

North Ayrshire Council  
13 November 2019

**IRVINE, 13 November 2019** - At a Meeting of North Ayrshire Council at 2.00 p.m.

**Present**

Ian Clarkson, Robert Barr, John Bell, Timothy Billings, Joy Brahim, Marie Burns, Joe Cullinane, Scott Davidson, Anthea Dickson, John Easdale, Todd Ferguson, Robert Foster, Scott Gallacher, Alex Gallagher, Margaret George, John Glover, Tony Gurney, Alan Hill, Christina Larsen, Shaun Macaulay, Tom Marshall, Jean McClung, Ellen McMaster, Ronnie McNicol, Louise McPhater, Jimmy Miller, Jim Montgomerie, Ian Murdoch, Donald Reid, Donald L. Reid, Angela Stephen and John Sweeney.

**In Attendance**

C. Hatton, Chief Executive; L. Friel, Executive Director (Finance and Corporate Support); S. Brown, Director (Health and Social Care Partnership); K. Yeomans, Director (Growth and Investment); D. Hammond, Head of Service (Interim) (Commercial) (Place); R. Arthur, Head of Service (Interim) (Connected Communities) (Communities); and A. Fraser, Head of Democratic Services, A. Craig, Senior Manager (Legal Services), M. McColm, Communications Manager; E. Gray and H. Clancy Committee Services Officers and M. Anderson, Committee and Member Services Manager (Chief Executive's Service).

**Chair**

Provost Clarkson in the Chair.

**Apologies**

Davina McTiernan.

**1. Provost's Remarks**

The Provost welcomed those present to the meeting and dealt with preliminary matters, which included an announcement that the Council meeting would be webcast.

On behalf of the Council, the Provost also offered his best wishes to Councillor McTiernan, who was absent from the meeting following recent minor surgery.

**2. Apologies**

The Provost invited intimation of apologies for absence, which were recorded.

### **3. Declarations of Interest**

There were no declarations of interest in terms of Standing Order 10 and Section 5 of the Councillors' Code of Conduct.

There were no declarations of the Party Whip.

### **4. Previous Minutes**

The accuracy of the Minutes of the Meeting held on 25 September 2019 was confirmed and the Minutes signed in accordance with Paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973.

### **5. Provost's Report**

Submitted report by the Provost for the period from 6 September - 3 November 2019.

The Provost highlighted the following elements of his written report:

- recent events to raise funds for Macmillan Cancer Support and the Ayrshire Hospice;
- attendance at the Cream of Ayrshire Awards;
- the Kirkin' of the Deacon Convenor of Irvine Incorporated Trades;
- the launch of a breakfast club in Hayocks Hall, Stevenston;
- the festival of Juvenile Solo Piping at Auchenharvie Academy;
- the Scottish Older People's Assembly in the Scottish Parliament;
- attendances at receptions hosted by the Turkish Consul and Chinese Consul in Edinburgh;
- recent Remembrance events across North Ayrshire, including attendance at Irvine's Remembrance Parade and Service and the laying of a wreath on behalf of the Council; and
- the forthcoming annual White Ribbon 16 Days of Action campaign to promote an end to violence against women, including a vow by Councillor Montgomerie to complete 16 marathons during this time and plans by Councillors Ferguson and Montgomerie to submit a motion to the next Council meeting.

Noted.

### **6. Leader's Report**

Submitted report by the Leader of the Council for the period from 6 September – 3 November 2019.

Noted.

## **7. Council Minute Volume**

Submitted for noting, the Minutes of meetings of committees of the Council held in the period 29 August – 30 October 2019.

Noted.

## **8. North Ayrshire Community Planning Partnership (CPP) Board: Minutes of Meeting held on 19 September 2019**

Submit report by the Executive Director (Interim) (Communities) on the Minutes of the meeting of the North Ayrshire Community Planning Partnership Board held on 19 September 2019.

The Chief Executive highlighted a number of elements from the CPP Board meeting, including:

- the role of Community Planning Partners as corporate parents; and
- workshops on the Three Towns and Garnock Valley Locality Partnerships

Noted.

