



**MINUTES OF THE MEETING OF
MUSSELBURGH RACING ASSOCIATED COMMITTEE**

**TUESDAY 7 JANUARY 2020
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor F O'Donnell (Chair)
Councillor A Forrest
Councillor K Mackie
Mr R Miller-Bakewell
Mr R Anderson Green

In Attendance:

Mr B Farnsworth, Racecourse General Manager
Mr D Kennedy, Racecourse Financial Controller
Mr A McCrorie, Interim Chief Executive, ELC
Mr C Grilli, Service Manager, Legal and Procurement, ELC
Ms J Mackay, Senior Communications Adviser, ELC

Clerk:

Ms S Birrell

Apologies:

Councillor S Currie

Declarations of Interest

None

Before the main business of the meeting, Mr Miller-Bakewell extended his thanks to Mr Farnsworth and Mr Kennedy for attending the meeting on what should have been an annual leave day. The Chair agreed, noting that the timing of the recent General Election had been the cause of this change to the meeting dates.

1. MINUTES OF MEETING ON 1 OCTOBER 2019 FOR APPROVAL

The Chair announced that the Committee would meet in private business at the end of the meeting to approve the private minutes from the meeting held on 1 October 2019. She was happy to take amendments to the public minute at this time.

Mr Miller-Bakewell asked if he could speak on matters arising from the draft minute. The Chair confirmed that matters arising would not be discussed at the meeting, in accordance with Standing Orders [post-meeting note – the relevant Standing Orders being 4.1(ii) and 5.1(ii)].

Decision

The Committee agreed to approve the public minutes as a true record.

2. HEALTH & SAFETY REPORT

The Racecourse Health & Safety Officer and the Racecourse General Manager had submitted a report to advise the MRAC of Health & Safety Management at Musselburgh Racecourse.

The General Manager, Mr Farnsworth, outlined a recent incident where a horse had been injured on a bend. The race had subsequently been stopped. During the enquiry which was mandatory after an incident of this kind, the Racecourse had not been found to be at fault, as all protocols and procedures had been followed correctly. Mr Farnsworth praised the actions of Harriet Graham, Clerk of the Course, and Rory Innes, Track Manager.

He drew member's attention to the Major Incident Table Top Exercise meeting that had taken place on 20 November 2019, to prepare responses to any major incidents that could occur at the Racecourse in the future. Mr Farnsworth had noticed a shift in the culture, which, in the past, had been that it was key to follow procedures at all times. As a result of the Grenfell Tower disaster, the emergency services were now expected to make the correct decisions, on the ground, in response to incidents. He welcomed this opportunity for flexibility. He added that the Racecourse were planning to operate a one way system on Linkfield Road for Ladies Day 2020, in conjunction with the Police.

Mr Farnsworth disclosed that at a recent joint working meeting, the Racecourse had been informed that Scottish Power had closed the electric bridge, which had previously been used to ease congestion in Musselburgh on race days. He expressed his disappointment that East Lothian Council had not reached an agreement with Scottish Power in order to keep the bridge open, and said he had been told that Scottish Power do not need it and East Lothian Council do not want it.

Mr Farnsworth expanded on issues concerning non-race day activities. Enjoy Leisure and the Racecourse had agreed to appoint a Health & Safety Consultant (Ethos International), who carried out a thorough Risk Assessment, at a cost of £1200, regarding the risk of using the race track on days when Musselburgh Golf Course was also operational. Despite the report's recommendations, which were that risk could be adequately managed during non-race day activities, Enjoy Leisure had not altered their position, which was that the race track should not be used due to the risk from golfers and golf balls. Mr Farnsworth asked the Committee to take a view on this matter. He pointed out

that the activity in question was called 'Racing for School,' a nationwide project which brought school children into the Racecourse to complete maths-related tasks. 600-700 children in the area had benefited from this project in 2019. A further meeting was scheduled with Enjoy Leisure in January 2020.

