

EAST AYRSHIRE COUNCIL**LOCAL GOVERNMENT LICENSING PANEL****MINUTES OF MEETING HELD ON THURSDAY 17 DECEMBER 2009 AT 1000 HOURS IN MEETING ROOM 1, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

PRESENT: Councillors Hugh Ross, Rose-Ann Cuninghame, John MacKay, Robert Keohone, John Campbell and Gordon Cree.

ATTENDING: David Mitchell, Head of Legal, Procurement and Regulatory Services; Craig Young, Litigation Team Leader; Gillian Kuhn, Licensing Board Administrator; and Sharon McHarg, Administrative Officer.

ALSO ATTENDING: Detective Sergeant Joe McKerns and Danny Stuart, Local Authority Liaison Officer, Strathclyde Police.

APOLOGIES: Councillors Jim Buchanan, Neil McGhee, Jim Roberts, Barney Menzies and Elaine Dinwoodie.

CHAIR: Councillor Hugh Ross, Chair.

EXCLUSION OF PRESS AND PUBLIC

1. The Panel 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 Paragraph 3 of Schedule 7A of the Act.

PRESENTATION BY STRATHCLYDE POLICE ON SERIOUS ORGANISED CRIME GROUPS

2. Detective Sergeant Joe McKerns gave a presentation on Serious Organised Crime Groups and there then followed a question and answer session.

The Chair thanked Detective Sergeant Joe McKerns for his informative presentation.

APPLICATION FOR GRANT OF A STREET TRADER'S LICENCE (EMPLOYEE) - STUART MACMILLAN (AKA STUART D'ANDREA)

3. There was submitted a report dated 7 December 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Street Trader's Licence (Employee).

It was confirmed that Stuart MacMillan (aka Stuart D'Andrea), Mr J McCluskey, his solicitor and Mr D D'Andrea, his father and representatives from Strathclyde Police were all in attendance.

The Head of Legal, Procurement and Regulatory Services outlined the agreed Hearing Procedure.

3.1 Hearing

The Panel heard Chief Inspector Dillon, representing Strathclyde Police in explanation of the Police objections and the applicant and his representatives, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant, his representatives, and the Police representatives then left the meeting to enable the Panel to take and consider legal advice on the matter.

3.2 Adjournment of Hearing

The Panel adjourned at 1100 hours and reconvened at 1115 hours with the same Members and Officers present and in attendance.

3.3 Hearing (Continued)

Mr McCluskey advised the Panel that following consultation with the applicant, it had been agreed to withdraw the application.

3.4 Decision

The Panel noted that the application had been withdrawn.

The applicant was further advised that provided he had no further criminal charges or convictions against him over the next six months, the Panel would be prepared to consider a further application thereafter.

ORDER OF BUSINESS

4. The Chair at his discretion and in terms of Standing Order 19, agreed to alter the order of business.

**APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE -
FRANK WILSON**

5. There was submitted a report dated 9 December 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Taxi Driver's Licence.

It was confirmed that Frank Wilson, the applicant, and representatives from Strathclyde Police were all in attendance.

5.1 Preliminary Matter

The Head of Legal, Procurement and Regulatory Services advised the Panel that a letter dated 17 December 2009 had been received from the applicant's solicitor. It was confirmed that the representatives from Strathclyde Police had no objections to the letter on behalf of the applicant being circulated to the Panel.

In respect of the preliminary matter, it was agreed that the letter dated 17 December 2009 be accepted (then circulated).

The Head of Legal, Procurement and Regulatory Services outlined the agreed Hearing Procedure.

5.2 Hearing

The Panel heard Chief Inspector Dillon, representing Strathclyde Police in explanation of the Police observations and the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant and the Police representatives then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

5.3 Decision

It was agreed that the application for the grant of a Taxi Driver's Licence be granted for a period of 12 months, subject to the standard conditions.

The applicant was further advised that the Panel would take a very dim view of any similar offences or complaints which might be brought to their attention in future and in such circumstances would be unlikely to be minded to approve any renewal of the licence.

APPLICATION FOR THE RENEWAL OF A TAXI DRIVER'S LICENCE - MALCOLM SCOTT

6. There was submitted a report dated 9 December 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the renewal of a Taxi Driver's Licence.

