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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Council**
held on Thursday, 17th October, 2013 at Grand Hall Congleton Hall,
Congleton Town Hall, High Street, Congleton CW12 1BN

PRESENT

Councillor D Flude (Chairman)
Councillor W Fitzgerald (Vice-Chairman)

Councillors C Andrew, Rachel Bailey, Rhoda Bailey, G Barton, G Baxendale, D Brickhill, D Brown, L Brown, B Burkhill, P Butterill, R Cartledge, J Clowes, S Corcoran, W S Davies, R Domleo, J P Findlow, R Fletcher, H Gaddum, S Gardiner, L Gilbert, M Grant, P Groves, J Hammond, A Harewood, P Hayes, S Hogben, D Hough, P Hoyland, L Jeuda, M Jones, S Jones, A Kolker, J Macrae, D Mahon, D Marren, A Martin, M A Martin, S McGrory, R Menlove, G Merry, A Moran, B Moran, B Murphy, H Murray, D Neilson, D Newton, P Nurse, M Parsons, P Raynes, L Roberts, J Saunders, B Silvester, M J Simon, D Stockton, C G Thorley, A Thwaite, D Topping, G Wait, G M Walton, M J Weatherill, R West, P Whiteley, S Wilkinson and J Wray

Apologies

Councillors D Bebbington, Carter, H Davenport, D Druce, K Edwards, I Faseyi, M Hardy, O Hunter, J Jackson, F Keegan, W Livesley, M Sherratt and L Smetham

36 PRAYERS

The Mayor's Chaplain said prayers at the request of the Mayor.

37 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 18 July 2013 be approved as a correct record.

38 MAYOR'S ANNOUNCEMENTS

The Mayor:-

1. Announced that since the last Council meeting, she and the Deputy Mayor had attended over 70 events across the Borough. Details of the events had been circulated around the Chamber.
2. Announced that, since the last Council Meeting, two of the Council's Honorary Aldermen had passed away. Honorary Aldermen Ken Jagger had died in August and Honorary Aldermen Norman

Edwards earlier in the month. Both were former Mayors of Macclesfield. She also informed Council that Councillor Irene Faseyi's husband had recently died, necessitating her absence from the meeting. Members stood for a period of silence as a mark of respect.

3. Reminded Members that she would be holding her Civic Service on the afternoon of Sunday 20th October at St Andrew's Church, Crewe. She hoped that as many Members as possible would join her.
4. Was delighted to be able to inform Council that a soldier from the Mercian Regiment, Corporal Darren Lightfoot, who came from Crewe, had recently been Mentioned in Dispatches, the oldest form of recognition of gallantry in the British Armed Forces. Corporal Lightfoot had been part of a patrol in Helmand Province, Afghanistan in November of the previous year. The Patrol had come under fire and his bravery had saved the lives of a number of soldiers. She was sure that Members would join with her in congratulating Corporal Lightfoot.
5. Informed Members that the Council's newly appointed Chief Operating Officer, Peter Bates had now taken up his appointment and was present at the meeting. She welcomed him to Cheshire East, wished him well in his new job and asked him to stand up and make himself known to Members.

39 DECLARATIONS OF INTEREST

Cllr S Corcoran, P Butterill and G Baxendale declared a non-pecuniary interest in item 12 Notice of Motion 3, relating to pay day lending, by virtue of being a member of a credit Union. All the Cabinet Members also, by virtue of them being members of a credit union.

Cllr Hoyland stated that he had spoken on this matter, but had not become member of a credit union.

40 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present wishing to use the public speaking facility.

41 FIRST QUARTER REVIEW OF PERFORMANCE 2013-14

Consideration was given to a report requesting formal approval of the issues recommended to Council by Cabinet on 19th August 2013 as part of the 2013/2014 First Quarter Review of Performance Report. As a procedural matter, these items required the approval of Council, in accordance with Finance Procedure Rules.

The items in question were set out in the report and related to Supplementary Capital Estimates and Virements over £1m, Supplementary Revenue Estimates and the establishment of a specific earmarked reserve to hold any underspend on the Elections Budget for use in years when Elections took place.

