

ABERDEEN CITY COUNCIL

Town House,
ABERDEEN, 1 May 2013

MINUTE OF MEETING OF ABERDEEN CITY COUNCIL

Sederunt:

Lord Provost George Adam, Chairperson;
Depute Provost John Reynolds; and

COUNCILLORS

YVONNE ALLAN	JAMES KIDDIE
KIRSTY BLACKMAN	JENNIFER LAING
MARIE BOULTON	GRAEME LAWRENCE
DAVID CAMERON	NEIL MacGREGOR
SCOTT CARLE	CALLUM McCAIG
NEIL COONEY	M. TAUQEER MALIK
JOHN CORALL	AILEEN MALONE
WILLIAM CORMIE	ANDREW MAY
BARNEY CROCKETT	RAMSAY MILNE
STEVEN DELANEY	JEAN MORRISON, MBE
GRAHAM DICKSON	NATHAN MORRISON
ALAN DONNELLY	JAMES NOBLE
JACQUELINE DUNBAR	GILLIAN SAMARAI
LESLEY DUNBAR	JENNIFER STEWART
ANDREW FINLAYSON	ALEXANDER STUART
FRASER FORSYTH	ANGELA TAYLOR
GORDON GRAHAM	ROSS THOMSON
ROSS GRANT	GORDON TOWNSON
MARTIN GREIG	WILLIAM YOUNG
LEONARD IRONSIDE, CBE	and
MURIEL JAFFREY	IAN YUILL

Lord Provost George Adam, 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=2532&Ver=4>

ANNOUNCEMENTS

1. The Lord Provost referred to the recent passing of Baroness Thatcher, former Prime Minister of the United Kingdom, and Brian Adam MSP, a former Councillor of the City of Aberdeen District Council and Aberdeen City Council prior to his election as an MSP in 1999.

Councillor McCaig led tributes to Brian Adam, highlighting the huge respect he had for him as a person and the work he had done for Aberdeen throughout his time as a politician. Brian's family had been overcome by the support they had received since his passing. Councillor McCaig spoke of the sound advice he had given him when he was first elected to the Council and added that he wished all politicians could be like Brian as he was a true gentleman.

Councillor Crockett recalled that he had worked closely with Brian in a number of different capacities and had always found him to be a man of genuine integrity. Councillor Crockett offered his condolences to Brian's family on behalf of the Labour Party.

Councillor Donnelly added that he had served as a Councillor alongside Brian during the last term of the City of Aberdeen District Council, and spoke of his fond memories. Councillor Donnelly also offered his condolences to Brian's family.

Councillor Reynolds noted that he had lived in the same street as Brian, and that he had always found him to be one of the "good guys" in politics. Councillor Reynolds expected that there would be a huge turnout at Brian's funeral which was no less than he deserved.

Councillor Malone echoed the comments of the previous speakers, adding that Brian would be dearly missed by his community and his family and friends, and offered her condolences to them on behalf of the Liberal Democrat group.

The Council resolved:-

to concur with the tributes from the various members.

ADMISSION OF BURGESSES

2. (A) The persons undermentioned were admitted into the presence of the Council and passed as Burgesses of Guild in respect of their respective Acts of Admission in the Guild Burgess Book:-

Neil Clapperton, Chief Executive, Aberdeen
 Francis Clark, Managing Director, Aberdeen
 Tommy Dreelan, Company Director, Aberdeen
 Ian L Thomson, Facilities Supervisor, Aberdeen
 Innes Walker, Police Superintendent and Deputy Commander, Aberdeen

(B) The person undermentioned was admitted into the presence of the Council and passed as a Burgess of Guild by right of their father's status as a Free Burgess:-

Reeve Watt, Project Engineer, Aberdeen

DETERMINATION OF EXEMPT BUSINESS

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

- 4(a) Property Disposal - Broad Street - Report by Director of Enterprise, Planning and Infrastructure
- 11(a) National Housing Trust Phase 2B - Report by Director of Housing and Environment

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 the aforementioned items of business (Articles 5 and 20 of this minute refer) so as to avoid disclosure of exempt information of the classes described in paragraphs 6 and 9 of Schedule 7(A) of the Act.

