

**EAST AYRSHIRE COUNCIL****COMMUNITY SERVICES COMMITTEE****MINUTES OF MEETING HELD ON THURSDAY 21 SEPTEMBER 2000 AT 1000 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

**PRESENT:** Councillors Robert Taylor, Ann Hay, Stephanie Young, Brian Reeves, Daniel Coffey, John Weir, Drew McIntyre, Harry Wilson, Jane Darnbrough, Tommy Farrell, Julie Faulds, William Menzies, Elaine Dinwoodie and Jimmy Carmichael.

**ATTENDING:** David Montgomery, Chief Executive; William Stafford, Director of Community Services; John Griffiths, Head of Leisure Services; John F Crawford, Head of Protective Services; Tim Baulk, Financial Services Manager; Gerard Cairns, Library and Information Services Manager; Julie Armstrong, Principal Administrative Officer; and Ian Gemmell, Administrative Officer.

**APOLOGIES:** Councillors Lillian MacLean, Iain Linton, Finlay MacLean, Eric Jackson and Eric Ross.

**CHAIR:** Councillor Robert Taylor, Chair.

**SUB-COMMITTEE MINUTES**

1. There were submitted and approved both as correct records and in respect of the recommendations contained therein, the undernoted Sub-Committee minutes (circulated):-
  - 1.1 **SPECIAL LICENSING SUB-COMMITTEE OF 28 JUNE 2000 (APPENDIX I).**
  - 1.2 **SPECIAL LICENSING SUB-COMMITTEE OF 8 AUGUST 2000 (APPENDIX II).**
  - 1.3 **LICENSING SUB-COMMITTEE OF 6 SEPTEMBER 2000 (APPENDIX III).**

**BUDGETARY CONTROL SUMMARY STATEMENT - COMMUNITY SERVICES TO 28 JULY 2000 (PERIOD 4)**

2. There was submitted a joint report dated 1 September 2000 (circulated) by the Directors of Finance and of Community Services on the current budgetary control position and the projected outturn for the year for the Community Services Department for the period ended 28 July 2000 (Period 4).

The Director of Community Services reported and the Committee noted the following amendments to the report:- Paragraph 3.1 - the substitution of the figure £14,507 for the figure £14,057.

It was agreed to note the report.

**ABSENCE MANAGEMENT REPORT : QUARTER 2  
(30 APRIL - 30 JUNE 2000)**

3. There was submitted and noted a report dated 2 May 2000 (circulated) by the Director of Community Services on absence rates for the Department of Community Services for the quarterly period ended 30 June 2000.

### STATUTORY PERFORMANCE INDICATORS

4. There was submitted and noted a report dated 12 September 2000 (circulated) by the Director of Community Services on the outcome of statutory performance indicators within the Department for the period 1 April 1999 to 31 March 2000.

### NON-STATUTORY PERFORMANCE INDICATORS

5. There was submitted and noted a report dated 31 August 2000 (circulated) by the Director of Community Services on the development of non-statutory performance indicators within the Department of Community Services.

### THE NATIONAL CULTURAL STRATEGY "CREATING OUR FUTURE : MINDING OUR PAST"

6. There was submitted and noted a report dated 24 August 2000 (circulated) by the Director of Community Services which advised of the publication, by the Scottish Executive, of the first national Cultural Strategy entitled "Creating our Future : Minding our Past".

### SURPLUS PROPERTY - TOURHILL LIBRARY, KILMARNOCK

7. There was submitted a report dated 22 August 2000 (circulated) by the Director of Community Services which sought approval to declare the former Tourhill Library property as surplus to the requirements of the Community Services Department.

Councillor Taylor seconded by Councillor Carmichael moved:-

- (i) to declare the Tourhill library as surplus to the requirements of the Community Services Department; and
- (ii) that the Director of Development Services secure an appropriate alternative use for the premises in accordance with Council policy.

Councillor D Coffey seconded by Councillor Wilson moved that the property be not declared surplus to requirements at this time and that library provision in the area concerned be re-appraised.

On a vote taken by show of hands the motion was carried by 8 votes to 6.

### SURPLUS PROPERTY - NEW CUMNOCK SWIMMING POOL

#### 8.1 Declaration of Interest

Councillor Carmichael declared a non-pecuniary interest in this matter and took no part in the discussion or the decision relating there to.

