

**EAST AYRSHIRE COUNCIL****MINUTES OF SPECIAL MEETING HELD ON THURSDAY 24 FEBRUARY 2011 AT  
1000 HOURS IN THE COUNCIL CHAMBERS, COUNCIL HEADQUARTERS,  
LONDON ROAD, KILMARNOCK**

**PRESENT:** Provost Stephanie Young and Councillors John MacKay, John McGhee, Helen Coffey, Maureen McKay, Tom Cook, Robert Keohone, Iain Linton, Douglas Reid, Depute Provost John Campbell, Councillors Gordon Cree, Drew McIntyre, John Knapp, Hugh Ross, Jim Todd, Alan Brown, Stuart Finlayson, Robert McDill, Jimmy Kelly, Neil McGhee, Jim Roberts, David Shaw, William Crawford, Kathy Morrice, Eric Ross, Elaine Dinwoodie, Drew Filson and Moira Pirie.

**ATTENDING:** Alex McPhee, Executive Director of Finance and Corporate Support; David Mitchell, Head of Legal, Procurement and Regulatory Services; Alan Neish, Head of Planning and Economic Development; Hugh Melvin, Principal Planning Officer; Fiona Finlay, Principal Planning Officer; and Julie McGarry, Administration Manager.

**APOLOGIES:** Councillors Rose-Ann Cuninghame, Willie Coffey, Jim Buchanan and Barney Menzies

**CHAIR:** Provost Stephanie Young, Chair.

**PROVOST'S REMARKS**

1. The Provost began the Council meeting by referring to the following day's events in Auchinleck. The Provost wished to record that all thoughts were for the welfare of the children who had been subjected to such a mindless attack and had been struck by pellets, which, it was believed, were from an air weapon. The Provost was pleased to report that no child had sustained any long lasting injury.

The Provost also expressed her shock by the headlines that morning and TV coverage of Auchinleck. The Provost stated that what was described did not represent the Auchinleck that she and Members knew, and particularly the lives of hard-working, law-abiding and decent families. The Provost made reference to the achievements of community groups in Auchinleck, the success of individuals at awards ceremonies and the excellent work of the schools in the area. The Provost wished everyone to remember and focus on the positive aspects of this local community.

**EAST AYRSHIRE COUNCIL COMMUNITY COUNCIL SCHEME - OUTCOME OF  
SECOND PERIOD OF FORMAL PUBLIC CONSULTATION ON THE REVIEW OF  
THE SCHEME (Item 1, Page 1408, 07/12)**

2. There was submitted a report dated 17 February 2011 (circulated) by the Executive Director of Finance and Corporate Support which advised of the outcome of the second period of formal public consultation on the Review of the East Ayrshire Council Community Council Scheme and which presented, for consideration, the Scheme and associated documents for adoption.

It was agreed:

- (i) that no Community Council for Crossroads be established;

- (ii) to adopt the documents as shown attached to the report, namely:- (a) Appendix 1 - Scheme; (b) Appendix 2 - Constitution; (c) Appendix 3 - Standing Orders; and (d) Appendix 4 - Code of Conduct;
- (iii) to remit to the Executive Director of Finance and Corporate Support to (a) give public notice of the adoption of the Scheme and associated documents; (b) to instruct Officers to work with Community Councils to assist them during the transitional period in moving from the existing Scheme to the new Scheme and the adoption of associated documents; and
- (iv) otherwise, to note the contents of the report.

**RECOMMENDATION OF SOUTHERN LOCAL PLANNING COMMITTEE HELD  
ON 21 JANUARY 2011 RELATING TO PLANNING APPLICATION NO  
10/0842/PP: PROPOSED MINING OF COAL USING SURFACE MINING  
METHODS WITH RESTORATION TO IMPROVE PEATLAND AND WET HEATH  
HABITATS AT DALFAD SURFACE MINE, NEAR POWHARNAL SURFACE COAL  
MINE, SKEW BRIDGE, CRONBERRY BY SCOTTISH COAL  
(Item 3, Page 1493, 07/12)**

3. There was submitted a report dated 24 January 2011 (circulated) by the Executive Director of Finance and Corporate Support which informed the Special Council meeting of the recommendations of the Southern Local Planning Committee held on 21 January 2011 regarding the above planning application and which invited Council to determine the application for planning permission in terms of the Scheme of Delegation on the grounds that the application under consideration proposed a major development as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 that was considered significantly contrary to the Development Plan.

**3.1 Declaration of Interests**

Councillors Kathy Morrice and Drew Filson declared non financial interests in respect of this item in terms of Paragraph 7.12 of the Councillors' Code of Conduct and both withdrew from the meeting.

**3.2 Consideration of Item**

Fiona Finlay, Principal Planning Officer, presented the details of the planning application and advised of the recommendation by the Southern Local Planning Committee held on 21 January 2011 where it had been agreed (i) to endorse the view of the Head of Planning and Economic Development that the application be approved subject to the conditions and for the reasons detailed in the report; and (ii) that the recommendation of the Local Planning Committee be notified to Council for its consideration in the determination of the application.

Members of Council then had an opportunity to ask questions of the Officers on clarification of the detail of the planning application. During discussion, it was noted that a report would be submitted to a future Cabinet meeting for proposals for a new strategic context for surface coal mine development in East Ayrshire which could avoid impacts on protected sites and minimise loss of the biodiversity in carbon storage benefits provided by peatlands.

Councillor Brown, seconded by Councillor Keohone moved the recommendations from the Southern Local Planning Committee and to endorse the view of the Head of

Planning and Economic Development that the application be approved subject to the conditions and for the reasons detailed in the report.

Councillor Roberts, seconded by Councillor Todd, moved as an amendment that the application be refused as (i) it comprised a major development contrary to the Development Plan; (ii) it was outwith an identified potential coal extraction area; (iii) the compensatory package does not mitigate the loss of 47 hectares of peat bog; (iv) it encroached onto a SSSI (Site of Special Scientific Interest) site; (v) it encroached onto a SAC (Special Area of Conservation) site; (vi) the development contravened 4 Opencast Coal Subject Plan Policies namely MIN3, MIN11, MIN26 and MIN27; and (vii) the development had the potential to compromise the EC Habitat Directive and Climate Change Act 2008 and could lead to a legal challenge against the Council.

On a division by a show of hands, the motion was carried by 23 votes to 3.

The meeting terminated at 1130 hours.