

MINUTE of MEETING of the COUNCIL EXECUTIVE of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, CIVIC CENTRE, on 25 JUNE 2012.

Present – Councillors John McGinty (Chair), Cathy Muldoon, Jim Dixon, Lawrence Fitzpatrick, Peter Johnston, Dave King, Danny Logue, Anne McMillan, Angela Moohan, George Paul and Greg McCarra (substituting for Frank Anderson).

Apologies – Councillor Frank Anderson, Tom Conn

1. ORDER OF BUSINESS, INCLUDING NOTICE OF URGENT BUSINESS

The Council Executive agreed to hear a deputation by Colin Innes and Mark Whittle from Sheppard and Wedderburn representing their client in relation to Agenda Item 5 (Consultation Response on the Proposed Fauch Hill Windfarm, Colzium, West Calder).

The Council Executive agreed to hear a deputation by Martin Hall and Tony Foster, representing Kirknewton Community Council in relation to Agenda Item 5 (Consultation Response on the Proposed Fauch Hill Windfarm, Colzium, West Calder).

The Council Executive agreed to hear a deputation by Alan McLaughlan and Joanne Pearce representing West Calder and Harburn Community Council in relation to Agenda Item 5 (Consultation Response on the Proposed Fauch Hill Windfarm, Colzium, West Calder).

The Council Executive agreed to hear a deputation by Sharon Duffy in relation to Agenda Item 15 (Request for Support for Petition on Sentencing for Knife Crime).

2. DECLARATIONS OF INTEREST

Agenda Item 5 (Applications to the Challenge Fund) - Councillor Jim Dixon declared a non-financial interest in that he was a Board Member of Acredale House.

3. MINUTE

The Council Executive confirmed the Minute of its meeting held on 12 June 2012. The Minute was thereafter signed by the Chair.

4. CONSULTATION RESPONSE ON THE PROPOSED FAUCH HILL WINDFARM COLZIUM, WEST CALDER

Deputation

Colin Innes and Mark Whittle from Sheppard and Wedderburn Solicitors, representing the client addressed the Council Executive in relation to the Consultation Response on the Proposed Fauch Hill Windfarm Colzium, West Calder. The delegation advised the Council Executive that the area

met the required criteria to site a windfarm. The delegation also advised of the advantages the project would bring to West Lothian in the form of investment and employment and encouraged the Council Executive to make a positive decision.

#### Deputation

Martin Hall and Tony Foster representing Kirknewton Community Council addressed the Council Executive in relation to the Consultation Response on the Proposed Fauch Hill Windfarm Colzium, West Calder. The Council Executive was advised that the Kirknewton Community Council had arranged for an independent survey to be conducted to obtain the views of the Kirknewton community and the results of that survey showed support for the project.

#### Deputation

Alan McLaughlan and Joanne Pearce representing West Calder and Harburn Community Council addressed the Council Executive in relation to the Consultation Response on the Proposed Fauch Hill Windfarm Colzium, West Calder. The Council Executive was advised that the West Calder and Harburn Community Council were aware of the need for renewable energy however there was also a need for a national strategy for planning of windfarms. The delegation advised that there were currently five windfarms running within the South East of West Lothian which included the West Calder and Harburn area.

#### Report by Head of Planning and Economic Development

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning and Economic Development advising of the council's role as a statutory consultee under Section 36 of the Electricity Act 1982 in respect of a proposal to construct a windfarm at Fauch Hill, by West Calder.

The report advised that Fauch Hill Sustainable Energy Ltd, a subsidiary of European Forest Resources and owned by French energy group Louis Dreyfus, had submitted plans to construct a windfarm on countryside in the Pentland Hills Area of Great Landscape Value. The scheme would have an operational lifespan of 25 years, would comprise of 23 turbines each with a nominal capacity of 3MW. 22 turbines would have a maximum height of 125m and one would be 115m. The installed capacity of the site would provide sufficient power for 42,000 households.

The report advised that the West Lothian Local Plan set out that renewable energy schemes would be looked at favourably if the scheme was acceptable in planning terms and did not give rise to unacceptable environmental effects including cumulative landscape and visual impact and against these tests a number of schemes had been supported in West Lothian.

The report went on to advise that the applicant's environmental statement concluded that the development would have significant adverse effects,

“in a localised area” on the Pentland Hills AGLV and the Pentland Hills Regional Park. To the applicant this significant level of impact would not adversely impact on the overall integrity of the designations or landscape types. Other significant effects would occur from the settlements of Woolfords, Tarbrax and West Causewayend, from the A70, Harperrigg reservoir and from identified summits in the Pentland Hills.

To this end Scottish Natural Heritage submitted an extensive representation on the case to the Scottish Government. The council, in conjunction with the Scottish Natural Heritage, commissioned a Landscape Capacity Study for Wind Energy Development in West Lothian. While the study had not yet formally progressed as supplementary planning guidance, it showed the site with the Western Pentland Hills landscape character unit. The study identified this as an area of the highest landscape sensitivity in landscape character terms.

In coming to a view on the application it was important to understand the unique setting of the proposal on the north west fringes of the Pentland Hills. The proposal was in the Pentland Hills Area of Great Landscape Value and shared a common boundary with the Pentland Hills Regional Park in the vicinity of West Cairns Plantation.

The report went on to advise that Fauch Hill was one of several windfarms proposed for the south-west of West Lothian and north-east of South Lanarkshire. Applications for Harburnhead and Peerie Law would be considered by the Council Executive and the Development Management Committee later in the summer. Further proposals could be submitted at Hunter’s Well, west of the current site, and at Camilty north-west of the site. South Lanarkshire had a proposal for a three turbine extension of Muirhall windfarm.

In conclusion the report advised that the proposed windfarm at Fauch Hill could assist in meeting the Scottish Government’s targets for renewable energy. The extensive submission, including a comprehensive environmental impact statement had shown that the scheme could be developed without having significant adverse environmental effects other than in landscape and visual amenity terms.

