

Supplementary Agenda



Meeting of West Dunbartonshire Council

Date: Wednesday, 26 April 2017

Time: 17:00

Venue: Council Chamber,
Clydebank Town Hall, Dumbarton Road, Clydebank

Contact: Craig Stewart
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Dear Member

ITEM TO FOLLOW – ITEM 11

With reference to the agenda for the above Meeting of West Dunbartonshire Council which was issued on 12 April 2017, I attach for your attention a copy of the undernoted minutes which were not available for issue at that time.

Yours faithfully

JOYCE WHITE

Chief Executive

Note referred to:-

11. MINUTES OF OTHER COMMITTEES

Submit for approval as a correct record, the Minutes of Meeting of the following Committees:-

(h)	Licensing Committee held on 19 April 2017	245 – 252
(i)	Appeals Committee held on 20 April 2017	253 – 254
(j)	Appeals Committee held on 31 October 2016	255 - 256

Distribution:-

Provost Douglas McAllister
Councillor Denis Agnew
Councillor George Black
Councillor Jim Bollan
Councillor Jim Brown
Councillor Gail Casey
Councillor Jim Finn
Councillor William Hendrie
Councillor David McBride
Councillor Jonathan McColl
Councillor Michelle McGinty
Councillor Patrick McGlinchey
Councillor Marie McNair
Councillor John Millar
Councillor John Mooney
Councillor Ian Murray
Councillor Lawrence O'Neill
Councillor Tommy Rainey
Councillor Gail Robertson
Councillor Martin Rooney
Councillor Kath Ryall
Councillor Hazel Sorrell

Chief Executive
Strategic Director of Transformation & Public Service Reform
Strategic Director of Regeneration, Environment & Growth
Chief Officer of West Dunbartonshire Health & Social Care Partnership

Date of issue: 25 April 2017

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in the Council Chamber, Clydebank Town Hall, Dumbarton Road, Clydebank on Wednesday, 19 April 2017 at 2.00 p.m.

Present: Councillors Jim Brown, Jim Finn and Lawrence O'Neill.

Attending: Raymond Lynch, Section Head (Licensing); Robert Mackie, Senior Officer (Licensing Services); and Nuala Borthwick, Committee Officer.

Also Attending: Sergeant Angela Walker, Police Scotland.

Apologies: Apologies for absence were intimated on behalf of Provost Douglas McAllister and Councillors John Mooney, Jonathan McColl, Tommy Rainey and Hazel Sorrell.

Councillor Lawrence O'Neill in the Chair

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest in any of the items of business on the agenda.

MINUTES OF PREVIOUS MEETINGS

The following minutes were submitted and approved as correct records:-

- (1) Minutes of Meeting of the Licensing Committee held on 15 February 2017; and
- (2) Minutes of Special Meeting of the Licensing Committee held on 1 March 2017.

APPLICATION FOR GRANT OF A TAXI DRIVER'S/PRIVATE CAR HIRE DRIVER'S LICENCE

Name and Address of Applicant

Date Applied

Brian Stewart
Flat 4/12 Bonhill Road
Dumbarton
G82 2ER

16 March 2017

A report was submitted by the Strategic Lead - Regulatory concerning an application for grant of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Chair, Councillor O'Neill, it was noted that the applicant had intimated in advance of the meeting that he would be unable to attend the meeting.

DECIDED:-

It was agreed that consideration of the application be continued to the next meeting of the Licensing Committee to be held on 14 June 2017.

APPLICATIONS FOR RENEWAL OF A TAXI/ PRIVATE HIRE CAR DRIVER'S LICENCE

(a) Name and Address of Applicant

Date Applied

John Slevin
3 Allan Crescent
Alexandria
G83 0BJ

21 October 2016

A report was submitted by the Strategic Lead - Regulatory concerning an application for Renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Section Head (Licensing), it was noted:-

- (a) that a letter of objection had been received from the Chief Constable of the Police authority on 17 November 2016 in relation to the application;
- (b) that at the meeting of the Licensing Committee held on 7 December 2016, Members had agreed to continue consideration of the application to the 19 April 2017 meeting of the Licensing Committee given the pending case against Mr Slevin; and
- (c) that in relation to a pending case against Mr Slevin, a trial diet had been fixed for 11 May 2017 and that in terms of the legislation, the application could not be continued to a further date.

