



**MINUTES OF THE MEETING OF
EAST LoTHIAN COUNCIL**

**TUESDAY 15 MAY 2012
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Council Officials Present:

Mrs A Leitch, Chief Executive and Returning Officer
Mr P Collins, Executive Director of Environment
Mr D Ledingham, Executive Director (Services for People)
Mr A McCrorie, Executive Director (Support Services)
Ms M Patterson, Executive Director (Services for Communities) and Monitoring Officer
Dr R Jennings, Head of Housing and Environment
Mr M Leys, Head of Adult Wellbeing
Mr J Lamond, Head of Council Resources
Mr T Shearer, Head of Policy and Partnerships
Ms C Dora, Administration Research Assistant
Ms M Ferguson, Corporate Legal Adviser
Ms K MacNeill, Corporate Legal Adviser
Ms J Mackay, Media Manager
Mr D Russell, Corporate Communications Manager
Mr P Vestri, Corporate Policy Manager

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies:

None

INTIMATIONS

The Returning Officer took the Chair and welcomed all new and returning Members to the meeting. She commended all candidates for their conduct during the election campaign.

A. MEMBERSHIP

The Returning Officer intimated that, following the Ordinary Elections on 3 May 2012, in terms of the Local Government etc. (Scotland) Act 1994 and the Representation of the People Act 1993, the membership of East Lothian Council was as follows:

Ward 1 – Musselburgh West	Fraser McAllister Daniel John McNeil John Charles Williamson
Ward 2 – Musselburgh East and Carberry	John Murray Caldwell Stuart McDonald Currie Andrew Stewart Forrest
Ward 3 – Preston/Seton/Gosford	Steven Brown William Innes Margaret Penman Libberton Peter Robert MacKenzie
Ward 4 – Fa'side	Shamin Akhtar James Gillies Donald Grant Kenneth John Douglas McLeod
Ward 5 – North Berwick Coastal	David Stuart Berry Timothy David Day James Grierson Goodfellow
Ward 6 – Haddington and Lammermuir	Ludovic David Broun-Lindsay John Fleming Allan McMillan Thomas Trotter
Ward 7 – Dunbar and East Linton	Norman Hampshire Paul Stewart McLennan Michael George Veitch

SEDERUNT

All the foregoing Members of East Lothian Council were present, with the exception of Councillor McAllister, who joined the meeting at Item 11.

B. DECLARATION OF ACCEPTANCE OF OFFICE OF COUNCILLORS UNDER SECTION 33A OF THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973

The Returning Officer intimated that all members of the Council in accordance with the provisions of Section 33A of the Local Government (Scotland) Act 1973 had signed a Declaration of Acceptance of Office of Councillor.

BUSINESS

1. ELECTION OF PROVOST (PROVOST TO THE CHAIR)

The Returning Officer called for nominations for the appointment of Provost to the Council. Councillor Innes, seconded by Councillor Caldwell, moved that Councillor Ludovic Broun-Lindsay be elected as Provost of East Lothian Council. Councillor Innes commented that Councillor Broun-Lindsay's experience, his commitment to East Lothian and his integrity would make him well-placed to be a great ambassador for the Council.

There were no other nominations and Councillor Broun-Lindsay was duly elected as Provost of East Lothian Council.

Provost Broun-Lindsay took that Chair, and thanked Members for electing him to this position. He congratulated new and returning Members on being elected and commiserated those who had been unsuccessful. He also commended the Returning Officer and her election staff on the way in which the election and the count had been conducted. Provost Broun-Lindsay stated that his position would be apolitical and that he would not vote unless he had a casting vote, in which case he would vote with the Administration.

2. ELECTION OF DEPUTE PROVOST

Nominations were invited for the appointment of Depute Provost of the Council. Councillor Grant, seconded by Councillor Akhtar, moved that Councillor Jim Gillies be elected as Depute Provost of East Lothian Council. No other nominations were made and Councillor Gillies was duly elected as Depute Provost.

