

EAST AYRSHIRE COUNCIL**CABINET****MINUTES OF MEETING HELD ON WEDNESDAY 4 MARCH 2009 AT 1000 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

PRESENT: Councillors Douglas Reid, Iain Linton, John MacKay, Jim Buchanan, John Knapp, Hugh Ross, Jim Todd, Robert McDill, Jim Roberts and Kathy Morrice; Church Representatives Bill McGregor and Dr Ivy Barclay; Teacher Representative Iain Harvey; and Parent Representative David Fraser.

ATTENDING: Fiona Lees, Chief Executive; Elizabeth Morton, Depute Chief Executive/Executive Director of Corporate Support; Graham Short, Executive Director of Educational and Social Services; William Stafford, Executive Director of Neighbourhood Services; Alex McPhee, Executive Head of Finance and Asset Management; David Mitchell, Head of Legal, Procurement and Regulatory Services; John Griffiths, Head of Leisure; Alan Neish, Head of Planning and Economic Development; John Bryson, Head of Roads and Transportation; Susan Taylor, Head of Service: Children, Families & Criminal Justice; Eddie Fraser, Head of Service: Community Care; Kay Gilmour, Head of Service: Community Support; Andrew Sutherland, Head of Service: Schools; Lynn Buchanan, Communication and Customer First Manager; Marlene Harkis, Senior Manager, Community Care; Iain Tough, Corporate Business Manager; and Christine Baillie, Administrative Officer.

APOLOGY: Church Representative John McHugh.

CHAIR: Councillor Douglas Reid, Chair for Items 1E-15 and Councillor Iain Linton for Items 16-20.

LIFELONG LEARNING**SCHOOLS ALCOHOL EDUCATION CO-ORDINATOR**

- 1E.** There was submitted a report dated 18 February 2009 (circulated) by the Executive Director of Educational and Social Services which (i) updated Members on recent developments to tackle alcohol misuse in East Ayrshire; and (ii) which sought approval for an initial two year appointment of a Schools Alcohol Education Co-ordinator to lead and manage the substance misuse element of the Health and Wellbeing curriculum area within the Curriculum for Excellence.

Cabinet agreed:-

- (i) to note the work carried out by the Community Planning Partnership to address alcohol related activity;
- (ii) to support the appointment of a Schools Alcohol Education Co-ordinator for an initial two year period; and
- (iii) otherwise, to note the contents of the report.

**ADDITIONAL IN-SERVICE DAY FOR CURRICULUM FOR EXCELLENCE
SESSION 2008-09**

- 2E.** There was submitted a report dated 11 February 2009 (circulated) by the Executive Director of Educational and Social Services which informed Cabinet of an additional in-service day allocated by the Scottish Government to support schools in implementing the Curriculum for Excellence and which sought approval to use this day on Thursday 21 May of this session (2008-09).

Cabinet agreed:-

- (i) to approve the Scottish Government proposal to allocate the additional in-service day on Thursday 21 May for session 2008-09;
- (ii) that approval be given to the Department of Educational and Social Services to incorporate the additional in-service day into their programme over the next two sessions; and
- (iii) otherwise, to note the contents of the report.

SERVICE LEVEL AGREEMENT WITH COMMUNITY ASSOCIATIONS

- 3E.** There was submitted a report dated 14 January 2009 (circulated) by the Executive Director of Educational and Social Services which sought Cabinet approval for a Service Level Agreement between East Ayrshire Council and Community Associations.

Cabinet agreed:-

- (i) to approve the Service Level Agreement to be reviewed every three years and its consequent introduction;
- (ii) to remit to the Executive Director of Educational and Social Services to revise the Service Level Agreement with Shortlees Community Association to take account of any issues arising from the fact that they operate from within a PPP facility; and
- (iii) otherwise, to note the contents of the report.

Church Representatives Bill McGregor and Dr Ivy Barclay, Teacher Representative Iain Harvey and Parent Representative David Fraser left the meeting at this point.

COMMUNITY WELLBEING

**MEMBER/OFFICER WORKING GROUP: OPTION APPRAISAL - REPLACEMENT
OF CHILDREN'S RESIDENTIAL HOUSE (Item 1, Page 522, 07/12)**

- 4.** There was submitted a joint report dated 26 February 2009 (circulated) by the Executive Director of Educational and Social Services and the Executive Head of Finance and Asset Management which informed Cabinet of the work of the Member/Officer Working Group which completed an option appraisal of site options for a replacement children's residential house for the Kilmarnock area and which recommended a site option based on this appraisal.

