

SOUTH AYRSHIRE COUNCIL (SPECIAL).

Minutes of a hybrid webcast meeting
on 9 September 2022 at 11.00 a.m.

Present in County Buildings: Councillors Iain Campbell (Provost), Kenneth Bell, Laura Brennan-Whitefield, Ian Cavana, Julie Dettbarn, Brian Connolly, Mark Dixon, Martin Dowey, Stephen Ferry, Peter Henderson, Hugh Hunter, Martin Kilbride, Mary Kilpatrick, Lee Lyons, Brian McGinley, Bob Pollock, Cameron Ramsay, Philip Saxton, Gavin Scott, Bob Shields, Duncan Townson and George Weir.

Present Remotely: Councillors Alec Clark, Ian Cochrane, Chris Cullen, Ian Davis, William Grant and Craig Mackay.

Attending in County Buildings: E. Howat, Chief Executive; W. Wesson, Service Lead – HR and Payroll; J. McClure, Committee Services Lead Officer; and C. Buchanan, Committee Services Officer.

Attending in County Buildings for Item 4 only: M. Newall, Assistant Director – People; C. Caves, Head of Legal, HR and Regulatory Services; K. Anderson, Service Lead – Policy, Performance and Community Planning; T. Simpson, Service Lead – Corporate Accounting; D. Yuille, Service Lead – Special Property Projects; and T. Burns, Service Lead – Asset Management and Community Asset Transfer;

1. Valedictory

Provost referred to the recent sad passing of Queen Elizabeth II, a devoted monarch who had reigned for seven decades with dignity and grace and who would be remembered with affection and gratitude.

Councillor Dowey made reference to this very sad day and passed his condolences to HM King Charles III and the royal family; and intimated that Queen Elizabeth II had been the bedrock of our country, had served the UK and the Commonwealth for over seventy years and would be sorely missed around the world.

Councillor Henderson endorsed the statement made by the Leader and requested that a letter of condolence be sent to King Charles III.

Following a request from Councillor McGinley, Provost confirmed that the letter of condolence would be sent from all political parties and Independent Members.

The Council then held a minute's silence.

2. Provost's Remarks.

Provost

- (1) welcomed everyone to the meeting;
- (2) intimated that no apologies had been received;
- (3) outlined the procedures for conducting this meeting and advised that part of this meeting would be broadcast live; and
- (4) congratulated Troon Boys Brigade Pipe Band on being crowned the 2022 Grade 4b World Piper Band Champions.

3. **Sederunt and Declarations of Interest.**

The Chief Executive called the Sederunt for the meeting and having called the roll, confirmed that there were no declarations of interest by Members of the Council in terms of Council Standing Order No. 17 and the Councillors' Code of Conduct.

4. **Call-in - Transfer of the Site of the John Pollock Centre to Housing Revenue Account.**

Reference was made to

- (1) the Minutes of Cabinet of 30 March 2022 (Page 3, paragraph 7) when the Cabinet had decided
 - (a) to note that the consultation carried out by the Director - Place with tenants and the public had been largely in favour of the proposed transfer of the site from the General Fund to the HRA for nil consideration; and
 - (b) to grant authority to transfer the site of the John Pollock Centre from the General Fund to the HRA at nil value ahead of a proposed residential development in accordance with the explanation set out in the report and provided that the Council's Housing Revenue Account met the abnormal costs of £3,222,539;
- (2) the Minutes of the Audit and Governance Panel of 7 September 2022 (Page 1, paragraph 2) when that Panel had considered the terms of a call-in from the Cabinet of 30 August 2022 in relation to the Transfer of the Site of the John Pollock Centre to Housing Revenue Account; and had agreed that the matter be referred back to the Cabinet with the recommendations that the Cabinet consider if the consultation was materially flawed and required remedy; and to ascertain if the additional cost of demolition to be borne by the Housing Revenue Account met the Best Value criteria; and
- (3) the Minutes of the Cabinet (Special) of 9 September 2022 (Page 1, paragraph 3) when that Cabinet, having considered the recommendations of the Audit and Governance Panel, had decided to agree
 - (a) to confirm the decision taken at the meeting of the Cabinet on 30 August 2022, namely:-
 - (i) to note that the consultation carried out by the Director - Place with tenants and the public had been largely in favour of the proposed transfer of the site from the General Fund to the HRA for nil consideration; and
 - (ii) to grant authority to transfer the site of the John Pollock Centre from the General Fund to the HRA at nil value ahead of a proposed residential development in accordance with the explanation set out in the report and provided that the Council's Housing Revenue Account met the abnormal costs of £3,222,539; and
 - (b) therefore, that the matter be referred to this special meeting of South Ayrshire Council for determination.

