

MINUTE
of
EAST RENFREWSHIRE COUNCIL

Minute of Meeting held at 7.00pm in the Council Chamber, Council Headquarters, Giffnock on 26 March 2014.

Present:

Provost Alastair Carmichael	Councillor Ian McAlpine
Deputy Provost Betty Cunningham	Councillor Gordon McCaskill
Councillor Tony Buchanan	Councillor Mary Montague
Councillor Danny Devlin	Councillor Paul O’Kane
Councillor Jim Fletcher (Leader)	Councillor Tommy Reilly
Councillor Charlie Gilbert	Councillor Ralph Robertson
Councillor Barbara Grant	Councillor Jim Swift
Councillor Elaine Green	Councillor Gordon Wallace
Councillor Kenny Hay	Councillor Vincent Waters
Councillor Alan Lafferty	

Provost Carmichael in the Chair

Attending:

Lorraine McMillan, Chief Executive; Julie Murray, Director of Community Health and Care Partnership; Mhairi Shaw, Director of Education; Andy Cahill, Director of Environment; Norie Williamson, Director of Finance; Safaa Baxter, Chief Social Work Officer; Louise Pringle, Head of Customer and Business Change Services; Jim Sneddon, Head of Democratic and Partnership Services; Iain MacLean, Head of Environment (Planning, Property and Regeneration); Joe Abrami, Principal Solicitor; Eamonn Daly, Democratic Services Manager; and Linda Hutchison, Senior Committee Services Officer.

Also Attending:

Chief Superintendent Andy Bates, Superintendent Brian McNulty and Chief Inspector Campbell Crawford, Police Scotland; and Local Senior Officer, Paul Tanzilli, Scottish Fire and Rescue Service.

Apology:

Councillor Stewart Miller.

DECLARATIONS OF INTEREST

967. Councillor Swift, in accordance with Paragraph 5.12 of the Councillors’ Code of Conduct, declared a non-financial interest in respect of his wife relative to the item on the

agenda regarding the Breach in the Scheme for the Establishment of Community Councils (Item 978 refers), on the grounds that she was a member of Newton Mearns Community Council. He left the meeting whilst the matter was under consideration.

EAST RENFREWSHIRE: YOUR COUNCIL, YOUR FUTURE - CORPORATE STATEMENT FILM

968. Under reference to the Minute of the meeting of 11 December 2013 (Page 813, Item 853 refers) when the new Corporate Statement 2013-17 – East Renfrewshire: Your Council, Your Future had been approved, the Council viewed a short, associated film featuring a day in the life of the Council's work and services. All those featured in the film were either members of staff or East Renfrewshire residents.

Councillor Fletcher explained that to promote the new Corporate Statement, which set out the Council's vision, priorities for the future and what everyone was working together to achieve, a different approach to a typical written document had been taken through the production of the film. He clarified that it was being launched and promoted to the Council's residents and customers.

Provost Carmichael, supported by other Members, commended the film and thanked those who had featured in it for their support, some of whom were in attendance.

MINUTE OF PREVIOUS MEETING

969. The Council considered and approved the Minute of the meeting held on 13 February 2014.

MINUTES OF MEETINGS OF COMMITTEES

970. The Council considered and approved the Minutes of the meetings of the undernoted:-

- (a) Cabinet – 20 February 2014;
- (b) Audit and Scrutiny Committee – 27 February 2014;
- (c) Planning Applications Committee – 5 March 2014;
- (d) Education Committee – 13 March 2014;
- (e) Cabinet (Police and Fire) – 20 March 2014; and
- (f) Licensing Committee – 20 March 2014.

POLICE SCOTLAND – LOCAL POLICE PLAN 2014-17

971. Under reference to the Minute of the meeting of the Cabinet (Police and Fire) of 20 March 2014 (Page 918, Item 960 refers) when it had been agreed to recommend to the Council that the Local Policing Plan 2014-17 for East Renfrewshire be approved, the Council considered a report by the Divisional Commander, Police Scotland seeking approval of the Plan.

