

EAST AYRSHIRE COUNCIL

GOVERNANCE AND SCRUTINY COMMITTEE

**MINUTES OF MEETING HELD ON FRIDAY 3 APRIL 2009 AT 1000 HRS
IN THE MEETING ROOM, COUNCIL HEADQUARTERS,
LONDON ROAD, KILMARNOCK**

PRESENT: Councillors Tom Cook, Helen Coffey, Willie Coffey, Maureen McKay, John Campbell, Alan Brown, Stuart Finlayson, Eric Ross, Elaine Dinwoodie and Drew Filson.

ALSO PRESENT: Councillors John Mackay, Gordon Cree and Drew McIntyre.

ATTENDING: Fiona Lees, Chief Executive; Elizabeth Morton, Depute Chief Executive/Executive Director of Corporate Support; Graham Short, Executive Director of Educational and Social Services; William Stafford, Executive Director of Neighbourhood Services; Alex McPhee, Executive Head of Finance and Asset Management; Eddie Fraser, Head of Community Care; Susan Taylor, Head of Children & Families and Criminal Justice; Bill Walkinshaw, Head of Democratic Services; David Mitchell, Head of Legal, Procurement and Regulatory Services; John Bryson, Head of Roads and Transportation; Colin Houston, Chief Auditor; Iain Tough, Corporate Business Manager; Dave Morris, Development Management Manager; and Stuart Nelson, Administrative Officer.

APOLOGY: Councillor Barney Menzies.

CHAIR: Councillor Tom Cook, Chair.

PREVIOUS MINUTES

1. There were submitted and approved as a correct record, the Minutes of the Meeting of the Committee held on 13 March 2009 (circulated).

1.1 MATTERS ARISING

1.1.1 Reconfiguration of Council Headquarters: Detailed Costings

Agreed that the Executive Head of Finance and Asset Management would provide Members with a breakdown of the costs involved in the proposed works at Council Headquarters, London Road, Kilmarnock.

1.1.2 Meeting with Scottish Water (Item 1.1.1(ii), Page 649, 07/12)

Noted, as advised by the Chair, that arrangements had been made for the Committee to meet with representatives of Scottish Water on Tuesday 19 May 2009, and that the Head of Democratic Services would be writing to members of the Committee to confirm arrangements and requesting Members to indicate those areas of concern to them in order that these might be made known to Scottish Water prior to the meeting in order that a meaningful dialogue could take place.

1.1.3 College Attendance by Pupils on Training for Work Initiatives (Item 1.1.2(ii), Page 649, 07/12)

Noted, as advised by the Chair, that the Executive Director of Educational and Social Services had circulated information to members of the Committee on this matter.

1.1.4 Refurbishment of Baird Institute, Cumnock (Item 1.1.5(ii), Page 650, 07/12)

Noted, as advised by the Chair, that the Executive Director of Neighbourhood Services had under preparation information regarding the need for consultation with, and permission from, Historic Scotland in relation to the carrying out of certain works at the Baird Institute, Cumnock and that this would be circulated to Members as soon as possible.

1.1.5 New Council Chambers: Detailed Costings (Item 1.1.6, Page 650, 07/12)

Noted, as advised by the Chair, that the Head of Democratic Services had circulated a detailed breakdown of the costs associated with the creation of the new Council Chambers to Members.

1.1.6 Affordable Housing Review: Update Report: Shire Housing Association/ Investment in Difficult to Let Housing (Item 1.1.7, Page 650, 07/12)

Noted, as advised by the Chair, that the Head of Housing had prepared a briefing note on initiatives to be pursued by Shire Housing Association and other Housing Associations within East Ayrshire through the Affordable Housing Investment Programme 2009/10, including accelerated funding, and that this had been placed on the Members' Information Portal.

