

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Monday, 26th November, 2012 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

Councillors C Andrew, G Baxendale, D Brickhill (for Cllr Moran), P Groves,
S Hogben, S Jones, W Livesley, B Murphy, D Newton and P Whiteley

Officers

Brian Reed, Democratic and Registration Services Manager
Julie Openshaw, Deputy Monitoring Officer
Paul Jones, Democratic Services Team Manager
Lindsey Parton, Registration Service and Business Manager
Paul Mountford, Democratic Services Officer

Apologies

Councillors A Moran, D Topping and G Wait

The Chairman welcomed Councillor Andrew to the meeting following her recent appointment to the Committee.

The Chairman also welcomed Mrs Janet Rushbrooke, Chairman of the Independent Remuneration Panel.

28 DECLARATIONS OF INTEREST

There were no declarations of interest.

29 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

30 MINUTES OF PREVIOUS MEETING

It was noted that the minute on Petitions had been referred back to the Committee for further consideration.

RESOLVED

That with the above amendment the minutes of the meeting held on 20th September 2012 be approved as a correct record.

**31 RE-ORGANISATION OF COMMUNITY GOVERNANCE (CREWE)
ORDER 2012 AND MINI REVIEW OF ELECTORAL ARRANGEMENTS
FOR THE PARISH OF LEIGHTON**

The Committee considered the recommendations of the Community Governance Review Sub-Committee on a review of the electoral arrangements for the Parish of Leighton, arising from the proposed boundary change to the Leighton Urban Ward.

The minutes of the Sub-Committee's meeting of 22nd November 2012 were circulated at the meeting.

The review had considered the timing of the proposed boundary change, the timing of parish elections and whether there was a need to increase the number of parish councillors. Minshull Vernon and District Parish Council had been consulted and its views had been taken into consideration.

RESOLVED

That having considered the outcome of the mini-review of the electoral arrangements for the Parish of Leighton, the Committee recommends to Council that

- (1) the change to the boundary of the Leighton Parish take effect from 1st April 2013;
- (2) no parish elections be held until 2015 but Cheshire East Council take steps to advertise the current vacancies on the Parish Council;
- (3) the number of parish councillors for Leighton remain unchanged at the present time but the number be reviewed when Cheshire East Council conducts its community governance review of parish councils;
- (4) accordingly, paragraph 10 of the draft order be retained in its present form; and
- (5) the draft reorganisation order be approved.

32 NOTICE OF MOTION - MOTIONS TO COUNCIL

The Committee considered the following motion which had been proposed by Councillor Arthur Moran and seconded by Councillor David Brickhill at the Council meeting on 19th July 2012 and referred to the Committee for consideration:

“That all motions that are referred by Council to a Committee or Cabinet must be put on the agenda of the next meeting of that body or brought back to the next Council meeting for vote on a final decision.”

The motion had provided an opportunity for the Committee to consider more fully the provisions relating to Notices of Motion to see where improvements to the procedure could be made. Some of the existing provisions were in need of modernisation to reflect contemporary usage and methods of electronic communication. In addition, some inconsistencies of approach had been identified.

RESOLVED

That having considered the motion and having reviewed more fully the provisions relating to notices of motion as set out in the Constitution, the Committee recommends to Council that

- (1) the Democratic and Registration Services Manager be a nominated recipient of notices of motion (in addition to the Monitoring Officer) in order to enable Members to lodge notices of motion when the Monitoring Officer is not available;
- (2) Members should be permitted to submit notices of motion by email, and a hard copy signature of the Members in question should not be a requirement of the process;
- (3) the wording of the rules should be amended to make it clear that the full text of the notice of motion would be reproduced in the agenda for the Council meeting;
- (4) a notice of motion should be permitted to be withdrawn:
 - (a) prior to the Council meeting if an indication to this effect is given in writing to at least one of the above-named officers by the member who submitted the notice; or
 - (b) at the Council meeting if oral notice to this effect is given by the member who submitted the notice, provided that the motion has not already been moved and seconded;
- (5) there should be no distinction in the rules between executive and non-executive functions, there being just one rule which simply requires the motion in question to be referred to the relevant decision-making body, which will be announced at Council by the Mayor;
- (6) each motion should then be referred to the relevant decision-making body for determination, without the need for any reference back to Council except where:
 - (a) arising from consideration of the motion, the Constitution Committee recommends to the Council a change to the Constitution; or

