

ABERDEEN CITY COUNCIL

Town House,  
ABERDEEN, 25<sup>th</sup> January 2012

MINUTE OF SPECIAL MEETING OF ABERDEEN CITY COUNCIL

Sederunt:

Lord Provost Peter Stephen, Chairperson;  
Councillor Bill Cormie, the Depute Provost; and

COUNCILLORS

GEORGE ADAM	NEIL MacGREGOR
YVONNE ALLAN	CALLUM McCAIG
MARIE BOULTON	MARK McDONALD MSP
NORMAN COLLIE	AILEEN MALONE
NEIL COONEY	ANDREW MAY
JOHN CORALL	ALAN MILNE
IRENE CORMACK	JAMES NOBLE
BARNEY CROCKETT	GEORGE PENNY
KATHERINE DEAN	JOHN REYNOLDS
ALAN DONNELLY	RICHARD ROBERTSON
JACQUELINE DUNBAR	JENNIFER STEWART
JAMES FARQUHARSON	JOHN STEWART
NEIL FLETCHER	KEVIN STEWART MSP
GORDON GRAHAM	WENDY STUART
MARTIN GREIG	GORDON TOWNSON
JAMES HUNTER	JOHN WEST
LEONARD IRONSIDE	KIRSTY WEST
MURIEL JAFFREY	JILLIAN WISELY
JAMES KIDDIE	WILLIAM YOUNG
JENNIFER LAING	and
GORDON LESLIE	IAN YUILL

Lord Provost Peter Stephen, in the Chair;

**The agenda and reports associated with this minute can be found at:-**

<http://committees.aberdeencity.gov.uk/ieListDocuments.aspx?CId=122&MId=2395&Ver=4>

## **MARISCHAL COLLEGE**

1. The Council received an update from the Head of Asset Management and Operations in regard to problems that had been encountered at Marischal College the previous day due to a fault with the water supply. The fault had been identified and a temporary fix made pending the arrival of a part required for a permanent repair - in the meantime staff would be able to return to work as usual.

**The Council resolved:-**  
to note the update.

## **ANNOUNCEMENT**

2. Councillor McCaig congratulated Councillor Blackman (nee West) on her recent marriage and wished her and her family well for the future

**The Council resolved:-**  
to concur with Councillor McCaig's remarks.

## **LOCAL AUTHORITY TRADING COMPANY**

3. The Lord Provost advised that the above report by the Director of Social Care and Wellbeing had been withdrawn from the agenda and would be considered by the Social Care and Wellbeing Committee on 2<sup>nd</sup> February 2012.

**The Council resolved:-**  
to note the position.

## **DETERMINATION OF EXEMPT BUSINESS**

4. The Council was requested to determine that the following item of business, which contained exempt information as described in Schedule 7(A) of the Local Government (Scotland) Act 1973, be taken in private:-

7. Strategic European Hydrogen Transport Projects - Report by Director of Enterprise, Planning and Infrastructure

**The Council resolved:-**  
in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973, to exclude the press and public from the meeting during consideration of item 7 (Article 10 of this minute refers) so as to avoid disclosure of exempt information of the class described in paragraph 6 of Schedule 7(A) of the Act.

## **REQUESTS FOR DEPUTATIONS**

5. The Council had before it, in accordance with Standing Order 10(1), the following requests for deputations, all in relation to the report on the City Garden Project:-

Ms Suzanne Kelly  
 Mr Mike Shepherd, Friends of Union Terrace Gardens  
 Just Imagine!  
 Mr John Michie, Aberdeen City Centre Association  
 Aberdeen City Gardens Trust  
 Mr David Henderson

**The Council resolved:-**

to accept the requests, and to hear the deputations immediately prior to the report being considered.

**CITY GARDEN PROJECT - EPI/12/032**

6. (A) In terms of Standing Order 10(2), the Council received a deputation from Ms Suzanne Kelly.

