



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

**TUESDAY 24 FEBRUARY 2015
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

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 P McLennan
Councillor S Currie	Councillor K McLeod
Councillor T Day	Councillor J McMillan
Councillor A Forrest	Councillor J McNeil
Councillor J Gillies	Councillor T Trotter
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 (Partnerships and Community Services)
and Monitoring Officer
Mr A McCrorie, Depute Chief Executive (Resources and People Services)
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 D Proudfoot, Acting Head of Development
Ms M Ferguson, Service Manager – Legal and Procurement
Mr C Howman, Amenity Protection Officer
Ms J Mackay, Media Manager
Mr I McFarlane, Service Manager – Planning
Ms E Morrison, Service Manager – Customer Services
Mr J Peoples, Environmental Protection Officer
Mr P Vestri, Service Manager – Corporate Policy & Improvement

Visitors Present:

None

Clerk:

Mrs L Gillingwater

Apologies:

Councillor McAllister

ORDER OF BUSINESS

Urgent Item: Prior to the commencement of business, the Provost announced that there was an urgent item of business for consideration, relating to the Local Government Finance Settlement 2015/16. The Provost reminded Members that the Head of Council Resources had, at the budget-setting meeting on 10 February, advised of the possible re-instatement within the finance settlement of a requirement to maintain teacher numbers. The Head of Council Resources had indicated at that meeting that this matter would be monitored and that the Council would be updated on developments. The Provost advised that a resolution had now been reached and he invited the Leader of the Council to make a statement.

Councillor Innes advised that he had taken the decision to accept the grant settlement on behalf of the Council. He noted that had that Council not accepted the settlement offer, the Scottish Government would have withheld around £800,000 of funds to the Council, which would have had a serious impact on the Council's finances. He also reminded Members that the Administration budget approved on 10 February had included that resource. Councillor Innes reported that he had written to the Finance Secretary, John Swinney, on 20 February (the deadline for responding), advising that East Lothian Council would accept the offer, but that he had also expressed his concern about the lack of a collective agreement on this matter. He suggested that CoSLA should consider this situation and the implications for local authorities. Councillor Innes stated that the Council had no intention of reducing teacher numbers; however, there were concerns about maintaining the pupil/teacher ratio due to rising school rolls, and this would need to be monitored to ensure that the Council did not fail the Scottish Government test applied in respect of teacher numbers.

Councillor Currie requested that a copy of Councillor Innes's letter be lodged in the Members' Library; this request was accepted. He asked if an update on the Council's compliance with the test on teacher numbers could be provided at a future Council meeting. He noted his support for maintaining teacher numbers and asked if the Administration had stated its position on maintaining teacher numbers for future years.

The Head of Council Resources noted that it would be appropriate to provide an update on teacher numbers to the Council meeting in December 2015, as census data would not be available before then.

In response to Councillor Currie's question as regards future years, Councillor Innes reiterated that the Administration had no intention of reducing teacher numbers.

Councillor McMillan suggested that improving educational attainment was not just a matter of teacher numbers, but was also concerned with modern approaches to education.

Councillor Berry also pointed out that pupil numbers tended to fluctuate in certain areas and that this should be taken into account.

Decision

The Council agreed to note the action taken by Councillor Innes on behalf of the Council in relation to the Local Government Finance Settlement 2015/16.

1. COUNCIL AND COMMITTEE MINUTES FOR APPROVAL

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

East Lothian Council – 16 December 2014

Matters arising: Item 6 – Closure of Haddington Sheriff Court – Councillor McMillan asked the Chief Executive if information was available in respect of the impact of the court closure on Haddington, and also if a response had been received to the letter sent to the First Minister and the Cabinet Secretary for Justice in January.

The Chief Executive reported that, since the last Council meeting, a further public meeting had taken place to discuss the matter of securing a summary justice facility in East Lothian. A letter had been sent to the First Minister and Cabinet Secretary for Justice in this regard (signed by both the Provost and Council Leader), but a response had not yet been received. As regards the former court accommodation, a settlement had not been reached to date; however, it was hoped that the Council could secure this accommodation to use for summary justice in the future.

Responding to comments regarding why he had not signed the letter to the First Minister and Cabinet Secretary, Councillor Currie advised that he had not signed it on the basis that it did not address the issue of the Lord President's position on the matter. He also felt that the letter merely repeated views already expressed.

