

SOUTH AYRSHIRE COUNCIL.

Minutes of a hybrid webcast meeting
on 13 October 2022 at 10.00 a.m.

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

Present Remotely: Councillors Kenneth Bell, Chris Cullen and Julie Dettbarn.

Attending in County Buildings: E. Howat, Chief Executive; C. Caves, Head of Legal and Regulatory Services; T. Baulk, Head of Finance and ICT; L. Reid, Assistant Director – Place; D. Yuille, Service Lead – Special Property Projects; C. Iles, Service Lead – Planning and Building Standards; T. Burns, Service Lead – Asset Management and Community Asset Transfer; J. McClure, Committee Services Lead Officer; A. Gibson, Committee Services Officer; C. Buchanan, Committee Services Officer; C. McCallum, Committee Services Assistant; and E. Moore, Committee Services Assistant.

Attending Remotely: D. Alexander, Service Lead – Procurement.

1. Provost.

The 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 this meeting would be broadcast live; and
- (4) congratulated Councillors Dowey and Henderson for receiving awards for Leadership at the LGIU awards; and Councillor Cullen for his Commendation for Resilience Award.

2. 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.

3. Minutes of previous meetings of Council.

(1) Minutes of 29 June 2022.

Provost Campbell, seconded by Councillor Kilpatrick, moved the [Minutes](#) of South Ayrshire Council of 29 June 2022 as a correct record.

The Council

Decided: to approve the Minutes of 29 June 2022 and authorise these minutes to be signed as a correct record.

(2) Minutes of 9 September 2022 (Special).

Provost Campbell, seconded by Councillor Kilpatrick, moved the [Minutes](#) of South Ayrshire Council (Special) of 9 September 2022 (Special) as a correct record.

The Council

Decided: to approve the Minutes of 9 September 2022 (Special) and authorise these minutes to be signed as a correct record.

(3) Minutes of previous meetings of Panels.

The Minutes of the undernoted Panels were submitted for information:-

- (i) Audit and Governance Panel of [22 June](#), [28 June \(Special\)](#) and [7 September 2022](#).
- (ii) Cabinet of [14 June](#), [30 August](#) and [9 September 2022 \(Special\)](#).

In accordance with the Scheme of Delegation and Standing Orders for Meetings, Councillor Dowey, seconded by Councillor Lyons, moved the recommendations as contained in the 'C' paragraph of the Cabinet minutes of 30 August 2022 entitled "Treasury Management Annual Report 2021/22" ([copy of minute excerpt herewith](#)).

The Council

Decided: to agree the terms of the 'C' paragraph.

In accordance with the Scheme of Delegation and Standing Orders for Meetings, Councillor Dowey, seconded by Councillor Lyons, moved the recommendations as contained in the 'C' paragraph of the Cabinet minutes of 30 August 2022 entitled "Representation on Convention of Scottish Local Authorities" ([copy of minute excerpt herewith](#)).

The Council

Decided: to agree the terms of the 'C' paragraph.

In accordance with the Scheme of Delegation and Standing Orders for Meetings, Councillor Dowey, seconded by Councillor Lyons, moved the recommendations as contained in the 'C' paragraph of the Cabinet minutes of 30 August 2022 entitled "Mileage Expenses" ([copy of minute excerpt herewith](#)).

The Council

Decided: to agree the terms of the 'C' paragraph.

- (iii) Chief Officers Appointments/Appraisal Panel of [1 July](#), [28 July](#) and [9 September 2022](#).
- (iv) Local Review Body of [21 June 2022](#).
- (v) Partnerships Panel of [28 June 2022](#).
- (vi) Regulatory Panel – Licensing of [16 June](#) and [1 September 2022](#).
- (vii) Regulatory Panel – Planning of [23 June 2022](#).
- (viii) Service and Performance Panel of [22 June](#) and [23 August 2022](#).

4. **Representation on Outside Bodies.**

There was submitted a [report](#) (issued) of 3 October 2022 by the Head of Legal and Regulatory Services seeking approval to make alterations to the list of Outside Bodies and representatives thereon.

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

Questions were raised by Members in relation to:-

- (1) whether the designation "Freeport (Scotland) Limited" was correct; and the Chief Executive advised that this was the registered name of the Company that held land around Prestwick Airport which this Council was a Shareholder of, however, she would clarify the position with the Company in relation to the name; and
- (2) whether an Elected Member could be nominated to serve on Freeport (Scotland) Limited; and the Chief Executive advised that it was important that the Council remained represented on this body; that meetings of this body were operational discussions; and that she would discuss this with the other members of Freeport (Scotland) Limited to attain their agreement on an Elected Member joining this body and report back to Council on this matter.

