

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 18th November, 2010 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

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

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

Apologies

Councillors M Asquith, C Beard and P Whiteley

Honorary Alderman Mr S W Hogben, who was present as an observer,
was welcomed to the meeting by the Chairman.

24 DECLARATIONS OF INTEREST

Councillors T Beard, J P Findlow and A Moran declared personal, non-prejudicial interests in relation to an item on the agenda concerning the rights and privileges of Honorary Aldermen and Freeman. They had all been admitted as Honorary Aldermen by their former authorities and would therefore become Honorary Aldermen on their retirement from Cheshire East Council.

Councillors D Flude and D Topping, as members of the Tatton Park Board, declared personal, non-prejudicial interests in relation to the item on Honorary Aldermen and Freeman insofar as it concerned Tatton Park.

Councillors T Beard, D Cannon, R Cartlidge and D Flude, as Crewe Charter Trustees, and Councillors J P Findlow and B Livesley, as Macclesfield Charter Trustees, declared personal, non-prejudicial interests in relation to an item on local service delivery in the unparished areas of Crewe and Macclesfield.

25 PUBLIC SPEAKING TIME/OPEN SESSION

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

26 MINUTES OF PREVIOUS MEETING

On consideration of the minutes, the Chairman announced that following consultation with himself and the Group Whips, the sub-committee to be appointed to consider the Planning Protocol would comprise six members of the Committee with the proportionality of 4:1:1:0. Nominations were

currently being sought and the membership and arrangements for the sub-committee's meeting would be announced shortly.

RESOLVED

That the minutes of the meeting held on 30th September 2010 be approved as a correct record.

27 HONORARY ALDERMEN AND FREEMEN

The Committee considered a report on the rights and privileges to be extended to Honorary Aldermen and Freemen of the Borough.

The Civic Sub-Committee at its meeting on 3rd August 2010 had considered a number of matters on which it made recommendations to this Committee and Council. At the meeting of Council held on 14th October, the majority of recommendations were accepted. Council agreed that a further report be submitted to the next meeting of the Constitution Committee, dealing with the rights and privileges of Honorary Aldermen/Freemen and serving Councillors in relation to attendance at civic functions, including the County Show and RHS Show, and access to Tatton Park, the report to include any resource implications and the rationale for any charges involved.

Further investigations had been carried out to establish the historical position in relation to the County Show and RHS Show and how this had changed since vesting day.

The report set out further details in respect of the RHS Flower Show, the Cheshire County Show, passes for Tatton Park and invitations to civic events.

RESOLVED

That Council be recommended to agree that

(1) the rights and privileges of all Cheshire East Honorary Aldermen and Freemen be extended to include:

- a. Admission tickets to the Cheshire County Show and the RHS Flower Show provided for by the Council;
- b. A life Pass for Tatton Park provided for by the Council;

(2) the rights and privileges of all Cheshire East Members be extended to include:

- a. Admission tickets to the Cheshire County Show and the RHS Flower Show provided for by the Council;

- b. A life Pass for Tatton Park provided for by the Council;
- (3) the organising committee for the Cheshire County Show, with the support of Cheshire East Council, be invited to consider following its past practice of offering tickets to Cheshire East Honorary Aldermen and Freemen, Members or other local dignitaries on the basis that the cost of the tickets would be met by the individuals concerned.

28 LOCAL SERVICE DELIVERY IN UNPARISHED AREAS

The Committee considered a report proposing the appointment of two local service delivery committees for the unparished parts of Crewe and Macclesfield respectively.

It was proposed that the Council create the Local Service Delivery (Crewe) Committee and the Local Service Delivery (Macclesfield) Committee, whose membership in each case would be those members who represented wards in the respective unparished areas. The powers of each committee would be:

“To make representations to Cabinet and Council about the delivery of local services in the area and to monitor local services where a town or parish council acting under local devolution arrangements would have been expected to do so (but not otherwise).”

In considering the matter, Members felt that in due course the proposed committees, which were currently intended as advisory bodies, could be given delegated powers. Given that possibility, it was felt that it would be appropriate for the membership of the committees to reflect the political proportionality of the Council as a whole.

RESOLVED

That it be recommended to Council that

- (1) a Local Service Delivery (Crewe) Committee be constituted on a politically proportionate basis, the size and membership of the committee to be determined by Council;
- (2) a Local Service Delivery (Macclesfield) Committee be similarly constituted;
- (3) the powers of each committee be:

“To make representations to Cabinet and Council about the delivery of local services in the area and to monitor local services where a town or parish council acting under local devolution arrangements would have been expected to do so (but not otherwise).”