The Council heard from the Head of Legal, HR and Regulatory Services in relation to the process for this call-in and the decisions taken at previous meetings of Cabinet and Audit and Governance Panel.

Councillor Dowey, seconded by Councillor Lyons, moved the recommendations as outlined in the Cabinet report.

By way of Amendment, Councillor Saxton, seconded by Councillor McGinley, moved to approve recommendation 2.1.1 of the report (item 4(1)(a) of this Minute) and to amend recommendation 2.1.2 as follows:-

“to grant authority to transfer the site of the John Pollock Centre from the General Fund to the HRA at nil value for a proposed residential development in accordance with the explanation set out below and provided that:

- (A) in order to allow the contract for Affordable Housing at Mainholm Road, Ayr be let, the full abnormal costs of £3,222,539 continue to be met by the Housing Account; and
- (B) Members are, however, asked to reverse the previous decision of Leadership Panel of 26 November 2019 which approved that the demolition costs be met by the Housing Account and request instead that these demolition costs be met from General Services subject to approval of this subsidy by Scottish Government.

If, however, Scottish Government approval is not granted, the full abnormal costs will continue to be met by the Housing Account.”

The Council then heard from Councillor Saxton, as the main signatory of the call-in on the reasons for the call-in.

Point of Order

Councillor Dowey raised a Point of Order that Councillor Saxton's comments were not relevant to the call-in and the Head of Legal, HR and Regulatory Services advised Councillor Saxton that his speech must relate to his Amendment.

Point of Order

A further Point of Order was raised by Councillor Bell that Councillor Weir had left the Chamber during consideration of this matter, therefore, was he precluded from voting in relation to this item; and the Head of Legal, HR and Regulatory Services advised that, as Councillor Weir had not been absent from a material part of the debate, he was entitled to take part in the vote.

Following a question from a Member on whether Councillors should advise Provost when they were leaving the Chamber; the Head of Legal, HR and Regulatory Services advised that Members should intimate that they were leaving the Chamber and Provost would confirm this and they should also advise when they had returned. Similarly, those Members who had joined the meeting remotely should also advise if they were leaving the meeting and when they had rejoined by noting this in the chat box.

Questions were raised by Members in relation to:-

- (A) whether the amendment being approved could result in delays to the construction of these important social housing builds; and the Chief Executive advised that paragraph 2.1.2 a of the amendment allowed the contract to be awarded which would prevent any delay and at this stage the full abnormal costs would continue to be met from the Housing Account however, within paragraph 2.1.2 b there was a proposal that the General Services Fund met an element of these costs which required Scottish Government approval, but in the event this approval was not granted the amendment provided that the Housing Fund would continue to pay and it was therefore very clear the contract would continue; and
- (B) whether the matter called-in had been considered by Council within the last six months; and the Head of Legal, HR and Regulatory Services confirmed that it had not.

A comment was made by a Member that the reason for the Amendment was not to delay the building of this project, however, if there was a source of money that could be utilised to assist, given the high cost per unit, then it would be good governance to pursue these monies.

In terms of Council Standing Order No. 21.1(2), Councillor Hunter, seconded by Councillor Pollock, moved that the Council now Move to Vote.

Point of Order

Having heard Councillor Hunter raise a Point of Order to determine if a vote was required to Move to Vote; the Head of Legal, HR and Regulatory Services advised that Provost had agreed that, in terms of Standing Order No. 21.1(2), Provost was of the opinion that the subject had been sufficiently discussed.