Ms Kelly stated that in the interests of democracy, transparency and consultation with the people of Aberdeen, she was asking the Council to vote against any motion this day which would prematurely progress the City Garden Project, and that any decision be postponed until the following basic conditions had been met:-

- The public referendum has taken place and the majority of the public support the Granite Web;
- The local government elections have taken place in May; and
- Sufficient time has passed for the public and Councillors to properly consider the PricewaterhouseCoopers report.

Ms Kelly requested that before any further progress or expenditure on the City Garden Project, the Council should arrange for the following to be provided for public consideration:- (1) a report on legal protection accorded to Common Good land and acknowledgement of the fact that Union Terrace Gardens is Common Good land; (2) detailed costings for the project design to be implemented; (3) full architectural drawings to scale; and (4) an environmental impact assessment.

Ms Kelly concluded that to take any action moving such an impossible and undesirable scheme forward before a referendum and before the May elections, would undermine any transparency, democracy, inclusion or consultation the Council claimed existed. Ms Kelly urged members not to proceed with the project, and to vote to retain Union Terrace Gardens when they received their ballot papers in the referendum.

Members asked questions of Ms Kelly and thanked her for her contribution.

(B) The Council then received a deputation from Mr Mike Shepherd of Friends of Union Terrace Gardens.

Mr Shepherd referred to the ninth recommendation within the report, and advised that he had made an official complaint to the Council that officers were recommending progression of the project before the outcome of the referendum was known, which gave the impression the Council was telling the public how it wanted them to vote.

Mr Shepherd also referred to the sixth recommendation within the report, highlighting that another £300,000 of Council funding was being requested for the project, in addition to the money required for the Council's share of the cost of the referendum, which was in total contrast to previous promises that the Council would not be required to contribute any money towards the project.

Mr Shepherd stated that the Tax Incremental Funding (TIF) Business Case was seriously flawed, and questioned a number of statements and figures contained within it, which he felt were totally spurious and based upon very loose assumptions.

Members asked questions of Mr Shepherd and thanked him for his contribution.

(C) The Council next received a deputation from Mr John Shewell of Just Imagine!

Mr Shewell acknowledged that the City Garden Project had been divisive, however he underlined that Aberdeen needed to change to survive. He called on the elected members and citizens of Aberdeen to imagine the long term future of the city when making their decision in relation to the project, rather than solely focusing on the pros and cons of the current gardens.

Mr Shewell intimated that the TIF Business Case was an excellent document and drew comparisons with Dundee in terms of city centre regeneration. He emphasised that a sympathetic enhancement of the existing gardens would not bring about the major regeneration that Aberdeen city centre needed.

Mr Shewell concluded that Aberdeen was doing well in terms of the city economy right now, however the economy needed to diversify for the future - the City Garden Project was a once in a lifetime opportunity and the city could not afford to lose it. Mr Shewell urged members to show leadership in the face of such a difficult decision and to show imagination for the city.

Members asked questions of Mr Shewell and thanked him for his contribution.

(D) The Council next received a deputation from Mr John Michie of Aberdeen City Centre Association who was accompanied by Mr Charles Landry.

Mr Landry emphasised that there was far greater competition between cities across the world than ever before, and drew comparisons with a number of other cities such as Perth, Australia, and Calgary in Canada. He added that the oil and gas industry was gradually weakening which would have a dramatic impact in Aberdeen as other cities moved ahead of it in punching above their weight.

Mr Landry advised that many of the world's well respected modern landmarks had been contentious projects at their inception, and cited the Sydney Opera House, the Guggenheim Museum in Bilbao and the High Line in New York, all of which were now hugely popular both locally and internationally.

Mr Michie referred to the TIF Business Case, underlining that he wanted greater employment within the city for future generations. He added that Aberdeen had been fortunate with the oil bonanza which could not be replicated but the City Garden Project

was a golden opportunity for the city to become a player on the international stage. Mr Michie hoped for a big turnout in the referendum and pleaded with those eligible to vote for the City Garden Project.

