

**EAST AYRSHIRE COUNCIL**

**LOCAL GOVERNMENT LICENSING PANEL**

**MINUTES OF SPECIAL MEETING HELD ON THURSDAY 19 APRIL 2007 AT 1030 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

**PRESENT:** Councillors Jim Raymond, Jim O'Neill, Gordon Cree, John Weir, Isabella Macrae, George Smith, William Menzies, Neil McGhee and Elaine Stewart.

**ATTENDING:** David Mitchell, Head of Legal, Procurement and Regulatory Services; Paul Todd, Principal Officer, Environmental Health and Licensing; George Scott, Licensing Officer; and Sharon McHarg, Administrative Officer.

**APOLOGY:** Councillor Harry Wilson.

**CHAIR:** Councillor Jim Raymond (Items 1 to 5), Councillor O'Neill (Items 6 to 8).

**CHAIR'S REMARKS**

1. The Chair thanked all Members, officers and colleagues from Strathclyde Police for their support in ensuring that the Panel had operated effectively, efficiently and fairly in discharging its functions during his tenure.

**ORDER OF BUSINESS**

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

**EXCLUSION OF PRESS AND PUBLIC**

3. 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.

**APPLICATION FOR RENEWAL OF A TAXI DRIVER'S LICENCE  
NO EA/TD 792**

4. There was submitted a report dated 3 April 2007 (circulated) by the Executive Director of Corporate Support which invited the Panel (a) to consider whether or not to entertain an out-of-time representation from Strathclyde Police; and (b) if so, to agree to consider, by way of a Hearing, the application for renewal of a Taxi Driver's Licence.

In respect of the first preliminary matter, the Panel heard Mr Glass, Solicitor, representative of Mr Nairn, the applicant, who confirmed that he objected to the Police representation being accepted by the Panel out-of-time and gave his reasons in support of his position.

Mr Nairn, the applicant, Mr Glass, the applicant's legal representative 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.

The Panel, being satisfied that there was sufficient reason for the submission from the Chief Constable not being made timeously, agreed (i) to accept the late objection from Strathclyde Police (then circulated); and (ii) to determine the application by way of a Hearing.

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

#### **4.1 Hearing**

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

Mr Glass, 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.

#### **4.2 Decision**

It was agreed that the application for renewal of a Taxi Driver's Licence be granted for a period of three years subject to the standard conditions.

Councillor Stewart left the meeting during consideration of the above item and Councillors Raymond, Cree, Menzies, McGhee and Smith left the meeting following consideration of the above item.

### **ADJOURNMENT/RECONVENTION**

5. The Panel adjourned at 1200 hours and reconvened at 1225 hours.

### **CHAIR**

6. In the absence of Councillor Raymond, it was unanimously agreed that Councillor O'Neill take the Chair.

### **APPLICATIONS FOR RENEWAL OF LICENCES**

7. It was agreed to consider Agenda Items 7.1 and 7.2 by way of a conjoined hearing.

#### **7.1 Application for Renewal of a Licence to Keep an Animal Boarding Establishment**

There was submitted a report dated 3 April 2007 (circulated) by the Executive Director of Corporate Support which (i) advised that an application for renewal of licence had been made in terms of the Animal Boarding Establishments Act 1963 and (ii) invited the Panel to determine the application.

#### **7.2 Application for a Licence to Keep a Dog Breeding and Rearing Establishment**

There was submitted a report dated 3 April 2007 (circulated) by the Executive Director of Corporate Support which (i) advised that an application for the renewal of a licence had been made in terms of the Breeding of Dogs Act 1973, as amended by the Breeding of Dogs Act 1991 and the Breeding and Sales of Dogs (Welfare) Act 1999; and (ii) invited the Panel to determine the application.

Mr Steven Stuart, Advocate, appeared on behalf of, and together with, the applicant and Mr Reid Hamilton, Solicitor. Mr Stuart raised a preliminary issue in respect of the proposed hearing arrangements.

### **7.3 Adjournment/Reconvention**

The Panel adjourned at 1230 hours and reconvened at 1255 hours.

The Head of Legal, Procurement and Regulatory Services advised the Panel that it had been agreed that no witnesses would be called for the applicant or the objector and that both parties would speak to the contents of the report.

### **7.4 Hearing**

The Panel heard Mr P Hessett, Team Leader (Litigation) representing East Ayrshire Council in explanation of the representation and Mr Stuart, the applicant's legal representative who spoke to the matters raised, all in accordance with the agreed Hearing Procedure.

Mr Stuart, Advocate, Mr Hamilton, Solicitor and Mrs Baird, applicant, and Mr Hessett and Mr Donnelly, Principal Officer, Trading Standards left the meeting to enable the Panel to take and consider legal advice on the matter.

The parties were then re-admitted.

### **7.5 Decision for Application for Renewal of a Licence to Keep an Animal Boarding Establishment**

Councillor O'Neill, seconded by Councillor Smith, moved to grant the renewal of a licence to Keep an Animal Boarding Establishment.

Councillor Weir, seconded by Councillor Macrae, moved as an amendment that the application be refused on the grounds that the applicant was not a fit and proper person to hold such a licence.

On a division by a show of hands, there were two votes for the amendment and two votes for the motion.

There being an equality of votes, the Chair exercised his casting vote in favour of the motion which became the decision of the meeting.

### **7.6 Decision for Application for a Licence to Keep a Dog Breeding and Rearing Establishment**

Councillor O'Neill, seconded by Councillor Smith, moved to grant the renewal of a licence to Keep a Dog Breeding and Rearing Establishment for a period of 12 months subject to the standard conditions.

Councillor Weir, seconded by Councillor Macrae, moved as an amendment that the application be refused on the grounds that the applicant was not a fit and proper person to hold such a licence.

On a division by a show of hands, there were two votes for the amendment and two votes for the motion.

There being an equality of votes, the Chair exercised his casting vote in favour of the motion which became the decision of the meeting.

## **CONSIDERATION OF SUSPENSION OF TAXI DRIVER'S LICENCE NO EA/TD 291**

8. There was submitted a report dated 3 April 2007 (circulated) by the Executive Director of Corporate Support which invited the Panel to consider, by way of a hearing, the suspension of Taxi Driver's Licence number EA/TD 291 in terms of Paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982.

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

### **8.1 Hearing**

The Panel heard the Head of Legal, Procurement and Regulatory Services in explanation of the complaint from the Executive Director of Educational and Social Services, all in accordance with the agreed Hearing Procedure.

### **8.2 Decision**

It was agreed to suspend Taxi Driver's Licence No EA/TD 291 for the unexpired portion of the duration of the licence, namely 31 July 2007, in terms of Paragraph 11 of Schedule 1 of the Civic Government (Scotland) Act 1982.

The meeting terminated at 1450 hours.