

BIRMINGHAM CITY COUNCIL

LICENSING COMMITTEE WEDNESDAY, 16 MARCH 2011

**MINUTES OF A MEETING OF THE LICENSING
COMMITTEE HELD ON WEDNESDAY,
16 MARCH 2011 AT 1000 HOURS,
IN COMMITTEE ROOMS 3 AND 4,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Bruce Lines (Vice-Chairman) in the Chair;

Councillors Bob Beauchamp, Dennis Birbeck, Lynda Clinton, Barbara Dring, Penny Holbrook, Barbara Jackson, Penny Wagg and Mike Ward

APOLOGIES

2048

Apologies for their inability to attend the meeting were submitted on behalf of Councillors Nigel Dawkins, Mohammed Ishtiaq, Peter Kane, David Osborne and Shokat Ali.

MINUTES

Minute No. 2038 - Review of Licence Fees: 2011 - 2012

Councillor Dring referred to the preamble to the above resolution, in which it was suggested that funds from the hackney carriage and private hire ring fenced reserve were being used for deficit reduction purposes.

Annette Rowe, Finance Manager, Corporate Management, confirmed that this was the case. Jacqui Kennedy, Director of Regulatory Services suggested that the addition of the words "within the hackney carriage/private hire licensing function" after the word "deficit" in the third paragraph of the preamble would help to clarify the point.

2049

The Committee having agreed this appropriate amendment, the Minutes of the last meeting held on 16 February 2011, copies having been circulated, were confirmed and signed by the Chairman.

**REVENUE BUDGET MONITORING - 2010 2011: MONTH 9 UP TO 31
DECEMBER 2010**

The following joint report of the Director of Corporate Finance and the Director of Regulatory Services was submitted: -

(See document No 1)

The report was introduced by Annette Rowe, Finance Manager, Corporate Management

2050

RESOLVED:-

- (i) That the latest approved revenue budget for the Licensing Committee, as set out in the report now submitted, be received; and
- (ii) that the current budgetary position and the projected revenue outturn for the 2010/2011 financial year as detailed therein be noted.

LICENSING COMMITTEE BUDGET 2011-2012

The following joint report of the Director of Corporate Finance and the Director of Regulatory Services was submitted: -

(See document No. 2)

The report was introduced by Annette Rowe, Finance Manager, Corporate Management

2051

RESOLVED:-

That the budget approved by the City Council for the Licensing Committee as referred to in the report now submitted be noted and more particularly -

- (i) that approval be given to the detailed revenue budget allocation for 2011/12 as shown in Appendices A and B to the report;
 - (ii) that the additional funding to address budget pressures and to meet policy priorities as shown in Appendix C be noted;
 - (iii) that the details of the approved savings programme for 2011/12 as shown in Appendix D be agreed;
 - (iv) that the estimated employee numbers for 2011/12 as shown in Appendix E be noted.
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**APPLICATION FOR THE REGISTRATION OF A TOWN/VILLAGE GREEN
WESTHILL PLAYING FIELDS, SELLY OAK**

The following report of the Director of Regulatory Services was submitted:-

(See document No. 3)

The following additional documents were submitted: -

- A. Statement on behalf of the Applicants and the Friends of Westhill Playing Fields organisation.
- B. Letter to the Chairman of the Licensing Committee dated 14 March 2011 from the Westhill Endowment, objectors to the Application.

(See document No. 4)

Ann Haigh attended the meeting on behalf of the Friends of Westhill Playing Fields (the applicant).

The Chairman advised that the representative for the applicant present at the meeting would be offered the opportunity to speak after the legal officer had introduced the report. It was not however open to them or indeed members of the Committee to revisit the evidence already heard at the Inquiry and considered by the Inspector in her report. Any representation they wished to make should be limited to the reading of the statement they had prepared, copies of which had been placed in front of the Committee.

Ben Burgerman, Legal Services then introduced the report, following which Ann Haigh read out the statement tabled at the meeting on behalf of the Applicants and the Friends of Westhill Playing Fields organisation.

