

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Friday, 11th May, 2012 at West Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor A Martin (Chairman)
Councillor D Marren (Vice-Chairman)

Councillors G Baxendale, R Cartlidge, R Fletcher (for Cllr S Jones), P Groves,
W Livesley, A Moran, B Murphy, D Newton, A Thwaite, D Topping and
P Whiteley

In attendance

Councillors D Bebbington, L Brown and S Hogben

Officers

Brian Reed, Democratic and Registration Services Manager
Mike Flynn, Community Governance Adviser
Paul Mountford, Democratic Services Officer
Rose Hignett, Senior Electoral Services Officer
James Morley, Scrutiny Officer
Jamie Oliver, Communications Officer

Also present: Honorary Alderman P Kent

Apologies

Councillors S Jones and G Wait

58 DECLARATIONS OF INTEREST

There were no declarations of interest.

59 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public wishing to speak or ask a question.

60 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 22nd March 2012 be approved as
a correct record.

61 DELEGATED POWERS RELATING TO DEVELOPMENT MANAGEMENT

The Committee considered an addition to the functions of the Strategic Planning Board to enable the Board to consider applications for certificates of appropriate alternative development under Section 17 of the Land Compensation Act 1961.

The Local Planning Authority was required to respond to an application for a certificate of appropriate alternative development by setting out what planning permission would have been granted if the land had not been compulsorily acquired. In the absence of a specific delegation to a committee, such applications would have to be dealt with by full Council. The Strategic Planning Board was considered to be the appropriate body to deal with such applications.

RESOLVED

That Council be recommended to approve that the function of dealing with applications for Certificates of Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961 be added to the functions delegated to the Strategic Planning Board, and the Board's terms of reference within the Constitution be amended accordingly.

62 COMMUNITY GOVERNANCE REVIEWS

1. Crewe

At its meeting on 22nd March 2012, the Committee had recommended to Council that:

- a Crewe Parish Council should be created;
- there should be 16 members representing 6 wards mirroring the Borough Wards;
- the electors from the unparished part of Leighton Borough Ward should be asked whether they would prefer to be included in the proposed parish of Crewe or the existing parish of Leighton; and
- elections should take place as soon as practicably possible.

Council at its meeting on 19th April 2012 had deferred consideration of the recommendations of the Constitution Committee on the draft recommendation for the Crewe Community Governance Review in order that advice received from Counsel on some aspects of the Review could be taken into consideration.

The matter was considered further by the Community Governance Review Sub-Committee on 27th April 2012 in the light of advice received from Counsel which in summary was as follows:

1. Any reorganisation order should take effect on 1st April in any year, including 1st April 2013. The Order should ideally be made by 15th October 2012 but no later than 39 days before the election.
2. The Parish Council itself would not come into being until elections following the taking effect of the Order.
3. There was no such legal entity as a “temporary parish council”.
4. There was no power to set up a transitional body for a long period of time, exercising significant powers and taking decisions which would bind the new parish council.
5. Combining parish council elections with Police and Crime Commissioner elections would seem to be administratively complex.

Having considered the advice of Counsel, the Sub-Committee confirmed its support for the original recommendations of the Constitution Committee to Council but asked that further consideration be given to budgetary and precepting arrangements and to the transitional arrangements for the period leading up to parish elections.

Since the Sub-Committee’s meeting, further advice had been sought and received from Counsel, which was briefly summarised as follows:

1. Cheshire East Borough Council would calculate the budget for the new Parish Council, not a transitional body. The Council would specify a ceiling in respect of the sum which the Parish Council would receive.
2. This sum would be identified in the Establishment Order.
3. The new parish would come into effect from the date of the Order (1st April 2013).
4. Elections could then be held as early as 4th April 2013.
5. The Parish Council would fix its precept at some point prior to October 2013; this could not exceed the sum specified in the Order.
6. The Council Tax payers of the unparished area of Crewe would then receive bills in respect of the Parish Council’s precept.
7. Although any transitional body would have the task of “laying the ground” for a new Parish Council, as the new Parish Council could be elected on 4th April, there would be little point in formally appointing a transitional body under the Order.

As part of the debate, discussion took place on the proposed number of parish councillors.

The Committee was advised that further consideration would need to be given to the detailed arrangements for dealing with the first year budget and precept for the parish council, as well as the transfer of any assets to the new council.

RESOLVED

That the resolutions of the Community Governance Review Sub-Committee be received and supported, and Council be advised:

That

(1) having considered the matter further in light of the advice received from Counsel, the Committee reaffirms the recommendations previously made to Council on 19th April 2012, namely:

- “a. that the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a parish council for the unparished area of Crewe and that parish council be advised to consider its designation as a Town Council;
- b. that the parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards except that, subject to recommendation c. below, the unparished part of Leighton (Polling District 1FJ4) be incorporated into the St Barnabas parish ward, and that each ward should have the number of parish councillors as follows:

St Barnabas	2
Crewe Central	2
Crewe North	2
Crewe South	3
Crewe East	4
Crewe West	3
TOTAL	16

- c. that the electors of the unparished part of the Borough ward of Leighton should be asked whether they would prefer to be included within the proposed parish of Crewe or within the existing parish of Leighton;
- d. that elections to the Crewe parish council should be held as soon as is practicably possible, and should thereafter be synchronised with the ordinary date of parish council elections; and
- e. that these proposals form the basis of a second stage of public consultation and that the Boundary Commission be informed of the proposals.”

