

FALKIRK COUNCIL

MINUTE of MEETING of FALKIRK COUNCIL held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 12 MARCH 2014 at 9.30 AM.

COUNCILLORS:

David Alexander	Linda Gow	Rosie Murray
David Balfour	Gordon Hughes	Malcolm Nicol
Stephen Bird	Steven Jackson	Alan Nimmo
Allyson Black	Charles MacDonald	Martin Oliver
Jim Blackwood	Brian McCabe	Baillie Joan Paterson
Baillie William Buchanan	John McLuckie	Depute Provost John
Steven Carleschi	John McNally	Patrick
Colin Chalmers	Adrian Mahoney	Provost Pat Reid
Thomas Coleman	Craig Martin	Ann Ritchie
Dennis Goldie	Dr Craig R Martin	Sandy Turner
Gerry Goldie	Cecil Meiklejohn	

OFFICERS:

Karen Algie, Head of Human Resources and Customer First
Margaret Anderson, Director of Social Work Services
Robin Baird, Waste Strategy Co-ordinator
Fiona Campbell, Head of Policy, Technology and Improvement
John Flannigan, Depute Chief Finance Officer
Nigel Fletcher, Joint Acting Director of Education Services
Arlene Fraser, Committee Services Officer
Rhona Geisler, Director of Development Services
Rose Mary Glackin, Chief Governance Officer
Gary Greenhorn, Joint Acting Director of Education Services
Colin Moodie, Depute Chief Governance Officer
Brian Pirie, Democratic Services Manager
Mary Pitcaithly, Chief Executive

ALSO Maureen Campbell, Chief Executive, Falkirk Community Trust
ATTENDING:

FC87. PROVOST'S REMARKS

Provost Reid stated that, in accordance with Council's decision of 11 December 2013 (item FC67) to consider options for the audio recording of its meetings, the Group Leaders had agreed to engage an external provider, Tapestry AV, to make a recording of the meeting for evaluation purposes.

FC88. SEDERUNT

The sederunt was taken by way of a roll call. An apology was intimated on behalf of Councillor Spears.

FC89. DECLARATIONS OF INTEREST

No declarations were made at this point in the meeting.

FC90. MINUTES AND INFORMATION BULLETIN

- (a) Special meeting of Falkirk Council held on 9 December 2013.

Decision

The minute of the special meeting held on 9 December 2013 was agreed as a correct record.

- (b) Meeting of Falkirk Council held on 11 December 2013.

Decision

The minute of the meeting held on 11 December 2013 was agreed as a correct record, subject to the following amendments;-

- Item FC74; final sentence; to read “Councillors Alexander and Spears rejoined the meeting during consideration of the previous item.”
- Appendix 1; Question 4; Answer to the original question – insert additional paragraph as follows:- “The portfolio holder responded that in regard to the second part of the question efforts would be made to ensure that the young adults would not miss out.”
- Appendix 1; Question 4; supplementary answer to read:- “The portfolio holder said that formal invitations had not been issued to any political party.”

- (c) Special meeting of Falkirk Council held on 12 February 2014 at 9.30 am.

Decision

The minute of the special meeting held on 12 February 2014 was agreed as a correct record.

- (d) Special meeting of Falkirk Council held on 12 February 2014 at 7.00 pm.

Decision

The minute of the special meeting held on 12 February 2014 was agreed as a correct record, subject to the following amendment at paragraph 4 on P44:-
“In moving the following amendment in place of the motion, Councillor Oliver stated his dissatisfaction that the business had been scheduled to follow the Falkirk Community Trust business plan and the Council’s budget. The amendment, which was seconded by Councillor Meiklejohn, was that:-“.

- (e) Volume of Minutes – Volume 4 2013/2014.

Decision

The Volume of Minutes – Volume 4 2013/14 was noted.

- (f) Information Bulletin – Volume 4 2013/2014.

Decision

The Information Bulletin – Volume 4 2013/2014 was noted.