- (b) there is some other legal or Constitutional requirement for the matter to be referred back to Council;
- (7) following the moving and seconding of the motion in question, the mover and seconder having been given the opportunity to speak, the motion shall stand referred without debate to the appropriate decision-making body and the proposer and seconder shall have the right to speak at the meeting of the body to which the motion is referred;
- (8) unless the chairman of the appropriate decision-making body agreed there were good reasons not to do so, notices of motion must be referred to that body within two meeting cycles, and the proposer and seconder of the motion would be consulted before the chairman decided the matter;
- (9) the existing provision be retained whereby the Mayor may determine that it is conducive to the despatch of business for a motion to be dealt with in full at the Council meeting;
- (10) no notice of motion which, in the opinion of the Mayor, deals with the same or a similar matter to one which had come before Council during the previous 6 months should be included on the Council agenda; and
- (11) the Borough Solicitor be authorised to make such changes to the Constitution as she considers necessary to give effect to the wishes of Council.

33 NOTICE OF MOTION - RIGHT TO SPEAK AT MEETINGS

The Committee considered the following motion which had been proposed by Councillor A Moran and seconded by Councillor P Edwards at the Council meeting on 19th July 2012 and referred to the Committee for consideration:

“That visiting members to all Cabinet meetings, committees and sub-committees have the right to speak once on each separate item on the agenda before the debate proper commences. This will apply to all items on the agenda including part 2 items.”

Under the current arrangements as set out in the Constitution, any member may attend any meeting and, with the consent of the chairman or person presiding, speak on any matter on the agenda. Special circumstances applied to planning meetings and Licensing Act Sub-Committee meetings.

The Committee considered the implications of the motion for the efficient management of meetings and in particular the potential for delay if a significant number of visiting members wished to speak on a number of items.

RESOLVED

That Council be recommended that no action be taken.

34 NOTICE OF MOTION - CONFIDENTIALITY

The Committee considered the following motion which had been proposed by Councillor B Murphy and seconded by Councillor P Edwards at the Council meeting on 19th July 2012 and referred to the Committee for consideration:

“In the light of the ever-growing demand for public accountability in public services and the need to sustain public trust and confidence in democratic governance, this Council calls for a review of its policies and protocols in relation to confidentiality.”

Councillor Murphy stated that his aim was to maximise transparency and openness and that there needed to be greater clarification as to why something should be treated as confidential or commercially sensitive.

In considering this matter, Members also considered the merits of including additional areas of information in the Council's publication scheme, such as departmental structures and information on the Council's land holdings and assets.

RESOLVED

That the officers review the approach to confidentiality and the publication of information in this and other local authorities and consult all members of the Council and appropriate Council decision-making bodies before reporting back to the Committee.

35 NOTICE OF MOTION - START TIME OF COUNCIL PUBLIC MEETINGS

The Committee considered the following motion which had been proposed by Councillor D Brickhill and seconded by Councillor A Moran at the Council meeting on 11th October 2012 and referred to the Committee for consideration:

“That in view of the increasingly bad traffic congestion in the morning rush hours all this Council's public meetings, which cause additional traffic to travel in these periods, should never start before 10 am if held in Sandbach and not before 10.30 am if held elsewhere.”

Work had commenced on the Calendar of Meetings for 2013/14. The vast majority of meetings were scheduled to start at 2.00pm in the afternoon and would therefore be unaffected by the proposed motion. For those meetings that commenced in the morning, the start times were either 10.00am or 10.30am. The scheduled slot for Portfolio Holder meetings

was 9.00 am to 11.00 am Mondays to allow Cabinet Members to attend other meetings later in the day. Flexibility was also required in arranging ad hoc meetings.

RESOLVED

That Council be recommended that no action be taken.

36 NEW OUTSIDE ORGANISATION - THE NANTWICH PARTNERSHIP

The Committee received a report on a new outside organisation, The Nantwich Partnership.

The body had been set up to promote the improvement of the economic, social, environmental and cultural health of the Nantwich area. The Council had been invited to appoint representatives to the body. The Outside Organisations Sub-Committee at its meeting on 20th September 2012 had agreed to add the Partnership to the Category 2 list of outside organisations. Clarification was still awaited as to the number of Cheshire East Council representatives to be appointed.

RESOLVED

That

- (1) the addition of the Nantwich Partnership to the list of Category 2 (Constitution Committee) approved Outside Organisation appointments be noted;
- (2) subject to further clarification, two Cheshire East Councillors be appointed to the Partnership, one from each of the two Nantwich wards; and
- (3) accordingly, Councillors P Groves and A Moran be nominated as the Council's representatives on the body.

37 COUNCIL GOVERNANCE ARRANGEMENTS

The Committee considered a report on proposed changes to the governance arrangements of the Council which gave effect to the decision taken at the Annual Council meeting in May 2012.

