

North Ayrshire Council
16 March 2022

At a Special Meeting of North Ayrshire Council at 2.00 p.m. involving participation by remote electronic means.

Present

Robert Barr, John Bell, Timothy Billings, 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, Davina McTiernan, Jimmy Miller, Jim Montgomerie, Ian Murdoch, Donald Reid, Donald L. Reid, Ronnie Stalker, Angela Stephen and John Sweeney.

In Attendance

C. Hatton, Chief Executive; R. McCutcheon, Executive Director and T. Reaney, Head of Service (Commercial) (Place); A. Sutton, Executive Director, C. Amos and A. McClelland, Heads of Service (Education) and R. Arthur, Head of Service (Connected Communities) (Communities and Education); C. Cameron, Director (Health and Social Care Partnership); M. Boyd Head of Service, (Finance); F. Walker, Head of Service (People and ICT); and A. Craig, Head of Service, N. Shearer, Team Manager (Legal Services), M. McColm, Senior Manager (Communications), H. Clancy, A. Little and C. Stewart, Committee Services Officers and M. Anderson, Senior Manager (Committee and Member Services) (Democratic Services) (Chief Executive's Service).

Apologies

Ian Clarkson.

Chair

Depute Provost Barr in the Chair.

1. Depute Provost's Remarks

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

The Depute Provost advised that, in terms of Standing Order 9.5, he had agreed that to consider an urgent item of business at the end of the meeting and confirmed that the terms of the motion in question had been circulated to Members in advance of the meeting.

2. Apologies

The Depute 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 Ordinary Meeting held on 16 February 2022 and the Special Meeting held on 2 March 2022 was confirmed and the Minutes signed in accordance with Paragraph 7(1) of Schedule 7 of the Local Government (Scotland) Act 1973.

At the invitation of the Depute Provost, the Chief Executive invited Members to note that a report to the Special Meeting of the Council held on 2 March 2022 had contained an erroneous reference to "Woodlands". A correction to the paper had since been published and circulated.

Noted.

5. Leader's Report

Submitted report by the Leader of the Council for the period covering 7 February to 6 March 2022.

Noted.

6. North Ayrshire Community Planning Partnership (CPP) Board: Minutes of Meeting held on 3 March 2022

Submitted report by the Executive Director (Communities and Education) on the Minutes of a meeting of the North Ayrshire Community Planning Partnership (CPP) Board held on 3 March 2022.

The Chief Executive highlighted the following elements of the report:

- promotion of the RoSPA Fall Fighter programme;
- an update on progress in terms of the implementation of the Community Learning and Development Plan; and

- development of the new Local Outcomes Improvement Plan 2022-30, including the results of the consultation and needs assessment process.

Noted.

7. Membership of the Licensing Committee and Board

The Head of Democratic Services advised of the resignation of Councillors Ferguson and Gallacher and, in terms of the Council's Scheme of Administration, these vacancies should be filled by Members of Administration and main Opposition.

The Head of Democratic Services further advised that two nominations had been received in respect of the Licensing Committee and Board vacancies, namely a nomination proposed by Councillor Bell, seconded by Councillor Cullinane, that Councillor Donald Reid be appointed to serve, and a nomination, proposed by Councillor Burns, seconded by Councillor Macaulay, that Councillor Hill be so appointed.

The Council unanimously agreed as follows:

- (a) to note (i) the resignation of Councillors Ferguson and Gallacher from the Licensing Committee and Board and (ii) that, in terms of the Scheme of Administration, these vacancies should be filled by the Administration and main Opposition; and
- (b) that Councillors Donald Reid and Hill to be appointed to the Licensing Committee and elected to serve on the Licensing Board.

8. Membership of the Planning Committee and Local Review Body (LRB)

The Head of Democratic Services made reference to a vacancy on the Planning Committee and Local Review Body (LRB), as intimated on the Agenda, noting that, in terms of the Council's Scheme of Administration, the vacancy should be filled by an 'Other' Member (namely a representative of the Conservative and Unionist Group or an Independent Member).