FC91. QUESTIONS

In terms of Standing Order 32.1, 6 written questions had been submitted to the Leader of the Council and/or the portfolio holders. All were answered at the meeting. The answers are recorded at Appendix 1.

Provost Reid; Baillie Paterson and Councillors Dennis Goldie, Gow and Nicol each declared a non financial interest in item FC92 as Directors of Falkirk Community Trust, but did not consider that this required them to recuse themselves from consideration of the item, having had regard to the objective test in the Code of Conduct and the relevant specific exclusion contained in the Code.

FC92. FALKIRK COMMUNITY STADIUM LTD

Council considered a report by the Chief Executive setting out proposals for the winding up of Falkirk Community Stadium Limited (FCSL).

FCSL had been established, in a joint venture between Falkirk Council and Falkirk Football and Athletic Club (FFAC), in 2003 to construct and operate Falkirk Community Stadium. Following a demerger in 2009, FFAC took responsibility for all football related areas of the Stadium including the West and North Stands, and the Council as the single shareholder (and consequently the owner) of FCSL, took responsibility for all existing commercial activities and for the development of the entire site excluding stands.

The formal demerger in 2009 was affected in the most tax efficient manner given the circumstances prevailing at the time. Since then, the context within which FCSL operates has evolved; not least through establishment of the Helix project which has acquired a national and international profile and generated interest in adjacent development sites, the Tax Incremental Funding initiative which has the potential to support development in this key gateway location and the creation of Falkirk Community Trust. These developments have presented an opportunity to review the FCSL delivery model. The report set out a proposal to restructure the existing share capital; remove outstanding debt owed by FCSL to the Council and transfer assets from FCSL to the Council and Falkirk Community Trust. Following this FCSL would be wound up.

The report set out the financial, legal and HR implications of the proposal.

Councillor C Martin, seconded by Councillor Mahoney, moved that Council agrees:-

- (1) in principle to the proposals contained in the report and, in particular, paragraph 4 of the report;
- (2) subject to all necessary approvals and consents being agreed by the stakeholders involved, in particular Falkirk Community Trust, to authorise the Chief Executive or her nominee to take forward work required to implement the proposals; and
- (3) to instruct the Chief Executive to report back to a future meeting of Council for final approval of the detailed proposal noting that, in the event that the work referred to in paragraph (2) above would result in any significant changes being made to the proposals, such changes will be specifically drawn to the attention of Members.

As an amendment, Councillor Meiklejohn, seconded by Councillor Jackson, moved, in substitution for the motion, that Council:-

- (1) does not agree the proposals in principle, and agrees to continue this item to the next scheduled meeting of Council as there is insufficient detail for members to take an informed decision; and
- (2) instructs the Chief Executive to bring forward a detailed report on the proposal which should include, in particular, implications of the financial and legal aspects of the proposal, and confirmation that consultation has been carried out with the Office of the Scottish Charity Regulator.

In terms of Standing Order 22.4(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 Patrick; Baillies Buchanan and Paterson; Councillors Black, Blackwood, D Goldie, G Goldie, Gow, MacDonald, McLuckie, Mahoney, Martin, Dr C R Martin, Murray, Nicol and Nimmo.

For the amendment (14) – Councillors Alexander, Balfour, Bird, Carleschi, Chalmers, Coleman, Hughes, Jackson, McCabe, McNally, Meiklejohn, Oliver, Ritchie and Turner.

Decision

Council agreed the motion.

FC93. EXECUTION OF DEEDS

Council considered a report by the Chief Governance Officer detailing those deeds that had been signed by her since the last meeting.

Decision

Council noted the report.

FC94. MOTION

Members' Conduct

Notice of the following motion had been intimated by Councillor Dennis Goldie:-

“Council affirms the following principles:-

- All Council employees are entitled to a safe working environment free from harassment and bullying and where everyone is treated with dignity and respect.
- This should apply whether the source of the bullying or harassment is another employee or a Councillor.
- Employees should have access to means of having a complaint of harassment or bullying by a Councillor dealt with in an effective way.

