



## MINUTES OF THE MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 23 AUGUST 2022  
VIA DIGITAL MEETING FACILITY

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### Committee Members Present:

Provost J McMillan (Convener)  
Councillor S Akhtar  
Councillor R Bennett  
Councillor E Allan  
Councillor L Bruce  
Councillor C Cassini  
Councillor D Collins  
Councillor F Dugdale  
Councillor J Findlay  
Councillor A Forrest

Councillor N Gilbert  
Councillor N Hampshire  
Councillor L Jardine  
Councillor C McFarlane  
Councillor C McGinn  
Councillor S McIntosh  
Councillor L-A Menzies  
Councillor B Ritchie  
Councillor C Yorkston

### Council Officials Present:

Ms M Patterson, Chief Executive  
Ms L Brown, Executive Director for Education and Children's Services  
Ms S Fortune, Executive Director for Council Resources  
Mr D Proudfoot, Executive Director for Place  
Ms F Wilson, Director of Health and Social Care  
Ms M Ferguson, Head of Corporate Support  
Mr D Henderson, Interim Head of Finance  
Ms W McGuire, Head of Housing  
Mr T Reid, Head of Infrastructure  
Ms M Sullivan, Head of Development  
Ms J Tait, Head of Children's Services  
Mr S Cooper, Team Manager – Communications  
Ms R Crichton, Committees Officer  
Ms A-M Glancy, Service Manager – Corporate Accounting  
Mr C Grilli, Service Manager – Governance  
Ms J Mackay, Senior Communications Adviser  
Mr R Montgomery, Project Manager  
Mr C Price, Project Manager  
Mr A Stubbs, Service Manager – Roads  
Mr P Vestri, Service Manager – Policy, Improvement and Partnerships  
Mr T Renouf, Executive Officer  
Ms M Scott, Committees Officer

### Visitors Present:

Mr J Baxter, Jacobs (Item 7)

### Clerk:

Mrs L Gillingwater

### **Apologies**

Councillor G McGuire  
Councillor K McLeod  
Councillor T Trotter

### **Declarations of Interest:**

None

Prior to the commencement of business, the Provost advised that the meeting was being held remotely, as provided for in legislation; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. He noted that the Council was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for up to six months from the date of the meeting.

The Provost welcomed Fiona Wilson (Director of Health and Social Care) and Megan Scott (Committees Officer) to their first meeting of the Council.

The clerk recorded attendance by roll call.

### **1. MINUTES FOR APPROVAL**

The minutes of the following meeting were approved: East Lothian Council, 28 June 2022.

### **2. SUMMARY OF BUSINESS APPROVED IN ACCORDANCE WITH SUMMER RECESS ARRANGEMENTS 2022**

A report was submitted by the Executive Director for Council Resources informing the Council of the urgent business undertaken over the summer recess period in terms of the procedures set out in Standing Order 15.6 and in line with the decision taken at the Council meeting of 28 June 2022.

The clerk advised that three reports had been approved during the summer recess, of which had been published in the Members' Library. The Provost agreed to take questions on matters relating to private reports in the private session.

Councillor Akhtar thanked Douglas Proudfoot, Executive Director for Place, and his team for their efforts to submit the Shared Prosperity Fund bid by the deadline. She hoped this bid would be successful as it would be of significant benefit to communities.

### **Decision**

The Council agreed to note the business undertaken over the summer recess period.

### **3. 2022-27 COUNCIL PLAN**

A report was submitted by the Executive Director for Place, presenting the 2022-27 Council Plan to Council for approval.

The Service Manager – Policy, Improvements and Partnerships, Paolo Vestri, presented the report, setting out the priorities for the Council. He drew attention to the main objectives and themes (as set out in Section 3.4 of the report), and highlighted the main challenges facing the Council (outlined in Section 3.6). He also summarised other plans and strategies underpinning the Council Plan, and advised that commitments from the political group manifestos had been incorporated into the Council Plan. Members were advised that an action plan and Council Plan indicators would be brought to the Council meeting in October 2022 for approval.

Councillor Hampshire asked if additional costs associated with inflation and the staff pay settlement had been factored into the Council Plan. Sarah Fortune, Executive Director for Council Resources, reminded Members of the Financial Prospects report which had been presented to Council in June, which had outlined a potential spending gap of £40-60m over the next five years, and that those figures had been based on assumptions and were subject to change. She noted that inflationary and pay increase pressures added to the already challenging financial environment, and that further information on this would be included in the Quarter 1 Finance Report, to be presented to Cabinet in September. She warned that if no additional funding or flexibility was forthcoming, then the Council would be required to make difficult decisions.

Councillor Akhtar asked how services for older people would be incorporated into the Plan, and about measures to ensure that partners were working together. Mr Vestri explained that a number of strategies would be integrated into the Plan in order to achieve the same vision. He anticipated that the Council Plan and the Integrated Joint Board's (IJB) Strategic Plan would contain the same priorities, noting that the action plan would reflect the IJB's priorities.

Councillor Jardine opened the debate, welcoming in particular the inclusion of the values of the Council – enabling, leading and caring – as well as that of the Christie Commission. She viewed the Plan as vital for future collaboration during difficult times, and she undertook to work in the best interests of communities.

Councillor Hampshire commented that the Plan was a continuation of the work of the Council over a number of years. However, he noted that delivering the Plan would be more difficult given the Council's financial situation, the growth in East Lothian, Brexit, and the cost of living crisis. He feared that the Council would struggle to protect services, but was confident that staff would do everything possible to deliver for communities.

Councillor Forrest referred to the number of affordable homes already delivered, with an additional 2000 in the pipeline. He also highlighted the improvements to existing Council house stock, and the efforts made to welcome people fleeing the war in Ukraine.

As Champion for Young People, Councillor Ritchie welcomed the work done on the Youth Strategy, and looked forward to further progress in this area.

Councillor Dugdale highlighted the enormity of the challenges facing the Council, but stated that the Council was committed to tackling poverty and helping the vulnerable. She also welcomed the recommendations of the Independent Care Review to #KeepThePromise to care-experienced young people.