The Council

Decided:

- (a) to approve the changes to officer appointments listed in paragraph 4.1 of the report to reflect the recently approved revised management structure; and
- (b) to request the Chief Executive to seek clarity on the Council's ability to appoint an Elected Member to the Board and report back to a future meeting of the Council.

5. **Scheme of Delegation.**

There was submitted a [report](#) (issued) of 3 October 2022 by the Head of Legal and Regulatory Services seeking approval to amend the Scheme of Delegation following review.

The Head of Legal and Regulatory Services outlined that the proposed changes to the Scheme of Delegation related to revisions to the remit of the Tourism and Rural Affairs Portfolio which would now be "Tourism, Culture and Rural Affairs Portfolio"; additional delegations in relation to the Short Term Let Licensing Policy; and revisions to the management structure.

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

Questions were raised by Members regarding the deletion of certain items; and the Chief Executive advised that these items had been moved to the remit of a different Director and renumbered but remained within the Scheme of Delegation.

In terms of Standing Order No. 19.9, there was no general agreement to the unopposed motion, therefore, the Council moved to a vote for or against the Motion. Twenty five Members voted for the Motion; one Member voted against the Motion and two Members Abstained and the Council accordingly

Decided: to approve the revised Scheme of Delegation (attached as Appendix 1 to the report) with effect from 14 October 2022.

6. **Revision to Scheme of Delegation for Planning.**

There was submitted a [report](#) (issued) of 3 October 2022 by the Assistant Director – Place seeking approval to revise the Planning Scheme of Delegation in relation to the determination of applications submitted under Planning and related legislation.

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

Questions were raised by Members in relation to:-

- (1) the removal of the geographical criteria for Community Council objections to planning applications and whether there were concerns that this would lead to numerous objections from various Community Councils; and the Service Lead – Planning and Building Standards advised that Community Councils should only object to a planning application if their area would be impacted by a proposed development and that, should they object to an application outwith their ward, this application would be considered by Regulatory Panel which may lead to a slight delay in handling the application, however, processes were currently being streamlined to enable planning applications to be dealt with more timeously;
- (2) the review of this Scheme of Delegation not having taken place within the five year statutory timescale and whether a list of legal documents the Council required to update could be compiled with the timescales for these; and the Head of Legal and Regulatory Services advised that she would contact all Council services and obtain details of all statutory documents which required regular update and she would submit this list to Members via the Bulletin;

- (3) why a planning application required to be considered by the Regulatory Panel if there were objectors and the planning officer's recommendation was refusal, therefore, could the application not be refused under delegated powers; and the Service Lead – Planning and Building Standards advised that, should there be more than ten objections to a planning application there was an element of controversy around this application and therefore it required to be considered by Regulatory Panel, however, should Members wish to amend the Scheme of Delegation to outline that an application should be refused if there were a certain number of objections, this could be examined but he was unaware of any other local authority that made a decision on this basis; and
- (4) why the review had not been completed within the five year timescale; and the Service Lead- Planning and Building Standards advised that the review of this document had been ongoing by his predecessors and he was now progressing the matter, that he would now submit this to the Planning Liaison Group on an annual basis to keep the document updated and would adhere to timescales going forward.

Comments were made by Members:-

- (a) welcoming the removal of the geographical criteria for Community Councils;
- (b) expressing disappointment that the legal requirements had not been adhered to for this Planning Scheme of Delegation which required it to be reviewed every five years;
- (c) on the requirement to tighten procedures as an applicant had attended a recent Regulatory Panel wishing to speak to his application without giving prior notice of his intention to speak; and the Service Lead – Planning and Building Standards advised that the Chair had used his discretion under the current processes and allowed the applicant to speak on this occasion, however, he would shortly submit a paper to the Planning Liaison Group for its input on his proposals to streamline planning processes; and
- (d) outlining that transparency of the process was a vital principle and that, whilst he agreed with most of the proposed changes within the Planning Scheme of Delegation, he was uncomfortable with the amendment from five representations to ten individual objections for local planning applications to be considered by the Regulatory Panel (Planning) and that this should be kept under review.