Council agrees that while the current Dignity at Work Policy applies to Councillors, in reality it does not make adequate provision for the action to be taken where a Councillor is found to have engaged in bullying or harassing behaviour or provide the necessary support for a manager asked to investigate the actions of a Councillor.

Council accordingly agrees that the Dignity at Work Policy should be reconsidered with a view to incorporating the following changes:-

- (1) All complaints of bullying or harassment of an employee by a Councillor must be investigated by the Chief Officer of the Service of the employee making the complaint.
- (2) Where the outcome of the investigation is that bullying or harassing behaviour has taken place the outcome will be reported to Council.
- (3) Council will consider the appropriate action to be taken against the Councillor and, in particular whether a referral should be made to the Standards Commission.

Council requests the Chief Governance Officer and the Head of Human Resources to report to the next scheduled meeting of the Council with proposals for changes to the Policy to give effect to these changes.”

With the consent of the Provost, Councillor Dennis Goldie, seconded by Baillie Paterson, moved the terms of the motion, with the final paragraph extended as follows:-

“....recognising that discussions with trade unions (and, if necessary, the JCC) will need to take place and that the report may include proposals or advice to Council on alternative mechanisms to address the issue identified in this motion”. It was also accepted that this work may not be completed by the next scheduled meeting of Council and that the report would be made to a further meeting of Council.”

As an amendment, Councillor Meiklejohn, seconded by Councillor Jackson, moved, in substitution for the motion, that Council:-

- “(1) recognises that the Dignity at Work Policy October 2010 offers protections to staff; and
- (2) furthermore agrees that the Standards Commission’s primary role is to ensure the National Code of Conduct for elected members is implemented. Any political breaches of the Code should be reported and investigated by the Commission and they should be the sole body responsible for penalties.”

In terms of Standing Order 22.4(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 Patrick; Baillies Buchanan and Paterson; Councillors Black, Blackwood, D Goldie, G Goldie, Gow, MacDonald, McLuckie, Mahoney, Martin, Dr C R Martin, Murray, Nicol and Nimmo.

For the amendment (14) – Councillors Alexander, Balfour, Bird, Carleschi, Chalmers, Coleman, Hughes, Jackson, McCabe, McNally, Meiklejohn, Oliver, Ritchie and Turner.

Decision

Council agreed the adjusted motion.

Councillor Dennis Goldie left the meeting following consideration of the previous item.

FC95. EXCLUSION OF PUBLIC

Council agreed, in terms of s.50A(4) of the Local Government (Scotland) Act 1973 to exclude the press and public from the meeting for the following item of business on the ground that it would involve the likely disclosure of exempt information as defined in paragraph 12 of Part 1 of Schedule 7A to the said Act.

FC96. PARKING ENFORCEMENT

Council considered a report by the Director of Development Services on a potential legal challenge to the Chief Constable of Police Scotland's decision to withdraw traffic warden provision and outlining the current position.

The Executive had considered a report on 19 November 2013 (ref EX92) advising of the Chief Constable's decision, following a review of traffic warden provision, to withdraw the service from 28 February 2014. The report also set out options available to the Council in regard to its on street enforcement powers.

Subsequent to the meeting of the Executive, the Local Commander confirmed that Police Scotland could provide a traffic warden service for the area should Falkirk Council meet the yearly costs of £48,000.

Having considered advice on the process followed by the Chief Constable in making his decision and having consulted with the Leader of the Council and relevant portfolio holders, the Chief Executive authorised participation in a legal challenge, with Scottish Borders and Stirling Councils, to seek a judicial review of the decision. The legal challenge did not proceed following an undertaking from the Chief Constable that he would maintain the current level of parking enforcement in the area for at least a further 2 months to allow for further discussion.

While the preferred outcome for the Council would be for Police Scotland to maintain its current level of parking enforcement without a cost to the Council, authorisation was sought, in the event that this proved to be not achievable, to negotiate a service level agreement with the Local Commander for a local service funded by the Council.

