

SOUTH AYRSHIRE COUNCIL (SPECIAL).

Minutes of special meeting in County Buildings, Wellington Square, Ayr,
on 18th March 2010 at 10.00 a.m.

Present: Councillors Winifred Sloan (Provost), John Allan, Andy Campbell, Douglas Campbell, Ian Cavana, Brian Connolly, Peter Convery, Hywel Davies, Ian Douglas, Stan Fisher, Ian Fitzsimmons, Ann Galbraith, Sandra Goldie, Bill Grant, John Hampton, Hugh Hunter, Mary Kilpatrick, Elaine Little, Mairi Low, John McDowall, Nan McFarlane, Bill McIntosh, Helen Moonie, Alec Oattes, Mike Peddie, Robin Reid, Philip Saxton, Tom Slider and Margaret Toner.

Apology: Councillor Eddie Bulik.

Attending: D. Anderson, Chief Executive; V. Andrews, Head of Legal and Administration; M. Newall, Head of Planning and Enterprise; C. Cox, Planning Manager; A. Wilson, Head of HR and Organisational Development; D. Alexander, Head of Corporate Resources; J. McQuillan, Head of Property and Neighbourhood Services; H. Carswell, Head of Children's Services; C. Bradshaw, Assistant Public Communications Officer; and D. Knight, Committee Services Officer.

1. **Provost.**

The Provost

- (1) welcomed Members to the Special Meeting; and
- (2) intimated that Councillors Andy Campbell, McDowall, Moonie, Cavana, Goldie and Saxton had submitted to the Depute Chief Executive and Executive Director – Development and Environment a number of formal questions and that this matter would be taken after Item 4 on the Agenda.

2. **Sederunt.**

The Chief Executive called the Sederunt for the meeting.

3. **South Ayrshire Local Development Plan – Main Issues Report, Monitoring Statement and Environmental Report.**

There was submitted a report (issued) of 9th March 2010 by the Depute Chief Executive and Executive Director – Development and Environment

- (1) seeking the Council's approval
 - (a) to publish, and consult on, the Main Issues Report (MIR), as a statutory stage in the preparation of the Council's Local Development Plan (LDP);

- (b) for the publication of a monitoring report and environmental report, which required to be published concurrently with the MIR; and
 - (c) to re-approve the Development Plan Scheme (DPS), approved at the meeting of the Council on 12th March 2009 (Page 115, paragraph 9), without alteration;
- (2) advising that copies of the Land Assessment Framework methodology that had been used to assess the suitability of land for development, and the outcome of the assessment of potential development sites were available for inspection in the Members' Library, together with copies of the Environmental Report; and
- (3) reporting
- (a) that extensive engagement with local communities, key stakeholders, local businesses and the public, via several meetings of the Local Planning Forum, had informed the preparation of the MIR to date;
 - (b) that public consultation and engagement was an enhanced aspect of Local Development Plan preparation and therefore, it was intended to consult widely using new and innovative means of engagement, including:-
 - making documents available on the Council's website, together with electronically linked feedback forms, and creatively using media channels e.g. photocall with the LDP Board;
 - as with distribution of the DPS, a leaflet on the MIR would also be distributed to non-traditional locations such as G.Ps surgeries and supermarkets; and
 - the Planning Forum would continue to provide a key means of engaging with difficult to reach groups and that a further series of adverts using a range of local media outlets would be launched to seek additional members to the Forum.

A full discussion then took place and comments and questions were raised by Elected Members in relation to consultation issues, errors contained within the Main Issues Report, rural protection issues, an economic development strategy and the Head of Planning and Enterprise and the Planning Manager responded accordingly and advised that the document would be amended accordingly to take account of any errors.

Councillor Moonie at this point in the meeting sought clarification as to why it had had not been recommended that this report should be taken in private in accordance with the provisions of the Local Government (Scotland) Act 1973 as consideration of South Ayrshire's Local Plan matters at previous meetings of the Council had been taken in private and had then been made available to the public following conclusion of these meetings.

The Chief Executive advised that he would respond to Elected Members explaining the reasons why it had been recommended that this report should be taken in public.