- 8.2 There was submitted a report dated 11 September 2000 (circulated) by the Director of Community Services which sought approval to declare New Cumnock Swimming Pool as surplus to requirements of the Community Services Department subject to the agreement of a satisfactory lease with the New Cumnock Environmental Regeneration Volunteers (NERV).

It was agreed:-

- (i) to declare New Cumnock Swimming Pool as surplus to operational requirements subject to the agreement of a suitable lease with the New Cumnock Environmental Regeneration Volunteers; and

- (ii) that the Director of Community Services conclude negotiations on a possible funding support package, and report to this Committee in due course.

#### **DISPOSAL OF FORMER CARETAKERS FLAT AT REAR OF CUMNOCK TOWN HALL**

9. There was submitted a report dated 18 August 2000 (circulated) by the Director of Community Services which invited the Committee to declare the former Caretakers flat and garden drying area to the rear of Cumnock Town Hall as surplus to requirements of the Community Services Department.

It was agreed:-

- (i) to declare the flat and garden drying area to the rear of Cumnock Town hall as surplus to requirements of the Community Services Department; and
- (ii) that the Director of Community Services advise the Director of Development Services accordingly.

#### **GROUNDS MAINTENANCE DSO - PERFORMANCE MANAGEMENT AND PLANNING AUDIT**

10. There was submitted and noted a report dated 28 June 2000 (circulated) by the Director of Community Services on the outcome of the Performance Management and Planning (PLP) Audit regarding the Grounds Maintenance DSO, which had been carried out by Audit Scotland; and the agreed action plan to be implemented in response to the audit.

#### **REMEMBRANCE SUNDAY - 12 NOVEMBER 2000**

11. There was submitted a report dated 14 August 2000 (circulated) by the Director of Community Services on arrangements made in respect of Remembrance Day services held in East Ayrshire in 1999, and which proposed arrangements to be made for the current year's Services.

It was agreed that the Director of Community Service make the necessary arrangements, as detailed in the report, in relation to the Kilmarnock Service, and for elected members' attendance at Remembrance Services throughout East Ayrshire.

#### **CLEANSING - VEHICLE REPLACEMENT**

12. There was submitted a report dated 28 August 2000 (circulated) by the Director of Community Services which advised of the vehicle replacement requirements of the Cleansing DSO in the financial year 2001/02 and which sought approval, in principle, for the acquisition of one refuse collection vehicle, one skip vehicle, one small street sweeping vehicle and one support vehicle.

It was agreed:-

- (i) to approve, in principle, the acquisition of one refuse collection vehicle at an estimated capital cost of £120,000, one skip vehicle at an estimated cost of £60,000, one 3.5 Tonne pick-up, at an estimated cost of £16,000, and one small street sweeping vehicle at an estimated cost of £50,000;
- (ii) that the Director of Finance secure the appropriate operating leases for the above in due course; and

- (iii) that the Director of Community Services submit a further report to this Committee when the outcome of the tendering exercise was known.

#### **REPLACEMENT OF PEST CONTROL/DOG WARDEN VANS**

13. There was submitted a report dated 8 September 2000 (circulated) by the Director of Community Services which sought approval for the acquisition of two replacement vans for the Environmental Health Section of the Department.

It was agreed:-

- (i) to approve the acquisition of two replacement vehicles at an estimated capital cost of £15,000 each;
- (ii) that the Director of Community Services make arrangements accordingly; and
- (iii) that the Director of Finance arrange suitable leases in respect of the above.

#### **LICENSING OF HOUSES IN MULTIPLE OCCUPATION**

14. There was submitted a report dated 31 August 2000 (circulated) by the Director of Community Services on the introduction of mandatory licensing of housing multiple occupation, and on the administrative steps which required to be put in place in this connection.

It was agreed:-

- (i) to approve the proposals outlined in the report, the Director of Community Services to implement the new legislation on houses in multiple occupation;
- (ii) to approve the level of fees suggested within the report i.e. application fee - £480; and renewal fee - £300;
- (iii) to recommend to Council that the Scheme of Delegation be accordingly amended in due course; and
- (iv) otherwise, to note the report.

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#### **AIR QUALITY REVIEW AND ASSESSMENT**

15. There was submitted and noted a report dated 31 August 2000 (circulated) by the Director of Community Services which advised of the production of the second stage review and assessment of local air quality in East Ayrshire, and its submission to the Scottish Executive, and which provided an update on the ongoing monitoring work being undertaken by the Environmental Health Service in this connection.