The recommendations in the report were then put to the Committee, following which it was

2052

RESOLVED: -

That the Inspector's report dated 4 July 2010, as attached to the report now submitted, be endorsed and that the application for the registration of a town/village green in respect of land at Westhill Playing Fields, Selly Oak, Birmingham (VG1/08) be granted (with modified plan) for the reasons set out in the Inspector's report.

GRANTS TO THE POLICE AUTHORITY

The following report of the Director of Regulatory Services was submitted:-

(See document No. 5)

PC John Slater, West Midlands Police attended the meeting and addressed the Committee on his work as Taxi Liaison Officer, as detailed in the report submitted to the Committee.

Councillor Beauchamp said that he was appreciative of the impressive figures detailed in the six-month work report of the taxi liaison officer, which included the very useful facility of access to DVLA records.

PC Slater in reply to a question from Councillor Clinton, advised that there was a close working relationship with neighbouring authorities. Those contacts allowed a two-way communication process permitting appropriate intelligence to be passed between the respective licensing sections.

The Chairman thanked PC Slater for his hard work in respect of this valuable activity.

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RESOLVED: -

That approval be given to the grant of £65,000 to West Midlands Police for the services of a dedicated uniformed Police Officer (Taxi Liaison Officer), the maintenance and use of a police motorcycle and additional police officers to provide additional support for enforcement exercises as detailed in the report now submitted, in accordance with the authority granted by Section 92 of the Police Act 1996.

FOREIGN NATIONALS - CRIMINAL RECORDS CHECKS AND CERTIFICATES OF GOOD CONDUCT

The following report of the Director of Regulatory Services was submitted: -

(See document No. 6)

The report was introduced by Chris Arundel, Principal Licensing Officer.

Councillor Clinton commented that the Licensing Sub-Committees occasionally considered cases of existing licence holders who were out of the country for extended periods and wondered whether the proposed amendments would affect this category of driver. Mr Arundel replied that the current policy applied only to new applicants without a history of residence in this country. The matters detailed by Councillor Clinton could be taken into account by the respective Sub-Committees should an individual licence lapse under such circumstances.

Councillor Lal said that it was difficult for any member to know all the background to a specific foreign country, particularly in terms of its political stability or otherwise. Equally it was often impossible to determine whether applicants from such states were the victims, or indeed the perpetrators of crime. In his view the current system was far too lax and the Committee would be justified in requiring a set period of say five to 10 years' residence during which an applicant could prove their good citizenship in order that the public were not exposed to risk.

Councillor Holbrook however did not feel that it was appropriate for an applicant to be treated disadvantageously simply because they came from a non-EU country. She added that in order for a person to be granted asylum or refugee status in this country, they were likely to have been resident for a significant period of time with a traceable UK history, which would have been checked by the Home Office as part of the application process.

Councillor Dring noted that the proposals contained in sections 4.4 and 4.5 reinforced and strengthened the Committee's existing policies in this regard.

Councillor Jackson referred to the list of 'prominent regulated occupations' set out in the Appendix to the report. She was somewhat surprised that occupations such as osteopaths, optometrists and traffic wardens were included in the list and wondered to what extent such occupations could be expected to know the background of an applicant.

Jacqui Kennedy, Director of Regulatory Services, advised that such referees would be required to provide a verifiable character reference to assure the licensing authority of an applicant's background.

Councillor Beauchamp commented that it had been a cause of some unease that licences could be granted to people with a "blank" past, and he believed that the list of occupations were of sufficient standing to give some degree of comfort to the Committee in this regard. He wondered however what would be the process for an applicant to make a statutory declaration of their fitness of character, which was the second element included in the proposed revised procedure. Parminder Bhomra, Legal Services, advised that legislation set out a prescribed format in which such declarations were to be made and gave a list of legally qualified persons who could attest to same. She would be supplying appropriate details to colleagues in the Licensing Section.

