

AGENDA ITEM 1 (a)
DRAFT

MINUTE of MEETING of FALKIRK COUNCIL held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 2 MARCH 2011 at 9.30 am.

PRESENT: Provost Reid; Depute Provost Black; Councillors Alexander, Blackwood, Buchanan, Carleschi, Coleman, Constable, Fry, Goldie, Gow, Hughes, Jackson, Kenna, Lemetti, A MacDonald, C MacDonald, Mahoney, C Martin, C R Martin, McLuckie, McNally, McNeill, Meiklejohn, Nicol, Nimmo, Oliver, Ritchie, Spears, Thomson and Waddell.

CONVENER: Provost Reid.

APOLOGIES: Councillor Patrick.

ATTENDING: Chief Executive; Directors of Community Services, of Corporate and Neighbourhood Services and of Development Services; Acting Directors of Law and Administration Services and of Social Work Services; Heads of Economic Development, of Human Resources, of Policy and Performance Review and of Treasury and Investment; Principal Surveyor (Colin Frame); Waste Manager (Carl Bullough); Service Manager (D McCart); Legal Services Manager (I Henderson) and Democratic Services Manager.

DECLARATIONS OF INTEREST: None.

FC77. ORDER OF BUSINESS

In terms of Standing Order 15.2 (i), Provost Reid varied the order of business from that detailed on the agenda for the meeting. The following items have been recorded in the order that they were taken at the meeting.

FC78. URGENT ITEM

Provost Reid advised that, in accordance with Standing Order 9.1 he had **AGREED** to accept an urgent item regarding the appointment of the independent Chairperson of the Audit Committee, having had regard to the special circumstances namely the desirability of confirming the Selection Panel's appointment in advance of the next scheduled meeting of the Audit Committee on 21 March 2011.

FC79. MINUTES AND INFORMATION BULLETIN

- (a) There was submitted (circulated) and **APPROVED** Minute of Meeting of Falkirk Council held on 8 December 2010;

- (b) There was submitted (circulated) and **APPROVED** Minute of Meeting of the Reconvened Meeting of Falkirk Council held on 17 December 2010;
- (c) There was submitted (circulated) and **APPROVED** Minute of Special Meeting of Falkirk Council held on 9 February 2011;
- (d) There was submitted (circulated) and **APPROVED** Minute of Special Meeting of Falkirk Council held on 22 February 2011;
- (e) There was submitted (circulated) and **NOTED** Volume of Minutes – Volume 5 2010/2011, and
- (f) There was submitted (circulated) and **NOTED** Information Bulletin – Volume 5 2010/2011.

FC80. FOLLOW UP REPORT ON THE PERFORMANCE INSPECTION BY THE SOCIAL WORK INSPECTION AGENCY (SWIA)

In terms of the Council's Scheme of Delegation, this item had been called in to Council by Councillors Jackson, A MacDonald and Meiklejohn.

There was submitted (circulated) (a) Extract of draft Minute of Meeting of the Housing and Social Care Committee held on 1 February 2011, and (b) Report by the Acting Director of Social Work Services submitted to the said meeting on the findings of the follow up Report of the Falkirk Council Performance Inspection, published by the Social Work Inspection Agency (SWIA) on 8 November 2010.

Councillor Blackwood, seconded by Councillor McNeill moved that Council:-

“notes the findings of the Follow-up Report by the Social Work Inspection Agency into the performance of Falkirk Council Social Work Services”.

By way of an Amendment, Councillor Meiklejohn, seconded by Councillor McNally, moved as an addendum to the Motion that:-

“the Acting Director of Social Work prepare an action plan with timescales to complete all areas of work related to the outstanding 11 recommendations which should be brought to the next scheduled Full Council for approval by Members”.

On a division, 17 Members voted for the Motion and 14 voted for the Amendment.

Accordingly, **NOTED** the findings of the follow-up Report by the Social Work Inspection Agency into the performance of Falkirk Council Social Work Services.

