

MINUTES of MEETING of the MIDLOTHIAN COUNCIL held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday, 13 August 2013 at 2.00pm.

Present:- Provost Wallace, Depute Provost Rosie and Councillors Baxter, Beattie, Bennett, Bryant, Constable, Coventry, de Vink, Imrie, Johnstone, Milligan, Muirhead, Montgomery, Pottinger, Russell and Thompson.

Religious Representatives Present (Non Voting Observers for Education Business):- Mrs Harkness.

Apologies for Absence:- Mr V Bourne (Religious Representative).

1 Order of Business

The Clerk advised that “ Follow” papers had been issued in respect of the following items of business,viz:-

- Item No. 11 – Report by Directors, Resources and Communities and Wellbeing, on Gorebridge Development Trust Hub Project; and
- Item No. 12 – Report by Director, Resources, on Bonnyrigg Leisure Centre. The Clerk also advised that this item now fell to be considered in public, given that the report content did not meet the exclusion criteria defined in Part I of Schedule 7A to the Local Government (Scotland) Act 1973.

2 Declarations of Interest

Councillor Beattie declared an interest in item No.10 on the published agenda in relation to a decision of the the Standards Commission in respect of a complaint made against her and former Councillor C Beattie and advised that she would leave the meeting during consideration thereof.

3 Minutes of Council

The Minutes of (a) Special Meeting and (b) the Ordinary Meeting of Midlothian Council of 25 June 2013 were submitted for approval.

In relation to the Minutes of the Ordinary Meeting of the Council:-

(1) Councillor Milligan challenged the accuracy thereof in respect of the recorded decision relating to the Community Asset Transfer Policy (paragraph 24). It was Councillor Milligan’s recollection that the Council had agreed to convene a seminar to consider the implications of the report by the Director, Corporate Resources on this subject whereas the minute recorded that the report’s recommendations had been adopted and that a seminar had also been agreed upon. He therefore sought a correction of the minute.

The Leader of the Council advised that he had listened to the recording of the meeting and accepted that from this, the conclusion of the debate was unclear and on this basis he would support a correction to the minute.

(2) Councillor Beattie, in relation to paragraph 12 and in particular the sixth paragraph on page 1-368 , in respect of the replacement of Newbattle high School, was of the view that her seconding of the motion by Councillor Constable on this subject was inaccurate in that it failed to reflect that her seconding of the motion was on the basis that the consultation process had shown a strong majority in favour of enhanced school facilities; the pupils and staff of Newbattle High School were entitled to facilities equal to those in other secondary schools in Midlothian; and that consultations with the public would continue in respect of the provision of local facilities. Additionally, the minute failed to reflect her appreciation of the work of the Project Board in this matter. She therefore sought a correction to the minute to reflect these points; and

(3) Councillor Beattie, in relation to paragraph 25 in respect of the Revocation of Air Quality Management at Pathhead, was of the view that her congratulatory comments on the work of officers and the Pathhead Community, over a period of six years, had not been reflected in the Minute and she therefore sought a correction of the Minute to reflect this contribution.

Decision

- (a) To approve the Minutes of the Special Meeting of the Council of 25 June 2013, which were thereupon signed by the Provost; and
- (b) To approve the Minutes of the Ordinar Meeting of 25 June 2013 , subject to the amendments specified in paragraphs (1),(2) and (3) above: and
- (c) That the Chief Executive report on the accessibility to recordings of meetings by Elected members.

(Action: Legal and Secretariat Manager)

4 Other Meetings

The undernoted Minutes of Meetings of Committees were submitted. The Council noted the Minutes and approved the recommendations contained therein:-

Meeting	Date
Audit Committee	7 May 2013
Petitions Committee	14 May 2013

5 Leader of the Council's Response to Written Questions

There were no written questions to the Leader of the Council.

6 Notices of Motion

(a) There was submitted a Notice of Motion by Councillor Pottinger, countersigned by Councillor Bennett, as follows:-

Transaction Tax

“Midlothian Council notes the suffering forced upon local residents as a result of Government cuts, and asserts that there is an alternative to ideologically driven attacks on public services – namely the levy of a Financial Transaction Tax (FTT) on the speculative activities that have accelerated the recent enrichment of the few, to the detriment of the many.