Councillor McGinn stressed the importance of delivering the Council Plan, against the backdrop of rising poverty rates, climate change, and the COVID-19 recovery. He was confident that Council staff would work in partnership with the voluntary and third sectors to ensure that people were receiving the services required.

Councillor Yorkston pointed out that local government had seen a 7% reduction in funding, which would make service delivery particularly challenging. He spoke of working in

partnership with community bodies, such as the Pennypit Trust, which enabled decisions to be made at a local level.

Councillor Akhtar noted that COVID-19 had made levels of poverty and inequality worse. She mentioned a number of initiatives to support vulnerable people, such as dementia meeting spaces, the appointment of an Older People's Champion, and partnership working. She praised Council staff, who had adapted quickly during the pandemic, and she was confident that they would make every effort to meet the objectives of the Plan and deliver services within budget.

On growth in East Lothian, Councillor McIntosh viewed increasing GDP as being a driver of climate change, and suggested that the concept of decoupling prosperity from infinite growth should be considered. She also made reference to forthcoming changes to the planning regime, and suggested that local place plans should be taken into account. Her views were shared by Councillor Menzies, who remarked that happiness and health were also important aspects. She highlighted a number of benefits available in Scotland which were having a positive impact, and suggested that more preventative work would lead to fewer people seeking interventions from the Council.

The Provost moved to the roll call vote on the recommendations, which were approved unanimously.

### **Decision**

The Council agreed:

- i. to approve the 2022-27 Council Plan; and
- ii. to note that a detailed Action Plan along with proposed Council Plan Performance Indicators would be presented to Council in October 2022.

## **4. 2021 EAST LOTHIAN RESIDENTS' SURVEY**

A report was submitted by the Executive Director for Place presenting a summary of the main findings of the 2021 East Lothian Residents' Survey.

The Service Manager – Policy, Improvements and Partnerships, Paolo Vestri, presented the report, advising that the full report had been shared with political groups and had now been lodged in the Members' Library. He drew attention to the key aspects of the report, including the methodology used, the number of responses received, and the results of the survey in comparison to the 2019 survey.

In response to questions from Councillor Bruce, Mr Vestri advised that a follow-up survey had not been carried out, but that it was intended to set up focus groups using similar questions to ascertain if the responses differed. He added that some services conducted their own surveys, and that information on specific issues was also reported through the Council's Feedback function. He noted that the pandemic had had a clear impact on perception of public services, and that the next Residents' Survey would be carried out in 2023.

The Provost queried if it would be possible in future to include a question on how long respondents had lived in East Lothian. Mr Vestri explained that this question had been included in previous surveys, but that it had been removed from the 2021 survey to allow for other questions to be added. He suggested that a survey of new residents could be undertaken at a later date, and that consideration was being given to re-introducing the Citizens Panel.

Tom Reid, Head of Infrastructure, provided some context as regards Roads Services. He explained that during the pandemic, this team could not work within higher density areas, but that a recovery package was now in place. He added that on comments and complaints about roads in new housing estates, these areas often had not been adopted by the Council and so were not the Council's responsibility.

Councillor Jardine asked a question in relation to digital exclusion. Mr Vestri confirmed that on this occasion, all surveys had been issued by post, and that respondents could respond by post or online – most were returned by post.

Opening the debate, Councillor Gilbert referred to Section 3.13 of the report, noting that people did not think the Council listened to them and that they wanted to be more involved in making decisions within their own areas.

Councillor Menzies remarked that the responses received accounted for only 3% of the population of East Lothian, and that the timing of the survey (during the pandemic) would have influenced responses. Councillor Hampshire concurred with these comments, adding that staff had worked hard to limit the impacts of COVID-19 on services and would continue to work hard to rebuild services.

Councillor Jardine indicated that she was satisfied with the level of engagement with communities and that she was reassured that officers were working to make improvements.

Councillor McIntosh spoke about the importance of investing in nature to improve mental health, especially for people living in deprived areas.

Councillor Ritchie noted that the responses to the survey were useful in identifying areas of need; she highlighted work targeted towards young people which she believed would address some of these needs.

Concluding the debate, Councillor Akhtar stressed that the impact of COVID-19 was a key factor in the responses. She stated that the Council would listen to the respondents and take account of their priorities. She believed that there was a strong case for local decision-making.

## **Decision**

The Council agreed:

- i. to note the main findings of the 2021 Residents' Survey presented in the report, as well as the availability of further data and analysis at both East Lothian-wide and ward level in the full report of the survey; and
- ii. to note that the findings of the survey would be used by the Council and Community Planning Partners to inform the development of the Council Plan, East Lothian Plan and Service Plans.

## **5. DRAFT ANNUAL ACCOUNTS 2021/22**

A report was submitted by the Executive Director for Council Resources providing an update on the draft unaudited accounts for the Council and Group entities for the year ending 31 March 2022. In accordance with regulations, the unaudited accounts must be formally scrutinised by Members by 31 August 2022.

The Interim Head of Finance, David Henderson, presented the report, advising that the Council had a statutory duty to scrutinise the draft accounts by 31 August. He referred to a Members' briefing on this matter on 15 August, noting that he did not anticipate any material

changes to the draft accounts, but that they were still draft and subject to change through the audit process. He advised that the deadline for finalisation of the audit had been extended to the end of November, and that any material changes would be reported to Members. The draft accounts, including the group accounts, had been lodged in the Members' Library.

In response to a question by the Provost, Mr Henderson advised that an advert had been published as regards allowing the public access to the draft accounts.

Thanking Mr Henderson and his team for their work on the draft accounts, Councillor Akhtar referred to the challenging environment within which staff were working, and she welcomed the work done to ensure that community facilities continued to operate.

## **Decision**

The Council agreed:

- i. to note that the draft annual accounts for the Council and its wider group, and Dr Bruce, had been submitted to External Audit prior to the statutory deadline of 30 June 2022; and
- ii. to note that the accounts remain in draft pending the finalisation of the statutory audit, expected to be completed by the end of October 2022.

