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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Council**
held on Thursday, 23rd July, 2009 at The Assembly Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor M Simon (Chairman)

Councillors E Alcock, C Andrew, A Arnold, M Asquith, Rachel Bailey, Rhoda Bailey, A Barratt, T Beard, D Bebbington, D Beckford, S Bentley, D Brickhill, S Broadhurst, D Brown, D Cannon, R Cartlidge, S Conquest, J Crockatt, H Davenport, M Davies, R Domleo, B Dykes, P Edwards, P Findlow, W Fitzgerald, R Fletcher, D Flude, S Furlong, H Gaddum, L Gilbert, E Gilliland, J Hammond, M Hardy, D Hough, T Jackson, J Jones, S Jones, F Keegan, A Knowles, W Livesley, J Macrae, M Martin, P Mason, S McGrory, R Menlove, G Merry, A Moran, B Moran, H Murray, J Narraway, D Neilson, R Parker, M Parsons, A Ranfield, A Richardson, B Silvester, L Smetham, D Stockton, D Thompson, C Thorley, A Thwaite, C Tomlinson, D Topping, R Walker, G M Walton, J Weatherill, R West, R Westwood, P Whiteley, S Wilkinson and J Wray.

Officers Present:-

Strategic Director People, Strategic Director Places, Borough Solicitor, Democratic Services Manager, Borough Treasurer.

115 PRAYERS

The Reverend Charles Razzall said prayers, at the request of the Mayor.

116 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors G Baxendale, C Beard, J Goddard, M Hollins, O Hunter, A Martin, B Howell and A Kolker.

117 DECLARATIONS OF INTEREST

The Mayor asked those Members who had any personal or prejudicial Interests on general agenda items, to declare them, but before doing so, drew Members' attention to Item 8 on the agenda (Electoral Review – Submission on warding arrangements) and stated that she proposed to ask the Borough Solicitor to record the declaration of a Personal Interest by every Member who was also a member of a Parish Council, in accordance with the Members completed Register. Council confirmed that it was content with this approach and therefore, all members of Parish Councils declared personal interests to that effect.

118 MINUTES OF THE ANNUAL COUNCIL MEETING HELD ON 1 APRIL 2009 AND RECONVENED ON 2 APRIL 2009

RESOLVED

That, subject to the addition of Councillors Howell, Alcock, S Jones and Narraway to the list of those present at the reconvened meeting held on 2 April, the minutes be approved as a correct record.

119 MAYOR'S ANNOUNCEMENTS

The Mayor :-

(1) Announced that Since taking office on 1 April, she was pleased to report that she had now had the opportunity to visit all the former constituent borough areas (Congleton, Crewe and Nantwich and Macclesfield) and was getting to know her way around the Cheshire East boundaries.

(2) Announced that the first Armed Forces Day had taken place on 27 June 2009 and she was honoured to have had the opportunity to attend the local version of this event, which started, on 22 June, with flag-raising events in Sandbach, Crewe and Macclesfield. She had attended the Crewe event, with the Leader attending at Sandbach and the Deputy Mayor in Macclesfield. This was followed, on Saturday the 27 June, with receptions in the same three towns to mark the contribution of the British Forces in conflicts throughout the world. This date in the calendar each year would be an opportunity for the nation as a whole to show support for men and women who make up the armed forces community, which included not only those who were currently serving and their families, but also the veterans and new recruits. Across the country people had been involved by holding local events and she was honoured to have the opportunity to host the Crewe event, which she felt was both moving and up-lifting and was also a time for reflection.

(3) Announced that, on the Tuesday, 2 June, the Mercian Regiment 1st Battalion (Cheshire), on which the Freedom of the Borough had been conferred, exercised its right to march through the towns of both Congleton and Nantwich with "bayonets fixed and flags flying" The roads were closed during the march, and there was a good turn-out by members of the public for both events.

(4) Announced that she have been humbled by being given the opportunity to meet various volunteers of the Voluntary sector. She considered that the Voluntary sector was vital to the well-being of any community. Despite the proliferation of welfare assistance, the state could not always provide for the needs of all and there would always be gaps in provision. Without the unstinting dedication of those people who choose selflessly to helped others, society would be much poorer. Volunteering could be a two-way experience; not only does it help those who are receiving the services, but it could be very rewarding for the volunteers themselves.

(5) That an early highlight of her year had been attending the Royal Garden Party on Tuesday, 14 July. Along with her Consort and with fellow Councillors she went to London. It was an event where they were able to mix with people from all walks of life; other Mayors,

volunteers, business-people, veterans and young people. There were over several thousand people in attendance. The party had been delighted that His Royal Highness Prince Philip chose to come over to speak to them about Cheshire East.

(6) Referred to her Civic Report, which had been circulated at the meeting and stated that, with a large area such as Cheshire East, the Mayoral engagements had, obviously, increased significantly. The range was wide, covering visits to schools, church services, voluntary sector events, open days, and more recently, the Royal Horticultural Show at Tatton Park. There's hardly a moment to spare, but with the support of her Consort, Maurice and Councillor Baxendale, her Deputy, she was finding it thoroughly rewarding and a wonderful experience.

(7) Reminded Members that the following day was "Dress Down Friday" and that officers would be wearing casual dress and making a contribution to the Mayors' charities.

120 PUBLIC SPEAKING TIME/OPEN SESSION

Mr B Evans used public speaking time to suggest that the Council organise an open doors event in the following year, during Local Democracy Week, whereby Council buildings, including administrative offices, would be open to the public. This was a national initiative, which normally took place in September and also involved factories and other institutions. The event would enable the public to look around the Council buildings. In addition, he suggested that, by 2010, the Council should have structures in place and by this time, the Boundary Committee would have completed its review and this would provide the opportunity to invigorate the electorate.

The Leader of the Council agreed that consideration would be given to the suggestion.