MATTER OF URGENCY

The Lord Provost intimated that he had directed in terms of Section 50(B)(4)(b) of the Local Government (Scotland) Act 1973, that the following item be considered as a matter of urgency to enable the Council to determine the matter without delay.

PROPERTY DISPOSAL - BROAD STREET - EPI/13/097

4. Councillor McCaig moved as a procedural motion, seconded by Councillor Jackie Dunbar:-

That the Council do not consider the report this day, and instead consider it at a future meeting.

On a division, there voted:-

For the procedural motion (19) - Councillors Blackman, Cameron, Corall, Cormie, Delaney, Dickson, Jackie Dunbar, Greig, Jaffrey, Kiddie, MacGregor, McCaig, Malone, May, Noble, Samarai, Jennifer Stewart, Sandy Stuart and Townson.

Against the procedural motion (23) - Lord Provost; Depute Provost; and Councillors Allan, Boulton, Carle, Cooney, Crockett, Donnelly, Lesley Dunbar, Finlayson, Forsyth, Graham, Grant, Len Ironside CBE, Laing, Lawrence, Malik, Milne, Jean Morrison MBE, Nathan Morrison, Taylor, Thomson and Young.

Absent from the division (1) - Councillor Yuill.

The Council resolved:-

to reject the procedural motion, and therefore consider the report this day.

In accordance with the decision recorded under Article 3 of this minute, the following item was considered with the press and public excluded.

PROPERTY DISPOSAL - BROAD STREET - EPI/13/097

5. The Council had before it a report by the Director of Enterprise, Planning and Infrastructure regarding the sale process for the Council owned site in Broad Street (formerly St Nicholas House), which advised of the offers received and the scoring for each, and recommended the selection of a preferred bidder.

The report recommended:-

that the Council -

- (a) accept the highest scoring bidder, Bidder C (Muse Developments Limited) as the preferred bidder for the Broad Street site;
- (b) authorise the Head of Asset Management and Operations and the Head of Legal and Democratic Services to conclude the appropriate legal agreements and/or other documents to ensure the sale and redevelopment of the site, incorporating qualifications as are necessary, and otherwise to protect the Council's interests;
- (c) instruct officers to prepare reports for the relevant committees on the different aspects the redevelopment poses for services and infrastructure in the city centre; and
- (d) instruct officers to provide progress reports to Council at key stages of the project.

The Council received a presentation by Mr Stephen Booth, Property Estates Manager, Ms Karen Donnelly, Legal Manager, and Mr Steven Whyte, Chief Accountant, in regard to the process that had been undertaken and with particular reference to the property, legal and financial issues contained therein. Upon conclusion of the presentation, members asked a number of questions of officers in relation to the presentation and in connection with the report itself.

Councillor Crockett moved, seconded by Councillor Boulton:-

That the Council -

- (1) approve recommendations (a), (b) and (d) as outlined above;
- (2) instruct officers to prepare a report to the next Council meeting on the different aspects the redevelopment poses for services and infrastructure in the city; and
- (3) establish a working group comprising the Leader and Depute Leader of the Council, the Convener of Finance and Resources, Councillor Forsyth and a member of the opposition to operate as a high level consultation group, discussing strategic issues with the preferred bidder to ensure that the Council as a partner in the joint venture achieves its development aspirations as detailed in the guidance for the benefit of preferred bidders document issued by Ryden on behalf of the Council in January 2013.

Councillor Malone moved as an amendment, seconded by Councillor Delaney:-

That the Council agree to officers restarting the process to enable the bidders to come forward with alternative designs that will reduce the density of the development in order to ensure that these designs respect the historic

setting of Marischal College and Provost Skene's House, and ensure that the designs incorporate sufficient open public space around Provost Skene's House, and report these designs to the working group for further consideration.