29 STANDARDS IN PARTNERSHIPS PROTOCOL

RESOLVED

That the report be deferred for further consideration by the Officers.

30 CALENDAR OF MEETINGS FOR 2011-2012

The Committee considered the draft Calendar of Meetings for Cheshire East Council for 2011-12.

A summary timetable was attached as Appendix 1 to the report.
Explanatory notes had been provided at Appendix 2.

The frequency of meetings had followed the practice adopted in 2010-2011.

Meetings which did not form part of the formal decision-making process would be omitted from the public calendar but would be added to the Members' Diary for convenience.

As for 2010-2011, the Committee Suite at Westfields, Sandbach had been reserved on Monday mornings for Portfolio Holder meetings. However, meetings would as now be arranged at alternative venues where a decision was likely to have a significant impact on a particular locality so that interested parties could attend.

The following had been consulted on the draft calendar and any comments received had been taken into account in producing the draft Calendar.

Corporate Management Team
Cabinet
Committee Chairmen
Group Leaders
Group Whips

With regard to Council meetings, Members noted that the Calendar had, as last year, been prepared on the basis that such meetings would be held at 6.00 pm in the summer and at 2.00 pm in the winter. It was suggested that the new Council elected in May 2011 should be asked to consider a consistent starting time for all Council meetings and that this should be during the working day so that Members and others had sufficient time to take part fully in the proceedings.

RESOLVED

That

- (1) the draft Calendar of Meetings for Cheshire East Council for 2011-2012 be referred to Council for approval;

- (2) Council be recommended to agree that the starting time of Council meetings should be included on the agenda for the first meeting of the new Council in May 2011; and
- (3) Mrs Carol Jones of the Democratic Services Team be commended for her work in preparing the draft Calendar of Meetings.

31 NOTICE OF MOTION

The Committee considered the following Motion which had been proposed by Councillor D Flude and seconded by Councillor T Beard at the Council meeting on 14th October 2010 and had been referred to the Committee for consideration:

“Following the resolution of this Council on 25th January 2010 when it was resolved :-

“To accept the vote from the people of Crewe and to reject a Town Council for Crewe at this time”;

in the light of the passage of time and the proposed Special Expenses Community Charge for the Town Crewe;

will this Council now return to the matters considered on the 25th January and ask the Constitution Committee to undertake a further Community Governance Review for Crewe.”

In considering this matter, Members were conscious that if the Committee were to undertake a further review within a very short timescale of the conclusion of the last review (in January 2010) for the unparished area of Crewe, the Council could receive public criticism for the use of further financial resources for this purpose, particularly in the current financial climate. In addition, given the wording of the Council's previous decision in accepting the vote of the people of Crewe, another review at this time could be seen as ignoring the democratic outcome of the previous, recent review, which may also leave the Council open to criticism.

Careful consideration would also need to be given to the staff resources required and the timing of such a review, so that no risk was introduced to the efficient conduct of other key democratic processes such as the May 2011 elections; the anticipated Alternative Vote referendum; the implementation of significant ward boundary changes as a result of the pending outcome of the Cheshire East Boundary Review by the Boundary Commission; and the statutory review of all Polling Places by November 2011.

The Wilmslow Community Governance Review was also still ongoing and may not conclude until February 2011, due to the implications of the Cheshire East Boundary Review. It was considered sensible to conduct

only one review at a time, which allowed for the most efficient use of resources and allowed time to incorporate lessons learnt and experience gained.

The Committee also needed to bear in mind that if a further petition were received in the near future, then the Council would be under a duty to conduct and complete a Community Governance Review within a timescale of 12 months. This would be very difficult to manage if the Council was mid-way through another review at that time.

Rather than conducting Community Governance Reviews in a piecemeal fashion, it was suggested that the Committee may wish to take a more holistic approach by considering the needs of the Borough as a whole.

RESOLVED

That Council be recommended to defer any further consideration of the subject matter of the Motion until after the May 2011 elections, at which time Council also be asked urgently to consider undertaking a holistic Borough-wide review of community governance arrangements in Cheshire East.

32 NEW EXECUTIVE ARRANGEMENTS

The Committee considered the outcome of a public consultation exercise on options for future executive arrangements for Cheshire East Council.

The Local Government and Public Involvement in Health Act 2007 required local authorities to choose one of two new models of executive leadership: either a directly-elected Mayor with a Cabinet, or a strong Leader and Cabinet. The period of office of either a Mayor or a Leader was to be for four years. The change in executive arrangements had to come into effect from May 2011, and the Council had to pass a resolution giving effect to the change by 31st December 2010.