1.1.7 Average Rent Levels within the Private Rented Sector in East Ayrshire (Item 4, Page 652, 07/12)

Noted, as advised by the Chair, that the Head of Housing had prepared a briefing note for Members on average rent levels within the private rented sector in East Ayrshire, and that this had been placed on the Members' Information Portal.

1.1.8 Financial Assistance: Warm Deal and Assisted Central Heating (Item 4, Page 652, 07/12)

Noted, as advised by the Chair, that the Head of Housing had prepared a briefing note for Members on the eligibility criteria for the Scottish Government's new Energy Assistance package, which will replace the Warm Deal and Assisted Central Heating schemes, with effect from 1 April 2009, and that this had been placed on the Members' Information Portal.

1.1.9 Matters Arising Update Report

On the matter having been raised by the Chair, it was agreed that for future meetings, the Depute Chief Executive/Executive Director of Corporate Support provide a report to Committee to consolidate all responses to information requests made by members of the Committee at previous meetings or, otherwise, provide an explanation as to why the relevant information was not yet available.

CALLED-IN ITEM**CONSIDERATION OF CALLED-IN DECISION OF CABINET****2.1 PROCEDURE**

There was submitted and noted (circulated) a copy of the procedure to be followed in dealing with the undernoted called-in decision of Cabinet.

2.2 MEMBER/OFFICER WORKING GROUP: OPTION APPRAISAL - REPLACEMENT CHILDREN'S RESIDENTIAL HOUSE (Item 4, Page 634, 07/12)

The Committee considered the called-in decision of the Cabinet meeting held on 4 March 2009 relating to the Option Appraisal of site options for a replacement children's house for the Kilmarnock area and, in this connection, there were submitted the following (all circulated), namely:-

- (i) the Call-In Notice;
- (ii) the related Cabinet report; and
- (iii) Position Statement - Member/Officer Working Group on Option Appraisal: Replacement Children's Residential House.

The Committee heard Councillors Gordon Cree and Drew McIntyre, two of the five signatories to the call-in request, who further explained the reasons for the call-in, focusing on the element relating to consultation.

The Committee then heard, in turn, Councillor John Mackay, Spokesperson for Community Wellbeing, the Head of Children & Families and Criminal Justice and the Executive Director of Educational and Social Services, who outlined the reasons for the Cabinet's decision and responded to the terms of the call-in request.

Members of the Committee then put questions to, and sought clarification on matters raised, from Councillors Gordon Cree and Drew McIntyre and also from Councillor John Mackay, the Executive Director of Educational and Social Services and the Head of Children & Families and Criminal Justice.

During discussion, the Chief Executive advised (i) of receipt of a petition signed by members of the public protesting against the proposed building of a children's unit on the site at the former St Joseph's Academy in New Farm Loch; and (ii) that receipt of the petition was being reported to this Committee for information and reasons of completeness only, since the matters raised in the petition had been taken into account by Cabinet in its consideration of this matter.

The Chief Executive also confirmed that with the exception of consultation required under statutory procedures, the Council did not undertake public consultations in respect of such developments. Officers had no authority to engage in public consultation prior to identification of a site for the facility, however, in terms of normal practice, consultation with local residents and the local community on a "good neighbour" basis would commence following determination of a site and, furthermore, there would also be an opportunity for the community to be consulted as part of the planning process. This was consistent with past practice in respect of other facilities. The Chief Executive further confirmed that, in respect of a previous proposal to locate the children's house at the site of the former Rosebank Adult Care Home, no consultation had taken place prior to identification of the site.

The Chair informed all parties present of the final stages of the call-in process and Councillors Gordon Cree and Drew McIntyre and also Councillor John Mackay, the Executive Director of Educational and Social Services and the Head of Children & Families and Criminal Justice then withdrew to the public gallery.

The Committee then proceeded to deliberate the matter.

Councillor Alan Brown, seconded by Councillor Drew Filson, moved to accept the decision of Cabinet to approve the establishment of a business case to develop the

option to locate the new children's residential house for Kilmarnock on the Grassyards Road site in more detail.

