

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 20th September, 2012 at Committee Suite 1, 2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

Councillors G Baxendale, S Hogben, S Jones, W Livesley, A Moran,
B Murphy, D Newton, A Thwaite, D Topping and P Whiteley

Officers

Caroline Elwood, Borough Solicitor
Brian Reed, Democratic and Registration Services Manager
Lisa Quinn, Director of Finance and Business Services
Lindsey Parton, Registration Service and Business Manager
Paul Mountford, Democratic Services Officer
Rose Hignett, Senior Electoral Services Officer

In attendance

Councillors D Brickhill, H Davenport, L Gilbert, P Mason and B Moran

Apologies

Councillors P Groves and G Wait

The Chairman welcomed Honorary Alderman David Cannon to the meeting.

12 DECLARATIONS OF INTEREST

Councillor S Hogben declared a disclosable pecuniary interest in an item on the agenda relating to the Crewe Community Governance Review on the grounds that he was the holder of a Council allotment within the unparished area of Crewe. He indicated that he would withdraw from the meeting when the matter was considered.

13 PUBLIC SPEAKING TIME/OPEN SESSION

Honorary Alderman David Cannon spoke in relation to the Crewe Community Governance Review, having previously submitted comments during the final stage of consultation on the review. He suggested that the wards for the new Crewe parish council should be approximately the same size, with each parish councillor representing approximately the same number of electors. He added that the wards should be medium-sized, representing identifiable localities. While he was in favour of 20 parish councillors for the parish council, he wished to emphasise in particular the need for smaller wards.

14 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 5th July 2012 be approved as a correct record.

15 CREWE COMMUNITY GOVERNANCE REVIEW - FINAL OUTCOME

Having declared a disclosable pecuniary interest earlier in the meeting, Councillor S Hogben withdrew from the meeting.

The Committee considered a report on the outcome of the final stage of consultation for the review and the results of a ballot of electors in the unparished part of Leighton.

Nine responses to the consultation were received and were appended to the report. The results of the Leighton ballot showed that 85% of respondents were in favour of being included in Leighton Parish.

The Sub-Committee had recommended that the unparished part of the Leighton Borough Ward be included in the adjoining Leighton Parish. The Sub-Committee had left it to the Committee to determine the number of parish councillors for Crewe.

A re-organisation Order was required to be approved by the Council to bring any new arrangements into effect, following the final outcome of the Review. Within this Order, for the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008, a sum had to be included for the budget for the first year of operation of the new parish council, which could not be exceeded. The Sub-Committee has therefore prepared a draft budget. The draft re-organisation Order and the draft budget were attached as Appendices to the report. In developing the budget figure, consideration had been given to the transfer of assets to the new parish council, having taken into consideration advice from Counsel. The Sub-Committee had recommended that all Council allotments within the unparished area and the public conveniences in Lyceum Square, Crewe should transfer as part of the re-organisation order.

The minutes of the meetings of the Sub-Committee held on 18th July 2012 and 4th September 2012 were appended to the report.

In considering the results of the consultation, ballot and recommendations of the Community Governance Sub-Committee, and in formulating its recommendations to Council, Members ensured that the proposed community governance arrangements within the area under review were reflective of the identities and interests of the community in the area; and were effective and convenient.

The Committee was asked to authorise the Sub-Committee to take all necessary actions in preparation for the new Crewe parish council.

RESOLVED

That

(1) Council be recommended to approve that

- (a) the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a Parish Council for the unparished area of Crewe and that Parish Council be advised to consider its designation as a Town Council;
- (b) having taken into account the representations received, the Parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards (except for Polling District 1GM2 of the Crewe South ward which is already parished), with each ward having the number of parish councillors as follows:

Crewe St Barnabas	2
Crewe Central	2
Crewe North	2
Crewe South	3
Crewe East	4
Crewe West	3
TOTAL	16

- (c) having considered the results of the ballot of electors, the unparished part of the Borough ward of Leighton be included within the Leighton Urban ward of Leighton Parish;
- (d) elections to the Crewe Parish Council be held on 4th April 2013;
- (e) the public conveniences in Lyceum Square, Crewe be transferred to the new parish council with effect from 1st April 2013 but Cheshire East Council continue to manage the facilities for the first three months; a sum of £30,000 to be included in the budget for the first year of the parish council to cover the cost of managing these assets;
- (f) the Council allotments within the unparished part of Crewe be transferred to the new parish council with effect from 1st April 2013 on the basis of a 150 year lease; a sum of £30,000 to be included in the budget for the first year of the parish council to cover the cost of managing these assets;