As set out in the report and its annexes, the proposed development would have a very significant impact on the landscape and in terms of visual amenity in one of the most unspoiled areas of countryside in West Lothian. A windfarm in this area would breach the principles of landscape protection as set out in the development plan and Scottish Planning Policy.

The proposal could not be assessed favourable in the context of the development plan and Scottish Planning Policy, nor in the context of the Landscape Capacity Study jointly commissioned by the council and Scottish Natural Heritage.

The report recommended that the Council Executive:-

1. Note that a windfarm proposal for Fauch Hill had been submitted to

the Scottish Government;

2. Note that the scale of the application required it to be progressed by the Scottish Government, rather than by the council as planning authority;
3. Note that the council as planning authority for the area of the proposal was a statutory consultee;
4. Note that officers considered that the proposal would have unacceptable impacts on landscape and visual amenity, particularly in the Area of Great Landscape Value and the Pentland Hills Regional Park;
5. Note that officers also considered that the proposal was unacceptable because of the cumulative impact of windfarms on the southern boundary of West Lothian; and
6. Delegate the Head of Planning & Economic Development to lodge an objection to the proposed windfarm, with the terms of the objection base on the detail in the report and appendices with specific reference to landscape, visual and cumulative impacts.

### Motion

To approve the terms of the report.

- Moved by Councillor John McGinty and seconded by Councillor Danny Logue

### Amendment

West Lothian Council Executive notes that the Fauch Hill Windfarm proposal proposes total expenditure of over £200 million of which £135 million will be expended in Scotland including £58 million in West Lothian

The Executive further notes that a Community Benefit Package of more than £8.5 million has been agreed and that the project will provide a substantial number of new jobs as well as apprenticeships and training opportunities.

The Executive further notes that a substantial number of representations have been received by the council in favour of, and in opposition to, the proposal.

The Executive notes with serious concern and extreme disappointment that the officer report has not been subject to full discussion and scrutiny through the Development and Transport PDSP which would have fully facilitated a thorough examination by elected members and representatives from our wider community of the merits of the proposal, and the arguments both for and against this.

The Executive therefore agrees to note the officer's recommendations but to defer a decision on this matter to the meeting of West Lothian Council

on 26 June to allow all elected members the opportunity to determine this council's position.

- Moved by Councillor Peter Johnston and seconded by Councillor Greg McCarra.

### Decision

Following a vote the motion was successful by 9 votes to 2 and it was agreed accordingly.

## 5. CONSULTATION ON A STRATEGY FOR THE PRIVATE RENTED SECTOR

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive advising of the proposed response to the Scottish Government's consultation paper "Consultation on a Strategy for the Private Rented Sector".

The report recommended that the Council Executive approve the response to the consultation paper as outlined in appendix 1.

The report advised that on 17 April 2012 the Scottish Government launched a consultation on a Strategy for the Private Rented Sector. The intention was to set out a vision and strategic aims that would grow and improve the quality of the private rented sector in Scotland over the next decade.

The consultation document outlined the following three strategic aims:-

1. For growth and investment: to increase overall housing supply, and for more investment to develop and improve the existing sector;
2. For better quality: of property management, condition and energy efficiency; to be enabled by smarter more targeted regulation; and
3. For more informed choices: to support and encourage consumer driven improvement of the sector.

West Lothian Council was supportive of the key aims outlined in the consultation.

The council's response outlined the following areas of good practice that West Lothian had already adopted:-

- The development of the council's housing options service which included the home choice property portal.
- Provision of advice and assistance to tenants in the private rented sector.
- The emphasis on improving quality in the sector by promoting landlord accreditation.

- Encourage landlords and agents to work with the council in regard to landlord registration.
- Specifically target private landlords to access energy efficiency measures through the Universal Home Insulation Scheme.

### Decision

To approve the terms of the report.

## 6. COUNCIL'S CODE OF CORPORATE GOVERNANCE

The Council Executive considered a report (copies of which had been circulated) by the Chief Legal Officer advising of the outcome of the annual review of the council's compliance with its Code of Corporate Governance.

The report explained that the Corporate Governance Working Group had addressed a number of specific issues in 2011/12, and these were examined within the report.

The Chief Legal Officer explained that each requirement of the Code had been assessed in turn in respect of the approach, deployment and review factors using a scoring structure. The scoring structure was explained in the report.

The report also explained that the Code required an annual statement of compliance to be made by the relevant responsible officer on a number of issues. These were listed in a table contained in the report.

The report provided the following appendices:-

Appendix 1 – A chart showing a breakdown for each of green, amber and red areas, summary graph indicating the number of standards falling within each of the scores, and lists detailing each of the Code's standards under the green, amber and red areas.

Appendix 2 – Annual statements of compliance on specific issues.

The Chief Legal Officer considered that the council's arrangements for corporate governance had operated well and the requirements of the council's Code of Corporate Governance had been substantially met in 2011/12.

During the coming year, the focus would be on improving areas of compliance identified in the current year's annual report, and streamlining the code to assist with maintaining awareness of its requirements across the council.

The Chief Legal Officer recommended that the Council Executive-

1. Note that the standards of the Code were substantially met in

2011/12.

2. Agree that the Corporate Governance Working Group review the Code in Autumn 2012 with a view to streamlining the Code by removing duplicate entries no longer required, with any substantive changes identified to be reported to the council for approval as part of the annual report for 2012/13
3. Note that the corporate governance arrangements within the council would continue to be a key priority for the running of the council in the year ahead. This was particularly so having regard to the current financial climate of reduced funding and increased demand for services.
4. Agree that the focus in 2012/13 should be on identifying actions to further improve the levels of compliance with the Code's standards across the council.
5. Note the expanded remit of the Audit and Governance Committee agreed by the Council on 10 May 2012, and agree that the report be referred to that Committee for consideration.

#### Decision

To approve the terms of the report.

#### 7. REQUEST FOR SUPPORT FOR PETITION ON SENTENCING FOR KNIFE CRIME

##### Deputation

Sharon Duffy addressed the Council Executive in relation to a Request for Support for a Petition on Sentencing for Knife Crime and explained that she was seeking the Council's support for a campaign which was launched in February 2012. The aim of the petition was to collect 100,000 signatures and to call on the UK Government to increase sentencing for knife crime.