## **6. NATIONAL CARE SERVICE FOR SCOTLAND: DELEGATED POWERS**

A report was submitted by the Executive Director for Education and Children's Services seeking delegated authority to officers to respond to consultation exercises, and to submit evidence, in respect of the Scottish Government's proposal for a National Care Service for Scotland and the National Care Service (Scotland) Bill.

Lesley Brown, Executive Director for Education and Children's Services, presented the report. She advised of the current position as regards the National Care Service (Scotland) Bill, noting that it was still subject to full parliamentary scrutiny. She pointed out that this was now a subject of the highest risk level for the Council, and that developments would be monitored. Due to the timelines for responding to consultations on this issue, she proposed that delegated authority be given to her to prepare and submit responses where these could not be reported to Council. Group Leaders would be consulted on any such responses, and given sufficient time to comment on the proposed responses.

Responding to a question from Councillor McIntosh regarding the potential impact of the changes on the Council, Ms Brown advised that there would be an impact beyond that on social care and children's services, e.g. on finance and HR services.

Councillor Hampshire expressed concern at the timing of proposals in the context of the recovery from the impacts of COVID-19 and the cost of living crisis. He questioned whether this was the right time to implement such significant changes, and whether there was sufficient time available to plan for the changes. Ms Brown commented that this was a matter of great uncertainty for the Council and communities, and that the main priority was to provide access to care for those requiring it. She advised that this piece of work was resource-intensive, that there was only a short period of time for the Bill to go through parliament, and that it was vital for the Council's views to be heard throughout the process.

Councillor Akhtar stressed that the Council's priority was to achieve the best outcomes for people requiring care. She asked about the implications of children's services and justice services being included within the proposed National Care Service. Ms Brown reported that the inclusion of children's services was still to be confirmed; if this were to be included then

there would be implications for the work being done within Education and Children's Services to support young people, including prevention and early intervention work, and supporting young people in communities. Judith Tait, Head of Children's Services, advised that the Council had not adopted a 'one-size fits all' approach to children's services, and that meeting local needs were vital. She highlighted the importance of a joined up education and children's service, adding that the National Care Service had not been designed with children's services in mind. She noted that it was not yet clear how many Care Boards there would be, or how local decisions would be taken, and that the consequences of including children's services should be highlighted, in conjunction with the aspirations of the Feeley Review.

In response to a question from Councillor Dugdale on the timing of the consultation, Ms Brown indicated that there were previous examples of consultations taking place in parallel with bills going through parliament. She noted, however, that this presented uncertainty. She reiterated that it was important that the Council's views were submitted.

Opening the debate, Councillor Hampshire voiced his concern at the timing and scale of the changes proposed, which would affect many areas of the Council. He was of the opinion that social care services should be provided locally, and that the proposals would be detrimental to service users. He commended the Council for its provision of care for older people and children.

Councillor McIntosh pointed out that, when consulted, two-thirds of respondents had indicated support for a National Care Service. She did have reservations about children's services being included; however, she noted that there was no evidence to suggest that including such services would be detrimental, adding that it was important to consider the lived experiences of those involved. She cautioned against using this issue as a 'political football'.

Councillor Menzies remarked that change could be difficult, but that Members should be open-minded about the proposals and base their views on evidence rather than personal feelings.

Councillor Akhtar reminded Members that the response of the previous Council (2017-22) had been supported by all political parties. She was concerned about the expansion of the proposals to include children's services and justice services. She made reference to the benefits of integration through the Health and Social Care Partnership, and of the positive work done during the pandemic. She was concerned about accountability under the proposals, and of the absence of local decision-making. She argued that there was evidence to show that services delivered at a local level provided the best outcomes.

Councillor McGinn spoke in support of Councillor Akhtar's comments, describing the proposals as a 'power grab' by the Scottish Government. He did not believe that a national agency would meet the needs of communities.

Councillor Forrest took a similar view, having observed care services being delivered quickly and efficiently by the Council during his time as a councillor. He also mentioned the partnership working with the third sector, and the relationships formed with other organisations providing social care services. He believed now was not the time to proceed with the proposal.

Councillor Jardine indicated that the voluntary sector was supportive of the proposals for a National Care Service. She referred to her own experience of working with a health and social care partnership, praising the vital work undertaken by frontline staff within care services to ensure that needs were met. It was her view that people receiving such services were not concerned about the governance arrangements, but did want a say on how their care would be delivered. She recognised the concerns raised about such a significant change, adding that she was keen to work collaboratively with all colleagues to ensure that consultation responses were reflective of as many voices as possible.

The Provost moved to the roll call vote on the recommendations, which were approved unanimously.

## **Decision**

The Council agreed to grant authority to the Executive Director for Education and Children's Services to submit a response to any Scottish Government or Scottish Parliament consultation on any aspect of the proposal for a National Care Service for Scotland, where it is not practical to have this response approved by Council in advance, as detailed in Section 3.8 of the report.

## **7. MUSSELBURGH FLOOD PROTECTION SCHEME: UPDATE ON SCHEME DEVELOPMENT**

A report was submitted by the Executive Director for Place updating Council on progress made in developing a flood protection scheme for Musselburgh since the 'Preferred Scheme' was approved at a meeting of Cabinet in January 2020.

The Provost advised that an amendment had been submitted by Councillors McIntosh and Cassini, in respect of the recommendations, and he set out the process for dealing with this.

The Service Manager – Roads, Alan Stubbs, presented the report. He provided information on the progress made since the Preferred Scheme's approval by Cabinet in January 2020, including the impact of COVID-19, the consultation events held during 2021 (set out in detail in the report and at Appendix A), and concerns raised during the consultation. Mr Stubbs went on to inform Members of further work carried out on the Hydrology modelling (to be presented to the Council in October 2022), potential 'multiple benefits', and of the proposal to include the Musselburgh Seawall within the Scheme.

In response to a question from Councillor Hampshire, Mr Stubbs confirmed that planning consent for the Flood Protection Scheme would not be required. Morag Ferguson, Head of Corporate Support, added that although the Scheme itself would not require planning consent, there may be a requirement for applications for associated works later in the process; unless the specifics of those works were discussed, Members would not be precluded from taking part in future planning decisions.

