

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

**WEDNESDAY 04 NOVEMBER 2009**

**COUNCIL OFFICE, ELGIN**

**PRESENT**

Councillors G McIntyre (Convener), 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 Community Services, the Chief Financial Officer, the Chief Legal Officer, the Head of Direct Services, the Head of Personnel Services, the Principal Personnel Advisor (for Item 11), the Educational Resources Manager and the Sports Facilities Manager (both for Item 6), Stewart Beveridge, Estates Surveyor and the Principal Committee Services Officer, Clerk to the Meeting.

**2. ORDER OF BUSINESS**

In terms of Standing Order 25 the Meeting noted that Item 14 'PPP Project Final Tender Evaluation Report' had been withdrawn from the agenda pending receipt of further information from one of the bidders. It was agreed that a special meeting of the Full Council to consider this item be held on 17<sup>th</sup> November at 2.00pm following the Policy and Resources Committee scheduled for that day.

It was further agreed to take the Minute of Meeting of Voluntary Severance and Voluntary Early Retirement Scheme Working Party dated 29 October 2009 as item 4(r) on the Agenda.

**3. DECLARATION OF GROUP DECISIONS**

In terms of Standing Order 20 and the Councillors' Code of Conduct the meeting noted that the SNP Group had discussed items 6, 11 & 12 on the Agenda, 'Moray Hydrotherapy Pool at Forres'; "Budget Consultation and Communication", and "Management Arrangements", but there was no whip on the decision of the SNP Group Members and no sanctions in place to encourage them to vote in any particular way.

The Meeting noted that the Administration Group had discussed Item 11 on the Agenda "Budget Consultation and Communication" but there was no whip on the decision of the Administration Group Members and no sanctions in place to encourage them to vote in any particular way.

There were no other 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. EXEMPT INFORMATION

<u>Para No of Minute</u>	<u>Para No of Schedule 7A</u>
11	9
12	1
13	9
14	9

#### 5. MINUTES

##### **(a) THE MORAY COUNCIL - MINUTE OF MEETING DATED 9 SEPTEMBER 2009**

The Minute of the Meeting of the Moray Council dated 9 September was submitted and approved.

##### **(b) THE POLICY AND RESOURCES COMMITTEE - MINUTE OF MEETING DATED 22 SEPTEMBER 2009**

The Minute of the Policy and Resources Committee dated 22 September 2009 was submitted and approved.

##### **(c) HEALTH AND SOCIAL CARE SERVICES COMMITTEE - MINUTE OF MEETING DATED 23 SEPTEMBER 2009**

The Minute of the Health and Social Care Services Committee dated 23 September 2009 was submitted and approved.

##### **(d) CHILD PROTECTION SUB COMMITTEE - MINUTE OF MEETING DATED 23 SEPTEMBER 2009**

The Minute of the Meeting of the Child Protection Sub Committee dated 23 September 2009 was submitted and approved.

**(e) PLANNING AND REGULATORY SERVICES COMMITTEE - MINUTE OF MEETING DATED 29 SEPTEMBER 2009**

The Minute of the Meeting of the Planning and Regulatory Services Committee dated 29 September 2009 was submitted and approved subject to para 3(g) being amended to include the reference made by Councillor Divers at the meeting that the wording of Condition 18 relating to 'improved crossing facilities' should refer specifically to the provision of a 'pelican crossing'.

**(f) PLANNING AND REGULATORY SERVICES COMMITTEE - MINUTE OF SPECIAL MEETING DATED 29 SEPTEMBER 2009**

The Minute of the Special Meeting of the Planning and Regulatory Services Committee dated 29 September 2009 was submitted and approved.

**(g) THE MORAY COUNCIL - MINUTE OF SPECIAL MEETING DATED 30 SEPTEMBER 2009**

The Minute of Special Meeting of the Moray Council dated 30 September 2009 was submitted and approved.

**(h) COMMUNITIES COMMITTEE - MINUTE OF MEETING DATED 6 OCTOBER 2009**

The Minute of the Meeting of the Communities Committee dated 6 October 2009 was submitted and approved.

**(i) CHILDREN AND YOUNG PEOPLE'S SERVICES COMMITTEE - MINUTE OF MEETING DATED 7 OCTOBER 2009**

The Minute of the Meeting of the Children and Young People's Services Committee dated 7 October 2009 was submitted and approved.

**(j) PLANNING AND REGULATORY SERVICES COMMITTEE - MINUTE OF MEETING DATED 7 OCTOBER 2009**

The Minute of the Special Meeting of the Planning and Regulatory Services Committee dated 7 October 2009 was submitted and approved subject to the wording relating to Condition 18 being amended to reflect the reference made by Councillor Divers to 'improved crossing facilities', making specific reference to the provision of a 'pelican crossing'.

