

APPENDIX I

EAST AYRSHIRE COUNCIL

LICENSING SUB-COMMITTEE OF THE COMMUNITY SERVICES COMMITTEE

**MINUTES OF MEETING HELD ON TUESDAY 27 JUNE 1996 AT 1230 HOURS IN
THE MEETING ROOM, LONDON ROAD CENTRE, KILMARNOCK**

PRESENT: Councillors Bob Beattie, Gordon McCredie, Jane Darnbrough, Robert Taylor and Tommy Farrell.

ATTENDING: William Stafford, Director of Community Services; Roddy Wallace, Head of Administration; John Crawford, Head of Protective Services; Apryl Chalmers, Senior Solicitor and Ian Gemmell, Administrative Officer.

CHAIR: Councillor Robert Beattie, Chair.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982: LICENSING

1. Submitted report dated 14 June 1996 (circulated) by the Director of Community Services regarding various aspects of Civic Government Licensing which require to be harmonised.

It was agreed:

- (i) to the harmonisation of terminal hours in relation to street trading and late hours catering throughout East Ayrshire, the terminal hours to be linked to the usual terminal hours in respect of premises licensed in terms of the Licensing (Scotland) Act 1976;
- (ii) that the conditions in respect of Private Hire Car Driver's Licensing detailed in Appendix 1 to these minutes shall be applied in respect of any such licences to be granted or renewed; and
- (iii) with regard to street trading in Town Centres, to adopt a policy whereby only traditional activities such as flower selling, balloon selling etc shall be permitted in Town Centres, viz:- Kilmarnock Cross, King Street, Kilmarnock, Burns Shopping Mall, Kilmarnock and The Square, Cumnock with the traditional type of "costermonger" carts being required for street trading within the Burns Mall, Kilmarnock.

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982:
RESOLUTIONS (Item 12, Page 518; Item 13, Page 519)**

2. There was submitted a report dated 17 June 1996 (circulated) by the Director of Community Services providing details of two draft resolutions in terms of the above Act, with a view to harmonising the licensing function throughout East Ayrshire, as agreed by the Community Services Committee at the meetings held on 21 December 1995 and 22 February 1996.

It was agreed:

- (i) to approve the terms of the resolutions proposed by the Director of Community Services and as detailed in Appendix 2 to these Minutes, the effect of which were as follows:-
 - (a) to extend the provisions of Sections 24-27 of the Act for the licensing of Second Hand Dealers at present in force within Wards 1-20, to the area comprising Wards 21-30 inclusive;
 - (b) to extend the provisions of Section 41 of the Act for the licensing of Public Entertainment, at present in force within Wards 1-20, to the area comprising Wards 21-30 inclusive; and
 - (c) to extend the provisions of Section 43 of the Act, for the licensing of window cleaners, at present in force within Wards 21-30, to the area comprising Wards 1-20 inclusive.
- (ii) to resolve that the provisions of Section 45 of the Act for the licensing of sex shops at present in force within Wards 1-20 be extended to the area comprising Wards 21-30 inclusive in terms of Resolution 2 as detailed in Appendix 2 to these Minutes; and
- (iii) to authorise the Director of Community Services to give public notice of the Council's intention to make Resolution 1, in respect of Sections 24-27, 41 and 43, and of the Council's Resolution 2 in respect of Section 45 of the Act, all as detailed in Appendix 2 to these Minutes.

EXCLUSION OF PRESS AND PUBLIC

- 3. The Sub-Committee resolved that under Section 50A(4) of the Local Government (Scotland) Act 1973 as amended, that the Press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Schedule 7A of the Act.

CONSIDERATION OF APPLICATIONS

4.1 APPLICATION NO R262 FOR GRANT OF TAXI DRIVER'S LICENCE: MR HUGH NICOL, HURLFORD

There was submitted a report dated 17 June 1996 (circulated) by the Director of Community Services providing details of the above application.

Having considered a report dated 31 May 1996 (circulated) by Strathclyde Police who offered no objections and who had provided information relative to the applicant, it was agreed to continue consideration of this application to a future meeting which would take the form of a Hearing, at which the applicant would be invited to appear or to be represented and to speak in support of his application.

4.2 APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE: MR R McAUGHTRIE, NEW CUMNOCK

There was submitted a report dated 14 June 1996 (circulated) by the Director of Community Services providing details of the above application.