Councillor Bruce asked a number of questions relating to cost and the review of the Hydrology model. Mr Stubbs explained that the Scottish Government would fund 80% of the Scheme, with the Council contributing the remaining 20%, or c. £42.5m, which was provided for in the Capital Plan. A further report to Council in October would provide additional detail on costs. He confirmed that the same consultant would carry out the Hydrology model review, which would then be presented to Council.

Councillor McIntosh indicated that there was public concern about the Council report only being issued a week in advance of the meeting, and asked if future reports could be made available earlier. Mrs Ferguson advised of the timescales for issuing public meeting papers, adding that the obligation was to provide Members with the papers in accordance with those timescales, and that issuing papers earlier could have resource implications.

Councillor McIntosh also asked about nature-based solutions. Mr Stubbs advised that the project remained dynamic, and that nature-based solutions were being considered; information on that would follow. He pointed out that the Scheme's outline design would be subject to an Environmental Impact Assessment, noting that it was the intention to deliver an environmentally acceptable and sustainable scheme. At this stage, he was seeking authority to carry out further work, which would then be reported back to Council.



Mr Stubbs also responded to a series of questions from the Provost, advising that the seawall would be integral to the Flood Protection Scheme; that officers were liaising with colleagues at Midlothian Council and other stakeholders as regards the upstream section of the Esk; that both the Council and Jacobs had their own quality control systems in place; that further consultation with stakeholders would take place (as set out in Sections 6.4e and 10.16 of the report; and that the usual arrangements would be put in place for aspects requiring planning permission.

Councillor Forrest asked about the impact on bridges in Musselburgh. Mr Stubbs referred to traffic management issues and the Environmental Impact Assessment, noting that the Preferred Scheme indicated that some bridges would need to be replaced. He noted that it was not a requirement to consider the delivery of additional housing as part of the Scheme. Conor Price, Project Manager, added that the presence or absence of housing would be irrelevant in the context of a significant flood event.

Jim Baxter of Jacobs provided a detailed explanation on the impact of saturated and frozen ground, and the impact of this on the river.

The Provost then invited Councillor McIntosh to present her amendment:

[It is recommended that the Council:]

(g) Instructs that the consultation process throughout the outline design must allow for public participation in a discussion of what form/s of defence are deemed acceptable; must present indicative options to show how altering the height of defences might change the standard of protection, and must gather feedback on public preference between these options; that the Project Team present their proposals in relation to this instruction to the October 2022 meeting of the Council, in order to ensure that Councillors are better informed about the wishes of their constituents before progressing to the approvals process as defined in the Flood Risk Management Act (2009).

Councillor McIntosh informed Members that there were significant concerns among the community about the Scheme, and that it was therefore important that residents were consulted on the form and height of the proposed defences. She felt that more information on the views of the community was required in advance of the Council making a decision, and that the consultation would have to be meaningful.

Councillor Cassini seconded the amendment.

Councillor Hampshire declared that he had no problem with the amendment, as it had always been the intention to consult with the public. He pointed out, however, that it was for the Council to determine the best option to prevent Musselburgh from flooding. He added that flood defences should blend in with the environment as far as possible, but the protection of homes and businesses was the most important factor.

Councillor Forrest provided an assurance that the Council would listen to local views, but that it was the Council's responsibility to provide the best protection for Musselburgh against flooding.

Concluding the debate, the Provost remarked that he was inspired by the depth and scope of the report. He also accepted that there were concerns in the community about the Scheme, noting the importance of listening to those concerns and being open with the community.

The Provost moved to the roll call vote on the amendment, which was approved unanimously.

The Provost then moved to the roll call vote on the recommendations as amended, which were approved unanimously, with the exception of Councillor McIntosh abstaining on Recommendation (iv) below.

### **Decision**

The Council agreed:

- i. to note the progress made in advancing the development of the Scheme since January 2020, and in particular the challenge presented in advancing the Scheme design during the COVID-19 pandemic;
- ii. to note the ability of the project to deliver multiple benefits to the town through working closely with other projects – to minimise some of the identified public concerns regarding potential impact on the landscape and water environments, whilst simultaneously delivering savings to overall combined public funds expenditure; in particular the Musselburgh Active Toun project which is delivering new active travel pathways for the town;
- iii. to note that a major consultation on the Scheme was undertaken by the Project Team between September 2021 and March 2022 to listen to the thoughts of stakeholders and the people of Musselburgh;
- iv. to approve the inclusion of the 2.7km Ash Lagoons Seawall within the ‘Preferred Scheme’ for its use in flood risk reduction to Musselburgh and that an options appraisal would need to be undertaken immediately to determine the ‘Preferred Option’;
- v. to approve the Scheme to undertake a further review of its Hydrology and a revision of its Hydraulic Model to ‘Model C’ – to address recent guidance changes, and public concerns towards ‘Model B’, before returning to Council in October 2022 with the outcome of this activity and a full update on the Scheme Programme and revised Scheme cost;
- vi. to confirm that the Scheme development and project delivery should be advanced by the Project Team under the oversight and authority of the Scheme’s Project Board, and thus that decisions are taken by this Project Board on behalf of the Council, noting that the design developed through the Outline Design Process would ultimately be presented to Council for approval.
- vii. that the consultation process throughout the outline design must allow for public participation in a discussion of what form/s of defence are deemed acceptable, must present indicative options to show how altering the height of defences might change the standard of protection, and must gather feedback on public preference between these options; that the Project Team would present their proposals in relation to this instruction to the October 2022 meeting of the Council, in order to ensure that Councillors are better informed about the wishes of their constituents before progressing to the approvals process as defined in the Flood Risk Management Act (2009).

### **8. COMMON GOOD REVIEW**

A report was submitted by the Executive Director for Council Resources updating Members on the review of Common Good.

Carlo Grilli, Service Manager – Governance, presented the report, noting that it was an update on the review which had commenced in 2019.

The Provost thanked previous Members for their contribution to the review before moving to the roll call vote on the recommendations, which were approved unanimously.