Mr B Cartwright, representing Cheshire Anti Incinerator Network (CHAIN), used public speaking time to urge the Council to refuse the planning application, submitted by Covanta Energy, to build a waste burning incinerator in Middlewich. Mr Cartwright outlined the objections to the proposal, which included lack of need, the fact that it was clear that waste would have to be transported from outside the County and the fact that the Cavanta site was not one of the 6 preferred sites chosen as potential development sites and deemed suitable. He also outlined the grounds on which it was considered that the application should be refused, which related to landscape matters, visual impact, height, distance from the nearest urbanisation, affect on air quality, traffic impact/additional HGVs and public opinion/objection.

Mr Leonard used public speaking to question why several planning applications had been refused, for the development, for housing, of a contaminated Brownfield site in the Green Belt, in his ownership. He stated that, whilst he could accept that the reason given was inappropriate development in the Green Belt, he did not feel that the same rule applied to other sites in the Borough. Mr

Leonard provided a list of examples of other applications for development Green Belt, in the former Macclesfield Borough, which had been granted planning permission.

The Prosperity Portfolio Holder, Cllr Macrae, thanked Mr Leonard for his question and stated that, as Mr Leonard was aware, his site lay within the North Cheshire Green Belt. Cllr Macrae was well aware of the history of the site, as Mr Leonard had approached him in the previous year. Whilst he could not comment on any individual application, a review of the Core Strategy for the Local Development Framework Plan would be taking place shortly and the Council would be consulting on it, which would provide the opportunity for Mr Leonard to make comments. Councillor Macrae undertook to provide a written response to Mr Leonard.

121 NOTICE OF MOTION

Consideration was given to the following Notice of Motion, submitted by Councillor A Arnold and seconded by Councillor J Narraway:-

“That Cheshire East Council suspends car parking charges, on Saturdays, in Macclesfield Town centre, for a trial period of three months initially, subject to a review of its effect in increasing local trade, will, if proved successful extend the duration of the scheme and implement the same measures to other town centres in Cheshire East, requiring assistance in regenerating local businesses.

Given the urgency of the need for regeneration assistance within our town centres, the trial scheme in Macclesfield should be implemented as quickly as possible”.

RESOLVED

That the motion stand referred to Cabinet.

122 ELECTORAL REVIEW - SUBMISSION ON WARDING ARRANGEMENTS

Consideration was given to a report relating the work of the Electoral Review Task Group, concerning the preparation of a submission to the Boundary Committee for England on the Warding Arrangements to be made for Cheshire East Council.

The Council was requested to consider and approve the submission prepared by the Task Group, which set out the Authority's proposals for Warding Arrangements under the Electoral Review of the Cheshire East area and to authorise the Borough Solicitor and Monitoring Officer to make any necessary technical and detailed amendments to finalise the document, to ensure that it complied fully with the wishes of the Council and was delivered by the Boundary Committee's deadline of 4 August.

A revised appendix 3 – Warding table, an additional appendix 5 – Summary of representations received on the warding arrangements being recommended to Council and a revised list of recommendations were circulated at the meeting.

The motion as set out in the resolution below was moved and seconded.

A requisition for a named vote was submitted and duly supported, in accordance with the provisions of Council Procedure Rule 15.2 of the Constitution.

The motion was put to the meeting with the following results:-

For	Against	Not voting
C Andrew	E Alcock	P Edwards
N Asquith	A Arnold	H Gaddum
R A Bailey	T Beard	S Mcgrory
R Bailey	S Broadhurst	L Smetham
A Barratt	D Cannon	G Walton
D Bebbington	R Cartlidge	
D Beckford	S Conquest	
S Bentley	R Fletcher	
D Brickhill	D Flude	
D Brown	D Hough	
J Crockatt	S Jones	
H Davenport	M Martin	
M Davies	A Moran	
R Domleo	J Narraway	
H Dykes	D Neilson	
P Findlow	M Parsons	
W Fitzgerald	C Thorley	
S Furlong	C Tomlinson	
L Gilbert		
E Gilliland		
J Hammond		
MC Hardy		
T Jackson		
J Jones		
F Keegan		
A Knowles		
W Livesley		
J Macrae		
P Mason		
R Menlove		
G Merry		
B Moran		
H Murray		
R Parker		
T Ranfield		
A Richardson		
B Silvester		
M Simon		
D Stockton		
D Thompson		
A Thwaite		

D Topping		
R Walker		
J Weatherill		
R West		
R Westwood		
P Whilteley		
S Wilkinson		
J Wray		

The motion was declared carried, with 49 votes for, 18 against and 5 not voting.

RESOLVED

1. That the proposed submission to the Boundary Committee on Warding arrangements for Cheshire East Council, as prepared by the Member Task Group, be approved subject to –

a) the inclusion of the revised Appendix 3 as circulated to the Council, and subject to paragraph b) below, the proposed Ward names as shown therein;

b) the following changes being made to the proposed Ward names:
Poynton Rural Ward being renamed Poynton East and Adlington Ward
Gawsworth Ward being renamed Henbury and Gawsworth Ward
Holmes Chapel Ward being renamed Dane Valley Ward;

c) confirmation that the Congleton Rural Ward is to be represented by one Councillor;

d) the area north of the Holly Bush Inn, Crewe Road, Winterley and the roundabout adjoining the Haslington and Wheelock bypasses (containing 82 electors) being transferred from the Sandbach West Ward to the Haslington Ward;

e) the Leighton Rural Parish Ward (which incorporates Leighton Hospital) being transferred from the Bunbury Ward to the Crewe North Ward.

f) part of the Oakhanger Parish Ward being transferred from the Haslington Ward to the Alsager Ward.

g) the area of Wychwood Park to the south of the A531 containing 161 electors (part of Polling District GF1 being transferred from the Haslington Ward to the Wybunbury Ward.

h) the Parish of Batherton containing 38 electors (Polling District 1FC6) being transferred from Wybunbury Ward to the Nantwich South Ward.