In terms of Standing Order No. 19.9, there was no general agreement to the unopposed motion, therefore, the Council moved to a vote for or against the Motion. Twenty six Members voted for the Motion and two Members Abstained and the Council accordingly

Decided:

- (i) to approve the revised Planning Scheme of Delegation;
- (ii) to agree that the approved Scheme of Delegation be submitted to the Scottish Ministers for approval;
- (iii) to request that the Head of Legal and Regulatory Services contact all Council services obtaining details of statutory documents which required regular update and submit this list to Members via the Bulletin;

- (iv) to request that the Service Lead – Planning and Building Standards submit a report to the Planning Liaison Group for its input on his proposals to streamline planning processes; and
- (v) to request that the Service Lead – Planning and Building Standards submit the Scheme of Delegation to the Planning Liaison Group on an annual basis to ensure this document was kept updated.

7. New Leisure Centre Project.

There was submitted a [report](#) (issued) of 3 October 2022 by the Assistant Director – Place providing Members with a further update on the work to cleanse the outstanding suspensive conditions for the site acquisition of the Arran Mall; to present options available to Council to respond to the Stage 2 submission; and to provide further information on the abortive costs should the project not go ahead.

Councillor Kilbride, seconded by Councillor Connolly moved that Council

- (1) notes the further update on the site acquisition of the Arran Mall to facilitate the new leisure centre development;
- (2) notes the options available to Council in response to the Stage 2 submission from HubSW set out in Appendix 1;
- (3) notes the information provided on the abortive costs should the project not proceed;
- (4) agrees that, given the project was now £7m over budget, that Council rejects the Stage 2 submission from HubSW on the basis it did not meet the Affordability Cap Approval Criteria prescribed by the HubSW Agreement, and asks Officers to provide a report to Cabinet detailing the response from HubSW to the rejection notice for their consideration; and
- (5) asks Officers to undertake a feasibility study for a mixed-use development of the Arran Mall and Hourston sites and report back to Cabinet at the earliest opportunity for consideration and instructions.

Adjournment

The time being 11.00 a.m., the Council agreed to adjourn for fifteen minutes to allow discussion to take place by all Political Groups.

Resumption of Meeting

The meeting resumed at 11.25 a.m.

Provost reminded all Members of the requirement to adhere to the adjournment time as specified by him.

Point of Order

Councillor Henderson raised a Point of Order that, as this was a major decision which affected all residents in South Ayrshire, Members required time to submit an Amendment and that he had stated that he would require longer than fifteen minutes. Provost subsequently advised that he had made a ruling that the adjournment would be for fifteen minutes and that this should be adhered to by all Members.

Councillor Grant requested that, as Councillor Cochrane, was not yet present, the meeting not recommence until Councillor Cochrane was in attendance; and Provost advised that it was now thirty minutes since the adjournment was agreed and that Council would now proceed.

Questions were raised by Members in relation to:-

- (a) the meaning of the term “mixed-use development” as outlined in the Motion; and Councillor Dowey advised that this would be a mixture of housing and developments;

Councillor Cochrane re-joined the meeting at this point.

- (b) the Administration’s plans for the Citadel Leisure Centre as this was not included within the report; and Councillor Dowey advised that this report concerned the new leisure centre and that a further report would be submitted on plans for the Citadel Leisure Centre in due course;
- (c) as the new Chancellor had apparently removed a connection between taxation and public spending, whether the Leader was confident in the UK Government’s intentions to deliver for South Ayrshire; and how cancelling the leisure centre would be consistent with the Council’s hopes of securing the £20m Levelling Up funding applied for; and Councillor Dowey advised that this was irrelevant to the report currently before Council and that he had full confidence in the Conservative and Unionist Chancellor of the Exchequer;
- (d) the Chair of Scotland’s Town Partnership had described the previous plans for Ayr Town Centre which included the new leisure centre as one of the most comprehensive regeneration strategies he had seen anywhere in Scotland and did the Leader’s vision match these plans; and Councillor Dowey outlined that it did and exceeded the previous plans;
- (e) whether cognisance had been taken of inflation costs; and the plans for the top of the town in Ayr Town Centre; and Councillor Dowey advised that a plan would be put in place in due course;
- (f) whether, taking all things into consideration, the Leader of the Council was convinced that the proposals in the report were Best Value for the Council and the people of South Ayrshire as costs were now higher due to the delays and Ayr would not have a family-friendly fully functioning carbon neutral leisure centre in an attractive environment; and Councillor Dowey advised that the clearing conditions for this site had not been met, therefore building works could not commence at present; and the administration’s plans for Ayr would be family friendly, which he viewed the Citadel as;
- (g) whether these plans had now been put in place as the plans for a new leisure centre had been proposed by the previous administration; and Councillor Dowey outlined that this was not the case;
- (h) paragraphs 4.9 to 4.11 of the report indicated that there were matters still to be concluded and paragraph 4.1 indicated an additional £1m to the project costs since reported to Cabinet in August 2022 and whether this would be the final increase in costs; and the Service Lead - Special Property Projects advised that these were conservative costs based on 2% inflation and may be higher should the Contractor require to go back out to market;

- (i) the risks the Council would face given the possibility of entering into a dispute with HubSW; and the Service Lead – Special Property Projects advised that the Territory Partnering Agreement covered all participants in the process which set out the procedures to be followed which, if not followed, had consequences for the Council and action required to be taken, however, these processes were clearly set out and were being followed; and
- (j) as costs for the proposed leisure centre had risen, could they also not fall if the economy improved; and the Service Lead – Special Property Projects advised that the cost information within the report was provided by consultants and was a reflection of the current market conditions.