Decision

Council agreed to:-

- (1) note the decision to join Scottish Borders and Stirling Councils in the legal challenge to the Chief Constable;**
- (2) maintain its stance in the forthcoming discussions with Police Scotland; and**
- (3) authorise the Director of Development Services, in consultation with the relevant portfolio holders, to agree a Service Level Agreement with the Local Commander.**

APPENDIX 1**FALKIRK COUNCIL****QUESTIONS UNDER STANDING ORDER 32**

Standing Order 32 enables Councillors to put questions to the Leader of the Council or the relevant portfolio holder on matters transacted at a meeting of the Executive or the Education Executive during the preceding cycle. The table below details the questions asked and answered at the meeting.

ORDER QUESTION TAKEN	COMMITTEE / MINUTE REFERENCE	TITLE OF REPORT AND QUESTION	ANSWER	SUPPLEMENTARY QUESTION	ANSWER
1	EXECUTIVE – 14 January 2014 REF EX103	Local Government Finance Settlement 2014/15 Why has the portfolio holder not reported back to Council on the changes occurring at COSLA? Councillor Cecil Meiklejohn	The Leader of the Council advised that most of the items discussed at COSLA were in private and therefore he was unable to report back. He was also not aware of any previous Leader reporting back on COSLA matters.	How did Councillor Martin vote at the Leader's meeting on the distribution formula and the freezing of it?	The Leader of the Council advised that at the last meeting in February 2014, a motion was put forward and he had voted in favour of the motion as did 20 other Leaders. He confirmed that he did have the terms of the motion, but required guidance from officers before circulating as this was a private item, as were 90% of COSLA papers.

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					The Chief Executive advised that it would be acceptable to share the terms of the motion with Group Leaders but that it should not be read out at this time.
2	REF EX103	<p>Local Government Finance Settlement 2014/15</p> <p>What is the position that Falkirk Council occupies in the league table of the 29 Scottish mainland local authorities for the 2014/15 settlement figures as a % change from the previous finance year, and how has this influenced the Administration's budget strategy?</p> <p>Councillor Cecil Meiklejohn</p>	<p>The Leader of the Council advised that in terms of movement between 2013/14 and 2014/15, Falkirk Council received the 9th largest movement for mainland Scotland authorities.</p> <p>Given that the final grant settlement for 2014/15 was not known until several weeks ago, the budget strategy had been influenced by the estimated grant settlement as per the Council's medium term financial strategy.</p>	20 Leaders out of 32 voted for the motion. Why did Councillor Martin vote the way he did and disadvantage Falkirk Council by £2.3m?	The Leader of the Council advised that he had voted to enhance Falkirk Council and not to disadvantage it, and that once Councillor Meiklejohn saw the wording of the motion, she would see why.

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			The settlement had been better than anticipated as a result of the decrease in Council Tax Reduction Scheme funding not being as severe as anticipated and this had been incorporated within the final budget proposals presented to Council in February.		
3	REF EX106	<p>Fairer Falkirk Underspend Proposals</p> <p>What Falkirk Council staff, or voluntary groups who work with the Council, have, or will be, contacted by the private contractors who have been, and will be, appointed to carry out the Fairer Falkirk survey at a cost of £35,000?</p> <p>Councillor Cecil Meiklejohn</p>	<p>The Leader of the Council advised that Falkirk Council staff and voluntary groups working with Falkirk Council who would be or had been contacted by those appointed to undertake the survey ranged from the following:-</p> <ul style="list-style-type: none"> • Falkirk Council One Stop Shops • Criminal Justice Services • Learning Disabilities Team • Falkirk Alcohol and Drug 	Why are we spending £35,000 if we are asking our own staff to identify individuals and voluntary organisations, we already have information. Would Councillor Martin not agree that £35,000 would be better spent on frontline services?	<p>The Leader of the Council advised that if the Council was doing as Councillor Meiklejohn suggests, it would be missing those individuals who are not engaging.</p> <p>The Council needed to know who and where these individuals were as they are the most vulnerable in our society.</p>