The Council was also advised of further vacancies arising from two resignations submitted after publication of the Agenda. On the advice of the Head of Democratic Services, the Council was asked not to consider the filling of these two additional vacancies as insufficient notice had been given.

Thereafter, the Head of Democratic Services referred to a nomination, proposed by Councillor Cullinane, seconded by Councillor Donald Reid, for the appointment of Councillor Bell to fill the vacancy on the Planning Committee and LRB arising from the resignation of a member of the Conservative and Unionist Group.

On a point of order, Councillor Marshall cited the Scheme of Administration provision that the Planning Committee and LRB should comprise three representatives of the Administration, three of the main Opposition and four 'Other' Members, and made reference to the arrangements set out in Standing Order 7.2 for a political group to nominate a replacement in the event of their representative's resignation from a committee. Councillor Marshall advised that the Conservative and Unionist Group was still considering a nomination and therefore did not consent at this stage to the filling of the vacancy on the Planning Committee and LRB which had arisen from his resignation.

The Head of Democratic Services noted the provision within Standing Order 7.2 referred to by Councillor Marshall and further noted that, previously, when a vacancy had not been filled by the relevant political group, it had, by agreement with that political group, been otherwise filled. As the agreement of the Conservative and Unionist Group had not been obtained on this occasion, the advice of the Head of Democratic Services was that Councillor Bell's nomination should not be considered.

On a further point of order, Councillor Donald Reid, queried the application of Standing Order 7.2, citing the appointment of Councillor Stalker to the Licensing Committee and Board at a previous meeting without any deliberation, notwithstanding that the appointment had brought the total number of 'Other' Members on the Licensing Committee to five, when the Scheme of Administration provision was for four only.

The Head of Democratic Services advised there had been no dissent in respect of Councillor Stalker's nomination to the Licensing Committee, whereas on this occasion, the Planning Committee and LRB vacancy had been notified to all Members but no agreement sought with the relevant political group, without which the vacancy fell to be held by the 'Other' Members.

On a further point of order, Councillor Gurney asserted that the Scheme of Administration provision for four 'Other' Members to the Planning Committee and LRB did not preclude a Member of the Administration or Opposition.

The Head of Democratic Services confirmed that, where a political group vacancy had not been taken up in the past, it had been filled by a Member from another group by general agreement, but that there was no such agreement on this occasion.

On a further point of order, Councillor Hill referred to the word "may" within Standing Order 7.2, as opposed to "must", and suggested that custom and practice during the current Administration allowed for the filling of vacancies to avoid difficulties in terms of achieving a quorum.

The Head of Democratic Services clarified that, in terms of Standing Order 7.2, there was no time restriction in terms of a political group's consideration of their replacement and that Councillor Marshall had indicated the Conservative and Unionist Group was still considering its position.

On a point of order, Councillor Gurney sought guidance on the time which might be allowed for a political group's consideration of a vacancy and whether there was provision for this within Standing Orders.

The Head of Democratic Services advised that Standing Orders contained no time provision for the filling of a vacancy by a political group. It was also confirmed that officers were not aware of any quorum issues for the remainder of the current Administration.

In response to a query by Councillor Ferguson with regard to a long-standing Labour Group vacancy on the Licensing Committee, the Head of Democratic Services confirmed that the Council's governance documents would be reviewed as part of preparations for a new Administration.

In terms of Standing Order 14.5, Councillor Cullinane, as the proposer of the nomination, and with the agreement of his seconder, agreed to withdraw his nomination to appoint Councillor Bell to the Planning Committee and LRB.

Accordingly, the Council agreed to note (i) a total of three vacancies on the Planning Committee and Local Review Body and (ii) that, in terms of the Council's Scheme of Administration, the vacancies should be filled by an 'Other' Member (namely a member of the Conservative and Unionist Group or an Independent Member).

9. Best Value Assurance Audit Recommendations Update

Submitted report by the Chief Executive on progress by the Council against the Best Value Audit Recommendations.