3. DECISION OF THE STANDARDS COMMISSION FOR SCOTLAND IN HEARING OF COMPLAINT AGAINST COUNCILLOR BARRY TURNER

A report was submitted by the Monitoring Officer advising that the Council had a duty under Section 18(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 to consider the findings of the Standards Commission for Scotland within 3 months of receipt by the Council of their decision in respect of the hearing of a complaint against Councillor Barry Turner, and to respond to the direction given by the Secretary of the Commission, by advising the Secretary of any decision made by the Council in relation to the findings of the Standards Commission.

The Monitoring Officer, Monica Patterson, presented the report, advising that a hearing into the complaint made against Councillor Turner had been held on 20 February 2012, and that Councillor Turner had been found to be in breach of the Councillors' Code of Conduct. She referred to the report of the hearing. Ms Patterson noted that the Standards Commission had suspended Councillor Turner from attending any meeting of the Council where planning matters were under consideration. This suspension came to an end on 3 May 2012. She advised that the Council was obliged to consider the findings and the decision of the Standards Commission. She drew attention to the Council's Elected Member Induction Programme, particularly in relation to training on planning and quasi-legal matters.

Provost Broun-Lindsay stated that the Council had taken steps to ensure that all Members were made aware of the risks and responsibilities of their position as Councillors and urged all Members to attend the training sessions currently underway and take advice of Council officers.

Decision

The Council agreed to note the findings and decision of the Standards Commission for Scotland following the hearing held on 20 February 2012 into a complaint concerning the conduct of Councillor Barry Turner and to advise the Secretary of the Commission of this decision.

4. ELECTION OF LEADER AND DEPUTE LEADER OF THE COUNCIL

Nominations were invited for the appointment of Leader of the Council. Councillor Libberton, seconded by Councillor Gillies, moved that Councillor Willie Innes be elected as Leader of East Lothian Council. No other nominations were made and Councillor Innes was duly elected as Leader of the Council.

In accepting the position as Leader of the Council, Councillor Innes thanked the Chief Executive and her staff for their hard work during the election period. He also thanked other Council Members and the electorate. Councillor Innes spoke of the challenges facing the Council, declaring that the new Administration would tackle the problems by introducing a suite of policies to develop business, create balanced communities and realise people's talent and commitment. He stated that respect would be the cornerstone of the Council and that unacceptable behaviour would not be tolerated.

Nominations were invited for the appointment of Depute Leader of the Council. Councillor Innes, seconded by Councillor Caldwell, moved that Councillor Michael Veitch be elected as Depute Leader of East Lothian Council. No other nominations were made and Councillor Veitch was duly elected as Depute Leader of the Council.

5. NOTIFICATION OF LEADERS OF THE POLITICAL GROUPS

The Provost invited each political group to nominate their respective leaders. The following nominations were duly noted:

Leader of the Labour Group – Councillor Willie Innes
Leader of the Conservative Group – Councillor Michael Veitch
Leader of the SNP Group – Councillor Paul McLennan

As outgoing Council Leader, Councillor McLennan congratulated those elected to office and wished the new office bearers well. He spoke of the previous Administration's strong record on housing, education and investment throughout East Lothian, and thanked officers for their advice and assistance over the previous five years. He declared that he would lead a constructive opposition and would hold the Administration to account during what would be a difficult time financially for the Council.

6. COUNCILLORS' SALARIES AND EXPENSES

A report was submitted by the Executive Director (Support Services) advising the Council of the setting of Councillors' salaries and on the arrangements in place for the reimbursement of Councillors' expenses.

The Head of Council Resources, Jim Lamond, presented the report, drawing Members' attention to Appendix 1 to the report, which set out the proposed salary structure for Councillors, noting that this had been prepared in accordance with appropriate regulations.

He alluded to tests within the regulations that were required to be satisfied, and confirmed that the proposed structure did satisfy these tests.

Decision

The Council agreed:

- i. to approve the salary structure for Councillors, as proposed with Appendix 1 to the report;
- ii. to note the continued use of national expenses and allowances process including the use of a standardised claim form and the payment of salaries and expenses monthly in arrears; and
- iii. to note that all salary and expense information forms part of the public record, a summary of which the Council must publish each year.