**(k) ECONOMIC DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE - MINUTE OF MEETING DATED 13 OCTOBER 2009**

The Minute of the Meeting of the Economic Development and Infrastructure Services Committee dated 13 October 2009 was submitted and approved subject to the attendance of Mr Roe, Chairman of HIE Moray being recorded.

**(l) PLANNING AND REGULATORY SERVICES COMMITTEE - MINUTE OF SPECIAL MEETING DATED 13 OCTOBER 2009**

The Minute of the Special Meeting of the Planning and Regulatory Services Committee dated 13 October 2009 was submitted and approved subject to the inclusion of reference being made to the Director of Environmental Services rejecting the offer of payment by Objectors towards the cost of any Public Inquiry in relation to Dorenell Windfarm.

**(m) LICENSING COMMITTEE - MINUTE OF MEETING DATED 14 OCTOBER 2009**

The Minute of the Meeting of the Licensing Committee dated 14 October 2009 was submitted and approved.

**(n) FLOOD ALLEVIATION SUB COMMITTEE - MINUTE OF MEETING DATED 14 OCTOBER 2009**

The Minute of the Meeting of the Flood Alleviation Sub Committee dated 14 October 2009 was submitted and approved.

**(o) HOUSING SUB COMMITTEE - MINUTE OF MEETING DATED 16 OCTOBER 2009**

The Minute of the Meeting of the Housing Sub Committee dated 16 October 2009 was submitted and approved.

**(p) POLICY AND RESOURCES COMMITTEE - MINUTE OF MEETING DATED 20 OCTOBER 2009.**

The Minute of the Meeting of the Policy and Resources Committee dated 20 October 2009 was submitted and approved.

**(q) AUDIT AND PERFORMANCE REVIEW COMMITTEE - MINUTE OF MEETING DATED 21 OCTOBER 2009.**

The Minute of the Meeting of the Audit and Performance Review Committee dated 21 October 2009 was submitted and approved.

**(r) VOLUNTARY SEVERANCE AND VOLUNTARY EARLY RETIREMENT SCHEME WORKING PARTY – MINUTE OF MEETING DATED 29 OCTOBER 2009**

The Minute of the Meeting of the Voluntary Severance and Voluntary Early Retirement Scheme Working Party dated 29 October 2009 was submitted and approved.

## **5. WRITTEN QUESTIONS**

There were no written questions.

## **6. MORAY HYDROTHERAPY POOL AT FORRES**

There was submitted a report by the Director of Educational Services asking the Council to consider whether or not to support the provision of a hydrotherapy pool and treatment service by Moray Hydrotherapy Pool Ltd at Forres Swimming Pool.

During discussion, in response to a query about the progress of Court action for the William Cameron Bequest Fund to be used to financially assist the hydrotherapy pool, the Chief Legal Officer advised the Charity Regulator, Scotland would be prepared to look at this in principle, but would require more detail on the specifics of the request. As soon as the Charity Regulator clarified what further information was required this would be reported to Members. This was noted.

Following further discussion during which Officers responded to questions about the future sustainability of the pool, Councillor Hamilton, seconded by Councillor Bell moved approval of the recommendations as detailed in the report subject to recommendation (iv)(a) being amended to read 'that the Council will provide a guarantee against operational loss of up to £20,000 per year for the first 3 years of operation and thereafter the pool will have to sustain itself without further council funding.

As an amendment, Councillor Cree, seconded by Councillor Wright moved approval of the recommendations as detailed in the report subject to recommendation (iv)(a) being amended to read ' that the Council will provide a guarantee against operational loss of up to £10,000 per year for the first 3 years of operation and thereafter the pool will have to sustain itself without further council funding.

On a division there voted:

For the Motion (14)                      Councillors Hamilton, Bell, Coull, Leadbitter, McConachie, A McDonald, G McDonald, Ogilvie, Paul, Ross, Shand, Sharp, Stewart and Young

For the Amendment (12) Councillors Cree, Wright, Divers, Hogg, Jarvis, J MacKay, McGillivray, McIntyre, A McKay, Murdoch, Russell and Shepherd

Abstentions (0)

Accordingly the Motion became the finding of the meeting and the Council agreed:

- (i) to the siting of the Hydrotherapy Pool adjacent to Forres Swimming Pool and the granting of the ground lease to Moray Hydrotherapy Pool Limited at a rental of £325.00 p.a. - Subject to confirmation from Moray Hydrotherapy Pool Limited on Building and Public Liability Insurance;
- (ii) the proposed Operational Plan to be implemented by the Moray Council Sport and Leisure Staff for daily operation of the building;
- (iii) the proposed Management Fee submitted by Moray Council to the Moray Hydrotherapy Pool Limited
- (iv) financial support as follows:-
  - (a) that the Council will provide a guarantee against operational loss of up to £20,000 per year for first 3 years of operation and thereafter the pool will have to sustain itself without further council funding;
  - (b) the cost for the appointment of a Clerk of Works to act on the Council's behalf during the construction phase up to a maximum cost of £7,000.