Members asked questions of Mr Michie and Mr Landry and thanked them for their contribution.

(E) The Council next received a deputation from Mr Colin Crosby of Aberdeen City Gardens Trust, who was accompanied by Ms Jennifer Craw.

Mr Crosby spoke in support of the report members had before them and endorsed the recommendations contained therein. He explained that there was no guarantee that this opportunity for the city would be here tomorrow; there was no 'Plan B' and the funds that had been identified could not be used for any other purpose.

Mr Crosby explained how TIF worked in basic terms and likened it to a person buying a house with an initial deposit and paying off the rest of the purchase price via a mortgage. In the case of the City Garden Project, the deposit was money from the private sector and the mortgage repayments would be met by additional business rates brought about by the regeneration of the city.

Mr Crosby emphasised that the City Garden Project was feasible and affordable - Aberdeen needed to grasp the nettle and be more aspirational as a city. Mr Crosby added that he was looking forward to members receiving the presentation from architects Diller Scofidio + Renfro, as, in his opinion, the imagery was mind-blowing.

Members asked questions of Mr Crosby and thanked him for his contribution.

(F) The Council next received a deputation from Mr David Henderson.

Mr Henderson stated that the city had too much to lose in supporting the City Garden Project, it was excessive in terms of cost and risk. He repeated earlier speakers' comments that the Council should not be prejudicing the outcome of the referendum by making decisions at this stage.

Mr Henderson advised that he was in favour of a sympathetic redevelopment of Union Terrace Gardens and had some ideas but would need to work with Council officers to develop them.

Mr Henderson referred to the TIF Business Case, repeating earlier comments regarding estimated figures and assumptions contained within it, and expressed reservations about the project being delivered within budget.

Members asked questions of Mr Henderson and thanked him for his contribution.

(G) After the deputations had been concluded, the Council received a presentation from Mr Charles Renfro of Diller Scofidio + Renfro, the architects of the preferred design, the Granite Web, who, with the aid of audio and video technology, described the many elements of the proposed design and the rationale behind them, emphasising that the design was unique to Aberdeen and would totally regenerate the city centre.

Members thanked Mr Renfro for his presentation.

(H) The Council had before it a report by the Director of Enterprise, Planning and Infrastructure which advised of the current position in regard to the City Garden Project (CGP) and sought approval to progress certain specific actions aimed at moving the project forward to the formal planning application process.

**The report recommended:-**

that the Council -

- (a) engage in future activities required to progress the CGP, subject to obtaining public endorsement of the proposed CGP design (see Appendix 1 to the report) in the proposed public referendum on 1<sup>st</sup> March 2012; and ensuring that Council engagement in such activities cannot, in any respect, be construed as prejudicial to any future planning process;
- (b) instruct officers to enter into negotiations with a view to putting in place a development agreement with Aberdeen City Gardens Trust (ACGT) and/or their representatives, which sets out the terms upon which Aberdeen City Council (ACC) would be prepared to make necessary Council owned land available, to realise the proposed development described in Appendix 1 of the report after 1<sup>st</sup> March subject to:-
  - a. Council owned land, made available for the project, remaining in Council ownership, in perpetuity;
  - b. Any assets built upon the land in question becoming the property of the Council;
  - c. ACGT producing a viable business plan for the construction and future operation of the CGP (“the CGP Business Plan”) which will be used to underpin the development agreement, and in addition to the normal information contained within a commercial business plan, will also need to confirm:-
    - That sufficient provision has been made to enable future management and maintenance of the development, to a high standard, without the need for any direct revenue support from the Council and/or the Common Good Fund;
    - That the minimum amount of space possible, i.e. only as much as is needed to secure the development’s long-term financial sustainability, will be used for wholly commercial or semi-commercial purposes, and that the remaining space will be used for civic, cultural, communal and non-commercial leisure purposes; and
    - The expected use of the internal and external space by including a full description of the proposed civic, cultural and acceptable commercial and semi commercial uses;
- (c) require that the Finance and Resources Committee will scrutinise and approve the final terms of the development agreement before it is signed by all relevant parties;
- (d) instruct officers to submit a detailed business case (based on the document attached as Appendix 2 to the report), as the basis for negotiating a final Tax Increment Financing (TIF) agreement with Scottish Futures Trust (SFT), which will enable Aberdeen City Council to fund enabling infrastructure related to the proposed City Centre Regeneration Programme, and which specifically:-

