

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 27th January, 2011 at The Capesthorne Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor J P Findlow (Chairman)
Councillor D Brickhill (Vice-Chairman)

Councillors C Beard, D J Cannon, R Cartlidge, S Jones, W Livesley, A Moran,
D Topping, R West, P Whiteley and J Wray

In attendance

Councillor D Flude

Officers

Brian Reed, Democratic Services Manager
Julie Openshaw, Regulatory Team Manager, Legal Services
Paul Jones, Democratic Services Team Manager
Paul Mountford, Democratic Services
Diane Moulson, Democratic Services
Kate Khan, Legal Services

Apologies

Councillor M Asquith

40 DECLARATIONS OF INTEREST

Councillors D Cannon, R Cartlidge and J Wray declared personal, non-prejudicial interests in an item on the agenda concerning public speaking rights at the Public Rights of Way Committee, of which they were all members.

41 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

42 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 15th December 2010 be approved as a correct record

43 LICENSING COMMITTEE TERMS OF REFERENCE AND DELEGATIONS

The Committee considered proposed changes to the Licensing Committee terms of reference and licensing delegations within the Constitution.

On 10th January 2011 the Licensing Committee considered a report in relation to the amendment of the licensing delegations which referred to the need to clarify those functions which stand referred to the General Licensing Sub-Committee and those which stand referred to the Licensing Act Sub-Committee. The Committee resolved to recommend to the Constitution Committee the amendments to the Constitution set out within paragraph 10.2 of the report to the Constitution Committee.

The Licensing Committee also considered a report in relation to the licensing of 'sexual entertainment venues.' Having considered the report, the Licensing Committee resolved, subject to the decision of Council on the principle of adoption of the relevant legislation, to recommend to the Constitution Committee the amendments to the Constitution set out within parts 1B and 2B of Appendix A to the report.

RESOLVED

That

- (1) Council be recommended to approve the following amendments to the Constitution in relation to licensing delegations:
 - (a) references to the Licensing Sub-Committee within paragraph 25.3 of the Officer Management Arrangements within Part III of the Constitution be amended to "the General Licensing Sub-Committee";
 - (b) references to the Licensing Sub-Committee within paragraph 25.4 of the Officer Management Arrangements within Part III of the Constitution be amended to "the Licensing Act Sub-Committee";
 - (c) references to the Licensing Sub-Committee within sub-paragraphs (i) to (iii), (v) and (vi) in relation to the General Licensing Functions at pages 160 and 161 of the Constitution be amended to "the General Licensing Sub-Committee";
 - (d) references to the Licensing Sub-Committee within sub-paragraphs (ii) to (xi) in relation to licensing functions under the Licensing Act 2003 and Gambling Act 2005 at page 161 of the Constitution be amended to "the Licensing Act Sub-Committee"; and
- (2) subject to the decision of Council in relation to the adoption of the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 made by section 27 of the Policing and Crime Act 2009, Council be recommended to approve the amendments to the

Constitution in relation to the Licensing Committee's terms of reference and officer delegations as set out within parts 1B and 2B of Appendix A to the report (relating to the exercise of functions in relation to the licensing of sexual entertainment venues).

44 PUBLIC SPEAKING AT PUBLIC RIGHTS OF WAY COMMITTEE

The Committee considered proposed changes to the public speaking arrangements for the Public Rights of Way Committee.

Public speaking at the Public Rights of Way Committee was currently in accordance with Procedure Rule No. 35, which allowed a total period of 10 minutes for members of the public to address the Committee on any matter relevant to the work of the Committee. On the Agenda, the Public Speaking Time/Open Session was held before any of the applications were considered by the Committee.

In practice, public speaking at meetings of the Public Rights of Way Committee tended to deal with the specific applications on the agenda rather than more generally with the work of the Committee. It was therefore proposed that Procedure Rule No. 35 be disapplied in respect of the Public Rights of Way Committee and that an alternative Procedure, as outlined in Appendix 1 to the report, be adopted which would enable members of the public to address the Public Rights of Way Committee when the relevant application was being considered. The proposed change would bring the Public Rights of Way Committee in line with the Council's other regulatory committees.

While the Constitution Committee supported the proposals, Members felt that Procedure Rule 35 should be retained alongside the new provisions so that members of the public could continue to speak and ask questions on more general matters within the purview of the Public Rights of Way Committee.

In considering the matter, Members made a number of comments about how the public speaking arrangements at meetings of the planning committees currently operated and asked that this be reviewed.