2. That the Borough Solicitor and Monitoring Officer be authorised to make the necessary technical and detailed amendments to finalise the submission in view of the foregoing decisions, to ensure the final accuracy of the electoral data and compliance with the Boundary Committee's statutory criteria, and to meet the Committee's deadline of 4 August.

123 COAT OF ARMS

Consideration was given to a report which set out the next steps required to enable the Council to be granted a Coat of Arms, for use by the Mayor only, as previously agreed in principle, and invites the Council to approve the design of the Arms and consider the Motto, so that a formal Petition can be submitted to the College of Arms.

RESOLVED

1. That the design of the Coat of Arms for Cheshire East Council, together with the descriptive text be approved.
2. That the Motto for the Coat of Arms, "Working Together for Excellence", as set out in paragraph 11.3 of the report be approved.
3. That submission of a Petition to the College of Arms, in order that the Grant of Arms may be made, be approved.

124 SUBSTITUTE MEMBERS AT PLANNING MEETINGS

On 17 June, the Strategic Planning Board considered a report, which proposed alternative arrangements to restrict the appointment of substitute members for planning matters. The Board made the following recommendation to the Governance and Constitution Committee and to Council:

"That the scheme of substitution in the Constitution be amended as follows:

- a) No substitution shall be made to the North Area Planning Committee except with a Member from the South Area Planning Committee and vice versa. The substitute Member should wherever possible come from the same political group but may come from a different political group
- b) No substitutions shall be made to the Strategic Planning Board from the area committees or at all."

On 25 June 2009, the Governance and Constitution Committee considered the recommendations of the Strategic Planning Board and, whilst it supported recommendation (a) and recommended it to Council, the Committee did not support recommendation (b).

The Governance and Constitution Committee, therefore, recommended to Council only that:

- a) "No substitution shall be made to the North Area Planning Committee except with a Member from the South Area Planning Committee and vice versa. The substitute Member should wherever possible come from the same political group but may come from a different political group."

Council was requested to decide whether it wished the Constitution to be changed to reflect both recommendations (a) and (b), according to the wishes of the Strategic Planning Board, or just recommendation (a), in line with the wishes of the Governance and Constitution Committee.

The Prosperity Portfolio Holder proposed that, in light of recent discussions the recommendations set out in the report be deferred for further consideration by the appropriate Committees.

RESOLVED

That the recommendations set out on page 51 of the agenda be deferred for further consideration by the appropriate Committees.

125 REFERRAL TO COUNCIL OF RECOMMENDATIONS FROM GOVERNANCE AND CONSTITUTION COMMITTEE

Consideration was given to recommendations to Council from the Governance and Constitution Committee in respect of the following matters:-

Committee Membership Changes

The Conservative Group had notified the following proposed changes to Committee places:

Licensing Committee

Replace Councillor Parker with Councillor Hardy

Governance and Constitution Committee

Replace Cllr Bentley with Cllr Livesley

Public Rights of Way Committee

Replace Cllr Rhoda Bailey with Cllr Wray

The Governance and Constitution Committee, at its meeting on 21 May 2009 considered a report relating to the proposed changes and recommended that Council approve them.

RESOLVED

That the proposed changes to Committee places be approved.

Additional Functions-Head of Safer and Stronger Communities

The Governance and Constitution Committee, at its meeting on 25 June 2009, had considered a report seeking a recommendation from the Committee to Council that reference to additional pieces of legislation be added to the list contained in the Constitution, relating to matters which fell within the remit of the

Head of Safer and Stronger Communities. Council was recommended to approve the recommendation.

RESOLVED

1. That the amended list of legislation, attached at Appendix A, be added to the list in the Appendix to the "Powers and Responsibilities of Officers" (section of Part 3 of the Constitution) which would have the effect of bringing responsibility for this legislation within the remit of the Head of Safer and Stronger Communities by virtue of paragraph 25.1.2 of that Part; and
2. That such consequential amendments be made to the Constitution as the Borough Solicitor considered necessary to give effect to the wishes of Council.

Amendments to Finance and Contract Procedure Rules

The Governance and Constitution Committee, at its meeting on 25 June 2009, had considered a report relating to proposed amendments to the Finance and Contract Procedure Rules and recommended that Council approve the proposed amendments.

RESOLVED

1. That the amendments to the Finance and Contract Procedure Rules, set out in Appendix B attached, be approved.
2. That the Borough Solicitor be authorised to continue to exercise his corrective powers with regard to the Constitution, in those cases where he considers it appropriate to do so.

Member Speaking at Planning Committees

The Governance and Constitution Committee, at its meeting on 21 May 2009, considered an amendment to the Constitution to apply a Planning Public Speaking Protocol to Members' general speaking rights at Planning Board and Planning Committee meetings.

Procedure Rule 38 in the Constitution provided that any Member may attend Committees to which they had not been appointed. The Member had no right to vote, but could speak with the consent of the chairman. The Council had delegated authority to the Strategic Planning Board to adopt its own working protocols. The Board had now adopted a Protocol which gave enhanced speaking rights to a wide range of speakers who could address the Board and Committees. It was, therefore, necessary to amend the existing provisions within the Constitution relating to Member and public speaking.

The Committee had previously resolved to review Member and public speaking provisions in consultation with the Cabinet and Corporate Scrutiny Committee. This particular provision, however, had been approved by the Strategic Planning Board under its delegated powers and was now in operation. It was, therefore, necessary to reflect this in the Constitution.

The recommendations of the Governance and Constitution Committee were moved and seconded as follows:-

(1) That Procedure Rule 38 of the Constitution be amended to add a new paragraph 38.4: "At meetings of the Strategic Planning Board and Planning Committees, Members' speaking rights are subject to the protocol on public speaking entitled 'Public Speaking Rights at Strategic Planning Board and Planning Committees (contained in Part 5 of the Constitution)";

(2) That the public speaking protocol, set out in the appendix attached to the report, be added to the Constitution; and

(3) where practicable, Members be given priority when speaking on planning matters at meetings in order to avoid their having to wait.

