

THE FIFE COUNCIL - FIFE COUNCIL – BLENDED MEETING

Council Chamber, 6th Floor, Fife House, North Street, Glenrothes

21 September 2023

10.00 am – 1.10 pm

PRESENT: Councillors Jim Leishman (Convener), Tom Adams, David Alexander, Blair Allan, Naz Anis-Miah, Lesley Backhouse, Alistair Bain, Lynn Ballantyne-Wardlaw, David Barratt, Auxi Barrera, John Beare, Aude Boubaker-Calder, Patrick Browne, John Caffrey, James Calder, Ken Caldwell, Alistair Cameron, Ian Cameron, Alex Campbell, Rod Cavanagh, Al Clark, Eugene Clarke, Fiona Corps, Altany Craik, Colin Davidson, Dave Dempsey, Sean Dillon, Graeme Downie, Gavin Ellis, Linda Erskine, Derek Glen, Brian Goodall, Peter Gulline, Jean Hall-Muir, Judy Hamilton, Alycia Hayes, Cara Hilton, Stefan Hoggan-Radu, Gary Holt, Andy Jackson, Louise Kennedy-Dalby, Allan Knox, Robin Lawson, James Leslie, Kathleen Leslie, Rosemary Liewald, Carol Lindsay, Jane Ann Liston, Mary Lockhart, Donald Lothian, David MacDiarmid, Julie MacDougall, Lea McLelland, Lynn Mowatt, Sarah Neal, Derek Noble, John O'Brien, Nicola Patrick, Gordon Pryde, Bailey-Lee Robb, David Ross, Sam Steele, Alistair Suttie, Jonny Tepp, Ann Verner, Ross Vettraino, Craig Walker, Darren Watt, Daniel Wilson, Jan Wincott and Conner Young.

APOLOGIES FOR ABSENCE: Councillors David Graham, Margaret Kennedy and Andrew Verrecchia.

87. DECLARATIONS OF INTEREST

Councillor Eugene Clarke made a transparency statement relating to Para 97 – Notice of Motions (Motion 2) - as he had a long term interest in the Levenmouth rail project.

88. CIVIC BUSINESS BULLETIN

Decision

The council noted the Civic Business Bulletin.

89. MINUTE

The Provost, seconded by Councillor Cavanagh, moved that the minute of the meeting of 22 June 2023 be approved.

Decision

The council approved the minute.

90. MINUTES OF COMMITTEES AND SUB-COMMITTEES

Minutes of the undernoted committees and sub-committee, as contained in the volume of minutes were submitted for accuracy:-

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- (1) West & Central Planning Committee of 16 August 2023.
- (2) North East Planning Committee of 23 August 2023.
- (3) Fife Planning Review Body of 14 August 2023.
- (4) Regulation and Licensing Committee of 13 June and 8 August 2023.
- (5) Cabinet Committee of 29 June and 10 August 2023.
- (6) Standards, Audit & Risk Committee of 30 June and 17 August 2023.
- (7) Pensions Committee of 23 June and 30 June 2023.
- (8) Glenrothes Area Committee of 30 August 2023.
- (9) Levenmouth Area Committee of 21 June and 30 August 2023.
- (10) City of Dunfermline Area Committee of 15 August 2023.
- (11) Kirkcaldy Area Committee of 29 August 2023.
- (12) North East Area Committee of 21 June and 16 August 2023.
- (13) Education Scrutiny Committee of 22 August 2023.
- (14) Finance, Economy and Corporate Services Scrutiny Committee of 15 June and 24 August 2023.
- (15) People and Communities Scrutiny Committee of 8 June and 31 August 2023.
- (16) Environment, Transportation and Climate Change Scrutiny Committee of 20 June 2023.
- (17) Fife Health & Social Care Integration Joint Board of 31 March, 2023.

Decision

The council noted the minutes.

The Provost advised that in terms of Standing Order 9.1, Item 7 (Para 92) be considered before Item 6 (Para 91) to allow the Leader to be available to present the report.

91. LEADER'S REPORT

The council considered a report by the Leader of the Council on a number of strategic issues. The Leader provided updates on a number of issues in response to questions from members.

Councillor Beare, seconded by Councillor Robb, moved to suspend Standing Order 9.2 to extend the time allowed for Question Time to allow all members to have their questions answered.

There voted as follows:-

For the Motion to suspend Standing Orders – 33 votes

Councillors David Alexander, Blair Allan, Naz Anis-Miah, Lesley Backhouse, Alistair Bain, Lynn Ballantyne-Wardlaw, David Barratt, Auxi Barrera, John Beare, Ken Caldwell, Rod Cavanagh, Derek Glen, Brian Goodall, Jean Hall Muir, Alycia Hayes, Stefan Hoggan-Radu, Andy Jackson, Louise Kennedy-Dalby, Rosemary Liewald, Carol Lindsay, David MacDiarmid, Lea McLelland, Lynn Mowatt, Sarah Neal, John O'Brien, Nicola Patrick, Bailey-Lee Robb, Sam Steele, Alistair Suttie, Ann Verner, Ross Vettraino, Craig Walker and Daniel Wilson.