- a. Secures a maximum funding contribution of £70million towards the CGP, in recognition of this project's significance to the delivery of the City Centre Regeneration Programme;
  - b. Secures a further £22million towards the other projects identified within the City Centre Regeneration Programme; and
  - c. Mitigates the risks to Aberdeen City Council and ensures that the Council is not placed in a position whereby it is exposed to any additional risks, other than the risks highlighted in the attached business case;
- (e) require the Finance and Resources Committee to scrutinise the terms of and approve the final TIF Agreement before it is signed by all relevant parties;
  - (f) agree to fund all Council costs (external and internal) associated with drafting and negotiating necessary future legal agreements associated with the project (e.g. development agreement, TIF agreement, future operating agreement, lease agreements etc), subject to a maximum cost of £300,000, to be met from the Council contingency budget;
  - (g) agree that no direct funding will be provided towards the cost of designing, planning or constructing the CGP, other than that:-
    - a. generated through the proposed TIF Agreement;
    - b. already committed to the public referendum being held to gauge support for the CGP;
    - c. required to cover external fees associated with the negotiation and production of necessary legal documentation between Aberdeen City Council and ACGT and/or other project stakeholders; or
    - d. required to cover the cost of officer time committed to supporting future activities needed to realise the CGP, subject (see recommendation (a));
  - (h) encourage negotiations to take place between various Council services and ACGT relating to the possible exploitation of space within the development for art, cultural, leisure and heritage purposes, on a financial basis that is commensurate with the requirement to minimise the CGP's future ongoing management and maintenance costs (see (b)c above);
  - (i) request ACGT to appoint the design team associated with the preferred design scheme (see Appendix 1) and move forward with the detailed design process in parallel with negotiations relating to the Development Agreement and the TIF Agreement, as soon as possible after the result of the public referendum is known and assuming this confirms public support for the CGP;
  - (j) require ACGT to confirm, in a legally binding form, that they have access to at least £70million of private sector funds to invest in the CGP, prior to the signing of:-
    - a. An appropriate Development Agreement; and
    - b. A TIF agreement confirming Aberdeen City Council's ability to invest at least £70million in enabling infrastructure related to the CGP; and
  - (k) agree that notwithstanding the approval of the foregoing recommendations, the Council is forming no view of any proposed development in its capacity as planning authority.

Councillor John Stewart moved, seconded by Councillor Corall:-

That the Council approve the recommendations contained within the report.

Councillor Yuill moved as an amendment, seconded by Councillor Boulton:-

That this Council agrees:-

1. To note the outcome of the 'City Gardens' design competition;

2. That it would be inappropriate for the Council to take any action which would appear to pre-empt the result of the referendum on 1<sup>st</sup> March;
3. That the Council will therefore not progress any matters or incur any expenditure related to the 'City Gardens' scheme - except those directly linked to the conduct of the referendum - before the outcome of that referendum is known;
4. To instruct officers to report to a future meeting of the Council on the implications of the result of the referendum once that result is known; and
5. To otherwise note the report.

Councillor Crockett moved as a further amendment, seconded by Councillor Cooney:-

That the Council:-

1. Notes the decision of Council of 15<sup>th</sup> December 2011 regarding a referendum;
2. Notes the design selected in the City Garden Project design competition;
3. Agrees that Council should not consider matters further today and should meet following the result of the referendum and decide to either progress the project or not; and
4. Agrees in the meantime to consult further with Aberdeen Youth Council and other relevant civic groups.