##### Report by Head of Corporate Services

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services requesting it to consider the legal and other implications for the council in relation to the request for support for a petition seeking tougher sentences for knife crime. A copy of the request for support was attached as Appendix 1 to the report.

The report explained that the request asked for the council's support in terms of signing up to a petition calling on the UK Government to increase sentencing for knife crime, and to ask for permission to leave copies of the petition in council premises, such as libraries and social work centres, etc. The request was therefore in two parts and the report examined the legal position in relation to the two actions.

The report recalled that the council had previously, in March 2009, considered a position in relation to sentencing for knife crime, and an extract from the minute of that meeting was attached in Appendix 2 to the report.

The report recommended that the Council Executive:-

1. Consider the request for support for the petition seeking tougher sentences for knife crime as set out in Appendix 1, and its request for the use of council facilities.
2. Agree that appropriate notices and leaflets produced by the petitioners be displayed and made available at council buildings where such facilities and arrangements already existed, but that no other council facilities or resources should be made available.
3. Note the information contained in the report from Education Services in relation to the ways in which West Lothian children have been and were informed and educated about the dangers and consequences of carrying knives.
4. Note the information contained in the report from Lothian & Borders Police in relation to the work carried out through the Community Safety Unit and Community Police Officers in relation to knife crime.

#### Motion

To approve the recommendations of the report subject to the following:-

Recommendation 1 – to include “ and to Support the position of “In Loving Memory”

Recommendation 2 – No changes to be made.

Recommendation 3 – to add “and work to continue and be further developed.

Recommendation 4 – to add “and work to continue and be further developed.

#### Decision

To unanimously agree the motion.

#### 8. WEST LOTHIAN COUNCIL RESPONSE TO SCOTTISH GOVERNMENT CONSULTATION PAPER: MAKING JUSTICE WORK FOR VICTIMS AND WITNESSES BILL

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy advising of the council’s response to the Scottish Government Consultation on Making Justice Work for



### Victims and Witnesses Bill.

The report advised that the Scottish Government's Justice Directorate launched an extensive consultation into "Making Justice Work for Victims and Witnesses. The central objective of the Bill was to improve the experience of victims and witnesses within the criminal justice system.

The key proposals included:

- Introduction of a victim surcharge so that offenders pay towards the cost of supporting victims – the proposal was that it should be applied to court fines only in the first instance but that the legislation should allow for extension to custodial sentences, community sentences and direct measures at a later date.
- Requirement for the courts to consider compensation in every case where a victim had suffered injury, loss or distress – currently at the discretion of the court.
- The creation of a duty on relevant public agencies to set clear standards of services victims and witnesses.
- The creation of an automatic right to special measures for victims giving evidence in court in cases involving sexual offences and domestic abuse.
- Commissioning a feasibility study into how to provide better information for victims and the public about specific cases.
- Improving the way cases were managed so that victims and witnesses had greater confidence that, where they were required to give evidence, the case would go ahead on the day as planned.
- Ensuring that victims were provided with the opportunity to make oral representation to a member of the Parole Board for criminals subject to life sentences.

In conclusion the report advised that the document appeared to offer a number of helpful ways to protect the rights and well being of victims of crime and of people involved in the court process.

The report recommended that the Council Executive

1. Note the content of the response to the Scottish Government's consultation paper on Making Justice Work for Victims and Witnesses Bill;
2. Approve the proposed response and agree that it be submitted to the Scottish Government; and
3. Note that further developments in relation to this important development in shared practice would be reported in due course to the Social Policy PDSP.

### Decision

To approve the terms of the report.

## 9. APPLICATIONS TO CHALLENGE FUND

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy advising on the applications made to the Challenge Fund and the outcome of the associated consultation undertaken with the Senior Peoples Forum Sub Group.

The report advised that on 1 May 2012 the Senior People's Forum Sub Group were consulted on four applications which had been submitted. The applications and recommendation of the Sub Group were as follows:

**Fuel Poverty Energy Advice** – The Sub Group were supportive of this application including the proposal to provide 100 energy packs subsidised in part by a power company and agreed to recommend to council.

**Saturday Break Project** – The Sub Group were supportive of this application and agreed to recommend to council.

**Library Outreach Project** – The Sub Group recommended that this project be deferred to allow further information to be obtained from the applicant.

**50+ Friendship Club** – The Sub Group acknowledged this applicant would benefit from arms length support in revisiting their application and resubmitting it for consideration with additional information included.

In conclusion the report advised that the Sub Group were supportive of the applications from the Council Advice Shop and Acredale Peoples Day Care Centre, but deferred a conclusion on the two remaining applications from the Volunteer Gateway and the 50+ Friendship Group in order to enable applicants to provide additional information.

The report recommended that the Council Executive approve the release of Challenge Fund monies to support the following applications:-

- Application – Fuel Poverty Energy Advisor £43,099;
- Application – Acredale Day Centre Saturday Break Project £2,919; and

Agree to defer the following applications to allow applicants the opportunity to provide further information:-

- Application – Library Outreach Project
- 50+ Friendship Group

### Decision

To approve the terms of the report.

#### 10. FAMILIES INCLUDED

The Council Executive considered a report (copies of which had been circulated) by the Head of Social Policy seeking approval of the following:-

1. The development of the Families Included approach to support families with multiple complex needs; and
2. The proposal for the procurement of services to support this development.

The report advised that following the proposal submitted to the Council Executive on 4 October 2011 to meet the early intervention and preventative agenda, £887,000 was allocated to enable the development of a programme to provide intensive support to families with multiple and complex needs.

Through the life stages approach and the Community Safety Strategy, West Lothian Council and its partners had built up a systematic and extensive shared understanding of the complexity of the needs of individuals, families and communities.

The evidence base for investing in early years and early intervention was wide and robust, additionally the evidence base for investing in preventative activities was similarly extensive and valid.

