

THE MORAY COUNCIL
MINUTE OF SPECIAL MEETING OF THE MORAY COUNCIL
WEDNESDAY 29 JANUARY 2014
COUNCIL OFFICE, ELGIN

PRESENT

Councillors S. Cree (Convener), A. Wright (Council Leader), G. Alexander, J. Allan, G. Coull, J. Cowe, L. Creswell, P. Gowans, M. Howe, B. Jarvis, G. Leadbitter, J. Mackay, M. McConachie, G. McDonald, E. McGillivray, A. McLean, S. Morton, F. Murdoch, P. Paul, D. Ross, M. Shand, R. Shepherd, A. Skene and C. Tuke.

APOLOGIES

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

IN ATTENDANCE

The Chief Executive, the Corporate Director (Corporate Services), the Corporate Director (Education and Social Care), the Acting Corporate Director (Environmental Services), the Head of Legal and Democratic Services, the Head of Direct Services, the Head of Financial Services, Mrs A. Scott, Legal Services Manager (Property and Contracts), the Community Planning and Development Manager, the Consultancy Manager, Mr M. Cross and Mr G. Templeton, Principal Planning Officers (Development Plans), Mr R. Gerring, Senior Engineer (Transportation), Mr A. Burrell, Estates Surveyor and Mr D. Westmacott, Committee Services Officer, as Clerk to the meeting.

1. DECLARATION OF GROUP DECISIONS

In terms of Standing Order 20 and the Councillor's Code of Conduct, the meeting noted that the SNP Group had discussed Agenda Items 4 'Elgin Western Link Road' and 5 'Moray Local Development Plan Elgin South Long - Requirement for Additional Planting'.

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 or any declarations of member interest in respect of any item on the agenda.

At this juncture of proceedings, the Monitoring Officer noted that Councillor Leadbitter had not declared an interest in Item 4 of the agenda despite having declared in the past on matters relating to Elgin Western Link Road. She requested a short adjournment to discuss the implications of the Code of Conduct with Councillor Leadbitter to allow all parties to be assured that a robust decision on the issues of declaration of interest was taken in accordance with the Code of Conduct. This was agreed by the Council.

On reconvening, Councillor Leadbitter, having taken into consideration advice received from the Monitoring Officer and Depute Monitoring Officer, declared a personal interest in Agenda Item 4 'Elgin Western Link Road'.

Councillor Leadbitter, having declared an interest, left the meeting taking no part in the relevant discussion or decision.

2. ORDER OF BUSINESS

The Convener, taking into consideration the significant public interest in Item 7 of the Agenda 'Review of Management and Supervisory Arrangements', proposed to withdraw the item to allow it to be reconfigured in such a way that it could be considered in public at the meeting of the Council on 5 February 2014. This was unanimously agreed.

3. SCOTS' TOON AWARD

The Convener advised that Keith Community Council had submitted a request for a letter of support to their application to become the first recipients of the Scots' Toon Award. He advised that the award recognises the use, celebration and promotion of the Scots language in community life.

Councillor Coull spoke in support of the application, stating that Keith had a strong case as there was a strong use of Doric in the town, with many church services, local plays and window displays using Doric language. He advised that if successful, a grant of £6000 would be awarded for promoting Doric further.

Following consideration, the Council agreed that the Convener write to Keith Community Council supporting their application to become the first recipients of the Scots' Toon Award.

4. ELGIN WESTERN LINK ROAD

Under reference to paragraph 2 of the minute of the special meeting of the Planning and Regulatory Services Committee dated 10 December 2013, there was submitted a report by the Acting Corporate Director (Environmental Services) seeking a resolution to a conflict between two Committees following a decision taken at a special meeting of the Planning and Regulatory Services Committee on 10 December 2013 to remove reference to the Western Link Road from the proposed Local Development Plan.

Councillor Wright, seconded by Councillor Cowe moved that the Committee agree recommendations 2.1 (i), (ii) and (iv), namely to include the Western Link Road within the new Local Development Plan.

During discussion, and in response to comments made by Councillor Ross expressing his concerns regarding the report, the Monitoring Officer reminded

Members that whilst it was open to Members to disagree with the content of a report, in terms of the Councillor's Code of Conduct, comments which were critical of the professionalism or competence of officers should not be made in the Council Chamber or in public.

As an amendment, Councillor Ross moved that the Council agree recommendations 2.1 (i), (iii) and that it agrees with the Planning and Regulatory Services Committee decision of 10 December 2013 to remove reference to the Western Link Road from the proposed Local Development Plan. This was seconded by Councillor McDonald.

