

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Governance & Constitution Committee**
held on Thursday, 21st January, 2010 at The Capesthorne Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor H Davenport (Chairman)
Councillor A Kolker (Vice-Chairman)

Councillors D Cannon, R Cartlidge, A Moran, R Parker, R West, P Whiteley,
C Andrew (for Cllr Topping), S Bentley (for Cllr Asquith), M Davies (for Cllr
Merry), C Tomlinson (for Cllr Jones) and J Wray (for Cllr Menlove)

Apologies

Councillors M Asquith, S Jones, W Livesley, R Menlove, G Merry and
D Topping

Officers

Chris Chapman, Borough Solicitor
Brian Reed, Democratic Services Manager
Paul Mountford, Legal and Democratic Services
Lindsey Parton, Elections and Registration Team Manager
Vivienne Quayle, Internal Audit Manager
Joanne Wilcox, Corporate Finance

155 **DECLARATIONS OF INTEREST**

Councillors David Cannon, Roy Cartlidge and Robert Parker declared
personal interests in Item 5 (Minute 158) as Crewe Charter Trustees.

Councillor Arthur Moran declared a personal interest in Item 5 (Minute
158) as a consultee.

156 **PUBLIC SPEAKING TIME/OPEN SESSION**

Mr Steve Dempsey of the Styal Village Association expressed his strong
support for a parish council for Styal, stating that Styal was a village
community and as such was fundamentally different in character to the
nearby towns of Wilmslow and Handforth.

Note: the Council had received a petition in respect of part of the former
electoral wards of Morley and Styal which would be considered later in the
meeting as an item of urgent business.

RESOLVED

That the minutes of the meeting held on 19th November 2009 be approved as a correct record.

CREWE COMMUNITY GOVERNANCE REVIEW

The Committee considered the recommendation of the Community Governance Review Member Group in respect of the Crewe Community Governance Review.

The Group had met on 19th January 2010 to consider the outcome of the Stage 2 consultation with a view to making a recommendation to the Governance and Constitution Committee. Having considered the matter, the Group had recommended as follows:

“That having taken into account all consultation responses made during the Second Stage of consultation, and having regard to the need to ensure that Community Governance within the area reflects the identities and interests of the Community, and is effective and convenient, the Crewe Community Governance Member Group recommends that the Governance and Constitution Committee recommends to Council that the draft recommendation of Council of the 15 October 2009 be reaffirmed i.e. “To accept the vote from the people of Crewe and to reject the notion of a Town Council for Crewe at this time.”

Members of the Committee had before them the report to the Member Group, including the responses received to the Stage 2 consultation, together with the minutes of the Group’s meeting. The report contained a summary and analysis of the responses to the consultation. In presenting the report, the Elections and Registration Team Manager informed Members that three more responses had been received after the consultation deadline.

Members debated the matter in the light of the Stage 2 consultation outcome and the Member Group’s recommendation, and various arguments were deployed on all sides of the debate. It was stressed that any decision to reject the notion of a town council for Crewe at this time would not prevent the matter being considered again in the future in the light of experience in other parts of the Borough.

Members were advised that a public notice on the outcome of the Crewe Community Governance Review would need to be published after the Council made its final decision on 25th January. A draft notice was circulated to Members for consideration.

RESOLVED

That

- (1) having taken into account all consultation responses made during the Second Stage of consultation, and having regard to the need to ensure that Community Governance within the area reflects the identities and interests of the Community, and is effective and convenient, the Governance and Constitution Committee recommends to Council that the draft recommendation of Council of the 15th October 2009 be reaffirmed, namely “To accept the vote from the people of Crewe and to reject the notion of a Town Council for Crewe at this time”;
- (2) Council be recommended that
 - (a) the draft public notice to publicise the outcome of the Crewe Community Governance Review, as circulated at the Committee’s meeting, be approved; and
 - (b) the Borough Solicitor and Monitoring Officer be authorised to make any necessary technical and detailed amendments to finalise the notice to ensure that it fully complies with the requirements of Section 96 of the Local Government and Public Involvement in Health Act 2007.

Note: In accordance with paragraph 31.4 of the Committee Procedure Rules, Councillors D Cannon and R Cartlidge asked that the minutes of the meeting record their having voted against the motion.

159 CALENDAR OF MEETINGS FOR 2010-2011

The Committee considered a draft Calendar of Meetings for Cheshire East Council for 2010-2011.