- (g) the draft budget be approved, as attached to the report, subject to the addition of a contingency fund of £100,000, the budget totalling £442,000;
 - (h) the draft re-organisation order be updated as required and submitted to Council on 13th December for approval, following a mini-review of the electoral arrangements for the Parish of Leighton arising from the proposed boundary change to the Leighton Urban Ward;
- (2) the terms of reference of the Community Governance Review Sub-Committee be extended to enable the Sub-Committee to take all necessary actions in preparation for the new Crewe parish council.

At the conclusion of this matter, Councillor S Hogben was invited to return to the meeting.

16 NOTICE OF MOTION - VENUE FOR MEETINGS OF THE STRATEGIC PLANNING BOARD

The Committee considered the following motion which had been proposed by Councillor D Brickhill and seconded by Councillor S Hogben, and referred by Council to the Committee for consideration:

“That when the Strategic Planning Board agenda contains a majority of items from the south of the Borough, the meeting will be held in Crewe or Sandbach.”

The Committee considered a number of options for ensuring that meetings of the Strategic Planning Board would be held at the most appropriate venue.

Councillor D Brickhill, the proposer of the motion, and Councillor H Davenport, the Chairman of the Strategic Planning Board, were present at the meeting and spoke on this matter.

RESOLVED

That Council be recommended to agree that the venue arrangements for meetings of the Strategic Planning Board should be as follows:

That the Capesthorne Room, Macclesfield Town Hall and the Council Chamber, Municipal Buildings, Crewe be reserved in advance for every scheduled meeting of the Strategic Planning Board, with the room that is not required for a particular meeting being released at the appropriate time, the choice of venue to be at the discretion of the Chairman of the Strategic Planning Board in consultation with officers.

17 KEY DECISIONS - DEFINITION AND THRESHOLDS

The Committee considered revised definitions with regard to key decisions.

The definition of a key decision was two-fold. The first limb related to those executive decisions where either expenditure or savings were significant having regard to either the service or the function to which the decision related. The Council's current definition of a key decision did not specify any financial thresholds. Guidance indicated that the Council ought to look at specifying limits, both in the interests of consistency and so that the public were clear about which decisions were considered to be significant in financial terms.

The second limb of the definition of a key decision related to its impact and effect upon local communities. Although the statutory definition required the impact to be on two or more wards, guidance recognised that in some instances there would be a significant impact on one ward.

Information had been obtained on the definition of a "key decision" adopted by Cheshire East Council's 15 near statistical neighbours and was appended to the report.

The Director of Finance and Business Services advised the Committee that for Cheshire East Council, a financial threshold of £1M would be appropriate. Members felt, however, that a lower threshold would allow more openness and scrutiny of decisions and as a result should lead to better decisions.

RESOLVED

That Council be recommended to approve that the following definition of a key decision be adopted:

"an executive decision which is likely –

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority.

For the purpose of the above, savings or expenditure are "significant" if they are equal to or greater than £250,000."

18 REVIEW OF CONTRACT PROCEDURE RULES

The Committee considered proposed amendments to the Council's contract procedure rules.

The Audit and Governance Committee on 14th June 2012 had resolved that the Council's contract procedure rules be submitted to the next meeting of the Constitution Committee for further review with a view to increasing the level of Member involvement in decision-making. At its meeting on 5th July this Committee resolved that the Task Group previously appointed by the Committee to review detailed changes to the Constitution be asked to undertake the further review and report back to the Committee's next meeting.

The Task Group had met on 9th August to review the contract procedure rules and had agreed as follows:

- Clarity was required around the responsibilities of Directors which would include ensuring that they took all reasonable steps for the proper administration of contracts and procurement in their Departments.
- Revisions were required to clarify the process, actions and approvals required in respect of exceptions to the rules and non-compliance with the rules and urgency.
- Other matters including retaining records, specifications, whole life costs (excluding VAT) and quotations.
- The need for a short Guide to Procurement for Officers to complement the existing Knowledge Map.