FC81. 2ND UPDATE ON THE IMPLEMENTATION OF A CHARGING POLICY FOR NON-RESIDENTIAL ADULT SOCIAL CARE SERVICES

In terms of the Council's Scheme of Delegation, this item had been called in to Council by Councillors Jackson, A MacDonald and Meiklejohn.

There was submitted (circulated) (a) Extract of draft Minute of Meeting of the Housing and Social Care Committee held on 1 February 2011, and (b) Report by the Acting Director of Social Work Services submitted to the said meeting (1) providing a second update on the implementation of the charging policy for non-residential Social Care Services which came into effect on 1 November 2010, and (2) updating on the processes being followed to implement the charging policy, the resource implications and the likely financial impact of the charging policy.

Councillor Blackwood, seconded by Councillor McNeill, moved the recommendations as detailed in the Report.

By way of an Amendment, Councillor Meiklejohn, seconded by Councillor McNally, moved that Council:-

- “(1) notes the problems with the implementation of the charging policy;
- (2) notes the projected income based on the current information and request a further more detailed report on the charges for services actually received;
- (3) notes the adjustments to the operation of the policy as set out in Paragraphs 4.1 to 4.8 of the Report;
- (4) notes the additional staffing required for the safe and robust operation of the charging policy and confirm that this should have been contained within the original report;
- (5) notes that the report states that the 2nd stage of the charging policy will not be proceeding and that this is consistent with the decision taken by Policy and Resources Committee with regard to dropping 2nd stage charges, and
- (6) requests the Acting Director of Social Work Services to provide a further update to the next meeting of the Housing and Social Care Committee.”

On a division 17 Members voted for the Motion and 14 voted for the Amendment.

Accordingly, **NOTED** the:-

- (1) progress achieved to date in the implementation of the charging policy and the challenges of bringing the policy into full operation and up to date;
- (2) projected income figures based on current information;
- (3) adjustments to the operation of the policy set out in Paragraphs 4.1 to 4.8 of the Report, and
- (4) additional staffing required for the safe and robust operation of the charging policy.

AGREED that:-

- (1) the current policy be further reviewed in June 2011 before considering any options to move to a second stage policy, and
- (2) the Acting Director of Social Work Services to provide a further update in June 2011 to Members of the Housing and Social Care Committee.

FC82. TOWARDS A FAIRER FALKIRK – TACKLING POVERTY AND INEQUALITIES WITHIN THE FALKIRK COUNCIL AREA

There was submitted Report (circulated) dated 21 February 2011 by the Director of Corporate and Neighbourhood Services presenting a draft Poverty Strategy which sets out (a) the Council's commitment to addressing poverty; (b) areas which the Council will tackle; (c) an approach to undertaking a Poverty Impact Assessment, and (d) a review of the Council's approach to charging and concessions.

Councillor C Martin, seconded by Councillor C R Martin, moved the recommendations as set out in the Report.

By way of an Amendment, Councillor Alexander, seconded by Councillor Coleman, moved that Council:-

- (1) accepts that the following policies, amongst others, pursued by the current Labour/Tory and Independent Administration are in conflict with the principle of tackling poverty;
 - the introduction of punitive levels of charges for essential social services designed to protect the elderly, disabled and vulnerable groups within our communities
 - increasing school meal charges by 48% in the last three years thus hitting hardest families on low to moderate incomes
 - cutting the budgets of Voluntary Sector partner agencies by disproportionately higher levels than any cuts in council budgets or funding
 - redirecting £500,000 of the SNP Government's £2.2m fairer Scotland Fund to other areas of spend
 - unfairly targeting disabled drivers by becoming the first council in Scotland to charge for the renewal of Blue Badges
 - increasing the cost of leisure and sports facilities by 18% over two years as these services head towards privatisation
 - failure to replace senior Economic Development Officers resulting in a downturn of activity with unemployment in Falkirk rising while it falls nationally
 - failure to support the SNP £500,000 Jobs & Training Fund initiative at the budget
- (2) agrees that the best way to tackle poverty is to stop creating it and therefore calls for a full review of policy decisions taken by this Administration listed above, that have impacted in a negative manner on the spread of poverty, particularly with elderly and infirm groups;