#### **CLOSED CIRCUIT TELEVISION**

16. There was submitted a report dated 16 August 2000 (circulated) by the Director of Community Services which sought approval to amend the capital programme to complete the CCTV Programme for 2000/01.

It was agreed:-

- (i) to approve the amendments to the capital programme as outlined in the report;
- (ii) that the Director of Community Services arrange for the work to be carried out;

- (iii) to refer the matter to the Policy and Resources Committee in respect of their interest; and
- (iv) otherwise, to note the report.

### AWARDING OF CONTRACTS

17. There was submitted and noted a report dated 5 September 2000 (circulated) by the Depute Chief Executive/Director of Corporate Resources which provided, for information, details of the lowest satisfactory tenders which had been accepted in respect of contracts as follows:-

CONTRACT	SUCCESSFUL CONTRACTOR	AMOUNT
Replacement of one gas fired boiler plant - Auchinleck Indoor Bowling Club, Auchinleck	O'Neil Gas Services Ltd, Ayr	£20,986.57
Re-roofing of Mauchline and Drongan Games Halls	Foxbar Contracts, Kilmarnock	£37,196.13
CCTV Town Centres 2000 - Kilmarnock Police Station Control Desk	Intech Furniture, Stockport	£23,130.00
Supply and Delivery of 13 Tonne Boxed Van	Kerr & Smith, Cumnock	£39,703.00
Supply and Delivery of 3.5 Tonne Chassis Cab Tipper	Arnold Clark Automobiles, Kilmarnock	£16,346.00
Supply and Delivery of 3.5 Tonne Chassis Cab Tipper <b>(additional to above)</b>	Arnold Clark Automobiles, Kilmarnock	£15,746.00
Supply and Delivery of 4 Refuse Freighters (2 x "6x4 Refuse Freighter" + 2 x "6x2 Refuse Freighter")	Heil Europe Ltd, Dunfermline	£434,154.00
Supply and Delivery of Refuse Freighters <b>(additional to above)</b>	Heil Europe Ltd, Dunfermline	£217,077.00
Supply and Delivery of Mechanical Road Sweeper	Lex Commercials, Glasgow	£75,972.00
Supply and Delivery of Recycling Body	Terberg Matec UK Ltd, Worksop	£34,600.00

### EXCLUSION OF PRESS AND PUBLIC

18. The Committee 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 6 of Schedule 7A to the Act".

**BUDGETARY CONTROL SUMMARY STATEMENT - GROUNDS MAINTENANCE  
AND LEISURE MANAGEMENT TO 28 JULY 2000 (PERIOD 4)**

19. There was submitted and noted a joint report dated 4 September 2000 (circulated) by the Director of Finance and the Director of Community Services on the current budgetary control position and the projected out-turn for the year for Grounds Maintenance and Leisure Management for the period ended 28 July 2000 (period 4).

**BUDGETARY CONTROL SUMMARY STATEMENT - REFUSE COLLECTION  
AND STREET CLEANSING TO 28 JULY 2000 (PERIOD 4)**

20. There was submitted and noted a joint report dated 4 September 2000 (circulated) by the Director of Finance and the Director of Community Services on the current budgetary control position and the projected out-turn for the year for Refuse Collection and Street Cleansing for the period ended 28 July 2000 (period 4).

The meeting terminated at 1035 hours.

**APPENDIX I****EAST AYRSHIRE COUNCIL****LICENSING SUB-COMMITTEE OF THE COMMUNITY SERVICES COMMITTEE****MINUTES OF SPECIAL MEETING HELD ON WEDNESDAY 28 JUNE 2000 AT 1000 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

**PRESENT:** Councillors Robert Taylor Brian Reeves, John Weir, David Macrae, Harry Wilson, Tommy Farrell and William Menzies.

**ATTENDING:** John F Crawford, Head of Protective Services; Allison Smith, Principal Officer, Licensing and Community Safety; David Mitchell, Principal Solicitor; David Morgan, Public Relations Officer; Julie Armstrong, Senior Administrative Officer; Nicholas Duffy, Trainee Solicitor; and Ian Gemmell, Administrative Officer.

