

## **THE MORAY COUNCIL**

### **MINUTE OF MEETING OF THE POLICY AND RESOURCES COMMITTEE**

**17 MARCH 2015**

**COUNCIL OFFICE, ELGIN**

#### **PRESENT**

Councillors S Cree (Chair), A Wright (Deputy Chair), G Coull, J Cowe, L Creswell, P Gowans, G Leadbitter, E McGillivray, P Paul, D Ross, M Shand and A Skene.

#### **APOLOGIES**

Apologies for absence were intimated on behalf of Councillor S Morton.

#### **IN ATTENDANCE**

The Chief Executive, the Corporate Director (Corporate Services), the Corporate Director (Education and Social Care), the Acting Corporate Director (Economic Development, Planning and Infrastructure), the Acting Head of Legal and Democratic Services, the Head of Direct Services, the Head of Development Services, the Head of Human Resources and ICT, the Head of Lifelong Learning, Culture and Sport, the Payments Manager, the Environmental Protection Manager, the Housing Strategy and Development Manager, the Asset Management Coordinator, the Consultancy Manager, Ms Debbie Halliday, Senior Engineer and Mrs Lissa Rowan, Committee Services Officer as Clerk to the Meeting.

#### **1. 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 or any declarations of Members' interests in respect of any item on the agenda.

#### **2. MINUTE – MEETING OF POLICY AND RESOURCES COMMITTEE DATED 17 FEBRUARY 2015**

The Minute of the Meeting of the Policy and Resources Committee dated 17 February 2015 was submitted and approved.

#### **3. 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.

<u>Paragraph No. of Minute</u>	<u>Paragraph No. of Schedule 7A</u>
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12	1
13	1
14	6
15	12
16	6

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

The Committee noted that no written questions had been submitted.

#### **5. CHARGING FOR SERVICES**

Under reference to paragraph 6 of the Minute of this Committee dated 18 March 2014, there was submitted a report by the Corporate Director (Corporate Services) asking the Committee to approve fees and charges for Council services for 2015/16.

During discussion, Councillor Leadbitter raised concern in relation to the 5% above inflation increase across services of which the Council has control and moved that increases for services whose costs were predominately staff based be limited to 3% as it would be unfair for service users of these services to pay an increase of 5% when salary increases are expected to be much less than 5%.

The Chair asked Councillor Leadbitter to clarify his motion by stating what specific services his motion related to.

In response Councillor Leadbitter stated that his motion applied to those services whereby the cost of the services was predominately staffing and in recognising that he was unable to specify every staff based service within the report, amended his motion and moved that the decision to increase any charges be deferred until further information is available in relation to charges with a predominant staffing component. Councillor Shand seconded this motion.

The Chair moved as an amendment that the Committee agree the recommendations as detailed within the report. This was seconded by Councillor McGillivray.

On a division there voted:

For the motion (5): Councillors Leadbitter, Shand, Coull, Gowans and Paul

For the amendment (7): Councillors Cree, McGillivray, Cowe, Creswell, Ross, Skene and Wright

Abstentions (0)

Accordingly the amendment became the finding of the meeting and the Committee agreed the charges set out in Appendix 1 of the report.

During further discussion surrounding the newly refurbished Elgin Town Hall, clarification was sought as to whether it could be marketed for commercial use in light of the improved facilities on offer. In response, the Head of Lifelong Learning Culture and Sport advised that the Elgin Town Hall was often booked up to 2 years in advance and that the Council could be advertising premises for hire that were not available.

Following lengthy debate during which some Members stated that they had been able to book the Elgin Town Hall at short notice, the Chair requested that further information be provided to the Committee in relation to how well the Elgin Town Hall is utilised.

In response the Head of Lifelong Learning, Culture and Sport agreed to provide this information to the Committee.

Thereafter, the Committee agreed:

- (i) to approve the charges as set out in Appendix 1 to the Report;
- (ii) that further information on how well the Elgin Town Hall is utilised be provided to Members of this Committee.

## **6. PROCUREMENT UPDATE**

Under reference to paragraph 11 of the Minute of this Committee dated 2 October 2012, there was submitted a report by the Corporate Director (Corporate Services) providing the Committee with a draft response to the Scottish Government's consultation on the changes to the procurement rules in Scotland, arising from three new EU Directives concerned with Public Procurement, Concessions and Utilities contracts and elements of the Procurement Reform (Scotland) Act 2014. The report further advised Committee of the publication of a Scottish Procurement Policy Note (SPPN) which provided information on Scottish Government's position on a number of workforce matters, including the payment of the living wage.

