

FALKIRK COUNCIL

**MINUTE of MEETING of the CIVIC LICENSING COMMITTEE held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 20 OCTOBER 2010 at 9.30 A.M.**

**PRESENT:** Councillors Blackwood, Hughes, Kenna, McLuckie, Nicol, Nimmo, Waddell and Thomson.

**CONVENER:** Councillor Nicol.

**APOLOGIES:** Provost Reid and Councillor Jackson.

**ATTENDING:** Acting Director of Law and Administration Services; Licensing Co-ordinator (B Douglas); Solicitor (P Gilmour), and Committee Officer (A Fraser).

**DECLARATION OF INTEREST:** None

**CL43. MINUTE**

There was submitted and **APPROVED** Minute of Meeting of the Civic Licensing Committee held on 8 September 2010.

Councillor Hughes entered the meeting after consideration of the foregoing item of business.

**CL44. 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 Paragraph 6 of Part 1 of Schedule 7A to the said Act.

**CL45. ORDER OF BUSINESS**

In terms of Standing Order 15.2(i), Councillor Nicol advised of a variation to 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.

**CL46. APPLICATION FOR THE RENEWAL OF TAXI DRIVER LICENCE NO.1441**

The applicant, Mr P, Chief Inspector G Taylor, PC A Kane and Mr N McLean, Licensing Officer, Central Scotland Police, all entered the meeting.

There was submitted Report (circulated) dated 12 October 2010 by the Acting Director of Law and Administration Services on an application for the renewal of a taxi driver licence (a) advising of the background to the application; (b) detailing the consultations undertaken and responses received, and (c) detailing the applicant's record.

Mr P spoke in support of his application.

Chief Inspector Taylor spoke in amplification of the Police objection, a copy of which had been circulated to the Committee.

Questions were then asked by Members of the Committee.

The Committee **AGREED** to a short adjournment, to enable consideration of the submissions.

The applicant, Mr P, Chief Inspector G Taylor, PC A Kane and Mr N McLean left and were then recalled to the meeting.

**AGREED** to **GRANT** renewal of taxi driver licence No.1441 for a period of one year, together with a warning letter.

Councillor Kenna entered the meeting during consideration of the foregoing item of business but took no part in the decision.

**CL47. APPLICATION FOR THE RENEWAL OF TAXI OPERATOR LICENCE NO.271**

The applicant, Mr P, Chief Inspector G Taylor, PC A Kane and Mr N McLean, Licensing Officer, Central Scotland Police, all entered the meeting.

There was submitted Report (circulated) dated 12 October 2010 by the Acting Director of Law and Administration Services on an application for the renewal of a taxi operator licence (a) advising of the background to the application; (b) detailing the consultations undertaken and responses received, and (c) detailing the applicant's record.

The Committee heard from Chief Inspector Taylor who advised that, given the submission made by Mr P in relation to his previous application, the objection lodged by Central Scotland Police would be withdrawn.

**AGREED** to **GRANT** renewal of taxi operator licence No.271 for a period of one year, together with a warning letter.

**CL48. APPLICATION FOR THE RENEWAL OF LATE HOURS CATERING LICENCE NO.48**

Mr D, spouse of the applicant entered the meeting and advised that he was attending on her behalf. The applicant, Mrs D was not in attendance.

There was submitted Report (circulated) dated 12 October 2010 by the Acting Director of Law and Administration Services on an application for the renewal of a late hours catering licence (a) advising of the background to the application; (b) detailing the consultations undertaken and responses received; and (c) attaching as appendices 1 to 3 respectively, the late hours catering policy, the late hours catering conditions and a location plan.

Mr D spoke in support of the application.

Questions were then asked by Members of the Committee.

In light of the submissions made, **AGREED** that a departure from the Council's policy was justified in this case and therefore to **GRANT** renewal of late hours catering licence No.48, subject to the standard conditions.

**CL49. APPLICATION FOR THE RENEWAL OF LATE HOURS CATERING LICENCE NO.45**

Mr D, spouse of the applicant entered the meeting and advised that he was attending on her behalf. The applicant, Mrs D was not in attendance.

There was submitted Report (circulated) dated 12 October 2010 by the Acting Director of Law and Administration Services on an application for the renewal of a late hours catering licence (a) advising of the background to the application; (b) detailing the consultations undertaken and responses received; and (c) attaching as appendices 1 to 3 respectively, the late hours catering policy, the late hours catering conditions and a location plan.

Mr D spoke in support of the application.

Questions were then asked by Members of the Committee.

In light of the submissions made, **AGREED** that a departure from the Council's policy was justified in this case and therefore to **GRANT** renewal of late hours catering licence No.45, subject to the standard conditions.

**CL50. SUSPENSION HEARING IN RELATION TO TAXI DRIVER LICENCE NO.1744**

The licensee, Mr M, together with his representative, Mrs Hamilton, Chief Inspector G Taylor, PC A Kane and Mr N McLean, Licensing Officer, Central Scotland Police, all entered the meeting.