RESOLVED

That the Supplementary Estimates / Virements and establishment of an earmarked reserve as set out below and detailed in paragraph 10.2 of the report be approved :-

- Supplementary Capital Estimates and Virements over £1m relating to Crewe Lifestyle Centre (Detailed in Appendix 1 of the report).
- Supplementary Revenue Estimates to be funded from General Reserves where information was either not known at the time the budget was set, or where further funding information had been received and needed allocating. (Detailed in Appendix 2 of the report).
- A Supplementary Revenue Estimate of over £1m for Public Health, to be funded from additional ring-fenced grant (Detailed in Appendix 3 of the report).
- The establishment of a specific earmarked reserve to hold any underspend on the Elections Budget for use in years when Elections take place (Detailed in Appendix 4 of the report).

42 RECOMMENDATION FROM CONSTITUTION COMMITTEE - REVIEW OF POWERS AND RESPONSIBILITIES OF OFFICERS

Consideration was given to a report requesting Council consideration of a newly-drafted section of the Constitution, which set out the Powers and Responsibilities of Officers and Proper Officer Provisions (which is given a new title in the document of Scheme of Delegation to Officers). These were the powers delegated by Council to Officers to make decisions and take action. A draft document was attached at Appendix 1 of the report and had been the subject of consideration by a Members' Working Group, set up by the Constitution Committee for this purpose and had been considered by the Constitution at its meeting on 9 October. As the meeting of the Constitution Committee had taken place after the Council agenda was published the minute of the meeting of the Constitution Committee was circulated at the meeting.

The Chairman of the Constitution Committee, Cllr A Martin, moved the recommendations as set out in paragraph 2 of the report, subject to amendment to the wording of the Scheme of Delegation to Officers, to delete the words "In consultation with" at the start of para 6.24 and to change the word "by" to "to" in the third line.

Paragraph 6.24 to now read :-

“The Chief Operating Officer, to apply the approved early retirement/redundancy scheme in certain circumstances EXCEPT that (a) decisions relating to redundancy must not be delegated to the Head of HR and OD under a local scheme of delegation and (b) decisions relating to redundancy of a post at Grade 15 and above shall be with the agreement of the relevant Portfolio Holder.”

(It was noted that these changes to the wording had been agreed by the Constitution Committee).

RESOLVED

Noting that there is sufficient scope to ensure that changes can be made to the Scheme of Delegation to Officers to reflect the new officer structure of the Council and the powers which rest with officers under it, that : -

1. Subject to the above changes, the amended Scheme of Delegation to Officers be approved.
2. The Interim Head of Legal Services and Monitoring Officer, with the agreement of the Chairman of the Constitution Committee be authorised, to incorporate the new Management Structure into the Scheme of Delegation to Officers when all necessary aspects of the structure are settled and the scheme as amended, be submitted to the Constitution Committee for final confirmation, in accordance with paragraph 7.9 of the approved Scheme of Delegation, as amended.

43 RECOMMENDATIONS FROM CONSTITUTION COMMITTEE AND LICENSING COMMITTEE - IMPLEMENTATION OF THE SCRAP METAL DEALERS ACT 2013

The Constitution Committee, at its meeting on 19 September 2013, had considered a proposed scheme of delegation for the Implementation of the Scrap Metal Dealers Act 2013 which would be coming into force on 1st October 2013. The Act was designed to provide a more robust scheme for monitoring the scrap metal industry. A scheme of delegation needed to be put in place to allow for full implementation of the Act by the time the first applications under it were made to the Council.

The Constitution Committee had resolved that, subject to the detail being worked up and approved by the Licensing Committee at its meeting on 30th September, Council be recommended that, in so far as it is necessary as a matter of local choice, this function be specified as a non-executive function and that procedures and a scheme of delegation be set up to implement the Scrap Metal Dealers Act 2013 and to determine applications for licenses under the Act, taking account of a number of detailed principles.

The Committee had also resolved that Council be recommended to authorise the Interim Head of Legal Services and Monitoring Officer to make appropriate changes to the Constitution following the meeting of the Licensing Committee.

The Licensing Committee at its meeting on 30 September 2013 had also considered a report in respect of this matter and resolved that Council be recommended to approve the scheme of implementation and delegations, the details of the Suitable Person Test to be employed by Cheshire East Council and the fees and charges in relation to Scrap Metal Dealers licensing activities, as set out in the report.