Such approaches engaged with whole families with very complex needs and with the most entrenched social issues by engaging in asset based, co-production modes with families.

The core characteristics of this approach to prevention and early intervention were:-

- The assessment of the whole family; where appropriate including grandparents, family friends and other significant people to the family.
- Family centred; involving both adults and children to assess the family situation and look at the family's point of view.
- Focused on strengths and potential; to building resilience and capacity.
- Assessment as the basis of an integrated support plan; agreeing a contract, monitoring progress and working towards shared goals.
- A multi agency specialist team established to work intensively with the families participating in the programme.

There was compelling evidence that this type of intervention improved the

outcomes for the whole family and reduced costs over the medium to long terms. The expected key outcomes that would be delivered through the implementation of this approach was as follows:-

- Reduction in anti-social behaviour and incidents of offending behaviour.
- Reduction in evictions and prevention of repeat cycles of homelessness.
- Reduction in worklessness by increasing the number of people in work, education and training.
- Increased levels of literacy and numeracy.
- Increased school attendance and improvement in the behaviour of children and young people.
- Reduction in alcohol and substance abuse.
- Improved parenting skills
- Improvement in families' life skills and ability to sustain a tenancy.
- Provision of sustainable routes back to settled accommodation and ensuring that families lived within the acceptable boundaries of behaviour.
- Reduction in domestic violence.
- Reduction in the number of children accessing the care system.

In conclusion the report advised that the development of an asset based, co-production family intervention approach had the potential to improve outcomes across all of the life stages for families identified as those who utilised the greatest resources.

#### Decision

To approve the terms of the report.

#### 11. INTERNET, SOCIAL MEDIA AND E-MAIL POLICY

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services enclosing a revised council policy on the use of Internet, Social Media and E-Mail.

The report advised that the Council's current Internet and E-Mail Policy had been approved by the Council in March 2005 with the aim of protecting the council and its employees from the misuse of Internet and E-Mail systems either inadvertently or otherwise.

A number of technological and legislative developments over recent years

including the increasing use of social media applications and the greater focus on the management and security of information had prompted a review of the policy to ensure the Council continued to be legally compliant.

The report went on to summarise the additions and amendments to the policy.

The report recommended that the Council Executive approve the revised Internet, Social Media and E-Mail Policy contained in appendix 1 to the report.

#### Decision

To approve the terms of the report.

### 12. CONSULTATION ON THE UNINCORPORATED ASSOCIATIONS AND PARTNERSHIPS (SCOTLAND) BILL

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services concerning a consultation on the proposed reform of Scots Law on two topics:-

- (i) Non-profit making unincorporated associations and
- (ii) Criminal liability of partnerships.

Appendix 1 to the report was an Introduction to Consultation, and Appendix 2 outlined the 12 consultation questions.

The report advised that an opportunity existed for the Council to contribute to the implementation of two Scottish Law Commission reports on reserved matters of Scots Law. The Bill, if taken forward, would have the desired effect on (i) encouraging the continuance of the good work done by many unincorporated associations, whose members or office-bearers were otherwise exposed to a disproportionate level of financial and other risks that they might be unaware of and (ii) addressing the apparent loophole in the current law relating to the inability to prosecute a Scottish Partnership once it was dissolved.

The report recommended that the Council Executive note the content of the proposed consultation response and approve the consultation response to be submitted to the Scotland Office.

#### Decision

To approve the terms of the report.

### 13. ASBESTOS MANAGEMENT POLICY

The Council Executive considered report (copies of which had been circulated) by the Head of Corporate Services enclosing a revised council-

wide Asbestos Management Policy.

The report explained that the current policy had been approved in December 2002 and last revised in July 2007. The proposed new policy incorporated the changes in the new Asbestos Regulations 2012. It also updated and provided clearer details on the roles and responsibilities of those who were required to implement the policy and would ensure those employees and other persons who used and had access to council premises and properties were not exposed to the harmful effects of asbestos. The outcomes of discussions with the Health and Safety Executive, as well as lessons learned from past asbestos incidents had also been taken into account.

The report provided a summary of the key amendments since 2007.

The report concluded that the revised policy, which was supported by a council wide Asbestos Management Plan, would provide clearer direction on how the council managed asbestos and would be further supported by service specific asbestos procedures and where appropriate service Occupational Health and Safety Supplementary Policy and Safety Arrangements Booklets, would be reviewed in light of the changes.

#### Decision

To approve the terms of the report.

#### 14. DEALING WITH PETITIONS AND REQUESTS FOR COUNCIL SUPPORT

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services inviting the Council Executive to adopt a standard process for handling requests received by the council from individuals or organisations for support or endorsement for a particular issue or campaign.

The report recalled that, on 3 April 2012, the Council Executive had considered a request which had been submitted by members of the community for the council to support a petition calling on the UK Government to increase sentencing for knife crime. As part of its decision, the Council Executive had noted that there was no standard procedure in place for dealing with such requests and remitted the matter to the Panel.

The report set out a recommended approach which would involve a distinction being drawn between subjects on which the council had statutory powers to take some effective action, and those where there the Council had no such statutory powers.

1. The report recommended that the Council Executive agree the following, or such other procedures as was thought appropriate, as the procedure to be applied where requests or petitions were received by council officers from anyone other than another local authority seeking support for particular issues or campaigns:-

- a) Where the request or petition concerned a subject which was outwith the scope of the statutory powers held by the council to take effective action, a copy of the communication concerned would be sent to all elected members through Members' Services.
  - b) Where the request or petition concerned a subject which was within the scope of the statutory powers held by the council to take effective action, the communication would be placed on the agenda for the next available meeting of the Council or Education Executive for consideration of any appropriate decision or action to be taken by the council in response.
  - c) In all cases, a standard response letter would be sent to the person making the request or submitting the petition explaining the procedure applied to their communication.
  - d) In the event that any action was instructed to be taken, that action, once taken, would be reported back to the next available meeting of the Council or Education Executive.
2. To delegate to the Chief Executive as Clerk to the Council the power to determine whether a request for support or a petition concerned a subject which was within or without the scope of the statutory powers of the council to take effective action, and to amend the Scheme of Delegations accordingly.

