

SOUTH AYRSHIRE COUNCIL.

Minutes of meeting in County Buildings, Wellington Square, Ayr,
on 18 December 2019 at 10.00 a.m.

Present: Councillors Helen Moonie (Provost), Laura Brennan-Whitefield, Siobhian Brown, Andy Campbell, Douglas Campbell, Iain Campbell, Ian Cavana, Alec Clark, Ian Cochrane, Brian Connolly, Peter Convery, Chris Cullen, Ian Davis, Julie Dettbarn, Martin Dowey, Ian Fitzsimmons, William Grant, Peter Henderson, Hugh Hunter, Mary Kilpatrick, Lee Lyons, Craig Mackay, Derek McCabe, Brian McGinley, Bob Pollock, Philip Saxton and Arthur Spurling.

Apology: Councillor Margaret Toner.

Attending: E. Howat, Chief Executive; D. Hutchison, Depute Chief Executive and Director – People; D. Gillies, Director – Place; T. Baulk, Head of Finance and ICT; C. Caves, Head of Regulatory Services; W. Carlaw, Service Lead – Democratic Governance; K Briggs, Service Lead – Legal and Licensing; T Burns, Service Lead – Asset Management and Community Asset Management; S. Baird, Team Leader (Community Asset Transfer); J. Murnin, Co-ordinator (Performance and Management Information); and J. McClure, Committee Services Lead Officer.

1. Provost.

The Provost

- (1) welcomed everyone to the meeting;
- (2) intimated that apologies had been received from Councillor Margaret Toner; and
- (3) outlined that two additional reports had been received entitled “The Scottish International Airshow” and “Town Centre Development” which, with the agreement of the Council would be considered at the end of the agenda.

2. Procedural Matters.

The Provost advised that, in order to consider item 8 of this Minute entitled “Scheme of Delegation” as this was within six months from the date of the previous decision on this matter, the Council would, in accordance with Standing Order No. 22.1, require to agree to do so by a two thirds majority of those present and voting.

On a vote being taken by a show of hands and having achieved a two thirds majority, the Council agreed to consider these matters on the Agenda.

3. Sederunt.

The Chief Executive called the Sederunt for the meeting.

4. Declarations of Interest.

In terms of Standing Order No. 17, Councillor Hugh Hunter declared an interest in item 6 of these Minutes entitled “Community Asset Transfer – Muirhead Activity Centre and Car Park, Troon – Determination” as a family member attended Dundonald Gymnastics Club and he advised that he would leave the meeting during consideration of this item.

5. Minutes of previous meetings of Council and Panels.

(a) Minutes of previous meetings.

The Minutes of South Ayrshire Council of [3 October 2019](#) (issued) were submitted and authorised to be signed as a correct record of this meeting.

(b) Minutes of Panels.

The minutes (copies previously issued) of the undernoted meetings were submitted for information:-

- (i) Appeals Panel of [11 February 2019](#).
- (ii) Audit and Governance Panel of [26 September](#) and [6 November 2019](#).
- (iii) Leadership Panel of [17 September](#) and [29 October 2019](#).

In accordance with the Scheme of Delegation and Standing Orders for Meetings, Councillor Douglas Campbell, seconded by Councillor Brian McGinley, moved the recommendation as contained in the "[C](#)" paragraph of the Leadership Panel minutes of 29 October 2019 entitled 'Council Tax Long Term Empty Property – Discretion from Levy'.

Decided: to agree new discretionary criteria not to apply the increased Council Tax charges where:-

- (1) a property was actively undergoing repairs/renovations to make it habitable, including where planning applications had been lodged, for a maximum period of up to 24 months;
- (2) customers were actively engaging with the Council's Empty Homes Officer to bring the property back into use for a maximum period of up to 24 months; and
- (3) exceptional circumstances existed that were out with the control of the customer and which prevented the property from being occupied or sold (subject to annual review).

In accordance with the Scheme of Delegation and Standing Orders for Meetings, Councillor Douglas Campbell, seconded by Councillor Brian McGinley, moved the recommendations as contained in the "[C](#)" paragraph of the Leadership Panel minutes of 29 October 2019 entitled "Discretionary Housing Payments – Policy Update"

Decided:

- (1) to note the implementation of an online application form, and
- (2) to agree that the current Discretionary Housing Policy should be revised to allow automatic renewal for 'under occupancy' claims which were fully funded by the Scottish Government.