The report recommended changes to the Council's scrutiny structure and the establishment of new policy development groups.

Six new policy development groups would be established which would play a central role in the Council's decision-making processes. The groups would actively involve backbench Members on a cross-party basis, giving them a key role in the formulation of policy. They would operate closely with both scrutiny committees and the Cabinet, both being informed by

and informing the work of those bodies. The groups would hold some meetings in private, particularly in the initial stages, but would also meet regularly in public to ensure open accountability for their decisions.

The number, focus and role of the scrutiny committees would change. There would be three scrutiny committees focussing on the way the Council works as a service commissioner and deliverer, as well as on health and wellbeing and community safety.

Further details of the proposals were set out in the report and its appendices.

RESOLVED

That Council be recommended to agree that

- (1) the arrangements set out in the report be adopted with immediate effect;
- (2) the new Policy Development Groups referred to in the report be formally established, with the terms of reference and compositions as set out in Appendices A and E to this report;
- (3) the new Scrutiny Committees referred to in the report be formally established, with the terms of reference and compositions as set out in Appendices D and E to this report, and that the existing Council scrutiny structure be dissolved;
- (4) the terms of reference of the Policy Development Groups and Scrutiny Committees, and the operation of the Policy Development Groups, be reviewed after six months;
- (5) when a Policy Development Group meets to agree its formal recommendations to Cabinet, the meeting be held in public and be open to all Members of the Council;
- (6) the membership of each Policy Development Group be noted and the Chairman and Vice-Chairman of each Policy Development Group be formally appointed to those offices, as set out in Appendix E;
- (7) the membership of each Scrutiny Committee be noted and the Chairman and Vice-Chairman of each Scrutiny Committee be formally appointed, as circulated at the meeting; and
- (8) the Borough Solicitor be authorised to make such changes to the Council's Constitution as she determines are necessary to give effect to the wishes of Council.

38 RECOMMENDATION FROM CONSTITUTION COMMITTEE - LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

The Committee considered a report which outlined the new provisions introduced by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, and which informed Members of amendments to current practice to ensure compliance with the new provisions.

The Regulations covered such matters as holding meetings in public, recording of meetings, key decisions and the Forward Plan, executive decisions taken by officers, dispensations to Members, Member and public access to documents and the Leader's report to Council. Full details were set out in the report which also detailed actions taken to bring the Council's procedures in line with the new Regulations, including some changes to the Forward Plan procedure. In other respects, there were no practical implications for the Council although some matters required further clarification or consultation with relevant Members.

RESOLVED

That

- (1) the actions taken so far to comply with the new Regulations as detailed in the report be noted;
- (2) it be recommended to the Leader of the Council that the Forward Plan continue to be published on a monthly basis;
- (3) clarification be sought from the Department for Communities and Local Government as to the intended focus of the new regulation relating to the recording of executive decisions taken by officers;
- (4) the Chairman of the Audit and Governance Committee be consulted on the arrangements for dispensations for members as discussed in paragraph 10.17 of the report;
- (5) the matter of the Leader's report to Council on urgent executive decisions as discussed in paragraph 10.20 be referred to the Leader of the Council for consideration;
- (6) it be noted that in accordance with the authority delegated to the Borough Solicitor by Council on 23rd July 2009 to exercise corrective powers with regard to the Constitution in cases where it is considered appropriate to do so, the Borough Solicitor will make such consequential amendments to the Constitution as are necessary to give effect to the new Regulations; and
- (7) a further report be submitted to the next meeting.

39 SCHEME OF MEMBERS' ALLOWANCES: REPORT OF THE INDEPENDENT REMUNERATION PANEL

The Committee considered the recommendations of the Independent Remuneration Panel on the Scheme of Members' Allowances.

The Independent Remuneration Panel ('the Panel') had conducted a review of the current Scheme of Members' Allowances as adopted by Cheshire East Council on 18th May 2011 and amended by Council on 15th December 2011.

To inform its review, the Panel had been provided with background documentation including comparator data pertaining to Members' Allowances Schemes operated by comparable authorities. The Panel had also met members from different political groups together with those holding different responsibilities within the Council. A copy of the Panel's Report was attached as Appendix 2 to the Committee report.

Mrs Janet Rushbrooke, Chairman of the Independent Remuneration Panel, responded to Members' questions regarding the Panel's report and recommendations.

RESOLVED

That the recommendations of the Independent Remuneration Panel as set out in Appendix 2 to the report be recommended to Council for approval.

The meeting commenced at 2.00 pm and concluded at 5.00 pm

Councillor A Martin (Chairman)