

Minute

Special General Meeting of the Council

Thursday, 23 December 2021, 10:30.

Microsoft Teams.



Present

Councillors J Harvey Johnston, Stephen G Clackson, 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, Duncan A Tullock and Heather N Woodbridge.

Clerk

- Gavin Mitchell, Head of Legal Services.

In Attendance

- John W Mundell, Interim Chief Executive.
- Stephen Brown, Chief Officer/Executive Director, Orkney Health and Care.
- Gareth Waterson, Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.
- James Wylie, Executive Director of Education, Leisure and Housing.
- James Buck, Head of Marine Services, Transportation and Harbour Master.
- Karen Greaves, Head of Executive Support.
- Ian Rushbrook, Capital Programme Manager.
- Hazel Flett, Senior Committees Officer.

Observing

- Andrew Groundwater, Head of HR and Performance.
- Kirsty Groundwater, Communications Team Leader.

Apologies

- Councillor Alexander G Cowie.
- Councillor Owen Tierney.

Declarations of Interest

- Councillor John A R Scott – Item 2.
- Councillor Gwenda M Shearer – Item 2.

Chair

- Councillor J Harvey Johnston, Convener.

1. Urgent Item

In terms of Standing Order 13.3, the Council:

Noted that the Convener had permitted discussion of the following urgent item:

- Orkney Harbours Masterplan Phase 1 – Proposed Governance Arrangements.

2. Policy and Resources Committee

Minute of Special Meeting held on 21 December 2021

Councillor John A R Scott declared a non-financial interest in this item, being Vice Chair of the Pickaquoy Centre Trust, but concluded that his interest did not preclude his involvement in the discussion.

On the motion of Councillor James W Stockan, seconded by Councillor W Leslie Manson, the Council resolved to approve the Minute of the Special Meeting of the Policy and Resources Committee held on 21 December 2021 as a true record, with the exception of Item 5, which was moved by Councillor W Leslie Manson and seconded by Councillor Graham L Sinclair.

The Council thereafter resolved to approve the recommendations contained in the Minute of the Special Meeting of the Policy and Resources Committee held on 21 December 2021, subject to the following item of discussion:

COVID-19 Funding – Proposed Allocations

Councillor Gwenda M Shearer declared a non-financial interest in this item, in that she had a personal interest in some of the various recovery projects to be considered for potential funding allocations, but as the various recovery projects were not discussed in detail, she did not leave the meeting.

Councillor Stephen G Clackson referred to the recommendations of the Policy and Resources Committee relating to the allocation of funding to a series of recovery projects and, seconded by Councillor Magnus O Thomson, moved an amendment that an allocation be added to the list in Appendix 1, "Allocation of COVID-19 Funding to Recovery Projects" of £453,000 (or thereby) towards the repair and refurbishment of the island swimming pools and associated plant and buildings, this to be achieved by a reduction in the existing allocations in the list of 5.5%.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Stephen G Clackson, Stephen Sankey and Magnus O Thomson (3).

For the Motion (the recommendations contained in the Minute):

Councillors Norman R Craigie, Robin W Crichton, David Dawson, Andrew Drever, Barbara Foulkes, Steven B Heddle, J Harvey Johnston, Rachael A King, W Leslie Manson, John T Richards, John A R Scott, Graham L Sinclair, James W Stockan, Duncan A Tullock and Heather N Woodbridge (15).

Abstention:

Councillor Gwenda M Shearer (1).

The Motion was therefore carried and the Council thereafter resolved:

2.1. That the allocation of funding to a series of recovery projects, as set out in Appendix 1 to the Minute of the Special Meeting of the Policy and Resources Committee held on 21 December 2021, be approved.

2.2. That a contribution of £33,500, towards the cost of survey work, ground investigation, design and architectural services required to develop the Kirkwall Regeneration project to a stage to submit a planning application and apply for building warrant, be approved.

3. Urgent Item

Orkney Harbours Masterplan Phase 1 – Proposed Governance Arrangements.

