

## **LICENSING COMMITTEE**

At a Meeting of the Licensing Committee held in the Education Centre, St. Margaret of Scotland Hospice, East Barns Street, Clydebank on Tuesday, 2 August 2011 at 12.05 p.m.

**Present:** Councillors Jim Brown, Geoff Calvert, Jim Finn, Douglas McAllister, Jonathan McColl, Willie McLaughlin and Lawrence O'Neill.

**Attending:** Nigel Ettles, Principal Solicitor; Robert Mackie, Senior Officer (Licensing Services); Raymond Walsh, Network Management Services Co-ordinator; and Scott Kelly, Committee Officer, Legal, Democratic and Regulatory Services.

**Apology:** An apology for absence was intimated on behalf of Councillor Ronnie McColl.

**Councillor Jim Finn in the Chair**

### **DECLARATIONS OF INTEREST**

It was noted that there were no declarations of interest in relation to any of the items of business on the agenda at this point in the meeting.

### **MINUTES OF PREVIOUS MEETING**

The Minutes of Meetings of the Licensing Committee held on 3 May 2011 (Ordinary) and 28 June 2011 (Special) were submitted and approved as correct records.

### **DECLARATION OF INTEREST**

At this point in the meeting Councillor Brown declared a non-financial interest in the following item of business, being a Director of Clydebank Rebuilt, and advised that he would take no part in the Committee's decision in relation to this item and left the meeting.

### **PROPOSED RELOCATION OF TAXI STANCE**

With reference to the Minutes of Meeting of the Licensing Committee held on 3 May 2011 (Pages 3650/51 refer), a report was submitted by the Head of Legal, Administrative and Regulatory Services concerning a proposal from Clydebank Rebuilt to alter the taxi stance which is currently situated in Alexander Street, Clydebank and to create a new feeder rank in Hume Street.

Having heard the Principal Solicitor in explanation of the report, it was noted that Mr Hugh Moore of Clydebank Rebuilt was in attendance.

Thereafter, Mr Moore was invited to come forward and addressed the Committee in support of the proposed alteration to the taxi stance and was heard in answer to a Member's questions.

The Committee agreed to approve the proposal to alter the stance currently situated in Alexander Street, Clydebank and to create a new feeder rank in Hume Street, as detailed in the Appendix to the report.

Note: Councillor Brown returned to the meeting at this point.

### **CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – REVIEW OF TAXI FARES AND CHARGES FOR DUMBARTON TAXI LICENSING ZONE**

With reference to the Minutes of Meeting of the Licensing Committee held on 3 May 2011 (Page 3650 refers), a report was submitted by the Head of Legal, Administrative and Regulatory Services concerning a proposed review of fares and charges applicable to taxis operating within the Dumbarton and Vale of Leven Taxi Licensing Zone.

Having heard the Principal Solicitor in explanation of the report, it was noted:-

- (a) that a letter had been received from Mr D Thomson of the West Dunbartonshire Area Taxi Trade Association proposing an increase in the taxi fare structure for the Dumbarton and Vale of Leven Taxi Licensing Zone; and
- (b) that Mr John Watters, a representative of operators of taxis within Dumbarton, was in attendance and wished to address the Committee.

Thereafter, Mr Watters was invited to come forward and addressed the Committee in support of proposed changes to the current fare chart for the Dumbarton and Vale of Leven Taxi Licensing Zone, as outlined in paragraph 3.5 of the report, and was heard in answer to Members' questions.

After discussion, the Committee agreed:-

- (1) to approve the proposed changes to the current fare chart for the Dumbarton and Vale of Leven Taxi Licensing Zone, as detailed below:-

- (a) taxi fares will move from the Tariff 1 rate to the Tariff 2 rate from 9.00 p.m. as opposed to the current time of 10.00 p.m.;
  - (b) taxi fares will move from the Tariff 4 rate to the Tariff 5 rate from 9.00 p.m. as opposed to the current time of 10.00 p.m.;
  - (c) an increase in the initial flagfall from £2.00 to £2.20 on Tariff 1 with a reduction in the distance travelled from 1/16 of a mile to 1/18 of a mile for each additional 10 pence;
  - (d) an increase in the initial flagfall from £2.50 to £2.70 on Tariff 2 with a reduction in the distance travelled from 1/18 of a mile to 1/20 of a mile for each additional 10 pence;
  - (e) an increase in the initial flagfall from £3.50 to £4.00 on Tariff 3 with a reduction in the distance travelled from 1/21 of a mile to 1/25 of a mile for each additional 10 pence;
  - (f) an increase in the initial flagfall from £2.40 to £2.70 on Tariff 4 with a reduction in the distance travelled from 1/20 of a mile to 1/22 of a mile for each additional 10 pence;
  - (g) an increase in the initial flagfall from £2.90 to £3.20 on Tariff 5 with a reduction in the distance travelled from 1/21 of a mile to 1/24 of a mile for each additional 10 pence;
  - (h) an increase in the initial flagfall from £4.00 to £5.00 on Tariff 6 with a reduction in the distance travelled from 1/26 of a mile to 1/30 of a mile for each additional 10 pence; and
  - (i) waiting time to be reduced from 30 seconds to 24 seconds on all tariffs for each additional 10 pence; and
- (2) to authorise officers to conclude the review by notifying the taxi trade of the new scales and, if there is no appeal against the scales by a taxi operator, by giving public notice that the new scales are to come into effect.

