

CHESHIRE EAST COUNCIL

Minutes of a virtual meeting of the **Constitution Committee**
held on Tuesday, 6th April, 2021

PRESENT

Councillor J Nicholas (Chairman)
Councillor S Hogben (Vice-Chairman)

Councillors M Asquith, R Bailey, M Benson, J Bratherton, J Clowes, L Crane, S Edgar, D Marren, A Martin, B Murphy, A Stott and P Williams

Other Members Present

Councillors J Saunders, B Evans, L Wardlaw, L Smetham, A Moran, S Pochin, A Farrall, M Sewart, B Puddicombe, J Rhodes, P Redstone, D Murphy, T Fox, J Smith, C Bulman, M Houston, D Brown, M Beanland, M Simon, B Burkhill, P Groves, S Holland and S Akers Smith.

Officers

David Brown, Director of Governance and Compliance
Brian Reed, Head of Democratic Services and Governance
Martin Smith, Registration and Civic Services Manager
Josie Griffiths, Head of Audit and Risk
Guy Kilminster, Corporate Manager Health Improvement
Roisin Beressi, Legal Team Manager Adults & Education
Peter Jones, Barrister
Phil Christian, Business Intelligence Manager
Nick Billington, Economic Research and Intelligence Officer
Paul Mountford, Executive Democratic Services Officer

External Technical Adviser

Dr Melvin Humphreys

9 DECLARATIONS OF INTEREST

There were no declarations of interest.

10 PUBLIC SPEAKING TIME/OPEN SESSION

Councillor Kevin Gibbs, Vice-Chairman of Shavington-cum-Gresty Parish Council, asked the Committee not to approve the community governance review proposals until Gresty was put back into the parish of Shavington-cum-Gresty where it had been for centuries. He also opposed the transfer of part of Shavington into the neighbouring parish of Wybunbury.

Councillor John Smith, Handforth Parish Council, spoke about his Council's opposition to a merger with Wilmslow and Chorley Parish

Councils on the grounds that Handforth was a community in its own right and should be allowed to continue as such.

Hilda Gaddum, former Councillor and past Mayor of Cheshire East, spoke in opposition to the transfer of part of Sutton Parish to Macclesfield as this failed to recognise its community identity and the natural boundaries between the parish and Macclesfield. She also spoke against the merger of the Macclesfield Forest and Wildboarclough Parishes with the residual Parish of Sutton, both parishes being in the Peak District National Park Authority and subject to different planning rules.

Councillor Georgina Bailey, Vice-Chairman of North Rode Parish Council, voiced her council's opposition to the merger of the Parish with the neighbouring Parish of Eaton. The Parish wished to retain its unique rural identity and saw no benefits from the merger.

Dr Roger Small, spoke on behalf of the Handforth Neighbourhood Plan Steering Group in opposition to a merger with Wilmslow and Chorley on the grounds that the evidence did not justify such a merger and that the principles and criteria underpinning the community governance review had been applied inconsistently and erroneously.

Ashley Comiskey Dawson, Clerk to Chorley Parish Council, voiced his Council's opposition to a merger with Wilmslow and Handforth, as Chorley was a village with its own distinct rural identity.

At the Chairman's invitation, Councillor R Bailey read out the comments of Councillor Les Horne, Chairman of Minshull Vernon and District Parish Council, who had been unable to attend the meeting. Councillor Horne said that the abolition of the parishes of Leighton and Woolstanwood and their merger with Crewe was opposed by the parish council and local residents and that Cheshire East Council had failed to put forward any justifiable reasons for the proposal.

11 MEMBER SPEAKING

Councillor L Smetham spoke of the need for local ward members to be informed of any significant changes affecting their wards so that they could comment consult with their local parish councils. She spoke in particular about excessive land transfers proposed from Gawsorth and Eaton to their neighbouring towns of Macclesfield and Congleton.

Councillor J Saunders spoke of the need for meetings of the Corporate Parenting Committee to continue to start at 4.00 pm in the new calendar to allow child representatives to attend. She also questioned whether the number of committee meetings in the new calendar was sufficient.

Councillor S Pochin asked the Committee to ensure that under the new committee system, all councillors, including those not belonging to political groups, were able to participate actively in the decision-making process.