## **7. ALTERNATIVE METHOD OF SCHOOL MEAL PROVISION AT CABRACH PRIMARY SCHOOL**

There was submitted a report by the Director of Educational Services asking the Council to approve an alternative method of school meal provision at Cabrach Primary School.

Following consideration the Council agreed to cease the operation of the kitchen and employment of a cook at Cabrach Primary School for the provision of school meals and, in future, all meals will be provided from Mortlach Primary School, Dufftown with delivery by taxi or hire car.

## **8. THE MORAY COUNCIL'S AUDITED ACCOUNTS FOR THE PERIOD 1 APRIL 2008 TO 31 MARCH 2009**

There was submitted and noted a report by the Chief Financial Officer on the Audited Accounts of the Council for the year ended 31 March 2009.

## **9. GREENER STRATEGIC GROUP MEMBERSHIP**

There was submitted a report by the Chief Legal Officer inviting the Council to consider appointing a member and Chair to the Greener Strategic Group following Councillor Murdoch's resignation from the Administration Group on the Council.

Prior to discussion of this item, the Chairman advised the meeting that Councillor Murdoch had not resigned from the Greener Group but had only resigned as Chair and therefore the meeting was being asked to consider the appointment of Chair only. This was noted.

Thereafter, the Meeting agreed that Councillor Russell be appointed as Chair to the Greener Strategic Group.

## **10. QUESTIONS ON COUNCIL MINUTES**

### Meeting of The Moray Council dated 9 September 2009

Under reference to paragraph 14 of the Minute Councillors Coull and Cree asked why no report on the proposed minor flood works at Newmill, Keith and other areas had been brought to the Flood Alleviation Sub Committee as agreed and also why they had not been informed that these works had been removed from the Capital Plan as it had been previously advised that they would be carried out and that it was a matter of phasing of the work.

In response the Chief Financial Officer advised that changes to the Capital Plan had been approved by the Council at its meeting on 11 February 2009 but that work is now ongoing to revise the Capital Plan. He referred to a report to the meeting of Council on 30 September 2009 that there will be a reduction of around 20% in the two major areas which are schools and roads and if that cannot be delivered there will need to be further revenue savings to fund an increased capital plan. He further advised that this will come back to Council for consideration during the planning process which leads to 11 February 2010 when the Council will set the new capital plan. Should Members wish to review that in the interim there would always be opportunity to do that at the Policy & Resources Committee.

### Meeting of Health & Social Care Services Committee dated 23 September 2009

Under reference to paragraph 7 of the Minute Councillor G McDonald asked that in regard to the draft Implementation Plan, consideration be taken into account of the Scottish Index of Multiple Deprivation 2009 which was released on 29 October 2009 as within that document a summary states that Millbank, Buckie has joined 2 Elgin data zones, South Lesmurdie and West Thornhill areas in the 20% most overall deprived in Scotland. He further asked that this also be raised with the Community Planning Partners and also at all relevant Council Committees.

In response the Director of Community Services advised that this is one of a number of sources of information that should shape and inform how the Council responds to peoples needs in the community and regular reports and updates whould go to the Healthier Strategic Group and also the Health & Social Care Services Committee.

The Chief Legal Officer further advised that the Chief Executive's Office work has commissioned work on a Moray specific report drawn from the national report and that will be fed through the community planning process and the committee process and will give the level of detail pertaining to those parts of Moray that are within these poverty areas.

### Meeting of Children & Young People's Services Committee dated 7 October 2009

Under reference to paragraph 21 of the Minute Councillor Shand asked if the Administration Group had considered the request for an action plan to improve attainment at highers to be included in the December meeting of the Children & Young People's Services Committee, have they come to a decision and are Members allowed to know what that is.

In response Councillor Hamilton, as Chairman of the Children & Young People's Services Committee advised that this had not yet been considered by the Administration Group but will do in due course.