The Chair noted her support for the table top exercise, and confirmed that the Racecourse had a defibrillator on site. She asked Mr Farnsworth to elaborate on a near miss which had occurred at a recent race meeting. Mr Farnsworth explained that the Racecourse employed members of staff to replace divots on the track during race days, but not during races where the horses were expected to race twice round the track. On this day, the employee in question had been told not to enter the race track but had forgotten, and the near miss had occurred as the horses came round the bend for the second time. The incident had been reported to the BHA, who concluded that all procedures had been followed. There was the risk of a fine if this had not been the case.

Councillor Forrest relayed some of his observations from attending the New Year's Day event, which included:

- security staff not in high visibility clothing,
- the effectiveness of stewards in maintaining a good atmosphere,
- the decision to have one bar instead of two in the Marquee, and lack of staff at the bar which had led to significant queuing, and
- congestion in the Food Court/Toilet area.

Mr Farnsworth thanked Councillor Forrest for these observations, speaking to each in detail and outlining the likely response, which the Racecourse would employ for next year's event. He added that the team always met for a debrief meeting after each race day to discuss issues of this kind.

Mr Anderson Green congratulated Mr Farnsworth and his team on a fabulous day of racing on New Year's Day.

The Chair asked whether the Racecourse would be willing to take responsibility for the management of the Electric Bridge. Mr Farnsworth welcomed the opportunity to consider this. Mr Farnsworth said this was usually dealt with by ELC and asked if Mr McCrorie could give him contact details at Scottish Power. Mr McCrorie agreed to pass on contact details for the relevant member of staff from Scottish Power to Mr Farnsworth. Mr Miller-Bakewell suggested that the bridge could become the responsibility of the Musselburgh Common Good Fund, as it was a community asset. Councillor Forrest clarified that the Common Good Fund would not be allowed to take on responsibility for this kind of structure.

Councillor Forrest then suggested alternative methods of maintaining a flow of traffic on race days. Mr Farnsworth agreed that some of these methods could be used but most were complicated projects, all of which would require a significant financial outlay.

Turning to the issue of non-race day activities and the risk from golfers, the Chair asked whether the Racecourse could inform Enjoy Leisure, with three month's notice, to allow these events to go ahead. Mr Farnsworth claimed that Enjoy Leisure had never given their permission when receiving these requests, and that dates were subject to change. The Chair pointed out that it was difficult to resolve the issue without a representative from Enjoy Leisure present, and asked for an update at a future meeting. Mr Farnsworth added that the Racecourse held the right to close access to the Golf Course but would rather work together with Enjoy Leisure to ensure the Golf Course remained open as

often as possible. The Chair noted that Enjoy Leisure's position was connected to the opinion of their insurers, as well as East Lothian Council and Enjoy Leisure's advisors.

Councillor Forrest noted his disappointment that staff from Enjoy Leisure were being targeted by those present at the meeting, without the right to reply. He informed the Committee that he had witnessed stray golf balls in many areas around the Golf Course and queried the conclusions of the Environmental Consultancy report. The Committee discussed the collation of Ethos Environmental's Report further, and Mr Farnsworth confirmed that the Consultant had visited the area.

Councillor Mackie urged the management of both the Racecourse and Enjoy Leisure to work together to resolve this issue, which had been brought up at several meetings of Musselburgh Racecourse Committees over an extended time period. The Chair suggested that a local Councillor and/or member of the MRAC could attend the next scheduled meeting between Enjoy Leisure and the Racecourse.

Mr Miller-Bakewell asked whether East Lothian Councillors had considered signage near the Golf Course, to warn passing motorists of the risk of golf balls. Mr Farnsworth confirmed that all golfers should have insurance in place in case of an accident.

The Committee agreed to add a further recommendation to the report, to continue the item on the use of the Racecourse area on non-race days, and that a local Councillor would attend the next scheduled meeting between Enjoy Leisure and the Racecourse on 16 January 2020 at 3pm, if possible.

