



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

**TUESDAY 26 AUGUST 2014  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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**Committee Members Present:**

Provost L Broun-Lindsay (Convener)	Councillor N Hampshire
Councillor S Akhtar	Councillor W Innes
Councillor D Berry	Councillor M Libberton
Councillor S Brown	Councillor P MacKenzie
Councillor J Caldwell	Councillor F McAllister
Councillor S Currie	Councillor P McLennan
Councillor T Day	Councillor K McLeod
Councillor A Forrest	Councillor J McMillan
Councillor J Gillies	Councillor J McNeil
Councillor J Goodfellow	Councillor M Veitch
Councillor D Grant	Councillor J Williamson

**Council Officials Present:**

Mrs A Leitch, Chief Executive  
Ms M Patterson, Depute Chief Executive (Partnership and Community Services)  
and Monitoring Officer  
Mr D Small, Director of East Lothian Health & Social Care Partnership  
Mr J Lamond, Head of Council Resources  
Mr D Nightingale, Head of Education  
Mr T Shearer, Head of Communities & Partnerships  
Mr K Dingwall, Principal Planner  
Ms M Ferguson, Service Manager – Legal and Procurement  
Ms S Fortune, Service Manager – Business Finance  
Mr D Heaney, Acting Head of Adult Wellbeing  
Mrs K MacNeill, Service Manager – Licensing, Admin and Democratic Services  
Ms J McCabe, Senior Solicitor  
Mr D Proudfoot, Acting Head of Development  
Mr P Vestri, Service Manager – Corporate Policy & Improvement  
Ms E Wilson, Service Manager – Economic Development & Strategic Investment

**Visitors Present:**

None

**Clerk:**

Mrs L Gillingwater

**Apologies:**

Councillor Trotter

**1. COUNCIL AND COMMITTEE MINUTES FOR APPROVAL**

The minute of the Council meeting specified below was submitted and approved.

**East Lothian Council – 24 June 2014**

**2. COUNCIL AND COMMITTEE MINUTES FOR NOTING**

The minutes of the Council and Committee meetings specified below were noted:

**Petitions Committee – 12 June 2014**

**Local Review Body (Planning) – 26 June 2014**

**3. SUMMER RECESS BUSINESS 2014**

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Council of the urgent business undertaken over the Summer Recess period in terms of the procedures set out in Standing Order 15.5.

As regards the report 'Adult Wellbeing – Payments to Third Sector Agencies', Councillor Currie asked why funding had not been granted to Lammermuir Community Transport. He paid tribute to the work of this group and remarked that the decision not to provide funding for 2014/15 could have a disastrous effect on the service they provide. He suggested that should this issue be reconsidered and a report brought to the next meeting of the Council seeking to overturn this decision, the SNP would support it.

The Director of the Health and Social Care Partnership, David Small, explained that this report had been dealt with during the Summer Recess in order that payments could be made to those groups awarded funding. Councillor Grant pointed out that in 2013 Lammermuir Community Transport had been given an additional year's funding and, at that time, had been asked to produce a business plan which would demonstrate that they were eligible to qualify for future Section 10 funding. He advised that the business plan had not come forward and that, regrettably, the Council was now not in a position to fund this service. He added, however, that the group had been successful in attracting funding from other sources. Councillor Grant also noted that this report outlined grant funding totalling over £1.3 million.

Whilst Councillor Currie welcomed the funding to Third Sector organisations, he maintained his concerns in relation to Lammermuir Community Transport and asked the Administration to reconsider their decision not to fund this service.

**Decision**

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

**4. 2013/14 FINANCIAL REVIEW**

A report was submitted by the Depute Chief Executive (Resources and People Services) informing the Council of the unaudited financial position for the financial year 2013/14 and finalising arrangements for the carry-forward of funds into 2014/15.

The Head of Council Resources, Jim Lamond, presented the report, advising that the information contained in the report was based on the draft financial statements and was subject to change through the audit process. He anticipated that the draft audit report would be presented to the Audit & Governance Committee on 9 September, with the final report being submitted to Council on 28 October. Mr Lamond summarised the report, drawing attention to the key points as regards the use of reserves, financial performance and capital expenditure.