An amendment to withdraw recommendation 3 above from the recommendations to Council was moved and seconded and declared carried.

RESOLVED

1. That Procedure Rule 38 of the Constitution be amended to add a new paragraph 38.4: "At meetings of the Strategic Planning Board and Planning Committees, Members' speaking rights are subject to the protocol on public speaking entitled 'Public Speaking Rights at Strategic Planning Board and Planning Committees (contained in Part 5 of the Constitution)";

2. That the public speaking protocol as set out in the appendix to the report be added to the Constitution.

Cabinet Decision-Making Arrangements

The Governance and Constitution Committee, at its meeting on 16 April 2009, had considered a report on proposed decision-making powers and procedures relating to individual Members of the Cabinet and recommended that Council approve an alternative approach in respect of the decision-making powers of individual Cabinet Members, as follows:-

That Cabinet Members should make all executive decisions in respect of their portfolio areas except:

- (a) Decisions already taken by Cabinet or an officer acting under delegated powers.
- (b) Decisions involving a departure from the Council's Budget and Policy Framework or any Cabinet or regulatory committee policy.
- (c) Decisions involving expenditure or savings of £1 million or more.
- (d) Decisions which were significant in terms of their effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council.
- (e) Decisions which the Leader wished to be taken by full Cabinet.

Provided that all such decisions shall be taken in public and that regard shall be had to the advice of the Borough Solicitor by the decision-maker in interpreting these provisions.

On a related matter, the Council had previously resolved to include the following provision within its Constitution to exclude certain decisions from the definition of a key decision:

“The Council has decided that the letting of any contract by the Council’s [Business Services Officer] or the Council’s [Policy Officer], which involves the provision of services to, or the purchase of goods and services by, the Council shall be excluded from the definition of a Key Decision where such contracts relate mainly to the internal workings of the authority and do not therefore have a significant impact directly on local communities in the same way as other Key Decisions. Such contracts include advertising, library books, vehicles, consumables, food, gas, electricity and cleaning of Council premises.”

On further consideration, this provision was regarded as flawed and it was, therefore, recommended that it be removed from the Constitution.

The Cabinet on 24 March 2009 had supported the proposals and had also approved arrangements for public decision-making by individual Cabinet Members, details of which had been reported to the Committee for information.

RESOLVED

1. The alternative approach in respect of the decision-making powers of individual Cabinet Members be approved;
2. That the provision within the Constitution excluding the letting of certain contracts from the definition of a key decision be rescinded.
3. That the Constitution amended accordingly.

Budget and Policy Framework Procedure Rules

The Governance and Constitution Committee, at its meeting on 16 April 2009, had considered proposed procedure rules relating to the budget and Policy Framework and recommended that the draft Budget and Policy Framework Procedure Rules, attached at Appendix C, be recommended to Council for adoption and incorporation into the Constitution and that consideration be given to extending the minimum period for consultation on the budget to six weeks and the Officers be authorised in consultation with the Chairman to make a final determination on the appropriate provision in the draft Rules for recommendation to Council.

It was noted that the views of the Borough Treasurer and Portfolio Holder for Resources have been sought on the suggestion that the minimum period of consultation on the budget be amended from four to six weeks. While they were generally supportive of a six week consultation period in future years, it was considered that the complexity of compiling the Council's first operational budget would be better suited to a four week period for the year 2010/11. It was proposed to amend Rule 6 of the Budget and Policy Framework procedure rules to clarify “in year” changes as required by the Governance and Constitution Committee.

RESOLVED

1. That the draft Budget and Policy Framework Procedure Rules, as set out in Appendix C attached, be adopted and incorporated into the Constitution.

126 LEADER'S REPORT TO FULL COUNCIL

The Leader of the Council reported the following Key Decisions, which had been taken under the urgency provisions contained within Council Procedure Rule 44 :-

1. Gorsey Bank Primary School, Wilmslow – Remedial works to four classroom extension.
2. Decision relating to the future use of County Hall, Chester.

127 QUESTIONS

Councillor D Flude had submitted the following five questions:-

Question 1 - Home Office Consultation May 2009.

Together we can end violence against women and girls.

Can this Council be assured that there was a response from this council to this consultation?

Can this Council be assured that the survivors of domestic and or sexual violence in Cheshire East are provided with the services from this Council, that they need to be safe to enable recovery from their horrific experiences?

How is this Council implementing the Co-ordinated Community Response model, which has been evaluated nationally and proved to be cost effective and ensures an integrated response to all parties, including children who experience domestic and or sexual violence?

What funding is this Council allocating to the work, to prevent and respond to domestic and sexual violence now and how does it envisage securing sustained funding, as part of a strategic long term response?

The Sexual Assault Referral Centre, that is planned to be opened at Leighton Hospital has funding from our partners, Health and Police, what contribution to this vital resource will Cheshire East Council be making?

Question 2

A recent survey has found that that more than six out of ten people providing unpaid care for someone who is ill, frail or disabled have not had a break for more than a year and a third of them have not taken time off since they started caring.

Of particular concern are young carers who provide care for family members who have mental health, drug or alcohol problems.

Can this Council be assured that?

All carers who request or require a carer's assessment are assessed and a timely review of their caring needs takes place and that any changes in their circumstances are acted on promptly?

That within each social work team there is sufficient clerical support to enable the vital role and expertise of Social Worker's who carry out the social work function of assessing, setting up care packages and reviewing, to be enabled to carry out their function, recognising the ever increasing referrals to social work teams?

Are technological systems in place and are these systems fit for purpose to enable social workers to carry out designated functions in a cost and time efficient manner?

Question 3 - Criteria for Care

Cheshire East Cabinet have stated that the new model of Social Care puts the person and their carers at the heart of all we do.

A large percentage of older people fall just outside the stated group of people who would qualify for care, i.e. they are not in the Critical or Substantial range of need.

