

Minute

Special General Meeting of the Council

Thursday, 11 June 2020, 10:30.

Microsoft Teams.



Present

Councillors J Harvey Johnston, Stephen G Clackson, Alexander G Cowie, Norman R Craigie, Robin W Crichton, David Dawson, Andrew Drever, Barbara Foulkes, Steven B Heddle, Rachael A King, W Leslie Manson, John T Richards, Stephen Sankey, John A R Scott, Gwenda M Shearer, Graham L Sinclair, James W Stockan, Magnus O Thomson, Owen Tierney and Duncan A Tullock.

Clerk

- Gavin Mitchell, Head of Legal Services.

In Attendance

- John W Mundell, Interim Chief Executive (for Items 1 to 16).
- Gavin Barr, Executive Director of Development and Infrastructure (for Items 1 to 16).
- Gillian Morrison, Executive Director of Corporate Services.
- James Wylie, Executive Director of Education, Leisure and Housing (for Items 1 to 16).
- Gareth Waterson, Head of Finance.
- Karen Greaves, Head of Executive Support (for Items 1 to 16).
- Hayley Green, Head of IT and Facilities (for Items 1 to 14).
- Andrew Groundwater, Head of HR and Performance.
- Roddy Mackay, Head of Planning, Development and Regulatory Services (for Items 1 to 12).
- Darren Richardson, Head of Infrastructure and Strategic Projects (for Items 1 to 10).
- Graeme Christie, Estates Manager (for Items 11 to 14).
- Hazel Flett, Senior Committees Officer (for Items 1 to 16).

Observing

- James Buck, Head of Marine Services, Transport and Harbour Master (for Items 11 and 12).
- Paul Kemp, Strategic Finance Manager (for Items 1 to 16).
- Kirsty Groundwater, Project Officer (Communications and Engagement) (for Items 1 to 14).

Declaration of Interest

- Councillor Duncan A Tullock – Item 13.

Chair

- Councillor J Harvey Johnston, Convener.

1. Disclosure of Exempt Information

The Council noted the proposal that the public be excluded from the meeting for consideration of Items 11 to 14, 16 and 17, as the business to be discussed involved the potential disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

2. Disclosure of Confidential Information

The Council noted that the public required to be excluded from the meeting for consideration of Item 15, as the business to be discussed involved the potential disclosure of confidential information of the class described in Section 50A(3)(a) of the Local Government (Scotland) Act 1973 as amended.

3. Orkney Health and Care Committee

Appointments to Vacancies

After consideration of a report by the Chief Executive, copies of which had been circulated, and after hearing a report from the Head of Executive Support, the Council:

Noted:

3.1. That, following the death of Councillor Kevin F Woodbridge, a vacancy existed on the Orkney Health and Care Committee.

3.2. That the late Councillor Woodbridge was also Vice Chair of the Orkney Health and Care Committee.

3.3. The proposal to fill the vacancy on the Orkney Health and Care Committee, together with the post of Vice Chair, as outlined in section 4 of the report by the Chief Executive.

3.4. That the appointment made to fill the vacancy on the Orkney Health and Care Committee, together with the post of Vice Chair, would last for the remainder of the term of this Council, namely until May 2022.

After a secret ballot, the result of which was as follows:

- Councillor Alexander G Cowie – 15 votes.
- Councillor John A R Scott – 5 votes.

The Council resolved:

3.5. That Councillor Alexander G Cowie be appointed to the vacancy on the Orkney Health and Care Committee.

The Council **suspended Standing Orders** in order to make an appointment to the post of Vice Chair of the Orkney Health and Care Committee.

The Council resolved:

3.6. That Councillor Stephen Sankey be appointed Vice Chair of the Orkney Health and Care Committee.

4. Orkney Ferries Limited

Nomination of Board Member

After consideration of a report by the Chief Executive, copies of which had been circulated, and after hearing a report from the Head of Executive Support, the Council:

Noted:

4.1. That, following the death of Councillor Kevin F Woodbridge, a vacancy existed on the Board of Directors of Orkney Ferries Limited.

4.2. That the appointment made to fill the vacancy on the Board of Directors of Orkney Ferries Limited, if accepted by the Board, would last for the remainder of the term of this Council, namely until May 2022.

The Council resolved:

4.3. That Councillor David Dawson be nominated to fill the vacancy on the Board of Directors of Orkney Ferries Limited.

5. Detailed Revenue Budgets for 2020 to 2021

After consideration of a report by the Head of Finance, copies of which had been circulated, the Council:

Noted:

5.1. That, on 3 March 2020, when setting the budget and Council Tax levels for 2020/21, the Council delegated powers to the Head of Finance to revise the approved General Fund revenue budget, following confirmation of outstanding funding levels from the Scottish Government.