RESOLVED

That

(1) Council be recommended to agree that

- (a) the proposed public speaking arrangements set out in Appendix 1 to the report be adopted for the Public Rights of Way Committee in relation to applications on the agenda;
- (b) Procedure Rule 35 continue to apply in order to facilitate public participation not relating to specific applications;

- (c) the Constitution be amended accordingly; and
- (2) the Planning Protocol Sub-Committee be asked to review the arrangements for public speaking at meetings of the Council's planning committees and the Sub-Committee's terms of reference be extended accordingly.

45 QUEEN'S DIAMOND JUBILEE

The Committee considered an extension to the terms of reference of the Civic Sub-Committee to include all matters relating to the Queen's Diamond Jubilee and other nationally significant events.

To mark 60 years of the Queen's reign, the Diamond Jubilee would take place in 2012. The celebrations would centre on an extended weekend in 2012 on 2nd, 3rd, 4th and 5th June.

Local communities were being encouraged to organise and celebrate the Diamond Jubilee in their own way. The Department of Communities and Local Government would be working with local authorities on producing guidance to help communities to organise locally-run events in their area. Local authorities in conjunction with their Lord Lieutenant would be expected to provide details of any planned activities in each area.

Cheshire East would need to consider its activities and a local programme of events and the Civic Sub-Committee could fulfill this role, subject to its terms of reference being expanded.

RESOLVED

That

- (1) the Civic Sub-Committee's terms of reference be extended to include the following function:
 - "To determine all matters relating to the Queen's Diamond Jubilee and other nationally significant events, including the celebrations scheduled for the first week in June 2012, except for those matters which the Sub-Committee considers it appropriate to refer to the Constitution Committee for determination."
- (2) the Democratic Services Manager be requested to invite the Lord Lieutenant to the next meeting of the Civic Sub-Committee to consider the matter further; and
- (3) the Officers ensure that town and parish councils throughout Cheshire East are aware of the proposed Diamond Jubilee celebrations.

46 EXECUTIVE MEMBERS SERVING ON THE COMMITTEES WITH RESPONSIBILITY FOR PLANNING FUNCTIONS

The Committee considered a report on matters arising from executive Members Serving on Committees with responsibility for Planning Functions.

At a meeting of the Planning Protocol Sub-Committee held on 6th January 2011 the Sub-Committee resolved that a report be submitted to the Constitution Committee on executive Members being appointed to Committees with responsibility for Planning Functions.

Under existing legislation, there was nothing to prevent executive Members being appointed to committees with responsibility for planning functions. Indeed, this was a common practice amongst local authorities. At Cheshire East, Executive Members had been appointed to committees with responsibility for planning functions.

CLG guidance to local authorities on new council constitutions (2006) was noted.

Any Cabinet Member who was on the authority's planning committee would need to consider whether they had a personal and/or prejudicial interest on items on the agenda of planning committee meetings, or whether there may be any issues of perceived pre-determination.

The issues were not clear cut, and would depend on the circumstances of a particular case. A judgement would need to be made in each case, based upon the circumstances. Legal advice may also need to be taken.

RESOLVED

That the views of the Cabinet be sought on the issues raised in the report and the matter be considered further at the Committee's next meeting.

47 REPORT OF THE INDEPENDENT REMUNERATION PANEL: MID YEAR REVIEW OF SCHEME OF MEMBERS' ALLOWANCES

The Committee considered a report on the outcome of the Independent Remuneration Panel's 2010 review of Cheshire East Council's Scheme of Members' Allowances.

To inform its review, the Panel had commissioned an online survey of Councillors which was conducted throughout November 2010. The Panel had also been provided with data from 17 Member Allowances Schemes from North West and comparator authorities.

During its review, the Panel had been requested to consider a proposal that there should be one flat-rate mileage allowance of 40p per mile payable to Council Members whilst undertaking Council business. The

Panel had considered the request but had concluded that no recommendations on mileage allowances should be made separately from the Panel's review of the Scheme as a whole. This was noted by the Committee at its meeting on 15th December 2010.

The report before the Committee set out the Panel's conclusions and recommendations on all aspects of the Council's Member Allowances Scheme.

Having discussed the report with the Officers and following clarification on a number of issues relating to travel allowances, special responsibility allowances for vice-chairmen and a proposed attendance allowance for School Appeals Panel members, the Committee felt that there would be merit in the Panel being invited to meet the Council's political leaders and Group Whips with a view to discussing further the Panel's recommendations.

RESOLVED

That the Independent Remuneration Panel be thanked for its report which is noted, and the Panel be invited to meet the Council's political leaders and Group Whips to discuss the recommendations in the report.

The meeting commenced at 2.00 pm and concluded at 3.15 pm

Councillor J P Findlow (Chairman)