Preventive work is vital, if we are to enable older people to retain their independence. Current guidelines have excluded many older people with lower needs from the most basic care provision, such as bathing, shopping and housework.

Recognising that basic needs are vital in preventive work; will there be greater investment in preventative services through the Supporting You Budgets, via other agencies?

The Adult Services Portfolio Holder undertook to provide written responses to questions 1, 2 and 3.

Question 4 - Response times to communications received by Cheshire East Council.

What are this Council's response time for letters and emails?

Does this council send important letter by recorded mail i.e. final notices for the payment of Council Tax arrears?

What is the response time for telephone calls to this council i.e. how many rings before telephones are answered?

The Performance and Capacity Portfolio Holder responded as follows:-

We aim to acknowledge letters and emails within 3 working days. We will typically provide a full response within 7 working days. If it is clear, however, that the matter will require more in-depth investigation, then we will advise the customer within 7 working days that the matter will require more detailed investigation and a response will be provided within a

further 20 working days. Does this council send important letter by recorded mail i.e. final notices for the payment of Council Tax arrears?

We do not send these types of notices by recorded mail. Costs would significantly increase if we adopted this approach (recorded mail is approximately 75p extra per item). Also, the courts have deemed that 1st or 2nd class mail is sufficient even in the case of a court summons.

We aim to answer 95% of all calls received by our Contact Centres, with 80% of calls answered within 20 seconds.

Question 5

When will the residents of the town of Crewe have a kerb side glass collection service and will the silver bins, at present used for recyclable waste, be used for this service?

The Environmental Services Portfolio Holder responded as follows:-

Glass is currently collected separately in the old Macclesfield and Congleton areas. We are able to sell it for a small amount, which is much less than the cost of collection. It is not possible for the single container recycling vehicles operating in Crewe to collect glass, as the materials recycling facility (or Merf) to which we send all this waste stream will not accept glass.

In order to collect glass in Crewe we would need either to change our vehicles or gain access to a Merf that is able to handle glass. There is of course a third alternative and that is to have a separate round to collect glass. This as you can imagine would be prohibitively expensive. It would also mean a fifth wheelie bin or suitable collection box for each house.

When the waste staff have dealt with the change to fortnightly collections in Congleton and the extra green waste bin in Crewe, all rounds will have to be rerouted and several smaller depots closed. We are then going to bring before you our plans for the energy from waste plant for which two selected tenders are in final stages of submission. These may have some effect on the sort of residual waste we collect.

Once all those schemes are finalised, we will be able to bring forward our overall plan for the collection and disposal of waste. This will include details of whether we kerbside sort or use a Merf, which we may or may not operate ourselves. If that Merf is designed to handle glass, then we can collect glass in the silver bin. If not, we may have to replace all our vehicles with new ones with multiple containers for recyclable waste that has been sorted at the kerbside. Hopefully we will complete this process by 2015.

Question 6

The following question was submitted by Councillor D Cannon

The May edition of the Newsletter of the Cheshire Association of Local Councils was distributed by e-mail to Cheshire East Members earlier in the year. The Chairman of the Association writes about his meetings with the Leaders and Chief Executives of Cheshire's Unitary Authorities. He says, "The two Authorities have stated their keenness to support the parishing of the unparished areas in their Boroughs".

Does the Leader of the Council regard this as an accurate expression of the views of the Cabinet? Is this a subject which the Council as a whole should debate and consider how it might be actively pursued as a policy?"

The Leader of the Council responded as follows:-

The Council has received a petition for a new town council for Crewe. The Borough Solicitor is currently reporting to a sub-committee of the Governance and Constitution Committee with proposals for carrying out a community governance review.

With regard to Macclesfield and Wilmslow, the Council is in the early days of developing local working and a decision will be made in due course as to whether to conduct community governance reviews, notwithstanding the possible receipt of petitions from those areas.

Question 7

The following question was submitted by Councillor S Jones:-

The Cabinet at their meeting on 19 May 2009 approved the amended Notice of Motion first put to Council on 2 April, 2009 that:-

"This Council Supports Fair-Trade principles where consistent with Value for Money".

How does this Council intend to demonstrate its commitment to Fair-Trade principles and how will the extent of this commitment be monitored?

The Procurement, Assets and Shared Service Portfolio Holder responded as follows:-

We will shortly be introducing a procurement guidance note on how to integrate fair-trade principles into procurement activity.

We will shortly be introducing a tender and contract management system that will give visibility and control over procurement activity. We will introduce a performance monitor within this system that will enable us to identify where fair-trade alternatives have been requested and accepted etc. Specific measures are yet to be developed.

In addition the Procurement officer will be meeting with the Fair-Trade steering group to establish an action plan as to how we can support Fair-Trade principles and the Town Centre Manager is also developing an action plan to support town centres to obtain / maintain Fair-Trade status.

The meeting commenced at 6.00 pm and concluded at 8.10 pm

Councillor M Simon (Chairman)
CHAIRMAN

APPENDIX A

List of legislation to be added to the Appendix contained in Part 3 of the Constitution entitled “Powers and Responsibilities of Officers” which will fall within the remit of the Head of Safer and Stronger Communities by virtue of paragraph 25.1.2 of that Part.