5.2. That, although the Scottish Government revenue grant funding to the Council for financial year 2020/21 had been confirmed at £78,182,000, Scottish Government departments had advised the Council of further amended funding distributions, as detailed in section 4.3 of the report by the Head of Finance.

5.3. That the General Fund revenue budget for financial year 2020/21 had now been set at £86,464,800.

5.4. The detailed revenue budgets for financial year 2020/21, in respect of the undernoted services, attached as Annex 1 to the report by the Head of Finance:

- General Fund Services.
- Housing Revenue Account.
- Scapa Flow Oil Port.
- Miscellaneous Piers and Harbours.
- Orkney College.
- Corporate Holding Accounts.
- Strategic Reserve Fund.
- Orkney Islands Council Pension Fund.

5.5. That reports would be presented to the Council, in due course, detailing the financial impact of the coronavirus pandemic on the 2020/21 budget.

6. Provisional Budget Outturn for 2019 to 2020

After consideration of a report by the Head of Finance, copies of which had been circulated, the Council:

Noted:

6.1. That the coronavirus pandemic had markedly changed the financial outlook in the current financial year and, whilst the Council would make savings in some areas, those savings would fall well short of what would be required to offset additional costs and significantly reduced income.

6.2. That, on 3 March 2020, when setting the budget and Council Tax levels for 2020/21, the Council agreed that General Fund underspends would be applied to the accelerated repayment of capital debt.

6.3. That accelerated repayment of capital debt improved the affordability of the capital programme as well as the ability of the Council to fund an expanded capital programme.

6.4. That, as a result of the changed financial circumstances brought about by the coronavirus pandemic, maximum flexibility for the Council would be afforded in 2020/21, as well as for the budget setting process for 2021/22, through retaining a higher General Fund non-earmarked balance and limiting debt repayments to minimum scheduled debt repayments levels.

6.5. That, after payment of scheduled debt repayments and interest, £2,431,000 of the loan charges budget for 2019/20 was available to make a contribution to a General Fund underspend which could be carried forward to 2020/21 as part of the General Fund non-earmarked balance.

6.6. That the provisional budget outturn for 2019/20 indicated an underspend on General Fund services of £766,000 and an unused General Fund contingency of £800,000, making a total of £1,566,000.

6.7. That the following elements from the 2019/20 budget could therefore make a contribution of £3,997,000 to the General Fund non-earmarked balance which could be carried forward into 2020/21:

- Loan charges – £2,431,000.
- Unused General Fund contingency – £800,000.
- General Fund provisional underspend – £766,000.

6.8. That, although a decision in respect of applying General Fund underspends to accelerated debt repayment rather than the General Fund non-earmarked balance was taken within the last 12 months, in accordance with Standing Order 23.2, the Chief Executive was satisfied that a material change of circumstances had occurred and, accordingly, Standing Order 23.1 would not require to be suspended in order to consider the resolutions at paragraphs 6.9 and 6.10 below.

The Council resolved:

6.9. That the following elements from the 2019/20 outturn be applied to the General Fund non-earmarked balance rather than accelerated debt repayment as previously agreed on 3 March 2020:

- Loan charges – £2,431,000.
- Unused General Fund contingency – £800,000.
- General Fund provisional underspend – £766,000.

6.10. That, should the sums referred to at paragraph 6.9 above not be required, in full, to meet the undernoted pressures, any remaining balance be applied to accelerated debt repayments, when it was deemed financially prudent to do so:

- Additional pressures in 2020/21.
- Consequential budget setting pressures for 2021/22.
- Further contingency to address the coronavirus pandemic.

7. Joint Inspection of Services for Children and Young People in need of Care and Protection

Improvement Plan – Progress Update

After consideration of a joint report by the Chief Executive and the Executive Director, Orkney Health and Care, copies of which had been circulated, the Council:

Noted:

7.1. The Orkney Partnership Child Protection Improvement Plan Register prepared in response to the Joint Inspection of Services for Children and Young People in need of Care and Protection in Orkney, attached as Appendix 1 to the joint report by the Chief Executive and the Executive Director, Orkney Health and Care.

7.2. That, although additional resources to support work associated with the Improvement Plan had been allocated by Orkney Islands Council and NHS Orkney, challenges remained in filling key vacancies and in management capacity, with the situation continuing to be exacerbated as a result of the coronavirus pandemic and through associated shielding.

7.3. That the Chief Officer Group monitored progress on the actions contained within The Orkney Partnership Child Protection Improvement Plan and was currently meeting on a regular fortnightly basis.