7. APPOINTMENT TO COMMITTEES AND SUB-COMMITTEES OF THE COUNCIL

A report was submitted by the Executive Director (Support Services) requesting the Council to appoint the membership of Committees and Sub-Committees of the Council.

The Clerk to the Council drew attention to Appendix 1 to the report, advising that Depute Conveners of the Audit & Governance Committee and Policy & Performance Review Committee were still to be appointed. She also proposed that consideration be given to appointing a fixed membership for the Local Review Body.

Councillor Innes suggested that it was for the Opposition to nominate Depute Conveners for the scrutiny committees. He also advised that further discussion was required in relation to the membership of the Local Review Body and proposed that existing arrangements be continued until such discussions had taken place.

Decision

The Council agreed to establish the following Committees with the Convener and Membership as follows:

Cabinet

Convener and Cabinet Member for Housing and Community Planning – Councillor Innes
Depute Convener and Cabinet Member for Transport and Roads – Councillor Veitch
Cabinet Member for Economic Development and Tourism – Councillor McMillan
Cabinet Member for Education & Children's Services – Councillor Akhtar
Cabinet Member for Environment – Councillor Hampshire
Cabinet Member for Community Wellbeing – Councillor Day
Cabinet Member for Health & Social Care – Councillor Grant

Audit & Governance Committee

Convener – Councillor Currie
Depute Convener – to be confirmed (from among the Committee Members)
Members – Councillors Brown, Caldwell, Forrest, Goodfellow, McLeod, McLennan, Williamson

Education Committee

Convener – Councillor Akhtar

Depute Convener – Councillor Libberton

Ex Officio Members – Councillors Broun-Lindsay, Gillies, Innes, McLennan, Veitch

Members – Councillors Brown, Caldwell, Forrest, Goodfellow, Grant, McAllister, MacKenzie

External Members – Mr S Bunyan, Ms G Gillan, Ms M Goldsmith, Mr M McHugh

Petitions Committee

Convener – Councillor Broun-Lindsay

Members – Councillors Innes, McLennan, Veitch

Planning Committee

Convener – Councillor Hampshire

Depute Convener – Councillor Day

Ex Officio Members – Councillors Broun-Lindsay, Gillies, Innes, McLennan, Veitch

Members – Councillors Berry, Forrest, Goodfellow, Grant, MacKenzie, McMillan, McNeil, Trotter, Williamson

Policy & Performance Review Committee

Convener – Councillor Berry

Depute Convener – to be confirmed (from among the Committee Members)

Members – Councillors Caldwell, Gillies, Goodfellow, McAllister, MacKenzie, McLennan, Williamson

Local Review Body

[to be determined from among Planning Committee Members]

Joint Consultative Committee

Convener (2012/13) – Councillor Innes

Depute Convener (2012/13) – Mr J Inglis (EIS)

Council Members – Councillors Brown, Caldwell, Currie, Gillies, Grant, Libberton, McLennan, McNeil

Trades Unions Members – to be confirmed

Licensing Sub-Committee

Chair – Councillor McNeil

Vice-Chair – Councillor Grant

Members – Councillors Caldwell, McAllister, McMillan, Williamson

Employee Appeals Sub-Committee

Chair – Councillor Innes

Vice-Chair – Councillor Broun-Lindsay

Members – Councillors Akhtar, Day, Gillies, Grant, Hampshire, McLennan, McMillan

8. APPOINTMENT OF MEMBERS TO EAST LOTHIAN LICENSING BOARD

A report was submitted by the Executive Director (Support Services) seeking the appointment of Members to serve on East Lothian Licensing Board.

The Clerk to the Licensing Board, Kirstie MacNeill, presented the report, advising that the Licensing Board was a separate apolitical legal entity and that the Council was required to elect between 5 and 10 Members to serve on the Board.

Provost Broun-Lindsay advised that he would notify the Chief Executive of the Conservative Group's nominee by the end of the day and urged the Opposition to do likewise.

The Chief Executive requested that this matter be delegated to herself in conjunction with the Leaders of the SNP and Conservative Groups.