#### Decision

To approve the terms of the report.

#### 15. STRATEGY FOR TACKLING UNDER-AGE DRINKING/DIVERSIONARY ACTIVITIES FOR YOUNG PEOPLE - LINLITHGOW LOCAL AREA COMMITTEE

The Council Executive considered a report (copies of which had been circulated) by the Linlithgow Local Area Committee Lead Officer seeking approval of the proposed allocation of funding for a number of alcohol diversionary programmes in the Linlithgow Ward as detailed in the appendix 1 to the report.

The report explained that the matter had been considered at a recent meeting of the Linlithgow Local Area Committee where it had been recommended that funding be allocated to Linlithgow Youth Issues Group.

The two members of the committee in attendance at the meeting endorsed the proposals however, in accordance with the council's Scheme of Administration the proposals could not be approved as the meeting was inquorate.

In such cases it was the responsibility of the Lead Officer to present the proposals to the Council Executive for approval.

It was recommended that the Council Executive agree the proposed allocation of £15,190 of funding to the Linlithgow Youths Issues Group.

#### Decision

To approve the terms of the report.

#### 16. STRATEGIC DEVELOPMENT PLAN – PROPOSED RESPONSE TO REPRESENTATIONS TO THE PROPOSED PLAN

The Council Executive considered a report (copies of which had been circulated) by the Head of Planning and Economic Development which advised of the terms of the representations received by SESplan to the proposed Strategic Development Plan (SDP), responses and representations and the next stages in the programme towards final adoption of the Strategic Development Plan.

The report advised that the proposed Strategic Development Plan was approved by the SESplan Joint Committee on 26 July 2011 for public consultation and was ratified by the Council Executive on 20 September 2011.

A Scheme of Governance for SESplan was approved by SESplan Joint Committee in August 2008 and subsequently ratified by all six member councils and at that time it was agreed to keep arrangements under review. A review was carried out and reported to SESplan Joint Committee on 5 March 2012, proposing changes to the SESplan Constitution and Scheme of Delegation. The amendments to the Constitution allowed greater efficiency in the operational working of SESplan.

During the consultation period, a total of 160 representations were received to the proposed plan. These were grouped into 29 groups of issues by SESplan and would be used to inform the Strategic Development Plan Examination process. Overall 650 issues were identified largely related to the plan strategy and housing numbers.

Of the representations received, key areas to note were relating to the spatial strategy and the scale of development the proposed plan provided for. A significant number of representations suggested that the level of development proposed did not meet with the Scottish Government Requirements for a generous housing land supply.

The report went on to advise that the Strategic Development plan process was governed by legislation that required the ratification of the Proposed Plan by all member authorities. If member authorities reverted to the SESplan Committee at this stage with proposed changes, any subsequent change would require further ratification.

In conclusion the report advised that the proposed plan had attracted a significant number of representations which had been summarised by SESplan and proposed response drafted. These would be reported to the



SESplan Joint Committee on 29 June 2012.

The report recommended that the Council Executive:-

1. Note the draft responses to the representations as set out in Appendix one, in particular the proposed responses to the spatial strategy, housing numbers and the West Lothian area advising that there would be no change to the SESplan position; and
2. Agree to forward the report to SESplan as the council's response to the representations received and the proposed response.

#### Decision

To approve the terms of the report.

#### 18. WEST LOTHIAN COUNCIL VOLUNTARY SECTOR DEVELOPMENT FUND 2012-13

The Council Executive considered a report (copies of which had been circulated) by the Head of Area Services seeking approval for final proposals on the use of the 2012-13 West Lothian Voluntary Sector Development Fund.

The report advised that West Lothian Council created a Voluntary Sector Development Fund (VSDF) with a value of £100,000 in the 2011-12 financial year and had made similar provision in the budget for 2012-13.

It was proposed that the 2012-13 VSDF be used to support third sector organisations to improve their capacity and ability to design, deliver and develop preventative spend interventions. Given that delivery of core services played a part in preventative spend interventions, applications that enhanced core services and led to additional outcomes and impacts would be given consideration.

The report went on to provide details on the process for applications, the timetable and criteria which was detailed in appendix 3 to the report.

In conclusion the report proposed that the 2012-13 VSDF be used to support organisations to develop preventative spend initiatives targeted on the most disadvantaged communities and that the funding be allocated by a similar process to 2011-12, with the clarification that the final decision on funding would be made by the Council Executive. Appendix 2 to the report provided a list of the most disadvantaged data zones.

The report recommended that the council Executive approve the final proposals.

#### Decision

To approve the terms of the report.

19. VOLUNTARY ORGANISATIONS: REPLACEMENT OF BEST VALUE REVIEW APPROACH WITH QUALITY STANDARDS – FINAL PROPOSALS

The Council Executive considered a report (copies of which had been circulated) by the Head of Area Services seeking approval for final proposal to replace the current voluntary organisations Best Value Review approach with a suite of externally accredited quality standards.

The report presented final proposals for the replacement of the voluntary organisations Best Value Review approach. In March 2012 the Council Executive approved a policy change to move away from the Best Value Review for voluntary organisations.

Options examined included considering a holistic quality standard like the Practical Quality Assurance System for Small Organisations (PQASSO) a quality improvement framework like the EFQM Excellence Model. Appendix 1 to the report contained an overview and indicative costs in relation to PQASSO. The examination of options confirmed that some organisations involved in care were required by law or other regulatory requirements to meet standards specific to the type of work they did.

Consultation was conducted through the West Lothian Compact Working Group, the Voluntary Sector Forum and the Voluntary Sector Gateway West Lothian.

The report went on to provide details of the final proposals which had the support of the voluntary sector members of the West Lothian Compact Working Group.

In conclusion the report advised that where an organisation did not hold a standard it was proposed that the organisation achieved the PQASSO quality standard at a level appropriate to the size and complexity of the organisation.