Responding to a number of questions from Councillor Berry, Mr Lamond provided an explanation about the increase in pension liabilities and offered to provide further information on that outwith the meeting. He also advised that through a review of the PPP contract payment mechanism it had transpired that the Council had been paying for services for which it should not have been charged, and that some of the savings from this had been reallocated to Children's Wellbeing. As regards reserves, Mr Lamond reminded Members that the Council had previously agreed that surplus funds should be transferred to either the Cost Reduction Fund or the Capital Fund. He recommended that they should be transferred to the Capital Fund. On coastal car parking, he noted that there had been no capital expenditure in 2013/14 resulting in no capital charges being generated. With reference to the sale of land at Glenorchy Road, he advised that the receipt was not received in 2013/14 and anticipated that it would be included in the 2014/15 accounts.

Councillor MacKenzie asked for an update on the Children's Wellbeing budget. Mr Lamond explained that all efforts were being made to minimise external placements, but that the main focus was on client need rather than on the financial impact. He conceded that it was not possible to predict the future demands on this service, hence it remaining in the 'high' risk category.

Councillor Currie asked for clarification as to the eligibility criteria being applied in respect of care packages. David Small, the Director for Health and Social Care, stated that the Council policy had not changed, with 'substantial' and 'critical' criteria being applied. He added that each case was individually assessed.

Regarding the PPP contract, Councillor McAllister asked how the charging error had happened and if any action could be taken. Mr Lamond advised that it was due to differing interpretations rather than malpractice. Councillor McAllister praised the review team on achieving the reduction in payments.

Councillor Veitch welcomed the prudent approach to financial management. He praised officers for their work in achieving efficiency savings but warned that there were still major challenges ahead. He added that he believed councils should have more responsibility for raising money and providing services, and that the current system was unsustainable.

Councillor Currie suggested that the Council should use its surplus funds to relieve the pressure on the Children's Wellbeing and Adult Wellbeing budgets. He also proposed that the Council should reconsider its position on the debt/income ratio on the Housing Revenue Account in order to deliver more houses.

Councillor Hampshire spoke of the pressure on staff to deliver services, and suggested that spending more money would lead to greater debt and even greater pressure on the staff. On housing building, he noted that the Council was working with developers to deliver housing on strategic sites, adding that the Council could not commit to delivering additional housing without having the funds to do so.

Councillor Berry maintained his view that as housing debt was self-financing through rent payments, it should not be considered in the same way as general services debt. He stated that he was proud of the previous Administration's record on delivering Council housing and that he believed it had been the right and responsible thing to do.

Councillor Akhtar welcomed the report and thanked Council staff for their efforts in reducing expenditure. She pointed out that the debt levels had to be addressed, which was difficult when the Council was unable to raise income. She criticised the previous Administration for not investing enough in Children's Wellbeing services.

Councillor Innes concluded the debate by thanking officers for their efforts in bringing the Council's finances under control. He stated that there were further difficult decisions to be made. Responding to comments made by Opposition Members on house building, he noted that the Scottish Government had cut the housing budget, which had impacted on the ability of councils to build houses. He also opposed suggestions to fund revenue services in 2014/15 using the surplus as this would have implications for future years. He joined other Members in thanking Council staff for continuing to provide services in difficult circumstances.

## **Decision**

The Council agreed:

- i. to note the financial results for 2013/14, and their impact on both reserves and the Council's Financial Strategy; and
- ii. to approve the transfer of the surplus reserves to the General Services Capital Fund, in line with the Council's agreed financial strategy.

## **5. COCKENZIE ENERGY PARK / FORMER COCKENZIE POWER STATION**

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) providing information to Members regarding the positive potential opportunities for redevelopment of the former Cockenzie Power Station site, and seeking the agreement of Council on its economic development position in this regard.

Prior to the debate on this item, Morag Ferguson, Service Manager – Legal and Procurement, advised that should the proposals set out in the report come to fruition, the resulting development would be the subject of an application for planning permission. She provided guidance to Members on their role in relation to planning applications, in accordance with the Councillors' Code of Conduct, emphasising that Members must not indicate or imply their support or opposition to a proposal or declare their voting intention before the meeting where the decision is taken. She also pointed out that should any Member wish to make representation on behalf of constituents or any other parties, the Code of Conduct did permit this subject to the proviso that the Member would then be unable to take part in the decision-making process.

The Acting Head of Development, Douglas Proudfoot, presented the report, advising that Scottish Enterprise had identified the former power station site as a potential strategic national energy park and that the pre-application consultation process had commenced, despite Scottish Enterprise being neither the owner of the site nor the developer. He highlighted the importance of the Council's involvement in shaping the development of the site through the formal planning process and community consultation.

