

SOUTH AYRSHIRE COUNCIL.

Minutes of meeting in County Buildings, Wellington Square, Ayr,
on 29th November 2012 at 10.00 a.m.

Present: Councillors Helen Moonie (Provost), John Allan, Andy Campbell, Douglas Campbell, Ian Cavana, Alec Clark, Ian Cochrane, Brian Connolly, Peter Convery, Kirsty Darwent, Hywel Davies, Allan Dorans, Ian Douglas, Ann Galbraith, Sandra Goldie, Bill Grant, William J. Grant, John Hampton, Hugh Hunter, Mary Kilpatrick, John McDowall, Nan McFarlane, Bill McIntosh, Rita Miller, Alec Oattes, Robin Reid, Philip Saxton, Margaret Toner and Corri Wilson.

Apology: Councillor Brian McGinley.

Attending: D. Anderson, Chief Executive; H. Garland, Executive Director – Children and Community; E. Howat, Executive Director – Corporate Services; L. Bloomer, Executive Director – Development and Environment; V. Andrews, Head of Legal and Administration; C. Monaghan, Head of Policy, Performance and Communication; and D. Knight, Democratic Services Administrator.

Also Attending: Fiona Mitchell-Knight, Assistant Director (Audit Services); and David Richardson, Audit Manager, Audit Scotland.

1. Provost.

The Provost

- (1) welcomed all Members and Officers to the meeting of the Council;
- (2) advised
 - (a) that the Minutes of the Scrutiny and Governance Management Panel of 20th November 2012 had been tabled for consideration;
 - (b) that Fairtrade would give a presentation to Elected Members following the conclusion of this meeting; and
 - (c) that Fairtrade had also set up in the Ayr Room where a number of Fairtrade items would be available for sale to members of staff between 10.30am and 2pm and that they would also be serving teas and coffees; and
- (3) intimated that an apology had been received from Councillor Brian McGinley.

2. Sederunt.

The Chief Executive called the Sederunt for the meeting.

3. Minutes of previous Council meeting.

The Minutes of 27th September 2012 (issued) were submitted and authorised to be signed as a correct record of this meeting.

4. Minutes of previous meetings of Panels.

The Minutes of the undernoted Panels (issued) were submitted and approved as a correct record of these meetings:-

- (1) Local Review Body of 25th September, 9th and 30th October and 2nd November 2012.
- (2) Leadership Panel of 2nd October and 6th November 2012.
- (3) Corporate and Community Planning Standing Scrutiny Panel of 27th September (Special), 11th October and 15th November 2012.
- (4) Regulatory Panel of 4th October and 8th November 2012.
- (5) Chief Officers' Appointments / Appraisal of 8th October and 13th November 2012.
- (6) Development and Environment Standing Scrutiny Panel of 9th October and 13th November 2012.
- (7) Community Services Standing Scrutiny Panel of 10th October and 14th November 2012.
- (8) General Purposes Panel of 24th October 2012.
- (9) Appeals Panel of 16th November 2012.
- (10) Scrutiny and Government Management Panel of 20th November 2012.

Provost Moonie, seconded by Andy Campbell, moved that the Minutes of the Scrutiny and Government Management Panel be approved.

By way of an Amendment, Councillor Dorans, seconded by Councillor Douglas Campbell, moved that that these minutes not be approved.

Following a discussion regarding the terms of a Motion that had been ruled incompetent at the meeting of that Panel, the Head of Legal and Administration advised that

- (a) in terms of Standing Order No. 20, a Motion or Amendment not seconded, or which might be withdrawn or departed from after being seconded, should not be inserted in the Minutes, unless in accordance with paragraph 34 which stated that any Member who had moved a Motion but failed to find a Secunder might have his/her dissent from any decision recorded in the minutes of the meeting at which the decision was taken and such dissent should be so recorded by the insertion of a note that the Member concerned asked that his/her dissent be recorded together with the motion which failed to find a seconder; and
- (b) that as the Motion had been ruled incompetent, the Member could not request that his dissent be recorded and accordingly, the Motion had not been inserted in the Minutes.

On a vote being taken by a show of hands, nine Members voted for the Amendment and seventeen for the Motion which was accordingly declared to be carried.

