

**MINUTES of MEETING of ARGYLL AND BUTE COUNCIL held in the COUNCIL CHAMBER, KILMORY,
LOCHGILPHEAD
on THURSDAY, 26 MAY 2005**

Present: Convener William Petrie (Chair)

Councillor Robin Banks	Councillor John McAlpine
Councillor Brian Chennell	Councillor Alastair McKinlay
Councillor Rory Colville	Councillor Gordon McKinven
Councillor Douglas Currie	Councillor Bruce Marshall
Councillor Robin Currie	Councillor Ellen Morton
Councillor George Freeman	Councillor Gary Mulvaney
Councillor Ian Gillies	Councillor Al Reay
Councillor Alison Hay	Councillor Bruce Robertson
Councillor Daniel Kelly	Councillor Elaine Robertson
Councillor Ronald Kinloch	Councillor Len Scoullar
Councillor Allan Macaskill	Councillor Moyra Stewart
Councillor Alistair MacDougall	Councillor Isobel Strong
Councillor Sidney MacDougall	Councillor John Tacchi
Councillor Duncan MacIntyre	Councillor Eric Thompson
Councillor Robert Macintyre	Councillor Dick Walsh
Councillor Donald MacMillan	

Attending: James McLellan, Chief Executive
Nigel Stewart, Director of Corporate Services
Douglas Hendry, Director of Community Services
George Harper, Director of Development Services
Andy Law, Director of Operational Services
Bruce West, Head of Strategic Finance
Mike Geraghty, Project Director, NPDO
Donald Kelly, Chief Solicitor
Mike Casey, NPDO Project Team
Darran Muir, Capita Symonds
Peter McNeill, Capita Symonds
Michael Pryor, Ernst & Young
Julia Kennedy, Shepherd & Wedderburn
Claire Phillips, PUK

Prior to the commencement of business the Convener announced that Isobel Soudan, Principal Registrar of Births, Deaths and Marriages was retiring after 37 years of service with the Council. The Convener, on behalf of the Council, had taken the opportunity to make a presentation to her at the Annual AGM of Registrars Association which was held recently in Oban.

John Fletcher, Council Officer was also retiring after 19 years of service with the Council. The Convener would present him with an appropriate gift to mark the occasion in due course. He thanked them both for their loyal service and wished them and their families good health and happiness on their retirement.

1. APOLOGIES FOR ABSENCE

Councillor John Findlay, Councillor Donald Kelly, Councillor James McQueen.

2. EDUCATION PPP/NPDO PROJECT

The Council considered a report by the Director of Community Services which made

recommendations to pass various resolutions required to enable financial close to be achieved in respect of the Education PPP/NPDO Project. The report had a number of Annexes, some of which contained exempt information in terms of Section 50 of the Local Government (Scotland) Act 1973.

The Director of Community Services introduced and answered questions on his report which recommended that the Council pass the resolutions required to enable financial close to be achieved in relation to the design, build, finance and operate the new school premises comprising the schools at Dunoon Grammar, Lochgilphead Joint Campus, Oban Primary Campus and Rothesay Joint Campus and to enable Hermitage Academy to be dealt with in accordance with the Project Agreement.

Mike Casey, NPDO Project Team and Darran Muir of Capita Symonds gave a presentation and answered questions on the educational and technical requirements and provisions of the NPDO Project relative to Annex 1 to the report by the Director of Community Services.

The Council resolved in terms of Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public during consideration of Annexes 2, 3, 4 and 5 of the report by the Director of Community Services on the grounds that it was likely to involve disclosure of exempt information as defined in paragraphs 6,8 & 9 of Part 1 of Schedule 7A of the Act.

Donald Kelly, Chief Solicitor and Julia Kennedy, Shepherd & Wedderburn gave a presentation and answered questions on the legal and commercial issues arising from the NPDO Project, relative to Annex 2.

Bruce West, Head of Strategic Finance and Michael Pryor, Ernst & Young gave a presentation and answered questions on the financial issues arising from the NPDO Project, relative to Annex 3.

Mike Geraghty, Project Director gave a presentation and answered questions on the Final Business Case that the Scottish Executive required to provide Revenue Support Grant for the NPDO, relative to Annex 4.

Bruce West, Head of Strategic Finance gave a presentation and answered questions on how the Council will address the affordability gap, relative to Annex 5. Thereafter the press and public returned to the meeting.

Decision

The Council passed the following resolutions unanimously:

1. The Council –
 1. Notes the educational and technical requirements set out in Annex 1 and its appendices prepared by the Project Director.
 2. Notes the legal and commercial issues set out in Annex 2 and its appendices prepared by the Chief Solicitor, Conveyancing, Contracts & Estates.
 3. Notes the financial issues set out in Annex 3 prepared by the Head of Strategic Finance.
 4. Approves the Final Business case set out in Annex 4 prepared by the Project Director and authorises its submission to the Scottish Executive.
 5. Notes the affordability gap and approve the recommendations in Annex 5

prepared by the Head of Strategic Finance.

All relative to the design, construction and financing of new school premises comprising the Dunoon Grammar, the Lochgilphead Joint Campus, the Oban Primary Campus, the Rothesay Joint Campus and the replacement Hermitage Academy and associated facilities and the provision of services required for the proper maintenance and the efficient running of the school buildings and other facilities in accordance with the Government's Public Private Partnership Programme ("the Project").