The Officers outlined the principles underlying the frequency and scheduling of meetings and the reasons underpinning any significant variations from the previous year.

It was intended that following the Committee’s meeting the draft Calendar would be circulated to key Members for comments with a view to the Calendar being presented to the February Council meeting for final approval.

Members made a number of comments on the draft Calendar which would be considered as part of the consultation process.

RESOLVED

That

- (1) the draft Calendar of Meetings for Cheshire East Council 2010-2011 be approved for consultation with the Leader, Cabinet Members, Group Leaders and Committee Chairmen; and
- (2) the Democratic Services Manager be authorised, in consultation with the Chairman, to make any necessary amendments to the Calendar as a result of the consultation with a view to submitting the Calendar to Council for final approval as soon as possible.

160 COUNCIL PROCEDURE RULES – DEFINITION OF “CLEAR WORKING DAYS”

The Committee considered a report providing a legal definition of ‘clear working days’ for use in conjunction with various timescales and deadlines referred to in the Constitution.

At the December meeting of Council, following a request from a Member, the Mayor had stated that every Member would receive a written explanation of the phrase ‘clear working days’. The Monitoring Officer subsequently circulated an email to all Members which confirmed the position as follows:

“Council Procedure Rule 11 requires Members to give three clear working days’ notice in writing to the Monitoring Officer of questions for Council. This requires three complete periods of 24 hours (excluding weekends and Bank Holidays) to have elapsed excluding the day the notice is received and the day on which the meeting is held. This follows the ruling in R v Hereford Justices 1820 approved in R v Swansea City Council ex parte Elitestone Limited 1993.”

This advice, whilst helpful in stating the position in respect of Questions at Council, also assisted in respect of other deadlines in the Constitution where clear working days were mentioned.

RESOLVED

That

- (1) the Committee reaffirms the advice given by the Monitoring Officer to Members that a clear working day is defined as a complete period of 24 hours (excluding weekends and bank holidays), beginning and ending at midnight; and
- (2) the Monitoring Officer be asked to use his delegated authority to reaffirm the position in the Constitution.

MEMBER ACCESS TO PART II AND CONFIDENTIAL REPORTS

The Committee considered a report on Members' rights of access to exempt and confidential reports which recommended how the Council's approach could be reflected in the Constitution.

The suggested approach would enable certain categories of Members to have access to exempt and confidential reports whilst other Members would be required to demonstrate to the Borough Solicitor that they had a 'need to know' in order to carry out their duties as a Councillor. Where a report contained specific information about an Officer, only the members of the body in question would receive the report.

Whilst the proposals widened the categories of Members who could automatically receive exempt and confidential reports, the Committee had a number of concerns about the proposals in their present form.

RESOLVED

That the matter be deferred for further consideration in the light of Members' concerns and a further report be submitted in due course.

162 ANNUAL AUDIT LETTERS FOR THE DEMISED AUTHORITIES OF CHESHIRE EAST COUNCIL

The Committee considered a report on the Annual Audit Letters for Cheshire County Council, Congleton Borough Council, Macclesfield Borough Council and Crewe and Nantwich Borough Council relating to the 2008-09 accounts.

Judith Tench of the Audit Commission attended the meeting to discuss the Annual Audit Letters with Members and answer questions.

The Annual Audit Letters provided an overall summary of the External Auditor's assessment of the demised authorities of Cheshire East Council. They drew on the findings and conclusions from the audits and from any inspections that were undertaken in the 2008-09 financial year.

RESOLVED

That the Annual Audit Letters for 2008-09 be received and noted.

163 2009/10 AUDIT PLAN

The Committee considered a report on the Audit Plan for 2009/10 and the Protocol for Joint Working with Internal Audit.

The Audit Plan set out the work that the Audit Commission proposed to undertake at the 2009/10 audit.

The Protocol for Joint Working with Internal Audit set out the joint working arrangements with the Internal Audit Department. The Protocol sought to enable efficient joint working wherever possible and would revisit the Internal Audit's plan as the year progressed. Internal Audit's focus in 2009/10 was on understanding and documenting the core financial and fundamental systems which would assist the understanding of key systems feeding the financial statements.