RESOLVED

1. That, in so far as it is necessary as a matter of local choice, this function be specified as a non-executive function and that procedures and a scheme of delegation be set up to implement the Scrap Metal Dealers Act 2013 and to determine applications for licenses under the Act, taking account of the following principles:-
 - policy is delegated to the Licensing Committee
 - the ability to set fees and charges is delegated to the Licensing Committee
 - a Member decision making body (e.g. a licensing sub-committee) shall determine any applications where the applicant has indicated he/she is taking advantage of their opportunity for a hearing (i.e. after a notice has been given under Section 7 of the Act by the licensing authority stating it proposes to refuse the application, the applicant may ask for a hearing and the opportunity to make written or oral representations)
 - a Member decision making body only may initiate a revocation of a licence.
 - a Member decision making body only may impose conditions on a licence.
 - An officer should be empowered to make decisions in respect of approvals of licences and may refuse a licence in circumstances where the applicant has not expressed the wish to make representations within the specified time after a notice has been served under Section 7 stating the licensing authority proposes to refuse the application.
2. That the Interim Head of Legal Services and Monitoring Officer be authorised to make the appropriate changes to the Constitution.

3. That the scheme of implementation and delegations, as set out in Appendix 2 of the Licensing Committee report, be approved. That the details of the Suitable Person Test to be employed by Cheshire East Council, as set out in Appendix 1 of the Licensing Committee report, be approved.
4. That the following fees and charges in relation to Scrap Metal Dealers licensing activities be approved:-

Site Licence: £160.00

Collectors Licence: £160.00

44 DESIGNATION OF MONITORING OFFICER

Consideration was given to a report outlining the process used for the recruitment of the Head of Legal and Monitoring Officer and requesting that Council agree that the appointee be designated as Monitoring Officer.

RESOLVED

That the appointment of Mrs Anita Bradley as the Head of Legal and Monitoring Officer of Cheshire East Council be approved, with effect from a date to be agreed.

45 ENGINE OF THE NORTH - ENABLING VALUE FOR MONEY

(Cllrs D Newton, P Groves and A Thwaite declared a non pecuniary interest in this item, by virtue of being members of the Board of Cheshire East Engine of the North Ltd).

Consideration was given to a report updating Council on the development programme for housing and economic growth, to be delivered by East Cheshire Engine of the North Limited. It was reported that a development programme had been prepared in respect of an initial portfolio of sites, to deliver the desired outcomes for the community (including over 4,000 new homes and 3,000 jobs) and generate significant economic growth and prosperity for local residents. It was also anticipated to generate major capital receipts for the authority – some £40m in the next 3 years, potentially in excess of £80m over a 10-year period, net of development costs.

The full programme would be considered in February 2014, for inclusion in the Capital Programme, as part of the Budget Setting process for 2014/15-2016/17. The purpose of the report was to seek approval for potential development spending in the current year, to March 2014.

RESOLVED

1. That the potential to generate significant economic growth and capital receipts (i.e. £40m in the next 3 years; £80m+ over a 10-year period, net of development costs) be noted and incorporated in future strategic Capital and Revenue budget planning, at Council in February 2014
2. That, in order to enable Engine of the North to fully deliver £40m of capital receipts over the next 3 years and given that enabling funds may be needed before budget setting in February 2014; a supplementary capital estimate of £5.5m be approved, funded initially by virement from within the current Capital Programme, pending financing through the capital receipts generated from disposals of the sites during 2014.
3. That acknowledgement be made that the Engine of the North is enhancing the assets of Cheshire East, as directed by Council, from £13m to a potential £80m of net value.
4. That the Shareholder's Committee and its role, as set out in paragraph 9.3 of the report, be noted.

46 **NOTICES OF MOTION**

Consideration was given to the following Notices of Motion:-

Auditor's Value for Money Conclusion

Proposed by Councillor Sam Corcoran and Seconded by Councillor Peter Nurse

Background

For the second year running an independent body has found poor practice that is wasting public money. In September Grant Thornton presented their report to the Audit & Governance Committee which found weaknesses in

- Arrangements to procure goods and services
- Understanding of costs and performance
- Arrangements to develop business proposals and manage significant prospects

The report went on to say that the Council was unable to demonstrate that it was prioritising resources within budgets in a planned way and achieving sustainable cost reductions alongside greater efficiencies and improved productivity.