Decision

The Committee agreed:

- i) to note the report, and
- ii) to continue the item of use of the Racecourse area on non-race days to a future meeting. If possible a local Councillor would attend the next scheduled meeting between Enjoy Leisure and Musselburgh Racecourse on 16 January 2020.

3. OPERATIONS & COMMERCIAL REPORT

The Senior Operations and Commercial Manager had submitted a report to update the Committee on the commercial and operational performance of the Racecourse for 2019/20.

The Racecourse General Manager, Mr Farnsworth, spoke to the report, highlighting short listing and wins in the Racecourse Association Showcase Awards for Musselburgh, and adding that the Racecourse was generally having a very good year.

The Chair asked Mr Farnsworth to pass on congratulations to the team at the Racecourse for these successes.

In response to a question from Councillor Mackie, Mr Farnsworth outlined the procedure and responsibility for all levels of sponsorship, confirming that responsibility for corporate sponsorship was shared between himself and the Senior Operations and Commercial Manager. He updated the Committee on industry-wide changes which had placed additional pressures on gaining corporate sponsorship. In response to a question from the Chair, Mr Farnsworth clarified that house builders operating in the area had not responded to requests for possible partnership, and that large companies who participated were usually those with senior staff with an existing interest in racing.

Decision

The Committee agreed to note the report.

4. GENERAL MANAGER'S REPORT

A report had been submitted by the General Manger to provide the MRAC with an update on the general management of the Racecourse and any matters requiring the attention of the MRAC.

Mr Farnsworth spoke to the report, noting his pleasure at the outcome of the rates appeal, which had been handled by Colliers, and that significant savings had been made.

The contracts with Heineken and Heritage Portfolio had been renewed until 2022 and 2023 respectively. Mr Farnsworth had heard from Chester Racecourse, the new operators, that they were of the opinion that the current arrangement with Heineken was beneficial, and he had received no complaints regarding Heritage Portfolio. He reminded the Committee that he had informed them that they would have had to instruct him to end these contracts by a deadline of 31 December 2019, should these contracts have been required to end by 31 March 2020.

He updated the Committee on complaints received about the Stables Café, currently managed by Enjoy Leisure, and recommended that the café should be part of the negotiations with Chester Racecourse and included in the Racecourse handover.

In response to a question from Mr Miller-Bakewell, the Service Manager, Legal and Procurement, Mr Grilli confirmed that discussions were being arranged between Chester Racecourse and Enjoy Leisure. In response to a further question from Mr Farnsworth, Mr Grilli confirmed that the Stables Café was already under agreement with Enjoy Leisure, and that Mr Farnsworth had said that the performance of the café was satisfactory, not failing. Mr Farnsworth clarified that in recent stable staff questionnaires, which benchmarked racecourses on the stable staff experience, Musselburgh's Stables Café had been rated in the bottom third, while all other aspects had placed Musselburgh in the top third.

Mr Miller-Bakewell, Mr Farnsworth and the Chair asked further questions on the nature of the agreement between Enjoy Leisure and East Lothian Council regarding the Stables Café. The Committee discussed the nature of complaints made about the Stables Café, how this information had been recorded, how information on complaints had been shared with Enjoy Leisure, and whether complaints and/or questionnaires from the benchmarking exercise could be shared with the Committee. It was confirmed that sharing of this information would not be possible as the questionnaires had been circulated by a third party.

The Chair reminded the Committee that it had been stated that Enjoy Leisure would meet with the new operator, and it would be prudent for MRAC to await the outcome of these meetings.

Referring to the recommendation at paragraph 2.2 of the report, the Chair informed Mr Farnsworth that it had been agreed at a previous meeting of MRAC [*post-meeting note: Minute of Meeting held on 24 September 2019, item 5] that she should have sight of a report regarding the condition of the areas in question before any decisions were made concerning re-surfacing.