Esther Wilson, Service Manager – Economic Development and Strategic Investment, explained that the emerging proposals presented an economic development opportunity and was key to the delivery of the Council's Economic Development Strategy. She pointed out that the redevelopment of the site had the potential to create a large number of jobs through both public and private investment and in partnership with higher education institutions. She drew Members' attention to the proposals outlined in Sections 3.19 – 3.22 of the report.

Mr Proudfoot stated the importance of the Council's involvement as a key stakeholder in order to influence and structure economic development opportunities, and of the need to balance this potential with community involvement and benefits.

Councillor Berry commented that the Council had to be open to commercial, industrial opportunities, but was concerned that tourism could be affected by such developments. He proposed that the Council should develop a master plan for the development of the coastline in that area. Keith Dingwall, Principal Planner, advised that this would be included as part of the Local Development Plan, and that the Council would determine what would be appropriate uses of that area. Responding to a question from Councillor Berry as regards rail links to Edinburgh, Mr Dingwall noted that there was an existing railway line to the coal site and that a report to the Planning Committee on 2 September would include a recommendation as regards the rail links.

Councillor Berry requested that the Council should have the opportunity to consider this issue fully at an early stage. The Chief Executive explained that the cross-party working group would be looking at all of the available opportunities for the site and would work with communities and partners to make best use of the site for East Lothian and the wider city region.

Councillor McMillan welcomed the report, commenting that the opportunities realised through developing the site would create jobs, generate trade and build skills. He spoke of the potential benefits to the area in terms of tourism, town centre regeneration and use of the coastline and harbours. He sought to allay the concerns of local residents by stating that the Council would be open and transparent throughout the process, and would work with Scottish Power, the Scottish Government and Scottish Enterprise to safeguard the assets for the future. He called upon the Chief Executive to write to both Scottish Power and Scottish Enterprise to secure the site for public ownership and in the public interest. Councillor McMillan added that there would be engagement with all interested parties, and people's ideas, thoughts and fears would be taken into account.

Councillor Libberton pointed out that this issue was a matter of concern to people in the community and emphasised the importance of full public engagement. She asked for more detailed information on the potential impacts on the environment, infrastructure and planned housing developments in the area. She also made reference to similar proposed projects in other areas that had been rejected or halted and asked officers to look into what had happened in those particular cases.

Responding to a question from Councillor Libberton on the planning process timescales, Mr Dingwall reported that the Council had received the proposal notice in June, which signalled Scottish Enterprise's intent to lodge an application for an energy park. He noted that, in accordance with legislation, an application could not be made until 12 weeks had passed, but anticipated that it would take longer than that in this instance. He advised that Scottish Enterprise had carried out the first stage of consultation by way of a community meeting, and that they were now undertaking basic design work. They would have to prepare an environmental impact assessment, to be submitted with the planning application. He expected this work to be completed by the end of 2014, after which there would be a second community consultation exercise in January/February 2015, followed by the finalisation of

the designs and completion of the environmental statement. He anticipated that the planning application in principle would be lodged in April 2015, and there would then be a final round of community consultation in May/June 2015. He explained that with a major development there was a four-month determination period, and that Scottish Enterprise aimed to have a decision made on the application by the end of 2015, with work starting on the site by March 2016.

Councillor MacKenzie commented on the close proximity of the power station to residential areas and the need to consider how to serve and safeguard the interests of the community and of future generations. He urged the Council to listen, learn and consult with the public.

Whilst recognising the concerns of people living in the local community, Councillor Brown welcomed the report and proposals for this industrial site. He highlighted the need for all agencies to work together and for the Council to seek to influence proposals coming forward. He noted that he was happy to support the recommendations on the grounds that substantial community engagement was undertaken.

Echoing the comments of other Members, Councillor Currie remarked that Scottish Enterprise would need to improve their consultation processes and listen to the concerns raised within the community. He added that it was important to have further information and details of the proposals at an early stage.

Councillor Veitch pointed out that this was a Scottish Government and Scottish Enterprise proposal, not a Council proposal. He urged Members to use their influence with colleagues within the Scottish Government to alleviate the anxieties of residents, stating that the views of the community were at the centre of the entire process.

Councillor Innes highlighted the importance of this matter and reiterated the comments of other Members as regards consulting with communities. He welcomed the proposal to establish a cross-party working group and agreed with Councillor Berry that a master plan for the whole area would be helpful. Councillor Innes commented that that the only way the Council could discharge its responsibilities would be to have some control over the development of the area. He therefore supported Councillor McMillan's suggestion that the Chief Executive should write to Scottish Enterprise and Scottish Power to ensure that the public sector secure ownership of the land so that the master plan could be taken forward in order to maximise the benefits for East Lothian. He added that the proposal to include a cruise liner berth should be explored further in order to promote tourism.