In accordance with the Scheme of Delegation and Standing Orders for Meetings, Councillor Douglas Campbell, seconded by Councillor Brian McGinley, moved the recommendation as contained in the "[C" paragraph](#) of the Leadership Panel minutes of 26 November 2019 entitled 'Social Letting Service'.

Decided:

- (1) to note that the consideration to create a Social Letting Service (SLS) was one of the aims contained within the Rapid Rehousing Transition Plan 2019-2024 agreed by the Leadership Panel in February 2019;
- (2) to recommend to the Council, as required by Standing Order 16.1 of the Council's Scheme of Delegation, that the Council exercise the power of wellbeing provided within Part 3 of the Local Government in Scotland Act 2003 to enable the creation and management of an SLS operated by the Council, including the necessary staffing resource;
- (3) to agree that funding of £215,000 be utilised to pay for the start-up costs and operational delivery of the SLS for four years; and
- (4) to agree that a report reviewing the service be carried out after year two to consider the continuing feasibility and mainstreaming of the service after year four and to present a report thereafter to the Leadership Panel.

In accordance with the Scheme of Delegation and Standing Orders for Meetings, Councillor Douglas Campbell, seconded by Councillor Brian McGinley, moved the recommendation as contained in the "[C" paragraph](#) of the Leadership Panel minutes of 26 November 2019 entitled 'Customer Invoicing Write-offs – Irrecoverable Debt'.

Decided: to approve the write-off policy in relation to irrecoverable Customer Invoice debt.

In accordance with the Scheme of Delegation and Standing Orders for Meetings, Councillor Douglas Campbell, seconded by Councillor Brian McGinley, moved the recommendation as contained in the "[C" paragraph](#) of the Leadership Panel minutes of 26 November 2019 entitled 'Updated Policy for the Acquisition and Disposal of Land and Buildings'.

Decided: to approve the updated Policy for the Acquisition and Disposal of Land and Buildings, as detailed in Appendix 1 of the report, subject to amendment to paragraph 3.1.5 of the Policy to state:-

"In order to streamline this process (often referred to as Council House buy-backs as often the properties have previously been owned by the Council and sold under 'Right to Buy') the **Director – Place** will have delegated authority to purchase individual residential properties to be used as Council houses for rent on behalf of Housing Services up to the value of **£150,000 and the acquisition of land either in Council ownership or on the open market of up to £250,000 with agreement from the Portfolio Holder or in their absence, the Leader or Depute Leader of the Council**, each subject to available funds."

- (iv) Local Review Body of [24 September](#) and [29 October](#) and [20 November 2019](#).
- (v) Partnerships Panel of [11 September 2019](#).
- (vi) Regulatory Panel – Licensing of [18 September \(Site Visit\)](#), [19 September](#), [31 October](#) and [6 November 2019 \(Special\)](#).
- (vii) Regulatory Panel – Planning of [5 September](#) and [2 October 2019](#).
- (viii) Service and Performance Panel of [10 September](#) and [22 October 2019](#).
- (ix) Ayrshire Shared Services Joint Committee of [29 August 2019](#).

Having previously declared an interest in this item, Councillor Hugh Hunter left the meeting at this point.

6. Community Asset Transfer – Muirhead Activity Centre and Car Park, Troon – Determination.

There was submitted a [report](#) (issued) of 11 December 2019 by the Director – Place seeking determination in respect of the request by Dundonald Gymnastics Club (DGC) in terms of the Community Empowerment (Scotland) Act 2015 (“the Act”) for the transfer of Muirhead Activity Centre and car park (“the Centre”).

The Head of Regulatory Services advised that, following consideration at Leadership Panel of 11 June 2019, Audit and Governance Panel of 6 November 2019 and Leadership of 26 November 2019, this matter was now before Council for determination in terms of Standing Order No. 35(10); and outlined the procedure for the consideration of this determination and the options open to the Council. The Service Lead – Legal and Licensing further advised that this was a quasi-judicial process and that the only information to be considered when making a decision should be that which had been before the Leadership Panel and Audit and Governance Panel.

The Service Lead – Asset Management and Community Asset Transfer outlined the present position with this matter and advised that, should the request be refused, the applicant had the right of appeal to the Scottish Ministers; and a Decision Notice would be issued by 21 January 2020.

Various Members spoke on behalf of and against this transfer and questions were raised and responded to by the Head of Regulatory Services and the Service Lead – Asset Management and Community Asset Transfer.