Council therefore agrees to write to the Chancellor of the Exchequer calling on him to enact the FTT and use the revenues from this measure to reverse the ongoing cuts to public services.

Council also agrees to write to the Shadow Chancellor and the Scottish Finance Minister to seek their views on this proposal. “

Moving the motion, Councillor Pottinger, in amplification, explained that the proposed Financial Transactions Tax involved a modest tax on shares, bonds and derivatives transactions; would be applied at a very low level for each transaction; and was targeted at high frequency gamblers on the financial markets thus excluding long term investors such as pension funds etc. He also drew attention to the fact that a Financial Transaction Tax had been introduced in Germany and France to good effect and that if applied could raise as much as £20 billion per annum for the exchequer which would be the equivalent of all Council Tax raised in the UK in a year.

Councillor Bennett seconded the motion and drew attention to the fact that the introduction of such a tax had 70% public support.

Decision

Following debate, the Council (with Councillor de Vink dissenting) approved the motion.

(Action: Legal and Secretariat Manager)

(b) There was submitted a Notice of Motion by Provost Wallace, countersigned by Councillor Bennett, as follows:-

Nuclear Free Local Authorities

“At recent meetings of Midlothian Council, we have called on the UK Government to scrap the Bedroom Tax and severely restrict pay-day loan companies as they directly impact on the poorest in society. In view of the recent spat in the Conservative/Liberal Democrat coalition on whether the UK should have three or four nuclear weapon laden submarines, and the obscene costs associated with this illegal weapon, this Council acknowledges that:

1. *The use of nuclear weapons would be a crime against humanity.*
2. *The UK government has an obligation to disarm as a signatory of the International Nuclear Non-Proliferation Treaty.*
3. *The £100bn plus for the replacement of Trident could be put to better use in alleviating the poverty that blights more and more of our people through the actions of successive UK Governments.*
4. *All the UK's nuclear weapons are sited only 30 miles away from Scotland's biggest centre of population and should be removed as soon, and as safely, as possible.*

On this basis, this Council resolves to affiliate to the Nuclear Free Local Authorities (NFLA) which has developed strong international links throughout the world with other local authorities to end nuclear proliferation and the arms race.

The NFLA also attempts to influence Scottish Government policies when dealing with specific Scottish Nuclear and energy matters such as radioactive waste problems, as we have at Dounreay and Dalgety Bay. 10 Scottish local authorities are current members, as listed below.

We welcome the intervention of Gordon Brown in attempting to get the MoD to pay for the clean up of Dalgety Bay.

Current Scottish Members

*Glasgow
Edinburgh
Dundee
Fife
Perth and Kinross
Renfrewshire
North Lanarkshire
West Dunbartonshire
Western Isles
Shetland Isles"*

Provost Wallace formally moved the motion and amplified on the points contained therein. Councillor Bennett seconded the motion following which the Council approved the motion unanimously.

(Action: Legal and Secretariat Manager)

7 Proposed Midlothian Council Membership of the Easter Bush Development Board

There was submitted report, dated 6 August 2013, by the Director, Resources, inviting the Council to determine its representation on the Easter Bush Development Board (EBDB). The report advised that the Council had been invited to appoint two representatives onto the Board, which was a strategic partnership to guide and support the future development of Easter Bush and which was central to supporting the Midlothian Economic Recovery Plan (MERP). In addition, it was proposed that the Economic Development Manager would provide governance to the Board. The report therefore recommended the appointment of Councillor Bryant, as Cabinet

Portfolio Holder for Economic Development and the Head of Planning and Development, as the Council's representatives.

Decision

- (a) To appoint Councillor Bryant and the Head of Planning and Development to represent the Council on the Easter Bush Development Board;
- (b) To provide ongoing project governance support to the Easter Bush Development Board; and
- (c) That regular progress reports on the operation of the Easter Bush Development Board be submitted to Cabinet.

(Action: Head of Planning and Development)

8 Schedule of Meeting Dates 2014

There was submitted report, dated 4 July 2013, by the Director, Resources, inviting the Council to approve a schedule of meeting dates for the calendar year 2014, which was incorporated into the report.

Decision

To approve the schedule of meeting dates as shown in the **Appendix** hereto.

(Action: Legal and Secretariat Manager/ All to note).

