

EAST AYRSHIRE COUNCIL**CABINET****MINUTES OF MEETING HELD ON WEDNESDAY 18 AUGUST 2010 AT 1000 HOURS IN THE COUNCIL CHAMBERS, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

PRESENT: Councillors Douglas Reid, Iain Linton, John MacKay, Maureen McKay, Hugh Ross, Robert McDill, Jim Roberts, Barney Menzies and Kathy Morrice; Church Representative Maria Dorrian; Parent Representative David Fraser; and Teacher Representative Bryce Wilson.

ALSO PRESENT: Councillor Tom Cook in respect of Item 10.

ATTENDING: Fiona Lees, Chief Executive; Elizabeth Morton, Depute Chief Executive/Executive Director of Neighbourhood Services; Graham Short, Executive Director of Educational and Social Services; Alex McPhee, Executive Director of Finance and Corporate Support; Bill Walkinshaw, Head of Democratic Services; Martin Rose, Head of Human Resources; David Mitchell, Head of Legal, Procurement and Regulatory Services; Malcolm Roulston, Head of Information Technology and Asset Management; John Griffiths, Head of Leisure Services; Euan Couperwhite, Head of Service: Resources; Andrew Sutherland, Head of Service: Schools; Ian McArthur, Health and Safety Manager; and Christine Baillie, Senior Administrative Officer.

ALSO ATTENDING: Christine MacLean, Head Teacher, Gargieston Primary School and Nursery Class.

APOLOGIES: Councillors Jim Buchanan and Jim Todd.

CHAIR: Councillor Douglas Reid, Leader of the Council.

CHAIR'S REMARKS

1. The Chair advised that in terms of Standing Order 18, an additional item would be considered at Item 5E on the Agenda as a decision was required as a matter of urgency in accordance with Section 50B(4)(b) of the Local Government (Scotland) Act 1973, as amended.

PROMOTING LIFELONG LEARNING**SCHOOL HOLIDAY ARRANGEMENTS 2011/2012**

- 2E. There was submitted a report dated 20 July 2010 (circulated) by the Executive Director of Educational and Social Services which informed Cabinet of the consultation exercise carried out in relation to school holiday arrangements for school session 2011/2012 and which sought agreement of Cabinet to implement the preferred school holiday option.

Cabinet agreed:-

- (i) that Appendix 2 of the report be accepted as the proposed school holiday arrangements for school session 2011/2012;
- (ii) that St Andrew's Day is not adopted as a local holiday; and

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

GRANTS TO VOLUNTARY ORGANISATIONS (Item 5E, Page 762, 07/12)

- 3E.** There was submitted a report dated 1 July 2010 (circulated) by the Executive Director of Educational and Social Services which advised Cabinet of a grant application from KULOC for 2010/11 and which made recommendations accordingly.

Cabinet agreed:-

- (i) to approve a grant to KULOC of £2,600; and
 (ii) otherwise, to note the contents of the report.

STRATEGIC PLANNING, MANAGEMENT AND RESOURCES AND EQUALITIES

**HEALTH AND SAFETY PERFORMANCE UPDATE REPORT: QUARTER 1
 2010/11 (Item 1E, Page 1157, 07/12)**

- 4E.** There was submitted and noted a report dated 2 August 2010 (circulated) by the Depute Chief Executive/Executive Director of Neighbourhood Services which provided Cabinet with a performance update on the operation of the Corporate Health and Safety Section in quarter 1 of 2010/11.

Councillors Barney Menzies and Maureen McKay joined the meeting during discussion of the above item.

SICKNESS ABSENCE AND ANNUAL LEAVE ENTITLEMENT

- 5E.** There was submitted a report dated 14 July 2010 (circulated) by the Executive Director of Finance and Corporate Support which recommended proposed amendments to the Council's Policies and Conditions of Service which related to sickness absence and leave, to take account of the European Court of Justice (ECJ) and House of Lords rulings in *Stringer v HMRC* and the ECJ ruling in *Pereda v Madrid Movilidad SA*, subject to consultation with Trade Unions.