Councillor Cullinane, seconded by Councillor Bell, moved approval of the recommendations set out in the officer's report. There being no amendment, the motion was declared carried.

Accordingly, the Council agreed as follows:

- (a) to approve the update set out in the officer's report; and
- (b) to agree that recommendation actions could be deemed as complete, with no further update necessary.

10. Questions

In terms of Standing Order 12, submitted:

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

“At recent Council meetings, it has become apparent that some Elected Members do not understand the basics of capital finance, particularly in relation to the financing of new schools. If Elected Members are making misleading comments about these funding models, how can we expect the public to understand such complex matters? Can the Leader of the Council, therefore, provide clarity on the following:

1. The Scottish Government’s financial contribution to North Ayrshire’s PPP contract?
2. Outline all the capital and revenue costs related to the construction of Largs Campus under the Design, Build, Finance and Maintain (DBFM) model, procured using the SNP Government’s NPD/PFI model?
3. Outline all the capital and revenue costs related to the construction of Garnock campus, financed through the Council’s Capital Investment Programme?”

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

“Following the Council meeting on 16 February 2022 and in response to the questions raised around PPP at that time, further detailed information was provided to all Members that outlines the types of contracts North Ayrshire is currently contracted to and the financial implications of each.

To address the specific points included in this particular question, I can confirm that financial support of £159.9m is being provided by the Scottish Government over the course of the 30-year PPP contract which includes Stanley Primary, Arran High, Greenwood Academy and St Matthew’s Academy which in 2022/23 equates to £5.857m. It is important to note that this contract includes costs associated with cleaning and janitorial services and lifecycle maintenance.

Under the Design, Build, Finance and Maintain (DBFM) model used in respect of the construction and maintenance of Largs Campus, the total capital cost of construction was £48.879m with £44.264m funded by Scottish Government. In terms of recurring revenue cost, this totals £77.716m over the 25-year contract with £39.267m funded by Scottish Government. This contract includes lifecycle maintenance costs. The total annual Unitary Charge cost for 2022/23 is anticipated to be £4.098m. From this, a total of £3.343m is funded by Scottish Government.

The construction of Garnock campus was financed through borrowing within the Council's Capital Investment Programme. The total capital cost of construction was £40.343m. The cost of financing this borrowing over a 25-year period through the Council's revenue budget and including some additional operating cost pressures totals £63.500m. This cost does not include any lifecycle maintenance or services. The total annual cost associated with borrowing estimated for 2022/23 is £2.267m."

As a supplementary question, Councillor Gallagher asked whether the Leader agreed with him that the NPD ('non-profit distributing') model was a PFI model and that spending under NPD was much the same as it would be under PFI, the only difference being that, at the end of the NPD contract, some of the surpluses of the contract would go to a delegated charity.

Councillor Cullinane responded by agreeing that NPD was a continuation of PFI. The Leader expressed the view that, in terms of general capital investment, the costs associated with the Garnock Campus model had demonstrated the potential for a different model which could be undertaken if there was the political will to do so, and it was this model which had been taken forward in respect of the Lockhart Campus.

(2) a question by Councillor Foster to the Leader of the Council in the following terms:

"Can the Leader of the Council confirm the total number of cases logged on the Council's Lagan system this term by members of (a) the Labour Group, (b) the SNP Group and (c) the Conservative and Unionist Group?"

Councillor Cullinane thanked the Member for his question and, on the advice of the Council's Monitoring Officer, responded in the following terms:

"The Council entered the pre-election period on 14 March 2022 following publication of the notice of election relating to the Local Government Election which takes place on 5 May 2022.

The Council will therefore not publish the information requested on the basis that it relates to members of political parties and other independent councillors who may be seeking re-election on 5 May.

The information will be provided to all Councillors following the meeting."