Having considered a report dated 19 April 1996 (circulated) by Strathclyde Police who offered no objections and had provided information relative to the applicant and a letter dated 17 June 1996 (circulated) from the applicant in support of his

application, it was agreed to continue consideration of this application to a future meeting which would take the form of a Hearing, at which the applicant would be invited to appear or to be represented and to speak in support of his application.

4.3 APPLICATION NO R254 FOR RENEWAL OF TAXI DRIVER'S LICENCE: MR A CHAPMAN, STEWARTON

There was submitted a report dated 17 June 1996 (circulated) by the Director of Community Services providing details of the above application.

Having considered a report dated 12 March 1996 (circulated) by Strathclyde Police who offered no objections and had provided information relative to the applicant, and a letter from the applicant in support of his application, it was agreed to grant the licence for a period of three years subject to the standard conditions.

4.4 APPLICATIONS NOS R1 AND R2 FOR RENEWAL OF PRIVATE HIRE CAR OPERATOR'S LICENCES AND NO R1 FOR RENEWAL OF PRIVATE HIRE CAR DRIVER'S LICENCE: MR J DYKES, NEWMILNS

There was submitted a report dated 17 June 1996 (circulated) by the Director of Community Services providing details of the above applications.

Having considered a report dated 4 June 1996 (circulated) by Strathclyde Police who offered no objections and had provided information relevant to the applicant, a letter dated 24 June 1996 from the applicant's Agent (circulated), and a supporting reference dated 14 July 1994 (circulated) from the applicant's General Practitioner it was agreed to continue consideration of this application to a future meeting which would take the form of a Hearing, the applicant to be invited to appear or to be represented in order to speak in support of his application.

4.5 APPLICATION NO R124 FOR GRANT OF STREET TRADER'S LICENCE (EMPLOYEE): MS H O'BRIEN, KILMARNOCK

There was submitted report dated 17 June 1996 (circulated) by the Director of Community Services to consider the above application.

Having considered a report dated 3 June 1996 (circulated) by Strathclyde Police, who had provided information relative to the applicant, and had objected to the grant of the licence, it was agreed in terms of paragraph 5 (3)(a)(ii) of Schedule 1 of the Act to refuse to grant the licence applied for, for the reason that the applicant was not a fit and proper person to be the holder of the said licence by virtue of her conviction.

The applicant had been notified of the objections and had been given the opportunity to notify the authority in writing of her views.

The meeting terminated at 1305 hours.

CONDITIONS APPLICABLE TO TAXI/PRIVATE HIRE CARE DRIVER'S LICENCES

1. The driver of a taxi or private hire car shall at all times, while he/she is in charge of a taxi or private hire car being used as such, have with him/her the taxi or private hire car driver's licence or such other means of identification issued by the Licensing Authority and he/she shall exhibit such licence or identification, on demand, to any passenger, constable or authorised officer of the Licensing Authority. The identification issued by the Licensing Authority shall include the driver's name, a recent photograph showing his/her true likeness and the date on which the licence expires. Taxi and private hire car drivers must also wear their identity badge in a clearly visible position at all times whilst on duty.
2. The driver of a taxi or private hire car shall be bound to fulfil, or cause to be fulfilled, at the time and location specified, an engagement to hire his/her taxi or private hire care which he/she has accepted, unless prevented by sufficient cause.
3. The driver of a taxi or private hire car shall operate on shared hire only with the consent of the first hirer or passenger, even if there is displayed on the vehicle a sign or other thing approved by the Licensing Authority indicating that the vehicle is available for shared hire; but he/she shall not be required to operate on shared hire if no such sign or other thing is displayed on the taxi or private hire car at the time of the initial hiring.
4. The driver of a taxi or private hire car which is on exclusive hire may not, in any circumstances, pick up or convey another passenger without the consent of the original hirer(s) or passenger(s).
5. The driver of a taxi or private hire car shall not at any time convey in the vehicle more than the number of passengers the vehicle is licensed to carry. For the purpose of this condition (a) the first two children under 12 years shall be reckoned as one passenger; and (b) no account shall be taken of any children under two years, provided that each child under two years is accompanied by an adult.
6. The driver of a taxi or private hire car which has been hired on exclusive hire shall drive to the destination by the shortest practicable route unless otherwise instructed by the hirer. The driver of a taxi or private hire car which has been hired on shared hire shall take the shortest practicable route which will serve the destinations of all passengers whom he/she is carrying at any one time.
7. The driver of a taxi or private hire car not being used as a taxi-bus shall, if the cost of the journey is not regulated by a Licensing Authority fare structure, inform the hirer(s) or passenger(s) before the journey commences (a) that the

fare is not so regulated; and (b) the cost, or the method of calculating the cost, of the proposed journey.

