made available to Members in December. However, he reminded the Meeting of the need for the Council to significantly reduce the capital plan and it was doubtful that a decision on the funding of these projects could be made at that time. He further advised that if the Council could not deliver the reduction in the capital plan review then there would be a need for further revenue savings and whilst he appreciated that Members had significant issues to consider within this report, they would have many other significant issues within the overall revenue budget to deal with. However if the Committee was minded to take this forward arrangements could be made to do that, but at the moment the plan was for the council to discuss the whole financial plan in mid February rather than purely the capital plan.

Councillor Wright stated that there would be a large agenda on the 11<sup>th</sup> February 2010 to agree the revenue budget for 2010/11. Whilst he appreciated that the capital spending had a direct effect on the revenue budget, he had concerns that to seek to debate these schemes at that time was too much to ask and urged that some of the load be taken from that meeting by debating these at the meeting in December and therefore he hoped that the Asset Management Working Group can bring this issue forward for at least initial discussion in December as the public were entitled to know that the Council were working on issues as quickly as possible. He further asked that the Asset Management Group more clearly highlight changes made to the capital plan in future reports.

Following consideration, the committee noted the contents of the report and that funding decisions on the various projects will be considered within the revised capital plan which would be considered in December.

## **6. NON-DOMESTIC RATES: SPORTS CLUBS' RATES RELIEF POLICY REVIEW**

There was submitted a report by the Chief Financial Officer providing the committee with information to review the Council's policy on the disposal of applications for discretionary rates relief for sports clubs.

Following consideration, the committee agreed:-

- (i) to establish a revised policy for the disposal of applications for awards of discretionary rates relief for sports clubs as described in section 4.2 of this report; and
- (ii) for sports clubs with bar and gaming machine facilities restrict rates relief to a maximum of 80% for those clubs earning at least 30% gross profit on bar sales with no rates relief being awarded to clubs where the gross profit is less than 30% on bar sales.

## **7. DISABILITY DISCRIMINATION ACT 1995**

There was submitted a report by the Head of Estates Services providing the committee with a progress report on the actions taken by the Council to comply with the duties placed on it by Part 3 of the Disability Discrimination Act 1995.

Following consideration, the committee:

- (i) noted the progress reached to date on the adaptation works carried out to Council properties;
- (ii) noted and approved the works to the 12 properties set out in Appendix 2 which are required to complete the programme; and

- (iii) noted the arrangements that are in place to ensure that the Council meets its duty under Part 3 of the Disability Discrimination Act 1995.

## **8. REVENUE BUDGET MONITORING TO 30 SEPTEMBER 2009**

There was submitted a report by the Chief Financial Officer advising committee of the current Revenue Budget Monitoring position for 2009/10, identify allocations to departmental budgets from provisions for general and specific purposes and to advise of the estimated outturn for 2009/10.

Following discussion during which the Chief Executive and the Director of Educational Services responded to Members questions, the committee noted the:-

- (i) current Budget Monitoring position for 2009/10 as at 30 September 2009;
- (ii) allocations from provisions; and
- (iii) estimated outturn for 2009/10.

## **9. CAPITAL PLAN 2009/10 MONITORING TO 30 SEPTEMBER**

There was submitted a report by the Chief Financial Officer asking the committee to note the expenditure under the Capital Plan for financial year 2009/10 to 30 September 2009.

In response to a question from Councillor Paul regarding the relocation of Rothes and Dufftown Libraries, the Chief Financial Officer advised that he was aware that a report was being prepared by the Libraries and Museums Manager to provide Members with the full details regarding these projects.

The Director of Educational Services advised that European funding had been successfully drawn down and that it was clear that there was sufficient lack of information around this programme that it would be worth bringing an update to Members either through a report being submitted to the Children & Young People Services Committee or an information note for members on exactly where each element of the programme is.

In response Councillor Paul stated that in her opinion Members should receive both a report and an interim information note updating Members. This was agreed.

Thereafter the committee considered each of the recommendations in turn and:-

- (i) noted the expenditure to 30 September of £13.0 million; and
- (ii) agreed that the Capital plan for 2009/10 be amended to reflect the amended expenditure profiles identified for:
  - (a) Education projects
  - (b) Child Protection Unit

- (c) Office Accommodation
  - (d) Customer Relationship Management System
  - (e) Industrial Estates
  - (f) Roads & Transport
  - (g) Fochabers Bridge
  - (h) Flood Alleviation Schemes – in response to concern raised by Councillor McDonald in regard to the smaller flood alleviation projects, agreed that a further report providing information on exactly where each element of the programme is within the capital plan, including information on the flood alleviation schemes would be brought to the Policy & Resources Committee in December; and
- (iii) agreed that an update report on the Libraries Integration programme be submitted to the Children and Young Peoples Services Committee and that in the interim an information note on this programme is be provided to Members.