5. Standing Orders Relating to Meetings.

There was submitted a report (issued) of 20th November 2012 by the Head of Legal and Administration

- (1) seeking approval to amend the Standing Orders Relating to Meetings following a complete review in accordance with the Improvement Agenda and the Council's Corporate Plan;
- (2) advising
 - (a) that at the meeting on 9th September 2010 (Special) (Page 452, paragraph 3), Members were advised that a more extensive, 'plain English' and 'modernisation' review of the Standing Orders Relating to Meetings had been proposed and would be reported to a future meeting of the Council;
 - (b) that a full review had been commenced last year, had been delayed as a result of competing priorities, and subsequently had been put 'on hold' pending conclusion of this year's election; and
 - (c) that over the last several months, the review had been continued with input from the Corporate Management Team and from all Political Groups and Members across the Council with a briefing being held with Members earlier this month on the final draft version; and

- (3) proposing
- (a) that given the substantive nature of the revision, to delay implementation of the Standing Orders until January 2013 to allow time for publication and awareness-raising across the Council and if requested, training sessions would be organised for Officers and / or Members;
 - (b) that the Standing Orders Relating to Meetings would continue to be reviewed on an annual basis, and that any required amendments would be reported to a future meeting of the Council; and
 - (c) that subject to approval, the revised Standing Orders Relating to Meetings would be published on The Wire and the Council's website.

The Head of Legal and Administration

- (i) suggested that Standing Order No. 10.3 regarding the "**Recording**" of Council Meetings should be amended to read "**Visual and audio recording**" of Council Meetings;
- (ii) explained the definition of the term "clear days" for the submission of Motions and Formal Questions (the day of submission and day of the meeting were not counted) as follows:-
 - Standing Order No. 18.2 – five clear days for Motions - if the Council was scheduled to meet on a Thursday then the Motion would need to be delivered to the Chief Executive by Wednesday of the previous week; and
 - Standing Order No. 26.1 – three clear days for Formal Questions - if the Council was scheduled to meet on a Thursday then the Questions would need to be delivered to the Chief Executive by Friday of the previous week; and
- (iii) highlighted
 - (a) Standing Order No. 13.1 (4) whereby an item on Declaration of Interest would be placed on the agenda of future meetings, and
 - (b) Standing Order No. 31.4 whereby the Council or the Leadership Panel might authorise disclosure of the whole or part of any confidential document falling under Standing Order No. 31.2.

A discussion then took place on the terms of the Standing Orders including the procedures for dealing with disclosure of the whole or part of any confidential document at meetings and the procedural matters in relation to confidential reports being subject to Freedom of Information requests, the live transmission of meetings, the format of Minutes, the Councillors' Code of Conduct and the Head of Legal and Administration clarified the position and advised that with regard to the live transmission of meetings that she would investigate this matter and report her findings to a future meeting of the Council.

Decided: having recorded their appreciation of the work undertaken by the Head of Legal and Administration in preparing the Standing Orders Relating to Meetings, to approve the revised Standing Orders Relating to Meetings contained in Appendix 1 to take effect from 14th January 2013 subject to Standing Order No. 10.3 regarding the “**Recording**” of Council Meetings being amended to read “**Visual and audio recording**” of Council Meetings.

6. Standing Orders Relating to Contracts.

There was submitted a report (issued) of 20th November 2012 by the Head of Legal and Administration

- (1) seeking approval to amend the Standing Orders Relating to Contracts following review in accordance with the Improvement Agenda and the Council’s Corporate Plan;
- (2) advising
 - (a) that at the meeting on 7th October 2010 (Page 525, paragraph 10), Members were advised that further updates to the Standing Orders were anticipated to reflect the continuing development of procurement practices across the Council;
 - (b) that an extensive review of the previous Standing Orders had been carried out over the last year, with the full assistance and backing of colleagues from all Directorates through the Corporate Procurement Forum and the Corporate Management Team;
 - (c) that the focus had been on modernising Standing Orders to reflect current and developing public procurement practice across the Council and across Scotland;
 - (d) that the review had now been completed, and the amended Standing Orders were attached as Appendix 1 of the report and that as on the previous occasion, the proposed amendments were fairly substantial, therefore a ‘clean’ version of the amended document had been provided together with a separate note listing the changes as detailed in Appendix 2 of the report; and
 - (e) that the updated version had taken account of views and requirements from across the Council’s services and also the external procurement environment and that the changes also addressed a number of concerns which had arisen over recent times in relation to specific procurement issues; and

- (3) proposing
- (a) that the revised Standing Orders would not become effective until 1st April 2013 in order to provide time for a series of training events to be undertaken for all relevant Officers and prior awareness through widespread circulation and publication;
 - (b) that the Standing Orders Relating to Contracts would continue to be reviewed on an annual basis and that any required amendments would be reported to a future meeting of the Council; and
 - (c) that subject to approval, the revised Standing Orders Relating to Contracts would be published on The Wire and the Council's website.