DECIDED:-

After consideration, the Committee agreed that the application be granted and that any subsequent conviction in the pending case against Mr Slevin, would be referred to the Committee for consideration.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Andrew Houston 21/7 Ashtree Court Old Kilpatrick Glasgow G60 5JD	20 January 2017

A report was submitted by the Strategic Lead - Regulatory concerning an application for Renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Section Head (Licensing), it was noted:-

- (a) that a letter had been received by the Chief Superintendent of the Police authority advising that the Chief Constable had a representation to make in relation to the application;
- (b) that in view of the representation, the applicant and a representative of the Police authority had been invited to attend the meeting of the Committee in order that a hearing may take place;
- (c) that the applicant, Mr Houston, and a representative of the Police authority, Sergeant Angela Walker, were in attendance; and
- (d) that copies of the letter of representation from the Police authority dated 24 January 2017 had been issued to Members of the Committee in advance of the meeting.

The Committee then heard from Sergeant Walker in relation to the letter of representation from Police Scotland. Thereafter, Mr Houston was given an opportunity to address the Committee in support of the application.

DECIDED:-

After consideration, the Committee agreed that the application be granted.

(c) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Brian McIndewar 14 Russell Drive Alexandria G83 0JH	25 January 2017

A report was submitted by the Strategic Lead - Regulatory concerning an application for Renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Section Head (Licensing), it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority advising that the Chief Constable had a representation to make in relation to the application;
- (b) that in view of the representation, the applicant and a representative of the Police authority had been invited to attend the meeting of the Committee in order that a hearing may take place;
- (c) that the applicant, Mr Brian McIndewar accompanied by his representative Mr John Watters, West Dunbartonshire Area Taxi Trade Association, and Sergeant Angela Walker, Police Scotland were in attendance; and
- (d) that copies of the letter of representation from the Police authority dated 15 February 2017, had been issued to Members of the Committee in advance of the meeting.

DECIDED:-

After consideration, the Committee agreed that the application be granted.

APPLICATION FOR GRANT OF SKIN PIERCING & TATTOOING LICENCE

A report was submitted by the Strategic Lead - Regulatory concerning an application for Grant of Skin Piercing & Tattooing Licence submitted by Ms Natalie Devine and Mr Dane Innes to operate from premises located at 121 Main Street, Alexandria G83 0NX.

Having heard the Section Head (Licensing), it was noted:-

- (a) that the applicants, Ms Devine and Mr Innes, had submitted an application for grant of a Skin Piercing or Tattooing Licence to the Council on 6 February 2017;
- (b) that the Chief Superintendent of the Police authority had advised that the Chief Constable had no objection to make in relation to the application;

- (c) that three letters of objection had been received objecting to the grant of the Skin Piercing or Tattooing Licence application submitted by Ms Devine and Mr Innes and that two of the letters of objection had since been withdrawn;
- (d) that the applicants, Ms Devine and Mr Innes, were in attendance at the meeting and that the objector was not in attendance; and
- (e) that an online petition of support for the application had been set up and had obtained 245 signatures in support of the application.

DECIDED:-

After discussion and having heard the Section Head (Licensing), the Committee agreed that the application be granted.

INTRODUCTION OF LICENSING CONDITIONS FOR HOME BOARDING AND COMMERCIAL DAY BOARDING OF DOGS UNDER THE ANIMAL BOARDING ESTABLISHMENTS ACT 1963

A report was submitted by the Strategic Lead - Regulatory seeking approval for the introduction of licensing conditions for Home Boarding and Commercial Boarding of Dogs under the Animal Boarding Establishments Act 1963.

The Committee then heard from representatives of businesses in West Dunbartonshire likely to be affected by the introduction of licensing conditions many of whom had provided feedback during the period of consultation.

DECIDED:

After discussion and having heard the Senior Officer (Licensing Services) and the Senior Officer (Licensing) in further explanation of the report and in answer to Members' questions, the Committee agreed:-

- (1) to approve the introduction of the conditions attached in Appendices 1 and 2 to the report with immediate effect;
- (2) to delegate authority to the Strategic Lead - Regulatory to agree any future changes needed to Animal Boarding Establishment conditions;
- (3) that the Committee would review all aspects of the conditions within 12 months or sooner if necessary; and
- (4) that the fee for the first application would be valid for a period of 17 months.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – REVIEW OF TAXI FARES AND CHARGES - CLYDEBANK TAXI LICENSING ZONE

A report was submitted by the Strategic Lead - Regulatory advising on a proposed review of fares and charges applicable to taxis operating within the Clydebank Taxi Licensing Zone.

The Committee heard from Mr Allan MacLeod, Clydebank Public Hire Association and Mr John Gallacher, multiple taxi plate holder in response to the questionnaire issued to 96 taxi operators in the area.