Councillor McMillan welcomed the continued support for retaining a justice facility in Haddington and also the proposals to retain the court accommodation. He paid tribute to the work done by local solicitor Angela Craig, and urged Members to lobby Ministers and the Lord President on this issue.

The Chief Executive indicated that early reports had suggested the financial impact on Haddington town centre was more significant than previously anticipated. She also noted that the impact on the time of Council staff spent travelling to and attending Edinburgh Sheriff Court was being monitored. She added that there was anecdotal evidence to suggest that cases were taking longer to be heard at Edinburgh Sheriff Court.

Councillor Berry mentioned that he had written to both the previous and current Cabinet Secretaries for Justice as regards the importance of administering justice locally, especially in an area such as East Lothian.

Councillor Hampshire suggested that the views and concerns of people using the court system should be sought.

Having reiterated his reasons for not signing the letter, Councillor Currie noted that he had put forward suggestions for the future use of the former court premises by community groups and he also looked forward to hearing proposals on how the impact of the closure on the local economy would be mitigated.

2. COUNCIL AND COMMITTEE MINUTES FOR NOTING

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

East Lothian Partnership – 8 October 2014

3. DECISION OF STANDARDS COMMISSION FOR SCOTLAND IN HEARING OF COMPLAINT AGAINST COUNCILLOR FRASER McALLISTER

A report was submitted by the Monitoring Officer advising of the statutory duty on the Council to consider the findings of a decision by the Standards Commission for Scotland within 3 months of receipt, and to respond to the direction given on behalf of the Commission, by advising its Executive Director of any decision made by the Council in relation to the Commission's findings.

The Monitoring Officer, Monica Patterson, presented the report, advising Members of the background to the complaint and of the findings of the Standards Commission in respect of the complaint made against Councillor McAllister. She drew attention to the recommendations made by the Standards Commission Panel, noting that a training session had been arranged for all Members on 12 May 2015. She also reminded Members that they should seek advice on the registration and declaration of interests from herself, Morag Ferguson and Kirstie MacNeill, as required.

Decision

The Council agreed:

- i. to consider the recent decision of the Standards Commission for Scotland following the Hearing held on 14 and 15 January 2015 into a complaint concerning the conduct of Councillor Fraser McAllister;
- ii. as recommended by the Commission, to provide further training for Elected Members on the procedures to follow in relation to the declaration of interests; and
- iii. that its decision would be communicated to the Commission through the Commission's Executive Director.

4. TREASURY MANAGEMENT STRATEGY 2015/16 TO 2017/18

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking approval of the Council of the Treasury Management and Investment Strategies for 2015/16 to 2017/18.

The Head of Council Resources, Jim Lamond, presented the report, advising that all the figures contained within the report and strategy document reflected the budget decisions taken by the Council on 10 February 2015. He drew attention to an error in Section 3.11 of the report, noting that the closing figure should read £391.127 million, rather than £384.049 million. He then provided a summary of the report, highlighting the key points as regards the management of debt, the Investment Strategy and loans to third parties. He advised that reports on treasury management activity would be lodged in the Members' Library on a quarterly basis, with an annual report being presented to the Audit and Governance Committee.

In response to a number of questions from Councillor Currie, Mr Lamond reported that, in relation to debt charges, the figures reflected an increase. However, he noted that the rate at which it was increasing was reducing, in line with the Council's Financial Strategy. As regards capital limits, he advised that these had been agreed by the Council at its meeting on 10 February. He warned that there many challenges facing the Council, including the delivery of education infrastructure, and if the three-year capital plan required to be amended, this would be reported to Council. He indicated that there was a degree of

slippage within the capital programme and that he could not guarantee that there would not be further slippage; the position would be monitored and reported to Council as appropriate. He was not aware of any projects having been cancelled.

Referring to the Treasury Management report of 2012, Table 2 in particular, Councillor Berry asked for further information on why figures had been changed. Mr Lamond advised that all aspects of Council finances were subject to review. He noted that the combined effect of changes to grants, receipts and developer contributions could have a significant impact. He offered to provide Councillor Berry with further information. Councillor Berry remarked that the current Administration's planned capital expenditure exceeded that of the previous Administration, despite the previous Administration being criticised for overspending.