Councillor Calvert, having failed to obtain a seconder for a proposed motion, asked that his dissent be recorded in respect of this item.

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

With reference to the Minutes of Meeting of the Licensing Committee held on 3 May 2011 (Page 3649 refers), a report was submitted by the Head of Legal, Administrative and Regulatory Services concerning a proposed review of fares and charges applicable to taxis operating within the Clydebank Taxi Licensing Zone.

Having heard the Principal Solicitor, it was noted:-

- (a) that paragraph 9.1 of the report was inaccurate and that the paragraph should read as follows:-

“It is recommended that the representation submitted by Mr McQuade be considered along with the earlier responses received from both the Clydebank Public Hire Association and Clydebank Taxis on behalf of the Clydebank Taxis Operators Liaison Group who were not in favour of requesting an increase in the taxi scales at this moment in time. It is recommended that the Committee then reaches a decision on the review and authorises officers to conclude the review by notifying the taxi trade of the decision and, if there is no appeal against the decision by a taxi operator, by giving public notice of the outcome of the review.”;

- (b) that there was still a division of opinion within the taxi trade in respect of this matter; and
- (c) that Mr Edward McQuade, a licensed taxi operator, and representatives of the Clydebank Public Hire Association, Clydebank Taxis, and the Clydebank Taxis Operators Liaison Group were in attendance and wished to address the Committee.

Thereafter, Mr McQuade was invited to come forward and addressed the Committee in support of his proposal to introduce increases in the current fare chart for the Clydebank Taxi Licensing Zone, as detailed in Appendix 2 to the report. It was noted that Mr McQuade had requested that the initial flagfall be increased by 30 pence on all tariffs with no change being made to the running mile. Mr McQuade and the Senior Officer (Licensing Services) were then heard in answer to Members' questions.

Mr Alan McLeod and Mr Charlie Murray, representatives of Clydebank Public Hire Association, were then invited to come forward and addressed the Committee in support of their Association's request that taxi scales not be increased at this time and were heard in answer to Members' questions.

Thereafter, Mr Alan Binnie, a representative of Clydebank Taxis, and Mr David Radcliffe, a representative of Clydebank Taxis Operators Liaison Group, were invited to come forward and they addressed the Committee in support of the Group's request that taxi scales not be increased at this time.

After discussion, and having heard the Principal Solicitor in answer to a Member's question, the Committee agreed:-

- (1) that there should be no change to the current fare chart for the Clydebank Taxi Licensing Zone at this time; and
- (2) to authorise officers to conclude the review by notifying the taxi trade of the decision and, if there is no appeal against the decision by a taxi operator, by giving public notice of the outcome of the review.

## APPLICATION FOR RENEWAL OF TAXI/PRIVATE HIRE CAR DRIVER'S LICENCE

<u><b>Name and Address of Applicant</b></u>	<u><b>Date Applied</b></u>
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Stuart Farmer  
19 White Avenue  
Dumbarton  
G82 2LJ

1 June 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for renewal of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Inspector Hutton, were in attendance.

The Committee heard Inspector Hutton in relation to the representation which had been submitted and in answer to Members' questions.

The applicant was then given the opportunity to address the Committee in support of his application and was heard in answer to a Member's questions.

After discussion and having heard the Principal Solicitor in answer to a Member's question, the Committee agreed that the application be granted for a period of one year.

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

<u><b>Name and Address of Applicant</b></u>	<u><b>Date Applied</b></u>
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William Campbell  
4/4 Merkins Avenue  
Dumbarton  
G82 3EB

21 April 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making an objection with respect to the application;
- (b) that in view of the objection which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Inspector Hutton, were in attendance.

The Committee heard Inspector Hutton in relation to the objection which had been submitted and in answer to a Member's question.

Thereafter, Mr Campbell was invited to come forward. It was noted that Mr Campbell was accompanied by his solicitor, Mr Bill Cairns, and Mr Cairns addressed the Committee in support of his client's application.