The report recommended that the Council Executive approve the final proposals.

Decision

To approve the terms of the report.

20. 74-76 MID STREET, BATHGATE, FORMER BATHGATE REGISTRARS PROPOSED SALE TO MR & MRS GARVEY

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates seeking approval for the sale of the former Bathgate Registrars to Mr & Mrs Garvey for the purpose of conversion to a single residential dwelling.

The report advised that the council had previously declared this property surplus to requirements and it was subsequently vacated following the

transfer of registration services to the new Bathgate Partnership Centre. Appendix 1 to the report showed the extent of the subjects.

The property was placed on the open market for a range of uses as outlined in the planning brief and after several notices of interest were received a closing date of 8 June 2012 was set.

In conclusion the report advised that it was in the council's interests to sell the former Bathgate Registrars on the basis of the recommendation given in the report.

The report recommended that the Council Executive:-

1. Approve the sale of the former Bathgate Registrars, 74-76 Mid Street, Bathgate, to Mr & Mrs Garvey for the sum of £194,358, subject to terms and conditions, and
2. Authorises the Head of Finance and Estates to carry out any further negotiations with the purchaser in respect of the sale of the property, including any required alteration of the purchase price, but only on the basis that any amended purchase price still represented the best capital receipt for the council.

#### Decision

To approve the terms of the report.

#### 21. 2012/13 GENERAL SERVICES CAPITAL BUDGET

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates providing an updated general services capital budget for 2012/13.

The report recommended that the Council Executive:-

1. Approve the capital budget for 2012/13 as set out in appendix 2 to the report;
2. Approve the capital funding for 2012/13 as set out in section 5 of the report;
3. Note the £398,000 2011/12 programme saving available for allocation with Strategic Outline Business Cases;
4. Approve the proposal to submit a bid to the Scottish Futures Trust for funding to improve facilities at West Calder High School and agree to delegate authority to Moira Niven, Depute Chief Executive, to co-ordinate preparation of submission of a bid by the deadline of 21 July 2012, in consultation with the Leader of the Council and the Executive Councillor of Education.

The report advised that on 20 November 2007 the Council Executive approved a ten year capital investment and asset management strategy

for 2008/09 to 2017/18. This was a culmination of an exercise involving business cases for investment and a corporate prioritisation process.

The final outturn position showed expenditure in 2011/12 of £38.865 million. The £4.718 million outturn for 2011/12 comprised net slippage, after over programming of £4.320 million, with a saving of £398,000.

As part of the annual consultation process local members were asked to consider the content of the budget and the scheduling of individual projects in 2012/13 and comments received were considered and incorporated in the updated plan.

An extensive exercise was completed with asset lead officers to ensure that project phasing within the plan was realistic and achievable. The total proposed investment for 2012/13 was £31.402 million and a detailed breakdown was provided in appendix 2 to the report.

The Head of Finance and Estates went on to explain that the Scottish Government had invited local authorities to submit an application for funding from the Scottish Futures Trust and it was proposed that West Lothian Council submit an application for funding to improve PE facilities and upgrade dining, social facilities and curricular/support accommodation at West Calder High School to bring the school up to the agreed Council Secondary school accommodation standard.

In conclusion the report set out the detailed capital investment programme for 2012/13. Approval of the revised programme would allow the ongoing implementation of the capital plan to proceed resulting in significant improvements to services provided by the council and to the overall asset infrastructure throughout West Lothian.

### Motion

The Council Executive agrees the recommendations contained in the report. Council Executive notes the £398,000 programme saving from the 2011/12 General Services Capital Budget and agrees to allocate as follows:

#### **West Lothian Villages Improvement Fund:**

Establish a Villages Improvement Fund of £258,000, phased over 2012/13 and 2013/14, with officers to bring a further report to the Council Executive detailing proposals for the operation of the fund.

#### **Road Safety Schemes:**

Provide funding of £120,000 to fund priority School Road Safety Schemes.

Provide funding of £20,000 to fund improvements to Braehead Traffic Signals.

- Moved by Councillor John McGinty and seconded by Councillor Cathy Muldoon

Amendment

West Lothian Council Executive agrees

1. To approve the 2012/13 capital budget as set out in appendix 2 to the report.
2. To approve the capital funding for 2012/13 as set out in section 5 of the report.

In noting the £398,000 2011/12 programme saving the Executive also notes that the Mid Calder pavilion project is currently incomplete and that to complete this project, as intended, by creating a hall, small kitchen and office area requires a supplementary allocation of £100,000.

West Lothian Council Executive therefore further agrees;

3. To allocate £100,000 from the reported £398,000 2011/12 programme saving to allow the Mid Calder pavilion to be completed by providing the intended hall, small kitchen and office area.

West Lothian Council Executive agrees that the improvement of facilities at West Calder High School, the only secondary school in West Lothian without a games hall and related PE facilities is a key council priority which requires to be urgently addressed in the 2012/13 capital programme and in succeeding years.

West Lothian Council Executive therefore further agrees;

4. To allocate £298,000 from the report £398,000 2011/12 programme saving to deliver improvements to school dining facilities and altering/upgrading of PE facilities.
  5. Delegate authority to Moira Niven, Depute Chief Executive, to submit a bid to the SFT for funding to deliver fit for purpose PE facilities including a new games hall, dance studio, fitness suite, changing rooms, PE store, PE staff base, PE classroom, swimming pool/changing area refurbishment and external changing facilities.
- Moved by Councillor Peter Johnston and seconded by Councillor Greg McCarra

It was agreed that a roll call vote be taken, the result of which was:

Motion

Jim Dixon

Lawrence Fitzpatrick

Dave King

Danny Logue

Amendment

Peter Johnston

Greg McCarra

John McGinty

Anne McMillan

Angela Moohan

Cathy Muldoon

George Paul

### Decision

The motion was successful by 9 votes to 2 and it was agreed accordingly.

## 22. DRAFT 2011/12 GENERAL FUND REVENUE BUDGET OUTTURN

The Council Executive considered a report (copies of which had been circulated) by the Head of Finance and Estates providing the draft final outturn for the 2011/12 General fund Revenue Budget.