## **Decision**

The Council agreed:

- i. to note the current position and progress regarding the Common Good Review; and
- ii. to approve the delegation to the Head of Infrastructure as regards the maintenance of Common Good assets, as set out in Section 3.16 of the report.

### **9. COMMUNITY REQUEST FOR THE DESIGNATION OF LAUDERDALE PARK, DUNBAR AS A 'FIELD IN TRUST'**

A report was submitted by the Executive Director for Place requesting consent to work with the charity 'Fields in Trust' to designate Lauderdale Park, Dunbar as a Field in Trust, thus legally protecting it as a park in perpetuity.

The Head of Development, Michaela Sullivan, presented the report, advising that a request had been received from the Dunbar community to have Lauderdale Park designated as a Field in Trust, in honour of Her Majesty the Queen's Platinum Jubilee. She noted that the leased café area would not be included. She added that the Community Council would be consulted on the location of the plaque.

Councillor Hampshire welcomed the report. He paid tribute to the late Herbert Coutts, who had initiated the idea, for his commitment to protecting the future of Lauderdale Park and for his service to the community and Community Council.

Councillor McGinn extended his thanks to Dunbar Community Council, in particular the chair, Pippa Swan, commenting that it was sad that Mr Coutts had not lived to see the park being designated as a Field in Trust. He added that the park would serve generations of locals and visitors, remarking on the benefits of green space to people's wellbeing and mental health.

Whilst speaking in support of the protection of the park, Councillor McIntosh noted that she would not be voting in favour because of the connection to the Queen's Platinum Jubilee.

Councillor Collins recalled Mr Coutts' contribution to the local community and to Scotland more widely, agreeing that this proposal was a fitting tribute. Her comments were echoed by the Provost, who added his gratitude to Mr Coutts for all the work he had done within the community.

The Provost moved to the roll call vote on the original recommendations:

For (18)\*: Councillors Akhtar, Allan, Bennett, Bruce, Cassini, Collins, Dugdale, Findlay, Forrest, Gilbert, Hampshire, Jardine, McFarlane, McGinn, McMillan, Menzies, Ritchie, Yorkston

Against (0):

Abstention (1): Councillor McIntosh

\* Although in agreement with the recommendations in principle, Councillors Allan, Cassini, Gilbert and Menzies stated that they would not be in favour of changing the name of the park. Ms Sullivan clarified that there was no proposal within the report to change the name of the park.

## **Decision**

The Council agreed:

- i. to approve the submission of an application to the charity Fields in Trust to secure legal protection in perpetuity for Lauderdale Park, Dunbar; and
- ii. to delegate authority to the Head of Corporate Support to execute the formal legal agreement, giving effect to the decision of the Council.

## **10. ESTABLISHMENT OF CLIMATE CHANGE & SUSTAINABILITY FORUM**

A report was submitted by the Executive Director for Place seeking approval for the establishment of a cross-party Climate Change & Sustainability Forum.

The Executive Director of Place, Douglas Proudfoot, presented the report, reminding Members that the Council, at its meeting in June 2022, agreed to establish a Climate Change & Sustainability Forum. He advised of the proposed membership of the Forum, noting that its work would link with that of the cross-party budget development group.

Councillor Hampshire stated that climate change was the biggest challenge facing the Council, and that this forum would look at ways of meeting this challenge, including exploring different ways of working.

Councillor Jardine welcomed the report and the move towards more collaborative working.

Councillor McIntosh thanked Mr Proudfoot for his work in establishing the forum, and Councillor Hampshire for giving her the opportunity of chairing the group. She looked forward to working collaboratively with all groups to meet the challenges posed by climate change and to linking with other sectors to find solutions.

The Provost moved to the roll call vote on the recommendation, which was approved unanimously.

## **Decision**

The Council agreed to approve the establishment of a Climate Change & Sustainability Forum, with a remit as set out in Section 3.5 of the report.

## **11. APPOINTMENT OF COUNCIL CHAMPIONS**

A report was submitted by the Executive Director for Council Resources seeking approval for the appointment of a Council Champion for the Voluntary Sector.

The Head of Corporate Support, Morag Ferguson, presented the report, advising that a further request for a Champion for the Voluntary Sector had come forward since the last Council meeting, and that the Administration was proposing Councillor McGinn to take on this role.

Councillor McGinn welcomed the opportunity to act as the Council's Champion for the Voluntary Sector, and looked forward to working with the voluntary sector and volunteers. He stressed the importance of the contribution of volunteers and the third sector in communities throughout East Lothian, and of their impact, adding that he had been a volunteer for 25 years.

Referring to the work done by Councillor McGinn with a number of organisations, such as the Walk with Scott Foundation, VCEL and Homestart, the Provost commented that he was ideally

positioned to foster good relations with and campaign for volunteers. The Provost also paid tribute to all those in volunteering roles throughout East Lothian.

The Provost moved to the roll call vote on the recommendations:

For (14): Councillors Akhtar, Bennett, Bruce, Collins, Dugdale, Findlay, Forrest, Hampshire, McFarlane, McGinn, McIntosh, McMillan, Ritchie, Yorkston  
Against (0):  
Abstentions (5): Councillors Allan, Cassini, Gilbert, Jardine, Menzies,

### **Decision**

The Council approved the appointment of Councillor McGinn as the Voluntary Sector Champion.

## **12. NOTICE OF MOTION: DEMOCRATIC OVERSIGHT OF ANY MERGED PENSION FUND TO REPLACE THE LOTHIAN PENSION FUND**

A motion was submitted by Councillors McIntosh and Menzies:

A proposal emerged in May of this year for the merging of the Lothian Pension Fund with the Falkirk Council Pension Fund. This will be voted on solely by members of City of Edinburgh Council and Falkirk Council. The dates of the votes have not yet been publicly confirmed. If the merger goes ahead, both committees would cease to have oversight over the new fund, and be replaced by a body currently referred to as a 'Company Board'. It is unclear what the make-up of this proposed 'Company Board' would be, but there are concerns that it would not have the same level of elected member, trade union, and employer representation. It is also noted that there is an existing democratic deficit in the Lothian Pension Fund which means that despite the Fund being administered for four local authorities in the region, only one of these has representation on the Pension Committee.