During discussion in relation to the draft response to question 38 which asked whether the Council agreed or disagreed that public bodies should be permitted to award a contract without competition in the circumstances permitted by the Directives, clarification was sought as to whether the Council had ever awarded a contract without competition.

In response, the Payments Manager advised that this had not been carried out during her employment with the Council but could not be certain of activities prior to that time.

The Chair therefore suggested that the response to question 38 read "Whilst this has not been recently used in Moray, at the moment it would be preferred that we retain the potential should it be needed. Internal controls need to be in place to ensure that this is not used inappropriately". This was agreed.

During further discussion surrounding the draft response to question 60 which asked if the Council felt there was a need for a review body which sits beneath the national courts, clarification was sought as to how the Council was in a position to answer no

to this question and the subsequent wording “There isn’t enough volume to justify the expense a separate review body” when the cost of providing a separate review body was not known.

In response, the Council Leader stated that the subsequent wording in response to question 60 be changed to read “There isn’t enough volume to justify a separate review body”. This was agreed.

Thereafter, the Committee commended officers in the significant amount of work required in preparing the draft response to the consultation and agreed:-

- (i) the draft response to the consultation document, attached as APPENDIX 1 for submission to the Scottish Government subject to the following amendments to the wording at:
  - (a) question 38 being amended to read “Whilst this has not been recently used in Moray, at the moment it would be preferred that we retain the potential should it be needed. Internal controls need to be in place to ensure that this is not used inappropriately”.
  - (b) question 60 being amended to read “There isn’t enough volume to justify a separate review body”.
- (ii) to endorse the Scottish Public Procurement Notice 1/2015 policy on workforce matters and incorporate these within the Council’s procurement evaluations.

## **7. SMALL FLOOD PROTECTION SCHEMES.**

Under reference to paragraph 5 of the Minute of the Economic Development, Planning and Infrastructure Committee dated 10 February 2015, there was submitted a report by the Acting Director (Economic Development, Planning and Infrastructure) asking the Committee to agree that £150,000 be allocated from reserves to fund feasibility studies for four small flood protection schemes.

Following discussion, the Committee agreed to allocate £150,000 from reserves to fund feasibility studies for four small flood protection schemes at Hopeman, Dallas, Portessie and Arradoul.

## **8. ECONOMIC DEVELOPMENT BUDGET**

Under reference to paragraph 4 of the Minute of the Economic Development and Infrastructure Committee dated 10 February 2015, there was submitted a report by the Acting Director (Economic Development, Planning and Infrastructure) seeking approval from the Committee of funding that will support economic development in Moray via the Business Gateway Service, Moray Towns Partnership and the Elgin Heritage Experience.

Following consideration, the Committee agreed to:-

- (i) renew the contract with Highland Council for the Business Gateway Service until March 2018, allocating £245,000 per annum each financial year from 2015/16 to 2017/18 as set out in Appendix 3 of the report;
- (ii) extend the Moray Towns Partnership (MTP) project until March 2018, allocating £60,000 per annum each financial year from 2015/16 to 2017/18 as set out in Appendix 3 of the report;
- (iii) allow any annual underspend of the Moray Towns Partnership (MTP) budget to be carried forward to the next financial year subject to annual monitoring of expenditure; and
- (iv) allow the projected underspend of £113,000 during 2014-15 on the Elgin Heritage Experience project to be reallocated at year end from reserves for expenditure on this project in 2015-16 as detailed in para 3.5 of the report.

## **9. EMPLOYMENT POLICY FRAMEWORK REVIEW 2014-15**

There was submitted a report by the Corporate Director (Corporate Services) inviting the Committee to consider and note the update on the employment policy framework for 2015-15 in relation to the Council's Smoking Policy, Computer Use Policy, Alcohol and Substance Misuse Policy and Shared Parental Leave Policy.

During discussion, clarification was sought as to whether the policy that reflected a zero tolerance approach to the use of alcohol and substances in the workplace and during the working day extended to members of staff who may be representing the Council at a formal event where alcohol may be offered.

In response, the Head of Human Resources and ICT advised that, to accommodate such a situation, additional wording could be included to the policy to reflect that, should there be a special occasion, and where authorisation has been received from the relevant Head of Department, then an employee may consume alcohol providing they are not returning to work. This was agreed.