Councillor Forrest asked if Mr Farnsworth had emailed members about the contract continuations with Heineken and Heritage Portfolio: it was confirmed that they had been

discussed at a previous meeting. Mr Anderson Green pointed out that as Chester Racecourse had not submitted any major concerns over the contracts it was a 'non-issue' and not one that the MRAC should consider further at this time.

The MRAC discussed the recommendations contained within the report. The Committee agreed to recommendation 2.1, to amend recommendation 2.2 to reflect the agreement made at a previous MRAC meeting, that the Chair would be given a full report on the condition of the relevant areas before quotes or tenders were discussed. It was agreed that recommendation 2.3 would be deleted as it held no relevance at this time.

Councillor Forrest proposed an amendment to recommendation 2.4, to continue this item until further, more detailed information could be provided to the Committee. Councillor Mackie seconded the proposal.

There was some discussion on whether the anticipated employment tribunal had been allocated 4 or 5 days as stated at recommendation 2.5. Mr Farnsworth confirmed that it was for five days.

Vote

A vote was taken on the proposed amendment to recommendation at paragraph 2.4 of the report.

For	3
Against	2

The amendment was therefore approved.

Decision

The Committee agreed:-

- i) to note the outcome of the 2015 Rates Appeal process,
- ii) to continue any further decisions on resurfacing works before the production of a full report,
- iii) to continue the decision on the operation of the Stables Café until further information could be provided to the MRAC, and
- iv) to note that the employment tribunal to hear the claim against the MRAC for unlawful deductions from an employee's pay had been postponed to March 2020. ET Scotland had been asked to allocate 5 days for the hearing.

Sederunt: The Chair called for a brief recess.

5. FINANCE REPORT

An updated report was tabled by the General Manager and Finance Manager to update the Committee on the profit/loss forecast for the full year from 1 April 2019 to 31 March 2020.

Mr Farnsworth spoke to the report, highlighting the forecast profit of the year which was anticipated at £189,552, the capital expenditure development programmes forecast of £10,034, the forecast expenditure on unbudgeted costs of £45,274 – adding that East

Lothian Council could provide an update to this figure if appropriate – the forecast income from the sale of assets to Chester Racecourse of £150,000 – again which could be updated by East Lothian Council if appropriate – the opening balance sheet position from 1 April 2019 which had been a deficit of £149,600, and the new forecast of a profit of £134,644.

The Chair congratulated the Racecourse staff on this unanticipated improvement in the forecast for the year and asked how it had come about. Mr Farnsworth outlined that he was of the opinion that if the team were consistent in hard work and effort, things were likely to improve. The Racecourse had suffered a particularly bad year in 2018/19 but the entire staff team had kept their focus, and not lost faith in the importance of their roles. After a bad year, it was tempting to cut costs, but the team continued to put the customer first. It was also significant that all major race days had taken place in good weather this year. He named many members of the team, who all worked together to take care of the Racecourse and its customers.

The Chair agreed that hard work by the close knit team at the Racecourse had helped to turn around the forecast for the year. She asked about monitoring of increased spend on advertising. Mr Farnsworth stated that it was important to maintain confidence in the Racecourse, and extra money had been made available to feed the momentum of some race days: results had indicated that this was worthwhile.

The Chair asked if feedback was requested from corporate sponsors. Mr Farnsworth replied that helpful feedback had been received from sponsors, and that although it was an area of concern going forward, there had been a change in the companies that were interested in sponsorship when compared with past years, and sponsorship had always been sourced.

Mr Miller-Bakewell stated that due to the teamwork and awards won by the Racecourse over the year, together with the current financial context, the Committee had an opportunity to thank the staff. He recommended a reward of a £1000 bonus per member of staff. The Chair asked if Mr Miller-Bakewell was aware that training had been made available in lieu of a financial bonus. Mr Farnsworth confirmed that this had been in recognition of the inclusion of an extra race day. A financial incentive had been provided in the past for extra race days, but had not been made available on this occasion. Mr Farnsworth was asked how many staff there are and he estimated it to be fifteen members of staff.