**APOLOGIES:** Councillors Jimmy Carmichael, Katie Hall, Ann Hay and Julie Faulds.

**CHAIR:** In the absence of the Chair Councillor Robert Taylor was unanimously appointed and took the Chair.

**REVIEW OF TAXI FARES (Item 1, Page 900, 99/02)**

1. There was submitted a report dated 13 June 2000 (circulated) by the Director of Community Services which invited the Sub-Committee to fix scales for taxi fares and associated charges, taking into account requests by representatives of the taxi trade.

There was also submitted a letter dated 1 June 2000 (circulated) from Mr J Grant, 45 Campsie Road, Kilmarnock, which made representations regarding the proposed fares increase.

It was agreed:-

- (i) to fix taxi fares structures as detailed in the Director's report, the revised fares and associated charges to be applicable from 1 August 2000; and
- (ii) that the Head of Protective Services (a) seek a meeting with Mr J Grant to discuss matters arising from his letter of representation; and (b) to take up with the Kilmarnock Taxi Trade Association matters which they had referred to in a letter to the Kilmarnock Standard in relation to the proposed increase in taxi fares.

**MEETING WITH REPRESENTATIVES FROM THE TAXI TRADE**

2. There was submitted and noted a report dated 13 June 2000 (circulated) by the Director of Community Services on a meeting of the Ad Hoc Committee of Officers, the Taxi Trade and other invited organisations held on 24 May 2000.

**CONSIDERATION OF SUSPENSION OF TAXI DRIVERS LICENCE NO. EA/GD178: CHARLES GALLACHER, 24 OLD MILL ROAD, KILMARNOCK**

3. There was submitted a report dated 19 June 2000 (circulated) by the Director of Community Services which invited the Sub-Committee to consider the commencement of suspension proceedings in respect of a taxi drivers Licence.

It was agreed to continue consideration of this matter to a future meeting which would take the form of a Hearing, which the Licensee and appropriate Parties would be invited to attend, and speak to the matters raised.

### **EXCLUSION OF PRESS AND PUBLIC**

4. It was resolved that under Section 50A(4) of the Local Government (Scotland) Act 1973, as amended, the Press and public be excluded from the meeting during the hearings related to the ensuing two Items.

**HEARING: APPLICATION FOR GRANT OF A PRIVATE HIRE CAR DRIVERS  
LICENCE: WILLIAM MONTGOMERY, 32 MASON AVENUE, NEW CUMNOCK  
(Item 8.4, Page 1056, 99/02)**

5. There was submitted a report dated 13 June 2000 (circulated) by the Director of Community Services on an application for the grant of a Private Hire Car Driver's Licence.

The Sub-Committee heard Superintendent Alastair McNaughton, representing Strathclyde Police, in explanation of the Police representations, and the applicant and his employer, who spoke to the matters raised, all in accordance with the agreed Hearing procedure.

The applicant, the applicant's employer and the Police representatives then left the meeting to enable the Sub-Committee to take and to consider legal advice on the matter.

Parties were re-admitted along with the Press and public.

#### **5.1 Decision**

It was agreed to grant the licence, subject to the standard conditions.

**HEARING: APPLICATION FOR GRANT OF A STREET TRADER'S  
LICENCE : THOMAS NUTT, 51 KERSE TERRACE,  
RANKINSTON (Item 8.5, Page 1056, 99/02)**

6. There was submitted a report dated 13 June 2000 (circulated) by the Director of Community Services, on an application for the grant of a Street Trader's Licence.

The applicant's father, Mr Nutt, and representatives from Strathclyde Police were in attendance.

The applicant's father stated that he was at the meeting on behalf of his son, as his son had previous work commitments.

The Sub-Committee agreed to continue consideration of the matter in order to invite Mr Thomas Nutt, the applicant, to appear in person.

The meeting terminated at 1041 hrs.

## **EAST AYRSHIRE COUNCIL**

### **LICENSING SUB-COMMITTEE OF THE COMMUNITY SERVICES COMMITTEE**

#### **MINUTES OF SPECIAL MEETING HELD ON TUESDAY 8 AUGUST 2000 AT 1000 HRS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

**PRESENT:** Councillors Jimmy Carmichael, Katie Hall, Brian Reeves, Julie Faulds, David Macrae, Harry Wilson, Tommy Farrell, William Menzies and Robert Taylor.

**ATTENDING:** William Stafford, Director of Community Services; Bill Walkinshaw, Administration Manager; David Mitchell, Legal Manager; Alison Smith, Principal Officer, Licensing and Community Safety; William McIntyre, Licensing Enforcement Officer; Ron Murray, Environmental Health Officer; Nicholas Duffy, Trainee Solicitor; and Ian Gemmell, Administrative Officer.