Councillor Philip Saxton, seconded by Councillor Bob Pollock, moved that the decision of the Leadership Panel of 11 June 2019 be upheld and

- (1) that the application be refused under Part 5 of the Community Empowerment (Scotland) Act 2015 to DGC on the grounds that the benefits of the existing use outweigh the value of the alternative proposals made by DGC and specific factors which were relied upon, as follows:-
 - (a) the feasibility and cost of relocation of the services elsewhere and the lack of a guarantee from officers that existing users could be accommodated in this facility or any local facility;

- (b) the proposal failed to demonstrate sufficiently that there would be enhanced local services or that the local community would be served or accommodated by the proposals for other uses in the application;
 - (c) the lack of evidence to show that the benefits for the other parts of the community excluding the gymnastic community would be delivered and in the time periods set down in the application;
 - (d) more weighting and more detailed consideration should have been applied to the local community objections, the number, type and specific issues raised by the significant objectors in the local community than the DGC who represent a community of interest as a sporting club;
 - (e) there was a lack of consideration of whether the Centre, as the second most used community facility, was the most appropriate Council facility and failure to explore with the applicant alternative Council venues that might offer a better alternative for the Club; and
- (2) to further agree that officers enter into discussions with the applicant to explore alternative Council premises that might serve the applicant's needs with a view to reaching an agreement to make those premises available to the applicant on conditions agreeable to both parties.

By way of Amendment, Councillor Douglas Campbell, seconded by Councillor Brian Connolly, moved that the Council support the recommendations of the Audit and Governance Panel of 6 November 2019 and approve the application with conditions.

A Council Member requested a roll call vote.

The Head of Regulatory Services then took the vote by calling the roll as follows:-

Helen Moonie	Amendment
William Grant	Motion
Laura Brennan-Whitefield	Motion
Siobhian Brown	Motion
Andy Campbell	Motion
Douglas Campbell	Amendment
Iain Campbell	Motion
Ian Cavana	Motion
Alec Clark	Amendment
Ian Cochrane	Motion
Brian Connolly	Amendment
Peter Convery	Motion
Chris Cullen	Amendment
Ian Davis	Motion
Julie Dettbarn	Motion
Martin Dowey	Abstain
Ian Fitzsimmons	Motion
Peter Henderson	Amendment
Mary Kilpatrick	Motion
Lee Lyons	Amendment
Craig Mackay	Motion
Derek McCabe	Motion
Brian McGinley	Motion
Bob Pollock	Motion
Philip Saxton	Motion
Arthur Spurling	Motion

Seven Members voted for the Amendment, eighteen for the Motion and one Member abstained, therefore the Motion was accordingly declared carried and the Council, having noted the decision of the Leadership Panel of 11 June 2019 (extract from minutes detailed in Appendix 1), the decision of the Audit and Governance Panel of 6 November 2019 (extract from minutes detailed in Appendix 2) and the decision of the Leadership Panel of 26 November 2019 (extract from draft minutes detailed in Appendix 3),

Decided:

- (i) to uphold the recommendations of the Leadership Panel of 11 June 2019 and refuse the application for the reasons stated; and
- (ii) to request officers to issue a Decision Notice by 21 January 2020, within the six month period as prescribed in section 86(7)(b)(i) of the Act beginning with the date on which the application for review under section 86(2) of the Act was made.

Councillor Hugh Hunter re-joined the meeting at this point.

7. Appointments to Panel and Representation on Outside Bodies and COSLA.

There was submitted a [report](#) (issued) of 11 December 2019 by the Head of Regulatory Services seeking approval to make alterations to the lists of Panels and Outside Bodies and representatives thereon.

Having noted that recommendation 2.1.1 within the report should also include the Local Review Body, the Council

Decided:

- (1) to agree to increase the membership of the Regulatory Panel and Local Review Body to nine Members and to appoint Councillor Alec Clark as the additional member;
- (2) not to take up the appointment on the Steering Group of Prestwick Improvement District from the list of Outside Bodies;
- (3) to approve a change to the membership of the COSLA Convention, namely Councillor Derek McCabe to replace Councillor Peter Convery as a Member; and
- (4) to agree the appointment of the Director – Place as B Shareholders representative (Public Sector Director) on Hub South West Scotland Limited.

8. Scheme of Delegation.

There was submitted a [report](#) (issued) of 11 December 2019 by the Head of Regulatory Services seeking approval to amend the Scheme of Delegation following review.

The Council

Decided: to approve the Scheme of Delegation (extracts contained in [Appendix 1](#)) with effect from 19 December 2019.