A vote was thereby taken by calling the roll as follows:-

Iain Campbell	Motion
Kenneth Bell	Motion
Laura Brennan-Whitefield	Motion
Ian Cavana	Amendment
Alec Clark	Motion
Ian Cochrane	Amendment
Brian Connolly	Motion
Chris Cullen	Motion
Ian Davis	Motion
Julie Dettbarn	Abstain
Mark Dixon	Motion
Martin Dowe	Motion
Stephen Ferry	Motion
William Grant	Amendment
Peter Henderson	Motion
Hugh Hunter	Motion
Martin Kilbride	Motion
Mary Kilpatrick	Motion
Lee Lyons	Motion
Craig Mackay	Amendment
Brian McGinley	Amendment
Bob Pollock	Motion
Cameron Ramsay	Amendment

Philip Saxton	Amendment
Gavin Scott	Motion
Bob Shields	Motion
Duncan Townson	Amendment
George Weir	Motion

Eight Members voted for the Amendment, one Member abstained and nineteen Members voted for the Motion, which was accordingly declared carried and the Council

Decided:

- (I) to note that the consultation carried out by the Director - Place with tenants and the public had been largely in favour of the proposed transfer of the site from the General Fund to the HRA for nil consideration; and
- (II) to grant authority to transfer the site of the John Pollock Centre from the General Fund to the HRA at nil value ahead of a proposed residential development in accordance with the explanation set out in the report and provided that the Council's Housing Revenue Account met the abnormal costs of £3,222,539.

5. Formal Questions.

In terms of Council Standing Order No. 26.2, there were submitted (tabled) [Formal Questions](#) from Councillor McGinley, along with the responses.

Councillor McGinley raised a supplementary question to the Leader relating to each of the responses as follows:-

1. Air Show – given that no work had been carried out on the economic impact or environmental or sustainability issues to date, was this not like putting the cart before the horse; and if no strategic partner was obtained, was there an alternative plan?

The Leader responded that there were a number of bidders and that once a decision had been made by Procurement on the preferred bidder, there would be a full update to Council.

2. Ayr Leisure Centre – this would clearly be a difficult task to undertake and costly, are you convinced that the work you describe here is in keeping with best value principles? Have you looked at possibilities and think this is a viable option? The refurbishing would be costly over a period of time due to staffing issues and the Council has a Carbon Policy.

The Leader responded that no decision had been made to date on the Leisure Centre; that, due to inflation, the costs had risen; and that the preferred option would be to address the issues in the Carbon Policy during the refurbishment, however any decision on the Leisure Centre would be taken by Council.

3. Cost of Living Crisis – I understand that the Member/Officer Working Group has not yet met and I'd urge those involved in that to deal with these matters expediently because we are living in a very difficult time and I would ask will this Group consider what the Council can do to improve the quality of life of those most in need?

The Leader responded that the Working Group had not yet met, however, the Chair of the Group, Councillor Dettbarn, had recently met with officers to discuss the work of the Group; that Cabinet Members, Councillor Dettbarn, the Provost and Chief Executive had recently met with VASA and other stakeholders to establish how best to support all citizens during the cost of living crisis; that during Covid, staff members had volunteered to assist in helping those most in need, however, all staff had now returned to work so other options were being examined for how to assist those in need; and the Chief Executive was currently meeting with Officers to investigate where monies could be sourced to help those most in need.

The Leader further advised that it would be advantageous for all Group Leaders and Councillor Dettbarn to meet regularly to discuss ways to help those most in need due to the Cost of Living Crisis.

6. **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 from the remaining items of business on the agenda, on the grounds that they involved the likely disclosure of exempt information in terms of paragraph 9 of Part 1 of Schedule 7A of the Act.

7. **Review of Management Structure.**

There was submitted a report (issued – Members only) of 1 September 2022 by the Chief Executive outlining proposals for a revised Chief Officer structure for the Council (excluding officers from the Health and Social Care Partnership).

Councillor Dowe, seconded by Councillor Lyons, moved the recommendations as outlined in the report.

By way of Amendment, Councillor Henderson, seconded by Councillor Cullen, moved that an additional recommendation be added at 2.1.5, namely "requests that a quarterly report is made to Council specifically in regard to Strategic Change progress with any additional, substantial real time updates as they occur."