## **9. Congratulatory Motion**

In terms of Standing Order 13.3, submitted the undernoted motion, duly proposed and seconded, which seeks to congratulate, commend or recognise an individual or group in relation to their achievement or activities within North Ayrshire:

“That this Council congratulates St Bridget’s Primary School for the amazing achievement during Libraries Week of having every child in the school registered with the North Ayrshire Council Library Service; commends the efforts to teach each child to learn to love stories, to appreciate books, to want to regularly read, and to know that the library is where to go find such treasures; and applauds the school’s endeavours to encourage and support reading and library membership.”

There being no dissent, the motion was declared carried.

## **10. Committee Appointment**

The Head of Democratic Services referred to a vacancy in respect of the position of Chair of the Police and Fire and Rescue Committee and invited the Council to consider a nomination, duly proposed and seconded, which had been submitted in favour of Councillor Glover.

There being no amendment, the Council agreed to appoint Councillor Glover as Chair of the Police and Fire and Rescue Committee.

## **11. Outside Body Appointment**

The Council was invited to note the resignation of Councillor Joy Brahim as a Council representative on North Ayrshire Leisure Limited. Nominations, duly proposed and seconded, were received in respect of Councillors McClung and Murdoch. However, the Provost intimated that the latter nomination had been withdrawn.

There being no further nominations, the Council agreed (a) to note the resignation of Councillor Brahim as a Council representative on North Ayrshire Leisure Limited; and (b) to appoint Councillor McClung as her replacement.

## **12. McGavin Park Trust - Reorganisation Scheme and Winding Up**

Submitted report by the Head of Democratic Services on changes to the McGavin Park Fund and expenditure of the remaining funds, the transfer of the trust assets and the winding up of the Trust. The wording of the supplemental deed was appended to the report.

The Council, as Trustees of the McGavin Park Fund, agreed to (a) approve the changes to the wording of the McGavin Park Fund Trust Deed, as approved by the Office of the Scottish Charity Regulator; (b) confirm the proposed expenditure of the remaining trust funds; (c) the transfer of McGavin Park to the Council; and (d) approve the winding up of the Trust following the transfer of all assets.

## **13. Questions**

In terms of Standing Order 12, submitted:

- (1) a question by Councillor Murdoch to the Leader of the Council in the following terms:

"What is the long-term future of the Viking Experience in Largs? Will it continue to operate within its current location and are there any plans to remove it or change it in any way?"

Councillor Cullinane thanked the Member for his question and responded in the following terms:

"The Viking Experience, which is within the Vikingar facility in Largs, is currently operated by KA Leisure on behalf of North Ayrshire Council. Any changes to the Viking Experience would be a matter for KA Leisure and their Board. KA Leisure is an arms-length organisation and four North Ayrshire Councillors represent the Council on the Board. Any changes to delivery would need to be agreed by the Board. The Council would then discuss the proposals with KA Leisure at their regular management and support meetings and updates provided through KA Leisure's regular reports to Cabinet."

As a supplementary question, Councillor Murdoch referred to the negative impact of current uncertainty on staff and patrons of both the Viking Experience and Largs Library and asked whether the future of the latter would be put to the Cabinet before or after the General Election.

Councillor Cullinane responded by referring to the background to the current review of halls, centres and libraries and the rationale for the Working Group and NAFCO (the North Ayrshire Federation of Community Associations) seeking to undertake wider public engagement. Given the context in which the review started, namely Austerity and cuts to Council budgets, the Leader expressed the view that any decisions would likely have to be made as part of an overall budget process once the settlement from the Scottish Government was known following the UK Government's budget setting after the General Election.

(2) a question by Councillor Murdoch to the Cabinet Member for the Economy in the following terms:

"At the full Council meeting held on Wednesday 15 May 2019, the Member for the Economy stated that "Largs Matters Ltd are in the final stages of winding up and will be preparing a final set of audited accounts".

What is the current position regarding the winding up of Largs Matters Ltd? Are there any funds due to be returned to the businesses and is there an inventory of their assets?"

Councillor Gallagher thanked the Member for his question and responded in the following terms:

"Officers have made contact with one of the two directors remaining at Largs Matters Ltd and they have confirmed that the company is still in the process of winding up and preparing final accounts. Until final accounts are produced we are unable to confirm the amount of any refund due to businesses. Council officers will arrange to meet with the company directors early in the New Year to review and encourage progress to bring the matter to a conclusion."

