

**THE MORAY COUNCIL**  
**MINUTE OF MEETING OF THE LICENSING COMMITTEE**

**21 MAY 2008**

**COUNCIL OFFICE, ELGIN**

**PRESENT**

Councillors R Shepherd (Chair), D Ross, J Cree, J Hamilton, A McDonald, E McGillivray, A McKay, M Shand, J Sharp and D Stewart.

**IN ATTENDANCE**

Mrs L May, Solicitor, (Litigation and Licensing), Mr V Valiente, Trainee Solicitor (Litigation and Licensing) and Mrs S. Kennedy, Committee Services Officer, Clerk to the meeting.

**APOLOGIES**

Apologies for absence were intimated on behalf of Councillors J Divers, M McConachie and G McIntyre.

**WELCOME**

The Committee joined the Chair in welcoming, Councillors McGillivray, Shand and Sharp to their first meeting of the Licensing Committee.

**1. DECLARATION OF GROUP DECISIONS**

In terms of the relevant Standing Order 20 and the Councillor's Code of Conduct the meeting noted that there were no declarations from Group Leaders or spokespersons in regard to any prior decisions taken on how members will vote on any item on the agenda.

**2. WRITTEN QUESTIONS**

There were no written questions at this meeting.

**3. LICENCES DEALT WITH UNDER DELEGATED POWERS**

There was submitted and noted a report by the Chief Legal Officer informing the Committee of Licences which have been dealt with under delegated powers in terms of the legislation as detailed in the report.

#### **4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A TAXI DRIVER LICENCE (Case No. TD/08/003)**

There was submitted a report by the Chief Legal Officer inviting the Committee to consider an application for a Taxi Driver Licence submitted in Case No. TD/08/003.

Mrs L May, Solicitor (Legal & Litigation) advised the meeting that she had received a telephone call from the applicant's part-time employer, Moray Taxis, requesting, on behalf of the applicant to defer consideration of the application. The meeting noted that the Applicant had been detained in Wales due to work commitments and was unable to attend the meeting.

The Committee, unanimously agreed to defer consideration of the case to the next meeting of the Licensing Committee to allow the applicant to make a personal appearance.

#### **5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLICATION FOR A TAXI DRIVER LICENCE (Case No. TD/08/004)**

There was submitted a report by the Chief Legal Officer inviting the Committee to consider an application for a Taxi Driver Licence submitted in Case No. TD/08/004.

The Committee noted that the Applicant was present.

The Committee noted the procedure to be followed in respect of spent convictions in applications for Taxi driver Licences and agreed that Mrs L May, Solicitor, (Litigation & Licensing) review the spent convictions. Having done so, she advised the Committee that the spent convictions were relatively recent and of a Road Traffic nature and were of relevance to the application and justice could not be done without admitting them into their consideration. The Committee accepted the advice and the Clerk circulated copies of the spent convictions to the Committee.

On the invitation of the Chairman, Sergeant C Whelan, reiterated the terms of Grampian Police's letter of representation.

On the invitation of the Chairman, the Applicant addressed the Committee.

The Committee took the opportunity to question the Applicant. The Applicant made no further comments on the spent convictions.

In response to Members queries regarding information contained in the report regarding the Road Traffic Act, Mrs L May, Solicitor, (Litigation & Licensing) clarified the position to the Committee.

Thereafter, the Chair, seconded by Councillor Cree moved that the application be refused as the applicant was not a fit and proper person to hold a taxi driver licence on the grounds that he had a total disregard for the law and disrespect for public safety.

There being no-one otherwise minded the Committee agreed to refuse the application for a Taxi Driver licence in case no WC/08/001.

## **6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – APPLIATION FOR A SECOND HAND DEALER LICENCE (Case No. SHD/08/001)**

Councillor E McGillivray declared an interest in this Item and remained in the meeting taking no part in the relevant discussion or decision.

There was submitted a report by the Chief Legal Officer inviting the Committee to consider an application for a Second Hand Dealer Licence in case No. SHD/08/001.

The Committee noted that the Applicants' and their Solicitor, Mrs Janice Smith were present.

On the invitation of the Chairman, Inspector A McBey, reiterated the terms of Grampian Police's letter of representation.

The Committee noted the procedure to be followed in respect of spent convictions and agreed that Mrs L May, Solicitor, (Litigation & Licensing) review the spent convictions. Having done so, she advised the Committee that in relation to Mr Wynne the spent convictions were of a serious nature and were of relevance to the application and justice could not be done without admitting them into their consideration. In relation to Mr Harvey the spent convictions were of a Road Traffic nature and relate to honesty and were of relevance to the application and justice could not be done without admitting them into their consideration. The Committee accepted the advice and the Clerk circulated copies of the spent convictions to the Committee.

Two letters received in support of the application, one from the Community Association and one from the Convenor of the Hopeman Gala were also circulated to the Committee.

On the invitation of the Chairman, the Applicants Solicitor addressed the Committee.

On the Invitation of the Chairman, Inspector A McBey clarified the nature of the spent convictions in relation to Mr Harvey.

The Committee took the opportunity to question the Applicants' Solicitor. The Applicants' solicitor made no further comments on the spent convictions.

Thereafter, the Chair, seconded by Councillor Cree moved that a Second Hand Dealers License be granted to the applicants for a period of one year.

As an Amendment, Councillor Hamilton, seconded by Councillor Ross moved that the application be granted for three years.

On a division there voted:

For the Motion (3): - Councillor Shepherd, Cree and Stewart

For the Amendment (6) - Councillor Hamilton, Ross, A McDonald, A McKay, M Shand and Sharp.

Abstention (1): - Councillor E McGillivray

The Amendment became the finding of the meeting and it was agreed to grant a Second Hand Dealers Licence for three years in case no SHD/08/001.

#### **7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 – POSSIBLE SUSPENSION OF A TAXI DRIVER LICENCE (Case No. STD/08/003)**

There was submitted a report by the Chief Legal Officer advising the Committee of a letter of complaint received from the Chief Constable in respect of Mr Christopher Anderson, 58 Community Way, Lossiemouth holder of a current taxi drivers licence.

The Committee noted that the Applicant was present.

On the invitation of the Chairman, Sergeant C Whelan, reiterated the terms of Grampian Police's letter of complaint.

On the invitation of the Chairman, the Applicant addressed the Committee.

The Committee took the opportunity to question the Applicant.

Thereafter, the Chair, seconded by Councillor Ross moved that the Taxi Driver Licence in Case no STD/08/003 be suspended until June 2009 on the grounds that he was no longer a fit and proper person to hold a licence.

There being no-one otherwise minded the Committee agreed to suspend Taxi Driver Licence in respect of case no WC/08/001 until June 2009.

#### **8. QUESTION TIME**

In response to a question from Councillor Ross regarding the failure of the applicant in respect of Agenda Item 6 to complete the application form properly, Mrs L May, Solicitor, Legal & Litigation advised that she would report this to the Procurator Fiscal's office.