It was confirmed that Malcolm Scott, the applicant, and representatives from Strathclyde Police were all in attendance.

The Head of Legal, Procurement and Regulatory Services outlined the agreed Hearing Procedure.

6.1 Hearing

The Panel heard Chief Inspector Dillon, representing Strathclyde Police in explanation of the Police objections and the applicant, who spoke to all matters raised, all in accordance with the agreed Hearing Procedure.

The applicant and the Police representatives then left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

6.2 Decision

It was agreed that the application for the grant of a Taxi Driver's Licence be continued to the next meeting of the Panel to allow the Depute Chief Executive/Executive Director of Corporate Support to provide a report (a) on the outcome of the deferred sentence schedule to be heard on 12 January 2010; and (b) on the outcome of an independent enquiry by the Council to the applicant's previous employer, to confirm the details of the applicant's previous employment with them and the reason(s) why this came to an end in September 2009.

APPLICATION FOR GRANT OF A WINDOW CLEANER'S LICENCE (1 YEAR EMPLOYEE) - KEVIN O'SULLIVAN

7. There was submitted a report dated 7 December 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Window Cleaner's Licence (1 year employee licence).

It was confirmed that the applicant was not present or represented.

7.1 Preliminary Matter

The Head of Legal, Procurement and Regulatory Services advised the Panel that a letter dated 19 November 2009 had been received from the Chief Constable, Strathclyde Police advising of spent convictions.

In respect of the preliminary matter, it was agreed that the letter dated 19 November 2009 from Chief Constable, Strathclyde Police be accepted as a relevant submission by virtue of Section 7(3) of the Rehabilitation of Offenders Act 1974 (then circulated).

7.2 Decision

It was agreed that the application for the grant of a Window Cleaner's Licence (1 year employee) be refused on the grounds that the applicant was not a fit and proper person to be the holder of such a licence.

APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE - GARRY SHAW

8. There was submitted a report dated 7 December 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider, by way of a Hearing, an application for the grant of a Taxi Driver's Licence. It was confirmed that the applicant was not present or represented.

8.1 Decision

It was agreed that the application for the grant of a Taxi Driver's Licence be refused on the grounds that the applicant was not a fit and proper person to hold such a licence.

APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE - CONTINUED APPLICATION FOR SCOTT BRANNIGAN (Item 4, Page 828, 07/12)

9. There was submitted a report dated 15 December 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Panel to consider a final decision on the application for the grant of a Taxi Driver's Licence.

The Head of Legal, Procurement and Regulatory Services summarised the current position with regard to Scott Brannigan's application and confirmed that Strathclyde Police maintained their observations.

It was agreed that the application for the grant of a Taxi Driver's Licence be refused on the grounds that the applicant is not a fit and proper person to be the holder of such a licence.

RE-ADMISSION OF PRESS AND PUBLIC

10. The Press and public were then re-admitted to the meeting.

CONSIDERATION OF VARIATION OF THE RESOLUTION IN RESPECT OF SECOND HAND DEALERS' LICENSING

11. There was submitted a report dated 7 December 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Licensing Panel to ratify the decision to vary the Resolution in respect of the licensing of

second hand car dealers to include computers, gaming equipment and mobile phones.

It was agreed:-

- (i) to vary the Resolution relating to second hand dealers to include computers, gaming equipment and mobile phones;
- (ii) to remit to the Head of Legal, Procurement and Regulatory Services to undertake the necessary arrangements; and
- (iii) otherwise, to note the contents of the report.

**AMENDMENT TO CONDITIONS FOR STREET TRADERS' LICENCES
(WHEELED BIN CLEANERS)**

12. There was submitted a report dated 9 December 2009 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which invited the Licensing Panel to consider amending conditions currently attached to Street Traders' Licences (Wheeled Bin Cleaners) to ensure that all steps are taken during the winter months to reduce the risks caused by freezing water and its impact on the environment.

It was agreed:-

- (i) that an additional condition in the terms specified in Paragraph 3.3 of the report, be added to the existing standard conditions currently imposed on Street Traders' Licences issued to wheeled bin cleaners; and
- (ii) otherwise, to note the contents of the report.

The meeting terminated at 1225 hours.