The Council therefore instructs the Leader of the Council to write to the Lothian Pension Fund Committee, and to the Leaders of Edinburgh and Falkirk councils:

- a) expressing concern at the possibility of any loss of democratic oversight over the local government pension fund for our area, if elected members were to be omitted from the new Board; and
- b) urging them to take this opportunity to instead strengthen democratic oversight, by ensuring that any new Board has broad representation from trade unions and employers, and also contains elected members drawn proportionately from all participating local authority areas.

Councillor McIntosh presented the motion, pointing out that the motion was not asking the Council to express a view on the merger of the two pension funds, but that there was concern that the Council was not being asked for its views. She noted that the Council was not represented on the Lothian Pension Fund Committee, and that this amounted to a democratic deficit. Therefore, as regards the merger proposal, she argued that the Council should be represented on the new Board for reasons of public accountability. She asked Members to support the motion and Councillor Hampshire to write to the Lothian Pension Fund and its committees requesting that, should the merger go ahead, the new Board should be more representative.

Councillor Menzies seconded the motion, commenting that addressing democratic deficit was an important issue for Members.

Councillor Hampshire noted that there were currently 79,000 members of the Lothian Pension Fund, and that number would increase if the merger with Falkirk Pension Fund were to go ahead. He pointed out, however, that members of the Pensions Committee were not there as elected representatives, but were appointed to take decisions in the best interests of the scheme members, and that the scheme was regulated by the FCA. He claimed that the Lothian Pension Fund, administered by the City of Edinburgh Council, was considered to be one of the best-run schemes in the country. He noted that it was proposed that the current governance model would continue, but that the numbers may increase if the merger were to take place. He stressed that these members represented the interests of the pension holders, not any council or constituents. He was of the view, therefore, that the motion was not relevant, and stated that he would not support it.

Councillor McMillan informed Members that he had taken advice from an individual who had previously been involved with the management of the Lothian Pension Fund. He concurred with Councillor Hampshire that the Pensions Committee was not concerned with political matters and its purpose was to serve the interests of its members. On the question of Pension Fund investments, he cautioned that to disinvest in a particular sector would have consequences for the fund and its members. He added that the individual from whom he had taken the advice was of the opinion that the merger was a positive move, in that it would provide efficiencies and improve risk mitigation. It was also supported by Unison at the national level. He declared that he would not be supporting the motion.

Councillor Cassini recalled her previous employment in the pensions industry, commenting that pension funds with greater accountability performed better. She was in favour of the motion, noting that it was asking the Council to explore extending democratic oversight.

Councillor Bruce remarked that the Council had a responsibility to ensure that pensions were invested wisely. As the Council had not been consulted on this, he was prepared to support the motion.

Sarah Fortune, Executive Director for Council Resources, informed Members that there had been some discussion on this matter with her counterparts in the other authorities, and confirmed that no decisions would be taken by Lothian Pension Fund and the City of Edinburgh Council without consultation with the member authorities. She did not have details on the timeline for the proposed merger, but undertook to get further information on this. She felt it appropriate to report back to Council on the matter.

Summing up, Councillor McIntosh noted that she may have misunderstood the role of those on the Pensions Committee; however, this did not change her position on the matter. She had concerns about the ethical and social impacts of some investments, and felt it was important that members of the scheme were represented.

The Provost moved to the roll call vote on the motion:

For (9):	Councillors Allan, Bruce, Cassini, Collins, Findlay, Gilbert, Jardine, McIntosh, Menzies
Against (10):	Councillors Akhtar, Bennett, Dugdale, Forrest, Hampshire, McFarlane, McGinn, McMillan, Ritchie, Yorkston

The motion therefore fell.

### **13. NOTICE OF MOTION: ALLEVIATING THE WORST OF FUEL POVERTY CRISIS**

A motion was submitted by Councillors Jardine and Allan:

The Council has been in Business Continuity since the COVID pandemic struck in 2020 and is now moving back to business as usual. This is being made very difficult due to the combination of Brexit and ongoing impacts from the COVID crisis that has seen our national GDP drop by over 4% in recent months.

As these unprecedented times unfold, residents have also had the energy price cap increased by 12% in October 2021 and 54% in April 2022, with further rises planned for October [2022].

Bold and empathetic action is required from this Council. We have a chance to make a marked difference to vulnerable people's lives and we must act immediately to ensure we offer that help at the time it is most needed.

Council is called upon to produce a full report of costs, and operational implications, of making all open and functioning Council-owned buildings (except those that require PVG membership) Warmth Refuges, allowing members of the public to enter these publicly owned and paid for buildings to warm up and escape the cold during opening hours and to make available the facilities so the public can make themselves a hot beverage and truly take refuge in our public buildings.

This report should be brought back to the next meeting of the Council in October and, if approved, that the Council implement this measure from October to April 2022/23 and revisit in 2023 to assess the impact and plan for winters going forward.

Councillor Jardine presented the motion, expressing regret that she was having to bring such a motion to Council. She indicated that a number of other Scottish local authorities were establishing schemes similar to that proposed in the motion. She was critical of the UK Government's stance on fossil fuel companies paying out huge dividends at a time when many people were struggling with rising living costs. With reference to her own personal situation, she spoke of the continuing stigma of poverty and claiming benefits, and the impact of rising fuel costs on low-income households. She called on Members to support the introduction of warmth refuges, which would allow people to access help whilst maintaining their dignity, and which could be funded through the welfare fund and fuel poverty fund. She proposed that discussions should be held on how this idea could be facilitated and asked for costings to be drawn up.

Councillor Allan seconded the motion, pointing out that in the past 12 months, demand for the East Lothian Foodbank had increased by 77%, and that the Scottish Government was predicting that 906,000 households in Scotland would be in fuel poverty within weeks. She also referred to the rising rates of inflation and interest rates, stressing that those on low incomes, disabled, or with large families would be significantly impacted, as would businesses. She was concerned that if the Council did not act now and put plans in place to help vulnerable people, there would be an increase in hypothermia and deaths in the community. She urged Members to support the idea of warmth refuges.