**APOLOGIES:** Councillors Ann Hay and John Weir.

**CHAIR:** Councillor Jimmy Carmichael, Chair.

#### **ORDER OF BUSINESS**

1. Following receipt, at the commencement of the meeting, of late submissions by the applicants Agent in respect of application for grant of a Public Entertainment Licence: by Messrs Codona and Stringfellow, the Chair, at his discretion, and in terms of Standing Order 15.1, agreed to alter the order of business and to consider the application after item 3 on the Agenda, Consideration of Suspension of Taxi Driver's Licence No EA/TD68 - Richard McAughtrie.

#### **APPLICATION FOR GRANT OF A TAXI OPERATOR'S LICENCE: JOHN BRUCE, 18 SHANKS COURT, KILMARNOCK**

2. There was submitted report dated 14 July 2000 (circulated) by the Director of Community Services on an application for the grant of a Taxi Operator's Licence.  
It was agreed to grant the application, subject to the standard conditions.

#### **CONSIDERATION OF SUSPENSION OF TAXI DRIVER'S LICENCE NO EA/TD68 - RICHARD McAUGHTRIE, 10 WEST PARK DRIVE, NEW CUMNOCK (Item 3.4, Page 900, 99/02)**

3. There was submitted a report dated 14 July 2000 (circulated) by the Director of Community Services which advised the Sub-Committee of a contravention of the Civic Government (Scotland) Act 1982, and of a breach of conditions attached to Taxi Driver's Licence No EA/TD68.

It was agreed to continue consideration of this matter to a future meeting, which would take the form of a Hearing, at which the applicant and relevant Parties would be invited to appear or to be represented, and to speak to the matters raised.

**HEARING: APPLICATION FOR GRANT OF A PUBLIC ENTERTAINMENT  
LICENCE: CODONA AND STRINGFELLOW, PER IRVIN STRINGFELLOW,  
58 LIGHTBURN ROAD, GLASGOW**

- 4.1** There was submitted a report dated 25 July 2000 (circulated) by the Director of Community Services which invited the Sub-Committee to consider, by way of a Hearing, an application for a grant of a Public Entertainment Licence.

The Applicants' Solicitor, Mr Ronald Gordon, requested the Sub-Committee's consideration of the undernoted documents, which were circulated:- (1) Excerpt from the House of Commons Session 1999 - 2000 the Report on Travelling Fairs (HC 284-1) pages 9 - 7 (IX to XV); (2) Letter from Kilwinning Development Association dated 17 July 2000; (3) Letter from Councillor Robert Reilly of North Ayrshire Council dated 26 July 2000; (4) Letter from the Scottish Maritime Museum re fairground operation in October 1999; (5) Letter from Entertainment Security Personal dated 1 August 2000; (6) Petition containing approximately 250 signatures supporting the application; (7) a set of 11 photographs of various fairground sites.

The Sub-Committee agreed to consider the above documents, in relation to the application and further agreed to a short adjournment for this purpose.

**4.2 ADJOURNMENT/RECONVENTION OF MEETING**

The Sub-Committee adjourned at 1010 hrs and reconvened at 1015 hrs with the same Members, Officers and Parties present.

The Applicants' Agent was given leave to raise the undernoted preliminary matters prior to the commencement of the Hearing:-

- (1) the applicant wished to amend his application as follows:
  - (i) that the period of the fair would now be 6 to 11 September 2000 inclusive; and
  - (ii) that the amended hours of operation would be as follows: Wednesday, Thursday, Friday and Monday - 6pm to 9.30pm; and Saturday and Sunday 1.30pm to 9.30pm;
- (2) the Applicant's Agent invited the Sub-Committee to consider that objections to the application submitted by Alexander Walsh, the Kilmarnock Town Centre Management Initiative, McDonalds, and the Petition objecting to the application should not be considered by reason of their vagueness, irrelevancy and lack of specific detailed grounds of objections, as appropriate;
- (3) he requested permission to lead evidence from Mr Irvin Stringfellow, one of the applicants, and two witnesses.

**4.3 ADJOURNMENT/RECONVENTION OF MEETING**

The Sub-Committee adjourned at 1027 hrs and reconvened at 1044 hrs with the same Members, Officers and Parties present to take legal advice on the preliminary issues raised.