As a supplementary question, Councillor Murdoch referred to the hundreds of thousands of pounds paid by Largs businesses to the levy and asked if the Cabinet Member shared his concerns about the significant delay in Largs Matters being wound up and funds repaid to those businesses.

Councillor Gallagher responded by emphasising the distinction between Largs Matters and the Council, advising that the former was going through the proper steps to wind up its business, with the Council only involved as a intermediary. The Cabinet Member suggested that Councillor Murdoch approach some of the directors of Largs Matters.

Councillor Murdoch raised a point of order, which was ruled inadmissible by the Provost given that it did not relate to Standing Orders.

- (3) a question by Councillor Billings to the Cabinet Member for the Economy in the following terms:

"At a time when North Ayrshire is bringing forward plans for new tourism initiatives does the Cabinet Member not agree that further taxation on such an important industry makes no sense and will he agree to make this very clear in the Council's response to the Scottish Government's consultation on imposing a transient visitor levy?"

Councillor Gallagher thanked the Member for his question and responded in the following terms:

"Council agreed on 7 November 2018 to support taxation powers being given to Local Authorities, including the transient visitor levy. We are aware of industry concerns regarding the introduction of a levy and the business representations that will be made as part of the Government consultation. Whilst being supportive of increased powers for local taxation, there has been no decision made on whether North Ayrshire would implement a scheme locally or what form this would take. Further details would need to be known and wider engagement on this would need to be considered before doing so. We are particularly sensitive that a potential levy could exacerbate already high regional inequalities within Scotland. A holding response will be submitted to the consultation stating the Council's position as outlined."

As a supplementary question, Councillor Billings welcomed the reassurance that consultation would be undertaken before any decision was taken on imposing a levy and asked whether the Council's response would include a request that the levy be drawn as widely as possible to allow it to be implemented in the most appropriate way for North Ayrshire.

Councillor Gallagher responded by advising that no decision had been taken to implement a levy and the shape of the tax would determine whether or not the Council decided to implement it.

- (4) a question by Councillor Gallacher to the Cabinet Member for Education in the following terms:

"To ask the Cabinet Member for Education if he will give an update on the proposed work to drain the kids playing field at Woodlands Primary School. This work was agreed after an amendment to the budget last year released the funding for this."

Councillor Bell thanked the Member for his question and responded in the following terms:

"Property Management and Investment (PMI) are continuing to make progress with this project and have been keeping the school abreast of developments."

The PMI team has been working with the Council's flooding team, Hub South West (HubSW) and their supply chain to develop a drainage solution for the school playing field. Intrusive site investigations have been undertaken and the civil engineer has provided a design layout.

The proposed layout has been shared with the flooding team, officers in Education & Youth Employment and the Head Teacher. All parties recognise that the overall available external space for the children will be impacted slightly by these proposals, however they accept that this compromise is necessary to create a useable play area.

Following approval of the proposals, we were awaiting the final cost and programme from HubSW to enable the works to commence. The proposals involve draining water from the school playing field to a section of adjacent land. The area which will receive the diverted ground water had no identified flooding issues.

However, in recent months there have been flooding issues in this area of open space adjacent to the existing school. These had to be investigated and held up the project.

The new flooding issues were found to be connected with a build-up of silt which has now successfully been cleared and the flooding has subsided. The area continues to be monitored by the Council's flooding team. The design of the proposed flooding alleviation works is currently being reviewed to inform any potential amendments to the civils to prevent future silt build up and the programme to undertake works for the school playing field is now being finalised.

The Head Teacher is being kept updated as work progresses and officers continue to push for a satisfactory resolution to the drainage issues as quickly as possible."

As a supplementary question, Councillor Gallacher asked whether a 'ballpark' figure was available on the anticipated timescale for the works.

Councillor Bell responded by advising he did not have that information but would request it on Councillor Gallacher's behalf.

(5) a question by Councillor Gallacher to the Cabinet Member for Place in the following terms:

"To ask the Cabinet Member for Place if he will work with the relevant department to ensure that disabled anglers have easy access to the River Irvine, and that the disabled fishing platforms installed by the Council a few years ago, are all up to standard safety-wise, etc."