Mr Miller-Bakewell proposed an amendment to the recommendations to include a one-off £1000 bonus for all members of staff. The proposal was seconded by Mr Anderson Green.

Mr Anderson Green asked if consideration would be given to the potential overpayment of rent paid by the Racecourse to East Lothian Council. Mr Grilli confirmed that he had only received hypothetical information on this issue and had discussed this matter with Mr Anderson Green by telephone. Mr Anderson Green responded by stressing that it was his view that there was evidence to support his view, and if the matter was not discussed at this meeting the LRS could call a special meeting in order to allow a full discussion on the report from Savills and the overpayment of rent.

The Chair asked whether this request should be forwarded to Mr McCrorie by letter as stated in the Minute of Agreement. Mr Anderson Green hand-delivered said letter to Mr McCrorie at this time.

Councillor Mackie asked whether steps would be taken to ensure that New Year's Day remained a family event. Mr Farnsworth agreed that it was important to continue the

reputation of New Year's Day as a sporting occasion that was family-friendly. The team was already discussing how to accommodate racegoers who were more interested in the party atmosphere. Councillor Mackie asked if it could be marketed differently. Mr Farnsworth admitted that attempts in the past to attract more of a cross section of the population to race days had failed.

He added that it had been suggested that Ladies Day could run over two days, on a Friday afternoon and a Saturday, to allow all those who wished to attend to have a pleasant experience, but Musselburgh was not able to action this due to the lack of a scheduled race day on the Friday before Ladies Day. He concluded by stressing that it was important to cater for race goers who were in attendance to enjoy the party atmosphere, as well as those attending with their families, or specifically as fans of racing. Mr Miller-Bakewell added that this was a national trend. Councillor Mackie stressed that some traditions should be allowed to continue. Councillor Forrest maintained that times had changed, and it was important to cater for younger race goers, who were the race goers of the future. The Chair agreed that flexibility and balance were key, and that a fuller crowd added to the quality of the atmosphere on race days.

The Committee discussed the inclusion of budget, forecast and final in the financial papers. It was agreed that all three were required, as some annual financial items were not confirmed until the end of the financial year.

Vote

A vote was taken on the proposal by Mr Miller-Bakewell to add to the report's recommendations to provide a one off payment of £1000 to all members of staff in recognition of their contribution to the improved performance of the Racecourse. Mr Anderson Green seconded the proposal.

For	3
Against	2

The additional recommendation was therefore approved.

Decision

The Committee agreed:

- i) to note and approve the financial performance to date for the full year from 1 April 2019 to 31 March 2020,
- ii) to note that the handover to Chester was still to be confirmed by East Lothian Council, and the report assumes that the MRAC will be operating the racecourse for the full year including the flat fixtures in 2019 and the jumps fixtures in 2019/20, and
- iii) to provide a one-off payment, to 15 members of staff, of £1000 in recognition of their contribution to the improved performance of the Racecourse.

6. PROCUREMENT/GENERAL UPDATE

The Depute Chief Executive (Resources and People Services) had submitted a report to provide an update to the Committee regarding the Procurement Process and other related matters.

Mr Grilli spoke to the report, informing the Committee that the proposed hand over date to Chester Racecourse was currently 1 March 2020, although other items related to the transfer could have a different lead in time. Engagement with the staff via the TUPE process had commenced in mid-December and would be ongoing until the date of the hand over, supported by Harper MacLeod.

Mr Grilli reported that there could be further items which required discussion/approval by the MRAC. These could be brought to a future meeting, or potentially the special meeting requested by the LRS, but his recommendation at 2.1 iii) should stand, with the inclusion of the words 'in conjunction with the Chair of the MRAC.' He added that he would like to amend his recommendations to delegate the approval of the minutes of this meeting to the Chair and a member of the LRS.