Against the Motion – 38 votes

Councillors Tom Adams, Mary Bain-Lockhart, Aude Boubaker-Calder, Patrick Browne, John Caffrey, James Calder, Alistair Cameron, Ian Cameron, Alex Campbell, Al Clark, Eugene Clarke, Fiona Corps, Altany Craik, Colin Davidson, Dave Dempsey, Sean Dillon, Graeme Downie, Gavin Ellis,

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Linda Erskine, Peter Gulline, Judy Hamilton, Cara Hilton, Gary Holt, Allan Knox, Robin Lawson, Jim Leishman, James Leslie, Kathleen Leslie, Jane Ann Liston, Donald Lothian, Julie MacDougall, Derek Noble, Gordon Pryde, David Ross, Jonny Tepp, Darren Watt, Jan Wincott and Conner Young.

Accordingly, in terms of Standing Order No. 41.0, the motion to suspend Standing Orders was not carried as the required two thirds majority of members present and entitled to vote was not achieved.

Decision

The council:-

- (1) noted the report; and
- (2) agreed that members who did not have their question considered due to time constraints, would submit their question directly to the Leader by email.

The meeting adjourned at 11.40 am and reconvened at 12.20 pm.

92. QUESTION TIME

In terms of Standing Order 9.3, the questions put by members to the meeting, the written answers and supplementary questions are contained in Appendix 1 to the minute.

Councillor Wincott, Spokesperson for Environment and Climate Change answered questions 1 and 3.

Councillor Craik, Spokesperson for Finance, Economy and Strategic Planning answered questions 2 and 4 to 11.

Councillor Hamilton, Spokesperson for Housing and Building Services answered questions 12, 13 and 14.

93. STANDARDS COMMISSION DECISION

The council considered a report by the Executive Director, Finance and Corporate Services requiring the council to consider the findings of the Standards Commission for Scotland decision concerning former Councillor Linda Holt.

Decision

The council considered and noted the report.

94. TAY CITIES JOINT COMMITTEE - CHANGE OF MEMBERSHIP

The council considered a report by the Head of Business and Employability Services seeking approval to change the membership of the Tay Cities Joint Committee to allocate a vacant voting membership to Tactran.

Decision

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The council approved the change of membership of the Tay Cities Joint Committee.

95. 2023 REVIEW OF UK PARLIAMENTARY CONSTITUENCIES

The council considered a report by the Head of Legal and Democratic Services providing a summary of the changes to the new UK Parliament constituencies affecting the Fife Council local government area.

Decision

The council:-

- (1) noted the final recommendations for the new UK Parliament constituencies as approved by Ministers;
- (2) approved the amendments to Fife Council polling districts arising from the new boundaries;
- (3) noted that a statutory review of all polling districts and polling places would commence on 1 October 2023; and
- (4) noted that the electoral register due to be published on 1 December 2023 would reflect the changes outlined in the report.

96. FIFE COUNCIL APPOINTMENTS

The council considered a report by the Head of Legal and Democratic Services to appoint elected members to the St Andrews Links Trust, the position of Spokesperson for Health and Social Care and Fife Alcohol and Drug Partnership.

St Andrews Links Trust

Councillor Ross, seconded by Councillor Lawson, moved that Councillor Davidson be appointed to the St Andrews Links Trust.

There being no other nominations, Councillor Davidson was duly appointed to the St Andrews Links Trust for the remainder of the three year term to 31 December 2024.

Nominations for Spokesperson for Health and Social Care

Councillor Ross, seconded by Councillor Craik, moved that Councillor Downie be appointed as Spokesperson for Health and Social Care.

Councillor Alexander, seconded by Councillor Walker, moved that Councillor Liewald be appointed as Spokesperson for Health and Social Care.

Roll Call

For Councillor Downie – 38 votes

Councillors Tom Adams, Mary Bain-Lockhart, Aude Boubaker-Calder, Patrick Browne, John Caffrey, James Calder, Alistair Cameron, Ian Cameron, Alex Campbell, Al Clark, Eugene Clarke, Fiona Corps, Altany Craik, Colin Davidson, Dave Dempsey, Sean Dillon, Graeme Downie, Gavin Ellis,

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Linda Erskine, Peter Gulline, Judy Hamilton, Cara Hilton, Gary Holt, Allan Knox, Robin Lawson, Jim Leishman, James Leslie, Kathleen Leslie, Jane Ann Liston, Donald Lothian, Julie MacDougall, Derek Noble, Gordon Pryde, David Ross, Jonny Tepp, Darren Watt, Jan Wincott and Conner Young.