Comments were made by Members in relation to:-

- (i) the Citadel Leisure Centre being outdated; and how a new leisure centre would raise footfall in the town centre;
- (ii) the amount of work carried out in relation to this proposal and how delays were causing costs to rise; the abortive costs of £1m and the problems associated with not going ahead with the new development; and how disappointing it would be, should the new leisure centre not go ahead;
- (iii) part of the town centre regeneration and construction of the proposed new leisure centre having been to attract other businesses and develop the town centre;
- (iv) the costs had previously risen due to inflation since the original plan for the new leisure centre had been approved and, due to matters still requiring to be resolved, should the plans for the new leisure centre go ahead, these costs could again rise; and
- (v) that questions put to officers should not be of a political nature and should be limited to the subject matter within the report only.

Following a full discussion, Councillor Dowey, seconded by Councillor Lyons moved in accordance with Standing Order No. 21.1(2) that the question be now put.

Point of Order

Councillor Cavana raised a Point of Order requesting that it be ascertained if any of the Members who had joined the meeting remotely wished to speak; and the Head of Legal and Regulatory Services confirmed that none of the Members joining the meeting remotely had requested to speak prior to the Motion that “the question be now put”.

Point of Order

Councillor Hunter raised a Point of Order that, in terms of Standing Order No. 21.1(2), only those Members who had not spoken on the question before the meeting could move “that the question be now put” and Councillor Dowey had previously spoken. Provost then confirmed that Councillor Dowey had only spoken to answer questions put to him.

Point of Order

Councillor Henderson raised a Point of Order that an amendment had been suggested and had been overruled; and Provost outlined that no Amendment had been submitted prior to the Motion “that the question be now put”, therefore, no Amendment could be considered.

Point of Order

Councillor Cullen raised a Point of Order that he had used the “hands up” facility to advise of his intention to speak; and the Head of Legal and Regulatory Services advised that there had been no notification received of his intention to speak prior to the Motion “that the question be now put”, therefore, he was not entitled to speak on the matter being considered.

Point of Order

Councillor Mackay raised a Point of Order that he had experienced similar problems to Councillor Cullen at a previous meeting when he had joined the meeting remotely; and the Head of Legal and Regulatory Services advised that, due to connectivity problems for those Members joining remotely, it had now been agreed that Councillor Cullen could speak to the matter being considered.

Point of Order

Councillor Dettbarn raised a Point of Order advising that Councillor Cullen had his “hand up” outlining his intention to speak for some time before the Motion “that the question be now put” was Moved; and the Head of Legal and Regulatory Services advised that Councillor Cullen’s “hand up” was not visible within the Hall, however, he could now speak prior to the vote for “the question be now put”.

Councillor Cullen then raised questions as follows:-

- (A) that, given that the proposed new leisure centre was already a mixed use development consisting of a swimming pool, gym, soft play area, café, etc, what were the timescales and estimated costs of the requested feasibility study and how was it hoped that these proposals would regenerate the town centre; and Councillor Kilbride, as mover of the Motion advised that plans and associated timescales would be submitted in due course for the approval of Council; and
- (B) the costings of the mixed use development of housing and developments and the actual plans for the site; and the Service Lead – Special Property Projects advised that until it was known what the site would be developed for and how many units could be accommodated, it was not possible to cost this; and that the feasibility study would provide this information in due course.

Following a vote on whether “the question be now put”, fourteen Members voted for the Motion and fourteen Members voted against the Motion and the Provost then exercised his casting vote in favour of the Motion and the Council accordingly agreed to Move to Vote.