The report explained that the Police and Fire Reform (Scotland) Act 2012 required the Local Police Commander to prepare and submit a Local Policing Plan to the Council for approval, and that the plan should be reviewed once every 3 years. It was explained that last year's Local Police Plan, the first for Police Scotland, was an interim one covering the period 2013/14. The new plan superseded the interim one and covered the 3-year period 2014/17.

It was emphasised that local people were at the heart of everything Police Scotland did and that the plan, which had been developed following consultation with the public and other key partners, set out the policing priorities that had been identified as the issues that caused most concern to local communities. The plan also set out what Police Scotland was doing to tackle these issues and how it would continue to address them in the years ahead. The 4 priorities were noted as Priority 1 – Tackling Violence, Disorder and Antisocial Behaviour; Priority 2 – Protecting People; Priority 3 – Increasing Public Confidence and Local Engagement; and Priority 4 – Tackling Serious Crime and Responding to Major Events. Details of the local policing arrangements within East Renfrewshire were also outlined in the report together with information about the local scrutiny and engagement arrangements.

The report concluded by indicating that the plan would help ensure that local policing in East Renfrewshire continued to be aligned to the Community Planning arrangements and the Single Outcome Agreement and demonstrated the ongoing commitment by Police Scotland to deliver policing services that served the needs of local communities.

The Council approved the Local Policing Plan 2014-17.

SCOTTISH FIRE AND RESCUE SERVICE – LOCAL FIRE AND RESCUE PLAN FOR EAST RENFREWSHIRE 2014-17

972. Under reference to the Minute of the meeting of the Cabinet (Police and Fire) of 20 March 2014 (Page 919, Item 961 refers) when it had been agreed to recommend to the Council that the Local Fire and Rescue Plan for East Renfrewshire 2014-17 be approved, the Council considered the Plan.

The Police and Fire Reform (Scotland) Act 2012 required the Scottish Fire and Rescue Service to prepare and submit a Local Fire and Rescue Plan to the Council for approval, and that the plan should be reviewed once every 3 years. The draft Local Fire and Rescue Plan 2014-17 had been issued for consultation in December 2013, that consultation period having ended on 14 February 2014. As part of the consultation process, Local Senior Officer Tanzilli had met with Council officers to discuss the contents of the Plan and receive any comments for consideration. The plan mapped out the strategic direction of the Scottish Fire and Rescue Service delivery over the coming 3 years and provided firm direction for the Service to build on the positive outcomes achieved thus far.

The Council approved the Local Fire and Rescue Plan for East Renfrewshire 2014-17.

EAST RENFREWSHIRE COMMUNITY HEALTH AND CARE PARTNERSHIP COMMITTEE

973. The Council considered and noted the Minute of the meeting of the East Renfrewshire Community Health and Care Partnership Committee of 12 February 2014.

PROVOST ENGAGEMENTS

974. The Council considered and noted a report by the Deputy Chief Executive, providing details of the civic engagements attended by and civic duties performed by Provost Carmichael since the last meeting.

STATEMENTS BY CONVENER

975. Provost Carmichael intimated that no statements had been received.

STATEMENTS BY REPRESENTATIVES ON JOINT BOARDS/COMMITTEES AND COMMUNITY JUSTICE AUTHORITY

976. Provost Carmichael intimated that no statements had been received.

POST OF HEAD OF HEALTH AND COMMUNITY CARE

977. The Council considered a report by the Deputy Chief Executive regarding notification of the resignation of the Head of Health and Community Care, and requesting that a procedure be put in place to allow the Council in partnership with NHS Greater Glasgow and Clyde to move to the appointment of a new Head of Service as soon as possible. Authority was also sought to permit the Chief Executive in partnership with the Chief Executive of NHS Greater Glasgow and Clyde to put in place appropriate interim management arrangements pending an appointment to the post to ensure continuity in the leadership of the CHCP service.

The Council:-

- (a) noted the resignation of the Head of Health and Community Care;
- (b) approved the recruitment procedure specified in the report, including the establishment of an Appointments Committee in accordance with normal practice, the membership of which would comprise the 5 elected Members on the CHCP Committee and in respect of which one of the non-executive Health Board Members of the CHCP Committee would be co-opted onto the Appointments Committee; and
- (c) authorised the Chief Executive of the Council in partnership with the Chief Executive of NHS Greater Glasgow and Clyde to put in place appropriate interim management arrangements for the department.