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

"Will the Leader commit to support a judge led public inquiry into the North Ayrshire Schools PPP Project, which is currently costing taxpayers over £1 million a month, and will cost the public purse over £400 million in total for four schools with a capital value of just £83 million: or does the Leader consider that North Ayrshire taxpayers just have to keep paying for the contract?"

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

“It is good to hear the Member acknowledging that I oppose all forms of PFI, including the NPD model. He asks about the repayment of the PPP contract: the Member knows that I have written to two separate Finance Secretaries requesting the Scottish Government’s participation to explore opportunities to renegotiate and refinance the contract. That would be similar to what our Administration has done with other loans, delivering tangible benefits for North Ayrshire.

The earlier response to Councillor Gallagher’s question illustrates why the Scottish Government must be involved in any renegotiation. As the Member knows, the Scottish Government is providing almost £160m towards the PPP contract in specific grant and a renegotiation which does not include a commitment from the Scottish Government of ongoing financial support for the renegotiated costs would leave North Ayrshire Council worse off.

In terms of a judge-led inquiry, Councillor McNicol has been a member of this Council for 15 years. He knows the difference between a question and a motion and knows that such matters are not for me to decide as one councillor out of 33. If the Member wanted to propose a judge-led inquiry, he should have brought a motion and put it to a vote.”

As a supplementary question, Councillor McNicol repeated his question on whether the Leader was prepared to seek a judge-led enquiry.

The Head of Democratic Services advised that Councillor Cullinane had already answered the Member’s question as part of his original response.

(4) a question by Councillor Gallacher to the Cabinet Member for Green New Deal and Sustainability in the following terms:

“In approximately what year will the Council’s renewables projects be bringing in the first of the tens of millions of pounds of income for North Ayrshire Council, once all construction and set-up costs have been recovered?”

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

“The generation of renewable, municipally-owned energy will be an integral part of our pathway to net-zero emissions, as well as delivering financial and community benefits. The income from our renewable energy projects will start when the installations begin generating electricity, as referenced in the recent Council budget papers. The Cabinet reports approved last year, also provide further information on the proposed business model.”

As a supplementary question, Councillor Gallacher asked for clarification in terms of the year in which all of the set-up costs of the projects would be recovered.

Councillor Montgomerie responded by suggesting that the two solar farm projects at Nethermains and Shewalton and two potential solar arrays and three turbines at the i3 site had the potential to generate the levels of gross income mentioned in the question.

(5) a question by Councillor Miller to the Leader of the Council in the following terms:

"Can the Leader of the Council confirm that North Ayrshire Council has no contractual or other dealings with Russia?"

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

"From an analysis of Council contracts and spend I can confirm that there are no current contractual arrangements in place with Russia. I can also confirm that following a recent update from the Council's Treasury Management Advisors all funds held by the Council have no direct or indirect financial exposure to Russian entities."

As a supplementary question, Councillor Miller asked whether there had been any dealings with Russia in the past.

Councillor Cullinane responded by advising that he did not have any information on any historical contractual arrangements, but was able to confirm that there were no current contracts or investments.

(6) a question by Councillor Murdoch to the Cabinet Member for Green New Deal and Sustainability in the following terms:

"Last year I proposed an additional £1million be added to the budget to improve the roads infrastructure. The motion was seconded by Councillor Donald L Reid. We were informed that it would take 35 times that amount to bring the roads network up to standard at that time.

Can the Cabinet Member please provide the current figure that would be necessary to bring the North Ayrshire Roads Infrastructure totally up to date?"

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

"The carriageway backlog figures for local authorities are calculated through the Scottish Road Maintenance Condition Survey project. These figures are reported to Audit Scotland regularly as required but are not calculated on an annual basis. The current backlog figure for North Ayrshire is £34.8million and was calculated in 2019."

As a supplementary question, Councillor Murdoch suggested that the roads network may have deteriorated considerably since 2019 and asked when an updated calculation would be available.

Councillor Montgomerie responded by undertaking to liaise with officers and provide the requested information to Members.

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

“Is the Leader of the Council concerned about the poor Ferry provision for Cumbrae residents, businesses and tourists?”