## **10. STRENGTHENING MORAY COUNCIL'S HEALTH IMPROVEMENT ROLE**

There was submitted a report by the Director of Community Services setting out the background to the creation of a senior post to lead on the Council's responsibilities in relation to Health Improvement and seeks approval to draw down the funding earmarked for this purpose.

Councillor Wright stated that since the Council was currently in the midst of a consultation process regarding the budget, he would be unwilling to support the recommendation to fill the post of the Strategic Programme Manager (Health Improvement). He further stated that in his opinion the health improvement role was part of the community planning partnership approach and should be investigated with the partnership and defer the report until explored with the community planning partnership.

There being no one otherwise minded this was agreed.

## **11. FAIRER SCOTLAND FUND**

There was submitted a report by the Chief Executive inviting the committee to note the progress of the Fairer Scotland Fund towards the agreed performance indicators and its overall performance in meeting the fund priorities.

Following consideration, during which Officers responded to various questions raised, the committee agreed to note the progress of the Fairer Scotland Fund in meeting the agreed performance indicators.

## 12. FIELD AT RIVERSIDE, WEST ROAD, ELGIN

There was submitted a report by the Head of Estates Services requesting that committee consider proposals, including the disposal of land held on the Elgin Common Good Account, to facilitate the development of a Business Park in Elgin.

During discussion, Officers responded to various queries raised regarding ownership of the land, potential leasing of the land and whether the capital receipt would go to the common good fund or to the Council. In regard to ownership of the land it was agreed that this be investigated further.

The Senior Estates Surveyor referred to paragraph 3.5 of the report and advised the meeting of a recent development which had occurred since the report had been written in that Highlands and Islands Enterprise had initially advised the Council that their regulations stated that the District Valuer was to be appointed to value the land but have now advised that that is not the case and they have appointed private surveyors to act on their behalf. He would however, recommend, that the Council appoint the District Valuer to act on its behalf to ensure best value and to be seen as being removed from the Council and asked that recommendation 3 under paragraph 2.1 of the report be amended to read that the Head of Estates Services be authorised to appoint the District Valuer to negotiate provisional terms of sale of the field at Riverside to Highlands and Islands Enterprise, on behalf of the Council, and report back to committee to consider provisionally agreed terms of sale. This was agreed.

Thereafter, the committee agreed:

- (i) to declare as surplus to requirements the field at Riverside, West Road, Elgin extending to 4.11 hectares as shown outlined black, hatched and identified as area 1 on Appendix 1;
- (ii) to authorise the termination of the grazing lease over the field at Riverside, West Road, Elgin extending to 4.11 hectares as shown outlined black, hatched and identified as area 1 on Appendix 1;
- (iii) to authorise the Head of Estates Services to appoint the District Valuer to negotiate provisional terms of sale of the field at Riverside to Highlands and Islands Enterprise, on behalf of the Council, and report back to committee to consider provisionally agreed terms of sale;
- (iv) to authorise the Head of Estates Services to negotiate a variation of the current lease of the Riverside Caravan Park (shown outlined black, hatched and identified as area 2 on Appendix 1) to recover vacant possession of those areas required by Highlands and Islands Enterprise for the construction of a roundabout and service road to assist the development of a business park on the adjacent land;
- (v) that ownership of the land be confirmed by the Chief Legal Officer and the committee advised accordingly.

### **13. QUESTION TIME**

The committee noted that no questions were raised.

### **14. FORMER BOATYARD, BANK STREET, BUCKIE (PARA 9)**

There was submitted a report by the Head of Estates Services asking the committee to authorise the Head of Estates Services to dispose of the Former Boatyard, Bank Street, Buckie on the open market.

Following lengthy discussion, Councillor McIntyre, seconded by Councillor Wright, moved that the committee agree the recommendation to authorise the Head of Estates Services to proceed with the sale of the Former Boatyard, Bank Street, Buckie on the open market subject to none of the North East of Scotland Public Sector Property Partners wishing to acquire the property.

There being no on otherwise minded, this was agreed.

### **15. FORMER ABATTOIR, GREAT WESTERN ROAD, BUCKIE (PARA 9)**

There was submitted a report by the Head of Estates Services requesting that committee approve the sale of land at the former Abattoir, Great Western Road, Buckie, as shown outlined and hatched black on Appendix 1.

Following consideration, the committee agreed to authorise the sale of the land shown hatched and outlined black on Appendix 1, at the former Abbatoir, Great Western Road, Buckie to PREM (Rooster) II LLP, on the terms detailed in Section 4.3 of this report; and

Thereafter Councillor Wright asked that the Committee consider amending the Administration Scheme so delegation could be given in order that local members could decide on issues of sale regarding small strips of land in the same way that they decide on the naming of streets etc rather than them coming to the committee.

Following discussion it was agreed that a report be brought back to committee on this delegation which would include details of the de-minimus level this delegation would be set at and the action to be taken if a consensus could not be reached.