Further questions were raised by Elected Members in relation to the residential accommodation for students at Ayr College, the potential sites for the new Ayr Academy and clarification in respect of a reference on Page 3 "North of South Ayrshire" of the document and the relevant Officers responded accordingly.

Decided:

- (i) to approve the South Ayrshire Main Issues Report attached as Appendix I of the report and Monitoring Report attached as Appendix II of the report and to grant delegated authority to the Depute Chief Executive and Executive Director - Development and Environment to approve the Environmental Report, once the finalised version of it had been received;
- (ii) to authorise consultation on the approved Main Issues Report, as detailed in the Development Plan Scheme attached as Appendix III of the report, and as set out at (3)(b) above;
- (iii) to approve, without alteration, the Development Plan Scheme previously approved by the Council on 12th March 2009 attached as Appendix III of the report, as the consultation strategy and timetable for preparing the Local Development Plan; and
- (iv) to grant delegated authority to the Depute Chief Executive and Executive Director - Development and Environment to make minor editorial changes to the MIR, Monitoring Statement and Environmental Report, as required, prior to their publication.

4. Declaration of Interest.

Councillor Grant declared an interest in the following item of business on the agenda regarding the Notice of Motion as he was a candidate at the forthcoming General Election and withdrew from the meeting during its consideration.

5. Notice of Motion.

Having heard Councillor Slider in explanation, Councillor Slider, seconded by Councillor McFarlane, then moved the Motion subject to a minor amendment to that published on the agenda, that:-

“South Ayrshire Council agrees to amend the guidelines on display of election campaign publicity material to prohibit the display of such material on any Council property **(excluding Council houses)**, including lighting columns, traffic sign poles and street furniture”.

By way of an Amendment, Councillor Hunter, seconded by Councillor Kilpatrick, moved that the Council should agree to amend the guidelines on display of election campaign publicity material to prohibit the display of such material on any Council property, including lighting columns, traffic sign poles and street furniture and that this Policy should take effect from 1st July 2010 and further, to instruct Officers to bring forward a report to the meeting of the Council to be held on 1st July 2010 detailing operational and management arrangements to implement this Policy.

By way of a Counter-Amendment, Councillor McDowall, seconded by Councillor Cavana, moved the Direct Negative against the Motion, that the Council should continue to grant permission under Section 59(1) of the Roads (Scotland) Act 1984 for the erection of election posters contained within the guidelines on display of campaign posters and use of car parks dated March 2010.

A full discussion then took place on the terms of the Motion, Amendment and Counter-Amendment.

The Head of Legal and Administration advised that in terms of Standing Order No. 32 for Meetings that where a Member desired to move the Direct Negative of the Motion, this shall be first put to the vote against the Motion. If this is carried, the Motion and any Amendment(s) shall not be put to the meeting; if it is not carried, the Motion and Amendment(s) shall be put to the vote in accordance with Standing Order No. 32.

There was a request that the vote be taken by calling the roll.

Adjournment of Meeting.

The Council agreed to adjourn the meeting at 12.35 p.m. for ten minutes.

Resumption of Meeting.

The meeting resumed at 12.45 p.m.

In accordance with the terms of the Council's Standing Orders, the Council then firstly proceeded to vote on the terms of the Counter-Amendment by Councillor McDowall and seconded by Councillor Cavana and on the terms of the Motion moved by Councillor Slider and seconded by Councillor McFarlane.

The Head of Legal and Administration then took the vote by calling the roll as follows:-

Winifred Sloan (Provost)	Motion
John Allan	Motion
Andy Campbell	Direct Negative
Douglas Campbell	Motion
Ian Cavana	Direct Negative
Brian Connolly	Motion
Peter Convery	Motion
Hywel Davies	Motion
Ian Douglas	Motion
Stan Fisher	Motion
Ian Fitzsimmons	Motion
Ann Galbraith	Motion
Sandra Goldie	Direct Negative
John Hampton	Motion
Hugh Hunter	Motion
Mary Kilpatrick	Motion
Elaine Little	Motion
Mairi Low	Motion
John McDowall	Direct Negative
Nan McFarlane	Motion
Bill McIntosh	Motion
Helen Moonie	Direct Negative
Alec Oattes	Motion
Mike Peddie	Motion
Robin Reid	Motion
Philip Saxton	Direct Negative
Tom Slider	Motion
Margaret Toner	Motion

Six members voted for the Direct Negative and twenty two members for the Motion.