Administration of Justice Act 1985
Agriculture (Safety, Health and Welfare Provisions) Act 1956
Agriculture Act 1947
Animal Boarding Establishments Act 1963 and 1970
Animal Health Acts 1971/2002
Animal Health and Welfare Act 1984
Animal Welfare Act 2006
Anti-Social Behaviour Act 2003
Breeding of Dogs Act 1973/91
Breeding and Sale of Dogs (Welfare) Act 1999
Building Act 1984
Burials Act 1857
Caravan Sites Act 1968
Caravan Sites and Control of Development Act 1960
Cheques Act 1992
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Companies Consolidation (Consequential Provisions) Act 1985
Contracts (Rights of Third Parties) Act 1999
Control of Pollution (Amendment) Act 1989
Control of Pollution Act 1974
County Courts Act 1984
Courts and Legal Services Act 1990
Criminal Justice Act 1982/1988/ 1991,
Criminal Justice and Police Act 2001
Criminal Justice and Public Order Act 1994
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Defective Premises Act 1972
Dogs (Amendment) Act 1928
Dogs (Fouling of Land) Act 1996
Dogs (Protection of Livestock) Act 1953
Environment Act 1995
Environment and Safety Information Act 1988
Environmental Damage (Prevention and Remediation) Regulations 2009
Environmental Protection Act 1990
European Communities Act 1972
Factories Act 1961
Farm and Garden Chemicals Act 1967
Farriers (Registration) Act 1975
Food Safety Act 1990
Guard Dogs Act 1975
Home Safety Act 1961
Indictable Offences Act 1848

Land Drainage Acts 1991
Law of Property (Miscellaneous Provisions) Act 1989
Legislative and Regulatory Reform Act 2006
Licensing Act 2003
Litter Act 1983
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Local Government Act 1972/1987
Local Government and Housing Act 1989
Misrepresentation Act 1967
Motor Vehicles (Safety Equipment for Children) Act 1991
National Assistance Act 1948
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices, Shops & Railway Premises Act 1963
Olympic Symbol etc (Protection) Act 1995
Patents, Designs and Marks Act 1986
Performing Animal (Regulation) Act 1925
Pesticides (Fees and Enforcement) Act 1989
Pesticides Act 1998
Pet Animals (Amendment) Act 1983
Pet Animals Act 1951
Pollution Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Private Security Industry Act 2001
Private Water Supply Regulations 1991
Proceeds of Crime Act 1995
Property Mis-descriptions Act 1991
Prosecution of Offences Act 1985
Protection Against Cruel Tethering Act 1988
Protection from Harassment Act 1997
Protection of Children (Tobacco) Act 1986
Public Health (Control of Disease) Act 1984
Public Health (Infectious Disease) Regulations 1988
Public Health Acts 1936 and 1961
Refuse Disposal (Amenity) Act 1978
Registered Designs Act 1949
Regulation of Investigatory Powers Act 2000
Riding Establishments Act 1964/70
Rivers Prevention of Pollution Act 1961
Sale and Supply of Goods Act 1994
Sale of Goods (Amendment) Act 1994/1995
Sale of Goods Act 1979
Sunday Trading Act 1994
Supply of Goods and Services Act 1982
Tattooing of Minors Act 1969
Torts (Interference with Goods) Act 1977
Town Police Clauses Act 1847 / 89
Traffic Management Act 2004
Unfair Contract Terms Act 1977
Vagrancy Act 1824

Veterinary Surgeons Act 1966

Water Act 1989

Water Industry Act 1991

Water Supply (Water Quality Regulations 2000

Water Resources Act 1963

Weeds Act 1959

Wildlife and Countryside Act 1981

Zoo Licensing Act 1981

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Amendments to Finance and Contract Procedure Rules

Differences between the “before” and “after” version of the relevant section of the Finance & Contract Procedure Rules are highlighted in italics for ease of identification.

1 Exception to Capital Approval process

Reason: This exception relates to Highways improvements funded by developers and Rechargeable works and was included previously in Cheshire County Council’s Finance Procedure Rules.

Current

Proposed

Capital Monitoring and Amendments to the Capital Programme

B.33 Where possible, all capital schemes contained within the block provision should be approved through the annual capital programme setting process, within the timetable set out by the Borough Treasurer and Head of Assets and approved by Council in February. Any subsequent further breakdown of block approvals must follow the appropriate approval route, with completion of a delegated decision proforma where necessary.

B.34 Any ‘in year’ approval sought for capital schemes in excess of £250,000 must be supported by a complete Business Case Template, in the format prescribed by the Borough Treasurer and Head of Assets, which has been endorsed by the officer Capital Appraisal Panel prior to submission to the appropriate Members.

B.33 Where possible, all capital schemes contained within the block provision should be approved through the annual capital programme setting process, within the timetable set out by the Borough Treasurer and Head of Assets and approved by Council in February. Any subsequent further breakdown of block approvals must follow the appropriate approval route, with completion of a delegated decision proforma where necessary.

B.34 Any ‘in year’ approval sought for capital schemes in excess of £250,000 must be supported by a complete Business Case Template, in the format prescribed by the Borough Treasurer and Head of Assets, which has been endorsed by the officer Capital Appraisal Panel prior to submission to the appropriate Members.

Current

B.35 Project managers must ensure that the project specification remains consistent with the approved capital appraisal and continues to represent value for money for the Authority. Where project outcomes or costs alter significantly from those set out in the original appraisal a revised Business Case Template must be completed and submitted to the officer Capital Appraisal Panel.

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Proposed

B.35 Project managers must ensure that the project specification remains consistent with the approved capital appraisal and continues to represent value for money for the Authority. Where project outcomes or costs alter significantly from those set out in the original appraisal a revised Business Case Template must be completed and submitted to the officer Capital Appraisal Panel.

B.36 *Wherever possible, expenditure in respect of Highways improvements funded by developers and Rechargeable works should be included in the Capital Programme. Where this is not possible Heads of Service may approve capital expenditure in respect of:*

- *Highway improvements fully funded by developers under Section 278 of the Highways Act 1980, provided that a formal agreement has been completed with the developer*
- *Other rechargeable reinstatement work costing in excess of £10,000*
- *Urgent work to repair, replace or reinstate vehicles, buildings or equipment, where the work is to be fully funded from insurance monies following consultation with the Head of Finance.*

B.37 *In addition, Heads of Service may authorise essential design*

Current

Proposed

work required in advance of the start of the financial year on capital schemes which are in the programme approved by Council in February.