The Chair advised Cabinet that as this was a very important issue, arrangements had been made, in terms of Standing Order 42(i), to invite Local Members and

Members of the Member/Officer Working Group to the meeting to participate in discussion prior to a decision being made by Cabinet.

He further advised that he intended to invite Officers to speak to the report then Members of the Member/Officer Working Group and Local Members would be invited to comment.

The Chair then advised that he had received a letter prior to the meeting from Councillor Drew McIntyre and signed also by Councillors Gordon Cree and Robert Keohone intimating that it was not their intention to speak at the meeting as they felt the representations received from residents adequately covered the relevant issues.

Fiona Lees, Chief Executive, then advised that 13 items of correspondence had been received from residents living within the general locality of the site at MacDonald Drive, Kilmarnock, and whilst four of the respondents had requested responses to questions raised and two others had requested that their issues be voiced or brought to the attention of Members, she assured Members that none of the correspondence raised any issues which had a material effect on either the report or recommendation which were before Cabinet today.

She further advised that she would be responding to those points raised which generally disagreed with the conclusions reached by the Working Group and which alleged that the process had been flawed in that the deliberations of the Working Group had not been properly informed and were inconsistent, and there had not been appropriate consultation.

Susan Taylor, Head of Service: Children, Families & Criminal Justice then gave a presentation on the report.

John Bryson, Head of Roads and Transportation then advised that as there would only be a small amount of traffic associated with the residential house, this would not cause any problems at either the MacDonald Drive site or the Grassyards Road site.

The Chair then invited Members of the Member/Officer Working Group present at the meeting, namely, Councillors John MacKay, Provost Stephanie Young and Councillor Jim Todd to address the meeting. (Councillor John McGhee having submitted his apologies).

The Chair then invited Local Members from Wards 3 and 4 present at the meeting, namely, Councillors Tom Cook, Iain Linton, Jim Buchanan and John Campbell to address the meeting. Councillor Reid as Local Member for Ward 3 also addressed the meeting.

Cabinet, having considered the results of the full option appraisal and the comments made by Members of the Member/Officer Working Group, Local Members and Officers agreed:-

- (i) to approve the establishment of a business case to develop the option to locate the new children's residential house for Kilmarnock on the Grassyards Road site in more detail;
- (ii) to approve the change in plan to create a six bedded house with a separate transitional living development;
- (iii) to approve the proposal for the Member/Officer Working Group to continue;
- (iv) to approve the creation of a Project Management Team; and

- (v) otherwise, to note the contents of the report.

Councillor Knapp, having moved an alternative proposal and having failed to receive a seconder, asked that his dissent be recorded.

ADJOURNMENT/RECONVENTION OF MEETING

5. The meeting adjourned at 1120 hours and reconvened at 1126 hours with the same Members and Officers present and in attendance under exception of Andrew Sutherland, Head of Schools, Kay Gilmour, Head of Service: Community Support and Susan Taylor, Head of Service: Children, Families & Criminal Justice.

COMMUNITY CARE CONTRACTING 2009-2010

6. There was submitted a report dated 17 February 2009 (circulated) by the Executive Director of Educational and Social Services which outlined Community Care Commissioning and Contracting priorities and proposals for 2009/10 and which sought Cabinet approval for these proposals.

Cabinet agreed:-

- (i) to approve the proposals contained in Paragraphs 3 and 4 of the report, including specifically the eight proposals to negotiate with a single provider in accordance with Paragraph 20(1) of the Council's Standing Orders relating to contracts, as listed in the tables set out in Paragraphs 3.1 and 3.2 of the report;
- (ii) to remit to the Head of Legal, Procurement and Regulatory Services to discuss with the Head of Service: Community Care and the Head of Housing the possibility of including the maintenance of ramps within the maintenance of Council owned houses; and
- (iii) otherwise, to note the contents of the report.

ENVIRONMENT AND REGENERATION

ROADS AND TRANSPORTATION CAPITAL INVESTMENT PROGRAMME 2009/10 - 2018/19 (Item 2, Page 600, 07/12)

7. There was submitted a report dated 17 February 2009 (circulated) by the Executive Director of Neighbourhood Services which sought approval for the allocation of that part of the General Services Capital Programme 2009/10 - 2018/19 to be implemented by the Roads and Transportation Division.

Cabinet agreed:-

- (i) to approve the proposed allocations for the Roads and Transportation Capital Investment Programme, as detailed in Appendix I of the report;
- (ii) to note that further detailed prioritised work programmes in respect of each allocation would be placed on the Members' portal for consideration and then brought to a future meeting of Cabinet for final approval; and
- (ii) otherwise, to note the contents of the report.