In response to a query from Councillor Morton, the Head of Legal and Democratic Services confirmed that the Council had previously agreed to proceed with the making of a Compulsory Purchase Order subject to the last step, authorisation of general vesting of the land in the Council as required to effect compulsory transfer, being brought back to the Council for final approval.

On a division, there voted:-

For the Motion (13)	Councillors Wright, Cowe, Alexander, Cree, Creswell, Gowans, Jarvis, Mackay, McGillivray, Morton, Murdoch, Shepherd and Skene.
For the Amendment (10)	Councillors Ross, McDonald, Allan, Coull, Howe, McConachie, McLean, Paul, Shand and Tuke.

Abstentions (0)

Accordingly, the motion became the finding of the meeting and the Council agreed:-

- (i) to note that the Local Development Plan should reflect strategic projects to be undertaken by the Council;
- (ii) to support the Western Link Road as a strategic project for the Council, and, therefore, its inclusion in the new Local Development Plan, for the reasons set out in the report, and approve the new timetable for the Local Development Plan, as detailed in Appendix 1 of the report; and
- (iii) that a review of the Council's Administrative Scheme is carried out to consider the most appropriate governance arrangements in the Administrative Scheme for significant strategic projects.

5. MORAY LOCAL DEVELOPMENT PLAN ELGIN SOUTH LONG – REQUIREMENT FOR ADVANCED PLANTING

Councillor Leadbitter rejoined the meeting.

Under reference to paragraph 2 of the minute of the special meeting of the Planning and Regulatory Services Committee dated 10 December 2013, there was submitted a report by the Acting Corporate Director (Environmental Services) asking the Council to review a decision of the Planning and Regulatory Services Committee on

10 December 2013 to remove the requirement for advance planting associated with the Elgin South LONG designation, which conflicts with the conclusions of the Environmental Report on the Moray Local Development Plan Proposed Plan.

Councillor McDonald, seconded by Councillor Leadbitter, moved that the change in circumstances set out in Section 4 of the report does not represent a relevant and material change in circumstances to consider the matter.

As an amendment, Councillor Wright moved that the change in circumstances set out in Section 4 of the report does represent a relevant and material change in circumstances to consider the matter. This was seconded by Councillor McGillivray.

On a division, there voted:-

For the Motion (10) Councillors McDonald, Leadbitter, Coull, Gowans, Howe, McConachie, McLean, Morton, Paul and Shand.

For the Amendment (14) Councillors Wright, McGillivray, Alexander, Allan, Cowe, Cree, Creswell, Jarvis, Mackay, Murdoch, Ross, Shepherd, Skene and Tuke.

Abstentions (0)

Accordingly, in terms of Standing Order 84, the Council agreed not to suspend Standing Order 83 as two-thirds of the members of the Council present did not agree the matter merited a suspension and thereby the decision of the Planning and Regulatory Services Committee at its special meeting on 10 December 2013 (paragraph 2 of the minute refers) relating to removing the requirement for advance planting associated with the Elgin South LONG designation remained the decision of this Council.

6. CONSULTATION COMMUNITY EMPOWERMENT (SCOTLAND) BILL

Under reference to paragraph 16 of the minute of the Policy and Resources Committee dated 3 December 2013, there was submitted a report by the Chief Executive presenting to the Council the draft response to the Community Empowerment (Scotland) Bill for the Council to approval prior to submission to the Scottish Government.

The Corporate Director (Corporate Services), referring to the proposed response to Question 9, advised that there was a consensus at the Member's briefing held to include reference to the Crown Estate and that this would be incorporated.

Councillor Jarvis circulated a list of amendments from the Labour Group to consider when addressing the responses to questions.

Following discussion regarding Question 42, Councillor Morton seconded by Councillor Jarvis, moved that the text be replaced with:-

“The community group should secure a minimum turnout of 25% from the community for the ballot, with a majority of those voting in favour if the proposal that the community body buy the land.”

As an amendment, Councillor Wright moved the recommended response to Question 42. This was seconded by Councillor McGillivray.

As a second amendment, Councillor Tuke, seconded by Councillor Alexander, moved that the text be replaced with:-

“The community group should secure a minimum support in favour of the proposal that the community body buy the land of 25% of those entitled to vote, beyond which no minimum turnout is required.”

Councillors Morton and Wright, in light of the second amendment, withdrew their motions. As seconders to the motions, Councillor Jarvis and McGillivray were in agreement.

