

AGENDA ITEM 1(a)
DRAFT

MINUTE of MEETING of FALKIRK COUNCIL held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 8 DECEMBER 2010 at 10.00 am.

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

CONVENER: Provost Reid.

APOLOGIES: Councillors Constable and Fry.

ATTENDING: Chief Executive; Directors of Community Services; of Corporate and Neighbourhood Services; of Development Services; of Education and of Finance Services; Acting Directors of Law and Administration and of Social Work Services; Heads of Accountancy Services; of Educational Resources; of Human Resources; of Roads and Design and of Treasury and Investment; Acting Head of Planning and Transportation; Development Manager (I Dryden); Design Co-ordinator (J Aitken); Development Planning Co-ordinator (A Shaw); Planning and Environment Manager (A Rodger); Environmental Health Officer (S Henderson); Planning Officer (D Paterson); Human Resources Manager (T Gillespie); Accountancy Services Manager (J Flannigan); Business Development Manager (J Clark); Legal Services Manager (I Henderson); Team Leader, Legal Services (D Blyth) and Senior Committee Services Officer (D Kelly).

DECLARATIONS OF INTEREST:

Councillors Mahoney and CR Martin declared a non-financial interest in Item 16 – Execution of Deeds (Sub-Lease Agreement on the Helix Trust) as Directors of the Helix Trust and advised that, to the extent that it may be discussed, they would take no part in that discussion.

Councillor Buchanan declared a non-financial interest in Item 3 – Adoption of the Falkirk Council Local Plan on the basis of previous contract with one of the objectors to the local plan in consequence of which he advised he would take no part in consideration of the item.

FC49. WEATHER UPDATE

The Director of Development Services and the Head of Roads and Design reported on the levels of response provided by Council staff during the exceptional weather which was affecting the area.

The Provost and members extended their gratitude to staff for their efforts.

FC50. 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.

FC51. MINUTES AND INFORMATION BULLETIN

- (a) There was submitted (circulated) and **APPROVED** Minute of Meeting of Falkirk Council held on 6 October 2010;
- (b) There was submitted (circulated) and **APPROVED** Minute of Meeting of the Planning Committee (comprising all Members of Council) held on 17 November 2010;
- (c) There was submitted (circulated) and **APPROVED** Minute of Special Meeting of Falkirk Council held on 22 November 2010;
- (d) There was submitted (circulated) and **APPROVED** Minute of Special Meeting of Falkirk Council held on 22 November 2010;
- (e) There was submitted (circulated) and **NOTED** Volume of Minutes – Volume 4 2010/2011, and
- (f) There was submitted (circulated) and **NOTED** Information Bulletin – Volume 4 2010/2011.

FC52. TREASURY MANAGEMENT – INTERIM REVIEW 2010/11

There was submitted Report (circulated) dated 15 October 2010 by Director of Finance presenting as part of the new regulatory framework for Treasury Management, a mid-year review of the Treasury Management function.

NOTED the progress of the Council's Treasury Management Strategy for 2010/11.

FC53. THE STRATEGIC COMMUNITY PLAN 2010-2015 - UPDATE

There was submitted Report (circulated) dated 22 November 2010 by Chief Executive (a) presenting the new Strategic Community Plan 2010 – 2015, and (b) advising that the Community Planning Leadership Group, which oversees the plan on behalf of its partners, requested that the new Strategic Community Plan be developed taking account of:-

- the impact of the current economic downturn and the reduction on spending across the public sector, and
- the need to continue to work towards achieving the vision for the area, set 10 years ago by local communities

NOTED the progress made regarding the new Strategic Community Plan.

AGREED:-

- (1) to approve the new Strategic Community Plan in draft, and
- (2) that a further report be submitted once an initial collation of action plans has been completed.

FC54. APPOINTMENT OF LAY CHAIRPERSON TO AUDIT COMMITTEE

There was submitted Report (circulated) by the Chief Executive presenting an update on the process to recruit a lay Chairperson for the Council's Audit Committee.

NOTED:-

- (1) the process undertaken for the recruitment and selection of a lay person as Convener of the Audit Committee as outlined in the Report, and
- (2) that a meeting of the Selection Panel will be convened to take place early in the New Year 2011.