Councillor McCaig moved as a further amendment:-

That the Council -

- (1) note the content of the report;
- (2) consider that the four proposed designs presented to Councillors do not meet the Council's aspirations for the redevelopment of the St Nicholas House site;
- (3) note the financial risks associated with the preferred bidder; and
- (4) consider that a superior design, greater financial return and smaller financial risk could be achieved by the Council if it were to develop the site itself. As such, instruct officers to bring a report to the next meeting of the Council detailing how this can best be achieved.

There being a motion and two amendments, the Council first divided between the amendment by Councillor Malone and the amendment by Councillor McCaig.

On a division, there voted:-

For the amendment by Councillor Malone (5) - Councillors Delaney, Greig, Malone, Jennifer Stewart and Yuill.

For the amendment by Councillor McCaig (15) - Councillors Blackman, Cameron, Corall, Cormie, Dickson, Jackie Dunbar, Jaffrey, Kiddie, MacGregor, McCaig, May, Noble, Samarai, Sandy Stuart and Townson.

Declined to vote (23) - Lord Provost; Depute Provost; and Councillors Allan, Boulton, Carle, Cooney, Crockett, Donnelly, Lesley Dunbar, Finlayson, Forsyth, Graham, Grant, Len Ironside CBE, Laing, Lawrence, Malik, Milne, Jean Morrison MBE, Nathan Morrison, Taylor, Thomson and Young.

The Council then divided between the motion and the amendment by Councillor McCaig.

On a division, there voted:-

For the motion (23) - Lord Provost; Depute Provost; and Councillors Allan, Boulton, Carle, Cooney, Crockett, Donnelly, Lesley Dunbar, Finlayson, Forsyth, Graham, Grant, Len Ironside CBE, Laing, Lawrence, Malik, Milne, Jean Morrison MBE, Nathan Morrison, Taylor, Thomson and Young.

For the amendment by Councillor McCaig (20) - Councillors Blackman, Cameron, Corall, Cormie, Delaney, Dickson, Jackie Dunbar, Greig, Jaffrey, Kiddie, MacGregor, McCaig, Malone, May, Noble, Samarai, Jennifer Stewart, Sandy Stuart, Townson and Yuill.

The Council resolved:-

- (i) to adopt the motion; and

- (ii) to thank the relevant officers for their work in preparing the report and delivering the presentation, and the members of the St Nicholas House Working Group for their input.

In terms of Standing Order 15(6), Councillors Corall, Delaney, Greig, Jaffrey, MacGregor, Malone, May, Jennifer Stewart and Yuill intimated their dissent against the foregoing decision.

MINUTE OF MEETING OF ABERDEEN CITY COUNCIL OF 6 MARCH 2013

6. The Council had before it the minute of meeting of Aberdeen City Council of 6 March 2013.

The Council resolved:-
to approve the minute.

MINUTE OF MEETING OF ABERDEEN CITY COUNCIL OF 14 FEBRUARY 2013

7. The Council had before it the minute of meeting of Aberdeen City Council of 14 February 2013.

The Council resolved:-
to approve the minute.

MINUTE OF MEETING OF URGENT BUSINESS COMMITTEE OF 25 MARCH 2013

8. The Council had before it the minute of meeting of the Urgent Business Committee of 25 March 2013.

Councillor McCaig moved as a procedural motion, seconded by Councillor Jackie Dunbar:-

That the minute be amended to reflect that the Acting Convener had refused to accept an urgent motion by Councillor McCaig regarding the bedroom tax onto the agenda.

On a division, there voted:-

For the procedural motion (20) - Councillors Blackman, Cameron, Corall, Cormie, Delaney, Dickson, Jackie Dunbar, Greig, Jaffrey, Kiddie, MacGregor, McCaig, Malone, May, Noble, Samarai, Jennifer Stewart, Sandy Stuart, Townson and Yuill.