Councillor Montgomerie thanked the Member for his question and responded in the following terms:

"Officers will contact the angling club to establish what assistance can be provided to support their access to, and ongoing enjoyment of the facilities."

(6) a question by Councillor Davidson to the Cabinet Member for Place in the following terms:

"All Members will be aware of the recent serious Road Traffic Incident on Wednesday 30 October on Dalry Road Kilwinning, right outside the Academy, where an eight-year-old girl was struck by a car on leaving Abbey School.

In light of this accident, can I ask if a Road Traffic Assessment is to take place? If so, will it include the following:

- The recording, study and analysis of road use and speed of vehicles, in particular at times when the pavements and roads are busiest with pupils going to or coming from the Academy and Abbey Primary and also at lunch times.
- Observation of the amount of pupils using the pavements and determine whether the pavements are suitable, with particular attention to the narrow stretches of pavements.
- Look at the existing Twenty's plenty zone outside Kilwinning Academy, and look at the potential for increasing this zone and other traffic calming solutions.
- The feasibility of pedestrian safety fencing, such as that used at Garnock Academy, being fitted also along our pavements on Dalry Road to stop pupils drifting on to road, and to encourage them to use safe spaces to cross.
- A look at the speed limit coming into the town, from Dalry direction, and assess if vehicles are slowing down on entering Kilwinning at start of built up area prior to school.
- An assessment of the impact that the Dalry Bypass has had on any increase in volume of traffic arriving in Kilwinning and evaluate if this could be improved by an extension of the Dalry Bypass from the roundabout north of Wilson's to Sharphill Roundabout on the A78.
- Assess whether the redeployment of a Lollipop person to this busy stretch of road will have a beneficial impact to the safety of our young people who depend on crossing these roads safely."

Councillor Montgomerie thanked the Member for his question and responded in the following terms:

"The recent road traffic accident on Dalry Road, Kilwinning Road, Dalry is a very distressing incident. I know that the thoughts of everyone in this Chamber have been with the young girl involved and her family. I understand that she is in a stable condition.



The incident is the subject of a Police Scotland investigation and details of the incident and the factors contributing to it are still to be made available.

The A737 Dalry Road is a trunk road and therefore the responsibility of Transport Scotland and their management agent, Scotland Transerv.

We will await the findings of the investigation and then work with Police Scotland and Transport Scotland to review any measures which can be undertaken to improve road safety at this location.”

As a supplementary question, Councillor Davidson asked whether the Cabinet Member would meet him on site at Dalry Road, Kilwinning to look at existing safety measures and sought reassurance that the Cabinet Member would keep him informed of all relevant developments.

Councillor Montgomerie responded by confirming he would meet with Councillor Davidson but stressed the importance of awaiting the outcome of the Police investigation. The Cabinet Member confirmed that he would keep Councillor Davidson and the other local Ward Members informed with regard to any developments.

(7) a question by Councillor Dickson to the Leader of the Council in the following terms:

"Could the Leader advise why the CIF (Community Investment Fund) application, prepared by the 3 community councils of Beith, Dalry and Kilbirnie, submitted to the Cabinet from the Garnock Valley Locality Partnership, was not taken to Cabinet for decision?"

Councillor Cullinane thanked the Member for her question and responded in the following terms:

“The CIF (Community Investment Fund) application, which was prepared by the three community councils of Beith, Dalry and Kilbirnie, was considered by Cabinet on 29 October 2019. The application was put forward by the Garnock Valley Locality Partnership and Cabinet agreed to:

Defer the CIF applications in relation to (i) Garnock Valley Participatory Budgeting – Community Councils and and (ii) Participatory Budgeting, The Three Towns Locality Partnership pending the introduction of proposals to Cabinet for small-grant awarding Participatory Budgeting.

These proposals will be considered by the Cabinet early in the new year.”

As a supplementary question, Councillor Dickson referred to the delay in the Cabinet's consideration of the application and asked whether, in the interests of true partnership working and transparency, the process would be clear and adhered to from now on; that any proposition put forward by the Locality Partnership for a decision would go to the next available Cabinet meeting; that all submissions would be determined formally at the Cabinet meeting and nowhere else; that the outcome of consideration would be minuted; and that applicants would receive a written response.