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

“Yes, I am concerned about the reliability of both our ferry services to Arran and Cumbrae. They are lifeline services to our islands and the island residents, businesses and prospective visitors, I believe, are being let down at the moment. The number of cancellations is unacceptable and a direct consequence of the failure to maintain an efficient ferry fleet. Of course, issues around harbour infrastructure at Ardrossan are also a concern for the Arran ferry, but there is a widely expressed view on Arran that the Brodick redevelopment may also have made the service worse due to the positioning of the pier.

Cabinet recently approved 10-year island plans for Cumbrae and Arran, developed through engagement with the islands, and Councillor Gallagher, as the Islands portfolio lead went to Arran to launch the plan last week. He was unable to leave the island for several days due to ferry cancellations, reinforcing the view that, without a reliable, efficient ferry service, our wider ambitions and aspirations for our islands will be severely hindered.”

As a supplementary question, Councillor Murdoch made reference to an invitation by the North Coast and Cumbraes Members for the Transport Minister to meet with North Ayrshire Council Members and asked for the Leader’s support in this matter. Councillor Cullinane responded by advising that he had already had a conversation with the new Transport Minister in relation to the Ardrossan Ministerial Taskforce and some engagement with the island community on Arran had been agreed. The Leader confirmed that he saw no issue in seeking to extend that invitation to the community of Cumbrae.

11. Urgent Item

In terms of Standing Order 9.5, the Depute Provost agreed that the Council consider the following as a matter of urgency given the current position with regard to Ukraine.

11.1 Ukraine

In terms of Standing Order 9.5, submitted an urgent motion by Councillor Gurney, seconded by Councillor Davidson. Councillor Gurney thanked Councillor Ferguson for his contribution to the motion. The motion was put to Council in the following terms:

“In recognition of the invasion of Ukraine, the motion is that:

1. North Ayrshire Council is appalled at the ongoing illegal invasion of Ukraine by Russia and joins with the civilised world in condemning the actions of President Putin in initiating the war which is taking an increasing toll of military personnel and non-combatant civilians alike.
2. The Council welcomes the statement from the Prosecutor of the International Criminal Court on the intention to open an investigation in relation to possible crimes against humanity and war crimes committed in Ukraine
3. The Council supports the Scottish and UK Governments, other nations and allies in deploying sanctions aimed at ending the illegal Russian invasion and supporting the government and people of Ukraine in the defence of their country and the lives and liberties of their people.
4. To note the Cabinet decision of 8 March 2022 in that the Council stands ready to assist by offering humanitarian support and refuge to the people of Ukraine in this ordeal, as it has recently done for Syrian refugees, those evacuated from Afghanistan, and those fleeing persecution in Hong Kong.
5. The Council agrees that the invasion of Ukraine and the ongoing occupation of the Crimean peninsula and parts of the Donetsk and Luhansk oblasts, is a reminder that peace, stability and democracy cannot be taken for granted, even in Europe, and emphasizes the value and importance of international institutions including the United Nations, the European Union, the OSCE, the Council of Europe and NATO in continuing to safeguard and advance democracy, mutual security and economic prosperity in Europe and beyond.
6. North Ayrshire Council stands with Ukraine and its people in these terrible times. And, with those Russians who are not responsible for this war, many of whom bravely speak out against it - thousands of whom have been arrested by the Russian State for taking part in peaceful protests.
7. The Council instructs the Chief Executive to write to Andrey Kelin, Ambassador of Russia to the United Kingdom, conveying the Council's condemnation of the actions of the Russian Government.

8. The Council instructs the Chief Executive to write to Vadym Prystaiko, Ambassador of Ukraine to the United Kingdom, conveying the Council's united solidarity with that of the Ukrainian Government, and the people of Ukraine."

There being no amendment, the motion was declared carried.

12. Closing Remarks

The Depute Provost took the opportunity to extend his thanks to officers for their help over the last five years and to Elected Members for their work.

The meeting ended at 2.55 p.m.