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Councillor Swift left the meeting at this point.

BREACH IN THE SCHEME FOR THE ESTABLISHMENT OF COMMUNITY COUNCILS

978. The Council considered a report by the Deputy Chief Executive regarding a breach of the Scheme of Establishment of Community Councils and making related recommendations. The report explained that community councils were governed by the Local Government (Scotland) Act 1973. This stipulated that councils must set up a Scheme of Establishment for community councils and referred to processes for the setting up, review, and amendment of such schemes.

The report referred to the model Scheme of Establishment of Community Councils, a related model Code of Conduct and Good Practice Guidance for Local Authorities and Community

Councils all developed by a Scottish Government Working Group in 2009. It clarified that the current scheme for East Renfrewshire had been developed following lengthy and direct engagement with all 10 community councils in the area, that the one approved by the Council was largely based on the Model Scheme of Establishment, and that all 10 community councils had supported it.

The report explained that since 1996, a full cohort of active community councils had existed as had a mutually cordial and respectful relationship between them and the Council which until recently had never been fundamentally undermined. This remained the position for the majority of community councils.

Having summarised the position on current membership and representation, the report explained that Newton Mearns Community Council, Clarkston Community Council and Thornliebank Community Council had made amendments to and inserted new clauses into their Constitutions. The report summarised the changes made and referred to correspondence issued to them on these breaches of the Scheme of Establishment and requesting they revert to the approved Constitution. Related responses from each of the 3 community councils were outlined.

Reference was also made to the ongoing review of and statutory process for amending the current Scheme for the Establishment of Community Councils and related partnership working on which a report was expected to be submitted to the Council in the autumn; the extent to which the current Scheme adhered to the Local Government (Scotland) 1973 Act; and related obligations and issues. It was confirmed that community councils had no autonomy to vary the Scheme and that the new Scheme was a matter for the Council to determine. It was highlighted that the present report did not discuss in detail whether the modifications proposed by the community councils would be acceptable, the key point being that no modification could be made without a formal review conducted by the Council. It was stated that whilst the Council was not being asked to determine the acceptability of the modifications at this time, Council was asked to note that a number of the modifications proposed do not adhere to accepted democratic processes for statutory organisations, e.g. the use of proxy votes.

Having referred to complaints made about a small number of community councils and individuals within them, particularly on adherence to the Constitution and Code of Conduct, it was clarified that the current scheme did not give the Council powers to investigate the complaints, which had to be referred to individual community councils. The possibility of having provision for a formal complaints process with sanctions was to be considered as part of the current review.

It was concluded that the actions of the 3 community councils in modifying their Constitutions were not permissible and a violation of Section 53 of the Local Government (Scotland) Act 1973 to which the East Renfrewshire's Scheme adheres. Although the community councils had had the opportunity to rescind the modifications, two had confirmed their refusal to do so. It was also concluded that organisations that did not adopt the approved Constitution could no longer be held to be community councils in the statutory sense.

Commenting on the report, Councillor Montague advised the Council of 2 amendments, clarifying first that Thornliebank Community Council had not reduced its quorum. Furthermore Clarkston Community Council had not approved a clause in its Constitution requiring its members to serve for at least one year prior to being considered for election as an office bearer. However the community council had confirmed that their Constitution had been otherwise materially altered from the Scheme's Standard Constitution.

Whilst highlighting aspects of the report, Councillor Montague referred to the breaches made by the community councils, legislation governing such bodies, related requirements, the most recent review of the Scheme of Establishment in 2008/09, the current review and consultation in respect of both. She clarified that the 3 community councils which were the subject of the report had confirmed the alterations and modifications to the Constitution forming part of the East Renfrewshire Scheme, and that these had taken place independently of the review process. This was not permissible. Other issues she commented on included the extent to which current elected Members had previously served as community councillors, the mutually respectful relationship that had generally existed between the bodies and the Council, and lack of options open to the Council regarding the breaches. She expressed hope that by offering all 3 community councils the opportunity to return to the terms of their Constitutions prior to amendment and engage productively during the current review, they would respond positively and continue to enjoy the benefits of being able to represent their communities' interests.

