

EAST AYRSHIRE COUNCIL**MINUTES OF MEETING HELD ON THURSDAY 12 OCTOBER 2006 AT
1000 HRS IN THE MEETING ROOM, COUNCIL HEADQUARTERS,
LONDON ROAD, KILMARNOCK**

PRESENT: Provost Jane Darnbrough and Councillors Maureen McKay, Jim O'Neill, Stephanie Young, Brian Reeves, Helen Coffey, Willie Coffey, Douglas Reid, Gordon Cree, John Weir, Drew McIntyre, Isabella Macrae, Harry Wilson, Iain Linton, John Campbell, Ray Murray, John Knapp, Jim Raymond, Stuart Finlayson, Eric Jackson, George Smith, Jimmy Kelly, Depute Provost Farrell and Councillors William Menzies, Neil McGhee, William Crawford, Eric Ross, Elaine Dinwoodie, Elaine Stewart and Jimmy Carmichael.

ATTENDING: Fiona Lees, Chief Executive; Elizabeth Morton, Depute Chief Executive/Executive Director of Corporate Support; James Lavery, Executive Director of Development and Property Services; Graham Short, Executive Director of Educational and Social Services; William Stafford, Executive Director of Neighbourhood Services; Alex McPhee, Executive Head of Finance; Jackie Donnelly, Executive Head of Social Work; David Mitchell, Head of Administrative and Legal Services; John Clayton, Head of Corporate Development and Communication; Chris McAleavey, Head of Housing; Euan Couperwhite, Head of Resource Support; and Bill Walkinshaw, Administration Manager.

APOLOGIES: Councillors John McGhee and Robert McDill.

CHAIR: Provost Jane Darnbrough, Chair.

PROVOST'S REMARKS

1. The Provost expressed her delight at Kilmarnock's recent success following an independent survey of customer service which had shown that Kilmarnock was the friendliest shopping location in the UK. The Provost referred to the nationwide survey, which was an undercover investigation carried out by Retail Eyes, that had used mystery shoppers who had made over 49,000 visits across 124 towns and cities including major cities such as Glasgow, Edinburgh and London.

The Provost intimated that the survey judged shops on cleanliness, stock and staff helpfulness and visits had been made to branches of major chains, coffee shops and specialist retailers. Kilmarnock had been revealed as the site of the best staff and services anywhere in Britain. The survey had also highlighted that East Ayrshire Council had a solid base to further develop the Kilmarnock Town Centre Regeneration Strategy which was launched at the beginning of 2006.

The Provost reported that during the previous week she and the Leader of the Council had visited a range of premises to personally congratulate shop staff and thank them for the hard work they do and for their friendliness and helpfulness. The Provost stated that the retail staff were a credit to Kilmarnock and East Ayrshire.

PREVIOUS MINUTES

2. There were submitted (circulated) Minutes of Meeting of Council held on 22 June 2006 (pages 2294-2305) and Minutes of Special Meeting of Council held on 20 September 2006 (pages 2430-2431).

2.1 COUNCIL MEETING OF 22 JUNE 2006 - EAST AYRSHIRE VOLUNTEERS CENTRE (Item 13, Page 2302, 03/07)

Provost Darnbrough, seconded by Depute Provost Farrell, moved the Minutes as a correct record.

Councillor Wilson, seconded by Councillor Reid, moved as an amendment that the Minutes were incorrect in that item 13.2, page 2302, paragraph (ii) was not a correct record.

On a division by a show of hands, the motion was carried by 22 votes to 8.

Thereafter, Councillor Reid, seconded by Councillor Wilson, moved that the Council reconsider the decision of Council at its meeting on 22 June 2006 in respect of this item.

On a division by a show of hands, the motion was defeated by 22 votes to 8.

2.2 SPECIAL COUNCIL MEETING OF 20 SEPTEMBER 2006

The Minutes of the meeting were approved as a correct record.