Decision

The Council agreed to appoint the following Elected Members to serve as members of the East Lothian Licensing Board, noting that nominations from Conservative and SNP Groups would be put forward in conjunction with the Chief Executive:

Councillor S Akhtar
Councillor J Gillies
Councillor J Goodfellow
Councillor D Grant
Councillor W Innes
[+ 1 x Conservative Member to be confirmed]
[+ 4 x SNP Members to be confirmed]

Post-meeting note: following the meeting, it emerged that Councillor Gillies would not be eligible to serve on the Licensing Board due to him being a Board Member of the Scottish Co-operative Society.

9. APPOINTMENT OF APPROPRIATE REPRESENTATIVES TO OUTSIDE BODIES

A report was submitted by the Executive Director (Support Services) requesting the Council to make appointments to Joint Boards, Joint Committees, Advisory Management Committees and Outside Bodies.

The Clerk to the Council provided an update to the information detailed in Appendix 1 to the report.

Decision

The Council agreed to make appointments to the list of Outside Bodies (as detailed in Appendix 1 to the report, and as updated by the Clerk to the Council).

10. ADMINISTRATION MANIFESTOS

A report was submitted by the Chief Executive presenting the Manifestos of the two Administration Party Groups – Scottish Labour Party and Scottish Conservative Party – which set out the Administration's priorities for the term of office 2012-2017.

The Chief Executive presented the report, reminding Members that the Council had approved the draft Council Plan at its meeting in January 2012. She confirmed that the priorities of the Administration would now be incorporated into the Council Plan and that the final version of the Council Plan would be presented to Council for approval in August 2012.

Councillor Currie asked for details as regards the costs of implementing the priorities contained within the Administration's Manifesto documents. Councillor Innes advised that further work was required on this and that the financial implications would be included in the report to Council in August. Councillor McLennan expressed concern that the Council was being asked to approve the Manifestos without having detailed information on the financial implications.

In response to comments made by Councillor Berry, Councillor Innes reminded him that the Labour Group's budget proposals which were presented to the Council in February 2012 had included proposed new income streams which would allow the Administration to fulfil its manifesto pledges over the next five years.

Councillor Veitch added that both Manifestos would be examined further and that a combined plan would then be submitted which would take account of the budget situation.

Councillor Currie voiced his concern in relation to housing, in particular the possibility of the Right to Buy policy being reintroduced. He urged Members to consider this issue in light of the progress made in the provision of additional Council housing and the legislative changes being introduced later in 2012, warning that reintroducing this policy would be a serious error.

As regards class sizes, Councillor MacKenzie made reference to the Scottish Government's Concordat, advising that the Council had fulfilled its obligation to "make progress to reduce class sizes". He also highlighted the free school meals initiative in deprived areas, and expressed concern that this initiative could be rescinded.

The Chief Executive reminded Members that the finalised Council Plan would require the approval of Council, adding that financial details would be included.

Councillor McLennan, seconded by Councillor Currie, declared that the Opposition would not support the recommendations set out in the report on the grounds that the Administration Manifesto proposals were un-costed and that there was a possibility that the Right to Buy policy would be reintroduced.

The Provost moved to the vote on the recommendations, as set out in the report:

For:	13
Against:	8
Abstentions:	1

The recommendations, as set out in the report, were therefore carried.

Decision

The Council agreed:

- i. to adopt the contents of the manifesto documents as Council policy with immediate effect; and
- ii. that these manifestos would be reflected within the new Council Plan, which would be presented to the Council meeting in August 2012, noting that a joint Administration agreement would be prepared to inform this process.

11. DIAMOND JUBILEE/ADDITIONAL DAY'S LEAVE

A report was submitted by the Executive Director (Support Services) asking the Council to consider awarding an additional day's annual leave for all employees (pro rata for part-time employees) to celebrate the Queen's Diamond Jubilee on Tuesday 5 June 2012.

The Provost welcomed the Canadian Broadcasting Corporation (CBC) to the meeting, advising that the CBC were in the UK to cover the Queen's Diamond Jubilee celebrations.