Cabinet agreed:-

- (i) to approve the proposed changes detailed in paragraph 3 of the report, subject to Trade Union consultation;
 (ii) that a report on this matter be submitted to the Joint Negotiating Committee for Teachers; and
 (iii) otherwise, to note the contents of the report.

**GARGIESTON PRIMARY SCHOOL - GROUND SURVEY RESULTS AND
 DECANT ARRANGEMENTS (Item 3E, Page 1218, 07/12)**

- 6E.** There was submitted a joint report dated 17 August 2010 (circulated at the meeting) by the Executive Director of Educational and Social Services and the Executive Director of Finance and Corporate Support which advised Cabinet of the unexpected results from ground condition surveys at Gargieston Primary School and Nursery Class and which advised of immediate action required to ensure continuity of education provision for the young people attending the educational establishment.

Cabinet then heard from Christine MacLean, Head Teacher, Gargieston Primary School and Nursery Class.

Cabinet agreed:-

- (i) to note the results of the ground condition surveys;
- (ii) to endorse the actions set out in paragraph 4 of the report to ensure the delivery of pre-school and primary education for all Gargieston pupils;
- (iii) to note the arrangements being made to continue the Gargieston Out of School Care;
- (iv) to note that further tests would be conducted to establish the required ground works for the new build project and that details would be reported to a further meeting of the Cabinet along with the estimated costs; and
- (v) otherwise, to note the contents of the report.

Church Representative Maria Dorrian, Teacher Representative Bryce Wilson and Parent Representative David Fraser left the meeting at this point.

REVISED CONDITIONS OF SERVICE FOR LOCAL GOVERNMENT EMPLOYEES

7.1 APPLICATION FOR ADMISSION AS A DEPUTATION FROM JOINT TRADE UNIONS

There was submitted a report dated 5 August 2010 (circulated) by the Executive Director of Finance and Corporate Support which submitted to Cabinet an application for admission from the Joint Trade Unions representing Local Government Employees in relation to the Council's proposals in respect of revised Terms and Conditions of Service.

The Chair advised that, in order to expedite the request made by the Joint Trade Unions, he had arranged for the deputation to be present at the meeting to make their submission, in accordance with Standing Order 44. He further advised that he had discussed this arrangement with the Leaders of the Opposition Groups.

The Chair went on to welcome the deputation from the Joint Trade Unions and advised that they would be allowed a maximum of 15 minutes in which to make their submission. At the conclusion of all speeches, the deputation should withdraw from the meeting to the public galley.

The Chair further advised that Members of the Cabinet could put questions to the deputation relating to their submission, however, no Member should express any opinion on, or discuss the subject presented to Cabinet under Item 5.2 as shown on the Agenda, until the deputation had withdrawn.

The Chair then invited the deputation from the Trade Unions to make their submission.

Cabinet then heard from the deputation, there were no questions from Cabinet Members and the deputation then withdrew to the public gallery.

7.2 OUTCOME OF FURTHER NEGOTIATION WITH THE TRADE UNIONS

There was submitted a report dated 6 August 2010 (circulated) by the Executive Director of Finance and Corporate Support which advised Cabinet of the outcome of

further negotiations with the Trade Unions in respect of the proposed revised Conditions of Service for Local Government Employees and which made recommendations on further action as a result.

Councillor Douglas Reid seconded by Councillor Iain Linton moved:-

- (i) to note the outcome of the further negotiations with the Trade Unions in respect of the proposed revised Conditions of Service for Local Government Employees;
- (ii) to approve the Council's final proposals in respect of the revised Conditions of Service for Local Government Employees subject to the top level of shift allowance being set at 17% and not 15% as originally proposed;
- (iii) that dismissal letters including the revised terms and conditions be issued by the Head of Human Resources in September 2010 with a dismissal date of 31 December 2010 with re-engagement on the new terms and conditions of service taking effect from 1 January 2011; and
- (iv) otherwise, to note the contents of the report.

