

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 24

Brighton & Hove City Council

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 18 NOVEMBER 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cobb (Chairman), Lepper (Deputy Chairman), West, Harmer-Strange, Hawkes, Hyde, Kitcat, Marsh, Older, Phillips, Pidgeon, Simson, Smart and Wrighton

Apologies: Councillor Watkins

Officers : Tim Nichols, Head of Environmental Health and Licensing; Jean Cranford, Licensing Manager; Rebecca Sidell, Lawyer and Penny Jennings, Democratic Services Officer

PART ONE

13. PROCEDURAL BUSINESS

13a Declaration of Substitutes

13.1 Councillor Smart declared that he was substituting for Councillor C Theobald.

13b Declarations of Interest

13.2 There were none.

13c Exclusion of Press and Public

13.3 In accordance with Section 100A of the Local Government Act 1972 ("The Act") the Committee considered whether the press and public should be excluded from the meeting during consideration of any item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in Section 100A(3) of the Act) or exempt information (as defined in Section 100(1) of the Act).

13.4 **RESOLVED** – That the press and public be not excluded.

14. MINUTES OF THE PREVIOUS MEETING

14.1 **RESOLVED** – That the Chairman be authorized to sign the minutes of the previous meeting held on 4 March 2010 as a correct record

15. MINUTES OF SPECIAL MEETING

15.1 The Clerk to the Committee stated that the first piece of text marked by an asterisk following the Resolutions at Paragraph 12.32 should be removed.

15.2 The Chairman, Councillor Cobb stated that the names in Paragraph 2.9 had become transposed. The text should indicate that Councillor West had proposed the amendment and that it had been seconded by Councillor Lepper.

15.3 **RESOLVED** - That subject to the foregoing amendments the Chairman be authorized to sign the minutes of the special meeting held on 10 September 2010.

16. CHAIRMAN'S COMMUNICATIONS

Hackney Carriage and Private Hire Vehicles: Suspensions and Revocations

16.1 The Chairman explained that since the last meeting of the Committee officers in the Hackney Carriage Office had:

Suspended 3 drivers and refused licences to 2 drivers.

In addition to this 6 drivers had been given formal warnings which would remain on their files for 3 years.

16.2 **RESOLVED** - That the position be noted.

17. CALLOVER

17.1 All items on the agenda were reserved for discussion.

18. PETITIONS: SWING SIGNS IN UPPER NORTH STREET

18.1 The Committee considered a report of the Strategic Director of Resources setting out details of a petition received from 6 businesses located in Upper North Street requesting that they be permitted to retain their existing swing signs advertising the location of their businesses.

18.2 Mr. Davis spoke on behalf of the petitioners reiterating the points set out in their petition stressing that any flexibility the Council might be able to exercise in relation to its policies in these difficult financial times would be appreciated.

18.3 The Chairman, Councillor Cobb referred to the existing policy which had been approved by the Committee and implemented on its behalf. This policy had taken

account of the need to avoid unnecessary on-street clutter and obstructions which could prove hazardous to those who had physical and visual impairments.

- 18.4 Councillor Older sought clarification of the location of the premises. Mr Davis confirmed that his business was located at 33 Upper North Street and that the swing sign advertising it was located at the corner of Regent Hill. The street on which his business was located was largely residential with narrow pavements and he needed to advertise where it was. Councillor Simson stated that she was aware that permission to locate signs had been denied where they were situated at some distance from a premises and could not be easily managed by their proprietors.
- 18.5 Councillor Hawkes sought clarification of the existing policy and Mr Fisher, Senior Highways Enforcement Officer explained that A Boards and other free standing signage must be located within 5 metres of the business that it was advertising. The signs referred to by the businesses who had petitioned were unlicensed and unlicensable under the agreed policies.
- 18.6 Councillor Older stated that she believed that exceptions were made in respect of signage placed in twittens and alleyways. Whilst supporting the general principles agreed by the policy Councillor Lepper stated that she considered that it was appropriate to make exceptions or to apply the policy more flexibility in some areas of the City.
- 18.7 Following further discussion it was agreed that it would be appropriate for a report to be brought to the next scheduled meeting of the Committee in order to ascertain whether it might be possible to apply the Council's policies more flexibility in roads away from the city's main thoroughfares.
- 18.8 **RESOLVED** – That the content of the petition be noted and that a report examining this issue further be brought back to the next scheduled meeting of the Committee.