- (3) approves the Towards a Fairer Falkirk document with the following amendments and policy direction;
- (i) implement the Poverty Impact Assessment process in a retrospective manner to review the recently introduced Social Services charges to properly assess their impact on vulnerable groups within our community;
 - (ii) welcome the adoption of the SNP Group's proposals to introduce a free Pest Control Service, albeit in a restricted manner. Council also notes the abandonment of the Labour manifesto commitment to remove all restrictions on the number of free special uplifts and welcomes this further return, and
 - (iii) approve the limited concessions policy changes and widen this report to look at all areas of council charging, including the equality of access issues around Graeme High and Bo'ness Academy.
- (4) notes with disappointment the decision of the ruling Administration to cut £500,000 from the £2,200,000 awarded to the council by the SNP Government for the Fairer Scotland Fund. This has resulted in significant cuts in local projects with the Voluntary Sector and Community Groups being disproportionately harder hit. Council seeks a more detailed report on where these cuts are to fall and the impact of such cuts. In the meantime council agrees to the continuation of funding for the existing employability projects for three months and that a report is presented to Economic Strategy and Development Committee;
- (5) notes that despite the Labour/Conservative and Independent Administration claiming to support the Living Wage campaign council notes that there is still no timetable for the implementation within Falkirk the local authority. Council further notes the fact that the SNP Government has included financial provision for the national implementation in areas such as the NHS therefore demonstrating real commitment to tackling the issue of poverty pay. Council therefore agrees to seeking a report back at the next council meeting with a specific timetable for the implementation of this policy and play catch up with the SNP Government;
- (6) also believes that a major concern in terms of tackling poverty is the policies of the Conservative/Liberal coalition government, particularly many of the changes to the benefits regime. Council therefore commits itself to opposing any UK government policy that further disadvantages those already at risk, and
- (7) requests that officers report back on the progress of the changes proposed above and therefore the ongoing development and implementation of a genuine anti poverty strategy.

Council then adjourned, at 11.45 am, for 15 minutes to allow Members to consider the terms of the Amendment and reconvened at 12 noon with Members present as per the sederunt.

Following further discussion, Councillor Kenna gave notice of a further Amendment.

In terms of Standing Order 21.4 (i), a vote was taken by roll call, there being 31 Members present with voting as undernoted:-

For the Motion (17) – Provost Reid; Depute Provost Black; Councillors Blackwood, Buchanan, Fry, Goldie, Gow, Lemetti, C MacDonald, Mahoney, C Martin, C R Martin, McLuckie, McNeill, Nicol, Nimmo and Waddell.

For the Amendment (14) – Councillors Alexander, Carleschi, Coleman, Constable, Hughes, Jackson, Kenna, A MacDonald, McNally, Meiklejohn, Oliver, Ritchie, Spears and Thomson.

Council then adjourned for 50 minutes for lunch and reconvened at 2.00 pm with Members present as per the sederunt.

Upon resumption, Councillor Kenna withdrew her proposed further Amendment.

Accordingly **AGREED:-**

- (1) the Poverty Strategy – ‘Towards a Fairer Falkirk’;
- (2) to approve the outline charging and concessions policy in principle and that officers bring back a further report on the implementation of the policy with a view to implementation being on 1 April 2012;
- (3) that officers prepare a further report on the introduction of the living wage as outlined in paras 2.11 – 2.15 of the Report;
- (4) the allocation of funding to support the outcomes in the Poverty Strategy in line with the proposals set out in appendix two of this Report;
- (5) the continuation of the funding for the existing employability projects for three months and that a report is presented to Economic Strategy and Development Committee in April with detailed proposals for funding of the projects included within this remit, and
- (6) that officers update Members on the actions and progress of the Poverty Strategy in the coming months and years as outlined in the Poverty Strategy.