Against the procedural motion (20) - Lord Provost; Depute Provost; and Councillors Allan, Carle, Cooney, Donnelly, Lesley Dunbar, Finlayson, Graham, Grant, Len Ironside CBE, Laing, Lawrence, Malik, Milne, Jean Morrison MBE, Nathan Morrison, Taylor, Thomson and Young.

Absent from the division (3) - Councillors Boulton, Crockett and Forsyth.

There being an equality of votes, in terms of Standing Order 15(5), the Lord Provost exercised his casting vote against the procedural motion.

The Council resolved:-

to reject the procedural motion, and thereby approve the minute.

PAMPHLET OF MINUTES

9. The Council had before it a pamphlet of standing Committee minutes from 31 January to 28 March 2013.

The Council resolved:-

to note the minutes.

BUSINESS STATEMENT

10. The Council had before it a statement of Council business which had been prepared by the Head of Legal and Democratic Services.

The Council resolved:-

to note the statement.

MINUTE OF MEETING OF GUILDRY AND MORTIFICATION FUNDS SUB COMMITTEE OF 18 MARCH 2013

11. The Council had before it the minute of meeting of the Guildry and Mortification Funds Sub Committee of 18 March 2013.

The Council resolved:-

to approve the minute, thereby approving the increase in allowances for 2012/13 backdated to be payable from 1 May 2012.

**DEVELOPMENT MANAGEMENT SUB COMMITTEE (VISITS) - 28 MARCH 2013
- 34-36 ST PETER STREET - 120946**

12. With reference to Article 1 of the minute of meeting of the Development Management Sub Committee (Visits) of 28 March 2013, which had been referred to it for consideration by four members of the Sub Committee, the Council had before it (1) a report by the Head of Planning and Sustainable Development on the application seeking planning permission for the demolition of existing buildings and the redevelopment of the site to construct a five storey student accommodation building comprising 125 studio units and associated communal areas and outdoor garden/amenity space, subject to conditions but to withhold issue of the consent document until such time as the applicant had entered into an appropriate agreement regarding the payment to the Council of developer contributions towards the extension and/or enhancement of core paths in the locality; and (2) the decision of the Sub Committee that the application be approved subject to the following conditions:-

(1) That no development shall take place unless a scheme detailing all external finishing materials to the roof and walls of the development hereby approved has been submitted to, and approved in writing by, the planning authority and thereafter the development shall be carried out in accordance with the details so agreed; (2) That no development shall take place unless a scheme of all drainage works designed to meet the requirements of Sustainable Urban Drainage Systems (SUDS) has been submitted to and approved in writing by the planning authority and thereafter no part of the development shall be occupied unless the drainage has been installed in complete accordance with the said scheme; (3) That the development hereby approved shall not be occupied unless the car parking areas hereby granted planning permission have been constructed, drained, laid-out and demarcated in accordance with drawing No. 950-P2-001-B of the plans hereby approved or such other drawing as may subsequently be submitted and approved in writing by the planning authority. Such areas shall not thereafter be used for any other purpose other than the purpose of the parking of cars ancillary to the development and use thereby granted approval; (4) That no development pursuant to the planning permission hereby approved shall be carried out unless there has been submitted to and approved in writing for the purpose by the planning authority a further detailed scheme of landscaping for the site, which scheme shall include indications of all existing trees and landscaped areas on the land, and details of any to be retained, together with measures for their protection in the course of development, and the proposed areas of tree/shrub planting including details of numbers, densities, locations, species, sizes and stage of maturity at planting; (5) That all planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a size and species similar to those originally required to be planted, or in accordance with such other scheme as may be submitted to and approved in writing for the purpose by the planning authority; (6) That, except as the planning authority may otherwise agree in writing, no construction or demolition work shall take place (a) outwith the hours of 7.00am to 7.00pm Mondays to Fridays; (b) outwith the hours of 9.00am to 4.00pm Saturdays; or (c) at any time on Sundays, except (on all days) for works inaudible outwith the application site boundary. [For the avoidance of doubt, this would generally allow internal finishing work, but not the use of machinery]; (7) That no development shall take place unless it is carried out in full accordance with a scheme to deal with contamination on the site that has been approved in writing by the planning authority. The scheme shall follow the procedures outlined in Planning Advice Note 33 Development of Contaminated Land and shall be conducted by a suitably qualified person in accordance with best practice as detailed in BS10175 Investigation of Potentially Contaminated Sites - Code of Practice and other best practice guidance and shall include (i) an investigation to determine the nature and extent of contamination; (ii) a site-specific risk assessment; and (iii) a remediation plan to address any significant risks and ensure the site is fit for the use proposed. No building(s) on the development site shall be occupied unless (a) any long term monitoring and reporting that may be required by the approved scheme of contamination or remediation plan or that otherwise has been required in