9 Implementation of the Public Records (Scotland) Act 2011 – Progress Report and Next Steps

There was submitted report, dated 17 July 2013, by the Director, Education, Communities & Economy updating the Council on progress in relation to achieving compliance with the Public Records (Scotland) Act 2011 (PRSA). The report explained that the Act placed a duty on public authorities to prepare and implement a records management plan (RMP), which set out proper arrangements for the management of their records and the Council was obliged to submit its RMP to the Keeper of Records in Scotland by 14 February 2014. The report outlined the implications of the legislation for the Council; the steps the Council required to take to meet its statutory obligations including procedural and cultural changes; and the progress made to date. In particular, the report highlighted that responsibility for compliance with the Act had transferred from the Education & Children's Services' Communities & Support Service to the Head of Customer Services, who was the Council's Senior Information Risk Officer as the 'individual at a senior level who had overall strategic accountability for records management'.

Decision

- (a) To note the contents of the report, particularly the requirements of the Act and the progress to date;

- (b) To endorse the curriculum of cultural and procedural change, as outlined in the report, which were needed to comply with the provisions of the Public Records (Scotland) Act 2011; and
- (c) To note the transfer of responsibility for Records Management to the Head of Customer Services as the Council's Senior Information Risk Officer.

(Action: Director, Education, Communities & Economy/ Head of Customer Services

Sederunt

Councillor Beattie left the meeting at this stage (2.35pm)

10 Decision of the Standards Commission – LA/Mi/1278

There was submitted report, dated 4 July 2013, by the Monitoring Officer, advising the Council of the decision of the Standards Commission for Scotland regarding a complaint against Councillor Lisa Beattie and Colin Beattie MSP (former Councillor of Midlothian Council) following a hearing at the Newbattle Abbey College on 18 June 2013 and seeking the Council's agreement as to the consequent action required. The report incorporated both the decision letter, dated 26 June 2013, from the Commission and the Commissioner's report.

The report explained that the Public Standards Commission (PSC) had investigated the complaint and had concluded that by omitting to record in their Register of Interests, their ownership or interest in properties (a) in relation to Lisa Beattie, between her period of office – May 2007 and August 2012 and (b) in relation to former Councillor Colin Beattie, between his period of office – May 2007 to May 2012, that both had breached paragraphs 4.1, 4.3, 4.18 and 4.19 within Section 4 of the Councillors' Code of Conduct and Regulation 4 of the Ethical Standards in Public Life etc.(Scotland) Act 2000 (Register of Interests) Regulations 2003. The PSC's report had accordingly been submitted to the Standards Commission in accordance with Section 14 of the Ethical Standards in Public Life etc. Scotland Act 2000 and which had resulted in a hearing on 18 June 2013. The hearing panel had, after considering the evidence, decided to censure both respondents and the reasons for reaching that decision were detailed in the report.

The report also drew attention the fact that, in terms of section18(2) of the Ethical Standards in Public Life etc (Scotland) Act 2000, the decision required to be considered by the full Council within three months of being made and the Council was obliged to notify the Commission of any actions or decisions taken by the Council following such consideration.

Councillor Constable, seconded by Councillor Thompson, moved that :-

- (a) The Council note the Commission's decision letter and note the censure applied to Councillor Lisa Beattie and Colin Beattie MSP (former Councillor of Midlothian Council);
- (b) The Council advise the Commission that it did not intend to take any further action in the matter;

- (c) The Council advise the Commission that it did not consider that any special arrangements needed to be made;
- (d) The Council note that Elected member training was now embedded in the Council and that the issue of Declaration of members' interests would be addressed via this provision; and
- (e) To make no further comment on the issue to the Standards Commission.

Councillor Bennett expressed the view that the issue at hand was a blatant breach of the regulations governing Declarations of Members Interests and considered that the respondents had benefitted from being able to afford representation by a QC, which was beyond the means of a majority of people. Councillor Milligan concurred with Councillor Bennett, and drew attention to the fact that the Commission's report clearly showed that clear advice had been given to the respondents by the Monitoring Officer, which the respondents had chosen to ignore and had compounded this by participating in debates at the General Purposes Committee in respect of applications for HMO licences and consultations from Scottish Government on this general subject, whilst being aware that they had a declarable but undeclared interest. Councillor Muirhead expressed the view that Commission's report failed to give an adequate explanation on why the Respondents had failed to disclose their ownership of properties and this failure could not be regarded as an oversight having regard to the advice given by the Monitoring Officer. He considered that both the Council and the people of Midlothian were entitled to a full and unequivocal explanation.