In so doing, Mr Cairns argued that two of the offences which Mr Campbell had committed related to findings of the Children's Panel and did not constitute convictions, and that a further 10 of the 14 offences committed by Mr Campbell were "spent" under the Rehabilitation of Offenders Act 1974.

Thereafter, in further support of the application, Mr Cairns circulated (tabled) documentation relating to Mr Campbell's previous employment at East Dunbartonshire Council and a Window Cleaner's Licence which had previously been issued to Mr Campbell by West Dunbartonshire Council.

Inspector Hutton then explained that convictions could not become spent in relation to an application for the grant of a Taxi/Private Hire Car Driver's Licence.

After discussion and having heard Inspector Hutton, Mr Cairns and Mr Campbell in answer to Members' questions, Councillor Finn, seconded by Councillor McAllister, moved:-

- (1) that the application be granted for a period of one year; and
- (2) that a report on the possible suspension of the licence should be submitted to a future meeting of the Committee should Mr Campbell be convicted of any further offences.

As an amendment, Councillor Calvert, seconded by Councillor J. McColl, moved:-

That the application be refused on the ground that the applicant was not a fit and proper person to be the holder of a Taxi/Private Hire Car Driver's Licence.

On a vote being taken, 4 Members voted for the amendment and 3 for the motion. The amendment was accordingly declared carried.

### ADJOURNMENT

After hearing Councillor Finn, Chair, the Committee agreed to adjourn for a short period of time.

The meeting reconvened at 1.10 p.m. with all those Members shown on the Sederunt in attendance with the exception of Councillor J. McColl.

### APPLICATIONS FOR GRANT OF TEMPORARY TAXI/PRIVATE HIRE CAR DRIVER'S LICENCE

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Andrew McChesney 31 Miller Road Haldane Balloch G83 4HA	14 April 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a temporary Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that the Police authority had not intimated any objection or representation with respect to the application;
- (b) that, in accordance with the Department for Transport's Best Practice Guidance Annex C (which was attached as the Appendix to the report), as a type 1 insulin controlled diabetic, the applicant was required to submit written evidence from his doctor which satisfied the Annex C guidance;
- (c) that at the time the report had been issued to Members, Mr McChesney had failed to provide the necessary written evidence; and
- (d) that on the day prior to the meeting of the Committee, Mr McChesney had provided the necessary written evidence and this evidence was circulated (tabled) to Members.

Mr McChesney was then invited to come forward and was heard in answer to Members' questions.

After discussion and having heard the Principal Solicitor and the Senior Officer (Licensing Services), the Committee agreed that the application be granted for a period of six weeks.

<b>(b)</b>	<b><u>Name and Address of Applicant</u></b>	<b><u>Date Applied</u></b>
	David Cassels 7 Northfield Drive Bonhill G83 9BQ	15 April 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a temporary Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Inspector Hutton, were in attendance.

The Committee heard Inspector Hutton in relation to the representation which had been submitted.

The applicant was then given the opportunity to address the Committee in support of his application and was heard in answer to Members' questions.

After consideration, the Committee agreed:-

- (1) that the application be granted for a period of six weeks; and
- (2) that, should the applicant apply for a full licence, the application for grant should be referred to a future meeting of the Committee for consideration and the applicant be invited to attend the meeting.

<b>(c)</b>	<b><u>Name and Address of Applicant</u></b>	<b><u>Date Applied</u></b>
	John Gillies 3 Garshake Terrace Dumbarton G82 3LS	5 May 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a temporary Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Inspector Hutton, were in attendance.

The Committee heard Inspector Hutton in relation to the representation which had been submitted and in answer to Members' questions.

The applicant was then given the opportunity to address the Committee in support of his application and was heard in answer to Members' questions.

After consideration, the Committee agreed that the application be granted for a period of six weeks.

<b>(d)</b>	<b><u>Name and Address of Applicant</u></b>	<b><u>Date Applied</u></b>
	John Slevin 326 Redburn Bonhill G83 9BX	3 May 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a temporary Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Inspector Hutton, were in attendance.

The Committee heard Inspector Hutton in relation to the representation which had been submitted.

The applicant was then given the opportunity to address the Committee in support of his application.

The Committee agreed that the application be granted for a period of six weeks.

(e) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Kenneth Lees 98 O'Hare Bonhill Alexandria G83 9DU	19 April 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a temporary Taxi/Private Hire Car Driver's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Inspector Hutton, were in attendance.

The Committee heard Inspector Hutton in relation to the representation which had been submitted.

The applicant was then given the opportunity to address the Committee in support of his application and was heard in answer to a Member's question.