writing by the planning authority is being undertaken; and (b) a report specifically relating to the building(s) has been submitted and approved in writing by the planning authority that verifies that remedial works to fully address contamination issues related to the building(s) have been carried out, unless the planning authority has given written consent for a variation. The final building on the application site shall not be occupied unless a report has been submitted and approved in writing by the planning authority that verifies that completion of the remedial works for the entire application site, unless the planning authority has given written consent for a variation; (8) That no development shall take place unless a scheme for external lighting has been submitted to and approved in writing by the planning authority, and thereafter implemented in full accordance with said scheme; (9) That the premises hereby approved shall not be used other than for the approved purpose as accommodation for students in full-time education, with the exception of any arrangements submitted to and agreed in writing by the planning authority in relation to short-term occupancy outwith normal term-times; (10) That no development shall take place unless there has been submitted to and approved in writing a detailed Green Travel Plan statement, which outlines sustainable measures to deter the use of the private car, in particular single occupant trips and provides detailed monitoring arrangements, modal split targets and associated penalties for not meeting targets; (11) That none of the units hereby granted planning permission shall be occupied unless the cycle storage facilities shown on drawing number 950-P2-030A has been implemented in full accordance with said drawing; and (12) That the building hereby approved shall not be occupied unless a scheme detailing compliance with the Council's 'Low and Zero Carbon Buildings' supplementary guidance has been submitted to and approved in writing by the planning authority, and any recommended measures specified within that scheme for the reduction of carbon emissions have been implemented in full.

Councillor Milne moved, seconded by Councillor Corall:-

That the decision of the Development Management Sub Committee (Visits) be approved.

Councillor Boulton moved as an amendment, seconded by Councillor Nathan Morrison:-

That the application be refused on the grounds (1) that the proposed development, by reason of scale and massing, represented overdevelopment of the site; and (2) that there was insufficient car parking provision which would have an adverse impact on surrounding streets and residential amenity.

On a division, there voted:-

For the motion (19) - Lord Provost; and Councillors Blackman, Cameron, Carle, Corall, Cormie, Crockett, Dickson, Donnelly, Jackie Dunbar, Forsyth, Kiddie, Laing, Lawrence, MacGregor, McCaig, Milne, Thomson and Townson.

For the amendment (24) - Depute Provost; and Councillors Allan, Boulton, Cooney, Delaney, Lesley Dunbar, Finlayson, Graham, Grant, Greig, Len Ironside CBE, Jaffrey, Malik, Malone, May, Jean Morrison MBE, Nathan Morrison, Noble, Samarai, Jennifer Stewart, Sandy Stuart, Taylor, Young and Yuill.

The Council resolved:-

to adopt the amendment.

APPOINTMENT OF NEW MEMBER TO ABERDEEN CITY LICENSING BOARD - CG/13/045

13. The Council had before it a report by the Director of Corporate Governance which advised that Councillor Jaffrey had resigned from the Licensing Board and requested that a new member be elected to the Board.

The report recommended:-

that the Council elect a new member to the Licensing Board.