A list of 14 recommendations with 7 'High Priority' items included the following points

- Ensure that budgets are realistic and therefore less reliant on remedial savings during the year
- Ensure that the capital budget is set at a realistic level and therefore avoid in year slippage

- Ensure that robust governance and risk management arrangements are embedded in the Council and in the emerging arms length companies being created by the Council
- Ensure that the Council's policies, procedures and decision making processes remain fit for purpose during the period of significant change to a commissioning authority
- Ensure that Council policies are followed and decision making is and is seen to be transparent to the public

Motion

This Council welcomes the qualified value for money conclusion from the external auditors and:-

- accepts that 'more needs to be done to ensure that tough decisions are taken when setting the budget rather than relying on services to deliver savings in the year';
- commits to setting a realistic budget for 2014/15 so that the major overspends seen in recent years do not recur and that unplanned remedial actions are not necessary;
- agrees to ensure that its decision making is and is seen to be transparent to the public.

RESOLVED

That the motion stand referred to Cabinet.

2 Reducing Carbon Emissions

Proposed by Councillor Steve Hogben and seconded by Councillor Sam Corcoran

That this Council build on its previous work in reducing its own carbon emissions.

This Council will promote strenuous further efforts to cut not only its own carbon emissions but those of its many partners within the sub-region, including the private and business sectors.

The Council recognises that financial pressures face all sectors of the economy, but also recognises the vital importance for future generations of conserving resources of all kinds and cutting environmental pollution.

In view of the loss of Invest to Save funding, and in its role as a community leader, the Council commits to redouble its efforts to fund carbon reduction projects, and seek support in this work from all its partners.

That the motion stand referred to Cabinet.

3 Payday Lending

Proposed by Councillor Laura Jeuda and Seconded by Councillor David Newton

Cheshire East must be applauded in the attempt to tackle the irresponsible lending of payday loan companies by banning access to the top 50 company websites in public buildings.

Debt Counselling Agencies report of the misery and desperation caused by payday lending companies who prey on the poor causing increased poverty and anxiety to those already struggling to cope. People are borrowing more to pay off their existing debt, often using more than one company to do so. Payday lenders offer loans of £50 - £1,250 without credit checks. The transaction can be completed in a matter of minutes.

While the newly formed Financial Conduct Authority, which comes into operation next spring, has proposed some restrictions on payday loan companies it will not ameliorate the risk for many families struggling to repay the vast amount of interest on what was a relatively small sum to start with. A realistic and ethical alternative to this type of borrowing is Credit Unions who provide realistic loans that can be repaid at 6.9% compared to a massive 5,853%. Credit Unions offer savings and loans which are prudent and that do not encourage irresponsible lending and borrowing.

Motion

Cheshire East will encourage the growth of Credit Unions and follow the example of Glasgow in using Trading Standard Officers to ensure that payday lenders are not breaching the Consumer Credit Act

To encourage young people to save responsibly by allocating Credit Union accounts to Secondary School pupils

To provide premises for Credit Unions to operate in communities across Cheshire East.

The mover and seconder agreed to a change to the wording of the motion to substitute the word “allocating” in the second paragraph with the word “offering” and to add the words “ where needed” at the end of the motion.

RESOLVED

That motion, as amended, be accepted.

4. Designated Public Places Orders

Proposed by Councillor D Brickhill

Designated Public Places Orders (DPPO's), made under Section 13 of the Criminal Justice and Police Act 2001, have overtaken the use of byelaws for regulating the use of alcohol in public places.

A DPPO gives the Police and other persons accredited by the Police force e.g Police Community Support Officers, the power, in a DPPO area, to prevent the drinking of alcohol in that area, where an officer reasonably believes that the person has been drinking alcohol, or intends to do so. In addition an officer has the power to ask a person to surrender the alcohol and any opened or sealed containers in their possession.

Motion

That this Council will consider making DPPs for areas of Cheshire East.

RESOLVED

That the motion stand referred to the Licensing Committee.