During the course of his summing up, Councillor Crockett agreed to withdraw his amendment in support of the amendment by Councillor Yuill, subject to Councillor Yuill's amendment incorporating part 4 of his amendment - this was accepted by Councillor Yuill and those present.

On a division, there voted:-

For the motion (24) - Lord Provost Peter Stephen; Depute Provost Cormie; and Councillors Blackman, Collie, Corall, Cormack, Dean, Donnelly, Dunbar, Jaffrey, Kiddie, MacGregor, McCaig, McDonald MSP, Malone, May, Noble, Penny, Robertson, John Stewart, Wendy Stuart, Townson, West and Wisely.

For the amendment (15) - Councillors Adam, Allan, Boulton, Cooney, Crockett, Farquharson, Hunter, Ironside, Laing, Leslie, Milne, Reynolds, Jennifer Stewart, Young and Yuill.

**The Council resolved:-**

to adopt the motion.

**In terms of Standing Order 15(6), Councillors Adam, Allan, Cooney, Crockett, Hunter, Ironside, Laing and Young intimated their dissent against the foregoing decision.**

## **ADOPTION OF ABERDEEN LOCAL DEVELOPMENT PLAN - EPI/12/031**

7. The Council had before it a report by the Director of Enterprise, Planning and Infrastructure which presented the Examination Report on the Aberdeen Local Development Plan, the table of modifications arising from the report and the Aberdeen Local Development Plan, as modified, for adoption.



**The report recommended:-**

that the Council -

- (a) note the Examination Report on the Aberdeen Local Development Plan;
- (b) approve the modifications made to the Plan, as set out in Appendix 1 to the report, and any minor drafting changes;
- (c) notify Scottish Ministers of the Council's intention to adopt the Aberdeen Local Development Plan as modified, unless directed otherwise by them; and
- (d) adopt the Aberdeen Local Development Plan with effect from 29<sup>th</sup> February 2012, unless directed otherwise by Scottish Ministers and following completion of the statutory procedure as set out in Appendix 7 to the report.

Councillor Dean moved, seconded by Councillor Corall:-

That the Council approve the recommendations contained within the report.

Councillor Farquharson moved as an amendment:-

That the Council accept recommendations (a), (b) and (c) contained within the report but amend (d) to read as follows:-

- (d) adopt the Aberdeen Local Development Plan with effect from 29<sup>th</sup> February 2012, unless directed otherwise by Scottish Ministers and following completion of the statutory procedure as set out in Appendix 7 to the report, subject to ensuring that all major associated infrastructure requirements related to new developments have been put in place before the development adversely affects the area in question. This action is indicated as necessary by the Risk Assessment section of the Local Development Plan Risk Register - July 2010.

Following advice from officers that the Local Development Plan could not be adopted and amended at the same time, the Lord Provost ruled Councillor Farquharson's amendment incompetent in terms of Standing Order 18(1)(iii).

Councillor Reynolds moved as an amendment:-

That the Council:-

- (a) approve the recommendations contained within the report subject to the removal of the allocation of properties from OP12 Grandhome, namely 2,600 (2007-2016), 2,100 (2017-2023) and 2,300 (2024-2030) totalling 7,000, and reallocate to Clinterty with the same phasing, and instruct officers to report back as a matter of urgency on alternative locations for the balance; and
- (b) agree to insert as a development opportunity the land on Denmore Road, currently used as playing fields.

On the basis of the advice from officers, as outlined above, the Lord Provost ruled Councillor Reynolds' amendment incompetent in terms of Standing Order 18(1)(iii). Councillor Reynolds then intimated that he wished to alter his amendment and this was accepted.