The Council resolved:-

to instruct the Chief Executive to meet with Group Leaders to resolve the matter.

COMMUNITY PLANNING IN ABERDEEN - A REPORT BY AUDIT SCOTLAND - CG/13/057

14. The Council had before it a report by the Director of Corporate Governance which presented (1) a report by Audit Scotland concerning community planning in Aberdeen; and (2) a further report by Audit Scotland 'Improving Community Planning in Scotland'.

The report recommended:-

that the Council -

- (a) note the reports; and
- (b) note that Community Planning Aberdeen had put in place a Development Plan to support the delivery of the new Single Outcome Agreement, which addressed the improvement items identified by Audit Scotland.

The Council resolved:-

- (i) to approve the recommendations; and
- (ii) to note that progress with the improvement items would be reported to the Community Planning Aberdeen Board and the Corporate Policy and Performance Committee.

PROPOSED BYELAW REGARDING CAMPING IN DESIGNATED AREAS - H&E/13/039

15. The Council had before it a report by the Director of Housing and Environment which sought agreement on the principle of attempting to establish a byelaw to prevent camping on sensitive areas, such as public parks, and on the draft wording of the offence to be created thereby.

The report recommended:-

that the Council -

- (a) agree the wording of the draft proposed byelaw offence contained within the report; and

- (b) request the Convener of Housing and Environment to write to the Scottish Government to seek Ministerial approval for byelaws creating such an offence.

Councillor Townson moved as a procedural motion, seconded by Councillor McCaig:-

That Standing Order 22(1) be suspended to enable the Council to undertake an exercise to identify suitable short term halting sites, in addition to those already being proposed and being worked on, with a capacity for no more than ten caravans each, and to discuss additional sites with Aberdeenshire Council.

On a division, there voted:-

For the procedural motion (15) - Councillors Blackman, Cameron, Corall, Cormie, Dickson, Jackie Dunbar, Jaffrey, Kiddie, MacGregor, McCaig, May, Noble, Samarai, Sandy Stuart and Townson.

Against the procedural motion (28) - Lord Provost; Depute Provost; and Councillors Allan, Boulton, Carle, Cooney, Crockett, Delaney, Donnelly, Lesley Dunbar, Finlayson, Forsyth, Graham, Grant, Greig, Len Ironside CBE, Laing, Lawrence, Malik, Malone, Milne, Jean Morrison MBE, Nathan Morrison, Jennifer Stewart, Taylor, Thomson, Young and Yuill.

The Council resolved:-

to reject the procedural motion.

Councillor Crockett moved, seconded by Councillor Donnelly:-

That the Council approve the recommendations contained within the report subject to the Leader of the Council writing to the Scottish Government rather than the Convener of Housing and Environment.

Councillor Townson moved as an amendment, seconded by Councillor McCaig:-

That the Council take no action in respect of the proposed byelaw and instruct officers to continue to work on establishing suitable short term halting sites within Aberdeen, including consulting appropriate stakeholder groups and Aberdeenshire Council. This will allow Police Scotland without fear or favour to apply the provisions of the Trespass (Scotland) Act 1865 across the city of Aberdeen having specific regard to Gypsy/Travellers and in accordance with guidance issued by the Lord Advocate of Scotland, namely a general presumption against prosecution of Gypsy/Travellers setting up unauthorised encampments, such prosecution only being considered:-

- when a suitable alternative stopping place has been identified by Aberdeen City Council and Gypsy/Travellers have refused to relocate within a reasonable time; or
- where use of a particular site by Gypsy/Travellers, or excessive size of the encampment, causes a severe road safety or public health hazard; or
- where the same Gypsy/Travellers have been repeatedly evicted from a site by Aberdeen City Council and return after a short time.