8. The driver of a taxi or private hire car shall ensure that any taximeter fitted in the taxi or private hire car in his/her charge shall be operated at all times within the licensed area when such operation is required, and in accordance with the detailed requirements imposed, by the Licensing Authority.
9. The driver of a taxi or private hire car shall from time to time, and at least once each day in which he/she uses the vehicle, inspect the seals on the taximeter (if fitted) to ensure that they are intact. On discovering that the seals have become broken or damaged, or that the taximeter has ceased to function correctly, the driver of a taxi or private hire car shall immediately withdraw the vehicle from service.
10. Subject to conditions 11 and 12 the driver of a taxi or private hire car shall not refuse to drive a passenger to any place within the licensed area.
11. The driver of a taxi or private hire car on shared hire may decline to accept a further passenger on the grounds that his/her intended destination could not be served without an excessive or unreasonable addition to the journey distance of the existing passenger or passengers, or that the further passenger's luggage cannot be accommodated safely within the luggage compartment of the taxi or private hire car.
12. The driver of a taxi or private hire car need not convey any hirer or passenger who is drunk or otherwise not in a fit and proper state to be carried, or whose condition or clothing is offensive or likely to cause damage to the interior of the vehicle, or who refuses to cease smoking in the taxi or private hire car when requested to do so by the driver, or is accompanied by any animal (other than a guide dog) which is likely to damage or soil the interior of the vehicle, or for any reasonable excuse.
13. The driver of a taxi or private hire car shall not refuse to carry luggage in his/her vehicle provided that the said luggage can be accommodated safely within the luggage compartment of the vehicle.
14. The driver of a taxi or private hire car shall give such assistance as he/she is able to give with loading and unloading luggage when required to do so but he/she shall not be required to leave the immediate proximity of the vehicle in doing so.
15. The driver of a taxi or private hire car, at the end of a shift, shall search the vehicle of which he/she is in charge for any property which may have been left therein. Any property found by the driver shall, within 24 hours, be returned to the owner of the property if known, or such property shall be handed in by the driver to any Police Station.
16. The driver of a taxi or private hire car, while plying for trade, or carrying a passenger, shall be clean and tidy in his person, shall conduct himself/herself

in a proper and civil manner, shall not smoke, and shall be reasonably dressed, having regard to the weather conditions. It is not acceptable for a Licensed driver to wear sleeveless or collarless shirts, shell suits or track suits, football colours in any form, shorts (other than tailored shorts), or any other clothing to which the public may take offence.

17. The driver of a taxi or private hire car shall not knowingly allow the vehicle in his/her charge to be used for illegal or immoral purposes, permit to be carried in the vehicle in his/her charge any article of a dirty, filthy or noxious nature, or of an explosive or dangerous nature, or permit to be carried in the vehicle in his/her charge any person who has vermin on their person.
18. The driver of a taxi or private hire car shall ensure that the vehicle, including all bodywork, upholstery and fittings, is in a safe and serviceable condition and, subject to prevailing road conditions, is in a clean condition.
19. The holder of a taxi or private hire car driver's licence shall, within 7 days of the expiry, termination or suspension of the licence, for whatever reason, deliver the same to the Director of Community Services.