FC83. COMMUNITY SERVICES TRUST UPDATE: APPOINTMENT OF BOARD DIRECTORS

There was submitted Report (circulated) dated 21 February 2011 by the Chief Executive setting out the process for the recruitment and appointment of 11 Board Directors of the Falkirk Community Trust including proposals that the 5 elected Members of Falkirk Council on the Board form an interim Board with effect from 14 March 2011.

Councillor C Martin, seconded by Councillor Nicol, moved that Council:-

(1) AGREES

- “(i) that the elected members on the proposed Community Trust Board would comprise 2 members from the Labour Group; 2 members from the SNP Group

and 1 member from the Conservative or Independent Groups or the non aligned member;

- (ii) to appoint Provost Reid and Councillors Mahoney and Nicol to the Trust Board; and
- (iii) the appointment process for the appointment of the independent members of the Trust Board, as set out in the report; and

(2) NOTES:-

- (i) the arrangements for the identification of the employee representative;
- (ii) the arrangements for the creation of the interim Board, and
- (iii) that further Reports will be submitted to Members for approval prior to the creation of the Trust.

By way of an Amendment, Councillor Alexander, seconded by Councillor Coleman, moved that Council:-

- (1) “seeks a further report that properly briefs members of the implications of corporate law as it related to communal board responsibilities before elected members can take up any position within the board of trustees. As part of this process members must first scrutinise then approve the draft memorandum and articles of association;
- (2) does not agree with the membership of the Trust Board being determined by the elected members on the board;
- (3) believes that appointments should be open and transparent and therefore stakeholder groups should have a major even majority say in the appointment of independent members to ensure that transparency and therefore asks the Chief Executive to bring to the next meeting of Falkirk Council a report that ensures this happens, and
- (4) agrees that no additional payments will be made to directors other than the reimbursement of receipted expenses.”

Following discussion, Council adjourned to allow consideration of the terms of the amendment and re-convened at 3.25pm with all members present as per the sederunt.

With the consent of the Provost, and Councillor Nicol, as his seconder, Councillor Martin then adjusted the text of his Motion to the following, in accordance with Standing Order 19.7.

“Council:-

(1) AGREES

- (i) that the elected members on the proposed Community Trust Board would comprise 2 members from the Labour Group; 2 members from the SNP Group

and 1 member from the Conservative or Independent Groups or the non aligned member provided that the SNP Group representatives are notified to the Acting Director of Law and Administration Services by 5pm on 4 March 2011, failing which the positions will be filled by members from the Administration of the Council.

- (ii) to appoint Provost Reid and Councillors Mahoney and Nicol to the Trust Board;
- (iii) the appointment process for the appointment of the independent members of the Trust Board as set out in the report, and

(2) NOTES:-

- (i) the arrangements for the identification of the employee representative;
- (ii) the arrangements for the creation of the interim Board,
- (iii) that further Reports will be submitted to Members for approval prior to the creation of the Trust, and
- (iv) that, as previously agreed by Council, and as set out in the Business Case, no additional payments will be made to directors other than the re-imbursement of receipted expenses

On a division, 18 Members voted for the adjusted Motion and 13 voted for the Amendment.

Accordingly, **AGREED** the terms of the adjusted Motion.

FC84. EXECUTION OF DEEDS

There was submitted Report (circulated) dated 17 February 2011 by the Acting Director of Law and Administration Services advising of the deeds which had been signed and sealed on behalf of the Council since its last meeting.

NOTED the signing and sealing by the Acting Director of Law and Administration Services of the deeds as detailed in the Appendix to the Report.