Councillor Reynolds moved as an amendment, seconded by Councillor Leslie:-

That the Council does not adopt the Aberdeen Local Development Plan.

On a division, there voted:-

For the motion (34) - Lord Provost Peter Stephen; Depute Provost Cormie; and Councillors Adam, Allan, Blackman, Collie, Cooney, Corall, Cormack, Crockett, Dean, Donnelly, Dunbar, Hunter, Ironside, Jaffrey, Kiddie, Laing, MacGregor, McCaig, McDonald MSP, Malone, May, Milne, Noble, Penny, Robertson, Jennifer Stewart, John Stewart, Wendy Stuart, Townson, West, Young and Yuill.

For the amendment (2) - Councillors Leslie and Reynolds.

Declined to vote (2) - Councillors Boulton and Farquharson.

Absent from the division (1) - Councillor Wisely.

**The Council resolved:-**

- (i) to adopt the motion; and
- (ii) to thank officers in the Development Plan team for their immense hard work which had resulted in the Council being the first local authority in Scotland to adopt its Local Development Plan under new planning regulations.

**In terms of Standing Order 15(6), Councillors Leslie and Reynolds intimated their dissent against the foregoing decision.**

**OSC INSPECTION REPORT 2011 - CG/12/003**

8. The Council had before it a report by the Director of Corporate Governance which appended the inspection report and supplementary letter from the Office of the Surveillance Commissioner (OSC) on the Council's compliance with its powers under the Regulation of Investigatory Powers (Scotland) Act 2000, and provided an update on progress in regard to the recommendations contained within the report.

**The report recommended:-**

that the Council -

- (a) note the content of the report; and
- (b) accept the recommendations contained within paragraph 37 of the report, having regard to the action plan set out in Appendix 2 to the report.

**The Council resolved:-**

- (i) to approve the recommendations; and
- (ii) to request officers to report back on the matter to the Audit and Risk Committee within six months.

**APPOINTMENT OF DEPUTE LEADER OF THE COUNCIL AND CONVENER OF FINANCE AND RESOURCES COMMITTEE**

9. The Council had before it correspondence from Councillor John Stewart intimating his resignation as Depute Leader of the Council and Convener of the Finance and Resources Committee with effect from 10<sup>th</sup> February 2012.

**The Council resolved:-**

- (i) to appoint Councillor Malone as Depute Leader of the Council, with effect from 10<sup>th</sup> February 2012; and
- (ii) to appoint Councillor Yuill as Convener of the Finance and Resources Committee, with effect from 10<sup>th</sup> February 2012.

**In accordance with the decision recorded under Article 4 of this minute, the following item of business was considered with the press and public excluded.**

**STRATEGIC EUROPEAN HYDROGEN TRANSPORT PROJECTS - EPI/12/028**

**10.** With reference to Article 11 of the minute of meeting of the Enterprise, Planning and Infrastructure Committee of 15<sup>th</sup> November 2011, the Council had before it a report by the Director of Enterprise, Planning and Infrastructure which sought agreement for the Council to participate in various strategic European hydrogen transport projects.

**The report recommended:-**

that members approve the Council's participation in the High V.Lo City and HyTransit (funded under the EU's FP7 programme) projects, and the two projects funded under the EU Interreg IVB programme, the HyTrEc Project and LOWCAP Cluster project, subject to:-

- (a) securing sufficient additional funding from other partners (including the EU) to cover 90% of the total project costs;
- (b) inclusion in the draft Non Housing Capital Plan for 2012/13 - 2017/18, and approval by the Council at the budget meeting on 9<sup>th</sup> February 2012; and
- (c) advice from appropriate officers and/or experts on elements of the Council's involvement with the project, including contractual issues, procurement, design and planning.

**The Council resolved:-**

- (i) to approve the recommendations contained within the report; and
- (ii) to request officers to issue an immediate press release regarding the decision.

**- PETER STEPHEN, Lord Provost.**