Councillor Cullinane responded by referring to the stated aims of the Community Investment Fund, namely to support transformational projects with long-term sustainability, and confirming that, if this was not clear enough in the guidance, it was now addressed. The Leader provided examples of the type of large-scale projects which had already received CIF funding, contrasting these with small-grant participatory budgeting projects.

Councillor Dickson requested a response to her question with regard to the process for determining applications and, at the discretion of the Provost, the Leader was invited to respond.

Councillor Cullinane expressed the view that the process was set out clearly in the guidance contained in the Cabinet report of October 2019.

(8) a question by Councillor McNicol to the Leader of the Council in the following terms:

"Will the Leader of the Council inform members if an Environmental/Traffic Impact Assessment has or will be carried out at the North Shore site re the following:

- (a) Flooding and Sea Water inundation.
- (b) The likely result of a material increase in the volume of traffic.
- (c) What is the estimated cost and time scale for the remediation of the site?
- (d) What is the estimated cost and time scale for the installation of sea defences?
- (e) Will any materials be imported or exported from the site during the remediation phase?
- (f) What was and/or will be the involvement of SEPA prior to, during and after remediation?

For all the above from where will the costs be met?

What access has the Council had to records held by the previous occupants of the site in relation to procedures carried out on the land over a period spanning decades, and any health issues reported by staff during and after their service with the company?"

Councillor Cullinane thanked the Member for his question and responded in the following terms:

"An Environmental Impact Assessment has not been carried out at this stage, as the proposals remain subject to the statutory consultation process.

The need for an EIA will be determined with reference to the Environmental Impact Assessment (Scotland) Regulations 2017. Any proposed development would need to go through the screening process as the site exceeds 0.5 hectares and is classed as an 'urban development project' in terms of Schedule 2 of the EIA Regulations dating from 2017.

In determining whether an EIA is required, relevant factors will include the scale of the site, the proposals for the site and the potential impacts on the marine environment emerging from the proposed marina and works to the sea wall. If an EIA is required, its scope will be determined by the planning authority. If required, an EIA would accompany a planning application for the site.

**a) Flooding and Sea Water inundation.**

Flood risk assessments have previously been undertaken, most recently in 2012. This will require to be revised to inform the required ground level for the site and the nature of improvements required to the sea wall/revetment.

**b) The likely result of a material increase in the volume of traffic.**

A transport assessment will be undertaken to consider movement to and from the site and the requirement for any improvements to the sites access by car, or by pedestrians/cyclists. It should be noted that the site has previously benefited from planning consent for over 400 residential units with associated traffic volumes considered acceptable.

**c) What is the estimated cost and time scale for the remediation of the site?**

Around a quarter of the site has already been remediated. The remediation of the remainder of the site would be carried out in advance of site construction works. While a cost is not available at this stage given the need to masterplan the site and develop an associated remediation strategy, previous estimates associated with proposals for residential use had a projected cost of circa £2.5M.

**d) What is the estimated cost and time scale for the installation of sea defences?**

A flood risk assessment was carried out in 2012. This found a requirement to improve the sea wall/revetment. While again a cost is not available at this stage given the need to masterplan the site and revisit flood assessment work, previous estimates associated with the proposals for residential use had a cost of circa £2.25M.

**e) Will any materials be imported or exported from the site during the remediation phase?**

This will depend on the detailed remediation strategy to be developed for the site, however some movement of material is likely.

**f) What was and/or will be the involvement of SEPA prior to, during and after remediation?**

A detailed remediation strategy for the site requires to be developed by an accredited Geo-Environmental consultant. This will require to be agreed by SEPA before works are implemented.

SEPA's role is Consultee to Environmental Health and as the Regulator we must take cognisance of their advice. Works will be agreed with SEPA prior to commencing, they will be kept informed of progress and further advice will be requested from them if required. Verification that mitigation measures have been successful will also be agreed with them (for the water environment).

**For all the above from where will the costs be met?**

There are a variety of funding sources which are available to fund the costs including the Ayrshire Growth deal for the International Marine Sciences Environmental Centre (IMSE) and the Marina Proposals; Scottish Government, Vacant and Derelict Land Fund and NAC Capital budget for the School Campus.

The contribution to estimated remediation costs are being included in the business cases for each project as they develop.