9. Code of Conduct for Employees – Gifts and Hospitality.

There was submitted a [report](#) (issued) of 11 December 2019 by the Head of Regulatory Services seeking approval of the revised Code of Conduct for Employees.

Following a question from a Member on how the value of the gift/hospitality could be assessed, the Service Lead – Democratic Governance advised that this would be an estimated value and was bringing the employees' value of gift/hospitality in line with Elected Members.

The Council

Decided: to approve the revised Code of Conduct for Employees (relevant extracts contained in Annexes 1 and 2).

10. ICT Acceptable Use Policy.

There was submitted a [report](#) (issued) of 11 December 2019 by the Head of Finance and ICT seeking approval of revisions to the Council's Acceptable use Policy governing the appropriate and effective use of ICT services and facilities.

Following questions from a Member on training and accountability, the Head of Finance and ICT advised that these areas were currently being examined.

The Council, having thanked the Head of Finance and ICT and his officers for providing this clear guidance,

Decided: to approve the revised Acceptable Use Policy (attached as Appendix 1 to the report).

11. South Ayrshire Performs – 'Annual Performance Report 2018/19'.

There was submitted a [report](#) (issued) of 11 December 2019 by the Depute Chief Executive and Director – People providing the first in a series of 'South Ayrshire Performs – Annual Reports', highlighting the wider service performance over the course of the year.

Members commended this very positive report which demonstrated the Council's improvements and staff accolades.

The Council, having considered the report and thanked all staff for their hard work in delivering for the people of South Ayrshire

Decided: to approve the content of the 'Annual Performance Report 2018/19', attached as Appendix 1 to the report.

12. **Corporate Lets.**

There was submitted a [report](#) (issued) of 11 December 2019 by the Depute Chief Executive and Director – People seeking approval for the implementation of new terms and conditions in relation to the let of Council premises and to the proposed new fees and charges and concessionary arrangements.

A full discussion took place in relation to the process for applying discretionary rates and the Executive Manager – People advised that a level of flexibility and discretion would require to be adopted; and that steps would be taken to consolidate lets into the one building to share costs, where possible.

Questions were raised and responded to by the Executive Manager – People in relation to the criteria for organisations being entitled to the 100% subsidy; the auditing of the income of profit-making organisations; the process for making bookings; and the reason for a minimum of 24 months in advance for a regular let.

Councillor Peter Henderson, seconded by Councillor Andy Campbell, moved the report subject to two additions.

The Council, having thanked the Executive Manager – People for her work on this matter,

Decided:

- (1) to approve the implementation of the new terms and conditions in relation to commercial lets and the let of Council premises;
- (2) to approve the implementation of the proposed new fees and charges and concessionary arrangements; and
- (3) to agree that an annual report should be submitted to Audit and Governance Panel on the outcomes of the recommendations and to monitor the process.

Adjournment of Meeting.

The time being 12.15 p.m., the Council agreed to adjourn for ten minutes.

Councillor Craig Mackay left the meeting at this point.

Resumption of Meeting.

The Council resumed at 12.25 p.m.

13. **Placemaking – Initial Projects for Implementation.**

There was submitted a joint [report](#) (issued) of 11 December 2019 by the Depute Chief Executive and Director – People and the Director – Place providing information on proposed initial projects which had been identified through the community conversations undertaken as part of the Council's new approach to placemaking.

Questions were raised and responded to by the Executive Manager – Place in relation to play and recreation facilities; the programme of environmental improvement activities; and how the distribution of funds was agreed.

A Member expressed his disappointment that no projects in Prestwick were included within this report, especially the Friends of the Broadway project and it was noted that this was a pilot project initially and that all areas would be included over time.

The Council, having commended this report,

Decided: to approve the projects set out in Section 4 of the report to deliver early community priorities as identified through placemaking community conversations.

14. **Notice of Motion.**

A Notice of Motion having been submitted in accordance with Council Standing Order No. 18, Councillor Laura Brennan-Whitefield, seconded by Councillor Phillip Saxton, moved:-

“Council supports the view of 87% of respondents to the recent Scottish Government consultation that the sale of fireworks to the general public should be banned.

Council requests that the Chief Executive write on behalf of South Ayrshire residents to the Scottish Government advising them of the term of this resolution.”

A full debate took place regarding the terms of the Motion.