The Council then secondly proceeded to vote on the terms of the Amendment by Councillor Hunter and seconded by Councillor Kilpatrick and on the terms of the Motion moved by Councillor Slider and seconded by Councillor McFarlane.

The Head of Legal and Administration then took the vote by calling the roll as follows:-

Winifred Sloan (Provost)	Amendment
John Allan	Motion
Andy Campbell	Abstain
Douglas Campbell	Motion
Ian Cavana	Abstain
Brian Connolly	Motion
Peter Convery	Amendment
Hywel Davies	Amendment
Ian Douglas	Motion
Stan Fisher	Motion
Ian Fitzsimmons	Amendment
Ann Galbraith	Amendment
Sandra Goldie	Abstain
John Hampton	Amendment
Hugh Hunter	Amendment
Mary Kilpatrick	Amendment
Elaine Little	Motion
Mairi Low	Motion
John McDowall	Abstain
Nan McFarlane	Motion
Bill McIntosh	Amendment
Helen Moonie	Abstain
Alec Oattes	Motion
Mike Peddie	Motion
Robin Reid	Amendment
Philip Saxton	Amendment
Tom Slider	Motion
Margaret Toner	Amendment

Twelve Members voted for the Amendment and eleven Members for the Motion. The Amendment was accordingly declared to be carried.

Decided: to amend the guidelines on display of election campaign publicity material to prohibit the display of such material on any Council property, including lighting columns, traffic sign poles and street furniture and that this Policy to take effect from 1st July 2010 and further, to instruct Officers to bring forward a report to the meeting of the Council to be held on 1st July 2010 detailing operational and management arrangements to implement this Policy.

5. Formal Questions.

In terms of Council Standing Order No. 16(b), there were submitted (tabled) Formal Questions details of which, together with the Answers, are outlined below:-

Question 1 from Councillor Andy Campbell.

Under the Council's Financial Regulations, what process is set out for virements?

Answer 1.

The process for virements is detailed within Section 5(4) of the Financial Regulations, as follows:-

"Virement shall be permitted only as set out in the Scheme of Delegated Functions, or in the following circumstances :

- (i) A deficit under those subjective headings as defined by the BVACOP and objective headings as defined by the Executive Director – Corporate Services and the directorate Executive Director, and as revised from time to time if required (see Appendix) may be balanced by a transfer from another head of expenditure on which there is a surplus where the deficit has arisen due to circumstances which could not have been foreseen, and the transfer would not involve a change of policy of the Council.

Where the amount involved is £10,000 or under, the transfer shall be agreed between the **Principal Accountant** and the **Manager/Budget Holder**. **Where the amount is over £10,000 and below £25,000, the additional agreement of the Head of Service shall be required.** Where the amount is over **£25,000** and less than £50,000, the **transfer shall be agreed by the Executive Director – Corporate Services, Head of Service, Portfolio Carrier and Scrutiny Panel Chair.** Where the amount is £50,000 or over, the transfer shall be approved by the Leadership Panel.

A de minimis of £500 will apply and all authorisation of virement will be by e-mail.

- (ii) Where a net saving could be achieved by overspending under one head of expenditure without changing the Policy of the Council, a transfer may be made from a head of expenditure which is in surplus, provided approval as in paragraph (i) above has been obtained.

Question 2 from Councillor John McDowall.

With Children's Communities Directorate is it the case that a single Member (portfolio holder) has been the sole member to sign/approve virement forms on some occasions. If this is the case, which Members signed virement forms which carry only a single Member signature and on those forms what sums of money were vired, and for what purposes?

Answer 2.

The portfolio holder has been the sole member to sign/approve virement forms on some occasions. The Members signing these forms, the amounts vired and the purpose of these are detailed in the table attached as Appendix 1 of the questions.

Question 3 from Councillor Helen Moonie.

In relation to Question 2:-

- (a) Were those virements implemented?
- (b) Has there been a breach of Financial Regulations?
- (c) Has there been a breach of any other legislation (e.g. single members taking decisions)?

Answer 3.