8. Police and Fire Sub-committee

After consideration of the draft Minute of the Meeting of the Police and Fire Sub-committee held on 25 February 2020, copies of which had been circulated, the Council:

Resolved, on the motion of Councillor Andrew Drever, seconded by Councillor David Dawson, to approve the Minute of the Meeting of the Police and Fire Sub-committee held on 25 February 2020, attached as Appendix 1 to this Minute, as a true record.

9. Pension Fund Sub-committee, together with Pension Board

After consideration of the draft Minute of the Meeting of the Pension Fund Sub-committee, together with the Pension Board, held on 26 February 2020, copies of which had been circulated, the Council:

Resolved, on the motion of Councillor W Leslie Manson, seconded by Councillor Rachael A King, to approve the Minute of the Meeting of the Pension Fund Sub-committee, together with the Pension Board, held on 26 February 2020, attached as Appendix 2 to this Minute, as a true record.

10. Exclusion of Public

On the motion of Councillor J Harvey Johnston, seconded by Councillor James W Stockan, the Council resolved that the public be excluded for the remainder of the meeting, as the business to be considered involved:

- The disclosure of confidential information of the class described in Section 50A(3)(a) of the Local Government (Scotland) Act 1973 as amended.
- The disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

11. Investments Sub-committee

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 4 and 6 of Part 1 of Schedule 7A of the Act.

After consideration of the draft Minute of the Meeting of the Investments Sub-committee held on 27 February 2020, copies of which had been circulated, the Council:

Resolved, on the motion of Councillor W Leslie Manson, seconded by Councillor Rachael A King, to approve the Minute of the Meeting of the Investments Sub-committee held on 27 February 2020, attached as Appendix 3 to this Minute, as a true record.

12. Business and Economy Response and Recovery

Proposed Governance and Spending Priorities

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 4 and 6 of Part 1 of Schedule 7A of the Act.

After consideration of a joint report by the Chief Executive and the Executive Director of Development and Infrastructure, copies of which had been circulated, the Council:

Noted:

12.1. That, on 20 March 2020, the Council's Economic Development services, including Business Gateway, and Highlands and Islands Enterprise's regional teams jointly established a Business and Economy Response and Recovery Group (BERRG).

12.2. That the key outputs from the BERRG in the response phase to the coronavirus pandemic were establishment of a Council Business Hardship Grant Scheme, launched on 1 May 2020 and a Council Business Loan Scheme, launched on 25 May 2020.

12.3. That, parallel to the work of the BERRG, a number of Orkney business professionals independently established a Task Force, on which the Chief Executive and the Executive Director of Development and Infrastructure were invited to participate.

12.4. The summary of outputs from the Task Force which had been prepared by the business representatives, attached as Appendix 1 to the joint report by the Chief Executive and the Executive Director of Development and Infrastructure, which included a number of requests from the Council for support, and a refined prioritisation list, attached as Appendix 2 to the joint report.

12.5. That the Task Force also undertook a survey of Orkney businesses, the outputs of which were summarised in section 3 of the joint report by the Chief Executive and the Executive Director of Development and Infrastructure, with the full survey output report attached as Appendix 3 to the joint report.

12.6. That business representatives had indicated a willingness to assume a strong leadership role in the recovery phase of the coronavirus pandemic and, in order to achieve that, it was considered necessary to establish a Governance Structure as a legitimate basis for representation.

12.7. The proposed Governance Structure, summarised in section 4 of the joint report by the Chief Executive and the Executive Director of Development and Infrastructure and provided in detail at Appendix 4 to the joint report.

12.8. That Orkney Community Planning Partnership's Vibrant Economic Delivery Group met and discussed the proposed Governance Structure on 2 June 2020, while the Partnership Board considered the proposal on 10 June 2020.

12.9. The proposal to establish the Governance Structure as a short life working group, acting for the duration of the coronavirus pandemic recovery response.

The Council resolved:

12.10. That the Governance Structure, attached as Appendix 4 to this Minute, including establishment of a short life working group which would be associated with the Vibrant Economic Delivery Group of the Orkney Community Planning Partnership, be endorsed.

12.11. That the Chief Executive be authorised to finalise and implement the proposed nominations process for sector representative appointments to the Steering Group and the Business and Economy Response and Recovery Group.

12.12. That Council representation on the Steering Group should comprise the Chief Executive, the Executive Director of Development and Infrastructure and five elected members.

12.13. That the following members be appointed to represent the Council on the Steering Group:

- Councillor Barbara Foulkes.
- Councillor Rachael A King.
- Councillor John T Richards.
- Councillor Graham L Sinclair.
- Councillor James W Stockan.

12.14. That the Chief Executive, in consultation with the Leader, the Chair and Vice Chair of the Development and Infrastructure Committee and the Head of Finance, should undertake further dialogue with business representatives to confirm priority actions for business support.