Councillor Maureen McKay, seconded by Councillor Barney Menzies moved as an amendment:-

- (i) to note the outcome of the further negotiations with the Trade Unions in respect of the proposed revised Conditions of Service for Local Government Employees;
- (ii) to approve the Council's final proposals in respect of the revised Conditions of Service for Local Government Employees subject to
 - the top level of shift allowance being set at 17% and not 15% as originally proposed; and
 - that Cabinet gives consideration and acceptance to the proposals put forward by the Joint Trade Unions regarding changes to the Standard Working Week;
- (iii) having heard the concerns expressed from the Joint Trade Unions regarding the proposals to implement revised Terms and Conditions that, if the recommended proposals as detailed in recommendation 10.1(iii) of the report were approved, that the documentation issued to employees should provide clear and concise information putting into context the proposals in order to minimise any potential alarm to employees; and
- (iv) otherwise, to note the contents of the report.

On a division by a show of hands, the motion was carried by 7 votes to 2.

ETHNIC MINORITIES LAW CENTRE - GRANT APPLICATION
(Item 11, Page 747, 07/12)

8. There was submitted a report dated 3 August 2010 (circulated) by the Executive Director of Finance and Corporate Support which asked Cabinet to consider a request for funding from the Ethnic Minorities Law Centre and which made recommendations accordingly.

Cabinet agreed:-

- (i) that a grant of £1,000 be awarded to the Ethnic Minorities Law Centre for financial year 2010/11;
- (ii) to endorse the development of continuing links with the Ethnic Minorities Law Centre in the context of its overall consultation and engagement arrangements; and
- (iii) otherwise, to note the contents of the report.

Councillor Maureen McKay left the meeting during the above item.

**“MAKE IT KILMARNOCK” LOCAL TASK FORCE - 2010/11 EXPENDITURE
(Item 14, Pages 878, 879, 07/12)**

9. There was submitted a report dated 4 August 2010 (circulated) by the Chief Executive which sought Cabinet’s approval for expenditure within the local Task Force budget for 2010/11.

Cabinet agreed:-

- (i) that Stephen Chorley be appointed to provide services which related to the support to the local Task Force for a 12 month period from 1 June 2010 in accordance with paragraph 20(1) of the Council’s Standing Orders relating to Contracts;
- (ii) that the Prince’s Foundation for the Built Environment be appointed to provide services which related to the support to the local Task Force for a 12 month period from 1 June 2010 in accordance with paragraph 20(1) of the Council’s Standing Orders Relating to Contracts;
- (iii) that Retail Rocks Ltd be appointed to provide services which related to the Retail Rocks Project (Stage 1) in accordance with Paragraph 20(1) of the Council’s Standing Orders Relating to Contracts; and
- (iv) to approve expenditure of up to £10,750 to support Marketing and Promotion costs, specifically relating to commissioning of photograph and trade marking of the “Make It Kilmarnock” brand.

Councillor Maureen McKay rejoined the meeting during the above item.

**REPORT ON THE REVIEW OF THE VEHICLE TRACKER
SYSTEM - MASTernaut (Item 9, Page 1231, 07/12)**

10. There was submitted a report dated 19 March 2010 (circulated) by the Executive Director of Finance and Corporate Support which presented the outcome report by Members of the Governance and Scrutiny Committee on their review of the Vehicle Tracker System - Masternaut and which invited Cabinet to agree, or otherwise, the recommendations contained within the report.

Cabinet agreed:-

- (i) having given due consideration to the findings of the Governance and Scrutiny Committee and the related recommendations as detailed in paragraph 9, Page 10 of the Governance and Scrutiny Committee’s report, to accept the recommendations; and
- (ii) to notify the Governance and Scrutiny Committee of its proposals.

Councillor Iain Linton left the meeting at this point.