Thereafter, the Committee agreed:-

- (i) to incorporate reference to prohibiting use of e-cigarettes on council premises in relation to the Council's Smoking Policy as detailed in Appendix 1 of the report;
- (ii) to note the update with regard to the use of technology in the workplace and to streamline social media guidance in relation to the Council's Computer Use Policy as detailed in Appendix 2 of the report;
- (iii) to reflect a zero tolerance approach to the use of alcohol and substances in the workplace and during the working day in relation to the Council's Alcohol and Substance Misuse Policy as detailed in Appendix 3 of the report, subject to the inclusion of relevant wording in the policy to reflect that, should there be a special occasion, and where authorisation has been received from the relevant Head of Department, then an employee may consume alcohol providing they are not returning to work;

- (iv) to approve the new policy and procedures introduced to comply with the new legislative entitlement in relation to Shared Parental Leave as detailed in Appendix 4 of the report.

## **10. COMMUNITY ASSET TRANSFER: ABERLOUR COMMUNITY ASSOCIATION**

There was submitted a report by the Head of Community Care inviting the Committee to approve a Community Asset Transfer (CAT) of the former Aberlour Station to Aberlour Community Association at nil consideration to support the development of the Speyside Visitor Centre.

During discussion, the Committee commended the Aberlour Community Association on providing an excellent business case and suggested that it be used as an example of best practice for other community groups considering taking part in a community asset transfer.

In response, the Asset Management Co-ordinator advised that Aberlour Community Association were willing to make their business case available and would be willing to offer assistance if required.

Thereafter, the Committee agreed:

- (i) to approve a Community Asset Transfer (CAT) of the former Aberlour Station to Aberlour Community Association at nil consideration, subject to:
  - (a) Confirmation by the Estates Manager that the market value of the property is no more than 10% higher than the estimated value of £160,000; and,
  - (b) The Association entering into an agreement with the Council regarding the ongoing provision of a public toilet service;
- (ii) to approve an annual grant of £3,000 to the Association for the provision of year round toilet facilities for the public as detailed in paragraph 3.5 of the report;
- (iii) to remit the matter to the Legal Services Manager (Property and Contracts) to formalise the agreement and complete the transfer;
- (iv) that, in the event of the Market Value, as determined by the Estates Manager, being more than 10% higher than the estimated value of £160,000, the Chair of the CAT Steering Group will provide a further report to this Committee to allow it to reconsider its decision; and
- (v) that the business case provided by the Aberlour Community Association be used as an example of best practice.

## **11. QUESTION TIME**

Under reference to paragraph 9 of the Minute of this Committee dated 17 February 2015, Councillor Gowans thanked the Committee for agreeing to a review of the changing facilities in swimming pools throughout Moray and, as she had suggested this, asked if this could be reflected in the Minute.

In response, the Chair advised that Council minutes are not regarded as a verbatim record and that the minute properly reflected the intentions of the Committee and their decisions. Councillor Gowans accepted this.

Under reference to paragraph 11 of the Minute of this Committee dated 17 February 2015 in relation to the no smoking ban, Councillor Gowans asked if culture could be included in discussions with the Council's Community Planning Partners, as there is a significant problem with behaviour which requires to be addressed via culture.

In response, the Chair stated that the Minute reflected that the Chief Executive had already advised that the Community Planning Partnership would take this forward and confirmed that NHS Grampian were also aware of this problem and dealing with it appropriately.

In relation to Aberdeen City Council's recent announcement that they were to depart from COSLA, Councillor Ross stated that he understood that the Leader of Aberdeen City Council was to contact neighbouring authorities in this regard and sought clarification as to whether any correspondence had been received by the Chief Executive.

In response, the Chair advised that he had received an email circulated to all Scottish Council Leaders advising of this change and how the four local authorities who have left COSLA have formed a new Partnership.

Councillor Ross raised concern that he had only just become aware of this email and sought further clarification as to why this information had not been brought before the Council for debate.

In response the Chief Executive advised that he had not received any correspondence from the Leader of Aberdeen City Council and further advised that, should he receive formal correspondence inviting the Council to join the newly formed local authority Partnership, that he would discuss this with the Leader and Convener in the first instance.

The Chair, in acknowledging that the Committee were discussing this matter at Question Time, stated that the most appropriate means to discuss this matter further would be by putting forward a Notice of Motion to the next meeting of The Moray Council.

The Council Leader stated that, should the Council be minded to depart from COSLA that they would have to make this decision prior to 31 March 2015 as 1 years notice had to be given, and, in acknowledging that the next scheduled meeting of The Moray Council was in April 2015, stated that a special meeting of The Moray Council may have to be arranged.

The Chair thereafter invited any Member so minded to raise their concerns with the Convener with a view to a special meeting of The Moray Council being arranged to discuss this issue further.