The Head of Legal and Administration

- (i) advised that the Standing Orders Relating to Contracts were subject to an obligation to seek Best Value for the Council and be able to demonstrate openness, fairness and non-discrimination in the process of awarding contracts and that notwithstanding the provisions and requirements of these Standing Orders, all contracts must comply with:-the Council's Financial Regulations; the Scheme of Delegation to Officers; the requirements of the European Directive relating to public procurement; and all other relevant legislation and in particular referred to the exemptions to the Standing Orders and the provision within the Standing Orders for Electronic Tendering Procedures;
- (ii) indicated that with regard to Standing Order No. 28 which dealt with the disposal of surplus or scrap materials, concerns had been expressed as to how this worked in practice; and
- (iii) suggested that the Standing Orders be approved with the exception of Standing Order No. 28 in order to allow this matter to be further investigated and examined and that she would report her findings to a future meeting of the Council and that a list be kept by the relevant Executive Director of any surplus or scrap materials that were disposed of in the meantime, other than in accordance with the existing Standing Orders.

Arising from discussion, the relevant Officers provided further information and clarification in response to matters raised by Members relative to the undernoted, namely:-

- procedures for the appointment of external legal advisers; and
- possible conflicts between the Standing Orders Relating to Contracts and the standard procedures regulating the construction industry.

Decided: having recorded their appreciation of the work undertaken by the Head of Legal and Administration and her staff in preparing the Standing Orders for Contracts, to approve the revised Standing Orders Relating to Contracts contained in Appendix 1 to take effect from 1st April 2013 with the exception of Standing Order No. 28 to allow this matter to be further investigated and examined and that a list be kept by the relevant Executive Director of any surplus or scrap materials that were disposed of in the meantime, other than in accordance with the existing Standing Orders.

7. Convention of Scottish Local Authorities.

There was submitted a report (issued) of 20th November 2012 by the Executive Director – Corporate Services advising

- (1) that Councillor Ian Douglas had been appointed as the named substitute for Councillor Nan McFarlane on the Convention at the meeting of the Council on 17th May 2012;
- (2) that Councillor Douglas had now resigned from CoSLA and that the Council was invited to appoint a named substitute for Councillor McFarlane and that in making this appointment, the Council should have regard to the CoSLA Constitution which sought representation from Councils, so far as practicable, on a basis which reflected the balance of party political strength within each member Council; and
- (3) that CoSLA had advised that, should a Member appointed to the Convention and their Substitute be unable to attend the meeting of the Convention, then another substitute could attend in their place and that CoSLA had intimated that, as long as they were advised who would be attending in their place by 5.00 pm on the previous day, then the Councillor attending would have full voting rights.

Decided:

- (a) to appoint Councillor Douglas Campbell as the named substitute for Councillor Nan McFarlane on the Convention; and
- (b) to agree that, should the Member and Substitute be unable to attend the meeting of the Convention, that CoSLA be notified who would attend in their place by 5.00 pm on the previous day to enable the Councillor attending to have full voting rights.

8. Representation on CoSLA's Sports, Arts and Culture Working Group.

There was submitted a report (issued) of 21st November 2012 by the Executive Director – Corporate Services

- (1) advising
 - (a) that the Sports, Arts and Culture Working Group had been established to co-ordinate CoSLA's activity and policy development between member authorities in relation to Sports, Arts and Culture while providing a mechanism for Local Government to input politically into the development of policy agendas with the Scottish Government; and
 - (b) that the first meeting on 20th December 2012 in Edinburgh of CoSLA's Sports, Arts and Culture Working Group would have a focus on Culture and would be jointly chaired by Councillor Harry McGuigan, CoSLA's Spokesperson for Community Well-Being and the Cabinet Secretary for Culture and External Affairs, Fiona Hyslop; and

- (2) seeking approval to appoint an Elected Member to represent the Council on COSLA's Sports, Arts and Culture Working Group.

Councillor Andy Campbell, seconded by Councillor Convery, moved that Councillor Toner be appointed to CoSLA's Sports, Arts and Culture Working Group.

By way of an Amendment, Councillor Douglas Campbell, seconded by Councillor McFarlane, moved that Councillor Allan be appointed to CoSLA's Sports, Arts and Culture Working Group.

On a vote being taken by a show of hands, nine members voted for the Amendment and eighteen for the Motion which was accordingly declared to be carried.

Decided: to appoint Councillor Margaret Toner as its representative on CoSLA's Sports, Arts and Culture Working Group.