FC85. APPOINTMENT OF LAY CHAIRPERSON TO THE AUDIT COMMITTEE

With reference to the Minute of the Meeting held on 6 October 2010 (Paragraph FC40 refers), there was submitted Report (circulated) dated 28 February 2011 by the Chief Executive (a) advising of the appointment of a Lay Chairperson of the Audit Committee; and (b) inviting Council to fill the two positions currently vacant on the Audit Committee.

AGREED:-

- (1) to confirm the appointment of Ms Roseann Stevenson as Chair of the Audit Committee, and

- (2) that the SNP group would submit the names of its appointees to the Audit Committee to the Acting Director of Law and Administration in advance of the next scheduled meeting.

FC86. AMENDMENT TO POLLING SCHEME – CHANGES TO POLLING PLACES FOR THE SCOTTISH PARLIAMENTARY ELECTION AND UK REFERENDUM 2011

With reference of the Minute of the Meeting held on 17 December 2010 (Paragraph FC66 refers), there was submitted Report (circulated) dated 15 February 2011 by the Chief Executive as the Returning Officer (a) advising that three polling places, for the Falkirk East and West Scottish Parliamentary constituencies, had been reviewed, and (b) detailing proposed adjustments to the Council's polling scheme.

AGREED to approve the adjustments to the polling scheme as detailed in paragraph 2.3 of the Report and the publicising of the changes, with immediate implementation for polling purposes at the Scottish Parliamentary election and proposed UK referendum on 5 May 2011.

Councillor Spears withdrew from the meeting following consideration of the foregoing item of business.

FC87. BIRKHILL CLAY MINE

There was submitted Report (circulated) dated 21 February 2011 by the Director of Community Services (a) detailing safety issues regarding the mine buildings at Birkhill Clay Mine and reporting on a decision taken not to open the mine on 1 April 2011 for the 2011 operating season; (b) advising of proposals to demolish the derelict mine building, and (c) highlighting further issues with regard to site access, the underground conditions and to staffing arrangements.

Councillor Mahoney, seconded by Councillor C MacDonald, moved the recommendations as detailed in the Report.

By way of an Amendment, Councillor Constable, seconded by Councillor Ritchie moved that Council:-

- (1) notes the decision not to open Birkhill Clay Mine on 1 April 2011 due to the significant risks to staff and to authorised and unauthorised visitors and installs a projected opening date of 1 July 2011 to permit a report by the Health and Safety Executive to be sought and obtained;
- (2) agrees the demolition of the derelict mine buildings, to be funded from the Community Services' Revenue Budget, and
- (3) agrees to consider a report by the Health and Safety Executive as soon as it is available.

In terms of Standing Order 21.4(i), a vote was taken by roll call, there being 28 Members present with voting as undernoted:-

For the Motion (15) – Provost Reid; Depute Provost Black; Councillors Blackwood, Fry, Goldie, Gow, Lemetti, C MacDonald, Mahoney, C Martin, C R Martin, McLuckie, McNeill, Nicol and Waddell.

For the Amendment (13) – Councillors Alexander, Carleschi, Coleman, Constable, Hughes, Jackson, Kenna, A MacDonald, McNally, Meiklejohn, Oliver, Ritchie and Thomson.

Accordingly **NOTED** the decision not to open Birkhill Clay Mine on 1 April 2011 due to the significant risks to staff, authorised and unauthorised visitors.

AGREED to:-

- (1) the demolition of the derelict mine buildings to be funded from Community Services' revenue budget, and
- (2) receive a further report when complete information is available with recommendations regarding the site's future at a later date.

Councillors Buchanan and Nimmo withdrew from the meeting during consideration of the foregoing item of business.

FC88. BO'NESS HARBOUR & FORESHORE REGENERATION STRATEGY: UPDATE REPORT

With reference to the Minute of the Meeting held on 25 June 2008 (Paragraph FC45 refers) there was submitted Report (circulated) dated 23 February 2011 by the Director of Development Services (a) advising that the developer for the Bo'ness Harbour and Foreshore Regeneration Project, ING, had confirmed its intention to place the project on hold; and (b) advising of the options available to Council.