- (a) Yes.
- (b) Yes.
- (c) No.

Councillor Moonie raised a supplementary question about the lack of a scrutiny process in relation to virements that had been approved under Delegated Powers and Councillor McIntosh advised that he would discuss this matter with the Chief Executive.

Question 4 from Councillor Ian Cavana.

If there has been a breach of Financial Regulations, or other legislation what is the explanation for this occurrence?

Answer 4.

A breach of Financial Regulations has occurred and is attributable to human error on the part of Officers.

Councillor Cavana raised a supplementary question enquiring how many Officers had been involved in breaching the Financial Regulations and the Chief Executive advised that he would provide this information to all Elected Members within seven days.

Question 5 from Councillor Sandra Goldie.

Is there now a recognition of the need to reform the scrutiny process relating to virements within the financial regulations?

Answer 5.

No. Relevant officers have been reminded of the need to comply fully with the requirements of the Financial Regulations at all times.

Councillor Goldie raised a supplementary question about the scrutiny process in relation to the Financial Regulations and the Chief Executive advised that Officers had been reminded to comply with the Financial Regulations.

Question 6 from Councillor Philip Saxton.

Is it the case that some virements signed off by a single Member exceed the amount (cumulatively) permitted under Financial Regulations, and if so which Member's signature is on those forms?

Answer 6.

Yes. On two occasions Leadership Panel approval should have been obtained for cumulative virements. The member signing these forms is detailed in the response to Question 2.

Question 7 from Councillor John McDowall.

Why was it necessary for a member to use FOI for background information relating to these matters?

Answer 7.

In the view of Officers there was no necessity for a Member to use FOI to obtain this information. The Executive Director - Children and Community received a request from a Member on 3rd February, 2010 asking for details of virements made on behalf of Children and Community with Elected Member approval other than those that went to the Leadership Panel. The Directorate immediately instigated activity to retrieve the necessary information. Five working days later it became clear that the information would take some time to collate and a response was sent to the Member indicating that a formal response to the request would be made once this exercise was complete. Two working days later further correspondence from the Member was received requesting that the original request be dealt with under FOI. A response to the FOI request was made within the FOI timescales but only because the work had been started upon receipt of the original request.

Councillor McDowall raised a supplementary question enquiring why he had not received a comprehensive response from the Executive Director – Children and Community to his request on 3rd February 2010 asking for details of virements that had been approved by Elected Members for that Directorate and the Chief Executive advised that he would provide details of these virements to all Elected Members within seven days.

Question 8 – Councillor Philip Saxton.

Councillor Nan McFarlane has said in the Troon Prestwick Times dated 16th March that the former Labour Administration spent over £7 million every year sending young people out of the authority to be looked after by private care providers. Could I ask for the financial information that Councillor McFarlane refers to and whether these figures are correct and for what years she is referring to and also the number of young persons for each year?

Answer 8.

For 2009/10 the current budget for out of authority placements is £7,262,213. This budget covers all aspects of external placements – foster care, residential schools, secure accommodation and education for those in a hospital setting. On average the number of young people's needs being met from this budget is :-

Overall number	73
Average number in residential schools	18
Average number in external foster placements	55

Councillor Saxton raised a supplementary question in relation to the recent article in the Troon Times and Councillor McFarlane responded accordingly.

Question 9 from Councillor Philip Saxton.

What will be the future annual running costs for the three proposed residential units for accommodating 18 young people, cost per unit, staff, transport to school, education, administration and any other related costs for this service? If the exact figures are not available the estimated costs would suffice.

Answer 9.

The annual running costs of a 6 bedded residential unit are presently estimated at approximately £675,000.

Question 10 from Councillor Philip Saxton.

What are the assumed reductions in cost to the Council per annum for placements outwith the authority after the new residential care homes are established?

Answer 10.

The 2010/11 budget does not assume any savings from the new units. There will be savings to the Council, but it was felt prudent not to include these at this time due to the potential for the units to be delayed (due to public consultation and the identification of suitable sites). For 2010/11 budget purposes the units are assumed to be operational from October 2010 (1st unit) and January, 2011 (2nd unit). The budget does include a £1.2m saving from the outwith authority placements budget based on 2009/10 spend and the decision not to offer savings above this, given the potential for delay and additional family breakdown situations, was deemed prudent.