COMMITTEE MINUTES

3. There were submitted (circulated) and approved both as correct records and in respect of any recommendations contained therein, the Minutes of the undernoted Committee meetings, viz:-

3.1 **NORTHERN AREA LOCAL PLANNING COMMITTEE OF 16 JUNE 2006 (pages 2286-2288).**

3.2 **SPECIAL DEVELOPMENT SERVICES COMMITTEE OF 20 JUNE 2006 (pages 2289-2293).**

3.3 **SOUTHERN LOCAL PLANNING COMMITTEE OF 23 JUNE 2006 (pages 2306-2307).**

3.4 **CENTRAL LOCAL PLANNING COMMITTEE OF 30 JUNE 2006 (pages 2308-2310).**

3.5 **EMERGENCY POWERS COMMITTEE OF 4 JULY 2006 (pages 2311-2313).**

3.6 **EMERGENCY POWERS COMMITTEE OF 19 JULY 2006 (pages 2314-2315).**

3.7 **EMERGENCY POWERS COMMITTEE OF 1 AUGUST 2006 (page 2316).**

3.8 **DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING COMMITTEE OF 1 AUGUST 2006 (pages 2317-2321).**

MATTER ARISING - APPLICATION NOS 06/0456/LB AND 06/0458/LA: PARTIAL REINSTATEMENT OF BURNS MONUMENT, ERECTION OF MARRIAGE RECORDS CENTRE, ALTERATIONS TO ROAD AND FORMATION OF CAR PARKS AT BURNS MONUMENT, KAY PARK, KILMARNOCK BY EAST AYRSHIRE COUNCIL'S LIBRARY, REGISTRATION AND INFORMATION SERVICE (item 2, Page 2317, 03/07)

Following intimation by Councillor Reid of a proposal to move reconsideration of this item in terms of Standing Order 40, the Head of Administrative and Legal Services/Solicitor to the Council advised that the Council as a Planning Authority could not reconsider a previous decision to grant planning permission. Consideration

and determination of planning applications was a quasi-judicial process and the Head of Administrative and Legal Services/Solicitor to the Council reminded Members of a previous decision of Council to reconsider a quasi judicial licensing matter, which decision was subsequently overturned by the Sheriff who ruled that it was not competent for a local authority to reconsider such quasi judicial decisions.

The Head of Administrative and Legal Services/Solicitor to the Council further advised that provision existed within planning legislation for a Planning Authority to revoke a planning consent if it was minded to do so. However, in doing so, any revocation should be based on competent and relevant planning grounds. The Head of Administrative and Legal Services/Solicitor to the Council further advised that he was not aware of any change in the circumstances surrounding the proposed development in the relatively short period since the planning application had been granted that could justify revocation on planning grounds. The submission of a petition with several thousand signatures was not a relevant planning ground on which planning consent could be revoked and any such revocation on such terms could have implications for the Council.

Councillor Young, seconded by Councillor Reid, moved that the Council use its power to revoke the decision of the Development Services Committee - Sitting as a Planning Committee on 1 August 2006 regarding the partial reinstatement of Burns Monument, erection of Marriage Records Centre, alterations to road and formation of car parks. Further that it be remitted back to the Head of Planning, Development and Building Standards to be resubmitted to Development Services Committee - Sitting as a Planning Committee at a future date.

Councillor Young provided a rationale for her motion to revoke namely:-

- alleged failures to properly advertise the application in terms of development contrary to the Development Plan; potential Development Plan departure; and potential bad neighbour development;
- requirements of the original Deed of Gift of the Kay Park had not been submitted for consideration and suggested that failing to notify residents of Kay Park Crescent, situated within the park, was contrary to the original intent of the Deed of Gift;
- alleged inconsistencies in the planning application consultation process;
- that in her view the development was contrary to the Adopted East Ayrshire Local Plan;
- failure to take cognisance of the impact of such a development on the Conservation Area;
- the development was contrary to the Adopted Ayrshire Joint Structure Plan;
- alleged failure to carry out appropriate processes that any private developer would require to have complied with.

The Head of Administrative and Legal Services/Solicitor to the Council having considered the submission made by Councillor Young at the meeting, advised that the statement alluded to alleged inadequacies and failures in procedures. He expressed the view that there was no sound planning basis within Councillor Young's motion to support the revocation of the planning consent. In addition, the Head of Administrative and Legal Services/Solicitor to the Council advised that in terms of

any complaints with regards to procedures, there were alternative processes for such complaints to be dealt with and as yet he intimated he was unaware that the Council had received any intimation from the Scottish Public Services Ombudsman in respect of any such complaints on the procedural issues associated with the consideration and determination of this planning application.

Council agreed that the vote be taken by roll call.

For the motion - Councillors Young, Helen Coffey, Willie Coffey, Reid, Weir, Wilson, Linton and Campbell.

Against the motion - Provost Darnbrough and Councillors McKay, O'Neill, Reeves, Cree, McIntyre, Macrae, Murray, Knapp, Raymond, Finlayson, Jackson, Smith, Kelly, Depute Provost Farrell and Councillors Menzies, Neil McGhee, Crawford, Ross, Dinwoodie, Stewart and Carmichael.

