

**FALKIRK COUNCIL**

**MINUTE of MEETING of FALKIRK COUNCIL held in the MUNICIPAL BUILDINGS, FALKIRK on WEDNESDAY 20 JUNE 2012 at 9.30 AM.**

**PRESENT:** Provost Reid; Depute Provost Patrick; Councillors Alexander, Balfour, Bird, Black, Blackwood, Buchanan, Carleschi, Chalmers, Coleman, D Goldie, G Goldie, Gow, Hughes, Jackson, Macdonald, McCabe, McLuckie, McNally, Mahoney, C Martin, Dr C R Martin, Meiklejohn, Murray, Nicol, Nimmo, Oliver, Paterson, Ritchie, Spears and Turner.

**CONVENER:** Provost Reid

**ATTENDING:** Chief Executive; Directors of Corporate and Neighbourhood Services, of Development Services, and of Education; Chief Finance Officer; Heads of Economic Development & Environmental Services and of Human Resources and Customer First; Corporate Policy Officer (C Forsyth); Principal Economic Development Officer (I White); Manager (Strategic Projects) (P Reid); Chief Governance Officer; Depute Chief Governance Officer; Legal Services Manager; Team Leader (D Blyth) and Democratic Services Manager.

**ALSO ATTENDING:** Chief Executive, Falkirk Community Trust.

**FC11. SEDERUNT**

The sederunt was taken by way of a roll call.

**FC12. DECLARATIONS OF INTERESTS**

Provost Reid and Councillors D Goldie, Gow, Nicol and Paterson each declared a non-financial interest in Item FC18 as Directors of the Falkirk Community Trust but did not consider that this required them to recuse themselves from consideration of the item, having regard to the objective test in the Code of Conduct and the relevant specific exclusion contained in the Code.

Councillors C R Martin and Gow also declared a non-financial interest in the same item as Directors of The Helix but did not consider that this required them to recuse themselves from consideration of the item, having regard to the objective test in the Code of Conduct and the relevant specific exclusion contained in the Code.

### **FC13. MINUTES AND INFORMATION BULLETIN**

- (a) There was submitted (circulated) and **APPROVED** Minute of Meeting of Falkirk Council held on 14 March 2012;
- (b) There was submitted (circulated) and **APPROVED** Minute of Statutory Meeting of Falkirk Council held on 18 May 2012;
- (c) There was submitted (circulated) and **NOTED** Volume of Minutes – Volume 1 2012/2013; and
- (d) There was submitted (circulated) and **NOTED** Information Bulletin – Volume 1 2012/2013.

### **FC14. PROVOST'S REMARKS**

Provost Reid congratulated Councillors Meiklejohn and Jackson respectively on their appointment as Leader and Depute Leader of the SNP Group. Provost Reid also remarked on the contribution of Councillor Alexander to local democracy and his commitment to the community of Falkirk.

### **FC15. QUESTION**

#### **Question by Councillor M Oliver**

“What is the administration’s current position with the running of town centre regeneration groups? Will they review current arrangements which see different operating procedures across the Council area?”

In particular will they allow members in ward areas affected input into convening such regeneration development groups and allow members of the public to view such meetings in the same way they can enjoy access to Council meetings?”

#### **Response by Provost Reid**

“As discussed at the most recent meeting of the Policy and Resources Committee, it is considered that a review of the constitution and operation of the town centre regeneration working groups would be most effectively undertaken as part of the ongoing review of decision making structures.

It would be premature for the Administration to take any view on the issue of membership and access in advance of these discussions which will result in a report back to the full council in due course.”

**FC16. PORTFOLIO MANAGEMENT PLAN: 3.16 ACRE SITE AT SOUTH BRIDGE STREET, GRANGEMOUTH**

In terms of the Council's Scheme of Delegation, this item had been called in to Council by Councillors Alexander and Spears.

With reference to the Minute of the Meeting of Policy and Resources Committee held on 30 April 2012 (Paragraph PR3 refers), there was submitted (circulated) (a) report by the Director of Development Services dated 13 June 2012 advising that the offerer for the site at South Bridge Street, Grangemouth had withdrawn their offer, and (b) Extract of Minute of special meeting of the Policy and Resources Committee held on 30 April.

Councillor D Goldie, seconded by Councillor Paterson moved the recommendations set out in the report.

Following discussion, Councillor D Goldie, moved that the question now be put.