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RESOLVED:-

- (i) That approval be given to the introduction of revised procedures, in line with the advice provided by St Phillips Chambers as set out in section 4 of the report now submitted, to deal with applicants for hackney carriage and private hire licences unable to comply with the requirement to produce a certificate of good conduct, or the equivalent of a Criminal Records Bureau check, from a country or countries where they had been resident as adults, due to having fled from an oppressive regime, or having come from a 'failed' state;
- (ii) that Outstanding Minute No. 1997 be discharged.

LICENSING THE FRONT SEAT OF HACKNEY CARRIAGE VEHICLES

The following report of the Director of Regulatory Services was submitted: -

(See document No. 7)

The applicant, Mr Mohammed Rashid of the Birmingham and Solihull Taxi Alliance attended the meeting. He advised that following extensive consultation with trade representatives, the proposal to relax the restriction on the use of the front seat of Birmingham hackney carriages was being put before the Committee. It was not intended to be compulsory however and individual licence holders would have the option whether or not to amend their licence. He pointed out that currently Solihull licensed drivers were permitted to carry seven passengers, whereas Birmingham drivers could only carry six, which caused particular problems in respect of dual licensed vehicles and also led to loss of business to the private hire trade.

Mr S Sahota, a licensed hackney carriage driver said that he was sure that a small proportion of drivers would like to carry additional passengers, although he pointed out that the Committee's position in the past had been to separate driver and passengers for safety reasons. Any driver wishing to carry passengers in the front of the vehicle would have to accept the increased risk and also note the possible additional insurance costs. He also anticipated that there could be potential problems on the taxi ranks if individual cabs were licensed to carry different numbers of passengers.

Jacqui Kennedy, Director of Regulatory Services, advised that if the proposal was to be agreed, an individual taxi licensed to carry seven persons would be unable to refuse such a fare.

Councillor Dring commented that this was a major change to the existing licensing provisions and felt that it merited extensive consultation with of the trade, in order to determine whether or not there was significant demand for its introduction. Councillors Beauchamp and Holbrook agreed that there was a need for substantial further consultation.

Councillor Ward however believed that it was not appropriate for the Committee to arbitrate on such an application or to saddle itself with an expensive consultation exercise. Rather he believed that the matter should be referred back to be applicant in order for them to secure the full agreement of the trade.

The Chairman said that in his view sufficient evidence had not been presented to support the application and that a further report should be presented giving full details of the implications of the proposal for the Committee's policies and procedures. He favoured individual consultation with the whole trade and suggested that it might be appropriate to fix a response rate of perhaps 45% for the proposal to proceed.

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RESOLVED:-

That the request by Mr Mohammed Rashid of the Birmingham and Solihull Taxi Alliance to relax the restriction on the use of the front seat for the carriage of passengers in Birmingham licensed hackney carriage vehicles be deferred pending submission of a further report giving full details of the implications of the proposal for the Committee's policies and procedures and following wide-scale consultation with the trade.

REGULATORY SERVICES SERVICE PLAN 2011-2012

The following report of the Director of Regulatory Services was submitted: -

(See document No. 8)

2056

RESOLVED:-

- (i) That the introduction to Regulatory Service Plans for 2011/12 as detailed in Appendix 1 to the report now submitted be noted;
- (ii) that approval be given to the Regulatory Service Plan in respect of Licensing Services for the period 1 April 2011 – 31 March 2012 as detailed in Appendix 2;
- (iii) that the Joint Service Delivery Plan across Regulatory Services as detailed in Appendix 3 be noted.

FLATPACK FESTIVAL: 23-27 MARCH 2011

The following report of the Director of Regulatory Services was submitted: -

(See document No. 9)

Ian Francis of the Midlands Arts Centre attended the meeting and responded to questions from members of the Committee in respect of the films to be exhibited at the Flatpack Festival.