DECIDED:

After discussion and having heard the Section Head (Licensing) and the Senior Officer (Licensing Services) in further explanation of the report and in answer to Members' questions, the Committee agreed:-

- (1) the proposed fares and charges as detailed in paragraphs 4.12 to 4.15 of the report which were the view of the majority response to the questionnaire;
- (2) that officers be authorised to arrange for the advertisement of the fares and charges agreed by the Committee;
- (3) to note that if representations or objections to the proposals are received, a further report on the matter would require to be considered by the Committee;
- (4) that should no objections or representations be received in relation to the proposal, authority would be delegated to the Strategic Lead - Regulatory, in consultation with the Chair of the Licensing Committee, to conclude the review without the requirement for the Committee to consider a further report on the matter; and
- (5) that officers would be delegated authority to consult with representatives of the taxi trade who they considered best met the statutory criteria of being representative of taxi operators in future consultations on taxi fare reviews.

PROPOSED LICENSING SCHEME FOR BOAT HIRERS - UPDATE

A report was submitted by the Strategic Lead - Regulatory providing an update on the proposed licensing scheme for boat hirers and advising on progress.

DECIDED:

The Committee noted the progress to date and agreed that officers prepare a further report detailing the outcome of further discussions with Stirling Council, Argyll and Bute Council and the National Park Authority and also any meeting with parties who have responded to the consultation.

EXCLUSION OF PRESS AND PUBLIC

The Committee passed the following resolution:-

“That under Section 50A(4) of the Local Government (Scotland) Act, 1973 the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Paragraph 14 of Part 1 of Schedule 7A of the Act.”

HEARING REGARDING POSSIBLE SUSPENSION OF A TAXI DRIVER'S/PRIVATE HIRE CAR DRIVER'S LICENCE

A report was submitted by the Strategic Lead - Regulatory requesting consideration of a possible suspension of a Taxi Driver's/Private Hire Car Driver's Licence following a complaint which had been submitted by Police Scotland.

Having heard the Section Head (Licensing), it was noted:-

- (a) that a letter had been received from the Chief Constable of Police Scotland requesting the immediate suspension of a Taxi Driver's/Private Hire Car Driver's Licence under Paragraph 12(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or public safety;
- (b) that having consulted the Chair of the Licensing Committee it was decided that, due to the content of the letter received from the Police, the Taxi Driver's/Private Hire Car Driver's Licence held by the licence holder should be suspended with immediate effect under Paragraph 12 of Schedule 1 to the Act;
- (c) that on 23 March 2017 the licence holder's Taxi Driver's/Private Hire Car Driver's identification badge was secured by Licensing Officers;
- (d) that the licence holder's current Taxi Driver's/Private Hire Car Driver's Licence expires on 15 February 2018;
- (e) that the Chief Constable had also requested the suspension of the licence under Paragraph 11 of Schedule 1 to the 1982 Act whereby a licensing authority may order the suspension of a licence under Paragraph 11 if, in its opinion, the holder of the licence is not, or is no longer, a fit and proper person to hold the licence;
- (f) that in view of the request for suspension of the licence received from the Police, the licence holder and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (g) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting; and

- (h) that the matters which the Committee was required to consider in relation to paragraph (e) above were as follows:-
- (i) whether the alleged misconduct had been established;
 - (ii) if the Committee was satisfied that the alleged misconduct had been established, whether, having regard to the misconduct, the licence holder was no longer a fit and proper person to hold a taxi driver's licence;
 - (iii) if the Committee was of the opinion that the licence holder was no longer a fit and proper person, then the Committee must consider whether his licence should be suspended;
 - (iv) if the Committee was satisfied that the licence should be suspended, the Committee must give the licence holder an opportunity of being heard on the length of the suspension and the date from which the suspension should commence; and
 - (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension.

It was noted that the licence holder and a representative of the Police authority, Sergeant Walker, were in attendance.

The Committee then heard from Sergeant Walker who provided details of the offences allegedly committed by the licence holder in relation to the request for suspension of the licence.

Thereafter, the licence holder was given the opportunity to address the Committee on the circumstances that led to the alleged offences and answered questions from Members.

DECIDED:

After consideration and having heard the Section Head (Licensing) and Sergeant Walker in answer to questions from Members, the Committee agreed:-

- (1) that the alleged misconduct had been established;
- (2) that, having regard to the misconduct, the licence holder was no longer a fit and proper person to hold a Taxi Driver's/Private Hire Car Driver's Licence and that the licence should be suspended; and
- (3) that the period of suspension would be the unexpired portion of the duration of the licence, i.e. 15 February 2018.

The meeting closed at 4.16 p.m.