2 Removal of Framework Agreements from requirement to complete a Delegated Decision form

Reason: To remove the need to complete a Delegated Decision Form where there is a Government or Local Government Framework Agreement already in place, as it was not intended to cover that situation.

Current

Other Exceptions to Requirements of Competition

E.23 A Delegated Decision form must be completed by the Chief Officer or his designated representative for every exemption listed below and sent for approval to the Borough Treasurer and Head of Assets and the Borough Solicitor. Any request to approve waiving of any Finance and Contract Procedure Rule is also subject to such approvals by the Borough Treasurer and Head of Assets and the Borough Solicitor.

E.24 Provided that a proposed contract award complies with national and EU legislation and any other Finance and Contract Procedure Rule and subject to the Chief Officer or his designated representative keeping a record of the reasons, reported annually to the Borough Treasurer and the Head of Assets, then the competition requirements may not apply to:

Proposed

E.23 A Delegated Decision form must be completed by the Chief Officer or his designated representative for every exemption listed below and sent for approval to the Borough Treasurer and Head of Assets and the Borough Solicitor. Any request to approve waiving of any Finance and Contract Procedure Rule is also subject to such approvals by the Borough Treasurer and Head of Assets and the Borough Solicitor.

E.24 Provided that a proposed contract award complies with national and EU legislation and any other Finance and Contract Procedure Rule and subject to the Chief Officer or his designated representative keeping a record of the reasons, reported annually to the Borough Treasurer and the Head of Assets, then the competition requirements may not apply to:

Current

- The purchase of goods or services or the execution of works which in the opinion of the appropriate Chief Officer or his/her Authorised Officer and the Borough Treasurer and the Head of Assets is certain are obtainable only from one source or contractor, and where no reasonably satisfactory alternative is available;
- The purchase of a product required being compatible with an existing installation and procurement from any other source would be uneconomic given the investment in previous infrastructure as approved by the Chief Officer;
- The instruction of, advice from, or service provided by Counsel or, by exception, Solicitors to act on the Council's behalf;
- ***Procurements made from "Call Off" Contracts and Framework Agreements that have been subjected to competition or through ,or on behalf of, any local authority or Government consortium, association or similar body provided that tenders or quotations have been invited by these bodies and contracts placed in accordance with their procedures which are broadly equivalent to these Rules and also comply with any National or EU legislation;***
- Special education or social care contracts if, in the opinion of the Chief Officer, following consultation with the Borough Solicitor and the Borough Treasurer and the Head of Assets, it is considered

Proposed

- The purchase of goods or services or the execution of works which in the opinion of the appropriate Chief Officer or his/her Authorised Officer and the Borough Treasurer and the Head of Assets is certain are obtainable only from one source or contractor, and where no reasonably satisfactory alternative is available;
- The purchase of a product required being compatible with an existing installation and procurement from any other source would be uneconomic given the investment in previous infrastructure as approved by the Chief Officer;
- The instruction of, advice from, or service provided by Counsel or, by exception, Solicitors to act on the Council's behalf;
- Special education or social care contracts if, in the opinion of the Chief Officer, following consultation with the Borough Solicitor and the Borough Treasurer and the Head of Assets, it is considered the Client's interests are best met if there is exemption from the competition rules;
- The exercise of statutory grant aid powers delegated to a Chief Officer or his/her Authorised Officer (which shall be specified by that Chief Officer or his designated representative in each case);
- Circumstances which in the opinion of both the Borough Treasurer and Head of Assets and Borough Solicitor warrant an exception to the

Current

the Client's interests are best met if there is exemption from the competition rules;

- The exercise of statutory grant aid powers delegated to a Chief Officer or his/her Authorised Officer (which shall be specified by that Chief Officer or his designated representative in each case);
- Circumstances which in the opinion of both the Borough Treasurer and Head of Assets and Borough Solicitor warrant an exception to the requirements for competition, to include, but not limited to when an emergency requires an immediate contract (which should in any event be procured from an approved list of suppliers where available) or when exceptionally the Chief Officer his/her Authorised Officer considers that is inappropriate in the interests of the efficient management of the service;
- Any other general circumstances, up to the EU threshold, as agreed by both the Borough Treasurer and Head of Assets and the Borough Solicitor.

Proposed

requirements for competition, to include, but not limited to when an emergency requires an immediate contract (which should in any event be procured from an approved list of suppliers where available) or when exceptionally the Chief Officer his/her Authorised Officer considers that is inappropriate in the interests of the efficient management of the service;

- Any other general circumstances, up to the EU threshold, as agreed by both the Borough Treasurer and Head of Assets and the Borough Solicitor.

Appendix C

BUDGET AND POLICY FRAMEWORK RULES OF PROCEDURE

1 The Framework For Executive Decisions

- 1.1 The Council will be responsible for the adoption of its budget and Policy Framework as set out in Chapter 4. Once the budget and Policy Framework are in place, it will be the responsibility of the Cabinet to implement them.
- 1.2 The Cabinet has responsibility for proposing to Council a budget and policies that will form part of the Policy Framework. It also has responsibility for making day-to-day decisions within that budget and Policy Framework.
- 1.3 This part of the Constitution is concerned with the process of developing the budget and Policy Framework and settling any differences between the Council and the Cabinet on those matters. Call-in and consideration of day-to-day decisions made by the Cabinet are dealt with in the Cabinet Rules of Procedure and the Scrutiny Committee Rules of Procedure.