FC55. APPOINTMENTS TO COMMITTEES/EXTERNAL ORGANISATIONS

There was submitted Report (circulated) dated 24 November 2010 by the Acting Director of Law and Administration Services (a) advising of the resignation of Councillor McNally from the Fife and Forth Valley Criminal Justice Authority; (b) seeking a replacement for Councillor McNally, and (c) informing of a request from Falkirk Football Club for a representative of the Council to sit on the Board of Trustees of the Falkirk Football Community Foundation.

NOTED the resignation of Councillor McNally from the Fife and Forth Valley Criminal Justice Authority.

AGREED that:-

- (1) Councillor Meiklejohn replace Councillor McNally on the Fife and Forth Valley Criminal Justice Authority; and

- (2) Councillor C Martin be appointed as the representative of the Council to sit on the Falkirk Football Community Foundation Board of Trustees.

FC56. REPRESENTATION ON OUTSIDE ORGANISATIONS – CORNTON VALE OVER 21s PRISON VISITING COMMITTEE

There was submitted Report (circulated) dated 25 November 2010 by the Acting Director of Law and Administration Services (a) advising that Falkirk Council has four places currently vacant on the Cornton Vale Over 21's Prison Visiting Committee and, (b) seeking approval to appoint new members from the Falkirk Council area.

AGREED to:-

- (1) approve the appointment of Mrs Audrey Brown, Ms Carol Lennie and Ms Jannelle Hall to serve on the Cornton Vale Prison Visiting Committee, subject to the receipt of satisfactory references and appropriate checks through Disclosure Scotland, and
- (2) delegate authority to the Acting Director of Law and Administration Services to appoint the remaining applicant, subject to successful interview and to the receipt of satisfactory references and appropriate checks through Disclosure Scotland.

FC57. EXECUTION OF DEEDS

There was submitted Report (circulated) dated 22 November 2010 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.

FC58. ERECTION OF PRIMARY SCHOOL AND NURSERY SCHOOL, FORMATION OF MULTI USE GAMES AREA, CAR PARKING AND ANCILLARY DEVELOPMENT AT LAND TO THE SOUTH OF 49 EDWARD AVENUE, STENHOUSEMUIR FOR FALKIRK COUNCIL – P/10/0502/FUL

With reference to the Minute of Meeting of the Planning Pre-Determination Hearing held on 17 November 2010 (Paragraph P142 refers), there was submitted Report (circulated) dated 25 November 2010 by the Director of Development Services summarising an application for detailed planning permission for the erection of a primary school and nursery school, formation of

a multi use games area, car parking and ancillary development on land to the south of 49 Edward Avenue, Stenhousemuir.

Mr I Dryden, Development Manager, Falkirk Council summarised the content of the Report.

AGREED that Council is **MINDED** to **GRANT** planning permission subject to notification of the application to Scottish Ministers and thereafter, on satisfactory conclusion of the foregoing matter, to remit to the Director of Development Services to grant planning permission subject to the following conditions: -

- (1) The development to which the permission relates must be begun within three years from the date of permission.
- (2) The proposed development shall not be brought into use until such time as the scheme of traffic management measures proposed has been implemented in full.
- (3) The proposed development shall not be brought into use until such time as the proposed car parking areas have been formed with a wearing bituminous surface, and lined, with the written approval of the planning authority.
- (4) Notwithstanding any details previously submitted, there shall be no work on site until such time as a detailed landscaping scheme has been approved in writing. The landscaping scheme shall include timescales for planting and details of a maintenance schedule.
- (5) The proposed development shall not be brought into use until such time as the proposed improvements to public footpaths have been carried out in full.
- (6) The proposed development shall be implemented in accordance with the approved drawings and any submitted details which have been approved in writing by the Planning Authority.

Reason(s):-

- (1) To comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.
- (2 & 5) To safeguard the interests of users of the highway and the safety of persons travelling to and from the proposed development by both vehicular and pedestrian means.
- (3) To ensure that adequate car parking is provided.
- (4) To ensure that the amenity of adjacent residents is safeguarded.

- (5) To ensure that the development is carried out to the satisfaction and approval of the planning authority.