Councillor Ross sought further confirmation from the Chair that no response had been made to the circular email that had been received stating that The Moray Council wished to remain within COSLA or otherwise.

In response, the Chair confirmed that he had not responded to the email.

## **12. CALCULATION OF HOLIDAY PAY [PARA 1]**

There was submitted a report by the Corporate Director (Corporate Services) updating the Committee on progress made on the resolution of the method of calculation of Holiday Pay arising from recent case law.

Following consideration, the Committee agreed:-

- (i) to approve a single method of calculation of holiday pay for all employees who earn variable pay to be implemented with effect from 1 January 2015 which will result in the percentage detailed within the recommendation in the report being added to all additional earnings above basic pay and will be paid on a monthly basis, as set out in Appendix B;
- (ii) that a case by case approach is taken to any claims for backdated holiday pay and that these are considered on their individual merits and will be monitored with any emerging patterns or changes being reported back to Committee as appropriate.

## **13. REGRADING OF A POST WITHIN EDUCATION AND SOCIAL CARE [PARA 1]**

There was submitted a report by the Corporate Director (Corporate Services) and Corporate Director (Education and Social Care) asking the Committee to consider, and recommend for approval by the Council, the regrading of a post within Education and Social Care.

Following discussion, Councillor Ross moved that no recommendation is made at this Committee and that the decision to regrade a post within Education and Social Care be taken at the next meeting of The Moray Council. This was seconded by Councillor Paul.

As an amendment, Councillor Cree moved the recommendations as stated within the report. This was seconded by Councillor McGillivray.

On a division there voted:

For the motion (6): Councillors Ross, Paul, Coull, Gowans, Leadbitter and Shand

For the amendment (6): Councillors Cree, McGillivray, Cowe, Creswell, Skene and Wright

Abstentions (0)

There being an equality of votes the Chair, in terms of Standing Order 63 (e), cast his casting vote in favour of the Amendment.

Accordingly the Amendment became the finding of the meeting and it was agreed to recommend for approval by the Council, the regrading of a post within Education and Social Care.

#### **14. MORAY LEISURE CENTRE: MANAGEMENT FEE 2015/16 [PARA 6]**

There was submitted a report by the Corporate Director (Corporate Services) asking the Committee to consider the management fee and contribution towards capital expenditure, requested by Moray Leisure Limited for the financial year 2015/16.

During discussion clarification was sought as to when the Service Level Agreement in place for Moray Leisure Centre was to be reviewed as Members were of the opinion that this had been requested at a previous Committee.

In response, the Corporate Director (Corporate Services) advised that he would look into this matter further and ensure that a report on the Moray Leisure Centre and the associated Service Level Agreement be brought a future meeting of the appropriate Service Committee.

Thereafter, the Committee agreed:

- (i) the request from Moray Leisure Limited to increase their annual management fee for 2015/16 as per the recommendations within the report;
- (ii) to continue the financial contribution as per the recommendations within the report, to assist Moray Leisure Limited undertake capital expenditure projects in 2015/16; and
- (iii) that a report on the Moray Leisure Centre and the associated Service Level Agreement be brought a future meeting of the appropriate Service Committee.

#### **15. LANDFILL TAX [PARA. 12]**

There was submitted a Report by the Acting Corporate Director (Economic Development, Planning and Infrastructure) advising the Committee of an additional assessment by HMRC for Landfill Tax from non-reporting movement of Landfill Site restoration materials at the Dallachy Landfill Site.

Following consideration, the Committee agreed to:-

- (i) note that an additional assessment has been raised by HMRC in respect of Landfill Tax on materials used for site restoration in the past four years and that negotiations between the Council's tax advisers, Deloitte and HMRC are ongoing to determine the additional sum payable;
- (ii) a review of procedures by Internal Audit; and

- (iii) note that a further report will be submitted to Committee following HMRC's response to the Council's appeal against their claim and the outcome of the Internal Audit review.

## **16. COUNCIL HOUSE NEW BUILD PHASE 5 – REPORT ON TENDERS [PARA 6]**

There was submitted a Report by the Acting Corporate Director (Economic Development, Planning and Infrastructure) advising the Committee of an evaluation of tenders received for the projects at Colvin Court, Keith and Barhill Road, Buckie to be developed as part of Phase 5 of the Council's new build programme. The Report further made recommendations in respect of the acceptance of the tenders.

Following consideration, the Committee agreed to:-

- (i) accept the tender for the fourth phase of council house building at Barhill Road, Buckie as set out in Appendix 1 of the report; and
- (ii) accept the tender for the third phase of council house building at Colvin Court, Keith as set out in Appendix 2 of the report.