

**LICENSING COMMITTEE**

**Minutes of the Meeting held**

Tuesday, 13th December, 2011

Councillors: Sarah Bevan (Chair), Gabriel Batt, Lisa Brett (In place of Douglas Nicol, not present on 16<sup>th</sup> December 2011), John Bull (not present on 16<sup>th</sup> December 2011), Anthony Clarke, Andrew Furse (In place of Gerry Curran), Malcolm Lees, Paul Myers, June Player, Manda Rigby, Dine Romero and Tim Warren (In place of Bryan Chalker)

Also in attendance: Andrew Jones (Environmental Monitoring and Licensing Manager), Jo Gregson (Project Officer, Licensing/Pollution Control) and Francesca Smith (Senior Legal Adviser)

**18 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

**19 ELECTION OF VICE-CHAIR (IF DESIRED)**

Councillor Gabriel Batt was elected Vice-Chair for the meeting.

**20 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillor Bryan Chalker, whose substitute was Councillor Tim Warren, from Councillor Douglas Nicol, whose substitute was Councillor Lisa Brett and from Councillor Gerry Curran, whose substitute was Councillor Andrew Furse.

**21 DECLARATIONS OF INTEREST**

Councillor Rigby declared a possible interest in that she had helped organise a petition against the use of the Walcot Street site for a casino.

**22 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There were none.

**23 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS**

There were none.

**24 MINUTES: 28 MARCH 2011**

These were approved as a correct record and signed by the Chair.

**25 REVIEW OF FUNCTIONS CARRIED OUT BY THE COUNCIL'S LICENSING SUB-**

## COMMITTEES

The Environmental and Licensing Manager presented the report, which sought a decision from the Committee as to whether the scheme of licensing delegations should be amended so as to transfer the determination of applications for certain Amenities on the Highway (Tables and Chairs) from the Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee to the Licensing (Gambling and Licensing) Sub-Committee. The issue had been discussed at the meeting of the Licensing Committee of 28<sup>th</sup> March 2011. Today's report had been brought to the Committee at the request of the Chair of the Licensing (Gambling and Licensing) Sub-Committee, Councillor Douglas Nicol.

Councillor Warren said that it was he who had initially proposed the transfer when he had been Chair of the Licensing Committee and of the Licensing (Gambling and Licensing) Sub-Committee. At that time it seemed that the majority of applications for tables and chairs permits were coming from licensed premises, but he now thought that there was an even split of licensed and non-licensed premises making such applications. He had therefore changed his mind about the need to transfer the determination of applications for tables and chairs permits to the Licensing (Gambling and Licensing) Sub-Committee.

Councillor Furse asked whether it would be possible to arrange that applicants from licensed premises did not have to come before two different sub-committees. The Environmental and Licensing Manager replied that there were two completely separate processes, one governed by the Licensing Act 2003 and the other by the Highways Act 1980 and therefore two separate applications were required. The Licensing Authority had to deal with applications under the Licensing Act in accordance with strict time limits, while it had more flexibility in relation to applications under the Highways Act.

It was proposed by Councillor Warren and seconded by Councillor Lees and **RESOLVED** unanimously that the report should be withdrawn.

### 26 **CONSULTATION ON THE ADOPTION OF NEW POWERS UNDER SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

The Senior Licensing Officer presented the report. She explained that the Committee was being asked to whether or not to recommend to the Council to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 for the licensing of sexual entertainment venues. The Council had already adopted Schedule 3 for the licensing of sex shops and sex cinemas.

Councillor Furse referred to sub-section 35(a) on page 30 of the agenda and asked whether the sub-committee determining an application would always have sufficient information about the applicant's criminal convictions, or other grounds, on which they might judge him unsuitable. The Licensing Officer - Events/Projects replied that the Police would be invited to comment on an application as a matter of course.

Councillor Furse asked about the definition of UK residence. The Licensing Officer Events/Projects replied that the wording about UK residence had been taken from the original legislation. It was however noted that the legislation has since been

amended to refer to European Economic Area (EEA) residence and the Licensing Officer confirmed that the policy would be updated accordingly.

Councillor Warren asked whether the Council could make a policy that sexual entertainment venues would not be permitted in its area as a whole. Mr Kolvin replied that this had been declared illegal by the Court of Appeal in a case involving Cheltenham Borough Council.