Additional Conditions relating to Taxi Drivers Only

1. Unless the Licensing Authority makes specific arrangements for particular stances, when a taxi is driven off a stance, the driver of the taxi immediately behind shall draw up his vehicle to take the place vacated, and the taxi drivers on the stances behind shall draw up their vehicles in a like manner.
2. The driver of a taxi which is being operated on shared hire may wait at a stance only for such time as is reasonably required to ascertain whether there are any prospective further passengers (in addition to an existing passenger or existing passengers) in the immediate vicinity of the stance at that time who wish to participate in the shared hire of the taxi; but if no such further passengers are found there and then, the driver shall immediately drive his vehicle off the stance.
3. The driver of a taxi, when the taxi is hired or standing for hire, shall either sit in the driving seat of the vehicle or stand in the immediate proximity thereto except during any period he may be absent to announce the arrival of his/her taxi to the hirer or when assisting the hirer with luggage to or from the vehicle for any other necessary purpose.
4. The driver of a taxi, while he/she is in charge of the vehicle, shall not canvass or importune in any public place for employment, except, where the taxi or private hire car is being operated on shared hire, to such extent as is reasonably required to ascertain whether there are any prospective further passengers (in addition to an existing passenger or existing passengers) who wish to participate in the shared hire of the taxi.

Additional Conditions relating to Private Hire Car Drivers only

1. The driver of a private hire car, while he/she is in charge of the private hire car, shall not canvass or importune in any public place for employment.

In these conditions;

"exclusive", as applied to the hire of a taxi or private hire car, means that a single fare is payable by any one passenger for the whole hire of the taxi or private hire car, whether or not more than one passenger is carried; and "exclusive hire" shall be construed accordingly.

"shared", as applied to the hire of a taxi or private hire car, means that each passenger is carried at a separate fare, payable to the driver; and "shared hire" shall be construed accordingly; and

"taxi-bus" means a taxi or private hire car which is being used, under a special licence granted under Section 12 of the Transport Act 1985, to provide a local service which is or requires to be registered under Part 1 of that Act, has been previously advertised and which has a destination and route which are not entirely at the discretion of the passengers.

RESOLUTIONS UNDER THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982

1. LICENSING OF SECOND HAND CAR DEALERS, PUBLIC ENTERTAINMENT AND WINDOW CLEANERS

"The East Ayrshire Council, being the Licensing Authority for East Ayrshire, in terms of the Civic Government (Scotland) Act 1982, hereby resolve -

1. that as from 12 May 1997, the activities undernoted, the provision for, the licensing and regulation of which is made in the Sections of the above Act, as undernoted, shall require to be licensed in accordance with the provisions of the Act relating to those activities, and shall be regulated by those provisions, namely:-

ACTIVITIES	AREAS	RELEVANT SECTION OF THE ACT
Second Hand Dealers	Wards 21-30 (former CDVDC)	Sections 24-27
Public Entertainment	Wards 21-30 (former CDVDC)	Section 41
Window Cleaners	Wards 1-20 (former KLDC)	Section 43

2. that the foregoing resolution is made in relation to the areas of East Ayrshire noted above, being within the area of the Licensing Authority.
3. subject as aftermentioned, the foregoing resolution is made in relation to all classes of activity described above.
4. that the foregoing resolution, in so far as it relates to the licensing and regulation of Second Hand Dealers, in terms of Sections 24-27 of the above Act, is made only in relation to the following classes of that activity, namely dealers in second hand goods and articles of the following description:-
 - Furniture and Musical Instruments;
 - Jewellery;
 - Articles made either or mainly of Gold, Silver and Platinum;
 - Audio and audio-visual equipment; and
 - Domestic appliances operated by gas or electricity.
5. that the foregoing resolution, in so far as it relates to the licensing and regulation of premises used as a place of Public Entertainment, in

terms of Section 41 of the above Act, is made only in relation to the following place or places, or class or classes of activity, namely:-

Open Air Concerts;
Firework and bonfire displays;
Fairgrounds;
Circuses;
Fetes, with marquees for the public;
Premises used for leisure activities with audience accommodation;
Premises used for dancing, discotheques and roller discos;
Ice Rinks with audience accommodation;
Activities where a public audience may be present (eg boxing, wrestling, judo presentations);
Snooker/Billiard Halls;
Public concerts, other than theatrical performances;
Radio or TV Stations with audience accommodation; and
Premises in which machines for entertainment or amusement are being provided. (Subject to Section 41(2)(g) of the above Act).

2. LICENSING OF SEX SHOPS

"The East Ayrshire Council being the Licensing Authority for East Ayrshire in terms of the Civic Government (Scotland) Act 1982, hereby resolve- that as from 5 August 1996 Schedule 2 of the aforementioned Act shall have effect in Wards 21-30 of East Ayrshire being within the area of the Licensing Authority.