Decision

To adopt the motion submitted by Councillor Constable, seconded by Councillor Thompson.

(Action; Head of Customer Services)

Sederunt

Councillor Beattie rejoined the meeting at this stage (2.45 pm).

11 Bonnyrigg Leisure Centre

With reference to paragraph 15 of the Minutes of 23 February 2010, there was submitted report, dated 7 August 2013, by the Director, Resources, advising the Council on the current position and recommending further actions with regard to the former Bonnyrigg Leisure Centre building taking into account title issues, current policies and feedback from the community.

The report explained that any disposal including sale or lease or demolition of the former Bonnyrigg Leisure Centre building would require the consent of Fields in Trust (the successors to the National Playing Fields Association) in accordance with the terms of the George V Park Trust agreement which covered the whole park and the buildings thereon. Restrictions within the title provided that any change to or use of the building would also require the approval of Fields in Trust; the Council were not permitted to dispose or

transfer any part of the park without the consent of the Fields in Trust; in the event that consent was granted, the Council were obliged to report to Fields in Trust, the terms of any proposals received and obtain and follow their instructions regarding disposal of the subjects; and in the event that any part of the park was sold the proceeds were to be used to acquire a new recreation ground and relevant buildings.

Fields in Trust had indicated that they considered that the community should be given the opportunity to develop and propose a combined community use for the building. Proposals had been received from the 'Bonnyrigg and Sherwood Development Trust/ Midlothian Fitness Academy' and the 'Bonnyrigg Centre Initiative' seeking to make use of and retain the whole building, and both had requested further time to develop their proposals into effective fully consulted business plans.

The Council therefore had two options with regard to the future of the former Bonnyrigg Leisure Centre building, viz:-

- (a) To seek consent from the Fields in Trust to demolish the building; or
- (b) To delay any decision to demolish and further engage and involve with the Fields in Trust to develop a criteria to consider the future of the building which might include alternative uses. This would allow all interested parties until 29 November 2013 to submit a fully costed, consulted and viable business plan which did not require significant financial contribution from the Council and which, in turn, would enable the Council to robustly review and subsequently decide on the building's future taking into account the community's views and long term sustainability.

The cost of "mothballing" the building for an initial 12 months was estimated at approximately £82,000 and would include boarding up the building and provision of nightly security visits.

Members expressed concern that the restriction in the title had not been made known to them beforehand and that the Lasswade High School project had proceeded on the basis of the disposal of the Bonnyrigg Leisure Centre.

Decision

- (i) To note the legal title restrictions imposed by the Trust Agreement in respect of the George V Park and the consequential impact this had on future decisions with regard to the former Leisure Centre Building;
- (ii) To agree to extend until December 2013 the timescales until a final decision was made with regard to the future of the Bonnyrigg Leisure Centre building;
- (iii) To approve a supplementary estimate of £41,000 to fund the costs associated with the building for a period of six months on the understanding that there would be no further expenditure on this building;

- (iv) To note that it was expected that within the six month timescale, the Neighbourhood Planning Engagement and Consultation process would indicate the emerging priorities;
- (v) That bidders from either the community or business sector be given until the 29 November to submit fully robust, consulted and sustainable business plans for consideration against policy and land title and community consultation priorities criteria; and
- (vi) That the Director, Resources, report in early course on the financial impact on the Council of the delay in demolition of the leisure centre, in the event that no acceptable business plans are received.

(Action; Director, Resources)

12 Exclusion of Members of the Public

In view of the nature of the business to be transacted, the Council agreed that the public be excluded from the meeting during discussion of the undernoted items, as contained in the Addendum hereto, as there might be disclosed information as defined in paragraph 6 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-

Gorebridge Development Trust Hub Project - Agreed

- (a) To note the progress of the Gorebridge Community Development Hub;
- (b) To instruct the Director, Resources and the Head of Finance and Human Resources to continue to ensure compliance with the Council's policy on following the Public Pound ;
- (c) To instruct the Director, Resources to continue to provide the necessary support to facilitate the construction of the Hub;
- (d) To instruct the Director, Resources to continue report to Council at all key stages of the project;
- (e) That, if necessary, the Director, Resources and the Head of Finance be authorised to either provide outright bridging finance or have the Council act as a guarantor therefor subject to clarification of all other funding streams; and
- (f) That monthly progress reports be provided to the Cabinet portfolio holder for Economic Development and Finance and local members for the Midlothian South ward.