Councillor Maureen McKay, seconded by Councillor Elaine Dinwoodie, moved as an amendment to refer the matter back to Cabinet with the recommendation that the Cabinet undertake a full community consultation on the site options identified within the report dated 26 February 2009 submitted to Cabinet at its meeting on 4 March 2009 prior to final site selection.

On a division by a show of hands, the motion was carried by 6 votes to 4.

Councillors Eric Ross and Elaine Dinwoodie left the meeting at this point.

AUDIT

AUDIT PLAN 2009/2010

3. There was submitted a report (circulated) by the Chief Auditor which advised of the Internal Audit Plan for 2009/2010.

In this connection, the Chief Executive and the Chief Auditor, in response to questions put by members of the Committee, provided further information relating to the following matters, namely:-

- contingency provision within the Audit Plan 2009/2010; and
- the particular arrangements required in respect of the carrying out of an audit of Shared Services involving other Authorities.

It was agreed:

- (i) to note the further information provided by Officers, as indicated above; and
- (ii) to approve the Internal Audit Plan for 2009/2010 as detailed in the report.

SCRUTINY

FINAL MEASUREMENTS ON WORKS CONTRACTS FOR THE PERIOD 1 NOVEMBER 2008 TO 31 MARCH 2009

4. There was submitted and noted a report dated 20 March 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which provided, for information, details of final measurements for works contracts for the period 1 November 2008 to 31 March 2009.

AWARDING OF CONTRACTS: 2 FEBRUARY TO 20 MARCH 2009

5. There was submitted and noted a report dated 17 March 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which provided, for information, details of tenders which had been accepted on behalf of the Council for the period 2 February to 20 March 2009.

REVIEW TOPIC - REVIEW OF THE COUNCIL'S WINTER EMERGENCY RESPONSE POLICY: WORK PROGRAMME

6. There was submitted a report dated 19 March 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which presented, for

consideration, the work review programme relative to the review topic - "Review of Winter Emergency Response Policy" which had been scheduled for review in 2009/10.

It was agreed to approve the detailed work programme for this topic review as set out in the appendix to the report, subject to recognition that the programme may change in the light of operational requirements.

**PLANNING AND LISTED BUILDING CONSENT APPEAL DECISIONS -
1 MAY 2007 TO 31 JANUARY 2009**

7. There was submitted a report dated 2 March 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which presented, for information, an analysis of Planning and Listed Building Consent appeal decisions received from the Scottish Government Directorate for Planning and Environmental Appeals during 1 May 2007 to 31 January 2009.

It was agreed:

- (i) to note the terms of the report and further information provided at the meeting by the Development Management Manager relating to the introduction of local review bodies to deal with planning appeals with effect from August 2009;
- (ii) that the Head of Legal, Procurement and Regulatory Services provide information to members of the Committee on the amount of expenses awarded to the Council arising from the application by AMEC Project Investment plc for a windfarm at Kyle Forest, near Dalmellington;
- (iii) that the Development Management Manager provide further information to members of the Committee on the current position in respect of application No 07/033/FL bearing in mind that this retrospective application had been refused on appeal; and that information of this type be provided in future reports of this kind; and
- (iv) that future reports of this kind be provided to Committee at six monthly intervals, and that in addition to the matter referred to at (iii) above, such reports also include information on (a) the circumstances relating to applications appealed on the basis of non-determination; and (b) the amount of expenses in cases where the decision of the Council is overturned on appeal and expenses are awarded to the applicant.

**FINANCE AND SERVICE STRATEGY REPORT TO PERIOD 11
(8 FEBRUARY 2009)**

8. There was submitted and noted a report dated 18 March 2009 (circulated) by the Executive Head of Finance and Asset Management which advised of the projected financial position for the year based on expenditure to 8 February 2009 (Period 11) and information provided by Executive Directors.

The meeting terminated at 1145 hrs.