He advised that the Council could divide its area into localities and determine what number of sexual entertainment venues was appropriate in each locality. Further, that the Council could determine that nil was the appropriate number in a particular locality. However, applications could be still be made and could not be refused merely because they were contrary to the Council's policy.

Councillor Furse was concerned about the lack of Member input if applications were granted under delegated authority. He therefore requested that all applications for sexual entertainment venues were brought before the Licensing (Taxis, Street Trading and Miscellaneous) Sub Committee regardless of whether such applications had attracted objections or not.

It was moved by Councillor Brett and seconded by Councillor Romero to recommend to Council to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in respect of sexual entertainment venues. Councillor Furse proposed that the motion should be amended to withhold delegated authority at the present time from officers to determine applications where no objections have been made. This amendment was seconded by Councillor Warren and approved unanimously by the Committee.

It was then **RESOLVED** unanimously to recommend to the Council to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in respect of sexual entertainment venues, but that authority should not be delegated to officers at the present time to determine applications where no objections have been made.

## **27 CASINO LICENSING PROCEDURE**

The applicants confirmed that they understood the procedure to be followed in relation to their applications.

## **28 GRANT OF A PREMISES LICENCE FOR A SMALL CASINO IN BATH - STAGE 2 OF THE CASINO COMPETITION**

Present:- Mr Tony Wollenberg and Mr Bill Fisher, Directors of Global Gaming Ventures Limited, represented by Counsel Miss Jessica Simor; Mr Michael Nuttall of Apollo Resorts and Leisure Limited and Mr Ewan McGregor of Gala Casinos Limited (observer only)

The Chair asked Mr Kolvin to comment on Councillor Rigby's potential interest in the two applications to be discussed. Mr Kolvin said that he did not consider that Councillor Rigby's involvement in a petition, against the proposed casino site in Walcot Street, constituted a prejudicial interest in relation to this item. The applicants and their representatives were asked whether they had any objection to Councillor

Rigby participating in the determination of their applications. They confirmed that they had no objection.

The Environmental and Licensing Manager presented the report, following which the Committee **RESOLVED** that

having been satisfied that the public interest would be better served by not disclosing relevant information, the Committee resolves, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, that the public be excluded from the meeting for this item because of the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act as amended.

The Committee considered whether Global Gaming Ventures (GGV) should be allowed to remain in the casino competition or be excluded because of the late submission of their bid. GGV's application was not contested by Apollo. Miss Simor and Mr Wollenberg stated the case for the applicant and were questioned by Members and Mr Kolvin.

Following an adjournment, the meeting returned to open session and it was proposed by Councillor Romero and seconded by Councillor Bull and **RESOLVED**

1. That the Council wishes to record its disappointment that the deadline was not observed in this case. It hopes that the Council's requirements will be strictly observed in the future.
2. However, it acknowledges that it has a discretion to accept late bids and that it is appropriate to exercise its discretion, on this occasion, in favour of GGV. Accordingly, GGV's Stage 2 bid will be considered by the Council in the usual way.

The Committee then **RESOLVED** that

having been satisfied that the public interest would be better served by not disclosing relevant information, the Committee resolves, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, that the public be excluded from the meeting for this item because of the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act as amended.

The Committee considered the challenge to Apollo's bid by GGV. Miss Simor and Mr Wollenberg stated the case for GGV. Mr Nuttall responded for Apollo. Both parties were questioned by Members and Mr Kolvin.

*[Councillors Bull and Brett left the meeting at this point.]*

Following an adjournment, the meeting returned to open session and the Chair notified the parties that the Committee would not be able to announce its decision today, but that it would be communicated to them in due course.

The Committee then **RESOLVED** to adjourn the meeting until 12 noon on Friday 16<sup>th</sup> December, 2011.

On Friday 16<sup>th</sup> December the Committee resumed its deliberations in exempt session. It was then proposed by Councillor Clarke and seconded by Councillor Romero and **RESOLVED** unanimously that

the Council rejects GGV's submission that Apollo should be disqualified from the competition or that the revelation of the Gala/Apollo joint venture necessitates that Apollo is scored zero across the board. The nature of its relationship with Gala will be taken into account by the Licensing Committee, when determining the Stage 2 bids, to the extent that it is considered relevant. The competition continues.

The Committee directed that the written reasons for the decision be prepared and circulated to members for their consideration prior to being signed by the Chairman of the Committee and disclosed to the parties.

The meeting ended at 1.32 pm on Friday, 16<sup>th</sup> December 2011

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**