On a division, there voted:-

For the motion (28) - Lord Provost; Depute Provost; and Councillors Allan, Boulton, Carle, Cooney, Crockett, Delaney, Donnelly, Lesley Dunbar, Finlayson, Forsyth, Graham, Grant, Greig, Len Ironside CBE, Laing, Lawrence, Malik, Malone, Milne, Jean Morrison MBE, Nathan Morrison, Jennifer Stewart, Taylor, Thomson, Young and Yuill.

For the amendment (15) - Councillors Blackman, Cameron, Corall, Cormie, Dickson, Jackie Dunbar, Jaffrey, Kiddie, MacGregor, McCaig, May, Noble, Samarai, Sandy Stuart and Townson.

The Council further resolved:-
to adopt the motion.

MANAGEMENT COMMITTEE FUNDS - ECS/13/029

16. The Council had before it a report by the Director of Education, Culture and Sport which sought formal approval to transfer Management Committee funds held by Aberdeen City Council to the appropriate Management Committees.

The report recommended:-

that the Council approve the transfer of Management Committee funds, held by Aberdeen City Council on behalf of the Management Committees, to independent bank accounts held by the Management Committees listed in paragraph 5.6 of the report.

The Council resolved:-
to approve the recommendation.

DECLARATIONS OF INTERESTS

Councillors Dickson, Jackie Dunbar and McCaig declared pecuniary interests in the following item of business by virtue of their employment by Kevin Stewart MSP, and withdrew from the meeting.

MOTION BY COUNCILLOR CROCKETT - COMMENTS BY KEVIN STEWART MSP

17. With reference to Article 6 of the minute of meeting of the Finance and Resources Committee of 25 April 2013, the Council had before it the decision of the Committee to refer simpliciter to Council consideration of the update on comments by Kevin Stewart MSP by the Head of Legal and Democratic Services.

The Council was advised by Ms Karen Donnelly, Legal Manager, that the Head of Legal and Democratic Services had sought independent legal advice in accordance with the instruction of Council of 6 March 2013. Ms Donnelly explained that the independent legal advice mirrored the view of the Council's own legal officers, that it would not be competent for the Council to raise an action against Kevin Stewart MSP for defamation. The independent solicitor had also looked at cases relating to

verbal injury and malicious falsehood, however was of the view that such a case was unlikely to succeed under the current circumstances. The independent solicitor had also considered the possibility of the Council making a complaint to the Public Standards Commissioner, however it was likely that Kevin Stewart MSP's comments would be interpreted as a statement of political point of view.

Councillor Crockett moved, seconded by Councillor Young:-

That the Council note the advice given on behalf of the Head of Legal and Democratic Services and instruct the Head of Legal and Democratic Services to write one final time to Kevin Stewart MSP seeking an apology, whilst at the same time consulting further with the independent solicitor in respect of raising an action against Kevin Stewart MSP for verbal injury, and report back in writing to Council on 21 August 2013.

Councillor Malone moved as an amendment, seconded by Councillor Cameron:-

That the Council note the advice given on behalf of the Head of Legal and Democratic Services and the independent legal advice, and agree that no further action be taken on this matter.

On a division, there voted:-

For the motion (23) - Lord Provost; Depute Provost; and Councillors Allan, Boulton, Carle, Cooney, Crockett, Donnelly, Lesley Dunbar, Finlayson, Forsyth, Graham, Grant, Len Ironside CBE, Laing, Lawrence, Malik, Milne, Jean Morrison MBE, Nathan Morrison, Taylor, Thomson and Young.

For the amendment (17) - Councillors Blackman, Cameron, Corall, Cormie, Delaney, Greig, Jaffrey, Kiddie, MacGregor, Malone, May, Noble, Samarai, Jennifer Stewart, Sandy Stuart, Townson and Yuill.

Absent from the division (3) - Councillors Dickson, Jackie Dunbar and McCaig.

The Council resolved:-

- (i) to adopt the motion; and
- (ii) to request the Head of Legal and Democratic Services to advise all members how much the independent legal advice had cost the Council to date.