In response to Councillor Robertson, the Head of Democratic and Partnership Services confirmed that the community councils concerned were being given the opportunity to rescind the changes made to their Constitutions by 25 April 2014 failing which the proposed sanctions would apply, if approved by the Council.

Councillor Wallace highlighted that the current Scheme of Establishment required the Council to consult community councils on various matters which emphasised the importance of them being properly constituted. Having referred to various issues discussed by Thornliebank Community Council, he commented that it was possible that its members had not fully appreciated the gravity and associated consequences of their decision to amend their Constitution. He also commented on further issues including why the previous Chair had resigned on residency grounds, related issues and conduct matters, expressing hope that the way forward proposed would be regarded as an opportunity to discuss and resolve issues and not as an ultimatum. He also referred to the chance for further discussions during the ongoing review of the Scheme of Establishment.

Having referred to his own experience of being a community councillor, Councillor Gilbert expressed hope that the community councils would address the situation that had arisen and, more generally, that public interest in community councils would grow again. Councillor Lafferty endorsed many points already made, stressing the need to abide by laws and rules rather than making changes unilaterally and the lack of choice the Council had on the way forward. Councillor Montague reiterated that the 3 community councils' own actions had not been permissible and led to the current situation, expressing hope that they would comply with requirements.

The Council agreed that:-

- (a) the Deputy Chief Executive write to the community councils concerned emphasising the Council's commitment to working in partnership with community councils, but explaining to them the gravity of the situation and requesting that they revert to the approved Community Council Constitution;
- (b) community councils which refuse to be bound by the Constitution contained in the Scheme of Establishment by a deadline of 25 April 2014 be no longer considered to be operating as statutory community councils and that the Council reflect such a change in status by taking the undernoted steps:-
 - (i) no further engagement and support by the Council;

- (ii) no further statutory consultation on planning, licensing and education;
 - (iii) the cessation of any and all free lets of Council premises; and
 - (iv) no award of the administration grant;
- (c) any future changes to the Constitution by any other community council be similarly dealt with without the need to report to the Council as above; and
- (d) should it be necessary to take any action in relation to (b) above, the Council will not seek to re-establish a community council until a new Scheme of Establishment has been approved by the Council.

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Councillor Swift rejoined the meeting at this point.

REPLACEMENT BARRHEAD HIGH SCHOOL

979. Under reference to the Minute of the meeting of 12 December 2012 (Page 398, Item 339 refers) when the Council had noted the current position on costs and funding for the replacement Barrhead High School and approved the proposal to procure the school through a design, build, finance and operate contract, to be delivered through hub West Scotland in collaboration with West Dunbartonshire Council and the Scottish Futures Trust, the Council considered a report by the Directors of Environment, Education and Finance setting out the current status of the procurement of the new Barrhead High School (the "**Project**").

Having confirmed that a quorum was present in accordance with the Council's Standing Orders, Councillor Fletcher explained that the Project was to be entered into pursuant to the Scottish Government's hub Initiative.

Councillor Fletcher confirmed that the Project was included in and priced in accordance with the terms of the Council's Capital Plan. He stated that copies of current drafts of the principal documents to be entered into by the Council pursuant to the Project (the "**Project Documents**" listed below) were available in the Members' Lounge for their consideration. He explained that the Project Documents were not yet in their final form and may be subject to further amendments as agreed by the Chief Officer (Legal & Procurement) of the Council having considered the advice of the Council's external advisors. He explained that the Project was moving towards financial close.