In relation to the preliminary matters raised by the Applicants' Agent, the Sub-Committee advised Agent for the Applicant as follows:

- (i) the amendments to the application in relation to the period of the fair, and its hours of operation were accepted and noted;

- (ii) that in relation to the objections the Sub-Committee were satisfied that each objection provided sufficient notice of the issues to be addressed, were accordingly competent and that the Sub-Committee would give due weight to each objection during its consideration of the application; and
- (iii) to allow the leading of evidence from the Applicant and the two witnesses.

The Administration Manager explained the agreed Hearing procedure.

The Objectors were provided with a copy of the productions submitted by the Applicant's Agent.

#### **4.4 ADJOURNMENT/RECONVENTION OF MEETING**

The Sub-Committee adjourned at 1045 hrs and reconvened at 1053 hrs with the same Members, Officers and Parties present.

The Legal Manager summed up the procedural position at this point, and obtained confirmation from the Applicant's Agent that there were no further preliminary matters.

The Sub-Committee heard objectors Mr Charles Calman, representing Piersland-Bentinck Community Council, Councillor Alexander Walsh, Mr Kenneth Boyd, representing petitioners, and in addition, Superintendent Alistair McKie who spoke to a letter or representation on behalf of the Chief Constable. Mr Ronald Gordon, the Applicants' Agent, questioned each of the objectors in turn, all in accordance with the agreed Hearing procedure.

The Chair obtained confirmation that all objectors wishing to speak had done so.

The Applicants' Agent then led evidence from Applicant, Mr Irvin Stringfellow, and witnesses, Mr William Hammond and Mr Joseph Richard White, both Committee members of the Showmen's Guild.

Objectors Councillor Walsh, Mr Boyd and Mr Calmen then asked questions of the Applicants Agent and witnesses. The Sub-Committee members questioned both parties who concluded by summing up all in accordance with the Hearing Procedure.

Parties then left the meeting to enable the Sub-Committee to take and consider legal advice on the matter.

#### **4.5 ADJOURNMENT/RECONVENTION OF MEETING**

The Sub-Committee adjourned at 1150 hrs and reconvened in private at 1157 hrs with the same Members and Officers present.

Parties were re-admitted along with the Press and public.

It was agreed to refuse the application.

The applicants' agent requested a statement of reasons for refusal and this was noted.

Councillors Hall and Menzies left the meeting at this point.

#### **EXCLUSION OF PRESS AND PUBLIC**

5. The Sub-Committee 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.

**HEARING: CONSIDERATION OF SUSPENSION OF TAXI DRIVER'S  
LICENCE NO EA/TD178 - CHARLES GALLACHER, 24 OLD MILL ROAD,  
KILMARNOCK ( )**

**6.1** There was submitted a report dated 12 July 2000 (circulated) by the Director of Community Services on a complaint received in relation to the conduct of the abovementioned licensed taxi driver, and which invited the Sub-Committee to consider whether or not to suspend the Taxi Driver's Licence No EA/TD178.

There were also resubmitted a report dated 19 June 2000 by the Director of Community Services, a report dated 13 June 2000 being a record of the Enforcement Officer's interview of the Complainer, and a report dated 5 June 2000 being a record of the interview of the Licensee by the Principal Officer, Licensing and Community Safety and the Licensing Enforcement Officer (all circulated).

The Administration Manager advised of the agreed procedure for Hearings,

Mr Lynch, the Applicant's Agent was given leave to raise the following preliminary matters:-

- (i) he requested confirmation that the complaint received on 12 June 2000 was the only matter to be addressed at the present Hearing for the purpose of determining whether or not grounds for suspension were made out; and
- (ii) he invited the Sub-Committee to consider that as the report before them contained no evidence of reprehensible conduct, the Hearing should be abandoned.

**6.2 ADJOURNMENT/RECONVENTION OF MEETING**

The Sub-Committee adjourned at 1312 hrs and reconvened at 1315 hrs with the same Members, Officers and parties present.

With regard to the preliminary matters raised, the Sub-Committee determined as follows:-

- (i) that the complaint received on 12 June 2000 was the only matter to be considered at the present Hearing for the purpose of determining whether or not any of the statutory grounds for suspension were made out; and
- (ii) the various reports before the Sub-Committee disclosed sufficient information as might, following the hearing of Parties' submissions, lead to one or more of the three statutory grounds for suspension of a licence being established and accordingly it was both appropriate and competent to proceed with the proposed Hearing.