17 members voted for the motion and 14 against. There being no amendment, the Provost noted that there was general agreement with regard to the recommendations and accordingly:-

**NOTED** that Jarvie Plant Ltd no longer wish to pursue the proposed purchase of the site at South Bridge Street, Grangemouth.

**AGREED** that a report updating Members on the consequences of this withdrawal and the implications for the Portfolio Management Plan's programme of disposals will be submitted to a future meeting of the Economic Strategy and Development Committee.

**FC17. ANNUAL ACCOUNTS 2011/12**

There was submitted report (circulated) dated 29 May 2012 by the Chief Finance Officer presenting the Unaudited Annual Accounts for 2011/12 and advising of the requirement to submit them to the Controller of Audit by the statutory deadline of 30 June 2012.

**AGREED** to approve the submission of the Unaudited Annual Accounts to the Controller of Audit by the statutory deadline of 30 June 2012.

**FC18. THE HELIX**

With reference to the Minutes of the Meetings of Council held on 23 January and 14 March 2012 (Paragraph FC81 and FC100 refers), there was submitted report (circulated) dated 13 June 2012 by the Chief Executive summarising (a) progress made with regard to the implementation of revised governance arrangements for the Helix project, and (b) progress made with regard to the various capital, people and enterprise projects.

**NOTED** the further progress made in relation to the Helix governance transition project.

**AGREED** to authorise the Chief Executive or her nominee (subject to all necessary approvals and consents from the participating organisations, Big Lottery Fund and Office of the Scottish Charities Regulator being obtained) to make all necessary arrangements to conclude the exercise. This would include, in particular, the conclusion of all relevant contractual, leasehold and project documentation, as referred to in the report and the authority to consent to the relevant adjustment to the charitable objects of FCT as referred to therein.

## **FC19. BUSINESS SUPPORT – FUTURE DELIVERY**

With reference to Minute of the Meeting of the Economic Strategy and Development Committee held on 6 March 2012 (Paragraph ESD37 refers), there was submitted report (circulated) dated 14 June 2012 by the Director of Development Services (a) outlining the current make up of and background to the provision of business support services in both the Falkirk and Forth Valley area; (b) setting out options for the future delivery of business support services detailing the outcome of a recent tendering exercise; (c) presenting the outcome of a best value review of the options available, and (d) setting out the financial implications of both options.

Councillor D Goldie, seconded by Councillor Paterson, moved that Council:-

Notes:-

- (1) the content of the option appraisal for the delivery of business support services in the Forth Valley, and
- (2) that there have been no compliant bids for delivery of services in Option B for the rest of the Forth Valley; and

Agrees:-

- (1) to proceed with in-house delivery of business support services within Falkirk Council and to implement the draft operating plan in Appendix 1 of the report;
- (2) to enter into a new external contract for delivery of the Business Gateway service covering the rest of the Forth Valley area;
- (3) to authorise the Director of Development Services to commence a negotiated procedure with the tenderers and conclude under delegated authority a new contract for delivery commencing on 1 October 2012 within the price envelope of £500,000, and
- (4) that a report be prepared for Economic Strategy & Development Committee on the implementation of these proposals.

By way of an amendment, Councillor Oliver, seconded by Councillor Bird, moved that Council:-

“delays consideration of this process until Falkirk for Business is afforded the opportunity of providing a presentation on the external option to the next Economic Strategy and Development Committee”.

Advice was sought on the competence of this amendment. The Chief Governance Officer addressed the risks inherent in having one party to a tendering exercise engaged in discussions on the nature of the contract but advised that these risks could be addressed by the Convener of the meeting ensuring that the presentation and discussion was limited to the option appraisal exercise comparing in house service delivery against external provision rather than the detail of specific bids.

Councillor Meiklejohn gave notice of a further amendment.

In terms of Standing Order 21.4 (i), a vote was taken by roll call, there being 32 Members present with voting as undernoted:-

For the motion (17) – Provost Reid; Depute Provost Patrick; Councillors Black, Blackwood, Buchanan, D Goldie, G Goldie, Gow, MacDonald, McLuckie, Mahoney, C Martin, Dr C R Martin, Murray, Nicol, Nimmo and Paterson.

For the amendment (15) – Councillors Alexander, Balfour, Bird, Carleschi, Chalmers, Coleman, Hughes, Jackson, McCabe, McNally, Meiklejohn, Oliver, Ritchie, Spears and Turner.