The Project Documents referred to were confirmed by Councillor Fletcher as follows:-

- (i) Project Agreement to be entered into between (1) the Council and (2) hub West Scotland Project Company (No.2) Limited ("**Sub-hubco**") (the "**Project Agreement**");
- (ii) Funders Direct Agreement to be entered into among (1) the Council, (2) Aviva Public Private Finance Limited ("**Aviva**") and (3) Sub-hubco (the "**Funders Direct Agreement**");
- (iii) The Letter of Intent and Instruction from the Council to either Sub-hubco or hub West Scotland Limited in relation to the Project Agreement and the carrying out of early works in connection with the Project;

- (iv) Contractor Collateral Agreement to be entered into among (1) the Council, (2) BAM Construction Limited, (3) Sub-hubco, and (4) Aviva;
- (v) Service Provider Collateral Agreement to be entered into among (1) the Council, (2) BAM FM Limited(3) Sub-hubco, and (4) Aviva;
- (vi) Independent Tester Contract to be entered into among (1) the Council, (2) Sub-hubco (3) Aviva (4) AA Projects Limited and (5) BAM Construction Limited;
- (vii) Insurance Proceeds Account Agreement to be entered into among (1) the Council, (2) the relevant Account Bank, (3) Aviva and (4) Sub-hubco;
- (viii) Notice of Assignment to be entered between (1) the Council and (2) Sub-hubco;
- (ix) The Intercreditor Agreement to be entered into among *inter alia* (1) the Council and (2) Sub-hubco;
- (x) The Subscription Agreement to be entered into among *inter alia* (1) the Council and (2) Sub-hubco;
- (xi) The Head Lease to be entered into between (1) the Council and (2) Sub-hubco;
- (xii) The Sub-Lease to be entered into between (1) Sub-hubco and (2) the Council;
- (xiii) In addition other minor process documents to give effect to the above arrangements such as Notice of Assignment to be entered between (1) the Council and (2) Sub-hubco may be required but copies of these were not yet available.

He also specified in full all of the recommendations that the Council was being asked to approve at this meeting.

In response to questions, the Head of Environment (Planning, Property and Regeneration) clarified the purpose of the report, confirming that the permissions being sought had already been provided by the Council, but that documenting them as proposed allowed them and the detail to be specified in the Minute. He also confirmed that there was no intention to proceed beyond current spending limits in terms of the Council's contribution to the total cost of the project and that a request had been made to the Council very recently to deal with the matter in the way it had been presented to the Council at this meeting.

The Council agreed the following recommendations:-

- (a) that any revisions made to the funding arrangements of the Project since the Council's Capital Plan was adopted are approved;
- (b) that approval is given to enter into the Project Documents and any additional documentation required in connection with the Project;
- (c) that the Chief Officer (Legal & Procurement) or Principal Solicitor be authorised to consider and agree any amendments to the Project Documents after the date of this meeting and the terms of any additional documents - including further amendments as agreed by him, having considered the advice of the Council's external advisors;

- (d) that the Chief Officer (Legal & Procurement) or Principal Solicitor be authorised to issue certificates under the Local Government (Contracts) Act 1997;
- (e) that the Council's Chief Officer (Legal & Procurement) or Principal Solicitor be authorised to sign on behalf of the Council the Project Documents (subject to such amendments to the Project Documents as shall be agreed by Chief Officer (Legal & Procurement) or Principal Solicitor, having considered the advice of the Council's external advisors) and any additional documentation required in connection with the Project. Specimen signatures of each of the aforementioned authorised signatories will be annexed;
- (f) that the Head of Accountancy (Chief Financial Officer) be authorised as the named individual on behalf of the Council for the purpose of the insurance proceeds account to be opened in terms of the Project Agreement and the Insurance Proceeds Account Agreement;
- (g) that a certified copy of the minute of the proceedings of the meeting be produced as verification that approval has been granted;
- (h) that the Project Agreement and the Funders Direct Agreement 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 Head of Accountancy (Chief Financial Officer) or her representatives are duly authorised to sign and issue the certificates in terms of the 1997 Act.

SUBSIDISED LEGAL SERVICES FOR FORCES PERSONNEL (ARMED FORCES LEGAL ACTION) – REQUEST FOR COUNCIL SUPPORT

980. The Council considered a report by the Deputy Chief Executive advising of a request for support from Armed Forces Legal Action (AFLA), a nationwide scheme founded in July 2013 by a Scottish solicitor and current RAF Officer which brought together lawyers from across the United Kingdom who offered reduced fees to currently serving and, in certain circumstances, former serving members of the armed forces.