**6.3** The Licensee's Agent advised that this was the first intimation he had received that the propriety of his client was to be called into question and requested that the Hearing be adjourned to a future date to allow him sufficient time to fully prepare his client's case.

#### **6.4 ADJOURNMENT/RECONVENTION OF MEETING**

The Sub-Committee adjourned at 1320 hrs to take legal advice and reconvened at 1325 hrs, with the same Members, Officers and Parties present.

**6.5** The Sub-Committee determined that the Licensee having had sufficient notice of the matters to be addressed during the proposed Hearing, it was appropriate to proceed with the Hearing and the Agent's request for a continuation was accordingly refused.

**6.6** The Licensee's Agent then made further representations concerning the sufficiency of the notice afforded to himself and his client of the issues to be addressed at the Hearing. He then renewed his request for a continuation to a later date and further asked in the alternative for the Hearing to be adjourned until 1600 hours that day to enable an application to be made to the Sheriff Court for the purpose of obtaining an Interim Interdict prohibiting the Sub-Committee from proceeding with the proposed Hearing.

The Sub-Committee adhered to its decision not to continue the proposed Hearing to a later date and also refused the alternative request to continue the Hearing until 1600 hours that day.

#### **6.7 HEARING**

The Sub-Committee heard Mrs Rice, the Complainer, and the Licensee and his Agent who spoke to the matters raised. The Complainer was given the opportunity to question the Licensee and his Agent. The Licensee's Agent asked questions of the Complainer. The Sub-Committee members questioned both parties who concluded by summing up all in accordance with the Hearing Procedure.

Parties then left the meeting to enable the Sub-Committee to take and consider legal advice on the matter.

Parties were re-admitted along with the Press and public.

Councillor Wilson, seconded by Councillor Reeves, moved that the licence be not suspended but that the Licensee received an informal warning in respect of his behaviour on the occasion in question.

Councillor Taylor, seconded by Councillor Faulds, moved that the licence be suspended for a period of one month.

On a division by a show of hands the motion was carried by four votes to two.

Councillor Farrell left the meeting during the Hearing relating to the above matter and rejoined the meeting during consideration of the matter. He took no part in the discussion or determination of the matter.

#### **HEARING: APPLICATION FOR GRANT OF A STREET TRADER'S LICENCE: THOMAS NUTT, 51 KERSE TERRACE, RANKINSTON ( )**

**7.1** There was submitted a report dated 14 July 2000 (circulated) by the Director of Community Services which invited the Sub-Committee to consider, by way of a Hearing, an application for the grant of a Street Trader's Licence.

There was also resubmitted a letter of representation dated 13 April 2000 from Strathclyde Police (circulated).

The Sub-Committee heard Superintendent Alistair McKie, representing Strathclyde Police, in explanation of the Police representations, and the Applicant, who spoke to the matters raised, all in accordance with the agreed Hearing procedure.

## **7.2 DECISION**

It was agreed to grant the licence subject to the standard conditions.

Parties then withdrew.

### **CONSIDERATION OF SUSPENSION OF TAXI DRIVER'S LICENCE NO EA/TD376 - IAIN STANDRING, 38 JOHN BAIRD STREET, CUMNOCK**

8. There was submitted a report dated 14 July 2000 (circulated) by the Director of Community Services which advised the Sub-Committee of a criminal conviction against the holder of Taxi Driver's Licence No EA/TD376.

It was agreed to continue consideration of this matter to a future meeting which would take the form of a Hearing, at which the licensee and representatives of Strathclyde Police would be invited to attend or to be represented, and to speak to the matters raised.

### **CONSIDERATION OF SUSPENSION OF TAXI DRIVER'S LICENCE NO EA/TD234 - BRIAN WADDINGTON, 100 ALTONHILL AVENUE, KILMARNOCK**

9. There was submitted a report dated 27 March 2000 (circulated) by the Director of Community Services on a breach of conditions attached to Taxi Driver's Licence No EA/TD234.

It was agreed not to proceed with a Hearing in respect of possible suspension of the licence.

The meeting terminated at 1450 hrs.