12.15. That the Chief Executive should submit a report to the Council, in due course, presenting the Steering Group Cross Sector/Cross Agency Recovery Plan, together with any financial implications for the Council arising from the Plan.

13. Request to Purchase Site at Hatston Industrial Estate, Kirkwall

Councillor Duncan A Tullock declared a non-financial interest in this item and was not present during consideration thereof.

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 2, 6 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a joint report by the Executive Director of Development and Infrastructure and the Executive Director of Corporate Services, copies of which had been circulated, and after hearing a report from the Head of IT and Facilities, the Council:

Resolved what action should be taken with regard to a request to purchase a site at Hatston Industrial Estate, Kirkwall.

The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.

14. Proposed Disposal of Property in Stromness

St Peter's House, Stromness

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 6 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Executive Director of Corporate Services, copies of which had been circulated, and after hearing a report from the Head of IT and Facilities, the Council:

Noted:

14.1. That St Peter's House, Stromness, was no longer required by Orkney Health and Care following completion and opening of Hamnavoe House.

14.2. That, on 4 February 2020, the Development and Infrastructure Committee recommended that, in order for the Council to demonstrate broad support of its aims, the Stromness Place Plan, which included a community aspirational project relating to St Peter's House, Stromness, be endorsed.

14.3. That, following a surplus property consultation process, together with an options appraisal, as detailed in section 5 of the report by the Executive Director of Corporate Services, disposal by sale on the open market was the favoured outcome.

The Council resolved:

14.4. That, as the former St Peter's House care home, Stromness, had been declared surplus to the operational requirements of Orkney Health and Care, it should be reclassified as a surplus property within General Fund Services and accounted for accordingly.

14.5. That the former St Peter's House care home, Stromness, be advertised for sale on the open market, at not less than market value, and thereafter sold on terms and conditions to be determined by the Solicitor to the Council.

The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.

15. Regulation of Investigatory Powers (Scotland) Act 2000

15.1. Inspection by Investigatory Powers Commissioner's Office

Under section 50A(2) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of confidential information as defined in section 50A(3)(a) of the Act.

After consideration of a joint report by the Chief Executive and the Executive Director of Corporate Services, copies of which had been circulated, and after hearing a report from the Head of Legal Services, the Council:

Noted:

15.1.1. That, in February 2020, the Investigatory Powers Commissioner's Office (IPCO) undertook an examination of the arrangements made by the Council to ensure compliance with the statutory provisions which governed use of covert surveillance.

15.1.2. The findings and observations of the IPCO inspection, attached as Appendix 2 to the joint report by the Chief Executive and the Executive Director of Corporate Services.

The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.

Councillor John A R Scott left the meeting at this point.

15.2. Revised Policies and Procedures

Under section 50A(2) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of confidential information as defined in section 50A(3)(a) of the Act.

After consideration of a joint report by the Chief Executive and the Executive Director of Corporate Services, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Head of Legal Services, the Council:

Noted:

15.2.1. The Council's existing policies and procedures in relation to the use of covert surveillance, attached as Appendices 1 to 6 of the joint report by the Chief Executive and the Executive Director of Corporate Services, which had been amended and updated.

15.2.2. The proposed new protocol in relation to research through social media in child protection cases, attached as Appendix 7 to the joint report by the Chief Executive and the Executive Director of Corporate Services.

The Council resolved:

15.2.3. That the following revised policies and procedures, attached as Appendices 5 to 10 of the Minute respectively, be approved:

- Policy on Covert Surveillance.
- Procedure for Authorisation of Covert Surveillance.
- Policy on Use of Covert Human Intelligence Sources.
- Procedure for Authorisation of the Use of Covert Human Intelligence Sources.
- Surveillance through Social Media Policy.
- CCTV Code of Practice.

15.2.4. That the Protocol for Online Social Media Research in Child Protection Cases, attached as Appendix 11 to this Minute, be approved.

The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.

Councillor Steven B Heddle left the meeting at this point.

16. Staff Appeals Sub-committee

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 7A of the Act.

After consideration of the draft Minute of the Meeting of the Staff Appeals Sub-committee held on 11 February 2020, copies of which had been circulated, the Council:

Resolved, on the motion of Councillor W Leslie Manson, seconded by Councillor Robin W Crichton, to approve the Minute of the Meeting of the Staff Appeals Sub-committee held on 11 February 2020, attached as Appendix 12 to this Minute, as a true record.

17. Governance Arrangements

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Executive Director of Corporate Services, copies of which had been circulated, and after hearing a report from the Head of HR and Performance, the Council:

Resolved what action should be taken with regard to governance arrangements, including Appendix 13 to this Minute (page 164).

The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.

18. Conclusion of Meeting

At 16:20 the Convener declared the meeting concluded.

Signed: Harvey Johnson.