

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 30th September, 2010 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

Councillors C Beard, D J Cannon, R Cartlidge, S Jones, A Moran, R West,
P Whiteley, J Wray and J Crockatt (for Councillor Topping)

In attendance

Councillor C Thorley

Officers

Brian Reed, Democratic Services Manager
Paul Jones, Democratic Services Team Manager
Julie Openshaw, Legal Services
Paul Mountford, Democratic Services
Carol Jones, Democratic Services

Apologies

Councillors M Asquith and D Topping

Honorary Alderman Mrs M Melrose DL attended the meeting in an
observer capacity and was welcomed by the Chairman.

15 DECLARATIONS OF INTEREST

Councillors J Crockatt, J P Findlow, A Moran and P Whiteley declared
personal, non-prejudicial interests in 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.

16 PUBLIC SPEAKING TIME/OPEN SESSION

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

17 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 12th July 2010 be approved as a correct record.

18 OUTSIDE ORGANISATIONS

The Committee considered a report setting out the recommendations of the Outside Organisations Sub-Committee.

The Sub-Committee had been appointed by the Constitution Committee at its meeting on 24th June 2010 and comprised six Members in accordance with the rules of political proportionality (4:1:1), the Members being Councillors D Brickhill, R Cartlidge, J P Findlow, S Jones, P Whiteley and J Wray.

The Sub-Committee had been appointed on the following basis:

- (a) to serve for the remainder of the Municipal Year;
- (b) to meet on an *ad hoc* basis;
- (c) to oversee appointments to Category 2 outside organisations in general, and to address any issues which emerge in respect of those appointments;
- (d) to continue with the review started by the former Task Group in respect of establishing the effectiveness and appropriateness of representation; and
- (e) to report back to the Constitution Committee as and when it considers appropriate within the Municipal Year.

The Sub-Committee had held its first meeting on 13 September 2010. Councillor Shirley Jones had been appointed Chairman to serve for the remainder of the Municipal Year.

The report set out the Sub-Committee's recommendations on a number of casual vacancies and requests by new outside organisations for Council representation. Detailed background information on each organisation was included in the report.

The Officers reported that the Wilmslow Trust had been included in the report in error as there was no vacancy on that body.

RESOLVED

That

- (1) the following Councillors be appointed to the casual vacancies indicated:

- (a) Eaton Hall Sand Quarry Liaison Group, Congleton:
Councillor A Knowles
 - (b) King's School, Macclesfield: Councillor H Gaddum
 - (c) Amos Johnson Fund: Councillor G Barton
- (2) Linden Bank Community Liaison Group be added to the Category 2 list of outside organisations, and Councillor Barry Moran be appointed as the Council's representative;
- (3) Maw Green Landfill Site Community Liaison Meeting be added to the list of Category 2 organisations, and Councillors J Hammond and C G Thorley be appointed as the representatives, subject to the establishment of the legal implications of representation;
- (4) no change be made in the representation on Cheshire Landfill Tax Advisory Panel (ie Councillor D Brickhill to remain as the representative);
- (5) the Association for Public Service Excellence (APSE) be added to the list of Category 2 organisations, and Councillor J P Findlow be appointed as the Council's representative; and
- (6) Cabinet be asked to agree to the re-designation of the Standing Advisory Council for Religious Education (SACRE) as a Category 2 organisation.

19 **RECOMMENDATIONS OF THE CIVIC SUB-COMMITTEE**

The Committee considered a report setting out the recommendations of the Civic Sub-Committee at its meeting on 3rd August 2010 in relation to the following:

- Honorary Aldermen and Freeman
- Freedom of the Borough – 1st Battalion, Mercian Regiment (Cheshire)
- Flag Flying Policy

Honorary Aldermen and Freeman

The Civic Sub-Committee had previously considered a report on matters relating to the Honorary Aldermen and Freeman of Cheshire East Council who had been admitted from the demised authorities.

Cheshire East Council now needed to consider its own arrangements. A draft Scheme had been drafted for Members' consideration as attached as Appendix 5 to the report to the Sub-Committee.

The Sub-Committee had resolved that the draft scheme be recommended to the Constitution Committee subject to the following:

1. for the purposes of the scheme, the term 'eminent service' shall mean a minimum of 12 years' service, whether consecutive or otherwise;
2. the rights and privileges previously afforded to County Honorary Aldermen as set out in Appendix 4 shall be conferred on newly-appointed Honorary Aldermen in Cheshire East and incorporated into the scheme accordingly, subject to the following amendments:
 - a. parking passes shall be provided for Westfields and Macclesfield Town Hall
 - b. a life pass to Tatton Park and its facilities shall be granted to an Honorary Alderman and one guest
3. the rights and privileges conferred on Honorary Aldermen under this Scheme shall also apply to newly-appointed Honorary Freemen; and
4. where the title of Honorary Freeman has been conferred on a body or organisation, an appropriate representative of that body shall be invited to attend any relevant functions.

