

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 17th November, 2011 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

Councillors Rhoda Bailey (for Cllr Topping), D Brickhill (for Cllr Murphy),
R Cartlidge, P Groves, S Hogben (for Cllr Newton), S Jones, W Livesley,
A Moran, G Morris, A Thwaite and P Whiteley

In attendance

Councillors B Murphy and D Neilson

Officers

Caroline Elwood, Borough Solicitor
Brian Reed, Democratic and Registration Services Manager
Paul Mountford, Democratic Services Officer
Lindsey Parton, Registration Service and Business Manager
Peter Hartwell, Head of Service (Communities)
Diane Todd, Electoral Services Team Manager
Rose Hignett, Senior Elections Officer

Apologies

Councillors G Baxendale, B Murphy (who later attended as a visiting Member),
D Newton and D Topping (absent due to Council business)

35 DECLARATIONS OF INTEREST

No interests were declared.

36 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

37 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 22nd September 2011 be
approved as a correct record.

38 CALENDAR OF MEETINGS FOR 2012-2013

The Committee considered the Calendar of Meetings for 2012-2013.

The frequency of meetings followed the practice previously adopted. Where possible, Fridays would be used for Member development sessions. Dates had also been scheduled for financial briefing/budget engagement events. As with previous years, the Committee Suite at Westfields had been reserved on Monday mornings for Portfolio Holder meetings.

Those consulted over the production of the Calendar included the Corporate Management Team, Cabinet, Committee Chairmen, Group Leaders and Group Whips.

RESOLVED

That the Calendar of Meetings for 2012-2013 be recommended to Council for approval.

39 REVIEW OF POLLING DISTRICTS AND POLLING PLACES

The Committee considered the recommendations of the Polling Districts and Polling Places Review Sub-Committee.

The Sub-Committee had met on 15th September and 4th October 2011 to formulate proposals for Polling Districts and Polling Places for public consultation. These were published on 7th October 2011, for a four week period of consultation ending on 4th November 2011.

The Sub-Committee met again on 9th November to consider the representations received during the consultation period. The Sub-Committee agreed revised proposals for a number of wards in light of the representations received. Details were set out in the Sub-Committee's minutes which were circulated at the Committee's meeting, together with an updated set of proposals for the Borough as a whole.

The Officers reported receipt of a late representation from Tytherington High School indicating that for a number of reasons the School would be unsuitable for use as a polling station.

Council at its meeting on 13th October 2011 had agreed that the final decision concerning the outcome of the Review be delegated to the Constitution Committee.

RESOLVED

That the revised schedule of changes to Polling Places, Polling Districts and Polling Stations, as recommended by the Polling Districts and Polling Places Review Sub-Committee, be approved subject to the Officers in

consultation with the Chairman of the Sub-Committee determining alternative arrangements in response to the representations from Tytherington High School.

40 BOUNDARY COMMISSION FOR ENGLAND: PARLIAMENTARY CONSTITUENCY BOUNDARIES REVIEW

The Committee considered the recommendations of the Parliamentary Constituency Boundaries Review Sub-Committee.

The Sub-Committee had been appointed by the Constitution Committee to consider in detail the Boundary Commission's proposed review of Parliamentary Constituency Boundaries.

The Boundary Commission for England had launched a 12-week consultation on its initial proposals for a reduction in the number of constituencies in England from 533 to 502, of which 68 would be in the North West. The Boundary Commission had to submit formal recommendations to the Government by 1st October 2013. Local authority wards were seen as the basic building blocks for designing constituencies and the Boundary Commission's view was that the splitting of wards should therefore be avoided. However, as Cheshire East Council had undergone a Boundary Review in 2011, eight out of the 52 new wards were split between two constituencies by the initial proposals for the North West. Electors from Poynton had been included in the Greater Manchester Sub-Region in a constituency for Poynton and Hazel Grove.

Following informal discussions with members of the Sub-Committee, the Sub-Committee had met formally on 10th November to consider a draft proposal, together with submissions by Poynton Town Council and David Rutley MP were also circulated for Members' consideration. The minutes of the Sub-Committee's meeting were circulated together with a draft response to the Boundary Commission.

It was proposed that the Council's response would centre on the adverse impact on the 8 new Borough wards, which would be split between two constituencies. The draft response proposed that the 2011 wards should be used instead. The response also objected strongly to the Boundary Commission's proposal for the former Poynton ward (comprising 11,080 electors) to be included in the Greater Manchester Sub-Region, in a Constituency for Hazel Grove and Poynton. The draft response included an alternative proposal that sought to resolve the issue of splitting the 8 new Borough wards and which brought Poynton back into the Macclesfield constituency and Cheshire and Wirral Sub-Region. The Sub-Committee had approved the draft response subject to it being emphasised that the old wards had not been reviewed since 2001, and that the traditional constituency names should be retained.

The Sub-Committee had noted that the Cabinet proposed the inclusion of a fallback position in the event that the Boundary Commission was not

prepared to agree to use the 2011 ward boundaries. The purpose of the fallback position would be to retain the former Poynton ward within the Macclesfield constituency by adjusting the ward composition of the Macclesfield and adjoining constituencies. However, there was a view among members of the Sub-Committee that the inclusion of a fallback position within the response to the Boundary Commission's initial proposals would make it less likely that the Boundary Commission would consider seriously the Council's principal substantive objections and counter-proposals by presenting the Commission with an easier option which would not be the Council's first preference.