Informative(s):-

- (1) For the avoidance of doubt, the plan(s) to which this decision refer(s) bear the Council's online reference number(s) 01, 02, 03, 04-26 (inc.), 27A, 28, 29, 30, 31A, 32, 33A, 34-37, 38A, 39-48.

Having moved an amendment that was not seconded, Councillor Kenna requested her dissent to the decision be recorded in accordance with Standing Order 19.4.

The meeting adjourned at 11.10am for a 15 minute recess and re-convened at 11.25am with all in attendance as per the sederunt with the exception of Councillor Buchanan.

FC59. ADOPTION OF THE FALKIRK COUNCIL LOCAL PLAN

There was submitted Report (circulated) dated 23 November 2010 by the Director of Development Services seeking adoption of the Falkirk Council Local Plan in terms of the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983.

AGREED to adopt the Falkirk Council Local Plan and authorised officers to proceed with the publication of a Notice of Adoption.

Councillor Buchanan re-entered the meeting following conclusion of the foregoing item of business.

FC60. REVENUE BUDGETS 2011/12 – 2014/15

With reference to the Minute of Meeting of Falkirk Council held on 6 October 2010 (Paragraph FC38 refers), there was submitted joint Report (circulated) dated 24 November 2010 by the Chief Executive and Director of Finance presenting an update on the preparatory work being undertaken on the next four years' budgets taking account of information now available following the UK Comprehensive Spending Review published on 20 October 2010 and the Scottish Government's Budget, as announced on 17 November 2010.

Councillor C Martin seconded by Councillor Nimmo moved that:-

“Council condemns the SNP Finance Secretary's late introduction of the disgraceful draconian sanctions, which were imposed on Councils if they do not accept the budget settlement as produced in the Finance Secretary's letter dated 17 November 2010.

Council criticises the SNP Finance Secretary for failing to produce a 4 year spending review but instead proposing a 1 year election budget, resulting in the Council being unable to plan ahead financially for local communities.

Council further criticises the SNP Finance Secretary for breaking yet another SNP manifesto promise by re-introducing a form of financial ring fencing to local authorities.

Council therefore agrees under protest to conditionally accept the SNP Finance Secretary's budget settlement grant with the caveats that come with it and instructs the Leader of Falkirk Council to write to the SNP Finance Secretary advising him of this decision".

By way of an amendment Councillor Alexander, seconded by Councillor Coleman moved:-

"Council agrees to accept the government package and commends CoSLA leaders for negotiating a favourable package protecting local government's share of the shrinking Scottish budget.

Council also welcomes the commission set up by the government to review the shape of public services under the chairmanship of Campbell Christie".

In terms of Standing Order 21.4(i) a vote was taken by roll call, there being 30 members present, with voting undernoted:-

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

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

Accordingly;

NOTED the latest update report on preparing the Revenue Budgets 2011/12 – 2014/15.

AGREED:-

- (1) to condemn the SNP Finance Secretary's late introduction of the disgraceful draconian sanctions, which were imposed on Councils if they do not accept the budget settlement as produced in the Finance Secretary's letter dated 17 November 2010;
- (2) to criticise the SNP Finance Secretary for failing to produce a 4 year spending review but instead proposing a 1 year election budget, resulting in the Council being unable to plan ahead financially for local communities;

- (3) to further criticise the SNP Finance Secretary for breaking yet another SNP manifesto promise by re-introducing a form of financial ring fencing to local authorities; and
- (4) under protest to conditionally accept the SNP Finance Secretary's budget settlement grant with the caveats that come with it, and
- (5) to instruct the Leader of Falkirk Council to write to the SNP Finance Secretary advising him of this decision".

FC61. COMMUNITY SERVICES TRUST

With reference to the Minute of the Special Meeting of Falkirk Council held on 10 February 2010 (Paragraph FC88 refers) when, as part of consideration of the Revenue Budget for 2010/11, agreement was granted to prepare a Business Case for the establishment of a Trust to cover areas of operation currently within the Community Services Department, there was submitted Report (circulated) dated 25 November 2010 by the Chief Executive summarising the content of the Business Case which had been prepared and previously submitted to Members.

Mr Douglas Black from Unison addressed the meeting.