The Constitution Committee considered the Sub-Committee's recommendations.

Members agreed that for the purpose of calculating 12 years' service, Members who had served on both the County and a District Council within Cheshire East, or on the shadow authority, should have the number of years' service on each body taken into account separately.

Members also had regard in particular to the arrangements for providing Honorary Aldermen and Freemen with access to parking facilities and to key civic functions such as the County Show and the RHS Show. Members felt that any arrangements should apply indiscriminately to all Cheshire East Aldermen and Freemen irrespective of the rights and privileges bestowed on them by individual legacy authorities. Members also recognised the need to consider carefully the potential resource implications of any such privileges.

During consideration of this matter, Members also felt that the arrangements for serving councillors should also be clarified, particularly with regard to attendance at civic functions.

It was clear from the discussion that more information was required in certain areas and that some aspects of the scheme would need to be deferred for further consideration.

RESOLVED

That the draft scheme relating to the appointment, rights and privileges of Honorary Aldermen and Freemen as set out at Appendix 5 to the report to

the Civic Sub-Committee be recommended to Council for adoption and incorporation into the Constitution subject to the following:

1. for the purposes of the scheme, the term 'eminent service' shall mean a minimum of 12 years' service, whether consecutive or otherwise. Where a Member has served on more than one former authority of Cheshire East, whether concurrently or otherwise, including the shadow authority, the service with each authority shall be taken into account separately for the purpose of determining eminent service.
2. Honorary Aldermen of Cheshire East Council shall enjoy such privileges as may properly be conferred by the Council from time to time and in particular shall be entitled:
 - (1) to attend civic receptions and other civic functions or ceremonies to which all Members of the Council are invited and to be provided with a car parking pass, and where the spouses and partners of Members are able to attend so shall the spouses and partners of Aldermen;
 - (2) to attend meetings of the Full Council and be provided with a car parking pass and be allocated a seat in the reserved part of the Council Chamber, and receive Council papers, including Part 1 reports, by email or post as desired;
 - (3) to be notified on a regular basis of significant civic matters by the Democratic Services Manager, including the deaths of Members, former Members and Honorary Aldermen/Freemen;
 - (4) to be provided with a pass on request when visiting Council premises;
3. the rights and privileges conferred on Honorary Aldermen under this Scheme shall also apply to Honorary Freemen;
4. where the title of Honorary Freeman has been conferred on a body or organisation, an appropriate representative of that body shall be invited to attend any relevant functions;
5. a further report be submitted to the Committee's next meeting 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.

Freedom of the Borough – 1st Battalion, Mercian Regiment (Cheshire)

The Civic Sub-Committee had considered proposed arrangements for the granting of the Freedom of the Borough to the 1st Battalion Mercian

Regiment (Cheshire), including the suggested wording for the resolution to be considered at the Special meeting of Council which was as follows:

“That pursuant to the powers contained in the Local Government Act 1972, the Council grant Freedom of Entry to the Borough to the 1st Battalion Mercian Regiment (Cheshire), and admit the Regiment to the Roll of Honorary Freemen of the Borough, in recognition of the long and close association between the Cheshire East Borough and the Regiment and confer upon the Regiment the right, privilege and honour of marching through the streets of Cheshire East on ceremonial occasions, with swords drawn, bayonets fixed, drums beating, bands playing and colours flying.”

The Regimental Secretary was co-ordinating a number of homecoming parades across the North West on behalf of the Officer Commanding the Rear Operations Group. Three provisional dates had been identified for Cheshire East.

The Sub-Committee had recommended to the Constitution Committee that

- (1) the Freedom of the Borough be granted to the 1st Battalion Mercian Regiment (Cheshire) and a special meeting of Council be convened for that purpose;
- (2) the suggested wording for the resolution at the Special Council meeting be approved;
- (3) in conjunction with the Officer Commanding the Rear Operations Group and the Assistant Regimental Secretary, the Officers agree the final, detailed arrangements for at least two, and possibly three, homecoming parades to be held in Macclesfield, Crewe and possibly in Congleton during the second week of November 2010 on dates to be confirmed; and
- (4) the Mayors of Town Councils in Cheshire East be invited to attend the relevant homecoming parade for their area.