47 LEADER'S ANNOUNCEMENTS

The Leader of the Council:-

1. Reported a Key Decision to Council, which had been taken as an urgent decision, by the Corporate Policy Cabinet Member, in accordance with rule 54.7 of the Cabinet Procedure Rules, to approve the re-engagement of V4 Services to support the Council to instil a more robust approach to procurement, in anticipation of significant savings (between £1.85m and £4.5m being achieved on a fixed cost basis (£447k), the reason for the urgency being that any delay in entering into a contract with V4 Services as the Council's improvement partner would risk the Council not achieving the financial savings envisaged in the report.
2. Reported that he had attended at least 60 public meetings, including some relating to the Local Plan and that the Council was delivering on its vision.
3. Stated that every Member of the Council should have the power to attend public Council meetings.
4. Referred to the Council's Value for Money report, providing guidance and data on the financial resilience of the Council, which had been published on the Council's website and urged all Members to read it.
5. Referred to a recent report in the Congleton Chronicle relating to the Council and stated that the Council's position was growing stronger every day and was moving forward aggressively. He gave

an number of examples of areas where the Council was performing well.

6. Expressed Best Wishes for a Happy Birthday to the Deputy Leader of the Council, Cllr David Brown.

50 QUESTIONS

The following Members asked questions at the meeting:-

Cllr Groves - In respect of the Waste Collection Centre spend in the North of the Borough – The Leader of the Council, Cllr M Jones responded.

Cllr Wait - In respect of the report on Finance strengths – Cllr Raynes responded.

Cllr Corcoran – In respect of the procurement contract – The Leader of the Council, Cllr M Jones responded.

Cllr Gardiner – In respect of the aging population and the stress on the health and public care budget – Cllr Clowes responded.

Cllr Kolker – In respect of the LAP review – Cllr Gilbert responded.

Cllr Neilson – In respect of a recent planning application relating to Mottram Hall – The Leader of the Council, Cllr M Jones responded.

Cllr Rhoda Bailey – In respect of youth offending Cllr Rachel Bailey responded.

Cllr Hogben – In respect of air quality management areas- Cllr Topping undertook to provide a written response.

Cllr Menlove – In respect of promotion of development on brownfield sites – Cllr Stockton responded.

Cllr A Moran – In respect of informing Town and Parish Councils before dimming or switching off street lights – Cllr Topping responded.

Cllr Baxendale – In respect of the Auditors Value for Money report – Cllr Raynes responded.

Cllr Silvester – In respect of the justification for reducing in the green waste collections without consultation – Cllr Topping responded

Cllr Wilkinson – In respect of High Speed 2. (Cllr Wilkinson declared an interest in this issue, by virtue of the proposed route potentially affecting his property) – The Leader of the Council, Cllr M Jones responded.

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COUNCIL MEETING – 17TH OCTOBER 2013**ITEM 8 – RECOMMENDATION FROM CONSTITUTION COMMITTEE:
REVIEW OF POWERS AND RESPONSIBILITIES OF OFFICERS**

**Extract from the Minutes of the Constitution Committee Meeting on
9th October 2013**

16 REVIEW OF POWERS AND RESPONSIBILITIES OF OFFICERS

The Committee considered a report regarding a proposed new section of the Constitution dealing with the Powers and Responsibilities of Officers and Proper Officer Provisions.

A member working group appointed by the Constitution Committee had undertaken considerable work on the officer scheme of delegation, with the aim of introducing greater transparency and member involvement in delegated decision-making.

The Interim Head of Legal Services and Monitoring Officer reported that the scheme would be amended to reflect the restructuring of the Council's senior management once this had been finalised. In addition, the Constitution including the Contract Procedure Rules and the Finance Procedure Rules would be considered by the member working group appointed by the Constitution Committee.

RESOLVED: That Council be recommended:

1. To approve the Scheme of Delegation to Officers as amended; and
2. To authorise the Interim Head of Legal Services and Monitoring Officer, with the agreement of the Chairman of the Constitution Committee, to incorporate the new Management Structure into the Scheme of Delegation to Officers when all necessary aspects of the structure are settled and the scheme as amended be submitted to the Constitution Committee for final confirmation in accordance with paragraph 7.9 of the approved Scheme of Delegation as amended.

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