The contract procedure rules had been amended in the light of the Task Group's comments and were appended to the report for the Committee's consideration. The Shared Services Manager had undertaken to produce the additional guidance on contracts and procurement as requested by the Task Group.

The Director of Finance and Business Services circulated a number of additional proposed amendments at the Committee's meeting.

The Committee was asked to consider the amended contract procedure rules and the further amendments proposed by the Director. A number of additional amendments were suggested by Members relating to:

- The definition of financial thresholds
- The recording of training needs
- The need for a breakdown of non-compliances against heads of service

RESOLVED

That

- (1) the proposed amendments to the contract procedure rules, including the additional amendments proposed by the Director of Finance and Business Services at the meeting, be approved for recommendation to Council subject to the further amendments agreed by Members;
- (2) the Vice-Chairman of the Committee be authorised to determine any final amendments to the contract procedure rules in consultation with the Director of Finance and Business Services;
- (3) a final updated version of the rules incorporating all amendments be produced for consideration by Council; and
- (4) Council be recommended to approve the amended contract procedure rules and the consequential amendments to the Constitution.

19 PROPOSED AMENDMENTS TO THE COUNCIL'S FINANCE AND CONTRACT PROCEDURE RULES/PROJECT GATEWAY

The Committee considered proposed amendments to Sections A and B of the Council's Finance and Contract Procedure Rules and the creation of a 'Project Gateway' to provide a strong quality assurance model for major projects and programmes in Cheshire East.

The new Project Gateway would bring about a more robust discipline to the management of major Projects and Programmes across the Council. The new governance arrangements associated with the Project Gateway impacted on the decision-making process and the required financial controls and therefore a review of the Finance and Contract Procedure Rules was required.

A key aspect of effectively operating the Project Gateway was the formation of a high-level, Member-led Governance group called the Executive Monitoring Board which would take on the challenge role as part of the development of the Council's Business Plan and the monitoring of its delivery. The Board would replace the Capital Asset Group by taking on the Capital Modelling, Planning and Monitoring role as described in the current Capital Strategy. One of the key aims of the Board would be to provide consistent and robust direction for all major Projects and Programmes in Cheshire East through the Project Gateway model. Further details of the Gateway model were set out in the report.

The proposed amendments to the Finance and Contract Procedure Rules were set out in Appendix 1 to the report and fell broadly into two main categories:

1. Amendments to Section A with regard to Virements and Supplementary Estimates
2. Amendments to Section B with regard to Capital Approvals, Capital Block Provisions, Capital Monitoring and Amendments to the Capital Programme

RESOLVED

That Council be recommended to approve that

- (1) the proposed amendments to Sections A and B of the Finance and Contract Procedure Rules be approved subject to the following amendment:

“That projects with an estimated cost of between £100,000 and £250,000 are to be brought to the appropriate Policy Development Group for consideration and/or noting.”

- (2) the Constitution be amended accordingly.

20 NOTICE OF MOTION - MOTIONS TO COUNCIL

The Committee considered a report on the current arrangements for dealing with Notices of Motion, together with a number of proposed amendments to those arrangements.

This followed a motion proposed and seconded at the last Council meeting by Councillors D Brickhill and A Moran respectively as follows:

“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 been referred to the Committee for consideration and advice.

Members felt that further work was needed on the proposed changes to the current arrangements and that the matter should be considered further at the next meeting.

RESOLVED

That the matter be considered further at the next meeting.

21 NOTICE OF MOTION - RIGHT TO SPEAK AT MEETINGS

With the agreement of the proposer of the motion, Councillor A Moran, this matter was deferred for consideration at the next meeting.

22 NOTICE OF MOTION - CONFIDENTIALITY

With the agreement of the proposer of the motion, Councillor B Murphy, this matter was deferred for consideration at the next meeting.

23 DECISIONS TAKEN IN THE ABSENCE OF A PORTFOLIO HOLDER

The Committee agreed to defer consideration of this matter to the next meeting.

24 SPECIAL RESPONSIBILITY ALLOWANCE: LOCAL SERVICE DELIVERY COMMITTEES FOR CREWE AND MACCLESFIELD

The Committee considered the Independent Remuneration Panel's recommendations regarding the award of a Special Responsibility Allowance to the Chairmen and Vice-Chairmen of the Local Service Delivery Committees for Crewe and Macclesfield.