**What access has the Council had to records held by the previous occupants of the site in relation to procedures carried out on the land over a period spanning decades, and any health issues reported by staff during and after their service with the company?**

The Council has had no access to records held by the previous occupants of the site in relation to procedures carried out on the land as far as Environmental Health are aware of at this time. During the site's previous use, any regulation would have been the responsibility of Her Majesty's Inspectorate of Pollution (HMIP) and the Health and Safety Executive (HSE). Environmental Health are not aware of any health issues reported by staff during and after their service with the company at this time. Personal health issues would be dealt with by local GPs and the appropriate Health Board."

As a supplementary question, Councillor McNicol asked the Leader how the public could make an informed decision when no traffic or environmental assessment has been carried out on the proposed site; how the site would be decontaminated and, if soil was to be removed, where it would be taken; from which budget the proposed acquisition of the site would be met; and whether Peel Land and property would contribute to the cost of decontamination.

Councillor Cullinane responded by referring to the fact that the Member had asked multiple questions rather than a single supplementary question. The Leader indicated that traffic management would be considered as part of the planning application; that remediation of the site was covered in the detailed response to the initial question; that the issue of joint ownership of the land would be part of commercial discussions and part of the business case which would be funded by the Council's capital budget, Scottish Government grant, the Vacant and Derelict Land fund, the Ayrshire Growth Deal, etc. The Leader urged the Member to back a school in the Three Towns area at some point in his three terms with the Council.

#### **14. Motion**

In terms of Standing Order 13, submitted:

- (1) a motion by Councillor Dickson, seconded by Councillor Larsen, in the following terms:

"This Council resolves: to support the RSPCA campaign to reduce the stress, fear and harm caused to people and animals by fireworks by strengthening controls within our powers; to require all public firework displays within the local authority boundaries to be advertised in advance of the event, allowing residents to take precautions for their animals and vulnerable people; to actively promote a public awareness campaign about the impact of fireworks on animal welfare and vulnerable people – including the actions that can be taken to mitigate risks; to write to the UK Government urging them to introduce legislation to limit the maximum noise level of fireworks to 90dB for those sold to the public for private displays; to encourage local suppliers of fireworks to stock 'quieter' fireworks for public display; and to review all licensing and trading standards policies and guidelines within the next year, to support the aims of this motion, i.e. with a view to minimise distress and maximise warnings for the public."

As an amendment, Councillor Billings, seconded by Councillor Ferguson, moved as follows:

"This Council supports the Fireworks Action Plan, October 2019, developed by the Scottish Government, that aims to promote the safe and appropriate use of fireworks in Scotland. The Council recognises that fireworks can be associated with antisocial behaviour and that animals can suffer distress. The Council would welcome additional appropriate controls on the sale and use of fireworks. The Council would seek to minimise the potential for harm to both people and animals caused by the use of fireworks, whilst continuing to recognise the importance of cultural events that are traditionally marked by fireworks and the community benefits created by organised firework displays."

Following questions and debate, the Provost agreed, in terms of Standing Order 5.7, that there would be short recess to allow an opportunity for the movers and seconders of the motion and amendment to discuss the possibility of reaching agreement.

The meeting duly stood adjourned at 3.30 p.m., reconvening at 3.45 p.m. with the same Members and officers present and in attendance.

The Head of Democratic Services advised that no agreement had been reached between the movers and the seconders of the motion and amendment.

The movers and seconders of the motion and amendment were then invited to sum up.

Thereafter, on a division, there voted for the amendment 19 and for the motion 11, and the amendment was declared carried.

Accordingly, the Council agreed as follows:

“This Council supports the Fireworks Action Plan, October 2019, developed by the Scottish Government, that aims to promote the safe and appropriate use of fireworks in Scotland. The Council recognises that fireworks can be associated with antisocial behaviour and that animals can suffer distress. The Council would welcome additional appropriate controls on the sale and use of fireworks. The Council would seek to minimise the potential for harm to both people and animals caused by the use of fireworks, whilst continuing to recognise the importance of cultural events that are traditionally marked by fireworks and the community benefits created by organised firework displays.”

## **15. Provost’s Concluding Remarks**

In closing the meeting, the Provost invited Members to sign the White Ribbon 16 Days of Action campaign pledge to promote an end to violence against women.

The meeting ended at 3.50 p.m.