The motion was defeated by 22 votes to 8.

Councillor Young left the meeting at this point.

- 3.9 NORTHERN AREA LOCAL PLANNING COMMITTEE OF 4 AUGUST 2006 (pages 2322-2325).**
 - 3.10 EMERGENCY POWERS COMMITTEE OF 10 AUGUST 2006 (pages 2326-2327).**
 - 3.11 SOUTHERN LOCAL PLANNING COMMITTEE OF 11 AUGUST 2006 (pages 2328-2332).**
 - 3.12 EMERGENCY POWERS COMMITTEE OF 17 AUGUST 2006 (page 2333).**
 - 3.13 DEVELOPMENT SERVICES COMMITTEE OF 22 AUGUST 2006 (pages 2334-2341).**
 - 3.14 DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING COMMITTEE OF 22 AUGUST 2006 (pages 2342-2344).**
 - 3.15 NORTHERN AREA LOCAL COMMITTEE OF 24 AUGUST 2006 (pages 2345-2350).**
 - 3.16 KILMARNOCK CENTRAL LOCAL COMMITTEE OF 29 AUGUST 2006 (pages 2351-2354).**
 - 3.17 LOCAL GOVERNMENT LICENSING PANEL OF 31 AUGUST 2006 (pages 2355-2359).**
 - 3.18 NORTHERN AREA LOCAL PLANNING COMMITTEE OF 1 SEPTEMBER 2006 (pages 2360-2361).**
 - 3.19 DOON VALLEY LOCAL COMMITTEE OF 5 SEPTEMBER 2006 (pages 2362-2365).**
 - 3.20 HOUSING COMMITTEE OF 6 SEPTEMBER 2006 (pages 2366-2374).**
 - 3.21 KILMARNOCK SOUTH LOCAL COMMITTEE OF 6 SEPTEMBER 2006 (pages 2375-2379).**
- Councillor Kelly left the meeting at this point.
- 3.22 SOCIAL WORK COMMITTEE OF 7 SEPTEMBER 2006 (pages 2380-2383).**
 - 3.23 CUMNOCK AREA LOCAL COMMITTEE OF 7 SEPTEMBER 2006 (pages 2384-2388).**

3.24 SOUTHERN LOCAL PLANNING COMMITTEE OF 8 SEPTEMBER 2006 (pages 2389-2390).

Councillor Young rejoined the meeting during consideration of this item and thereafter in accordance with Standing Order 17 was asked to leave the meeting which she complied with.

3.25 EDUCATION COMMITTEE OF 12 SEPTEMBER 2006 (pages 2391-2398).

MATTER ARISING - BUDGETARY CONTROL SUMMARY STATEMENT - EDUCATION TO 23 JULY 2006 (PERIOD 4) (Item 1, Page 2391, 03/07)

Depute Provost Farrell, seconded by Councillor Stewart, moved the Minutes as a correct record.

Councillor Linton, seconded by Councillor Reid, moved as an amendment that item 1, page 2391, paragraph (i) was not a correct record.

On a division by a show of hands, the motion was carried by 21 votes to 7.

3.26 KILMARNOCK NORTH LOCAL COMMITTEE OF 12 SEPTEMBER 2006 (pages 2399-2403).

MATTER ARISING - SAFER STREETS STRATHCLYDE POLICE REPORT (item 4.1.3, Page 2400, 03/07)

Council agreed that the Provost invite the Procurator Fiscal to give a presentation to Council on how decisions whether to prosecute are determined and how the Procurator Fiscal's service provided feedback to affected individuals and the community in general on outcomes of their decisions, with particular reference to crimes involving anti-social behaviour, including drugs related activity and offences involving the sale of alcohol, or the purchase of alcohol for or by, under 18's and the consumption of alcohol in public places.

Councillor McIntyre left the meeting during discussion of this item.

3.27 COMMUNITY SERVICES COMMITTEE OF 13 SEPTEMBER 2006 (pages 2404-2407).

3.28 IRVINE VALLEY LOCAL COMMITTEE OF 13 SEPTEMBER 2006 (pages 2408-2414).

3.29 CENTRAL LOCAL PLANNING COMMITTEE OF 14 SEPTEMBER 2006 (pages 2415-2416).

3.30 POLICY AND RESOURCES COMMITTEE OF 19 SEPTEMBER 2006 (pages 2417-2426).

MATTER ARISING - FORMAL NAMING OF THE NEW HEALTH/COUNCIL/ COMMUNITY FACILITY IN NORTHWEST KILMARNOCK (Item 11, Page 2419, 03/07)

Councillor Reid, seconded by Councillor Wilson, moved that the Council reconsider this matter in terms of Standing Order 40.