The Mover, with the agreement of the Seconder, amended the Motion to substitute “South Ayrshire residents” with “South Ayrshire Council” and the Council

Decided: unanimously, to agree the terms of the Motion as follows:-

“Council supports the view of 87% of respondents to the recent Scottish Government consultation that the sale of fireworks to the general public should be banned.

Council requests that the Chief Executive write on behalf of South Ayrshire Council to the Scottish Government advising them of the term of this resolution.”

15. **Formal Question.**

The Council noted that no formal questions had been submitted.

16. **Exclusion of press and public.**

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

17. **Economy and Regeneration.**

There was submitted a report (issued to Members only) of 16 December 2019 by the Director – Place seeking approval to amend the fourth tier management arrangements within the Economy and Regeneration services to reflect the Council’s strategic objectives, including the Ayrshire Growth Deal and Regional Partnership; and to facilitate a wider strategic and operational review.

The Council

Decided:

- (1) to approve the revised fourth tier staffing arrangements, as outlined in Appendix 1; and
- (2) to request that the Service Lead – Economy and Regeneration bring forward an Economic Strategy for South Ayrshire and associated management structure to reflect the emerging Regional Economic Strategy by April 2020.

18. The Scottish International Airshow.

There was submitted a report (issued to Members only) of 16 December 2019 by the Depute Chief Executive and Director – People inviting Council Members to consider the evidence provided by The Scottish International Airshow (TSIA) in response to a request for information to assess compliance with the Minute of Agreement (MOA) in place for the Airshow and to decide, in light of the apparent non-compliance identified, whether Council wished to vary the MOA, refuse to vary the MOA and ask TSIA to confirm they would stage the 2020 event in accordance with the MOA; or to agree to terminate the MOA and seek recovery of the £80,000.

Councillor McGinley, seconded by Councillor Douglas Campbell, moved recommendation 2.1.2(ii) within the report.

Following a request from a Member to amend the Motion to allow the Leadership Panel to approve recommendation 2.1.2(iii) should the TSIA not respond within seven days, this was agreed by the Mover and Seconder.

The Council, having commended the Service Lead – Community Services and Facilities for her work on this matter,

Decided: having considered the response provided by TSIA and whether this provided confirmation of full compliance with the MOA

- (1) to refuse to vary the MOA and to request officers to write to TSIA confirming this and asking TSIA to confirm within seven days that they would be staging the 2020 Event in accordance with the terms of the MOA and requiring immediate repayment of the sum of £80,000; and
- (2) that, should TSIA fail to respond within seven days demonstrating full compliance with the requirements of this letter, to give authority to the Leadership Panel to terminate the MOA at its meeting on 21 January 2020 and request officers to serve a termination notice on TSIA in accordance with the MOA and to take the necessary legal steps to recover the sum of £80,000.

19. Town Centre Development.

There was submitted a report (issued to members only) of 16 December 2019 by the Director – Place seeking approval for the purchase of the site of the Arran Mall in Alloway Street extending to 1.03 hectares (2.545 acres) as shown in Appendix 1 to facilitate the development of a new leisure centre.

Councillor Brian McGinley, seconded by Councillor Peter Henderson, moved the recommendations within the report and an additional recommendation and the Council

Decided:

- (1) to agree to the purchase of Arran Mall site for an agreed sum, excluding VAT but including other taxes and fees that would be required;
- (2) to agree that the Council would pay 10% of the agreed purchase price on completion of missives on the proposed sale;
- (3) to delegate authority to the Director – Place to conclude the terms for the purchase of the Arran Mall and the land adjacent to it and to the Head of Regulatory Services to conclude both transactions on such other terms as may be appropriate; and
- (4) to utilise part of the funding currently available for the town centre development to allocate monies to Friends of the Broadway, Prestwick under standard terms and conditions, subject to a successful bid to the Land Fund being achieved; and to request that the Director – Place report back to Leadership Panel providing an update on this matter.

20. Consideration of Disclosure of the above Confidential Reports.

Decided:

- (1) to authorise the disclosure under Standing Order 32.4 of the following report:-
 - Economy and Regeneration.
- (2) to authorise the disclosure of part of the undernoted report falling under Standing Order 32.4 and that report be redacted following consultation with the Head of Regulatory Services and relevant officers:-
 - The Scottish International Airshow; and
- (3) not to authorise the disclosure under Standing Order 32.4 of the whole or part of the following report:-
 - Town Centre Development.

21. Provost's Closing Remarks.

The Provost wished all Members of the Council a Merry Christmas and Happy New Year.

The meeting ended at 2.50 p.m.