The meeting adjourned at 12.50 pm for lunch and to allow Members time to consider the terms of the address given by Mr Black.

The meeting reconvened at 2.00 pm with all in attendance as per the sederunt.

Councillor Mahoney, seconded by Councillor Lemetti, moved the following:-

- (1) to approve the Business Case and agree to proceed with the establishment of a Trust in accordance with the proposals and recommendations detailed in the Business Case subject to the exclusion from transfer to a Trust of the following functions which shall remain with the Council:-
 - (a) Community Learning and Development including, for the avoidance of doubt, 16 community centres;
 - (b) The 21 community halls;
 - (c) Library support for schools; and
 - (d) Management and maintenance of Zetland Park and Dollar Park.

- (2) to authorise the Chief Executive or her nominee to develop and finalise, on behalf of the Council, the required suite of documentation for transfer to the Trust including the Transfer Agreement, the Service Agreement, the Service Level Agreements, the Collections Agreement, the leases and licences and corporate documentation relative to the establishment of the Trust and its trading subsidiary and generally to take all decisions required to take forward the establishment of the Trust;
- (3) to require the trust to seek admitted body status with the Falkirk Council Pension Fund as part of the Local Government Pension Scheme arrangements;
- (4) to agree, subject to full consultation with relevant Trade Unions, that the protection afforded to employees under TUPE be enhanced as follows:-
 - the Trust to align its pay structure, terms and conditions to those of the Council, ensuring that both current and new employees enjoy a similar employment package to that which they would have obtained had they remained employees of the Council;
 - that the Council will, if required by the Falkirk Council Pension Fund, act as a guarantor for the Trust to allow it to become a member of the Local Government Pension Scheme;
 - the Trust shall be required to recognise relevant Trade Unions in line with the Council's arrangements for recognition; and
 - the Trust shall be required to provide appropriate employee development opportunities
- (5) subject to the exclusions noted at paragraph (1) above, to agree to advertise the services in accordance with Sections 3.2 through 3.7 of the Business Case and to receive a further report following advertisement recommending the next steps;
- (6) to agree to receive further report(s) in the unlikely event that any issues arise during the implementation stage that would have a significantly adverse impact on the operational or financial position of the Trust;
- (7) to agree the target start date of the Trust being 1 July 2011;
- (8) to agree to further consultation with key stakeholder groups taking place including employees, Trade Unions; community groups, partner organisations and the wider public as appropriate;
- (9) to agree to transfer Bereavement Services to Corporate and Neighbourhood Services at an appropriate date in early 2011, and

- (10) to agree to receive a further report by the Chief Executive recommending the positioning within the Council of any function and/or any staff currently part of or employed within Community Services and that will not transfer to the Trust in terms of the implementation of the recommendations noted above.

By way of an amendment Councillor Oliver, seconded by Councillor Coleman, moved the following:-

Council does not approve the business case for the transfer of Community Services to a Trust and instead agrees to the following;

- (1) to maintain the preference for the retention of Council services and assets in the democratic control of the elected local authority;
- (2) to properly engage with staff on how savings can be made and services restructured, and
- (3) to authorise the relevant scrutiny committees to undertake a full scrutiny process to review the cost effectiveness of current services with periodic reports to Council on progress made.

Councillor Alexander gave notice of a further amendment.

In terms of Standing Order 21.4(i) a vote was taken by roll call, there being 30 Members present, with voting undenoted.

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

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

In terms of Standing Order 19.6, the motion became the substantive motion upon which the further amendment could be moved.

Councillor Alexander, seconded by Councillor Coleman moved that the matter be continued until there has been full and proper consultation with staff and staff representatives.

On a division 17 Members voted for the substantive Motion and 13 for the Amendment.