Mr Miller-Bakewell responded that he would be happy to represent the LRS in this matter should it be required for the minutes of this meeting. Mr Grilli clarified that the recommendation could read 'the last meeting of the MRAC' to ensure this would take place at the appropriate time. Mr McCrorie advised that items should be delegated to officers, and not Committee members, and this should also be reflected in the wording of the recommendation.

The Chair indicated that Harper McLeod had suggested a further meeting regarding TUPE as there were a number of outstanding issues, and the staff body had expressed anxieties relating to the handover. Harper McLeod had agreed to contact Chester Racecourse to ask for further details and encourage representatives from Chester Racecourse to meet with the staff group. Because of the Trade Union Agreement the GMB Union were fully involved with the process.

With reference to the minutes of the last meeting, Mr Miller-Bakewell asked why the contracts had not yet been made available to staff, particularly as it had been recorded that there were no outstanding, substantive issues in the minute of the last meeting. The Chair reported that there had been a meeting with HR Consultants regarding contracts, and further changes had been required. Mr Miller-Bakewell pointed out that three months had elapsed since then. The Chair confirmed that Harper McLeod were treating this issue as a priority, and asked Mr Grilli when staff could expect to receive their contracts. Mr Grilli admitted he was not able to provide that information at this time.

The Chair asked Mr Grilli to commit to making sure the contracts were provided to staff within a reasonable time frame. Mr Farnsworth queried whether the TUPE process could commence without contracts, adding that it was the duty of the MRAC to ensure staff were provided with their terms. Mr Grilli confirmed that the TUPE process could proceed while the contracts were being processed. Mr Farnsworth mentioned that he had been informed that the contracts had been sent to Chester Racecourse. The Chair recommended that Mr Farnsworth should discuss this with Harper McLeod.

Mr Miller-Bakewell reiterated that the minute stated there were no substantive issues with the contracts and therefore there was no reason for the continuing delay. The Chair clarified that former issues of concern had been identified as without impact. In response to further questions and comments from Mr Farnsworth, Mr Grilli agreed to meet with him after the meeting to discuss the matter further, and outlined that there was no specific time frame in relation to contracts and the TUPE within legislation, reiterating that the TUPE process had commenced, and adding that staff were working under contract at this time. The Chair reminded Mr Farnsworth that Trade Union Representatives had no concerns over the contracts at this time, but recognised that staff were anxious to receive them in a timeous manner.

Mr Miller-Bakewell asked about the extent of additional fees: Mr Grilli clarified that as far as he was aware, the fees were as budgeted. Mr Farnsworth asked for a full breakdown of these figures. The Chair reminded those present that East Lothian Council would have to provide a note of fees to the Racecourse. The Committee discussed the total amount of outstanding fees, and how these funds had been utilised.

Decision

The Committee agreed:

- i) to note the position regarding the proposed handover date to Chester Racecourse,
- ii) to note the position on TUPE,
- iii) to delegate to the Secretary of the Racecourse, in consultation with the Chair of the MRAC to ensure that there was a smooth handover to Chester Racecourse, and to implement any reasonable steps required to implement same, and
- iv) to delegate to the Secretary of the Racecourse, in conjunction with the Racecourse General Manager, confirmation of the accuracy of the final minute of the MRAC, and approval of said minute to the Chair and Mr Miller-Bakewell.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Chair informed the MRAC that they would exclude the public from item 7, which contained exempt information by virtue of paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A of the Local Government (Scotland) Act 1973, and approve the private business from October's meeting.

Sederunt: Ms Mackay left the meeting

7. HONORARY BADGE LIST

The Committee agreed to note the list.

8. PRIVATE MINUTE OF MEETING ON 25 JUNE 2019 FOR APPROVAL

The private minute was approved by the MRAC.