2057

RESOLVED:-

That approval be given to the exhibition of the following uncertificated films at the Electric Cinema, Station Street and the Mac, Cannon Hill Park from 23 – 27 March 2011 as part of the 'Flatpack Festival 2011' with the age restriction classifications shown below:

Best Worst Movie (15)
Double Take (PG)
Memory and Desire (12)
The Living Room of the Nation (15)
Beeswax (12)
Petropolis (U)
Down Terrace (18)
Colour Box Shorts (U)
No One knows about Persian Cats (PG)
Puppet Shorts (15)
Animated Shorts (15)
Experimental Shorts (12)

APPROVAL OF UPDATED REGULATORY SERVICES ENFORCEMENT POLICY

The following report of the Director of Regulatory Services was submitted: -

(See document No. 10)

2058

RESOLVED:-

That approval be given to the application of the updated Regulatory Services' Enforcement Policy 2011 as attached to the report now submitted for implementation with effect from 1st April 2011 to replace the previously approved (2010) Policy.

CUSTOMER SERVICE EXCELLENCE

The following report of the Director of Regulatory Services was submitted: -

(See document No. 11)

2059

RESOLVED:-

- (i) That the report now submitted advising the Committee of the retention by Regulatory Services of the Customer Service Excellence Standard, the scope of which has now been extended to include the Registration Service, be noted;
 - (ii) that this Committee's congratulations be conveyed to the staff concerned on their commitment and dedication in once again securing retention of the Standard.
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PROSECUTIONS AND CAUTIONS - JANUARY 2011

The following report of the Director of Regulatory Services was submitted: -

(See document No. 12)

2060

RESOLVED:-

That the report now submitted summarising the outcome of legal proceedings during the month of January 2011 involving four cases, resulting in fines of £1,190, prosecution costs of £600 and 24 penalty points as listed in Appendix 1 and 21 simple cautions as listed in Appendix 2, be received and noted.

**OUTCOME OF APPEALS AGAINST SUB-COMMITTEE DECISIONS
JANUARY 2011**

The following report of the Director of Regulatory Services was submitted: -

(See document No. 13)

2061

RESOLVED:-

That the report now submitted advising of the outcomes of appeals made to the Magistrates' Court against Licensing Sub-Committee decisions and any subsequent appeals made to the Crown Court and finalised in January 2011 be received and noted.

**REPORT BACK ON ACTION TAKEN IN CONSULTATION WITH
THE CHAIRMAN**

The following report of the Director of Regulatory Services was submitted: -

(See document No. 14)

2062

RESOLVED:-

That the action of the Head of Licensing in consultation with the Chairman be noted in amending the decision of Licensing Sub-Committee A held on 15 November 2010 in respect of the Toby Jug, Newman Way, Rubery so as to remove the null and void condition 'E' relating to the opening hours of the premises.

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted: -

(See document No. 15)

Minute No 2032 (ii) - Working Party on Plying for Hire

The Chairman proposed that in view of the cancellation of the April meeting of the Committee (see Other Urgent Business below), the Working Party on Plying for Hire established at the previous meeting be held in its place and that all members of the Committee be invited to attend.

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RESOLVED:-

- (i) That all Outstanding Minutes listed in the foregoing Schedule, not the subject of report to this meeting, be continued;
- (ii) that the inaugural meeting of the Working Party on Plying for Hire be held on Wednesday 20 April 2011 at 10:00 hours at the Council

House and that all members of the Committee be cordially invited to attend.

OTHER URGENT BUSINESS

2064 **Cancellation of April meeting**

The Chairman advised that due to lack of business, it had been determined that the meeting of the Committee scheduled for 20 April 2011 would be cancelled.

AUTHORITY TO CHAIRMAN AND OFFICERS

2065 **RESOLVED:-**

That the Chairman (or in his absence, the Vice-Chairman) is hereby authorised to act until the next meeting of the Committee except that, in respect of the exercise of the Council's non-Executive functions, the appropriate Chief Officers are hereby authorised to act in consultation with the Chairman and that the Corporate Director of Governance is authorised to affix the Corporate Seal to any document necessary to give effect to a decision of the said officers acting in pursuance of the power hereby delegated to them; further that a report of all action taken under this authority be submitted to the next meeting and that such report shall explain why this authority was used.

The meeting ended at 1150 hours.

CHAIRMAN