

**MINUTE OF MEETING of the
CLACKMANNANSHIRE COUNCIL held
within the Council Chamber, Greenfield,
Alloa, on THURSDAY 23rd APRIL 2009.**

PRESENT

**Provost Derek Stewart (Chair)
Councillor Donald Balsillie
Councillor John Biggam
Councillor Janet Cadenhead
Councillor Alastair Campbell
Councillor Eddie Carrick
Councillor Kenneth Earle
Councillor Mark English
Councillor Irene Hamilton
Councillor Craig Holden
Councillor George Matchett
Councillor Walter McAdam, MBE
Councillor Bobby McGill
Councillor Harry McLaren
Councillor Tina Murphy
Councillor Reverend Sam Ovens
Councillor Janis Paterson
Councillor Gary Womersley**

IN ATTENDANCE

**Angela Leitch, Chief Executive
Grahame Blair, Director of Services to
People
Peter Broadfoot, Head of Administration
and Legal Services (Clerk to the Council)
Garry Dallas, Director of Development and
Environmental Services
Barry Dickson, Head of Business
Improvement and Technology Services
John Gillespie, Head of Housing
Jim Goodall, Head of Education
Jeni Graham, Director of Corporate
Development Services
Muir Wilson, Head of Finance**

CC.01/237 APOLOGIES

None

CC.02 DECLARATIONS OF INTEREST

There were no declarations of interest.

The Council heard from the Head of Administration and Legal Services at this point in the proceedings. The Head of Administration and Legal Services apologised to Council and advised that a report on Contract Standing Orders (agenda item 10) had been omitted from the agenda in error. The Head of Administration and Legal Services clarified that the item had been issued with more than the statutory period of notice required for papers for the Council meeting. It is considered vital that the Council should have in place new Contract Standing Orders that are fit for purpose, up to date and meet all the legalities that the Council is required to follow. The current Contract Standing Orders do not, in some respects, meet those requirements and for this reason it is important that the Council has new Contract Standing Orders in place as a matter of urgency.

Councillor Balsillie moved to defer consideration of Contract Standing Orders until the next Council meeting (4th June 2009) as members of the opposition group had not accessed a copy of the report on Contract Standing Orders until Monday (20th April) of the week of the Council meeting.

On a division, the Council agreed by 9 votes to 8 to consider the report on Contract Standing Orders. Councillor McAdam was not present at this point in the proceedings to take part in the vote.

In terms of Standing Order 10.1, the Provost indicated that the report on Contract Standing Orders would be taken as agenda item 6(b) for the reasons outlined by the Head of Administration and Legal Services.

CC.03 MINUTES OF MEETINGS

(a) Minute of Special Meeting held on Tuesday 10th March 2009

There was submitted a minute of the Special Meeting held on Tuesday 10th March 2009, a copy of which had been circulated previously to each Member.

The minute of the Special Meeting held on Tuesday 10th March 2009 was agreed as a correct record and signed by the Provost.

(b) Minute of Meeting held on Thursday 12th March 2009

There was submitted a minute of the meeting held on Thursday 12th March 2009, a copy of which had been circulated previously to each Member.

The minute of the meeting held on Thursday 12th March 2009 was agreed as a correct record and signed by the Provost.

- Councillor McAdam joined the meeting during debate on the following item (10.00 am).

CC.04 STREET TRADING POLICY

There was submitted a report by Peter Broadfoot, Head of Administration and Legal Services, a copy of which had been circulated previously to each Member.

An amended copy of the report had been circulated previously to each Member. The amended version provided a correction to a typographical error in paragraph 3.3 of the original report to indicate that the policy be changed so that it restricts street trading within 500 metres of the schools from 12.00 pm to 2.00 pm every weekday and not 8.00 am to 4.00 pm.

Scale maps showing the buffer areas around the new secondary schools were made available to the meeting.

The Council heard four representations from street traders.

Councillor Carrick moved the recommendation set out in the report. Seconded by Councillor Earle.

Amendment

Paragraph 3.3: to add after the word trading - "with under sixteen year olds".

Moved by Councillor Balsillie. Seconded by Councillor Womersley.

The amendment was defeated by 10 votes to 5 with 3 abstentions.

The motion was carried by 16 votes to 2.

Accordingly, the Council agreed to impose the following condition on the grant or renewal of any street trader licence where the area of trade includes one of the new secondary schools in Clackmannanshire, namely:

"The licence holder is prohibited from trading within 500 metres of any secondary school between the hours of 12.00 pm and 2.00 pm, Monday to Friday. This restriction does not apply when the schools are not in session. The Council will advise licence holders, in advance, of days when the schools will not be in session."

The Council also agreed that, given concerns raised by street traders on industrial sites, the Head of Administration and Legal Services would consider any application where there are exceptional circumstances.

Action: Angela Leitch, Chief Executive

CC.05 SCRUTINY COMMITTEE VACANCY

There was submitted a report by Peter Broadfoot, Head of Administration and Legal Services, a copy of which had been circulated previously to each Member.

Councillor Cadenhead moved the recommendation set out in the report that Council nominates an elected member to be a member of the Scrutiny Committee. Seconded by Councillor McLaren.

As no nomination was made to appoint a member to fill the vacancy on the Scrutiny Committee, the Provost moved that the matter be remitted to the Chief Executive to consider a way forward.

