

MINUTE of MEETING of the LICENSING COMMITTEE (PRIVATE) of WEST Lothian Council held within Council Chambers, West Lothian Civic Centre, on 5 October 2016.

Present – Councillors George Paul, Tom Conn, Dave King, Anne McMillan, Jim Walker

Apologies – Councillor Tony Boyle (Chair), John Muir

1. ORDER OF BUSINESS, INCLUDING NOTICE OF URGENT BUSINESS

The Chair in terms of Standing Order 11 changed the order of business to consider Agenda 13 (Civic Government (Scotland) Act 1982 – Taxi Driver's Licence) as the first item in the Private Session.

2. DECLARATIONS OF INTEREST

There were no declarations of interest made.

3. MINUTE

The committee confirmed the Minute of its meeting held on 7 September 2016 as a correct record. The Minute was thereafter signed by the Chair.

4. PRIVATE SESSION

The committee resolved under Section 50(A) of the Local Government (Scotland) Act 1973, that the public be excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraphs 3, 12 and 14 of Schedule 7A of the Act.

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – TAXI DRIVER'S LICENCE – ITEM 13

The Clerk advised that Police Scotland had withdrawn their suspension request. Therefore there was no case for the committee to consider.

The committee noted the update by the Clerk.

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – ITEM 6

The committee noted that the licence holder was not present and being satisfied that he had been properly cited agreed to consider the case in his absence.

The committee was invited to consider a report (copies of which had been circulated) by the Chief Solicitor requesting an immediate suspension of the private hire car driver's licence as the licence holder did not hold a current medical certificate.

The committee heard the Clerk speak in relation to the report. The Clerk advised that given the circumstances, the suspension of the licence was requested in the interest of public safety.

The committee then deliberated the merits of the case before making its decision.

### Decision

1. To suspend the licence holder's licence for the duration of the licence in terms of Schedule 1, paragraph 11(2)(c), of the Civic Government (Scotland) Act 1982, as it was the opinion of the committee that the carrying on of the activity was likely to cause a threat to public safety.
2. That the licence be immediately suspended in terms of Schedule 1, paragraph 11(10) of the Civic Government (Scotland) Act 1982, in the interest of public safety.
3. To delegate authority to the Chief Solicitor to recall the suspension in the event the licence holder was certified by the council's Medical Examiners as fit to drive in terms of the standards set out in the Medical Commission on Accident Prevention's publication entitled "Medical Aspects of Fitness to Drive".

## 7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – PRIVATE HIRE CAR DRIVER'S LICENCE – ITEM 9

The applicant was in attendance and represented by his Solicitor, Mr Sandeman.

Introductions were made by all parties. The Clerk then explained the procedure that would be followed.

The Clerk referred the committee to the report (copies of which had been circulated) by the Chief Solicitor inviting them to consider an application for a private hire car driver's licence.

Following discussions and agreement on preliminary matters the committee went on to consider the case.

The committee heard Inspector Frank Smith, Police Scotland, speak in relation to the report.

The applicant's Solicitor was given an opportunity to question Inspector Smith.

The committee had an opportunity to ask questions of Inspector Smith.

The committee heard the applicant's Solicitor speak in relation to the report.

Inspector Smith was given an opportunity to ask questions of the applicant's Solicitor.

The committee had an opportunity to ask questions of the applicant's Solicitor.

Finally, each side then summed up their case.

All parties then left the room to allow the committee to deliberate in private.

Following deliberations all parties returned to hear the decision of the committee.

#### Decision

To grant the application for a private hire car driver's licence.

#### 8. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – TAXI DRIVER'S LICENCE – ITEM 7

The applicant was present and represented by his Solicitor, Mr Sandeman. An interpreter was also in attendance to assist the applicant.

Introductions were made by all parties. The Clerk then explained the procedure that would be followed.

Mr Sandeman advised that he disputed a number of issues contained in the report and also suggested that the statement of reasons from the hearing regarding the complaint about the applicant be circulated.

The Clerk addressed each issue in turn and suggested that the committee agree to a short adjournment to allow the statement of reasons to be printed and circulated to the committee.

Inspector Smith had no objection to a short adjournment.

Mr Sandeman had no objection to a short adjournment.

The committee agreed to an adjournment to allow the statement of reasons to be printed and circulated.

The committee re-convened and the statement of reasons was distributed to all parties.

The Chair advised that having seen the document he was minded to adjourn to a future meeting date.

Mr Sandeman advised that the document was a commentary on what happened at the hearing and not the formulation of a statement of reasons and felt it was appropriate to adjourn.

The Clerk advised that this was the only document that was available and advised that it was a matter for Mr Sandeman if he wished to lodge any additional documents.

Inspector Smith had no objections to an adjournment.

#### Decision

To adjourn to 2 November 2016 to resume consideration of the application.