When savings accrue as the units become operational they will be reported through the regular budget monitoring report presented to the Leadership Panel.

It should also be noted that a saving in current outwith authority placements will only occur if the place in the new unit is taken up by an existing external placement. Not all of the places will be taken up by existing placements as social work staff need to assess what is the best option for every placement.

An external placement can cost up to £2,600 per week which over the year is £23,000 more than it would cost for a placement in an in-house unit. In addition to the financial savings the non-financial savings (outcome for the child) need to be considered. Local provision provides a better outcome for the child as it allows them to maintain family contact where appropriate. Additionally, 60% of the current residential childcare staff live in South Ayrshire which provides jobs and a boost to the local economy.

Question 11 from Councillor Philip Saxton.

Are these care homes a replacement for existing care homes owned by South Ayrshire Council?

Answer 11.

No, but the current units (at Woodhead and Glenriddle Road) have a limited lifespan as they will not meet registerable standards in the long term.

6. Declarations of Interest.

Councillors Little, McIntosh and Peddie declared an interest in the remaining item of business on the agenda regarding Ayr Renaissance – Delivery of Town Centre Regeneration Funding as they are on the Board of Ayr Renaissance LLP and withdrew from the meeting during its consideration.

7. Exclusion of Press and Public.

The Council resolved, in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973, that the press and public be excluded from the meeting during discussion of the remaining item of business on the grounds that it involved the likely disclosure of exempt information in terms of paragraph 9 of Part 1 of Schedule 7(A) of the Act.

8. Ayr Renaissance – Delivery of Town Centre Regeneration Funding.

There was submitted report (issued to members only) of 12th March 2010 by the Chief Executive advising of the site acquisition within the 'Riverside' block and seeking approval to install floodlighting at Ayr Town Hall and Newmarket Street, Ayr.

A full discussion then took place and a number of concerns were raised by Elected Members in relation to the decision taken by the Council at its meeting on 2nd March 2010 to continue consideration of proposed purchase of the property at 8 High Street, Ayr on behalf of Ayr Common Good Fund to this special meeting of the Council to be held on 18th March 2010 at 11.30 a.m.; the informal briefing that had taken place on this matter on 16th March 2010 as requested by the full Council; why the original report had been withdrawn without the consent of the Council; whether the Standing Orders would require to be suspended to consider this particular report on Ayr Renaissance – Delivery of Town Centre Regeneration Funding and whether there was a conflict of interest arising for the Chief Executive, as a member of the Board of Ayr Renaissance, preventing him from remaining in the meeting, as he had declared an interest at the meeting on 2nd March 2010 regarding the proposed acquisition of 8 High Street, Ayr as he was on the Board of Ayr Renaissance LLP and had withdrawn from that meeting.

The Head of Legal and Administration confirmed to the Council

- (1) that the report under consideration on Ayr Renaissance – Delivery of Town Centre Regeneration Funding submitted to this meeting was not contrary to a previous decision of the Council and accordingly there was no requirement to suspend the Standing Orders relating to Meetings; and
- (2) that there was no conflict of interest preventing the Chief Executive from remaining in the meeting during consideration of this item.

At this point in the meeting, the time being 1.35 p.m. Councillors Andy Campbell, Cavana, Goldie, McDowall, Moonie and Saxton withdrew from the meeting.

The Chief Executive then explained the full background to the current report on Ayr Renaissance – Delivery of Town Centre Regeneration Funding and the present position with regard to the proposed acquisition of 8 High Street, Ayr and that he had sought advice from the Monitoring Officer before withdrawing the previous report.

Further questions were raised by Members of the Council in relation to future acquisitions at the Riverside Block, the legality of withdrawing the report on 8 High Street, Ayr and Declarations of Interest and the relevant Officers responded accordingly.

Decided:

- (a) to approve the implementation of the floodlighting projects at Ayr Town Hall and Newmarket Street, Ayr; and
- (b) to request that the Chief Executive submit a report to the next meeting of the Leadership Panel detailing the Council's and Ayr Renaissance Board's progress regarding the Riverside Block.

The meeting ended at 1.55 p.m.