Judith Tench of the Audit Commission attended the meeting to answer Members' questions on the Annual Audit Plan and Joint Working Protocol. She explained the basis for the audit fee and discussed the specific risks identified for the current opinion audit, including new and legacy financial systems, fixed asset valuation and shared services.

RESOLVED

That the Audit Plan for 2009/10 and the Protocol for Joint Working with Internal Audit be received and noted.

164 UPDATE ON ANNUAL GOVERNANCE STATEMENT

The Committee considered a report on the Annual Governance Statements for 2008/09 and 2009/10. The report proposed a process for completing the Statement for 2009/10. Appendix A to the report provided a full report on the 2008/09 Annual Governance Statement and issues going forward for the completion of the 2009/10 Statement.

Members of the Committee had received a briefing on the AGS process at a formal training session on 8th June 2009 and the report built on what was discussed at that time in advance of the year end.

RESOLVED

That the approach to reviewing Corporate Governance and the production of the Annual Governance Statement be endorsed.

165 INTERNAL AUDIT PLAN 2009/10 AND UPDATE REPORT

The Committee received an update on internal audit issues arising, progress against the Audit Plan 2009/10, revisions to the Plan, and a summary of work during the period and in the remainder of the year.

Appendix A to the report dealt with the emerging issues arising in respect of Internal Audit's work and the revisions to the Plan necessary to give appropriate assurance during 2009/10.

RESOLVED

That the issues identified in the report be noted and the approach to achieving adequate audit coverage in the last quarter be endorsed.

The Committee considered an update on the management of the strategic risks for the Council.

Since the report to the Committee on 19th November 2009, the Strategic Risk Register had been updated and clear actions identified for the mitigation of risks.

A copy of the updated Strategic Risk Register was appended to the report, together with a summary of the mitigating actions for each risk, and a 'score' to quantify each risk. Appendix 3 to the report provided further details of a number of risks, as examples of the way in which each risk was profiled. For each risk there was a fuller explanation of the risk, how it linked to strategic priorities and objectives, the consequences should it materialise, and the controls and mitigating actions in place.

The Corporate Risk Management Group had received training in risk management at its most recent meeting and training had been planned for the Cabinet and the Corporate Management Team. A training session for Members of the Governance and Constitution Committee would be held immediately following their meeting.

Progress on actions to mitigate and manage strategic risks would continue to be reported quarterly to the Committee, the Corporate Management Team and the Cabinet.

In order to integrate risk management fully into planning and performance management, regular discussions were taking place with the Performance Management Team with a view to linking the risk management process to the performance management system currently being developed.

RESOLVED

That the identified Strategic Risks for the Council and the actions in place to mitigate them be noted.

PETITION FOR A COMMUNITY GOVERNANCE REVIEW IN RESPECT OF STYAL

The Chairman was of the opinion that this matter should be considered at the meeting as a matter of urgency in accordance with Paragraph 37 of the Committee Procedure Rules and Section 100B(4)(b) of the Local Government Act 1972.

A petition had been received calling for a community governance review and the establishment of a Parish Council known as Styal Parish Council for an area comprising part of the electoral Wards of Morley and Styal.

The Committee at its meeting on 15th October 2009 had recommended that a community governance review for Handforth be extended to cover the whole of the unparished area of Wilmslow (i.e. the former Electoral Wards of Dean Row, Fulshaw, Handforth, Hough, Lacey Green and Morley and Styal)". Council subsequently agreed the recommendation. It had therefore already been agreed that Morley and Styal should be included in the existing community governance review and it was appropriate therefore that the petition now received should be included in that review. Given that the review timetable had already begun, the Chairman felt that it was necessary to deal with the matter as urgent business.

RESOLVED

That

- (1) the receipt of the petition be noted;
- (2) the Democratic Services Manager be authorised to establish whether the petition is valid for the purposes of Section 80 of the Local Government and Public Involvement in Health Act 2007 and that, subject to validation, appropriate confirmation be given to the petition organisers;
- (3) the Committee agree that, in accordance with its decision on 15th October 2009, the petition be dealt with as part of the Community Governance Review for the whole of the unparished area of Wilmslow; and
- (4) a meeting of the Sub-Committee appointed by the Committee on 15th October 2009 to oversee the Review and to make appropriate recommendations to the Governance and Constitution Committee be convened in the near future in order to carry out its work.

The meeting commenced at 2.00 pm and concluded at 5.12 pm

Councillor H Davenport (Chairman)