An amendment was submitted by Councillor Hampshire:

The Council has been in Business Continuity since the COVID pandemic struck in 2020 and is now moving to business recovery. This is being made very difficult due to the combination of Scottish Government budget cuts, Brexit and ongoing impacts from the COVID crisis that have seen our national GDP drop by over 4% in recent months. It has also seen inflation hit 10.1% and is predicted by the Bank of England to hit 13%.

As these unprecedented times unfold, residents have also had the energy price cap increased by 12% in October 2021 and 54% in April 2022, with further rises planned for October [2022]. Many residents in East Lothian will be unable to afford

any further increase in the energy price cap, so East Lothian Council calls on the Council Leader to write to the UK Government to call on them to implement an immediate freeze on the energy price cap.

East Lothian Council will continue to work in partnership with community groups to make a difference to vulnerable people's lives in East Lothian. Staff across all departments will follow the actions set out in the East Lothian Poverty Action Plan 2021-23 to support East Lothian residents struggling during the cost of living crisis.

To enable the Council to provide the support that communities need, the Council Leader shall write to the Scottish Government calling on them to provide Scottish local authorities with a fair share of the £4.6 billion increase it received from the UK Treasury.

Progress on actions taken, as well as any developing issues, will be reported to Council as required.

Presenting his amendment, Councillor Hampshire noted that there was general agreement amongst Members on the impact of the crisis on people on low incomes. He warned of the financial challenges facing the Council, with an anticipated reduction in funding over the next five years of £40m. This, he stated, would have a devastating impact on Council services, and that the proposals in the motion would exacerbate the situation; he therefore could not support further spending commitments at this time. He indicated that Council staff would do all they could to support communities within existing resources, and that he would write to the Scottish Government to seek additional funding.

Councillor Akhtar seconded the amendment. She provided examples of work already undertaken by the Council to alleviate poverty, including introducing the living wage and establishing the East Lothian Poverty Commission. She also noted that the East Lothian Poverty Plan had been approved by all Members. Councillor Akhtar set out the work done to open many community facilities since the pandemic, as well as the provision of additional funding to create community kitchens and kindness cafes, which provided safe and secure spaces for people to visit. She stressed the need to have an immediate freeze on the energy price cap, especially at a time when oil and gas companies were making significant profits. She also supported Councillor Hampshire's call for additional funding from the Scottish Government, which would allow the Council to target those most in need. She agreed with the views expressed about helping people whilst treating them with dignity and respect.

Councillor Cassini remarked that energy was not a devolved issue and that the Scottish Government was therefore limited in what it could do. She urged the Council to do all it could to help, even if it was just providing assistance using existing resources.

Opening the debate, Councillor McIntosh took the view that the UK Government should provide additional funding directly to those in need. She was in agreement with the Labour Party proposal on introducing a windfall tax and price cap freeze. She also pointed out that the price cap was linked only to the price of oil and gas and took no account of renewables. She welcomed the work already being done by the Council to make community facilities accessible, and suggested that advertising a list of these facilities would be useful.

Councillor Bruce welcomed Councillor Hampshire's proposal to seek additional funding from the Scottish Government, remarking that the Scottish Government had received more funding than ever before from the UK Government, which had not been passed on to local government. He also supported the proposal for a report on the costs of establishing warmth refuges, and suggested that this could come to Council in October. He declared that he would be supporting the motion.



Councillor Menzies argued that Councillor Hampshire's amendment was in conflict with the East Lothian Poverty Plan, and that writing to the government would not resolve the problems facing people. She urged Members to support the motion, maintaining that it would save lives and remove the stigma of poverty. She also clarified that the motion was concerned with allowing people to use facilities during their opening hours.

The Provost disagreed with Councillor Menzies, indicating that the amendment was consistent with the Poverty Plan. He noted that services should be person-centred, and that any assistance should therefore be targeted at those in need. He stated that the Council would do it all it could to assist and suggested that cross-party working was important in identifying solutions.

A number of Members voiced their concern at the rise in energy prices when oil and gas companies were making significant profits, and people were being impacted by the increase in the cost of living. Some Members also expressed their disappointment about the tone of the debate.

Summing up, Councillor Jardine welcomed the comments made by Councillor Akhtar on the re-opening of facilities. However, in discussions with her community, it had been clear that warmth refuges would be welcomed and would allow people to stay warm whilst retaining their dignity. She called on the Council to take action on this issue now.

The Provost moved to the roll call vote on the amendment:

For (10): Councillors Akhtar, Bennett, Dugdale, Forrest, Hampshire, McFarlane, McGinn, McMillan, Ritchie, Yorkston  
Against (9): Councillors Allan, Bruce, Cassini, Collins, Findlay, Gilbert, Jardine, McIntosh, Menzies

### **Decision**

The Council agreed to support the amendment, as proposed by Councillor Hampshire, and the original motion therefore fell.

## **14. NOTICE OF MOTION: EMERGENCY RELIEF FOR THE COST OF LIVING CRISIS**

A motion was submitted by Councillors Menzies and Cassini:

It is noted that the Council has implemented various supporting packages for residents on low incomes as part of the Scottish Government's COVID response and we commend the excellent work and initiatives.

Unfortunately, we find ourselves in unprecedented times with a 'perfect storm' causing a cost of living crisis, the likes of which most of us will never have seen before. National governments have done some work in setting up emergency one-off payments to those on certain benefits, but far more must be done if we are to assist the residents and businesses of East Lothian through this crisis.

While plenty of evidence exists in relation to rates of absolute poverty in East Lothian, there is an ever-growing issue of 'hidden poverty'. The number of working poor in East Lothian is expected to grow exponentially during this crisis, with East Lothian Foodbank already reporting having helped 7496 people with a food parcel in 2021. Amongst those were 2837 children.

Council Leader, Councillor Hampshire, has previously stated: 'Now is not the time to do nothing.' This Council fully agrees with this sentiment and aims to provide

practical assistance to those with least resources during such exceptionally difficult times.