## **11. BUDGET CONSULTATION AND COMMUNICATION [Para 9]**

There was submitted a report by the Chief Financial Officer providing the Meeting with details of potential budget savings for Financial Year 2010/11 and the arrangements for consulting on the potential savings. The Council was also asked to consider arrangements for communication on the level of savings likely to be required during the next few years.

Following consideration the Council agreed, subject to minor amendments as raised at the meeting, the arrangements for consultation on the budget savings for 2010/11 and communication on the level of budget savings required over the next few years.

## **12. MANAGEMENT ARRANGEMENTS [Para 1]**

There was submitted a report by the Chief Executive asking the Council to consider the management structure proposed within the report, to note that the financial planning service requires to be strengthened and that consideration of this issue will be subject of a future report to Council; to approve that posts be filled on the basis set out at paragraph 9 of the report and agrees to consult with staff and trade unions regarding the final agreed proposals.

During discussion Councillor Wright asked that job descriptions for the Corporate Director posts be provided in a separate report regarding appointments to the revised structure to allow consideration on how these posts should be filled and also allow a further look at the remuneration for these posts. In agreeing this it was further agreed that the report include information on how other local authorities have handled similar management restructuring.

Following further discussion Councillor Ross stated that he had significant concerns regarding this report and, in regard to the change proposed by Councillor Wright, he was of the opinion that how the Corporate Director Posts would be filled was a fundamental part of the report and therefore moved that the paper be deferred until this information had been considered. On failing to find a seconder the Motion fell.

The Head of Personnel Services advised that there was a need to separate the two processes which need to be gone through in relation to these posts. One being how the Council deals with the existing post holders, whether or not they are redundant because of the proposals or whether they face some changes to their job. The second decision is in relation to how the posts are filled. Therefore the Council could still agree a structure, consult on the implications for the individuals and come back to them on what the appointment process will be, subject to an assessment on what are the changes to the jobs and what are the options in terms of recruitment.

Following further discussion on the filling of the Senior Management posts Councillor Wright stated that in his opinion job descriptions for the for Corporate Director posts being asked for in a separate report should not hinder the rest of the recommendations going forward and moved the recommendations.

On seconding the Motion, Councillor Hamilton stated that the job description for the additional post of Depute Corporate Director (Education & Social Care) should also be included in the further report, and this was agreed.

Thereafter Councillor Ross in moving an amendment to the motion, stated that whilst he appreciated the work which had been undertaken in preparing the report, he could not agree with the Motion. Whilst he understood that the proposed management structure was not seen as a money saving exercise

albeit the Chief Executive has advised that there are some savings within it, it was running in tandem with the budget consultation and in his opinion this does not send out the right message. He stated that in regard to the proposed new structure he could not see the changes this new structure would bring and in his opinion this will be seen by the public as creating another level of bureaucracy in this Council that they do not need and will look like the Council is being extravagant. He further stated that he was of the opinion that if the Council agreed to the management structure at this meeting, it was agreeing to a middle of the road structure which may work or may not and whilst he personally had difficulty in moving against the Administration of which he was happy to be part of, he moved refusal of the recommendations and asked that the Chief Executive to relook at this. On failing to find a seconder, the motion fell.

Following further discussion Councillor Paul asked if the report on the job descriptions and recruitment of the senior posts could also include job descriptions for Heads of Service and details on the recruitment procedure for these posts. This was agreed.

Thereafter, there being no-one otherwise minded, on the Motion by Councillor Wright, seconded by Councillor Hamilton the Council agreed subject to consultation:-

- (i) the proposed management structure;
- (ii) to designate the Head of Resources as Depute Director;
- (iii) that a further report be submitted providing information on:
  - (a) how the Corporate Directors, Depute and Heads of Service posts will be filled;
  - (b) a review of salary levels for Corporate Directors and the Depute Director Post;
  - (c) job descriptions for the above posts, and
  - (d) a review of the recruitment procedure approved by the Council for Senior Members of staff;
- (iv) to note that the financial planning service requires to be strengthened and that consideration of this issue will be subject of a future report to Council, and
- (v) to consult with staff and trade unions regarding the agreed proposals

### **13. VOLUNTARY SERVICE AND VOLUNTARY EARLY RETIREMENT ARRANGEMENTS [Para 9]**

Under reference to paragraph 14 of the Minute of the Meeting of the Policy and Resources Committee, there was submitted a report by the Chief Executive detailing a review of current terms for voluntary severance and early retirement which was submitted to the Policy and Resources Committee on 20 October 2009.

Following consideration the Council agreed the Cross Party Working Group recommendations as detailed in the report.