Councillor Mahoney, seconded by Councillor Lemetti, moved that Council agrees to extend the longstop timescales as set out in the Report.

By way of an Amendment, Councillor Constable, seconded by Councillor Ritchie, moved that Council terminate its agreement with ING and remarket the development.

For the Motion (16) – Provost Reid; Depute Provost Black; Councillors Blackwood, Fry, Goldie, Gow, Lemetti, C MacDonald, Mahoney, C Martin, C R Martin, McLuckie, McNeill, Nicol, Nimmo and Waddell.

For the Amendment (13) – Councillors Alexander, Carleschi, Coleman, Constable, Hughes, Jackson, Kenna, A MacDonald, McNally, Meiklejohn, Oliver, Ritchie and Thomson.

Accordingly, **AGREED** to extend the relevant longstop dates with ING as follows:-

- (1) precondition period – extend to 1 July 2011, and
- (2) application date for block 15/16 – extend to 31 December 2011

Councillor Nimmo rejoined the meeting during consideration of the foregoing item of business.

Councillor Constable withdrew from the meeting following the conclusion of the foregoing item of business.

FC89. NOTICE OF MOTION

Councillor Alexander seconded by Councillor Coleman moved that:-

“Council notes with concern the content of correspondence recently issued to staff on the issue of dismissals through redundancy.

Council calls for a detailed report from the Chief Executive containing proposals for compulsory redundancies so that the final decision is taken by Members”.

By way of an Amendment, Councillor C Martin, seconded by Depute Provost Black, moved the terms of the Motion, with the phrase “with concern” deleted.

On a division 16 Members voted for the Amendment and 12 voted for the Motion.

Accordingly, **NOTED** the content of correspondence recently issued to staff on the issue of dismissals through redundancy.

AGREED to call for a detailed report from the Chief Executive containing proposals for compulsory redundancies so that the final decision is taken by Members”.

FC90. EXCLUSION OF PUBLIC

RESOLVED in terms of Section 50A (4) of the Local Government (Scotland) Act 1973, to exclude from the meeting the press and public for the following items of business on the grounds that they would involve the likely disclosure of exempt information as defined in Paragraphs 11 & 12 of Part 1 of Schedule 7A of the said Act.

FC91. EQUAL PAY UPDATE

With reference to the Minute of Meeting held on 23 June 2010 (Paragraph FC31 refers), there was submitted Report (circulated) dated 15 February 2011 by the Director of Corporate and Neighbourhood Services and of Finance Services (a) advising of ongoing negotiations with employee representatives to progress out of court settlements for outstanding equal pay claims, (b) highlighting developments with regard to a Court of Session decision and (c) requesting that Council give consideration to the approach to be taken in ongoing settlement negotiations with the Trade Unions.

NOTED and welcomes the report from officers on what is a very complicated process with a regularly changing set of circumstances due to the evolving nature of case law on equal pay.

AGREED that:-

- (1) [This paragraph is exempt from publication on the ground that it would involve the disclosure of exempt information as defined in Paragraph 11 and 12 of part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.]
- (2) [This paragraph is exempt from publication on the ground that it would involve the disclosure of exempt information as defined in Paragraph 11 and 12 of part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.]
- (3) officers progress with these discussions as quickly as possible to ensure settlement of the relevant cases currently under negotiation within a reasonable timescale, recognising that the Trade Unions must play their part in this too, to ensure a quick resolution.

FC92. REFUSE COLLECTION SERVICE

With reference to the Minute of the Meeting held on 8 December 2010 (Paragraph FC64 refers) there was submitted Report (circulated) dated 18 February 2011 by the Director of Corporate and Neighbourhood Services providing an update on the Refuse Collection Service and presenting options available with regard to service delivery.

AGREED that a Best Value Review of the Refuse Collection service is undertaken and that a report is submitted to the Policy and Resources Committee on 5 April 2011.