

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 20 AUGUST 2014**

Present: Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Alex McNaughton
Councillor Robin Currie	Councillor James McQueen
Councillor Robert G MacIntyre	Councillor Sandy Taylor
Councillor Donald MacMillan	Councillor Richard Trail
Councillor Roderick McCuish	

Attending: Charles Reppke, Head of Governance and Law
Sheila MacFadyen, Senior Solicitor
Kate Connelly, Trainee Solicitor
Sergeant McGhee, Police Scotland
Constable Brown, Police Scotland
Ms Murray, Police Scotland
Mr Thomson, Licence Holder
Mrs MacLeod, Licence Holder's representative

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Gordon Blair, Mary-Jean Devon, George Freeman and Alistair MacDougall.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: SUSPENSION HEARING - BOAT HIRE LICENCE (A THOMSON, LUSS)

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed and invited the Police to speak in support of the Chief Constable's complaint.

Police

Sergeant McGhee advised that the Chief Constable complained in terms of Paragraph 11, 2A of Schedule 1 of the Civic Government (Scotland) Act 1982 that Mr Thomson was no longer a fit and proper person to hold a licence. He explained the circumstances surrounding an incident which took place on 29 June 2014 while Mr Thomson was engaging in his occupation as a boatman near to the concrete jetty in the village of Luss. He advised that as a result of this incident the Police were contacted, attended and Mr Thomson was charged with assault and reported to the Procurator Fiscal.

As there were no questions from Mr Thomson, the Chair invited him to

speak in support of his licence.

Licence Holder

Mrs MacLeod spoke on behalf of Mr Thomson and confirmed that this was a matter of sub judice and that the matter had not been before a Sheriff Court or JP Court and that Mr Thomson had not been contacted by the Procurator Fiscal. She stated that Mr Thomson would be pleading not guilty if any proceedings were taken further. She advised that Mr Thomson has been running his boat hire business in Luss for the last 10 years which he took over from his father. This involved taking visitors on trips around the island on Loch Lomond from a jetty at Luss which he owned. His boat was a nautical vessel carrying up to 12 passengers and he was in the process of upgrading to a larger vessel. She advised that Mr Thomson was a very experienced boat operator and knew the types of tourists that he would be taking out. She referred to the day in question and explained that Mr Thomson had been approached by a couple. She advised that he had been very wary of their demeanour. They had asked where the nearest ATM was as they had no money. They left and then came back still with no money. She advised that the gentleman started to verbally abuse Mr Thomson and invited him to go behind the rescue boat hut for "a square go". She stated that Mr Thomson had taken a boat hook and held it against him and pushed it towards the gentleman in self defence and that the gentleman had grabbed the boat hook from him and thrown it into the water, narrowly missing Mr Thomson's boat. She advised that Mr Thomson had never seen anything like this happen before. She pointed out that Mr Thomson had worked on Loch Lomond for many years, previously with his father and also working on a rescue boat. She advised that Mr Thomson was also a part time retained fire fighter. She indicated that Loch Lomond and the Luss area did have less desirable people congregating there from time to time and that there were no Park Rangers at this area. She stated again that Mr Thomson had never come across this type of behaviour before. She asked the Members not to suspend Mr Thomson's licence. She advised that he had never been in trouble before and always operated his licence correctly. She asked the Members to accept his explanation of what had happened that day.

When asked, Sergeant McGhee confirmed he had no questions.

Members' Questions

Councillor McNaughton advised that he was impressed with the presentation given by Mrs MacLeod. He asked if it was appropriate for the Committee to be taking a decision on whether or not to suspend Mr Thomson's licence before the Procurator Fiscal had decided on what action to take. Mr Reppke advised that this was a matter for Members and that they could decide to continue consideration of this case and await the outcome of the Procurator Fiscal decision.

Councillor Colville referred to Mr Thomson dropping passengers off at the island and then coming back to Luss to wait until it was time to pick them up. He asked why Mr Thomson had not just jumped in his boat and gone

to collect his passengers when approached by the couple rather than confront them. Mr Thomson explained that at that point it was too early to go and collect his passengers from the island.

Summing Up

Police

Sergeant McGhee advised that two independent witnesses had corroborated what had happened.

Licence Holder

Mrs MacLeod advised that Mr Thomson would appreciate the opportunity to explain his side of things at Court. She stated that he was a reputable business man who had never been in trouble before and that he operated a tourist business which was important to Argyll and Bute. She advised that he had never seen the couple's behaviour before and asked the Members not to suspend his licence and to wait until the Procurator Fiscal had dealt with the matter.

Mr Thomson advised that he did not see any witnesses onshore at the time of the incident.

The Chair asked both parties to confirm if they had received a fair hearing and they both confirmed this to be the case.

Debate

Councillor McNaughton advised that if he was faced with an aggressive man like that he would be inclined to protect himself. He advised that he was inclined to accept the description by Mrs MacLeod of what had happened that day.

Councillor MacMillan advised that he supported what Councillor McNaughton said.

Councillor Currie advised that this Committee was not a Court and that they were not here to judge.

Councillor MacIntyre advised that he was the local Member for Luss and was aware of the considerable business this gentleman brought to Luss. He stated that the Committee should continue consideration of this matter until the decision by the Procurator Fiscal was known.

Councillor McCuish advised that he agreed with Councillor Currie. He stated that it would be premature to suspend this licence before the Procurator Fiscal had decided whether or not to take any action.

Councillor McQueen advised that people must be able to defend themselves.

Councillor Colville asked that consideration of suspension of this licence

be continued to another day.

Councillor Kinniburgh agreed that this case should be continued. He advised that if anything about the character of Mr Thomson had been raised he may have had a different opinion but he felt this appeared to be a one off incident. He recommended that this case be continued to allow any criminal matters to be dealt with.

Decision

Agreed to continue consideration of this case to allow for any criminal proceedings to be concluded and that if no criminal proceedings take place that this case should not come back to the Committee.

(Reference: Report by Head of Governance and Law, submitted)