The report explained that AFLA was already supported by the Scottish Government, the Law Society of Scotland and St John Scotland, clarifying that if the Council agreed its support, it would be listed as a supporter on the AFLA's website. It was confirmed that there were no associated cost implications, Council support solely being an outward expression of support for the organisation's objectives.

The Council agreed to become a formal supporter of Armed Forces Legal Action.

THE EAST RENFREWSHIRE COUNCIL (BRIDGE AT WATER WORKS, C9 AURS ROAD, BARRHEAD) WEIGHT RESTRICTION ORDER

981. The Council considered a report by the Director of Environment seeking approval for the making and confirmation of The East Renfrewshire Council (Bridge at Water Works, C9 Aurs Road, Barrhead) (Weight Restriction) Order 2014 prohibiting vehicles with a mass gross weight in excess of 3t from a specific section of the C9 Aurs Road.

The report explained that an assessment had found that the bridge at the water works near the south east corner of Balgray Reservoir which carries a section road had inadequate capacity for weights in excess of 3t and confirmed that a temporary Traffic Regulation Order promoted in March 2013 would expire on 21 September 2014. Having clarified the terms of the proposed Order, the report confirmed that there would be an exemption for emergency vehicles attending incidents and for Council operated vehicles carrying out essential roads maintenance and winter gritting operations provided that no more than one such vehicle passed over the bridge at any one time.

The Council approved the making and confirmation of The East Renfrewshire Council (Bridge at Water Works, C9 Aurs Road, Barrhead) (Weight Restriction) Order 2014.

THE EAST RENFREWSHIRE COUNCIL (GLEN STREET BRIDGE, GLEN STREET, BARRHEAD) WEIGHT RESTRICTION ORDER

982. The Council considered a report by the Director of Environment seeking approval of the making and confirmation of The East Renfrewshire Council (Glen Street Bridge, Glen Street, Barrhead) (Weight Restriction) Order 2014 prohibiting vehicles with a mass gross weight in excess of 7.5t from a specific section of Glen street, Barrhead.

The report explained that an assessment had found that Glen Street Bridge which carries a section of Glen Street had inadequate capacity for weights in excess of 7.5t and confirmed that a temporary Traffic Regulation Order promoted in March 2013 would expire on 21 September 2014. Having clarified the terms of the proposed Order, the report confirmed that there would be an exemption for emergency vehicles attending incidents and for Council operated vehicles carrying out essential roads maintenance and winter gritting operations provided that no more than one such vehicle passed over the bridge at any one time.

The Council approved the making and confirmation of “The East Renfrewshire Council (Glen Street Bridge, Glen Street, Barrhead) (Weight Restriction) Order 2014”.

VALEDICTORY – NORIE WILLIAMSON – DIRECTOR OF FINANCE

983. Provost Carmichael referred to the forthcoming retirement of Norie Williamson, Director of Finance. He paid tribute to the work of Mr Williamson during which he referred to his achievements during his time in post, his unrivalled knowledge of local government finance, and how he had supported the Council through some of the most challenging financial times ever faced by the Council.

On behalf of the Council, Provost Carmichael wished Mr Williamson a long and happy retirement and presented him with a commemorative gift from the Council.

Thereafter, a number of elected Members paid tribute to Mr Williamson.

Mr Williamson replied in suitable terms.

VALEDICTORY – SAFAA BAXTER – CHIEF SOCIAL WORK OFFICER AND HEAD OF CHILDREN’S SERVICES AND CRIMINAL JUSTICE

984. Provost Carmichael referred to the forthcoming retirement of Safaa Baxter, Chief Social Work Officer and Head of Children’s Services and Criminal Justice. He paid tribute to Mrs Baxter and her work during which he commented on her achievements, her outstanding

contribution to the CHCP, the difference she had made to hundreds of children and families, and how she had led the Council through two highly successful Child Protection inspections.

On behalf of the Council, Provost Carmichael wished Mrs Baxter a long and happy retirement and presented her with a commemorative gift from the Council.

Thereafter, a number of elected Members paid tribute to Mrs Baxter.

Mrs Baxter replied in suitable terms.

PROVOST