The recommended allowances related to the 2011-12 municipal year only in recognition of the work undertaken by the Committees in that year.

RESOLVED

That Council be recommended to approve that

- (1) a Special Responsibility Allowance be awarded to the Chairman and Vice-Chairman of the Local Service Delivery Committee (Crewe) and the Local Service Delivery Committee (Macclesfield), of £5,600 (Chairman) and £1,000 (Vice-Chairman) for 2011/2012 in recognition of the work undertaken during the Committees' inaugural year and in line with the requirements of Cheshire East Council's Scheme of Members' Allowances which states that a Member can only be in receipt of one Special Responsibility Allowance; and
- (2) the matter be included as part of the Independent Remuneration Panel's Review of the Scheme of Members' Allowances for 2012/2013 which will consider whether the posts merit the awarding of a Special Responsibility Allowance from 16th May 2012 onwards.

25 PETITIONS - THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2000, THE LOCAL AUTHORITIES (PETITIONS) (ENGLAND) ORDER 2010 AND THE LOCALISM ACT 2011

The Committee considered proposed amendments to the Council's Petitions Scheme.

Section 46 of Chapter 10 of the Localism Act 2011 had repealed the provisions relating to facilities for receiving and dealing with petitions and

e-petitions. In the light of these changes the Committee was asked to review the scheme for dealing with petitions.

Following its previous consideration of this matter, the Committee had sought the views of the Corporate Management Team and Cabinet on any proposed changes to the Petitions Scheme. Those bodies had now considered the matter and it was recommended that:

- (a) the right of a petitioner to request an overview and scrutiny committee to review the steps taken or action proposed by the Council should be removed; and
- (b) the provisions to hold an officer to account should be removed.

CMT and the Cabinet were of the view that the existing provisions requiring a petition in excess of 3,000 signatories to be submitted to full Council for debate if a petitioner so requested should be retained and therefore no amendments to this provision were proposed.

A revised Petitions Scheme was set out at Appendix 1 to the report.

RESOLVED

That Council be recommended to approve that

- (1) the Council's petitions scheme be amended to:
 - (a) remove the right of a petitioner to request an overview and scrutiny committee to review the steps taken or action proposed by the Council;
 - (b) remove the provisions to hold an officer to account; and
- (2) the revised petitions scheme as set out in Appendix 1 be approved and the Constitution be amended accordingly.

26 REVIEW OF THE PLANNING PROTOCOL OF CONDUCT AND THE PLANNING PUBLIC SPEAKING PROTOCOL

The Committee considered proposed amendments to the Council's Planning Protocol of Conduct and Planning Public Speaking Protocol.

The proposed amendments were required to bring the protocols in line with the new Member Code of Conduct.

The proposed amendments to the Protocols were set out in the Appendix to the report. The Strategic Planning Board at its meeting on 12th September 2012 had approved the amendments subject to a number of further amendments, details of which were circulated at the meeting.

The proposals were due to be considered by the Audit and Governance Committee on 27th September 2012 following which final recommendations would be made to Council.

RESOLVED

That having noted the recommendations of the Strategic Planning Board, the Committee makes no further comments on the proposed amendments to the Planning Protocols and recommends to Council that, subject to the views of the Audit and Governance Committee, the proposed amendments be approved and the Constitution be amended accordingly.

27 URGENT ITEM - EXECUTIVE ARRANGEMENTS

The Chairman was satisfied that this matter was urgent and could not await the next scheduled meeting of the Committee.

The officers reported that new regulations had come into effect on 10th September 2012 which had implications for the Council's executive arrangements. The regulations provided that where an executive meeting, such as a Cabinet or Portfolio Holder meeting, were to be held in private, the Council had to give a minimum of 28 days' notice of any executive meeting. In addition, the regulations provided that any executive decision taken by an officer should be published. The implications of this latter provision could be significant and there appeared to be uncertainty about whether it related to all decisions taken by officers under delegated powers. It would therefore be necessary to seek advice and report back.

RESOLVED

That the report be noted and a further report be submitted to the next meeting.

The meeting commenced at 2.00 pm and concluded at 5.00 pm

Councillor A Martin (Chairman)