Councillor McAllister echoed the views as regards the importance of retaining public ownership of the asset, especially given the predicted future demand for renewable energy.

## **Decision**

The Council agreed:

- i. to recognise the significant contribution the emerging proposals at the former Cockenzie Power Station site could make to the creation of new jobs for East Lothian and to the local economy as a whole;
- ii. to engage with all parties involved in emerging proposals and work in partnership to ensure all potential opportunities and benefits are explored and maximised whilst all risks and drawbacks are identified and mitigated;
- iii. to develop supporting material from an economic development perspective that would inform debate;

- iv. to work with the relevant parties to ensure the requirements of the planning and other consenting processes are fully adhered to, including full, continuous and informed consultation with local communities by prospective applicants;
- v. to agree that officers should explore all options, including joint venture, to secure the future of the proposed site should this be required to optimise its potential; and
- vi. to agree to form a cross-party member and officer group to oversee option and engagement work undertaken.

## **6. COMMON GOOD FUNDS – BUDGET 2014/15 TO 2016/17**

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval for the budgets for the Dunbar, Haddington, Musselburgh and North Berwick Common Good Funds over this and the following two years and recommending that Fund Committees develop their local expenditure proposals within these budgets.

The Head of Council Resources, Jim Lamond, presented the report, advising Members of the draft financial position for each of the Common Good Funds as at the 2013/14 year end, recommending budgets for each of the Common Good Funds for 2014-17, and providing a summary of the investment performance in relation to the long-term balances held by the Funds. He also noted that a revised version of the Dunbar and Haddington Common Good balance sheets would be issued.

In response to questions from Councillor Berry in relation to income, and in particular rental income for properties in North Berwick, Mr Lamond explained that the impact of lost rental income in 2013/14 for the properties in Quality Street, North Berwick, would have no bearing on the budget for the financial year 2014/15, and that the figures for 2014/15 reflected the leases now in place for those properties. He offered to discuss this matter, as well as investment performance, with Councillor Berry outwith the meeting.

Councillor Currie asked about the procedures for varying the budget, should there be a requirement to do this, for example if urgent building repairs were required. Mr Lamond advised that there was scope to vary the budget, but that this would need to be done by way of a report to Council, noting that Standing Order 12 – Rescinding Decisions – would apply should such a report be submitted within six months of the previous decision being taken.

### **Decision**

The Council agreed:

- i. to approve the budgets for the four Common Good funds for 2014/15 to 2016/17, as contained in Appendices 1a – 1d; and
- ii. to note the investment performance of long-term Common Good fund balances with the Council's investment managers, Investec Wealth & Investments Ltd.

## **7. APPOINTMENT OF REPRESENTATIVES TO OUTSIDE BODIES**

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval of the nomination of Councillor Libberton to represent the Council on the Musselburgh Joint Racing Committee (MJRC).

In response to a question from Councillor Currie as to why Councillor McMillan had resigned his position on MJRC, Councillor McMillan advised that he had been involved in a number of important pieces of work whilst serving on the MJRC, but felt that the time was right to focus more on his economic development and tourism commitments.

Councillor Caldwell, Chair of MJRC, thanked Councillor McMillan for his contribution, dedication and support during his time on the Committee and welcomed the proposal to appoint Councillor Libberton as the new Council member.

**Decision**

The Council agreed to nominate Councillor Libberton to represent the Council on the Musselburgh Joint Racing Committee, replacing Councillor McMillan.

**8. SUBMISSIONS TO THE MEMBERS' LIBRARY, 14 JUNE – 13 AUGUST 2014**

A report was submitted by the Depute Chief Executive (Resources & People Services) advising of 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.

Councillor Currie noted that there were over twenty service review reports included in the bulletin and paid tribute to all staff involved in bringing these service reviews to conclusion. His comments were echoed by Councillor Innes.

As regards Reference 140/14: North Berwick Harbour, Councillor Berry noted that the North Berwick community was very grateful for the Council's support in refurbishing Galloway Pier.

**Decision**

The Council agreed to note the reports submitted to the Members' Library Service between 14 June and 13 August 2014, as listed in Appendix 1 to the report.

Signed .....

Provost Ludovic Broun-Lindsay  
Convener of the Council