This Council therefore commits to having the following emergency and temporary measures fully costs for decision as soon as possible, with an update to be provided at the next full Council meeting:

1. All Council-run schools open up for breakfast clubs and after-school clubs, giving parents the opportunity of additional hours to their working day and also ensuring children and young people have a safe and secure environment.
2. To offer universal free school meals across the Council-run school estate, including breakfast and/or a meal to those who attend after-school clubs.
3. To offer free places to both breakfast and after-school clubs (including free access to food) to all children and young people who attend, with a voluntary payment system for those who can afford to pay.

Councillor Menzies presented the motion, stating that the proposed help would only be temporary, to help families who were struggling. She noted that hidden poverty was being experienced by people in work, and this situation was likely to get worse. She advised that the motion did not seek action from the Council, only the costs involved, and added that her group was committed to collaborative working and looking for new income streams for the Council.

Councillor Cassini seconded the motion, suggesting that if available funding was not being used to provide warmth refuges, then it could be used to fund the initiatives set out in this motion. She stressed that the motion was concerned with confirming the costings of the proposed initiatives.

An amendment was submitted by Councillors Hampshire and Akhtar:

It is noted that the Council has implemented various supporting packages for residents on low incomes as part of the Scottish Government's COVID response. We commend the work carried out by the Council to support children and families during COVID and which continues during the cost of living crisis.

Unfortunately, we find ourselves in unprecedented times with a 'perfect storm' causing a cost of living crisis, the likes of which most of us will never have seen before. National governments have done some work in setting up emergency one-off payments to those on certain benefits, but far more must be done if we are to assist the residents and businesses of East Lothian through this crisis.

While plenty of evidence exists in relation to rates of absolute poverty in East Lothian, there is an ever-growing issue of 'hidden poverty'. The number of working poor in East Lothian is expected to grow exponentially during this crisis, with East Lothian Foodbank already reported having helped 7496 people with a food parcel in 2021. Amongst those were 2837 children.

The Council is committed to delivering the action plan in the East Lothian Poverty Plan 2021-23 to try and protect the most vulnerable in our communities during this cost of living crisis. This is extremely difficult due to the cuts in the Council budget from the SNP/Scottish Greens Government alongside the growth in demand from local communities.

1. With the limited budget available the Council will target its resources to support the most vulnerable in our communities. In addition, the Council Leader will write to the Scottish Government to call for additional funding to support those most in need and, whilst recognising that the Council does not have full flexibility

over all funding streams, with a large proportion of Council funding aligned to the delivery of Scottish Government policies, the Council Leader will call on the Scottish Government to provide the Council with full flexibility over all its funding.

2. The Council will continue to support the development of breakfast clubs, after-school clubs and other activities that its limited resources and facilities allow.

Councillor Hampshire presented the amendment, claiming that the motions submitted by the SNP Group were not serious proposals, given the current financial challenges facing the Council, and he asked where the savings would come from to fund the proposed initiatives. He reminded Members that savings of c. £40m over the next five years would need to be made, but that the Council would do what it could to assist communities and protect jobs. He suggested that the proposers of the motions should have discussed the practicalities of the proposals with officers in advance.

The amendment was seconded by Councillor Akhtar. She reaffirmed that the Council was doing everything it could to assist people during the cost of living crisis. She made reference to the Council's support for breakfast and after-school clubs, whether they were run by volunteers, private companies or the school staff themselves. She asked officers for information on the potential costs of extending free school meal provision, and how this would be resourced.

Tom Reid, Head of Infrastructure, informed Members that a desk-top study had been carried out to assess the expansion of free school meal provision. He reported that the Council was currently operating beyond capacity, and could not cope with any additional lunch sittings. If school meals were to be offered to all primary school years, c. 12 schools would require additional equipment and extension work to kitchens, and 20 dining rooms would need to be extended. He provided an estimate of the costs involved: c. £10m capital, c. £1.6m non-recurring revenue, and c. £900,000 recurring revenue. He stressed that these costs were based on the desk-top study, and that to carry out a full study would require significant additional resource. He added that recruiting to vacancies within Facilities Management was currently challenging.

A number of Members expressed their disappointment at the tone of the debate, with Councillor Jardine suggesting that Councillor Hampshire could have approached her to discuss the motions outwith the meeting. Councillor Hampshire responded, remarking that he was defending the Council's position, and that it was vital to balance the budget.

Councillor Bruce indicated that he would support the motion, on the grounds that it would be helpful for Members to see the costs of implementing the proposals.

Councillor Ritchie highlighted the importance of identifying need in order that assistance could be properly targeted. She commended the work done by breakfast and after-school clubs.

Summing up, Councillor Menzies voiced her disappointment at the language and tone used during the debate, and argued that she was not using the cost of living crisis as a 'political football'. Drawing on her own experiences, she was appalled that children were living in poverty in the UK in 2022, and believed that writing to the government was not the only solution to the problem. She called on Members to reflect on the debate at this meeting and approach future meetings in a more collaborative spirit.

The Provost moved to the roll call vote on the amendment:

For (10):	Councillors Akhtar, Bennett, Dugdale, Forrest, Hampshire, McFarlane, McGinn, McMillan, Ritchie, Yorkston
Against (9):	Councillors Allan, Bruce, Cassini, Collins, Findlay, Gilbert, Jardine, McIntosh, Menzies

## **Decision**

The Council agreed to support the amendment, as proposed by Councillors Hampshire and Akhtar, and the original motion therefore fell.

## **15. SUBMISSIONS TO THE MEMBERS' LIBRARY SERVICE, 14 JUNE TO 8 AUGUST 2022**

A report was submitted by the Executive Director for Council Resources noting the reports submitted to the Members' Library since the meeting of the Council in June 2022.

The Provost welcomed the report on Summer Holiday Food, Activities and Childcare (Ref: 87/22), which had been a very useful programme during the summer break.

## **Decision**

The Council agreed to note the reports submitted to the Members' Library Service between 14 June and 8 August 2022, as listed in Appendix 1 to the report.

## **SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION**

The Council unanimously agreed to exclude the public from the following business containing exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

### **Scottish Power Musselburgh Agreement: Seawall**

A private report submitted by the Executive Director for Place advising Council of the situation with Musselburgh Seawall was approved.