The report recommended that the Council Executive:-

- Note the budget outturn for 2011/12 and general fund balance as at 31 March 2012, including the earmarked balances;
- Approve the allocation of £500,000 from the resulting uncommitted general fund balance to meet the anticipated cost of changes to Council Tax Benefit Subsidy that would be introduced in April 2013; and
- Approve the submission of the council's 2012/13 Efficiency Statement to COSLA.

The report set out a summary of the overall financial performance of the General Fund Revenue Budget for 2012/13 and provided information on how the outturn position had been arrived at.

The Head of Finance advised that the overall service underspend was £9.152 million which compared to the underspend of £7.921 million reported to the Council Executive at month 9 which was earmarked in full for time limited investment and to cover the increase in care home fees. Of this sum £103,000 was spent in 2011/12 and the remaining £7.818 million would be carried forward.

After taking account of all earmarked balances, the additional uncommitted underspend for the year was £789,000. This had been achieved mainly through a favourable variance in winter maintenance with the relatively mild weather during the winter and early spring resulting in an additional under spend of £650,000 for the year. The report went on to provide details of the underspend within each service area. Further details were also provided on Non Service Expenditure, Funding in 2011/12, Overall 2011/12 Outturn Position and General Fund Reserves.

The report advised that the UK Government's Welfare Reform Act 2012 abolished Council Tax benefit from April 2013 and a new localised scheme of support, currently being developed by the Scottish Government in consultation with local authorities would be introduced.

As part of the new arrangements resulting from the Act there would be a reduction of 10% in funding equivalent to £40 million at a Scottish level. The Scottish Government and COSLA had pledged to meet this shortfall in 2013/14 with the aim to ensure that no households currently in receipt of Council Tax Benefit would lose out in the first year. To this end £23 million would be provided by the Scottish Government and COSLA agreed the remaining £17 million would be met by local authorities and that West Lothian's share would be estimated at £500,000.

The Head of Finance also advised that Scottish Local Authorities were required to provide an annual statement to COSLA each year providing details on budget efficiencies achieved. For 2011/12 the Scottish Government issued guidance which simplified the level of detail required, whilst also stressing the importance of maintaining outputs and outcomes when budget resources were constrained.

The report advised that the Efficiency Statement only considered the element of budget reductions that related to efficiencies. In 2011/12 the council's budget efficiencies totalled £15.222 million.

### Motion

Council Executive agrees to approve the recommendations in the report and further agrees to:

- A. Approve the allocation of £55,000 from the resulting uncommitted general fund balance as at 31 March 2012 to meet the anticipated cost of an additional brown bin uplift during 2012.
- B. Approve the allocation of £76,124 from the resulting uncommitted general fund balance as at 31 March 2012 to provide an immediate 10% increase in the 2012/13 Voluntary Organisations Budget Report agreed by Council Executive on 13 December 2011.
- C. Approve the allocation of £157,876 from the resulting uncommitted general fund balance as at 31 March 2012 to extend existing wage subsidy schemes to West Lothian Voluntary Organisations as an additional measure to tackle youth unemployment.

Council Executive instructs the Head of Finance and Estates to take account of points A and B when preparing future financial plans.

- Moved by Councillor John McGinty and seconded by Councillor Jim Dixon.

### Amendment

Council re-asserts that the greatest challenge facing public services in this

difficult financial climate is to effectively combat the negative outcomes for individuals and communities arising from deep-rooted inequalities and accepts that the most effective response to this challenge is to prioritise preventative actions and early interventions to most effectively tackle the root causes of inequality and negative outcomes and so deliver equality, fairness and social outcomes.

Council Executive notes that thanks to the pro-active and prudent management of Council finances by the previous SNP led Administration that a further £789,000 is now available from the 2011/12 Revenue Budget.

Council reasserts that improving the employability prospects for West Lothian young people remains a key priority and welcomes the current council commitment to employability initiatives totalling £4.453 million.

Council therefore agrees to;

1. Accept recommendations 1 – 3 as detailed in the committee report.
  2. Allocate the remaining uncommitted sum of £289,000 to deliver an additional 48 places within the council's Steps N2 Work programme over the 12/13 – 13/14 period.
- Moved by Councillor Peter Johnston and seconded by Councillor Greg McCarra.

#### Decision

Following a vote the motion was successful by 9 votes to 2 and it was agreed accordingly

### 23. ANTI FRAUD AND CORRUPTION POLICY

A report had been circulated by the Internal Audit Manager advising that, in accordance with the requirements of the council's local code of corporate governance, the Anti Fraud and Corruption Policy had been reviewed and updated.

The report went on to explain the main changes from the previous version. A copy of the revised policy was attached the report.

The Internal Audit Manager considered that the policy was an essential element of the council's corporate governance arrangements. The policy outlined the council's processes for the prevention, detection and investigation of fraud and corruption.

It was recommended that the Council Executive approve the revised Anti Fraud and Corruption Policy.

#### Decision



To approve the terms of the report.

24. 2011/12 HOUSING CAPITAL REPORT - FINAL OUTTURN

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive providing information on the financial position in relation to the 2011/2012 Housing Capital Programme as at 31 March 2012

The final outturn position was £38.44 million with programme management of £1.128 million having been identified. The report then provided a table summarising the programme and a commentary on some of the variances and budget headings.

The Depute Chief Executive concluded that despite an under spend in new build, there was accelerated spend of £1.172 million in the housing capital programme as a whole, due to additional SHQS work and accelerated painting and fencing works.

It was recommended that the Council Executive note the final out-turn position for financial year 2011/2012

Decision

To note the terms of the report.

25. 2011/12 HOUSING REVENUE ACCOUNT - OUTTURN

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive providing information on the financial position in relation to the 2011/2012 Housing Revenue Account as at 31 March 2012

The report provided a table summarising the programme and a commentary on some of the variances and budget headings.