19. PUBLIC QUESTIONS

- 19.1 The Committee considered a report of the Strategic Director of Resources setting out a public question received from the Retail Operations Manager of "Nice n Naughty" in relation to the licensing fees payable for sex establishment licence renewal.
- 19.2 Miss Tweddell reiterated her question as set out in the report stating that the manner in which charges were levied for licensed sex shops in the city seemed disproportionately high. Miss Tweddell then asked a further question seeking clarification regarding how this figure was arrived at. The Chairman, Councillor Cobb stated that the comparison made with the level of charges levied for a bingo hall was misleading and did not compare like with like and referred to the report set out at item 20 on that afternoon's agenda, which set out the policy context for the level of fees charged
- 19.3 **RESOLVED** – That the position be noted.

20. LICENCE FEES

- 20.1 The Committee considered a report of the Director of Place setting out the proposed licence fees and charges for 2011/12 relating to Street Trading, Sex Establishments and Sex Establishment Licences, Gambling premises, taxi licensing and other licensing functions.
- 20.2 The Head of Environment and Licensing explained that in order to ensure that council tax payers were not subsidizing work concerning licensing administration and enforcement, income was raised in order to cover the cost of administration and enforcement of each regime. Whilst licence fees should not be used to raise revenue, income was required in order to process applications and to minimise risk from unlicensed activities.
- 20.3 Councillor Kitcat stated that he was very concerned that the future of the taxi marshal scheme appeared to be doubtful. This was a valuable initiative and measures should be undertaken in order to safeguard its long term future. He enquired whether it would be possible to raise an additional levy to cover these costs.
- 20.4 The Head of Environmental Health and Licensing explained that the way in which fees were set was heavily prescribed by legislation.
- 20.5 Councillor Simson considered that alternative funding streams should be actively sought in order to secure the future of the taxi marshal scheme and that the wording of the resolution should be strengthened in order to reflect that. Other Members of the Committee concurred in that view.
- 20.6 Councillor Kitcat stated that he considered that the fees for sex shops and sex cinemas seemed very high. It seemed very difficult to justify such high levies. The Head of Environmental Health and Licensing re-iterated his remarks about the prescribed nature of licensing legislation and advised that all parties had been advised of the proposed levels of increase at an early stage.
- 20.7 Councillor West stated that whilst the points made regarding the manner in which fees were set were accepted, he considered that it would be appropriate for Members to receive a report to a future meeting detailing how licence fees were arrived at in much greater depth.
- 20.8 Councillor Smart referred to the means by which risk to the licensing authority could be minimized. In responding the Head of Environmental Health and Licensing explained that the police had powers available to them which the licensing authority did not.
- 20.9 Councillor Wrighton referred to the fees levied for lap dancing establishments referring to the vulnerability of young girls involved in the trade. She enquired whether only one visit per year was carried out as appeared to be indicated by the report. The Head of Environmental Health and Licensing stated that a risk rating was applied to premises and the number of visits carried out was dependent on that allocated level of risk.

20.10 Councillor Hawkes asked whether premises received prior notification of visits and it was explained that whether or not prior notification was given was dependent the circumstances of each visit. However, most visits were unannounced.

20.11 **RESOLVED** – (1) That the Committee approves the following variation to licence fees:

- Taxi licence fees: no increase
- Street trading: increase by the corporate rate of inflation 2%
- Sex shops and sex cinemas: increase by corporate rate of inflation 2%
- Other discretionary licence fees: increase by corporate rate of inflation
- Gambling licensing: no increase
- Sex Entertainment Venues: New fee 4,600.

(2) That the funding of taxi marshals from its current source will be phased out over a 6 month period, other funding will be sought.

Note: Following discussion the Committee were in agreement that a further report be submitted (for information) to a future meeting of the Committee setting out in precise detail as to how the fees for sex shops, sex cinemas and Sex Entertainment Venues were calculated

21. SEX ENTERTAINMENT VENUE LICENSING POLICY

21.1 The Committee considered a report of the Director of Place setting out the City' proposed sex establishment licensing policy for approval as set out in Appendix A to the report

21.2 The Licensing Manager, Mrs Cranford explained that on 5 February 2009 and 25 June 2010, the Committee had been apprised of the Policing and Crime Bill relating to sex establishments including lap dancing clubs. was an existing policy on sex establishments, sex shops and sex cinemas which included standard conditions. That policy had been reviewed and extended to cover the new category of sex entertainment venue.

21.3 On 15 July 2010 full Council had passed a resolution specifying that amendments made by Section 27 of the Policing and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 should apply to Brighton and Hove with effect from 19 November 2010.

21.4 A vote was taken and Members voted unanimously that the Sex Establishment Licensing Policy be agreed.

21.5 **RESOLVED** – That the Committee adopts the Sex Establishment Licensing Policy set out at Appendix A to the report.

22. ITEMS TO GO FORWARD TO COUNCIL

22.1 There were none.

The meeting concluded at 4.15pm

Signed

Chairman

Dated this

day of