Accordingly, **AGREED** the terms of the substantive Motion, namely to:-

- (1) approve the Business Case and to proceed with the establishment of a Trust in accordance with the proposals and recommendations detailed in the Business Case subject to the exclusion from transfer to a Trust of the following functions which shall remain with the Council:-
 - (a) Community Learning and Development including, for the avoidance of doubt, 16 community centres;
 - (b) The 21 community halls;
 - (c) Library support for schools; and
 - (d) Management and maintenance of Zetland Park and Dollar Park.
- (2) authorise the Chief Executive or her nominee to develop and finalise, on behalf of the Council, the required suite of documentation for transfer to the Trust including the Transfer Agreement, the Service Agreement, the Service Level Agreements, the Collections Agreement, the leases and licences and corporate documentation relative to the establishment of the Trust and its trading subsidiary and generally to take all decisions required to take forward the establishment of the Trust;
- (3) require the trust to seek admitted body status with the Falkirk Council Pension Fund as part of the Local Government Pension Scheme arrangements;
- (4) agree, subject to full consultation with relevant Trade Unions, that the protection afforded to employees under TUPE be enhanced as follows:-
 - the Trust to align its pay structure, terms and conditions to those of the Council, ensuring that both current and new employees enjoy a similar employment package to that which they would have obtained had they remained employees of the Council;
 - that the Council will, if required by the Falkirk Council Pension Fund, act as a guarantor for the Trust to allow it to become a member of the Local Government Pension Scheme;
 - the Trust shall be required to recognise relevant Trade Unions in line with the Council's arrangements for recognition; and
 - the Trust shall be required to provide appropriate employee development opportunities
- (5) agree, subject to the exclusions noted at paragraph (1) above, to advertise the services in accordance with Sections 3.2 through 3.7 of the Business Case and to receive a further report following advertisement recommending the next steps;

- (6) agree to receive further report(s) in the unlikely event that any issues arise during the implementation stage that would have a significantly adverse impact on the operational or financial position of the Trust;
- (7) agree the target start date of the Trust being 1 July 2011;
- (8) agree to further consultation with key stakeholder groups taking place including employees, Trade Unions, community groups, partner organisations and the wider public as appropriate;
- (9) agree to transfer Bereavement Services to Corporate and Neighbourhood Services at an appropriate date in early 2011, and
- (10) agree to receive a further report by the Chief Executive recommending the positioning within the Council of any function and/or any staff currently part of or employed within Community Services and that will not transfer to the Trust in terms of the implementation of the recommendations noted above.

FC62. VALEDICTORY

The Provost paid tribute to Mr Alex Jannetta, Director of Finance Services, on the occasion of his last meeting of Falkirk Council prior to retiring and acknowledged the significant contribution he had made in the course of his long and distinguished local government career.

Further tributes were made to Mr Jannetta by Councillors Alexander, C Martin, Nicol and Patrick and by the Chief Executive.

Mr Jannetta responded in suitable terms.

The Provost also acknowledged the forthcoming retirements of both Ms Sue Selwyn, Head of Culture and Lifelong Learning, and Mr John Banks, Parks and Recreation Manager and on behalf of the meeting expressed his thanks for the service provided and extended his best wishes for their futures.

FC63. 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 item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 11 & 12 of Part 1 of Schedule 7A of the said Act.

FC64. REFUSE COLLECTION SERVICE

With reference to the Minute of Meeting of the Policy and Resources Committee held on 9 September 2010 (Paragraph PR43 refers), there was submitted Report (circulated) dated 23 November 2010 by the Director of Corporate and Neighbourhood Services (a) detailing the status with regard to the implementation of proposed new working agreements, and (b) outlining the options available for the future delivery of the Service.

After hearing from the Director of Corporate and Neighbourhood Services on the late breakdown of discussions with the workforce, following previous agreement with the Trades Unions representatives, on the implementation of a 42 hour pilot model, intended to operate for 6 months.

AGREED to:-

- (1) instruct officers to withdraw the new 42 hour working week model from the negotiations due to the employees' withdrawal of support;
- (2) the setting up of an all party negotiating team, similar to that in operation in 2006/07, to meet with staff and to seek a solution to the current impasse with a report on the outcome of that meeting to be submitted to Policy and Resources Committee in January 2011; and
- (3) in the meantime, instruct the Director of Corporate and Neighbourhood Services to implement option 1 with a review of all available options to be submitted to a future Council meeting.

In terms of Standing Order 31 the Provost noted that the time was after 5pm. The meeting was accordingly adjourned with it being **AGREED** that the remaining items of business would be continued to a re-convened meeting.