Following a vote on the Motion moved by Councillor Kilbride and seconded by Councillor Connolly, in terms of Standing Order No. 19.9, there was no general agreement to the unopposed motion, therefore, the Council moved to a vote for or against the Motion. Fourteen Members voted for the Motion and Fourteen Members voted against the Motion; Provost then exercised his casting vote in favour of the Motion and the Council accordingly

Decided:

- (I) to note the further update on the site acquisition of the Arran Mall to facilitate the new leisure centre development;
- (II) to note the options available to Council in response to the Stage 2 submission from HubSW set out in Appendix 1;
- (III) to note the information provided on the abortive costs should the project not proceed;
- (IV) to agree that, given the project was now £7m over budget, that Council rejects the Stage 2 submission from HubSW on the basis it did not meet the Affordability Cap Approval Criteria prescribed by the HubSW Agreement, and asks Officers to provide a report to Cabinet detailing the response from HubSW to the rejection notice for their consideration; and
- (V) to request Officers to undertake a feasibility study for a mixed-use development of the Arran Mall and Hourston sites and report back to Cabinet at the earliest opportunity for consideration and instructions.

8. 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 Brian Connolly, moved:-

“We are currently living in a cost-of-living crisis, with energy costs becoming an increasing concern for many members of our community. For some of our most vulnerable members of society they have no choice but to accept prepayment meters which are often imposed and are often more expensive than other options such as a direct debit or simply playing for the energy you use as the average standing charges are higher.

South Ayrshire Council requests that the chief executive writes to the energy regulator Ofgem to request that this issue is looked at urgently and that prices for prepayment meters are brought into line with other payment options so that those who are most economically vulnerable are not paying more for basic utilities.”

A full debate took place regarding the terms of the Motion and the Council

Decided: to agree the terms of the Motion.

Councillor Dixon left the meeting at this point.

9. Formal Questions.

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

- (1) Councillor Saxton raised supplementary questions in relation to his Formal Questions as follows:-
 - (a) Freemans Hall, Prestwick – as two windows had been broken, could officers deal with this to prevent further vandalism; and the Service Lead – Asset Management and Community Asset Transfer advised that this would be taken care of;
 - (b) Prestwick Allocation of the VAT recovery funds – could further information be provided; and the Assistant Director – Place advised that she would seek further information from the Service Lead – Professional Design Services and respond to Councillor Saxton in writing;
 - (c) Refurbishment of Citadel – the price could increase as only some of the work was itemised; and the Assistant Director – Place advised that she would seek further information from the Service Lead – Professional Design Services and respond to Councillor Saxton in writing; and
- (2) Councillor McGinley raised supplementary questions in relation to his Formal Questions as follows:-
 - (a) Cost of Living Council Support – the Leader gave details of the meetings he attended to examine this issue and the outcome of the meeting appears to be the preparation of a South Ayrshire Lifeline magazine providing advice and guidance in conjunction with VASA – you are looking at cost of living Council support and you issue a magazine on advice and guidance on spending money, how does this deal with the cost of living crisis? Councillor Dowey responded that the magazine was a VASA project which the Council had supported financially; and that the Council had a cross-party Working Group which was Chaired by Councillor Dettbarn and would meet in due course;
 - (b) Air Show – what due diligence was taken in terms of the process to ensure the successful applicant was an appropriate partner? Councillor Dowey advised that he had no involvement in the procurement process and this would be a question for officers to respond to. The Service Lead – Procurement then advised that the bids for the air show had followed the Council’s “quick quote” procurement process which included a number of selection criteria for all bidders including their acceptance of the Council’s terms and conditions, criminal convictions, business priorities, etc, therefore the process had been followed for this particular exercise;

- (c) Council budget – I note that there is a significant deficit and that there was reference to the Labour Group not participating in the Budget Working Group and that was because we do not agree with the priorities of the administration and, therefore, we could not support you or give you ideas because we have different priorities. In terms of the difficult funding situation, I have had representations from parents and others that they are concerned about the Education Budget and I also note that you have not made a decision regarding non-compulsory redundancies, these are two areas of concern to the Labour Group, could you assure people that you are going to manage this deficit in a way that does not affect frontline services; and Councillor Dowey advised that the decisions of the Budget Working Group would be provided in due course; and that whilst he appreciated the reasons for not joining the Working Group, the position would remain open for the Labour Group to provide their input;
- (d) Council Appointment on NHS Board – so your response is saying that my appointment on the Board was dependent on supporting the administration's agenda? Councillor Dowey advised that this was not the case, however, he would respond to Councillor McGinley in writing regarding this; and
- (e) Lighting up the Wallace Tower – I did think this was a gesture, however, I accept that you think it was not. If it was not a gesture, why were the colours red, white and blue and not the Queen's colours of yellow and red? Councillor Dowey then outlined that he had answered this question within the written responses.

10. **Closing Remarks.**

The Provost thanked all in attendance for their contribution.

The meeting ended at 12.35 p.m.