The motion was accordingly carried, against which, by way of further amendment Councillor Meiklejohn, seconded by Councillor Jackson, moved that Council:-

- “(1) accepts the tender submitted by Forth Valley Consortium at a price of £875,064 per annum and authorises the Director of Development Services to establish a new contract for delivery commencing on 1 October 2012, and
- (2) authorises the Director of Development Services to examine new arrangements for delivery of the Joint Working Agreement activity with a report to be prepared for Economic Strategy and Development Committee recommending the way forward.”

In terms of Standing Order 21.4 (i), a vote was taken by roll call, there being 32 Members present with voting as undernoted:-

For the motion (17) – Provost Reid; Depute Provost Patrick; Councillors Black, Blackwood, Buchanan, D Goldie, G Goldie, Gow, MacDonald, McLuckie, Mahoney, C Martin, Dr C R Martin, Murray, Nicol, Nimmo and Paterson.

For the amendment (15) – Councillors Alexander, Balfour, Bird, Carleschi, Chalmers, Coleman, Hughes, Jackson, McCabe, McNally, Meiklejohn, Oliver, Ritchie, Spears and Turner.

Accordingly;-

**NOTED:-**

- (1) the content of the option appraisal for the delivery of business support services in the Forth Valley, and
- (2) that there have been no compliant bids for delivery of services in Option B for the rest of the Forth Valley.

**AGREED:-**

- (1) to proceed with in-house delivery of business support services within Falkirk Council and to implement the draft operating plan in Appendix 1 of the report;
- (2) to enter into a new external contract for delivery of the Business Gateway service covering the rest of the Forth Valley area;
- (3) to authorise the Director of Development Services to commence a negotiated procedure with the tenderers and conclude under delegated authority a new contract for delivery commencing on 1 October 2012 within the price envelope of £500,000, and
- (4) that a report be prepared for Economic Strategy & Development Committee on the implementation of these proposals.

**FC20. ACCEPTANCE OF TENDERS FOR CONSULTANCY SERVICES TERM COMMISSION FOR ROADS, TRANSPORTATION AND ENVIRONMENTAL RELATED PROFESSIONAL SERVICES – 2012/14**

There was submitted report (circulated) dated 12 June 2012 by the Director of Development Services (a) advising that the Council had, in 2008, entered into a consortium arrangement with Stirling and Clackmannanshire Councils to procure the services of an experienced consultant to provide roads, transportation and environmental related engineering and professional services through a term commission; (b) advising of the procurement and assessment process to enter into a term commission contract for the period 1 July 2012 to 30 June 2014, jointly with Stirling and Clackmannanshire Councils, and (c) detailing the outcome of the assessment process.

**NOTED** that Falkirk Council has entered into a consortium arrangement with Stirling and Clackmannanshire Councils for the purpose of this contract.

**AGREED** to accept the tender submitted by Mouchel Ltd, Export House, Cawsey Way, Woking Surrey GU21 6QX on the terms described in the report.

## **FC21. EDUCATION COMMITTEE MEMBERSHIP**

There was submitted report (circulated) dated 11 June 2012 by the Chief Governance Officer detailing the composition of the Education Committee and inviting Council to appoint Religious, Teacher, Parent and Pupil representatives to the Committee.

**AGREED** to appoint:-

- (1) Margaret Coutts, George Boyle and the Rev Michael Rollo as representatives on the Education Committee in accordance with s.124 of the Local Government (Scotland) Act 1973;
- (2) Fiona Craig and Margaret Smith as teacher representatives,
- (3) Jude Ainsley and Martin Craigen as parent representatives, and
- (4) Marnie McKay as a pupil representative along with the existing representative, Aimee Rattray.

## **FC22. SUBSTITUTE MEMBERS ON SCRUTINY COMMITTEES**

With reference to the Minute of the Meeting held on 18 May 2012 (Paragraph FC5 refers), there was submitted report (circulated) dated 6 June 2012 by the Chief Governance Officer.

Councillor C Martin proposed that Council continue consideration of this item to allow it to be considered as part of the wider review of the Council's decision making structures.

**AGREED.**

## **FC23. LICENSING OF PUBLIC ENTERTAINMENT EXEMPTION OF COMMUNITY EVENTS**

There was submitted report (circulated) dated 5 June 2012 by the Chief Governance Officer (a) setting out the licensing requirements the Civic Government (Scotland) Act 1982 as they apply to places of public entertainment; (b) advising of a recent amendment to the Act the effect of which would be to draw into the licensing regime free events that had not previously been affected, and (c) as a way of resolving this issue, proposing an amendment to the Council's resolution to the effect that community events such as gala days, fetes, street parties and other similar events will, where no fee is charged, be excluded from the requirement to obtain a licence.