On a division, the motion was defeated by 9 votes to 8 with one abstention.

CC.06 SCOTLAND EXCEL

There was submitted a report by Derek Barr, Procurement Manager, a copy of which had been circulated previously to each Member.

Councillor McGill moved the recommendation set out in the report that Clackmannanshire Council does not join Scotland Excel in 2009/10 on the basis that there is still no financial benefit in doing so, as the cost of joining significantly exceeds the potential savings. Seconded by councillor Earle.

On a division, the Council agreed by 15 votes with 3 abstentions to support the motion.

Accordingly, the Council agreed not to joint Scotland Excel in 2009/10 on the basis that there is still no financial benefit in doing so, as the cost of joining significantly exceeds the potential savings.

Action: Jeni Graham, Director of Corporate Development Services

CC.07 CONTRACT STANDING ORDERS

In terms of Standing Order 10.1, the Provost indicated that the report on Contract Standing Orders would be taken at this point in the proceedings for the reasons outlined by the Head of Administration and Legal Services at the start of the meeting.

There was submitted a report by Derek Barr, Procurement Manager, a copy of which had been circulated previously to each Member. The report had been omitted in error from the Council agenda dated 15th April 2009 and had been issued to members on 16th April 2009.

Councillor McGill moved that Council approves Contract Standing Orders 2009-2010 and agrees to their adoption with immediate effect. Seconded by Councillor McLaren.

Amendment

That Council defers the item to the next meeting of the Council to provide a detailed breakdown of the changes from the original Contract Standing Orders.

Moved by Councillor Holden. Seconded by Councillor Balsillie.

The amendment was defeated by 11 votes to 3 with 4 abstentions.

The motion was carried by 13 votes to 1 with 4 abstentions.

Accordingly, the Council agreed to approve Contract Standing Orders 2009-2010 and agreed to their adoption with immediate effect.

Action: Jeni Graham, Director of Corporate Development Services

CC.08 B9140 REALIGNMENT OF BENDS (COLLYLANDS TO GLENOCHIL WEST)

There was submitted a report by Mac West, Roads and Transportation Manager, a copy of which had been circulated previously to each Member.

The Council agreed to adjourn at this point in the proceedings (11.20 am) to consider the implications of the paper. When the meeting resumed (11.30 am), all 18 members were present.

The Chief Executive then clarified for Council that the former Chief Executive, in full knowledge of the existing Contract Standing Orders and Financial Regulations of the Council, had taken a decision that as the earthworks were so far advanced, there was no option but to continue to complete the work with the minimum of delay as to do otherwise would have run a risk of the remaining ground becoming water logged and unsuitable resulting in even greater cost and that the necessary funding should be found from elsewhere in the Capital Programme. The former Chief Executive subsequently discussed his decision with the Head of Finance and the Head of Legal Services. Both agreed with the decision of the previous Chief Executive and fully supported him in that decision and, on that basis, this report comes forward to advise Council of the variation to the B9140 Realignment of Bends Project.

Councillor Carrick moved the recommendation set out in the report to note the variation to the project for the reasons set out in the report. Seconded by Councillor McLaren.

Amendment

That Council refers the contract to the Council's external auditors to report on whether appropriate cost controls and contract procedures were followed and provide an audit action plan for the service and Council on what future cost controls and procedures should be in place to reduce the risk of contract variations in the future.

Moved by Councillor Balsillie. Seconded by Councillor Womersley.

The amendment was defeated by 10 votes to 7 with one abstention.

The motion was carried unanimously.

Accordingly, the Council agreed to note the variation to the B9140 Realignment of Bends project for the reasons set out in the report.

Action: Garry Dallas, Director of Development and Environmental Services

- Councillor Paterson withdrew from the meeting at this point in the proceedings.

**CC.09 CLOSURE OF CLACKMANNAN NURSERY SCHOOL AND
ESTABLISHMENT OF A NURSERY CLASS AT
CLACKMANNAN PRIMARY SCHOOL**

There was submitted a report by Jim Goodall, Head of Education, a copy of which had been circulated previously to each Member.

Moved by Councillor Matchett. Seconded by Councillor McLaren.

The Council agreed to support the report subject to the undernoted amendment moved by Councillor Holden.

To delete paragraph 2.1 of the report and to replace it with the following:

It is recommended that Council approves the initiation of a statutory process to close Clackmannan Nursery School, subject to the completion of the statutory consultation process and to re-establish the service as a nursery class of Clackmannan Primary School.

A further report to be brought to Council on 4th June 2009 following the completion and evaluation of the consultation process.

The report as amended was agreed without division.

Action: Grahame Blair, Director of Services to People

- Councillor Matchett withdrew from the meeting at this point in the proceedings.

CC.10 PRIVATE SECTOR HOUSING GRANTS - INTERIM POLICY

There was submitted a report by Kenny Hutton, Housing Strategy Manager, a copy of which had been circulated previously to each Member.

Councillor Reverend Ovens moved that the recommendations set out in the report. Seconded by Councillor McLaren.

The Council agreed unanimously to:

- endorse the principles set out in the Interim Strategic Policy Statement for use in 2009/10
- note changes implemented to payments for private sector adaptations.
- direct the Head of Housing to deliver a Section 72 Statement of Assistance in full by January 2010.

The council also agreed that officers would submit an interim paper to Council on the consultation process.

Action: Grahame Blair, Director of Services to People