2 Process for developing the framework and budget

- 2.1 The process by which the budget and Policy Framework shall be developed is:
 - (a) The Cabinet will draw up initial proposals regarding the adoption of any plan, strategy or budget forming part of the budget and Policy Framework. The Cabinet will consult on those initial proposals and publish a timetable in which responses to the consultation are to be received. The relevant Overview or Scrutiny Committees shall be asked to give their views as part of that consultation. The consultation period shall in each instance be determined by Cabinet but will not be less than four weeks.
 - (b) At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses received from the consultation.
 - (c) Overview and Scrutiny Committees are responsible for fixing their work programmes and may investigate, research, or report in detail with policy recommendations in response to any such consultations within the period specified.
 - (d) The Cabinet will submit those firm proposals to the Council together with a report that will set out the comments made by consultees and, in particular the views of the Overview and Scrutiny Committees and the Cabinet's response to those views.
 - (e) Once Cabinet has approved the firm proposals they will be referred at the earliest opportunity to Council for decision.
 - (f) In reaching a decision, the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or substitute its own "in principle proposals" in their place.
 - (g) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision, which has immediate effect. Otherwise, it may only make an

in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

- (h) The decision will be published and, if an in-principle decision has been made, a written copy shall be given to the Leader as soon as possible for the Cabinet to consider.
 - (i) An in-principle decision will automatically become effective 5 working days from the day following the date of written notification to the Leader of the Council's decision, unless the Leader informs the Chief Executive in writing within those 5 days that the Cabinet objects to the decision becoming effective and provides reasons why in writing.
 - (j) Where notification of objection is received under (i) above, a meeting of Council will be called to be held within 28 days of the objection being received by the Chief Executive, to reconsider the decision that is the subject of the objection. In reconsidering the decision the Council must take into account the objection of the Cabinet and reasons for it and any revised proposals submitted by the Cabinet and the Cabinet's reasons for those revised proposals. The Council may either:
 - approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
 - approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
 - (k) The decision shall then be published and implemented immediately.
- 2.2 In approving its budget each year, the Council may specify in addition to such matters dealt within the Finance Procedure Rules, the extent to which the Cabinet can agree virements within the budget and the degree to which in-year changes can be agreed by Cabinet to the Policy Framework. Any other changes to the policy and budgetary framework are reserved to the Council.
- 2.3 Where a new plan or strategy is required to be produced as part of the Policy Framework, either by Council of its own motion, or following a recommendation to Council by an Overview or Scrutiny Committee, Cabinet shall develop the plan or strategy in accordance with the process set out within rule 2.1.

3 Decisions outside the budget or Policy Framework

- 3.1 Subject to the provisions of Rule 5 (virement), the Cabinet, or any decision-making arm of the Cabinet, may only take decisions that are in line with the budget and Policy Framework. If it wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to the provisions of Rule 4 below.
- 3.2 If the Cabinet, or any decision-making arm of the Cabinet, wants to make a decision, advice shall be taken first from the Monitoring Officer and/or the Section 151 Officer as to whether the decision would be contrary to the Policy Framework,

or contrary to or not wholly in accordance with the budget. If the advice of any of those Officers is that the decision would not be in line with the existing budget and/or Policy Framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4 (urgent decisions outside the budget or Policy Framework) shall apply.

4 Urgent decisions outside the budget or Policy Framework

4.1 The Cabinet or an individual member of the Cabinet may take a decision, which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by full Council, if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the Chairman of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

4.2 The reasons why it is not practical to convene a quorate meeting of full Council and the consent of the Chairman of the relevant overview and scrutiny committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the relevant overview and scrutiny committee the consent of the Vice Chairman or, in the absence of both, the Mayor, will be sufficient.

4.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5 Virement

5.1 The Council has set virement limits within which decision-makers can exercise discretion in approving or otherwise financial transfers within the Budget. The limits are set out within the Financial Procedure Rules.

5.2 Where the Cabinet or an individual is discharging executive functions to implement Council policy, then any decision to spend or make savings shall not exceed those budgets allocated to each budget head for which they have responsibility. However, the Cabinet or those individuals shall be entitled to vire across budget heads provided there is compliance with the Financial Rules of Procedure.

6 Policy Framework – In-year Changes

6.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions of the Cabinet or an individual member of the Cabinet must be in line with it. Changes (including modifications, revisions, variations, withdrawal or revocation) to Policy Framework plans or strategies must ordinarily be approved by the Council. However the Council may, at the time when the plan or strategy is approved, authorise the Cabinet, or a body or individual exercising Cabinet functions, to make such changes, provided that those changes will:

- (i) result in the closure or discontinuing of a service, in whole or in part to meet a budgetary constraint; or
- (ii) ensure compliance with the law, ministerial direction or Government guidance; or
- (iii) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, determine matters where the existing policy document is silent on the matter under consideration.

7 Call-in of decisions outside the budget or Policy Framework

- 7.1 Where an overview and scrutiny committee is of the opinion that a decision of the Cabinet, or any decision-making arm of the Cabinet, is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer or Section 151 Officer.
- 7.2 In respect of functions which are the responsibility of the executive, and where the decision has already been made and implemented, the Monitoring Officer/Section 151 Officer, shall report to the Cabinet on the advice that has been given to the Scrutiny Committee and shall copy that report to each member of the Council. The Cabinet must consider the report of the relevant Officer and decide what action to take in respect of the report. Where the advice concluded that there was a departure from the Budget or Policy Framework, the Cabinet must report to Council on the action it intends taking. Where there was no such departure, the Cabinet must report to the Scrutiny Committee on any action to be taken.
- 7.3 If the decision has yet to be made or, has been made but not yet implemented, and the advice of the relevant Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the budget, the Scrutiny Committee may refer the matter to the Council. In such cases, no further action may be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 28 days of the request by the Scrutiny Committee or Sub-Committee. At the meeting the Council will receive a report of the decision or proposals and the advice of the relevant Officer. If the Cabinet has prepared a report on the matter, this will also be submitted to the Council. The Council may either:
- (i) endorse the decision or proposal of the Cabinet, or its decision-making arm, as falling within the existing budget and Policy Framework of the Council. In this case, no further action is required other than the decision of Council be minuted and circulated to all Councillors; or
 - (ii) amend the Council's Financial Rules of Procedure or the policy concerned to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required other than the decision of Council be minuted and circulated to all Councillors; or
 - (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework or budget to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the relevant Officer.

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