- (2) the proposed arrangements for the Stage 2 consultation process as set out in paragraph 4.2 of the report to the Community Governance Review Sub-Committee on 27th April 2012 be approved subject to the dates being altered in line with paragraph 4 below;
- (3) the proposed consultation with the electors for the unparished part of Leighton be conducted by means of a formal ballot;
- (4) the indicative timetable proposed by the Sub-Committee for the latter stages of the Review be approved as follows and the project plan be amended accordingly:

28 th May 2012	Publish Notice of Stage 2 consultations
11 th June – 2 nd July 2012	Stage 2 public consultations Postal Ballot in unparished part of Leighton Borough Ward
20 th September 2012	Constitution Committee
11 th October 2012	Council makes final decision and approves Order
1 st April 2013	Order comes into effect
4 th April 2013	Elections to new parish council

- (5) it be noted that Gresty Brook (Polling District 1GM2) in the Crewe South Borough Ward is already located within the parish of Shavington and accordingly does not form part of this Review; and
- (6) the Community Governance Review Sub-Committee be asked to consider the detailed arrangements for setting a budget and precepting, and the extent and timing of the transfer of assets to the new parish council, to enable the relevant provisions to be included in the Order.

2. Macclesfield

The Community Governance Review Sub-Committee, in considering the process for conducting the Macclesfield Community Governance Review, acknowledged the need to review its membership so that Members with appropriate knowledge and experience could participate. Any review of the Sub-Committee's membership would need to balance the need for local knowledge with the experience already gained by existing Members and the continuity that this provided. It was recognised that there were alternative approaches to involving local members in the Review process.

The Sub-Committee had been appointed on a politically-proportionate basis and each constituent Group had the right to review its own representation on the Sub-Committee through its Group Whip. The normal substitution arrangements also applied for individual meetings. As with the Wilmslow and Crewe Reviews, Members for the unparished area of Macclesfield would be able to attend and participate in meetings of the

Sub-Committee or to feed back their comments during the course of the Review.

RESOLVED

That any changes to the membership of the Community Governance Review Sub-Committee be a matter for each constituent Group, subject to written notification to the Democratic and Registration Services Manager.

63 PROPOSED COUNCIL GOVERNANCE ARRANGEMENTS

The Committee considered a report on the work undertaken so far by the Joint Member Working Group appointed by Council to investigate the options available for new governance arrangements. The report proposed changes to the existing arrangements.

Council had appointed the Working Group to consider all available options to review governance arrangements under the Localism Act 2011.

The Joint Member Working Group had given thought to the options available and had concluded that neither a directly-elected Mayor nor a committee system would meet the needs of the Council. The Group had therefore worked on arrangements based on the existing leader and cabinet model but which would allow for greater involvement of non-executive Members in policy development and review.

The Committee had before it the minutes of the Working Group's meeting on 20th April 2012, together with the Borough Solicitor's report to the Working Group. These explored in detail a number of alternative governance options. A summary of the Working Group's preferred option, Option B, was circulated at the Committee's meeting as follows:

- Leader and Cabinet
- Up to 9 Portfolios
- Cheshire East Council Overview and Scrutiny Committee
- Health and Wellbeing Scrutiny Committee
- Cross-party "Policy Groups" aligned with Cabinet. These would:
 - be non-decision-making (ie would act in an advisory capacity)
 - operate in shadow form at an early stage
 - review and develop policy and advise upon significant service delivery issues
 - have access to financial and performance information
 - meet in private but with the option of meeting in public
 - call on Officers and Cabinet Members to attend
- An announcement of the proposals to be made at the Annual Council meeting with the projected timeline being the end of the calendar year
- Option C to be considered in due course

Members noted that Option C would provide for the Policy Groups to become full decision-making bodies. A move towards this could be considered in due course as further guidance was published and in the light of experience with the arrangements now proposed. Members were strongly of the view that the Council should eventually aim to move to Option C.

RESOLVED

That Council be recommended to agree that

- (1) with effect from the end of a shadow period of operation, which shall end no earlier than September 2012, the existing Overview and Scrutiny Committees will be dissolved and be replaced with two Overview and Scrutiny Committees with the names and provisional terms of reference set out in Appendix 1 of the report;
- (2) with immediate effect Council establishes, initially in shadow form, up to nine Policy Groups, aligned with the Cabinet, with the provisional terms of reference set out in Appendix 2 of the report;
- (3) the Leader will determine the size and cross party composition of the Policy Groups and invite the Political Groups to notify the Borough Solicitor of their nominations;
- (4) the consideration of the terms of reference of the two new Overview and Scrutiny Committees be referred to the Overview and Scrutiny Chairmen in the June/July cycle of meetings and the terms of reference thereafter be finalised by Council, following consideration by the Constitution Committee;
- (5) the consideration of the terms of reference of the new Policy Groups be referred to the shadow Policy Groups in the June/July cycle of meetings and thereafter be finalised by Council, following consideration by the Constitution Committee; and
- (6) the Borough Solicitor submit a further report to Council which will enable Council to formalise all remaining arrangements following the shadow period.

The meeting commenced at 9.30 am and concluded at 11.26 am

Councillor A Martin (Chairman)