APPEALS COMMITTEE

At a Meeting of the Appeals Committee held in Committee Room 2, Council Offices, Garshake Road, Dumbarton on Thursday, 20 April 2017 at 9.35 a.m.

Present: Councillors Jim Brown, John Mooney, Tommy Rainey and Hazel Sorrell.

Attending: Vicki Rogers, Strategic Lead – People & Technology; Darren Paterson, Strategic HR Manager; Nigel Ettles, Principal Solicitor and Craig Stewart, Committee Officer, Regulatory Services.

Councillor Tommy Rainey in the Chair

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

EXCLUSION OF PRESS AND PUBLIC

The Committee approved the following resolution:-

“That under Section 50A(4) of the Local Government (Scotland) Act 1973, the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Paragraph 1 of Part I of Schedule 7A to the Act”.

MINUTES OF PREVIOUS MEETINGS

The Minutes of Meetings of the Appeals Committee held on 17 November 2016, 5 December 2016 and 12 January 2017 were submitted and approved as correct records.

PROCEDURE

The Committee agreed to note the Appeals Committee Hearings – Dismissal Appeals Process would be followed at this Hearing of Appeal.

APPEAL AGAINST DISMISSAL (REF: APP/17/01)

There were submitted background papers relating to an Appeal which had been submitted to the Council in relation to a Dismissal.

The Appellant was not in attendance but Charlie McDonald of Unite was in attendance on behalf of the Appellant. Rodney Thornton, Fleet & Waste Services manager was in attendance to present the case on behalf of Management. Anne Marie Cosh, HR Business Partner, was in attendance as an Adviser to Mr Thornton.

Mr McDonald did not have instructions to present the case for the Appellant, as the Appellant had failed to engage with him. Instead, Mr McDonald was present to ensure correct procedures were followed.

Mr Thornton presented the case for Management and was questioned by a Member of the Committee. Both parties withdrew from the meeting.

After the Committee had deliberated the matter in private, both parties were re-admitted to the meeting and advised that the grounds of the appeal had not been substantiated and the Appeal had not been upheld.

The meeting closed at 10.25 a.m.

APPEALS COMMITTEE

At a Meeting of the Appeals Committee held in Committee Room 2, Council Offices, Garshake Road, Dumbarton on Monday, 31 October 2016 at 9.35 a.m.

Present: Councillors Jonathan McColl, John Mooney and Kath Ryall.

Attending: Vicki Rogers, Strategic Lead – People & Technology; Nigel Ettles, Section Head - Litigation and George Hawthorn, Manager of Administrative and Democratic Services.

Apology: An apology for absence was intimated on behalf of Councillor John Millar.

Councillor Kath Ryall in the Chair

DECLARATIONS OF INTEREST

It was noted that there were no declarations of interest.

EXCLUSION OF PRESS AND PUBLIC

The Committee approved the following resolution:-

“That under Section 50A(4) of the Local Government (Scotland) Act 1973, the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Paragraph 1 of Part I of Schedule 7A to the Act”.

PROCEDURE

The Committee agreed to note the Appeals Against Disciplinary Action and Non-Disciplinary Dismissal Procedure that would be followed at this Hearing of Appeal.

APPEAL AGAINST DISMISSAL (REF: APP/16/02)

There were submitted background papers relating to an Appeal which had been submitted to the Council in relation to a Dismissal.

The Appellant was not in attendance but was represented by Mr Norman King and Mr Charlie McDonald of Unite. Mr Stephen Daly, Customer Services Manager, was in attendance to present the case on behalf of Management. Tracy Keenan, HR Business Partner, was in attendance as an adviser to Mr Daly.

Mr Daly presented the case for Management and informed the Committee that he had two witnesses whom he would like the opportunity to question in support of his case.

The Chair invited the first witness, JM, to enter the meeting and thereafter the witness was heard in response to questions from Mr Daly, Mr King and Members of the Committee. JM left the meeting.

The Chair then invited the second witness, SK, to enter the meeting and thereafter the witness was heard in response to questions from Mr Daly and Members of the Committee. SK left the meeting.

Mr Daly was then heard in answer to questions from Mr King and Members of the Committee.

Mr King presented the case for the Appellant and thereafter Mr King and Mr McDonald were heard in answer to questions from Mr Daly and Members of the Committee.

Mr Daly and then Mr King summed up their respective cases and thereafter both parties withdrew from the meeting.

After the Committee had deliberated the matter in private, both parties were re-admitted to the meeting and advised that the grounds of the Appeal had not been substantiated and the Appeal had not been upheld.

The meeting closed at 3.00 p.m.