On a division by a show of hands the motion was defeated by 20 votes to 7.

3.31 DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING COMMITTEE OF 19 SEPTEMBER 2006 (pages 2427-2429).

- 3.32 SPECIAL LOCAL GOVERNMENT LICENSING PANEL OF 20 SEPTEMBER 2006 (pages 2432-2433).**
- 3.33 CORPORATE GOVERNANCE COMMITTEE OF 28 SEPTEMBER 2006 (pages 2434-2449).**
- 3.33 NORTHERN AREA LOCAL PLANNING COMMITTEE OF 29 SEPTEMBER 2006 (pages 2450-2452).**

CENTRAL JOINT CONSULTATIVE COMMITTEE

4. Following a request received from the SNP Opposition Group, Council agreed that Councillor Helen Coffey be nominated to the vacant position on the Central Joint Consultative Committee.

EX OFFICIO JUSTICE OF THE PEACE

5. There was submitted a report dated 29 September 2006 (circulated) by the Head of Administrative and Legal Services inviting Council to appoint an Elected Member as ex Officio Justice of the Peace and advising of the criteria applied in respect of such appointment and some of the duties involved.

Council agreed not to appoint an Elected Member as ex officio Justice of the Peace on the basis that (i) it was considered there were sufficient JPs including signing JPs to perform signing duties for East Ayrshire constituents and (ii) due to the time involved in appointing an Elected Member as ex officio Justice of the Peace and the close proximity of the forthcoming Local Government elections in May 2007.

DRAFT EAST AYRSHIRE MEETINGS CALENDAR FOR JANUARY TO 24 MAY 2007

6. There was submitted a report dated 13 September 2006 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support submitting for consideration of Council a draft East Ayrshire Council Meetings Calendar for January to 24 May 2007.

It was agreed:

- (i) to approve the enclosed Meetings Calendar subject to any minor amendments in relation to outside organisations yet to determine their meeting arrangements; and
- (ii) otherwise to note the contents of the report.

COMMUNITY PLANNING IN EAST AYRSHIRE: FOUR YEARLY REVIEW

7. There was submitted a report dated 28 September 2006 (circulated) by the Chief Executive presenting to Council for consideration and endorsement the revised Aspirations, Aims and Related Actions linked to the Four Yearly Review of Community Planning.

It was agreed:

- (i) to endorse the planned actions arising from the review of Aims and Aspirations as detailed in Appendix I to the report, subject to minor textual changes and in recognition that further work to ensure maximum impact from the cross-cutting agenda was planned;

- (ii) to note that the draft updated Community Plan would be presented to a future Committee of the Council;
- (iii) to note the financial implications arising from the report; and
- (iv) otherwise, to note the content of the report.

**BEST VALUE AND COMMUNITY PLANNING AUDIT - IMPROVEMENT AGENDA:
REVIEW OF POLITICAL AND MANAGEMENT STRUCTURES AND FURTHER
DEVELOPMENT OF SCRUTINY ARRANGEMENTS (Item 1, Page 2430, 03/07)**

8. There was submitted a report dated 3 October 2006 (circulated) by the Chief Executive providing an update on the review of political and management structures and further development of scrutiny arrangements and to seek the approval of Council to establish a Member/Officer Working Group.

It was agreed:

- (i) to establish a Member/Officer Working Group to assist in the review of the Council's political and management structures and scrutiny arrangements in terms of the remit as detailed in paragraph 4.1 of the report; and that the political composition of the group be 5:2:1;
- (ii) that Councillors Kelly (Chair), O'Neill, Finlayson, Menzies, McKay, Willie Coffey, Harry Wilson and Stephanie Young be appointed to serve on the Member/Officer Working Group; and
- (iii) otherwise to note the contents of the report.

SCHOOL FUND - ADDITIONAL ALLOCATION

9. There was submitted a report dated 9 October 2006 (circulated) by the Executive Director of Educational and Social Services seeking approval for the proposed allocation of additional school fund grants from the Scottish Executive.

It was agreed to:

- (i) approve the proposed allocations as detailed in Appendix I to the report;
- (ii) approve the virement of electrical works at Bellsbank Primary and St Sophia's Primary to this additional funding; and
- (iii) otherwise to note the content of the report.

The meeting terminated at 1130 hrs.