Since the Sub-Committee's meeting, the Assistant Regimental Secretary and Officers had agreed the final, detailed arrangements for three, homecoming parades to be held on Monday 8 November at midday in Macclesfield and 3.15pm in Crewe and Wed 10 November in Congleton at 3pm.

The Assistant Regimental Secretary had accepted the Civic Sub Committee's suggestion that during each Parade the Mayor should announce the resolution of the Council granting the Freedom of the Borough to the Regiment and that on each occasion a senior regimental officer would respond. At Crewe there would be a Reception and a Senior Officer would be formally presented with a scroll and civic gift and sign the Freedom of the Borough Register. The Committee was asked to endorse

the revised arrangements and to note that as a consequence there would be no formal ceremony as part of the Special Council meeting at which the Resolution would be considered at the conclusion of the next ordinary meeting of Council on 14th October 2010.

The Assistant Regimental Secretary had also asked that the Freedom be granted to "The Mercian Regiment" rather than the 1st Battalion as they wished to be recognised as a whole Regiment rather than a federation of Battalions. In addition, the Regiment's 4th Battalion was a TA Company stationed in Crewe which also sent soldiers to serve in Afghanistan. The Mayor had been consulted and supported the request.

RESOLVED

That the recommendations of the Civic Sub-Committee be approved subject to:

- (1) the revised arrangements agreed since with the Assistant Regimental Secretary, which are approved; and
- (2) that the Freedom of the Borough be granted to 'The Mercian Regiment' and the wording of the resolution to be considered at the special Council meeting be amended accordingly.

Flag Flying Policy

The Civic Sub-Committee had considered proposals for a flag flying policy for civic buildings in Cheshire East as appended to the report to the Sub-Committee.

The policy covered those occasions on which it would be appropriate to fly different flags from the Council's public buildings, in particular the Union Flag, English National Flag, Cheshire East Borough Flag, Armed Forces Flag and the national flags of overseas visitors. The manner of flying the flag in particular circumstances was also dealt with. The Sub-Committee had agreed that the Union Flag should also be flown at half mast in the event of the death of a soldier from the Mercian Regiment whilst on active service.

The Sub-Committee had recommended the proposed Flag Flying Policy to the Constitution Committee.

RESOLVED

That the proposed Flag Flying Policy in respect of civic buildings in Cheshire East be recommended to Council for approval.

20 THE PLANNING PROTOCOL

The Committee considered a report on proposed amendments to the Planning Protocol adopted by the Council on 24th February 2009 with a view to making recommendations to Council.

In August 2009 a meeting had been held between the Chairmen and Vice-Chairmen of the Strategic Planning Board and Planning Committees and relevant Planning Officers to review a number of issues arising out of the first three months of the operation of the Development Management Service for Cheshire East. This had included the operation of the Planning Protocol. At that meeting it had been noted that an updated version of the Local Government Association guidance document, "Probity in Planning", had been published. Whilst the guidance did not require wholesale changes to the Protocol, it was felt that some further clarification could be incorporated within it. Additionally, there were a number of amendments/clarifications that Officers had identified for the Planning Protocol arising from its operation during the initial months of the new Council.

An amended Planning Protocol had now been produced and was attached to the report.

The amended Planning Protocol had been considered by the Strategic Planning Board at its meeting on 25th September 2010 and the Board had resolved that the amended Protocol be commended to the Constitution Committee for inclusion in the Constitution subject to minor amendments to paragraph 8.4 and 4.5, and to any views expressed by the Standards Committee. The Standards Committee at its meeting on 27th September 2010 had resolved that the revised Planning Protocol be commended to the Constitution Committee for approval without amendment, and that a review of the Public Speaking Protocol be undertaken to ensure consistency.

In considering this matter, some members of the Constitution Committee felt that the Protocol in its present form was too detailed and, in parts, overly prescriptive. It was suggested that the Protocol as a whole should be reviewed with a view to producing a shorter, more user-friendly guide.

RESOLVED

That

- (1) the Planning Protocol be not referred to Council for approval at this stage; and
- (2) a sub-committee be appointed, the size, proportionality and membership to be determined in consultation with the Chairman and Group Whips, to be charged with examining the Protocol and, if

necessary, redrafting it as a short sensible guide with the assistance of the Officer who drafted the amendments.

21 REVIEW OF THE CONSTITUTION

The Committee considered proposed changes to the Council and Committee Procedure Rules as part of the review of the Council's Constitution.