The Committee agreed that the application be granted for a period of six weeks.

### **APPLICATION FOR GRANT OF EMPLOYEE STREET TRADER'S LICENCE**

<b><u>Name and Address of Applicant</u></b>	<b><u>Date Applied</u></b>
Robert MacMillan 262 Drumry Road East Drumchapel Glasgow G15 6PX	22 June 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of an Employee Street Trader's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Inspector Hutton, were in attendance.

The Committee heard Inspector Hutton in relation to the representation which had been submitted and in answer to Members' questions.

The applicant was then given the opportunity to address the Committee in support of his application and the applicant and the Senior Officer (Licensing Services) were heard in answer to Members' questions.

After consideration the Committee agreed that the application be granted for a period of one year.

### APPLICATION FOR GRANT OF WINDOW CLEANER'S LICENCE

**Name and Address of Applicant**
**Date Applied**

Graham Buist  
20 Keil Crescent  
Brucehill  
Dumbarton  
G82 4DX

5 May 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Window Cleaner's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting.

It was noted that the applicant was not in attendance.

The Committee agreed to continue consideration of this matter to the next meeting of the Committee.

### APPLICATION FOR GRANT OF A TEMPORARY WINDOW CLEANER'S LICENCE

**Name and Address of Applicant**
**Date Applied**

Daniel McManus  
6 Waverley, Onslow Road  
Clydebank  
G81 2PY

5 May 2011

A report was submitted by the Head of Legal, Administrative and Regulatory Services concerning an application for grant of a Temporary Window Cleaner's Licence by the above named person.

Having heard the Principal Solicitor, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;

- (b) that in view of the representation which had been received from the Police, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (c) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting;
- (d) that the letter from the Police authority made reference to two convictions against the applicant that were "spent" in terms of the Rehabilitation of Offenders Act 1974 and that references to these convictions had been redacted from the copies of the letter which had been circulated to Members; and
- (e) that spent convictions could not be considered by the Committee unless there was no other way of justice being done.

The Principal Solicitor advised the Committee that one of the two spent convictions was 8 years old, was fairly serious in nature and was relevant to the activity of window cleaning.

The Committee then agreed that the unredacted letter from the Police authority providing details of the spent convictions be circulated and taken into account.

It was noted that the applicant and a representative of the Police authority, Inspector Hutton, were in attendance.

The Committee heard Inspector Hutton in relation to the representation which had been submitted.

The applicant was then given the opportunity to address the Committee in support of his application and was heard in answer to a Members' questions.

It was noted that Mr McManus was accompanied by his prospective employer, Mr Paton, and Mr Paton was then invited to come forward and was heard in answer to Members' questions.

The Committee agreed that the application be granted for a period of six weeks.

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

A report was submitted by the Head of Legal, Administrative and Regulatory Services requesting consideration of a possible suspension of a Taxi Driver's/Private Hire Car Driver's Licence held by Mr Stewart Rowan following a complaint which had been submitted by passengers in a taxi driven by Mr Rowan.

Having heard the Principal Solicitor, it was noted:-

- (a) that a complaint had been received by telephone from a member of the public who had witnessed an incident while being driven as a passenger in a West Dunbartonshire licensed taxi;
- (b) that having consulted with Mr Andrew Fraser, Head of Legal, Administrative and Regulatory Services, it had been decided that due to the nature of the complaint, a hearing should take place to consider the possible suspension of Mr Rowan's taxi driver's licence;
- (c) that a summary of the complaint had been attached as the Appendix to the report with the complainer's personal details redacted;
- (d) that a licensing authority must, before deciding to suspend a licence, give the holder of the licence, the complainer and the Chief Constable an opportunity to be heard;
- (e) that Mr Rowan, the complainer and a representative from the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (f) that matters which the Committee was required to consider 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, Mr Rowan was no longer a fit and proper person to hold a taxi driver's licence;
  - (iii) if the Committee was of the opinion that Mr Rowan 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 Mr Rowan an opportunity to be 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, Inspector Hutton, were in attendance but that the complainer was not in attendance.

Having heard inspector Hutton, the Committee noted that no criminal allegation had been made to the Police.

Thereafter, the Senior Officer (Licensing Services) and the Principal Solicitor were heard in answer to Members' questions.

Thereafter, the licence holder was invited to come forward. It was noted that Mr Rowan was accompanied by Mr David Haddow, who addressed the Committee on the circumstances relating to the complaint which had been received in relation to Mr Rowan. Mr Rowan was then heard in answer to Members' questions.

After discussion, the Committee agreed that no action be taken in relation to the possible suspension of Mr Rowan's taxi driver's licence.

The meeting closed at 2.20 p.m.