Guidance had recently been issued in the form of a letter from the Minister for Housing and Local Government. This indicated that whilst the statutory requirement to follow the consultation process had to be adhered to, Councils were encouraged not to incur any significant expenditure in doing so.

At the last meeting, the Committee resolved that a public consultation exercise be undertaken between 1st October and 12th November 2010, by way of an article and press release via the Council's website, on the options for future executive arrangements for Cheshire East Council, the consultation to make reference to the advice received from the Minister for Housing and Local Government. The result of the consultation exercise would be reported to the Constitution Committee on 18th November 2010 with a view to making a recommendation to Council on 16th December 2010.

The results of the Consultation were set out in Appendix 3 to the report. There was no clear outcome in favour of either option with responses weighted against a directly-elected Mayor.

Members were advised that the legislation was likely to be repealed through the Localism Bill, but not before the Council was required to make an appropriate resolution. Communities Minister Andrew Stunell had announced that under the Localism Bill the Government would let councils decide, in consultation with local people, what system was best for their community, whether that be a Mayor or Leader and Cabinet or a Committee system.

RESOLVED

That

- (1) the outcome of the public consultation exercise undertaken between 1st October and 12th November 2010 on the options for future executive arrangements for Cheshire East Council be noted;
- (2) Council be recommended to adopt the new Strong Leader and Cabinet model of governance, to be brought into effect at the beginning of the next municipal year subject to any subsequent amending legislation;
- (3) Council be asked to authorise the Borough Solicitor to amend the Constitution as necessary to give effect to the decision of Council; and
- (4) those who had responded to the public consultation exercise be notified of the Council's decision at the appropriate time.

33 REVIEW OF THE CONSTITUTION

The Committee considered the next stage of the review of the Council's Constitution, with particular regard to executive arrangements.

Democratic Services Officers had identified the following issues for consideration as part of any review of executive arrangements:

1. The Constitution contained both Executive Procedure Rules and Cabinet Procedure Rules. Both contained similar or duplicate information and it was recommended that a single consolidated set of Executive Procedure Rules be produced for consultation initially with the Cabinet.
2. All decisions considered to be Key Decisions had to be published in the Forward Plan. However the Overview and Scrutiny Chairmen had commented that the Forward Plan did not provide the level of detail required to assist them and the public in understanding the decisions to

be made. The Council may wish to review the Forward Plan in consultation with the Cabinet to determine:

- the form and presentation of the Forward Plan.
 - Whether a monetary threshold should be used to define the financial aspect of 'significance' in the statutory definition of a Key Decision.
 - Whether the role of the Forward Plan should be expanded to include all items coming forward, and not simply key decisions.
3. The Constitution provided for all decision-making by individual Portfolio Holders to be undertaken in public. It was suggested that research should be undertaken with neighbouring Councils on the procedures used by them for decision-making by individual Cabinet Members in order to determine the adequacy and appropriateness of the current arrangements in Cheshire East.

Members were reminded that the next stage of the Constitutional review would be a review of the Finance and Contract Procedure Rules. An Officer Working Group had been established to commence this work.

RESOLVED

That the Cabinet and all Members of the Council be consulted upon issues relating to the Council's executive arrangements, including those matters specifically identified in the report, and the Chairman and Vice-Chairman be consulted upon the form and content of the consultation.

34 E PETITIONS - THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009 AND THE LOCAL AUTHORITIES (PETITIONS) (ENGLAND) ORDER 2010

The Committee considered a proposed revision to the scheme for dealing with petitions to include provision for e-petitions.

The Local Democracy, Economic Development and Construction Act 2009 required all principal local authorities in England to establish a scheme for handling petitions made to the authority. Under the Local Authorities (Petitions) (England) Order 2010 and in accordance with the Statutory Guidance the Council had approved its Petition Scheme on 27th May 2010 and had requested that the Borough Solicitor report to the Constitution Committee on the development of an on-line petition facility.

The Order required the authority to develop an On-Line Petition Facility, to be available from 15th December 2010. In the absence of any further guidance the Council's Modern.gov agenda management system had been upgraded at no extra cost with an e-Petitions module. The system met the necessary legislative requirements and allowed the Petitions

Officer to moderate petitions and decide if a petition should be rejected before it was published.

The Council's Petition Scheme needed to be revised to reflect e-petitioning. A proposal was set out in Appendix A to the report.

RESOLVED

That

- (1) Council be recommended that the Petitions Scheme be amended to include the additional section dealing with e-petitions as set out in Appendix A to the report and the Constitution be amended accordingly; and
- (2) the proposed online e-petition facility be launched with effect from 1st December 2010.

The meeting commenced at 2.00 pm and concluded at 3.45 pm

Councillor J P Findlow (Chairman)