For Councillor Liewald – 32 votes

Councillors David Alexander, Blair Allan, Naz Anis-Miah, Lesley Backhouse, Alistair Bain, Lynn Ballantyne-Wardlaw, David Barratt, Auxi Barrera, John Beare, Ken Caldwell, Rod Cavanagh, Derek Glen, Brian Goodall, Jean Hall Muir, Alycia Hayes, Stefan Hoggan-Radu, Andy Jackson, Louise Kennedy-Dalby, Rosemary Liewald, Carol Lindsay, David MacDiarmid, Lea McLelland, Lynn Mowatt, Sarah Neal, John O'Brien, Nicola Patrick, Bailey-Lee Robb, Sam Steele, Ann Verner, Ross Vettraino, Craig Walker and Daniel Wilson.

Accordingly, the council agreed that Councillor Downie be appointed as the Spokesperson for Health and Social Care.

Fife Alcohol and Drug Partnership

Councillor Ross, seconded by Councillor Craik, moved that Councillor Downie be appointed to the Fife Alcohol and Drug Partnership.

Councillor Alexander, seconded by Councillor Walker, moved that Councillor Liewald be appointed to the Fife Alcohol and Drug Partnership.

Roll Call

For Councillor Downie – 38 votes

Councillors Tom Adams, Mary Bain-Lockhart, Aude Boubaker-Calder, Patrick Browne, John Caffrey, James Calder, Alistair Cameron, Ian Cameron, Alex Campbell, Al Clark, Eugene Clarke, Fiona Corps, Altany Craik, Colin Davidson, Dave Dempsey, Sean Dillon, Graeme Downie, Gavin Ellis, Linda Erskine, Peter Gulline, Judy Hamilton, Cara Hilton, Gary Holt, Allan Knox, Robin Lawson, Jim Leishman, James Leslie, Kathleen Leslie, Jane Ann Liston, Donald Lothian, Julie MacDougall, Derek Noble, Gordon Pryde, David Ross, Jonny Tepp, Darren Watt, Jan Wincott and Conner Young.

For Councillor Liewald – 33 votes

Councillors David Alexander, Blair Allan, Naz Anis-Miah, Lesley Backhouse, Alistair Bain, Lynn Ballantyne-Wardlaw, David Barratt, Auxi Barrera, John Beare, Ken Caldwell, Rod Cavanagh, Derek Glen, Brian Goodall, Jean Hall Muir, Alycia Hayes, Stefan Hoggan-Radu, Andy Jackson, Louise Kennedy-Dalby, Rosemary Liewald, Carol Lindsay, David MacDiarmid, Lea McLelland, Lynn Mowatt, Sarah Neal, John O'Brien, Nicola Patrick, Bailey-Lee Robb, Sam Steele, Alistair Suttie, Ann Verner, Ross Vettraino, Craig Walker and Daniel Wilson.

Accordingly, the council agreed that Councillor Downie be appointed to the Fife Alcohol and Drug Partnership.

Decision

The council:-

- (1) noted the resignation of the Provost from the St Andrews Links Trust and agreed to appoint Councillor Colin Davidson for the remainder of the three year term to 31 December 2024;
- (2) agreed to appoint Councillor Graeme Downie as Spokesperson for Health and Social Care (and subsequent appointments connected to this position); and
- (3) agreed to appoint Councillor Graeme Downie to the Fife Alcohol and Drug Partnership.

97. NOTICE OF MOTIONS

The Council considered a report by the Head of Legal and Democratic Services requiring the Council to consider motions submitted in terms of Standing Order No. 10.

Motion 1

Councillor Boubaker-Calder, seconded by Councillor Calder, moved as follows:-

School Crossing Patrol Officers

“Council notes:

- (1) The importance of school crossing patrol officers (Lollipop people) in ensuring the safety of school pupils walking to school.
- (2) Council further notes the health and environmental benefits of active travel to schools and that school crossing patrol guards can help with encouraging this.
- (3) The number of school crossing patrol guards in Fife has reduced from 76 in the 2015-16 session to 56 in 2022-23.

Council requests:

A member-led task and finish group be set up by the appropriate scrutiny committee to investigate the reasons for the long-term reduction in school crossing patrol guards, what work is being done to recruit them and what is being done to mitigate the effect of the reduction, in particular with ensuring the safety of pupils using active travel to travel to schools and to seek best practice from elsewhere.”

Decision

The Council agreed the motion unanimously.