Mr Lamond stated that the Council had reduced its outlays and capital expenditure during the past three years, and that significant adaptations had been made to capital spending limits, as reflected within the Financial Strategy. He conceded that aspects of treasury management were complicated, but assured Members that there had been an impact on the overall levels of debt.

Councillor Currie commented that the Council still had the second highest net debt ratio of Scottish local authorities, and that debt, debt charges and borrowing was increasing year-on-year. He claimed that as no capital projects had been cancelled, the Administration was seeking to comply with spending limits by delaying projects to future years.

Councillor Innes highlighted the significance of the link between capital expenditure and the revenue budget, and of the importance of controlling capital expenditure in order to reduce the risk of spending cuts in future. Referring to Councillor Berry's comments, he stated that debt levels and capital expenditure had been reduced by the current Administration, and that the Administration was committed to protecting frontline services. His comments were supported by Councillor Veitch, who maintained that the Council was pursuing the correct financial strategy.

Decision

The Council agreed:

- i. to note the Treasury Management Strategy, as detailed in Section 3.4 of the report;
- ii. to note the Investment Strategy, as detailed in Section 3.19 of the report;
- iii. to approve the authorised limits for external debt, as detailed in Section 3.13 of the report;
- iv. to approve the operational boundaries for external debt, as detailed in Section 3.15 of the report;
- v. to approve the delegation of authority to the Head of Council Resources to effect movement between external borrowing and other long-term liabilities, as detailed in Section 3.16 of the report; and
- vi. to approve the detailed Treasury Management Strategy Statement, available in the Members' Library (Ref: 19/15, February 2015 Bulletin).

5. AMENDMENT TO EAST LOTHIAN PARLIAMENTARY CONSTITUENCY POLLING PLACES SCHEME 2015

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking Council support to formally amend East Lothian Council's Polling Place Scheme in respect of the EL4A polling district, and advising of the proposed temporary use of The Vestry, Spott Parish Church for the forthcoming General Election only.

The Head of Council Resources, Jim Lamond, presented the report, advising Members of the proposed changes to the Parliamentary Polling Places Scheme 2015.

Councillor McMillan paid tribute to the work done by the election team.

Decision

The Council agreed:

- i. to approve the permanent amendment to the polling scheme for East Lothian Constituency for Polling District EL4A; and
- ii. to note the temporary change required in Spott.

6. INVOLVEMENT OF ELECTED MEMBERS IN PRE-APPLICATION STAGES OF MAJOR DEVELOPMENT PROPOSALS IN ACCORDANCE WITH SCOTTISH GOVERNMENT/COSLA GUIDANCE

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) proposing a procedure for the involvement of Members in pre-application stages of major development proposals, to contribute to the Scottish Government's agenda for modernisation of the planning system.

The Service Manager – Planning, Iain McFarlane, presented the report, advising that new procedure resulted from Scottish Government/CoSLA guidance in relation to improving public engagement in the planning process. He drew attention to the key aspects of the report and to the proposed procedures for dealing with pre-application stage proposals.

Councillor Currie expressed concern as regards Members expressing opinions on proposals at the pre-application stage, and also asked if that may result in third parties seeking to put forward their views. Mr McFarlane advised that any views put forward would be based on provisional information, and that therefore only a provisional opinion could be given. He noted that the process would be similar to that used for pre-determination hearings.

Councillor Berry noted that there was no reference to windfarm developments and asked if it would be possible for applicants to evade the regulations if they submitted applications for individual turbines rather than for a group of turbines. Mr McFarlane explained that if someone applied for a turbine on, say, an annual basis, then each would be treated as an individual application.

In response to a question from Councillor Berry as regards Members possibly disqualifying themselves from making decisions at Planning Committee due to views previously expressed, Mr McFarlane suggested that Members could state that they supported the principle of a specific development but noting that there were key issues requiring further discussion.

Councillor Hampshire commented that public perception of this new process could be a concern and called on Members to exercise caution during debates of pre-application stage reports.

Councillor Innes highlighted the importance of public confidence in the planning system, remarking that the current system was too complicated.

In response to requests from Members, Mr McFarlane offered to provide training on the new procedures.