The Head of Council Resources, Jim Lamond, presented the report, advising that it had been agreed at the Joint Consultative Committee in November 2011 that 5 June 2012 would not be included as a fixed holiday for employees. However, following the Local Government Election, a number of Elected Members had asked for this issue to be revisited. Mr Lamond pointed out that there were no contractual requirements to give employees an additional holiday on this date. He noted that Unison was in favour of the additional day's leave, and that the EIS and SSTA had made no formal recommendation on the matter. He explained that, if the additional holiday was granted, Heads of Service would make a decision on service requirements for that day, noting that the impact on Council services may be similar to that of a public holiday.

In response to a question from Councillor Currie as regards specific service provision, Mr Lamond advised that waste collections would take place on 5 June, but that he was not in a position to confirm the situation with some other services. He undertook to keep Members informed.

Councillor Innes stated that the Queen's Diamond Jubilee was a significant event and that Council staff should be given the opportunity to celebrate the occasion. His view was shared by a number of other Members within the Administration, who noted that the Scottish Government would be giving its staff an additional day's holiday.

Councillor McLennan recognised the right of staff to celebrate the occasion but stated that he would not support the proposal for an additional day's holiday on the grounds that it would carry a notional cost of c. £500,000.

Sederunt: Councillor McAllister joined the meeting.

Councillor Currie argued that there would be practical and financial issues in awarding staff an additional day's leave on 5 June.

Councillor Innes, seconded by Councillor McMillan, proposed that employees should be awarded an additional day's annual leave to celebrate the Queen's Diamond Jubilee.

Councillor McLennan, seconded by Councillor Currie, proposed that employees should not be awarded the additional day's leave.

The Provost then moved to the vote on the motion, as proposed by Councillor Innes and seconded by Councillor McMillan, that employees should be awarded an additional day's annual leave to celebrate the Queen's Diamond Jubilee. At Councillor Innes's request, the vote was taken by roll call:

For (14): Councillors Akhtar, Broun-Lindsay, Caldwell, Day, Forrest, Gillies, Goodfellow, Grant, Hampshire, Innes, Libberton, McMillan, McNeil, Veitch
Against (9): Councillors Berry, Brown, Currie, MacKenzie, McAllister, McLennan, McLeod, Trotter, Williamson

Decision

The Council agreed:

- i. to award an additional day's annual leave to celebrate the Queen's Diamond Jubilee;
- ii. that the additional day's annual leave would be granted to all employees on 5 June 2012, with those employees required to work on that day, as determined by Heads of Service, being given the equivalent time off in lieu at an appropriate later time;

- iii. that the time off be pro rata for part-time employees in relation to the normal full-time working hours for the employee group to which they belong, i.e. 35 or 37 hours; this would allow part-time employees who are not at work on 5 June to take their pro rata entitlement at another time;
- iv. to note that the above recommendations were made in the context of:
 - the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 which make it unlawful for employers to treat part-time employees less favourably than comparable full-time employees
 - it being potentially problematic to swap an alternative public holiday to 5 June at this late stage
- v. to note that it would be necessary to submit an application to the Scottish Government seeking permission for exceptional closure of schools on 5 June 2012.

12. SUMMARY OF REPORTS APPROVED IN ACCORDANCE WITH ELECTION RECESS ARRANGEMENTS 2012

A report was submitted by the Executive Director (Support Services) informing the Council of the urgent business undertaken over the Election Recess period in terms of the procedures set out in Standing Order 43 and in line with the decision taken at its meeting of 27 March 2012.

Decision

The Council agreed to note the business undertaken over the Election Recess period.

13. SUBMISSIONS TO THE MEMBERS' LIBRARY SERVICE, 15 MARCH – 2 MAY 2012

A report was submitted by the Executive Director (Support Services) recording the reports submitted to the Members' Library Service since the last meeting of the Council, as listed in Appendix 1 to the report, into the Council's Business.

Decision

The Council agreed to record the reports submitted to the Members' Library Service between 15 March and 2 May 2012, as listed in Appendix 1 of the report, into the Council's Business.

Signed

Provost Ludovic Broun-Lindsay
Convener of the Council