**AGREED** that the resolution be amended to the extent set out in the Appendix to the report and that the amendment would have effect from 21 June 2012.

#### **FC24. EXECUTION OF DEEDS**

There was submitted report (circulated) dated 4 June 2012 by the Chief Governance Officer 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 Chief Governance Officer of the deeds as detailed in the Appendix to the report.

#### **FC25. DELEGATION OF POWERS TO DETERMINE URGENT ISSUES DURING THE SUMMER RECESS**

There was submitted report (circulated) dated 6 June 2012 by the Chief Governance Officer setting out proposed arrangements to allow Council to carry out its functions during the recess period, starting at the conclusion of the meeting.

**AGREED** that Chief Officers be given delegated powers, in consultation with the Convener and/or Depute Convener of the appropriate Committee, to determine urgent items of business during the summer recess (from 20 June 2012 to 7 August 2012) and to report the decisions thereon to the first meeting of the Policy and Resources Committee thereafter, provided that any such decision:-

- (a) is required to secure the proper delivery of Council Services and to comply with the Council's statutory duties;
- (b) does not involve expenditure of Council monies outwith the approved Revenue Budget and Capital Programme;
- (c) does not involve an increase in the permanent establishment of the particular Service, and
- (d) involves no dispute as to legality, propriety or the proper interpretation of Council policy as affecting the decision.

#### **FC26. MEMBERSHIP OF COMMITTEES, BOARDS AND SIGNIFICANT STATUTORY BODIES**

With reference to the Minute of the Meeting held on 18 May 2012 (Paragraph FC6 refers), there was submitted reports (circulated) dated 13 June and 19 June 2012 by the Chief Governance Officer (a) detailing the membership of Committees, Boards and significant Statutory Bodies following the meeting of Council on 18 May; (b) advising of revision to the SNP "slate", and (c) inviting Council to appoint members to vacant positions.

During deliberations Council adjourned for 10 minutes to allow members of the Independent Group to consider their position with regard to their allocated places on a number of Committees, Boards and significant statutory bodies.

**NOTED** the revised slate of appointments from the SNP Group and the following resignations:-

<b>Committee</b>	<b>Resignation received from:</b>
Policy and Resources Committee	Councillor D Alexander
Appointments Committee	Councillor D Alexander
Education Committee	Councillor T Coleman
Housing and Social Care Committee	Councillor C Meiklejohn
Environment and Community Safety Committee	Councillor C Meiklejohn
Fife and Forth Valley Community Justice Authority	Councillor C Meiklejohn

**AGREED** to appoint members to Committees, Boards and other bodies as follows:-

<b>Committee, Board and other body</b>	<b>Vacancies</b>	<b>Appointment</b>
Policy and Resources Committee	1	Councillor C Meiklejohn
Appointments Committee	1	Councillor C Meiklejohn
Education Committee	1	Councillor D Alexander
Environment and Community Safety Committee	1	Councillor D Alexander
Housing and Social Care Committee	1	Councillor D Alexander
Cornton Vale Over 21s Visiting Committee	4	Councillor J Blackwood Councillor J Paterson
Fife and Forth Valley Community Justice Authority	2+3 substitutes	Councillor D Alexander (substitute) Councillor C Meiklejohn (substitute) Councillor J Paterson (substitute)
JCPAC	1	Councillor A Black
Scotland Excel	1	Councillor R Murray
SEStran	1+2 substitutes	Councillor T Coleman (substitute) Councillor J McNally (substitute) Councillor D Goldie (substitute)

- (3) **NOTED** the position expressed by the Independent Group that they did not accept the basis on which places were allocated to them and consequently did not intend to take up those places.

## FC27. APPOINTMENT TO EXTERNAL BODIES

With reference to the Minute of the Meeting held on 18 May 2012 (Paragraph FC8 refers), there was submitted report (circulated) dated 5 June 2012 by the Chief Governance Officer (a) detailing the appointments made to external organisations by Council on 18 May 2012; (b) advising of nominations made subsequent to the meeting, and (c) advising where vacancies remain on a number of external bodies.