MOTION BY COUNCILLORS KIDDIE AND CORMIE

18. The Council had before it the following notice of motion by Councillors Kiddie and Cormie:-

“In view of recent tragedies, that Council consults the NHS, Police Scotland - Aberdeen City Division and the Samaritans and calls for a report thereafter on possible measures to prevent access to the parapet of Union Bridge, which may involve placing decorative spikes, which would in turn require consultation with Historic Scotland given the bridge's listed status.”

The Council resolved:-

to refer the motion to the Enterprise, Planning and Infrastructure Committee, and instruct officers to prepare a report.

MOTION BY COUNCILLOR JACKIE DUNBAR

19. The Council had before it the following notice of motion by Councillor Jackie Dunbar:-

“That this Council requests the Housing and Environment Service to undertake a review on the way that the service currently charges and collects the rents due by our tenants to try and end the cycle of some tenants who face being in arrears every month due to the difference in dates of when they are paid and the date that their rent is due by giving more flexibility to our tenants so that they can start paying monthly (at a specific date chosen by the tenant) instead of four weekly as is the practice at present.”

The Council resolved:-

to approve the terms of the motion.

In accordance with the decision recorded under Article 3 of this minute, the following item was considered with the press and public excluded.

NATIONAL HOUSING TRUST (NHT) PHASE 2B - H&E/13/030

20. The Council had before it a report by the Director of Housing and Environment which sought approval to participate in a further phase of the NHT Initiative and sign a participation agreement with Scottish Ministers and the Scottish Futures Trust Limited.

The report recommended:-

that the Council -

- (a) agree to participate in the NHT Phase 2B procurement as developed by the Scottish Futures Trust Limited subject to the Directors of Corporate Governance and Housing and Environment continuing to be satisfied that the legal and financial elements of the initiative do not expose the Council to undue risk;
- (b) agree in principle to borrowing through the Council’s Loan Fund subject to a maximum of 50 units;
- (c) agree that the participation agreement in relation to Phase 2B be exempted from Standing Orders 11 (Corrupt or Illegal Practices), 13 (Insurances) and 26 (Freedom of Information) of the Council’s Standing Orders relating to contracts and procurement, on the basis that the said participation agreement does not contain the clauses to which those Standing Orders relate, and any other Standing Orders from which exemption is or may be required in order to allow the said participation agreement to be entered into;
- (d) delegate authority to the Head of Legal and Democratic Services, or either of the Legal Managers, to execute the said participation agreement on behalf of the Council; and
- (e) instruct officers to report to future committee meetings as further decisions are required.

Councillor Crockett moved, seconded by Councillor Cooney:-

That the Council approve the recommendations contained within the report.

Councillor Delaney moved as an amendment, seconded by Councillor Malone:-

That the Council approve the recommendations contained within the report on the basis that the Council's participation is conditional on house types complying with, or exceeding the accepted spacial requirements for social housing.

DECLARATION OF INTEREST

At this juncture, Councillor Jean Morrison MBE declared an interest in the item of business by virtue of being a member of the Board of Aberdeenshire Housing Partnership, a position she had been appointed to prior to her election, and withdrew from the meeting.

On a division, there voted:-

For the motion (37) - Lord Provost; Depute Provost; and Councillors Allan, Blackman, Boulton, Cameron, Carle, Cooney, Corall, Cormie, Crockett, Dickson, Donnelly, Jackie Dunbar, Lesley Dunbar, Finlayson, Forsyth, Graham, Grant, Len Ironside CBE, Jaffrey, Kiddie, Laing, Lawrence, MacGregor, McCaig, Malik, May, Milne, Nathan Morrison, Noble, Samarai, Sandy Stuart, Taylor, Thomson, Townson and Young.

For the amendment (5) - Councillors Delaney, Greig, Malone, Jennifer Stewart and Yuill.

Absent from the division (1) - Councillor Jean Morrison MBE.

The Council resolved:-

to adopt the motion.

- GEORGE ADAM, Lord Provost.