There was submitted report (circulated) dated 12 October 2010 by the Acting Director of Law and Administration Services (a) outlining the nature of the complaint giving rise to the suspension hearing, and (b) detailing the further enquiries undertaken and the information received.

All parties confirmed that they had no preliminary matters requiring consideration.

The letter of complaint from Central Scotland Police was circulated to Members.

Chief Inspector Taylor spoke in amplification of the complaint.

Questions were then asked of Chief Inspector Taylor by Members of the Committee and the licensee's representative.

Mrs Hamilton was then heard on behalf of the licensee.

Questions were then asked of the licensee by Members of the Committee and Central Scotland Police.

The licensee, Mr M, his representative, Mrs Hamilton, Chief Inspector Taylor, PC Kane and Mr McLean left and were then recalled to the meeting.

Councillor Nicol, seconded by Councillor Hughes moved that, in light of the information presented, no action be taken in relation to the complaint.

By way of an amendment, Councillor Thomson, seconded by Councillor Waddell moved to (i) suspend the licensee's taxi driver licence for the unexpired portion of the duration of the licence in terms of the Civic Government (Scotland) Act 1982, Schedule 1 paragraph 11(2)(a) on the ground that the licensee is no longer a fit and proper person to hold such a licence, and (ii) that having regard to the circumstances of the case, the suspension would take immediate effect, in accordance with Paragraph 11(10) of the said Schedule to the Act.

On a division, 6 Members voted for the Motion and 2 Members voted for the Amendment.

Accordingly, **AGREED** that no action be taken in relation to the complaint.

The Committee adjourned at 11.55 a.m. and re-convened at 12 noon with all those Members present as per the sederunt.

#### **CL51. SUSPENSION HEARING IN RELATION TO HOUSE IN MULTIPLE OCCUPANCY (HMO) LICENCE NO.61**

Mr H D, together with his representative, Mrs Hamilton, Chief Inspector G Taylor, PC A Kane and Mr N McLean, Licensing Officer, Central Scotland Police, all entered the meeting.

There was submitted report (circulated) dated 12 October 2010 by the Acting Director of Law and Administration Services (a) outlining the nature of the complaint giving rise to the suspension hearing, and (b) providing information relating to changes at Director level in the licence holder company.

Mrs Hamilton challenged the competency of the complaint on the basis that the person who was the focus of the complaint was no longer a director of the company that held the licence nor was he involved in its management.

The Committee heard from Chief Inspector Taylor who advised that, due to recently received clarification from Companies House relating to changes in the Directors of the company, Central Scotland Police would withdraw their complaint.

After a short adjournment, **AGREED** that no action be taken in relation to the complaint.

#### **CL52. SUSPENSION HEARING IN RELATION TO LATE HOURS CATERING LICENCES NOS. 46, 47, 49, 73 AND 184**

Mr & Mrs D, together with their representative, Mrs Hamilton, Chief Inspector G Taylor, PC A Kane and Mr N McLean, Licensing Officer, Central Scotland Police, all entered the meeting.

There was submitted report (circulated) dated 13 October 2010 by the Acting Director of Law and Administration Services (a) outlining the nature of the complaint giving rise to a suspension hearing, and (b) providing information relating to changes at Director level in the licence holder company.

Mrs Hamilton was heard in relation to the complaint lodged by Central Scotland Police, noting in particular that criminal charges were pending and her client would therefore be limited in what could be said to the Committee at this time in respect of the complaint. Mrs Hamilton submitted that this would be prejudicial to her client and requested a continuation to a future meeting.

Chief Inspector Taylor advised that due to the serious nature of the complaint, the Police were of the opinion that the hearing should proceed.

The letter of complaint lodged by Central Scotland Police was circulated to Members.

Councillor Thomson, seconded by Councillor Nimmo moved that the matter be heard.

By way of an amendment, Councillor Nicol, seconded by Councillor Hughes moved that the matter be continued to a future meeting of the Committee.

On a division, 4 Members voted for the Motion and 3 Members voted for the Amendment, with one Member abstaining.

Accordingly, **AGREED** that the matter be heard.

Councillors Hughes and Nicol left the meeting at this point.

In the absence of the Convener, the Committee agreed that Councillor Kenna assume the Chair.

The Committee adjourned at 12.55 p.m. and reconvened at 1.10 p.m. with all those Members present as per the sederunt, with the exception of Councillors Blackwood, Hughes and Nicol.

The licensee's agent advised that the meeting having lasted longer than anticipated, she now had a prior commitment at Falkirk Sheriff Court, and sought continuation of the matter.

Chief Inspector Taylor confirmed that he had no objection to the matter being continued to the next meeting of the Committee.

**AGREED** to continue the matter to the next meeting of the Civic Licensing Committee.