The Depute Chief Executive concluded that a breakeven position had been achieved for 2011/2012. There were pressures in insurance repairs however these had been offset by increased insurance recoveries. The reduced loan charges allowed for an increased CFCF charge, meaning that less borrowing was required in 2011/2012 to fund the capital programme.

It was recommended that the Council Executive note the final outturn position for financial year 2011/2012

Decision

To note the terms of the report.

## 26. FREEDOM OF INFORMATION 2012/12 UPDATE

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services advising of the outcome of the annual review of the council's compliance with the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIRs).

The report contained tables providing detailed information as undernoted:-

Table 1 – the number of FOISA requests received for the period 2009/1- to 2011/12.

Table 2 – a breakdown of FOISA requests received by service area in 2011/12.

Table 3 – performance in 2011/12 in processing requests within the required 20 working day timescale.

Table 4 – refusals and the reasons for refusal for the period 2009/10 to 2011/12.

Table 5 – number of internal reviews for the period 2009/10 to 2011/12.

Table 6 – a breakdown of the Internal Review for 2011/12.

The Head of Corporate Services advised that there were no appeals to the Scottish Information Commissioner in 2011/12.

The overall FOISA performance for 2011/12 was 84% out of a total of 874 requests received, and whilst marginally lower than the target level of 85%, there had been significant improvement on the performance achieved in 2009/10 and 2010/11. The performance rate of EIR requests remained at 100%.

The Head of Corporate Services concluded that the FOISA compliance rate had improved in recent months, most notably with a 95% completion rate against an above average request rate in March 2012. The challenge was to maintain this improved level of performance on a regular basis and achieve an overall rate of 85% completion.

The reduced levels of FOISA Refusal and Part Refusals and Internal Reviews reflected further significant improvement in the council's overall performance.

It was recommended that the Council Executive:-

- Note the information contained within the report; and
- Heads of Service to continue to monitor their services' performance in meeting the 20-day deadline for processing FOI requests, in order to continue to achieve the corporate management target of 85%.

Decision

To note the terms of the report.

27. EQUALITIES MONITORING REPORT 2011/12

The Council Executive considered a report (copies of which had been circulated) by the Head of Corporate Services providing information on equalities monitoring information for the period 1 April 2011 to 31 March 2012 and to advise on measures being taken to implement the council's equality scheme actions and legal obligations in relation to employment policy and practice.

The Head of Corporate Services explained that the council had a statutory duty, as a public sector employer, to publish employment-monitoring statistics by Race, Disability, Gender, Age, Sexual Orientation and Religion/Belief, details of which were summarised in a series of appendices attached to the report.

The council also had a general duty to eliminate discrimination, advance equality and opportunity and foster good relations between groups. In practice this involved monitoring information, consulting with stakeholders/relevant equality target groups and undertaking equality impact assessments of key policies and procedures.

The report then provided a summary of the methods that the council used to gather information on equality monitoring and provided a detailed analysis of the information collated.

The Head of Corporate Services also provided details of the action that the council would continue to take to promote equality.

It was recommended that the Council Executive note the content of the report.

Decision

To note the content of the report.

28. COUNCILLORS' CODE OF CONDUCT - ANNUAL REVIEW

The Council Executive considered a report (copies of which had been circulated) by the Chief Legal Officer concerning the Councillors' Code of Conduct. The report explained that the Council's Code of Corporate Governance required an annual training session for councillors to be held, and an annual report to the Council on the operation of the Councillors' Code of Conduct.

The report provided details of a training session held on 29 November 2011. In relation to the register of Members' Interests, the Chief Legal Officer advised that six monthly reminders had been issued to members

on 25 May 2011 and 1 December 2011 to enable them to keep their entries up to date.

The Council Executive noted that, since the Code came into operation in 2003, there had been a total of 31 cases of complaint made against West Lothian councillors. The report provided an analysis of the subject matters covered in all complaints since the start of the Code.

The Chief Legal Officer concluded that the council had experienced 31 complaints since the start of the Code of Conduct in 2003, averaging four each year. Only two cases had resulted in a finding of a breach of the Code by the PSC. In addition, four complaints against councillors submitted to the council in 2011/12 had resulted in a finding of no breach of the Code.

The Chief Legal Officer considered that, since the start of the Code, the council had demonstrated that high standards of conduct had been maintained and would wish to see such standards of conduct maintained in the future. To assist in doing so, more briefing sessions for members would be arranged where necessary in order to continue to promote observance of the Code and assist members to observe the Code.

#### Decision

To note the terms of the report.

### 29. CUSTOMER SERVICE EXCELLENCE STANDARD

The Council Executive considered a report (copies of which had been circulated) by the Depute Chief Executive providing a summary of the Customer Service Excellence (CSE) Standard feedback report and to highlight the key strengths of the council identified during the corporate assessment, details of which were attached to the report at Appendix 1.

The Depute Chief Executive advised that in 2010 all council services achieved the Customer Service Excellence (CSE) standard which was a challenging undertaking but had ensured that the council continually sought improvement across all areas of the organisation.

In 2011/2012 the assessment was carried out over 8 days which included a review of both the council's corporate application and 17 service areas against the CSE standard. The assessor identified 7 compliance plus areas during the assessment and stated "that the council very clearly demonstrated that it continued to be a very high performing organisation, and was recognised by its peers as such".

One key component of the CSE standard was the development of the customer insight which had been a particular challenge to some service areas but it was acknowledged that the council had put a substantial resource into the development of customer insight and continued to demonstrate a very high level of compliance. The quality of service delivery was also highlighted as an organisational strength supported by a comprehensive performance management framework.

In conclusion the Customer Service Excellence standard assessment identified West Lothian Council as a high performing customer focused organisation and continued to provide a challenge to services to demonstrate ongoing improvement through focusing on customer needs, frequently assessing and improving access and information about services and considering how partnerships work.

It was recommended that the Council Executive note that West Lothian Council had retained the Customer Service Excellence (CSE) Standard and also note that the content of the Customer Service Excellence standard summary feedback report.

#### Decision

To note the terms of the report.