Cabinet Members and Directors had been consulted and no specific matters had been raised. However, Democratic Services Officers had identified the following issues:

1. The Constitution was silent on the specific requirements relating to the Local Government Act in relation to timescales for holding the Annual Meeting of Council. The following was therefore proposed:

"ANNUAL MEETING OF THE COUNCIL

Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May on a date the Council will decide at or before their last meeting prior to the Annual General Meeting. In the absence of a decision or statutory provision to the contrary the day will be the third Thursday in May.

The annual meeting will:

- (i) elect a person to preside if the Mayor is not present;
- (ii) elect the Mayor;
- (iii) elect the Deputy Mayor;
- (iv) approve as a correct record and sign the minutes of the last meeting;
- (v) receive any communications from the Mayor;
- (vi) receive any declarations of interest from members;
- (vii) appoint the Overview and Scrutiny Committees, the Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions;

(viii) consider any business set out in the notice convening the meeting.”

2. The Constitution was silent on the Order of Business for ordinary Council meetings. This should be listed so that members, officers and the public had certainty. The following was therefore proposed:

“Council will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve as a correct record and sign the minutes of the last meeting;
- (iii) receive any communications from the Mayor;
- (iv) receive any declarations of interest from members;
- (v) deal with any business outstanding from the previous Council meeting;
- (vi) receive questions from the public;
- (vii) receive any recommendations from the Cabinet or any Council Committee;
- (viii) receive questions from Members;
- (ix) consider any motions moved without notice;
- (x) consider any motions;
- (xi) consider any urgent items;
- (xii) consider any other business set out in the notice.”

3. The existing provision relating to special Council meetings was considered incomplete and the following was proposed in its place:

“EXTRAORDINARY MEETINGS

Calling extraordinary meetings.

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor of the Council;

- (iii) the Monitoring Officer; and
- (iv) any eight members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

Business

Only business for which the extraordinary meeting has been called may be considered.”

- 4. The Constitution was silent on the control of agenda items. The agreed arrangements for pre-agenda meetings should be reflected in the Constitution. These provided for the Chairman or, in his absence, the Vice-Chairman to settle committee agendas.

RESOLVED

That Council be recommended to approve the proposed additions to the Council and Committee Procedure Rules as set out above and the Constitution be amended accordingly.

22 NEW EXECUTIVE ARRANGEMENTS

The Committee considered proposals to consult on two 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. Indeed, the requirements were likely to be repealed, but not before the Council was required to make an appropriate resolution.

RESOLVED

That

- (1) 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; and

- (2) the result of the consultation exercise be reported to the Constitution Committee on 18th November 2010 with a view to making a recommendation to Council on 16th December 2010.

23 WILMSLOW COMMUNITY GOVERNANCE REVIEW

The Chairman was of the opinion that this matter constituted urgent business and could be dealt with at the Committee's meeting in accordance with Committee Procedure Rule 37 and Section 100B(4)(b) of the Local Government Act 1972. The reason for urgency was as follows:

"To enable the Wilmslow Community Governance Review Sub-Committee to continue with the next stages of the Review in accordance with the statutory timetable."

The Wilmslow Community Governance Review Sub-Committee had met on 27th September 2010 to consider the outcome of the Stage 2 consultation and to give initial consideration to the potential running costs and budgetary requirements of the three proposed parish councils.

Members had been advised that established Parish Councils advised the Borough Council in January each year of their precept requirements and these were then included by the Borough Council as part of the total Council Tax-setting process. The difficulty with the process for proposed new parish councils in the Wilmslow area (if that were the outcome of the review), was that the parish councils themselves would not come into operation until Councillors had been elected in May 2011. Action was therefore required by Cheshire East Council to ensure that the new parish councils had a budget to work with.

The Sub-Committee felt that as part of its work on the Review, it should make recommendations on precepts for the first year of the new parish councils. This would require an extension to the Sub-Committee's terms of reference by the Constitution Committee.

It was important to be clear that in considering this matter the outcome of the Community Governance Review was not being prejudiced. However, in view of the tight timescales involved, thought had to be given to matters of precepting, budgets and governance arrangements in early course.

RESOLVED

That the terms of reference of the Wilmslow Community Governance Review Sub-Committee be extended to enable it to make recommendations on precepting for any new parishes created by the

Review and to deal with such governance, accommodation and other preparations as may be required.

The meeting commenced at 2.00 pm and concluded at 3.45 pm

Councillor J P Findlow (Chairman)