At this stage Councillor Conn left the meeting and took no further part in the deliberation or decision of the remaining cases.

9. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – TAXI DRIVER'S LICENCE – ITEM 8

The applicant was present at the meeting and represented by his Solicitor, Mr Sandeman.

Introductions were made by all parties. The Clerk then explained the procedures that would be followed.

Mr Sandeman advised that he questioned whether the applicant's previous convictions should be before the committee. He also disputed a number of facts contained in the letter submitted by Police Scotland.

The Clerk advised the committee with regard to what it could consider in respect of previous convictions.

The Clerk also advised that as Mr Sandeman disputed a number of facts an evidential hearing would be required.

#### Decision

1. To adjourn to an evidential hearing on 11 January 2017.
2. Timetable for exchanging documents and witness lists to be confirmed.

10. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – STREET TRADER'S LICENCE – ITEM 10

The committee noted that the applicant was not in attendance at the meeting and a recorded delivery letter had been sent to him but there was no evidence that this had been delivered.

Decision

1. To adjourn to 2 November 2016 to allow the applicant and opportunity to be in attendance.
2. Citation to be hand delivered by Environmental Wardens.

11. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – TAXI DRIVER'S LICENCE – ITEM 11

The licence holder was present and represented by his Solicitor, Mr Sandeman.

Introductions were made by all parties. The Clerk then explained the procedure that would be followed.

Mr Sandeman advised the committee that his client had an outstanding court case and requested an adjournment to await the outcome of that case.

The committee considered if it should suspend the licence pending the outcome of the criminal case or adjourn until it was decided.

Decision

1. That it was not necessary to suspend the licence pending the outcome of the criminal case.
2. To adjourn to a date yet to be confirmed to await the outcome of the applicant's pending court case.
3. Police Scotland were asked to advise when the case was concluded.

12. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – TEMPORARY PUBLIC ENTERTAINMENT LICENCE – ITEM 12

The applicant was not in attendance at the meeting but was represented by his father.

Introductions were made by all parties. The Clerk then explained the procedure that would be followed.

The applicant's representative disputed the contents of the letter submitted by Environmental Health.

The Clerk advised that usually when there were disputed facts that an evidential hearing would be set, however there was no time to allow this course of action. The Clerk asked the applicant's representative if he was happy for the Environmental Health Officer to make submissions without calling witnesses.

The applicant's representative advised he was content to proceed.

The applicant's representative requested that he be allowed to table additional documentation.

The Environmental Health Officer had no objections to the additional documentation being tabled.

The committee allowed the applicant's representative to table additional information.

The Clerk referred the committee to the report (copies of which had been circulated) by the Chief Solicitor inviting them to consider the application and to letters received after the preparation of the report from Environmental Health and Police Scotland. The letter from Police Scotland advised there was no objection in principle to the application but suggested four additional conditions be attached to the licence if the committee was minded to grant.

The committee heard the Environmental Health Officer speak in relation to the representation submitted by Environmental Health which recommended refusal of the application.

The applicant's representative was given an opportunity to question the Environmental Health Officer.

The committee had an opportunity to question the Environmental Health Officer.

The committee heard the applicant's representative speak in relation to the report.

The Environmental Health Officer was given an opportunity to question the applicant's representative.

The committee had an opportunity to question the applicant's representative.

Finally, each side summed up.

All parties then left the room to allow the committee to deliberate in private.

Following deliberations all parties returned to hear the decision of the committee.

The Chair asked the Environmental Health Officer if he could suggest a condition that could be attached to the licence in relation to an acceptable decibel level. The Environmental Health Officer advised that due to a number of circumstances it was difficult to suggest a suitable level for this site at this time.

The committee then went on to make its decision.

Decision

To grant the application subject to standard conditions contained in the report and additional conditions as suggested by Police Scotland as follows:-

- The licence holder shall ensure that the event is operated as detailed in the licence application form and attached plan, with specific attention to the perimeter being “secured by heras fencing”, the only entertainment units used on site are those shown on the “site plan” attached to this licence; and that there is no movement of vehicles whilst attractions are open to members of the public.
- The licence holder shall ensure that there will be a sufficient number of responsible persons working at all times during the event until all attendees have dispersed to ensure the safety of all persons present at the event. Badges, armbands or a recognisable uniform must be worn. No alcohol should be consumed prior to or during their duties as responsible persons.
- The licence holder shall ensure that all attractions close promptly at the terminal hour granted on the licence and visitors are off the site immediately thereafter.
- The licence holder shall comply with all of their duties and responsibilities under health and safety law insofar as applicable to the licensed event.

13. NOTE ACTIONS TAKEN IN TERMS OF STANDING ORDER 31 (URGENT BUSINESS) - TO SUSPEND A PRIVATE HIRE CAR DRIVER'S LICENCE

To note action taken in terms of Standing Order 31 (urgent Business) to suspend a private hire car driver's licence.