By way of Counter-Amendment, Councillor McGinley, seconded by Councillor Saxton moved "that the report is continued and presented to a future meeting of the Council once the following information has been detailed:-

- (1) details on the updated Council Plan;
- (2) completed report on Workforce Planning;
- (3) further detail on the direct relationship with the Best Value report recommendation;
and
- (4) full job descriptions and remits."

Following discussion and with the agreement of both Movers and Seconders, Councillor Dowe agreed to incorporate Councillor Henderson's Amendment into the terms of his Motion.

Questions were raised and responded to by the Chief Executive in relation to measuring performance; and who would be eligible to apply for the vacant posts.

Five Members voted for the Amendment and twenty three Members for the Motion, which was accordingly declared carried and the Council

Decided:

- (a) to approve the revised staffing and structural arrangements in respect of Chief Officers (as detailed in Appendix 2 of the report);
- (b) to approve the draft job descriptions for these new posts (as outlined in Appendix 3 of the report);
- (c) to consider and agree the implementation/recruit process to be followed for Council Chief Officers as outlined at 4.5 of the report;
- (d) to request officers to submit a list of the changes required to the Scheme of Delegation for Council approval on 13 October 2022; and
- (e) to request that a quarterly report be made to Council specifically in regard to Strategic Change progress with any additional, substantial real time updates as they occur.

8. Chief Officer Staffing.

There was submitted a report (issued – Members only) of 7 September 2022 by the Chief Executive which sought a decision on the employment position of a senior officer and advised that any early retirement package would be subject to a Settlement Agreement. The Chief Executive stressed the requirement for the discussions in relation to this matter to remain confidential and outlined the implications of any breach.

Point of Order

Councillor McGinley raised a Point of Order on whether the Chief Officers Appointments/Appraisal Panel had authority to consider this matter and the Chief Executive advised that decisions around appointments of Senior Officers were reserved to Council and this was a decision for Council to make today.

Point of Order

A further Point of Order was raised by Councillor McGinley in relation to paragraph 4.1 of the report which stated that a “question had been raised by members of the Chief Officers’ Appointments/Appraisal Panel” and Councillor McGinley asked what question had been raised and on what basis; and Councillor Dowey advised that he would respond in writing.

Adjournment

The time being 12.50 p.m., the Council adjourned for ten minutes to allow the Motion and Amendment to be committed to writing.

Resumption of Meeting

The meeting resumed at 1.00 p.m.

Councillor Dowey, seconded by Councillor Lyons, moved that the senior officer retire in the interests of the efficiency of the Council's service on the basis of an early retirement package and that, if agreed, the Chief Executive would conclude a Compromise Agreement in appropriate terms with the officer.

By way of Amendment, Councillor McGinley, seconded by Councillor Cavana moved that "we accept that the senior officer retire in the interests of the efficiency of the Council's service and that if agreed the Chief Executive would conclude a compromise agreement in appropriate terms with the officer but we disagree with the way in which the process has been handled by the Chief Officers Appointments/Appraisal Panel and that termination of a Chief Officer post requires to be explicitly considered by Council prior to meeting with individual employees".

Six Members voted for the Amendment and twenty two Members voted for the Motion, which was accordingly declared carried and the Council

Decided:

- (1) to approve the early retirement application for a Local Government Employee on the Grounds of the Efficiencies of the Service as set out in the report;
- (2) that the early retirement decision not be implemented until the Chief Executive had concluded a Compromise Agreement in appropriate terms with the employee; and
- (3) otherwise, to note the contents of the report.

9. Consideration of Disclosure of Confidential Information

Following advice from the Chief Executive, the Council

Decided:

- (1) to authorise under Standing Order 32.4, disclosure of information in part from the following report-
 - Review of Management Structure; and
- (2) not to authorise the disclosure under Standing Order 32.4 of the whole or part of the following report:-
 - Chief Officer Staffing.

10. Closing Remarks.

The Provost thanked all in attendance for their contribution.

The meeting ended at 1.05 p.m.