The Sub-Committee had resolved that

- (1) subject to (2) below, the draft response to the Boundary Commission's proposals be approved for submission to the Constitution Committee subject to the specific amendments agreed by the Sub-Committee;
- (2) Cabinet be asked to reconsider its view that a fallback position should be included in the response, and the Officers liaise with Councillor Mason accordingly;
- (3) if necessary, a form of wording for the fallback position be drafted for consideration by the Constitution Committee.

In considering the matter, the Committee noted that there might not be a further opportunity to submit representations to the Boundary Commission at the end of the current consultation period. In the circumstances, further consideration needed to be given to the question of including a fallback position within the Council's submission.

Council at its meeting on 13th October 2011 had agreed to delegate to the Constitution Committee the authority to determine the Council's response to the consultation.

RESOLVED

That the draft response recommended by the Parliamentary Constituency Boundaries Review Sub-Committee be approved and the Borough Solicitor be authorised in consultation with the Chairman to determine the final form of the Council's response which may or may not include a secondary proposal of the kind initially proposed by the Cabinet.

41 DELEGATED POWERS RELATING TO CAR PARKING CHARGES

Council on 13th October 2011 had considered the following motion by Councillor D Brickhill, seconded by Councillor A Moran, and had referred the motion to the Constitution Committee:

"That the delegated powers to officers to alter car parking charges be rescinded and the powers returned to the Cabinet Member."

The existing delegations within the Constitution in relation to fees and charges were contained within paragraph 9.1 of the 'Powers and Responsibilities of Officers' section of the Constitution, which provided that "CMT Members shall determine the level of fees or charges payable in respect of any chargeable goods or services supplied". In accordance with the existing constitutional provisions, to date decisions to approve variations to the charges made in relation to the use of off-street parking places had been taken by the Strategic Director (Places & Organisational Capacity) in conjunction with the Cabinet Member for Environmental Services.

Members felt that the setting of car parking charges were a matter of significant public concern and often local ward Members were not adequately notified or consulted. It was felt that such decisions should be taken by the relevant Cabinet Member at a public meeting, with an opportunity for local ward Members to comment, and for decisions to be subject to call-in and review if necessary.

RESOLVED

That Council be recommended to agree

- (1) that the Constitution be amended to provide that decisions relating to the variation of off-street parking places charges are made by the relevant Cabinet Member at a portfolio holder meeting; and
- (2) that the Borough Solicitor be authorised to make such changes to the Constitution as she considers necessary.

42 LOCAL SERVICE DELIVERY COMMITTEES TERMS OF REFERENCE/MEMBERSHIP

The Committee considered proposed terms of reference for the Local Service Delivery Committees for Crewe and Macclesfield as set out in the Appendix to the report.

It was noted that the Leighton ward had been inadvertently omitted from the list of wards for the Crewe Committee. Part of the ward covered an unparished area of Crewe.

The Macclesfield Committee had proposed the inclusion of some procedural rules relating to the nomination and appointment of the chairman and vice-chairman, and to member speaking and participation.

The Committee also considered the following motion by Councillor D Neilson, seconded by Councillor B Murphy, which had been referred to it by Council on 13th October 2011:

“In view of the consultative role of the Local Service Delivery Committee for Macclesfield, plus the request from the Cabinet in relation to precepting powers for the Committee and in order to enhance its mandate, to reflect opinion across the town, the Council requests the Constitution Committee to re-consider the Committee's composition, with a view to incorporating into its membership all elected Councillors for the unparished area.”

Members were reminded that Council at its meeting on 16th December 2010 had appointed the two Local Service Delivery Committees on a politically proportionate basis.

RESOLVED

That Council be recommended to approve the revised terms of reference for the Local Service Delivery Committees as set out in the Appendix to the report, subject to the addition of the Leighton ward for the Crewe Committee.

43 REVIEW OF THE CONSTITUTION

The Committee considered a progress report on its review of the Council's Constitution.

So far this year the Committee had made recommendations to Council in respect of a number of issues including:

- Scheme of Delegation
- Urgency Provisions
- Questions at Council meetings
- Contract Procedure rules

A number of other matters remained to be reviewed this year:

- Finance Procedure Rules
- Scrutiny Procedure Rules
- Budget and Policy Framework
- Staff Employment Procedure Rules

It was suggested that the Committee might wish to review its work programme with the aim of allowing Members more time to give full and proper consideration to proposals coming forward before making formal recommendations to Council. This was particularly appropriate with regard to large and complex areas of work such as the Finance and Contract Procedure Rules. It was further suggested that the Committee might wish to appoint a Member task group to consider such matters in detail before they were submitted to the Committee. Such an approach had worked well recently with the Planning Protocol Sub-Committee.

In considering this matter, Members were advised that under the Localism Act, councils had the option of reviewing their governance arrangements

with a view to adopting a committee system in place of a leader and cabinet model. It was noted that the Corporate Scrutiny Committee was to consider the matter at its meeting in January 2012. In the circumstances, it was felt that, with the exception of the Finance Procedure Rules, any further review of the Constitution should be suspended pending the outcome of the Corporate Scrutiny Committee's review of the Council's governance arrangements.

RESOLVED

That

- (1) a task group of five members be appointed (3 Con; 1 Lab; 1 Ind) to consider and make recommendations on detailed changes to the Constitution, and in the first instance to consider proposed amendments to the Finance Procedure Rules; and
- (2) the remainder of the review of the Constitution be suspended until the Corporate Scrutiny Committee has concluded its review of the Council's governance arrangements.

The meeting commenced at 2.00 pm and concluded at 3.45 pm

Councillor A Martin (Chairman)