In terms of section 50B(4)(b) of the Local Government (Scotland) Act 1973, the Convener permitted urgent discussion of this item in order that the Council could put in place specific and appropriate governance arrangements with regard to progressing elements of the Orkney Harbours Masterplan Phase 1, as a result of potential interest from developers following the announcement by Crown Estate Scotland, expected from mid to late January 2022, of preferred developers for the ScotWind off-shore wind seabed leases.

After consideration of a report by the Interim Director of Finance, Regulatory, Marine and Transportation Services, copies of which had been circulated, the Council:

Noted:

3.1. That, on 21 December 2021, when considering specific governance arrangements with regard to progressing elements of the Orkney Harbours Masterplan Phase 1, the Policy and Resources Committee recommended that consideration of establishing a negotiating team and the delegation of powers to authorise and conclude agreements associated with the proposed developments in the Orkney Harbours Masterplan Phase 1, and the Crown Estate Scotland's ScotWind sea-bed leasing rounds, be referred to the Special General Meeting of the Council to be held on 23 December 2021.

3.2. The proposal that the delegation to the Chief Executive, in consultation with elected members and officers, should not include authority to award construction contracts for capital projects associated with the Orkney Harbours Masterplan Phase 1, or any developments associated with Crown Estate Scotland's ScotWind sea-bed leasing rounds.

3.3. That the proposed delegation would necessarily include authority to conclude agreements with Crown Estate Scotland and other parties regarding land acquisitions or options to purchase land necessary to deliver the Orkney Harbours Masterplan Phase 1.

3.4. That, as the delegation was proposed to cover the period 1 January to 31 December 2022, it might not be possible to consult with elected members for the period covering the pre-election period for the Local Government Election to be held on 5 May 2022, which was due to commence on 15 March 2022, until the appointment of committee office bearers, which would conclude in early June 2022.

3.5. That the proposed Scapa Deep Water Quay and the proposed extension and seabed reclamation at Hatston Pier would continue to be progressed through the Capital Project Appraisal process in order to obtain formal approval to proceed with those capital projects.

The Council resolved:

3.6. That a negotiating team, comprising the undernoted officers, be established to negotiate Heads of Terms and/or other commercial agreements that might result from the preferred developer contacts and/or negotiations arising from the announcement of Crown Estate Scotland's ScotWind seabed leasing due in January 2022:

- Interim Chief Executive.
- Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.
- Head of Legal Services.
- Interim Head of Finance.
- Head of Marine Services, Transportation and Harbour Master.
- Any other officers that the negotiating team nominate.

3.7. That powers be delegated to the Chief Executive, in consultation with the undernoted Members, when available, and officers, to authorise and conclude Heads of Terms, commercial or other agreements associated with the proposed developments contained within the Orkney Harbours Masterplan Phase 1, as well as any developments associated with Crown Estate Scotland's ScotWind sea-bed leasing rounds, for the period 1 January to 31 December 2022 inclusive:

- Leader.
- Depute Leader.
- Chair, Development and Infrastructure Committee.
- Vice Chair, Development and Infrastructure Committee.
- Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.
- Head of Legal Services.
- Head of Marine Services, Transportation and Harbour Master.

3.8. That the delegation referred to at paragraph 3.7 above should not include the award of any construction contracts for capital projects associated with the Orkney Harbours Masterplan Phase 1, or any developments associated with Crown Estate Scotland's ScotWind sea-bed leasing rounds.

3.9. That the delegation referred to at paragraph 3.7 above, should include authority to conclude agreements with Crown Estate Scotland and other parties regarding land acquisitions or options to purchase land necessary to deliver the Orkney Harbours Masterplan Phase 1.

3.10. That, where an agreement required the commitment of the Council to a potential liability in excess of £5 million, prior approval be sought either through routine Council governance structures or, if time limited, by calling special meetings of the relevant Committee and/or the Council.

4. Conclusion of Meeting

At 11:10 the Convener declared the meeting concluded.

Signed: Harvey Johnston.