The meeting terminated at 3.20 pm.

Appendix
(relative to Paragraph 8)
SIX WEEK CYCLE OF MEETINGS

January 2014

WK1	Tuesday 7	2.00pm	General Purposes Committee
WK2	Tuesday 14	11.00am	Cabinet
	Tuesday 14	2.00pm	Planning Committee
WK3	Tuesday 21	11.00am	Performance Review & Scrutiny Committee
	Tuesday 21	2.00pm	Local Review Body
WK5	Tuesday 28	11.00am	Audit Committee

February 2014

WK6	Tuesday 4	10.00am	Petitions Committee
	Tuesday 4	2.00pm	Midlothian Council

New Cycle

February 2014 Contd

WK1	Tuesday 18	2.00pm	General Purposes Committee
WK2	Tuesday 25	11.00am	Cabinet
	Tuesday 25	2.00pm	Planning Committee

March 2014

WK3	Tuesday 4	11.00am	Performance Review & Scrutiny Committee
	Tuesday 4	2.00pm	Local Review Body
WK5	Tuesday 18	11.00am	Audit Committee
WK6	Tuesday 25	10.00am	Petitions Committee
	Tuesday 25	2.00pm	Midlothian Council

New Cycle

April 2014

WK1	Tuesday 1	2.00pm	General Purposes Committee
WK2	Tuesday 22	11.00am	Cabinet
	Tuesday 22	2.00pm	Planning Committee
WK3	Tuesday 29	11.00am	Performance Review & Scrutiny Committee
	Tuesday 29	2.00pm	Local Review Body

May 2014

WK5	Tuesday 6	11.00am	Audit Committee
WK6	Tuesday 13	10.00am	Petitions Committee
	Tuesday 13	2.00pm	Midlothian Council

*New Cycle***May 2014 Contd**

WK1	Tuesday 20	2.00pm	General Purposes Committee
WK2	Tuesday 27	11.00am	Cabinet
	Tuesday 27	2.00pm	Planning Committee

June 2014

WK3	Tuesday 3	11.00am	Performance Review & Scrutiny Committee
	Tuesday 3	2.00pm	Local Review Body
WK5	Tuesday 17	11.00am	Audit Committee
WK6	Tuesday 24	10.00am	Petitions Committee
	Tuesday 24	2.00pm	Midlothian Council

SUMMER RECESS*New Cycle***August 2014**

	Tuesday 12	2.00pm	Midlothian Council
WK1	Tuesday 19	2.00pm	General Purposes Committee
WK2	Tuesday 26	11.00am	Cabinet
	Tuesday 26	2.00pm	Planning Committee

September 2014

WK3	Tuesday 2	11.00am	Performance Review & Scrutiny Committee
	Tuesday 2	2.00pm	Local Review Body
WK5	Tuesday 16	11.00am	Audit Committee
WK6	Tuesday 23	10.00am	Petitions Committee
	Tuesday 23	2.00pm	Midlothian Council

*New Cycle***September 2014 Contd**

WK1	Tuesday 30	2.00pm	General Purposes Committee
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October 2014

WK2	Tuesday 7	11.00am	Cabinet
	Tuesday 7	2.00pm	Planning Committee
WK3	Tuesday 21	11.00am	Performance Review & Scrutiny Committee
	Tuesday 21	2.00pm	Local Review Body
WK5	Tuesday 28	11.00am	Audit Committee

November 2014

WK6	Tuesday 4	10.00am	Petitions Committee
	Tuesday 4	2.00pm	Midlothian Council

*New Cycle***November 2014 Contd**

WK1	Tuesday 11	2.00pm	General Purposes Committee
WK2	Tuesday 18	11.00am	Cabinet
	Tuesday 18	2.00pm	Planning Committee
WK3	Tuesday 25	11.00am	Performance Review & Scrutiny Committee
	Tuesday 25	2.00pm	Local Review Body

December 2014

WK5	Tuesday 9	11.00am	Audit Committee
WK6	Tuesday 16	10.00am	Petitions Committee
	Tuesday 16	2.00pm	Midlothian Council