CUMNOCK TOWN CENTRE REGENERATION - MASTERPLAN AND ENVIRONMENTAL REPORT (Item 12, Page 569, 07/12)

8. There was submitted a report dated 20 February 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which informed Cabinet of the representations received from the consultation process on the draft versions of the Cumnock Town Centre Regeneration Masterplan and Environmental Report and which sought approval to progress this aspect of the Cumnock Town Centre Regeneration Project.

Cabinet agreed:-

- (i) to approve the Representations Document and the Schedule of Modifications which accompanied the report as Appendices 1 and 2;
- (ii) to approve the Cumnock Town Centre Masterplan and Environmental Report as modified;
- (iii) to approve the Strategic Environmental Assessment (SEA) Statement and to authorise the Head of Planning and Economic Development to undertake the publication and advertisement requirements as detailed in Paragraph 5.1 of the report;
- (iv) to adopt the Cumnock Town Centre Masterplan as Supplementary Planning Guidance; and
- (v) to instruct the Countryside Services, Environmental Health and Roads and Transportation Sections of the Council to assist with, and undertake, the monitoring arrangements contained in the SEA Statement, in order to comply with Sections 19(1) and (2) of the Environmental Assessment (Scotland) Act 2005.

KILMARNOCK CONSERVATION AREA REGENERATION SCHEME (CARS) - APPROVAL OF GRANT APPLICATION FOR WORKS TO 93 JOHN FINNIE STREET, KILMARNOCK

9. There was submitted a report dated 23 February 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which sought approval of a CARS grant outwith the delegated authority granted by Cabinet to the Head of Planning and Economic Development in relation to the approval of a (CARS) small grant applications.

Cabinet agreed to approve a CARS grant of £28,004.04 for business premises improvements at 93 John Finnie Street, Kilmarnock.

NEWMILNS SNOW AND SPORTS COMPLEX - MATCH FUND APPLICATION: 2008/09

10. There was submitted a report dated 24 February 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which sought Cabinet approval for payment of a Match Fund grant of £10,000 to the Newmilns Snow and Sports Complex.

Cabinet agreed to approve a grant payment of £10,000 to the Newmilns Snow and Sports Complex from the Match Fund budget 2008/09.

MANAGEMENT AND RESOURCES

REVIEW OF FEES RELATING TO ENQUIRIES TO PURCHASE LAND/PROPERTY NOT CURRENTLY BEING MARKETED

11. There was submitted a report dated 11 February 2009 (circulated) by the Executive Head of Finance and Asset Management which submitted proposals in connection with the review of the fees which related to enquiries to purchase land/property not currently being marketed.

Cabinet agreed to approve fees as detailed below:-

- (i) payment of a non-refundable admin fee of £150.00 payable to Estates Management to consider an application to purchase land/property not currently being marketed. This fee would only be refunded where it was determined that the subjects were capable of being disposed of on the open market;
- (ii) thereafter, if the application led to negotiated sale, the Estates Management fee would be 1% of the purchase price subject to a minimum of £300.00. This included for preparation of a disposal plan; and
- (iii) otherwise, to note the contents of the report.

LAND AT LITTLEMILL ROAD, DRONGAN

12. It was noted that this item had been withdrawn from the Agenda.

NEGOTIATED PROCUREMENT FOR THE PROVISION OF BUSINESS CONTINUITY EXPERTISE

13. There was submitted a report dated 11 February 2009 (circulated) by the Executive Director of Neighbourhood Services which sought approval for the negotiated procurement of Business Continuity expertise.

Cabinet agreed:-

- (i) to approve the negotiation of a contract for the purchase of business continuity services from Charlie Maclean-Bristol trading as PlanB Consulting in accordance with Paragraph 20(1) of the Council's Standing Orders relating to contracts; and
- (ii) otherwise, to note the contents of the report.

CHARGES FOR LEISURE SERVICES 2009/10

14. There was submitted a report dated 23 February 2009 (circulated) by the Executive Director of Neighbourhood Services which sought approval for revised charges for a range of Leisure Services provided by the Council for implementation from 1 April 2009.

Cabinet agreed:-

- (i) to approve the proposed charges outlined in Appendices 1-6 of the report to be implemented from 1 April 2009; and
- (ii) otherwise, to note the contents of the report.

EXCLUSION OF PRESS AND PUBLIC

- 15.** Cabinet resolved “That under Section 50A(4) of the Local Government (Scotland) Act 1973, as amended, the Press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the Paragraph of Schedule 7A of the Act as shown against each item”.