**AGREED** to appoint members to the following external organisations as set out below:-

Committee, Board and other body	Appointment
Stirlingshire Education Trust	Councillors S Carleschi, C Chalmers and T Coleman
East of Scotland European Consortium	Councillor S Bird
Citizens Advice Bureau (Denny & Dunipace)	Councillor J McNally
Edinburgh Airport Consultative Committee	Councillor W Buchanan
Highland Reserve Forces and Cadets Association	Councillor A Black
Order of Malta Dial-a-Journey Ltd	Councillor C Chalmers
Scottish Accident Prevention Council	No appointment

## FC28. SUPPORT FOR VETERANS

With reference to the Minute of Meeting held on 14 March 2012 (Paragraph FC98 refers), there was submitted report (circulated) dated 4 June 2012 by the Chief Executive (a) summarising the services currently available for veterans; (b) proposing a role description for the position of Veterans' Champion; (c) setting out options with regard to spending the £50,000 allocated for supporting veterans in the area, and (d) recommending that the funding be allocated to two projects – Armed Services Advice Project (ASAP) and the Armed Forces Community Covenant.

Depute Provost Patrick, seconded by Councillor C MacDonald, moved the recommendations as set out in the report.

By way of an amendment, Councillor Spears, seconded by Councillor Turner moved that:-

“Council should honour the request that was made when we decided to award £50,000 to handling Veterans' affairs by the creation of a central office where Veterans can receive help and assistance locally”.

In terms of Standing Order 21.4 (i), a vote was taken by roll call, there being 32 Members present with voting as undernoted:-

For the Motion (17) – Provost Reid; Depute Provost Patrick; Councillors Black, Blackwood, Buchanan, D Goldie, G Goldie, Gow, MacDonald, McLuckie, Mahoney, C Martin, Dr C R Martin, Murray, Nicol, Nimmo and Paterson.

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

Abstention (1) – Councillor Coleman.

Accordingly, **AGREED**:-

- (1) to adopt the role description as outlined at 2.6 of the report for the Falkirk Council Veterans' Champion;
- (2) to allocate funding of £20,000 to Citizen's Advice locally for a Falkirk ASAP project, as outlined at section 3 of the report, and
- (3) that an Armed Forces Covenant as outlined at section 4 of the report should be developed for the Falkirk Council area and that this will be led by Veterans Scotland to which the Council will award £30,000.

## **FC29. NOTICE OF MOTION**

### **Black Mould Growth problem, Bonnybridge**

Councillor Coleman seconded by Councillor McNally moved that:-

“Most members will be aware of the black mould growth problem at properties in the proximity of the Diageo bonded warehousing in Bonnybridge. This council has the power under existing environmental legislation encompassed in the Environmental Protection Act 1990 Section 79 as amended by the Environmental Act 1995 to issue an abatement notice for a statutory nuisance to ameliorate this problem.

I request that this Council calls on the new administration together with their colleague Councillor Buchanan to instruct officers to take action on this matter to halt the problem of black mould growth by using existing environmental protection legislation in the form of an abatement notice for a Statutory Nuisance and to have officers report back to the next full council on the effect of the action taken”.

By way of an amendment Councillor Dr C R Martin, seconded by Councillor C MacDonald moved that :-

“The Council believes that the previous Scottish Government were wrong not to undertake a full health and environmental investigation into the association of Aspergillus Niger (black mould) with bonded warehouses when requested by this authority in 2009. The Government took this decision based on a report dated 2003. We believe, at this time, that this report is outdated and that a new full investigation is required.

This Council is content with the advice given to members of the Environment and Community Safety Committee on the 17th August 2010, advising members that the use of a statutory abatement notice on the terms of a nuisance would be unsuccessful.

This Council request that, due to the inaction of Michael Matheson MSP, we write to Margaret Mitchell, Mark Griffen, Margaret McCulloch and Siobhan McMahan MSPs requesting that they call on the Scottish Government to undertake a Scotland wide

investigation be conducted by the relevant authorities to fully examine the health and environmental effects of “black mould” in the vicinity of bonded warehouses”.

In terms of Standing Order 21.4 (i), a vote was taken by roll call, there being 32 Members present with voting as undernoted:-

For the Motion (15) – Councillors Alexander, Balfour, Bird, Carleschi, Chalmers, Coleman, Hughes, Jackson, McCabe, McNally, Meiklejohn, Oliver, Ritchie, Spears and Turner.

For the Amendment (16) – Provost Reid; Depute Provost Patrick; Councillors Black, Blackwood, Buchanan, G Goldie, Gow, MacDonald, McLuckie, Mahoney, C Martin, Dr C R Martin, Murray, Nicol, Nimmo and Paterson.

Accordingly, **AGREED** the terms of the Amendment.

Councillor D Goldie left the meeting during consideration of the foregoing item of business.