Decision

The Council agreed:

- i. to approve the proposed procedures in respect of Councillor pre-application discussions; and
- ii. that the Scheme of Administration for the Planning Committee should be amended to reflect these procedures.

7. SCHOOL CONSULTATIONS – MAIN ISSUES REPORT (MIR)

A report was submitted by the Depute Chief Executive (Resources and People Services) seeking (in accordance with processes pertaining to the Main Issues Report) approval from Council to undertake consultations relating to the school estate (schools, catchment areas, location) regarding work necessary to inform the Local Development Plan (LDP), where there is likely to be a need for new or re-provisioned facilities, and that such consultations could be undertaken without individual permission from the Council for each exercise, relating to the LDP, to mitigate any potential delays.

The Head of Education, Darrin Nightingale, presented the report, advising that at present consultations would normally come to Council prior to their commencement. He proposed that in future, officers should be able to commence consultations without seeking approval of Council. He undertook to report back on the outcome of consultations and also to meet with Members to update them on consultations.

Decision

The Council agreed:

- i. that consultations relating to the MIR could be undertaken without further reference to or approval by the Council; and
- ii. that reports would be presented to Council on the outcome of such consultations in order that the Council could make a decision on any proposed changes.

8. CHARGING POLICY – CHARGES FOR DOG WASTE BAGS

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) seeking consideration of the introduction of a charge to members of the public for the provision of dog waste bags.

The Service Manager – Customer Services, Eileen Morrison, presented the report, proposing that a charge be introduced for dog waste bags. She referred to a recent service review within her service, a survey of the Citizens Panel, and also a benchmarking exercise to support the proposal, commenting that it was clear that the provision of dog waste bags was a valued service, but that continuing to provide them free of charge could not be justified. She noted that dog wardens would carry bags and issue them without charge.

Responding to questions from Councillor MacKenzie as regards dog walking businesses, Carl Howman, Amenity Protection Officer, advised that the Council had established an approved dog walker scheme in response to concerns from the public in relation to fouling and large numbers of dogs being walked by individuals. As a result of this scheme, the number of complaints had decreased. However, he noted that the scheme was not compulsory and that dog walkers from other areas were coming to East Lothian to walk dogs.

Councillor Trotter questioned the benefits in introducing this charge. Ms Morrison pointed out the costs involved in providing this service, and remarked that the problem of dog fouling would remain. Councillor Innes added that the report was concerned with recovering the costs associated with providing dog waste bags, not about educating dog owners.

Councillor Currie accepted that there was a problem with dog fouling in many areas and that members of the public believed the problem was getting worse. He believed that charging for dog waste bags would have a negative impact and declared that the SNP Group would not be supporting the report recommendations.

Ms Morrison highlighted the importance of making the public aware of the costs associated with providing the bags. She also noted that it was difficult to enforce fines when the culprit could not be identified. She reiterated that the report was concerned about charging for bags and that proposals for dealing with the problem of dog fouling would be the subject of a future report.

Councillors Hampshire and Councillor Berry spoke about the importance of tackling irresponsible owners and increasing enforcement.

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

For:	13
Against:	7
Abstentions:	2

Decision

The Council agreed:

- i. to approve the introduction of a charge of £1 (including VAT) per 50 dog waste bags (a pack), commencing on 1 April 2015, noting that part of the income derived would be used to cover the cost of the bags, ordering, delivering and distribution, with the remainder of the income to be used to help fund initiatives related to responsible dog ownership; and
- ii. that the charge would be reviewed on an annual basis.

9. SUBMISSIONS TO THE MEMBERS' LIBRARY, 4 DECEMBER 2014 – 11 FEBRUARY 2015

A report was submitted by the Depute Chief Executive (Resources and People Services) advising Members of the reports submitted to the Members' Library since the last meeting of the Council.

Councillor Goodfellow welcomed the appointment of two modern apprentices, as outlined in Ref: 242/14.

Councillor Hampshire drew attention to the extension of Council properties, noting the positive effect these would have on the families occupying these properties.

Members also welcomed the improvements to a number of tennis court facilities around East Lothian.

Decision

The Council agreed to note the reports submitted to the Members' Library Services between 4 December 2014 and 11 February 2015, as listed in Appendix 1 to the report.

Signed

Provost Ludovic Broun-Lindsay
Convener of the Council