ORDER QUESTION TAKEN	COMMITTEE / MINUTE REFERENCE	TITLE OF REPORT AND QUESTION	ANSWER	SUPPLEMENTARY QUESTION	ANSWER
			<p>Partnership</p> <ul style="list-style-type: none"> • Signpost Recovery • Citizens Advice Bureaux • Smartliving – Link Living Young Persons Project • Falkirk’s Mental Health Association (FDAMH) • Falkirk Homelessness Project • Barnardos Falkirk Axis Service • Black and Ethnic Minority Advice Services • The Scottish Throughcare and Aftercare Forum • Action in Mind <p>Other organisations may also be involved.</p> <p>The purpose of engaging with these organisations would be to enable the researchers to reach the relevant target audience to participate in the research. This participation would involve a mix of in-depth</p>		<p>He stated that he would consider it a success if the process found one person who had not previously participated in welfare reform.</p>

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			interviews and mini group discussions with individuals who are affected or are likely to be affected by the Welfare Reform changes.		
4	REF EX111	<p>Contract for the Provision of Dry Recyclate Segregation and Resale Service</p> <p>What is the capacity of the current storage facility for dry recyclate?</p> <p>Councillor Stephen Bird</p>	<p>The portfolio holder for Environment advised that as it stands currently, the facility has the capacity to store nearly 1500 tonnes of material as per the existing waste management licence.</p> <p>Based on current volumes going through the site, this would equate to roughly 14 days of storage capacity, but after 7 days the Council would need to explore contingency measures.</p> <p>The tough new measures imposed on ORAN would benefit the people of Grangemouth.</p>	The Roughmute site has been identified as the backup. However, at the Executive it was agreed that Roughmute was not to be used so what is Plan B?	The portfolio holder for Environment responded that a report would be submitted to the April Executive which would list possible Plan Bs.

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5	REF EX111	<p>Contract for the Provision of Dry Recyclate Segregation and Resale Service</p> <p>When will the meetings on contingency measures commence?</p> <p>Councillor Stephen Bird</p>	The portfolio holder for Environment advised that meetings had already taken place and a report would be submitted to the Executive meeting in April.	The fact that meetings have already taken place indicates the seriousness of the issue. Is it possible for quarterly update reports to be submitted to the Executive?	The portfolio holder for Environment responded that he received monthly updates and that ORAN are visited unannounced on a weekly basis. He did not see any reason why all members could not receive these monthly update reports.
6	EXECUTIVE – 14 January 2014 REF EX 120	<p>New Waste Collection System – Implementation</p> <p>What effort has so far been made to engage the communities impacted by phase 1 of this implementation plan?</p> <p>Councillor Stephen Bird</p>	<p>The portfolio holder for Environment advised that there had been no engagement with communities so far, but that there was a list of actions to be undertaken.</p> <p>Having undergone a process with focus groups, Falkirk Council now has the correct message to go out to the public, and would letter every household and knock on every door.</p>	Given that the pilot area includes some of the best and most engaged community councils in the area is an opportunity being missed to engage meaningfully with people who take their community duties seriously? Should we have be having a conversation with them first showing them they have a wider role to	<p>The portfolio holder for Environment responded that a number of focus groups had been set up and these had involved a wide spectrum of the local and national community.</p> <p>He acknowledged the role of community councils and confirmed that there</p>

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			<p>The portfolio holder stated that it was also planned to go to the community council meetings and he gave his undertaking that every resident would be made aware of the changes.</p>	<p>play?</p>	<p>would be an opportunity to engage with them during the process. Feedback would be taken on board and used to further tailor the message as needed.</p> <p>Prior to any correspondence being issued to residents, there would be engagement with all members included in the pilot area. They will also receive a comprehensive information pack containing all the information to be issued to householders.</p> <p>He advised that due to timescales, he didn't think it would be possible to approach community councils</p>

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					<p>prior to materials being issued.</p> <p>The portfolio holder agreed to discuss the potential for engagement with community councils with Councillor Bird outwith the meeting.</p>