Motion 2

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Councillor Vettraino, seconded by Councillor Wilson, moved as follows:-

“Council notes:

- that Network Rail, while redeveloping the Thornton to Leven rail-link, and with insufficient consultation with local communities, has already closed or intends to close the crossing routes known as Doubledykes, Waulksmill and Tullybreck;
- the Right of Way at Doubledykes was extinguished by the British Railways Order Confirmation Act of 1984, although the public has subsequently enjoyed free and unrestricted access along its route since then and the local community believes that the Right of Way has consequently been re-established. This is a view that is shared by Scotways, the independent charity that upholds and promotes public access rights in Scotland;
- that the Leven Railway Act of 1852 requires public crossings to be maintained across the railway, but that it isn't clear to which crossings that Act refers;
- that ScotWays has confirmed that all three routes over the level crossings at Doubledykes, Wauksmill and Tullybreck are recorded in the National Catalogue of Rights of Way as Rights of Way and has expressed the view that the Council should have promoted Stopping Up Orders prior to Network Rail closing these Rights of Way and
- that Scotways has also said that formally closed Rights of Way could be re-gained by positive prescription and, in the case of Doubledykes, is of the view that there has been sufficient public use over the necessary prescription period for a public right to have been re-acquired and that it remains recorded as a Right of Way. In support of this position affidavits have been submitted to Network Rail and made available to the Council, which affirm that the crossing at Doubledykes has been used with free and unrestricted access since it was extinguished as a Right of Way by the British Railways Order Confirmation Act of 1984.

Council therefore agrees:

Based on the importance of the issue to the local community, that Counsel's Opinion be sought as to whether the Right of Way has been re-established and, if not, if there is a legal process by which it can be so; and

that Officers investigate if the crossings at Waulksmill and Tullybreck, which have been closed by Network Rail, are Rights of Way and, in particular, if they constitute “roads in the Parish of Markinch”, to which reference is made in Section XXVII of the Leven Railway Act 1852 and, if not, which are the roads to which reference is made therein.”

Amendment

Councillor Craik, seconded by Councillor Noble, moved as follows:-

“That Council agrees that there has been insufficient consultation, by Network Rail and Transport Scotland, with local communities in the delivery of the Levenmouth Rail link.

Notes that the 1852 Act relates to public crossings which were in place 170 years ago. Notes that attempts to map these crossings would indicate that obligations

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in the 1852 Act have been, and are being, fully complied with. Notes that any pre-existing access rights at Doubledykes were extinguished 130 years after the 1852 Act by the 1984 Act.

Agrees that the Council has an important role in relation to rights of way but that the Council's clear internal legal advice is that there is no right of way along the Doubledykes route.

Agrees that the much welcomed Levenmouth investment will develop the opportunity for increased economic and social benefit for the local community.

Encourages the Council to continue to actively work with partners to meet the aspirations for Doubledykes and active travel around the rail link with the further meetings are planned."

Roll Call

For the Motion – 33 votes

Councillors David Alexander, Blair Allan, Naz Anis-Miah, Lesley Backhouse, Alistair Bain, Lynn Ballantyne-Wardlaw, David Barratt, Auxi Barrera, John Beare, Ken Caldwell, Rod Cavanagh, Derek Glen, Brian Goodall, Jean Hall Muir, Alycia Hayes, Stefan Hoggan-Radu, Andy Jackson, Louise Kennedy-Dalby, Rosemary Liewald, Carol Lindsay, David MacDiarmid, Lea McLelland, Lynn Mowatt, Sarah Neal, John O'Brien, Nicola Patrick, Bailey-Lee Robb, Sam Steele, Alistair Suttie, Ann Verner, Ross Vettraino, Craig Walker and Daniel Wilson.

For the Amendment – 38 votes

Councillors Tom Adams, Mary Bain-Lockhart, Aude Boubaker-Calder, Patrick Browne, John Caffrey, James Calder, Alistair Cameron, Ian Cameron, Alex Campbell, Al Clark, Eugene Clarke, Fiona Corps, Altany Craik, Colin Davidson, Dave Dempsey, Sean Dillon, Graeme Downie, Gavin Ellis, Linda Erskine, Peter Gulline, Judy Hamilton, Cara Hilton, Gary Holt, Allan Knox, Robin Lawson, Jim Leishman, James Leslie, Kathleen Leslie, Jane Ann Liston, Donald Lothian, Julie MacDougall, Derek Noble, Gordon Pryde, David Ross, Jonny Tepp, Darren Watt, Jan Wincott and Conner Young.

Decision

The council agreed in terms of the amendment.

98. BUSINESS BROUGHT FORWARD BY THE PROVOST AS A MATTER OF URGENCY

It was noted that there was no business to be brought forward under this item.