CHARGES FOR SERVICES - ENVIRONMENTAL HEALTH AND TRADING STANDARDS

11. There was submitted a report dated 30 July 2010 (circulated) by the Executive Director of Finance and Corporate Support which sought Cabinet approval for revised charges for certain services in Environmental Health and Trading Standards provided within Legal, Procurement and Regulatory Services.

Cabinet agreed:-

- (i) to approve the proposed charges in Appendices 2 and 3 of the report and to introduce a new charge for the provision of Environmental Information requests;
- (ii) to approve the proposed charges in Appendix 1 of the report in respect of Rat Infestation, Mice Infestation, Eradication of Wasps/Bees Nests and Fumigations;
- (iii) that in respect of the proposed charge for the Eradication of Insect Infestation as shown in Appendix 1 of the report, the Head of Legal, Procurement and Regulatory Services review the budget implications of not charging for the eradication of fleas/bed bugs, on public health grounds and that a report be submitted to a future meeting of Cabinet with the outcome; and
- (iv) otherwise, to note the contents of the report.

MINUTES OF CENTRAL JOINT CONSULTATIVE COMMITTEE

12. There were submitted and noted the Minutes of special meeting held on 24 June 2010 (circulated).

DELIVERING COMMUNITY REGENERATION

SKILLS DEVELOPMENT SCOTLAND - SERVICE DELIVERY AGREEMENT

13. There was submitted a report dated 28 June 2010 (circulated) by the Executive Director of Finance and Corporate Support which presented to Cabinet for consideration and endorsement the draft Service Delivery Agreement between East Ayrshire Council and Skills Development Scotland.

Cabinet agreed:-

- (i) to approve the actions contained within the draft Service Delivery Agreement;
- (ii) to make arrangements for the overall sign-off of the document; and
- (iii) otherwise, to note the contents of the report.

A FRAMEWORK FOR ALLOTMENT PROVISION (Item 2, Pages 662 & 663, 07/12 and Item 15, Page 664, 07/12)

14. There was submitted a report dated 11 August 2010 (circulated) by the Depute Chief Executive/Executive Director of Neighbourhood Services which sought approval for a framework of allotment provision within East Ayrshire.

Cabinet agreed:-

- (i) to approve the Framework for Allotment Provision; 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".

STRATEGIC PLANNING, MANAGEMENT AND RESOURCES AND EQUALITIES

LOCAL GOVERNMENT PENSION SCHEME (SCOTLAND) REGULATIONS EMPLOYERS DISCRETION (PARA 1)

16. There was submitted a report dated 6 July 2010 (circulated) by the Executive Director of Finance and Corporate Support which asked Cabinet to consider a request from a former employee for the Council to use its discretion under the Pension Regulations to authorise early payment of deferred pension benefits on compassionate grounds.

Cabinet agreed, in this case, that Cabinet does not use its discretion under the Pension Regulations to authorise early payment of the former employee's reserved pension benefits due to the "strain on the fund costs" associated with her request.

EARLY RETIREMENTS (PARA 1)

17. There was submitted a report dated 2 August 2010 (circulated) by the Executive Director of Finance and Corporate Support (i) which updated Cabinet on the successful redeployment of two former Community Wardens in the Department of Neighbourhood Services; and (ii) which sought Cabinet's approval of early retirement requests received from three employees within the Information Technology and Asset Management Services of the Department of Finance and Corporate Support.

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

DEVELOPMENT AT 6-14 JOHN FINNIE STREET AND 24-26 STRAND STREET, KILMARNOCK (PARA 9)

18. There was submitted a joint report dated 12 August 2010 (circulated) by the Executive Director of Finance and Corporate Support and the Solicitor to the Council where Cabinet approval to enter into a Development Agreement for the development and purchase of an office development at 6-14 John Finnie Street and 24-26 Strand Street, Kilmarnock was sought.

Having heard from the Executive Director of Finance and Corporate Support, Cabinet agreed to continue consideration of this report to a future meeting of Cabinet to allow further detail to be included to aid Cabinet's consideration.

The meeting terminated at 1300 hours.