Accordingly, the Council unanimously agreed to replace the text at Question 42 with:-

“The community group should secure a minimum support in favour of the proposal that the community body buy the land of 25% of those entitled to vote, beyond which no minimum turnout is required.”

Referring to Question 2, Councillor Ross queried whether the response was seeking for the bodies to be added or removed. In response, the Corporate Director (Corporate Services) advised that the response would be amended to a single list of bodies to be added.

Councillor Tuke, referring to Question 14 and the Labour Group’s amendments, moved that the following text be included in addition to the Council’s proposed response:-

“It would also be advantageous to have a clear and unequivocal reference to how Councils should involve community groups as defined by ministers in the disposal not only of assets, but of any dispersal of accrued interest on Common Good accounts.”

This was seconded by Councillor Shand.

As an amendment, Councillor Jarvis, seconded by Councillor Morton, moved that the following text be included in addition to the Council’s proposed response:-

“It would also be advantageous to have a clear and unequivocal reference to how Councils should involve community groups as defined by ministers in the disposal not only of assets, but of any dispersal of accrued interest on Common Good accounts.

Given the disproportionate amount of officer time spent on administering and dealing with community concerns it would be useful to have some form of national arbitrator

so that when conflict between community and council views happen there is an independent course of remedial action to resolve these issues.”

On a division, there voted:-

For the Motion (15)	Councillors Tuke, Shand, Alexander, Allan, Cowe, Cree, Creswell, Gowans, Howe, Leadbitter, McConachie, McDonald, McGillivray, Murdoch and Ross.
For the Amendment (8)	Councillors Jarvis, Morton, Coull, Mackay, McLean, Paul, Shepherd and Wright.
Abstentions (1)	Councillor Skene.

Accordingly, the motion became the finding of the meeting and the Council agreed that the following text be included in addition to the Council’s proposed response for Question 14:-

“It would also be advantageous to have a clear and unequivocal reference to how Councils should involve community groups as defined by ministers in the disposal not only of assets, but of any dispersal of accrued interest on Common Good accounts.”

Councillor Murdoch moved that the text at Question 71 be replaced with:-

“Remove the statutory status of community councils.”

There being no seconder, Councillor Murdoch’s motion fell.

In response to advice from the Corporate Director (Corporate Services), Councillor Morton moved that the first sentence of Question 71 be replaced with:-

“At a community level there would appear to have been a missed opportunity to review and reform the role of community councils in a way that empowers local communities.”

There being no one otherwise minded, this was unanimously agreed.

Following discussion regarding Question 72, Councillor Morton moved that the last sentence be removed. This was unanimously agreed by the Council.

Councillor Jarvis moved that the Council agree the Labour Group’s responses to Questions 19 and 29 as replacements to the recommended responses within the report. This was unanimously agreed.

There being no one otherwise minded, the Council agreed the draft response to the Community Empowerment (Scotland) Bill for submission to the Scottish Government, subject to the following amendments:-

- (a) Q2 - Response to be amended as a single list of bodies to be added;

(b) Q9 - Crown Estate to be included;

(c) Q14 - Response to include:-

“It would also be advantageous to have a clear and unequivocal reference to how Councils should involve community groups as defined by ministers in the disposal not only of assets, but of any dispersal of accrued interest on Common Good accounts.”;

(d) Q19 - Answer to be changed to yes and text replaced with:-

“This route should be positively encouraged in situations where communities as defined within the Bill are able to take land that current owners have:-

- (i) Shown a consistent and continuing failure to maintain over a defined period of time.
- (ii) The community has a clear plan and the means to transform the land into an asset for the benefit of the area that is both clear in outcomes and realistically deliverable within a defined timescale.

OR

- (iii) The development of the land in question proven beyond doubt to be vital to the growth/survival of a fragile rural community.”;

(e) Q29 - Answer to be yes and text replaced with:-

“If the ballot is organised and paid for by the Ministers it may help streamline the process. Ministers organising the undertaking of a community bodies ballot and paying the cost ensures that the process is open, transparent and that the outcome is beyond question from all parties involved in the process. This will ensure that the outcome is a genuine reflection of community interest as opposed to simply being the pet project of a vocal minority.”;

(f) Q42 - Replace text with:-

“The community group should secure a minimum support in favour of the proposal that the community body buy the land of 25% of those entitled to vote, beyond which no minimum turnout is required.”;

(g) Q71 - Replace first sentence with:-

“At a community level there would appear to have been a missed opportunity to review and reform the role of community councils in a way that empowers local communities.”; and

(h) Q72 - Remove final sentence.