Councillor Douglas Reid left the meeting at this point and Councillor Iain Linton, Vice-Chair, took the Chair for the remaining items.

COMMUNITY WELLBEING

SOCIAL WORK COMPLAINTS REVIEW PANEL (PARAS 3 & 7)

- 16.1** There were submitted and noted for information the Minutes of a meeting of the Social Work Complaints Review Panel held on 3 February 2009 (circulated).
- 16.2** There was submitted a report dated 23 February 2009 (circulated) by the Social Work Complaints Review Panel which invited Members (i) to consider a report from the Social Work Complaints Review Panel following a Hearing held on Tuesday 3 February 2009; and (ii) accept the findings and recommendations contained within the report to uphold in part complaints made by the complainer.

Cabinet agreed:-

- (i) having considered the Panel’s findings as detailed in Section 6 of the report, to accept the decision to partially uphold the complaint;
- (ii) to note the assurance of the Executive Director of Educational and Social Services that the findings recommended by the Social Work Complaints Review Panel would be incorporated into similar tendering exercises in the future; and
- (iii) otherwise, to note the contents of the report.

RE-PROVISIONING OF KERRMUIR HOSTEL (PARA 1) (Item 5, Page 2092, 03/07)

- 17.** There was submitted a joint report dated 13 February 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support and the Executive Director of Educational and Social Services which provided Cabinet with information on progress of the re-provisioning of Kerrmuir Hostel and which sought approval for consequential staff proposals.

Cabinet agreed:-

- (i) to note the progress in relation to the re-provisioning of Kerrmuir Hostel;
- (ii) to approve the proposals contained in Paragraph 4 of the report subject to consultation with Trade Unions;
- (iii) to approve the proposal to declare the present hostel surplus to requirement; and
- (iv) otherwise, to note the contents of the report.

MANAGEMENT AND RESOURCES

REQUEST FOR VOLUNTARY SEVERANCE (PARA 1)

18. There was submitted a report dated 13 February 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which sought approval of a request for voluntary severance on the grounds of efficiency of the service from an employee within the Social Work Service of the Department of Educational and Social Services.

Cabinet agreed to approve the severance arrangements as detailed in Appendix A of the report.

REQUEST FOR EARLY RETIREMENT (PARA 1)

19. There was submitted a report dated 20 February 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which sought Cabinet's approval of a request for early retirement on the grounds of rule of 85 from an employee within the Legal, Procurement and Regulatory Services of the Department of Corporate Support.

Cabinet agreed to approve the early retirement arrangements as detailed in Appendix A to the report.

ENVIRONMENT AND REGENERATION

FORMER BONDED WAREHOUSE AT STRAND STREET/CROFT STREET, KILMARNOCK (PARA 9) (Item 12, Page 482, 07/12)

20. There was submitted a report dated 27 February 2009 (circulated) by the Executive Head of Finance and Asset Management which considered alternative lease/acquisition proposals in relation to the former Johnnie Walker Bonded Warehouse at Strand Street/Croft Street, Kilmarnock, within the ownership of Alchemist Properties Limited.

Cabinet agreed:-

- (i) to enter into a Development Agreement and thereafter lease from Alchemist Properties Limited the completed building known as the former Johnnie Walker Bonded Warehouse at Strand Street/Croft Street, Kilmarnock, for a period of 20 years with an option to extend for a further period of 20 years at an initial rental not exceeding the amount detailed in the report per annum together with the other lease conditions as detailed in Paragraph 4 of the report;
- (ii) to the inclusion within the lease of an option allowing the Council to acquire the subjects of lease at the end of Year 7 for a fixed price not exceeding the amount detailed in the report;
- (iii) to authorise the Executive Head of Finance and Asset Management to negotiate and accept a lower purchase price if that proved possible;
- (iv) to the revisions associated with the lease by the Council to Alchemist Properties Limited of the subjects at 6 Croft Street, Kilmarnock, as detailed within Paragraph 4 of the report;

- (v) to authorise the Solicitor to the Council to conclude the formal development and lease agreements on the basis of the abovementioned agreements;
- (vi) in recognition of the contractual situation and the need to ensure that the Council can expedite all relevant actions in order to ensure that the Council's position is not prejudiced and to protect the Council's legal, financial, commercial and reputational interest, that the above decisions be implemented ahead of any consideration by the Governance and Scrutiny Committee in terms of the Council's call-in procedures; and
- (vii) otherwise, to note the contents of the report.

The meeting terminated at 1218 hours.