9. **Report to Members and the Controller of Audit on the 2011/12 Audit.**

There was submitted a report (issued) of 20th November 2012 by the Executive Director – Corporate Services

- (1) advising
- (a) that the Council's accounts for financial year 2011/12 had been awarded a clean audit certificate and that the audited accounts had been presented to a special meeting of the Corporate and Community Planning Standing Scrutiny Panel on 27th September 2012; and
 - (b) that Audit Scotland had considered the key strategic and financial risks being faced by the Council, audited the financial statements and had looked at aspects of performance management and governance;
- (2) indicating that the key outcomes from the 2011/12 audit were:-
- a recognition of the progress made in improving the Council's financial position and the need to integrate service and financial plans and develop a long term investment strategy;
 - a recognition of the financial constraints of the current economic climate;
 - a recognition of the challenges for Members and Officers in delivering quality services with limited resources;
 - a recognition of improvement in procurement performance and further work required in respect of asset management planning; and
 - an acknowledgement of progress in respect of performance management and the need for further development of the self-evaluation process;
- (3) outlining the actions which would be taken or, had already been taken by the Council to resolve any areas of concern and that the action plan identified the individual Officers responsible for addressing the risks and the timescales involved; and

(4) reporting

- (a) that the accumulated revenue surplus on non-HRA accounts at 31st March 2012 was £18.026m, £8.794m of which was uncommitted;
- (b) that the accumulated revenue surplus on the HRA at 31st March 2012 was £15.714m; and
- (c) that the Council had incurred capital expenditure of £22.053m during the year with £11.732m being required to fund specific capital and revenue projects, and that £2.050m would be held in reserve for weather emergencies.

The Assistant Director (Audit Services) summarised the finding from their 2011/12 audit of this Council and that as part of the audit they had assessed the key financial and strategic risks being faced by this Council and had audited the financial statements and had reviewed the Council's financial position and aspects of governance, best value, the use of resources and performance and had outlined the key messages arising from their audit.

The Audit Manager outlined the key risk areas and planned management action within the Action Plan.

Arising from discussion, the relevant Officers provided further information and clarification in response to matters raised by Members relative to the undernoted, namely:-

- the areas of underspend within the Housing Revenue Account and would this be dealt with as part of the rent setting process;
- the slippage within the Capital Programme;
- what support mechanisms were in place for staff to deliver the planned management action;
- whether the asset management plan would be integrated with a long term investment strategy;
- pressures on the Council to deliver services; and
- how much money the Council had received selling properties over the last five years.

The Executive Director – Development and Environment advised that she would provide the figures on the sale of properties to Elected Members.

Decided: having recorded their appreciation of the work undertaken by the Executive Director – Corporate Services and her staff in preparing the accounts for 2011/12 and the Auditors,

- (i) to note the report by Audit Scotland on the Council's Audit of Accounts 2011/12 attached as an Appendix of the report, and the fact that the accounts had been given a clean audit certificate;
- (ii) to agree the action taken in relation to the action plan as detailed in Appendix 1 of the report, designed to address the areas of concern highlighted within the body of Audit Scotland's report; and
- (iii) to agree that this report be referred to the next meeting of the Corporate and Community Planning Standing Scrutiny Panel and thereafter, that regular updates on progress against the action plan be provided to that Panel.

Councillor Hunter left the meeting during consideration of the foregoing item from 11.15 a.m. until 11.18 a.m.

10. South Ayrshire Community Planning Partnership Single Outcome Agreement Annual Report.

There was submitted a report (issued) of 20th November 2012 by the Head of Policy, Performance and Communication

- (1) advising
 - (a) that Appendix 1 of the report contained the final draft of the SOA report and provided an overview of performance, highlighted a number of achievements but also identified where improvements could be made;
 - (b) that the report also contained performance information for the high level indicators and a narrative summary of the progress made against each national and local outcomes, including actions that have been implemented during the course of the year;
- (2) indicating
 - (a) that this year had seen a further improvement in the number of high level indicators which had met or exceeded the targets set in 2009 and that of the 74 indicators where data was available, 53 of these have been graded as green and have met or exceeded the target which equated to an overall performance of 72% compared to 54% last year with 8 indicators having an amber grading, a reduction from 19 last year, which meant they were within 5% of the target and the number of indicators given a red grading had reduced from 14 to 12;
 - (b) that under the Community Planning Board's governance arrangements, the report had also been considered by the Corporate and Community Planning Standing Scrutiny Panel at its meeting on 15th November 2012 (Page 545, paragraph 3) and as a result Elected Members had raised a number of matters that would be brought to the Community Planning Board's attention and also that of the relevant Theme Group; and

- (c) that any update from the meeting of the Community Planning Board would be verbally reported to Council on 29th November 2012; and
- (3) requesting that the Council consider the final draft of the South Ayrshire Community Planning Partnership Single Outcome Agreement Annual Report for 2011/12 and agree to its submission to the Scottish Government in line with existing arrangements.

The Head of Policy, Performance and Communication advised that the Community Planning Board at its meeting on 28th November 2012 had endorsed the information in the report and the final draft Single Outcome Agreement Annual Report for 2011/12.

Decided: to agree that the South Ayrshire Community Planning Partnership Single Outcome Agreement Annual Report for 2011/12 should be submitted to the Scottish Government.

The meeting ended at 11.30 a.m.