**AGENDA**

**APPENDIX III**

**EAST AYRSHIRE COUNCIL**

**LICENSING SUB-COMMITTEE OF THE COMMUNITY SERVICES COMMITTEE**

**MINUTES OF MEETING HELD ON WEDNESDAY 6 SEPTEMBER 2000 AT 1000 HOURS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD, KILMARNOCK**

**PRESENT:** Councillors Lilian MacLean, Julie Faulds, John Weir, David Macrae, Harry Wilson, Tommy Farrell, William Menzies and Robert Taylor.

**ATTENDING:** John Crawford, Head of Protective Services; David Mitchell, Legal Manager; Julie Armstrong, Principal Administrative Officer; George Scott, Licensing Officer; and Ian Gemmell, Administrative Officer.

**APOLOGIES:** Councillors Jimmy Carmichael, Ann Hay and Brian Reeves.

**CHAIR:** In the absence of the Chair, Councillor Robert Taylor was appointed and took the Chair.

**HEARING: CONSIDERATION OF SUSPENSION OF TAXI DRIVER'S LICENCE  
NO EA/TD 68: RICHARD MCAUGHTRIE, 10 WEST PARK DRIVE, NEW  
CUMNOCK (Item 3, Page 1266, 99/02)**

1. There was submitted a report dated 22 August 2000 (circulated) by the Director of Community Services which invited the Sub-Committee to consider, by way of a Hearing, suspension of Taxi Driver's Licence No EA/TD 68.

The licensee was not present or represented.

It was agreed to suspend the licence for the unexpired portion of its duration.

**EXCLUSION OF PRESS AND PUBLIC**

2. The Sub-Committee 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 to the Act.

**HEARING: CONSIDERATION OF SUSPENSION OF TAXI DRIVER'S LICENCE  
NO EA/TD 376 - IAIN STANDRING, 38 JOHN BAIRD STREET, CUMNOCK**

3. There was submitted a report dated 22 August 2000 (circulated) by the Director of Community Services which invited the Sub-Committee to consider, by way of a Hearing, suspension of Taxi Driver's Licence No EA/TD 376.

There was also submitted a letter of representation dated 17 August 2000 from Strathclyde Police (circulated).

The licensee was not present or represented.

It was agreed to suspend the licence for the unexpired portion of its duration.

**CONSIDERATION OF SUSPENSION OF TAXI DRIVER'S LICENCE NO EA/TD  
247 - REID ALLAN, 73 BALLOCHMYLE AVENUE, AUCHINLECK**

4. There was submitted a report dated 22 August 2000 (circulated) by the Director of Community Services which advised of a criminal conviction against the holder of Taxi Driver's Licence No EA/TD 247.

There was also submitted a letter of representation dated 8 August 2000 from the Depute Clerk to East Ayrshire District Court (circulated).

It was agreed:-

- (i) not to proceed with a Hearing in respect of possible suspension of the licence; and
- (ii) that the Director of Community Services issue an informal warning in respect of the Licensee's conduct.

**APPLICATION FOR RENEWAL OF PRIVATE HIRE CAR DRIVER'S LICENCE -  
JOHN GIBSON, 135 CARNSHALLOCH AVENUE, PATNA**

5. There was submitted a report dated 22 August 2000 (circulated) by the Director of Community Services on an application for the renewal of a Private Hire Car Driver's Licence.

There was also submitted a letter of representation dated 7 August 2000 from Strathclyde Police (circulated).

It was agreed to continue consideration of this matter to a future meeting which would take the form of a Hearing, to which the applicant and Strathclyde Police would be invited to appear or to be represented and speak to the matters raised.

**APPLICATION FOR RENEWAL OF PRIVATE HIRE CAR DRIVER'S LICENCE -  
ALEXANDER MCFADYEN, CARSKEOCH CARAVAN PARK, CARSKEOCH,  
PATNA**

6. There was submitted a report dated 22 August 2000 (circulated) by the Director of Community Services on an application for the renewal of a Private Hire Car Driver's Licence.

There was also submitted a letter of representation dated 7 August 2000 from Mr J W Ireland, 9 High Street, Dalmellington, a letter dated 7 August 2000 from E M Ireland, 88 Park Crescent, Dalmellington and a letter dated 15 August from the Licensee (all circulated).

It was agreed:-

- (i) to renew the licence subject to the standard conditions; and
- (ii) that the Director of Community Services arrange an informal meeting between appropriate officers, the Chair of the Sub-Committee, the Local Member, the Licensee and Objectors to discuss the circumstances giving rise to the objections submitted.

The meeting terminated at 1011 hours.

**AGENDA**