2. The Council authorises the Director of Community Services to negotiate, agree and enter into on behalf of the Council, and resolves that the Council will perform the obligations contained in, inter alia the following contractual documents, and all other contractual documents which the Council may require to enter into in relation to the Project.
 - (a) The Project Agreement ("the Contract") between Argyll and Bute Council and ABC Schools Limited ("the Contractor"); and
 - (b) The Funders Direct Agreement between the Council, the Contractor and the agent for the Senior Finance Parties in connection with the Project ("the Direct Agreement").
3. The Council has the power to enter into the Contract and the Direct Agreement and all other contractual documents in relation to the Project, in terms of Section 1, Section 6, Section 17, Section 20 and Section 53 of the Education (Scotland) Act 1980; Section 14 and Section 15 of the Local Government and Planning (Scotland) Act 1982 and Section 69, Section 123 and Section 163 of the Local Government (Scotland) Act 1973.
4. The Director of Corporate Services or the Head of Legal and Protective Services are duly authorised to sign and deliver the Contract, the Direct Agreement and all other contractual documents in relation to the Project, on behalf of the Council.
5. The Contract and the Direct Agreement and all other contractual documents which the Council is required to enter into with the Contractor in relation to the Project to which the Council is a party, shall be certified contracts within the meaning of Section 2 of the Local Government (Contracts) Act 1997 ("the 1997 Act") and shall meet the certification requirements within Section 3 of the 1997 Act and that the said Director of Corporate Services and Head of Legal and Protective Services are duly authorised to sign and issue the certificates in terms of the 1997 Act.
6. The Council finally notes with regret that due to outstanding planning contractual and financial matters, Hermitage Academy will not proceed within the timetable for the other schools set out in the Project Agreement, but the Council reaffirms its acceptance of the need to provide a replacement Hermitage Academy as its number 1 educational priority and commits itself to implementing the Academy rebuild as soon as possible after satisfactory resolution of the outstanding planning, contractual and financial matters.

(Ref: Reports by the Director of Community Services together with Annexes and Appendices dated 26 May 2005, submitted).

The Convener thanked the Council's Officials, the External Advisors and Councillors for all their hard work involved in bringing the NPDO Projects to fruition.

3. MINUTES

The Council approved the Minutes of the Council Meeting of 6 May 2005 as a correct record.

4. MINUTES OF COMMITTEES

The Committee considered the following Minutes. They approved the recommendations of those Committees subject to what is shown below:-

- (a) Appointments Panel 30 March 2005
- (b) Public Service and Licensing Committee 31 March 2005
- (c) Housing Stock Transfer Ad Hoc Committee 31 March 2005
- (d) Appeals Committee 1 April 2005
- (e) Mid Argyll, Kintyre and Islay Area Committee 4 April 2005

Arising from item 15 (**Public Water Supplies on Islay**) the Council endorsed the recommendation by the Mid Argyll, Kintyre & Islay Area Committee which asked that the Council pursue with the Scottish Water Industry Commissioner and the Scottish Water Customer Panel the question of the adequacy of funding to enable development in areas on Islay, which are currently constrained by lack of water availability and also referred the issue to the new Argyll & Bute Strategic Housing Forum.

Arising from item 18 (**The Provost Greenlees Trust**) the Council agreed not to delegate responsibility to deal with applications to the Provost Greenlees Trust to Members representing the three Campbeltown wards, and that responsibility should remain with the Area Committee.

- (f) Helensburgh and Lomond Area Committee 5 April 2005
- (g) Bute and Cowal Area Committee 5 April 2005
- (h) Oban, Lorn and the Isles Area Committee 5 April 2005
- (i) Strategic Policy Committee 13 April 2005
- (j) Appointments Panel 20 April 2005
- (k) Bute and Cowal Area Committee 3 May 2005
- (l) Helensburgh and Lomond Area Committee 3 May 2005
- (m) Mid Argyll, Kintyre and Islay Area Committee 4 May 2005
- (n) Strategic Policy Committee (Education) 5 May 2005
- (o) Strategic Policy Committee 5 May 2005
- (p) Public Service and Licensing Committee 12 May 2005

5. COUNCIL CONSTITUTION

The Council considered a report which advised on the work undertaken by Corporate Services in relation to the revision of the Council's Governance documentation and the formation of a Council Constitution to contain all revised Governance Documentation. The Council were asked to approve and adopt the Council Constitution. The Council also considered a report which advised on the implications for elements of the Constitution of the Land Reform (Scotland) Act 2003 (Part 1) which came into force on February 2005.

Decision

To continue both reports to the next Council Meeting and agreed that a Policy Development Group be formed consisting of 5 Members being Councillors Macaskill (chair), Walsh, Freeman, Hay and Scoullar to consider the reports and to report back to the Council Meeting.

(Ref: Report by Director of Corporate Services dated 26 May 2005, Report by Director of Development Services dated 26 May 2005, submitted and Council Constitution previously circulated).

6. MEMBERS' ALLOWANCES 2004/2005

Details of allowances paid to Members of this Council during 2004/05 as part of the Accounts for the Council for that year were outlined.

Decision

To note the publication of the tables of allowances paid to Members during 2004/05.

(Ref: Report by Director of Corporate Services dated 5 May 2005, submitted)

The Committee resolved in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude the public for the following item of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraphs 8 and 9 respectively Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

7. BRUICHLADDICH PIER

The Council considered a report which provided an update on the business case now that tenders had been returned and which asked the Council to consider whether the scheme should be approved for progression to the acceptance of a tender.

Decision

Agreed to proceed with the project as recommended within the report as submitted.

(Ref: Joint report by the Head of Transportation & Infrastructure and the Head of Strategic Finance dated 12 May 2005).