The Chairman responded that the Head of Democratic Services and Governance would give a written response.

Councillor A Farrall commented that the proposed procedure rules for the new committee system provided that visiting members could only speak at committee meetings at the discretion of the chairman and that there was no provision for visiting members to speak as of right, and no time limits set on individual speakers. This, he felt, left the matter open to discrimination and abuse. He asked that the rules be amended to provide an opportunity for visiting members to speak.

Councillor M Sewart commented that certain committees referred to in the draft calendar of meetings were scheduled to be held on different days of the week throughout the year. This presented difficulties for those members who had structured lives and were in employment. He asked that there be a set day of the week for each committee. He also spoke in opposition to a three hour time limit for Council meetings which he felt was undemocratic. Finally, he expressed his support for the community governance review proposals for Poynton and Adlington.

Councillor D Brown asked that a series of briefing sessions be arranged for parish councils prior to the formal consultation on the community governance review.

Councillor P Redstone wanted to know what model of engagement with parish councils had been used for the pre-consultation survey on the community governance review, given that only 56 of 142 parish councils had responded.

12 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 5th October 2020 be approved as a correct record.

13 COMMUNITY GOVERNANCE REVIEW-FORMAL CONSULTATION ON DRAFT PROPOSALS

The Committee considered a report on the draft proposals for formal consultation on the community governance review, and the recommendations of the Community Governance Review Sub-Committee in relation thereto.

The Community Governance Review Sub-Committee meeting on 26th February 2021, having considered the draft proposals, had resolved:

That the Sub-Committee recommends to the Constitution Committee that the draft proposals attached at Appendix B to the report be

formally agreed for the purposes of consultation and consulted upon for a 12-week period, subject to any amendments required to reflect the response of Holmes Chapel Parish Council to the pre-consultation survey.

A number of amendments had been made to the draft proposals following feedback from the Sub-Committee, including reference to the response from Holmes Chapel Parish Council to the pre-consultation survey. In addition, the maps had been amended to display all the potential expansion areas within each map view.

It was confirmed that all parish council clerks and chairmen, as well as other organisations affected by the community governance review, would be notified when the 12-week consultation period commenced. Parish councils and others would be able to feed back their comments through the dedicated Cheshire East Council website or in writing. Consideration was also being given to holding briefings for parish councils.

There was support among members for the suggestion that, where there was a proposed change to a parish boundary or parish name, and where requested by the relevant parish councils, those affected by the change should be given the opportunity of a referendum on the matter. Reference was made to the postal ballot-type “referendums” which had been put in place in respect of the Community Governance Reviews for Crewe and Macclesfield shortly after the Council came into being. It was also felt that where a parish council could not afford such a poll, the costs should be met by Cheshire East Council.

Officers advised that there was no budget for any referendum or poll and that this was outside of the existing budget framework. Any financial implications outside of existing resources would need to be considered as part of the Medium-Term Financial Strategy.

Officers, and the Council’s external adviser, Dr Humphreys, further advised that it would be appropriate for any referendum or poll to take place after the consultation, when the proposals were formulated. However, members considered it appropriate to seek the views of residents on the proposed changes in the consultation document during the consultation period.

Officers further advised that the outcome of any such referendum would not be binding on the Council although it could be taken into consideration by Council when making a decision on the final recommendations. Members felt that it should be binding on the Constitution Committee and referred to in the report to Council.

RESOLVED

That the draft proposals attached at Appendix B to the report be formally agreed for the purposes of consultation and consulted upon for a 12-week

period, and that where there is a proposal to change a parish name or alter a parish boundary, Cheshire East Council will conduct a referendum, reflecting the request of the parish council, and the result of that referendum will be binding.

14 CALENDAR OF MEETINGS 2021-22

The Committee considered a report on the draft Calendar of Meetings for Cheshire East Council for 2021-22.

The Committee noted that the legislation which permitted virtual meetings to take place was due to expire on 6th May 2021 and that, unless the legislation was amended, meetings from 7th May onwards would have to take place in meeting rooms, with Members and the public being physically present, although the inaugural meetings of the service committees were likely to be held virtually for the reasons set out in the report.

Officers reported that the meeting of the Environment and Communities Committee scheduled in the draft calendar for 11th November 2021 at 10.30 am would be held at 2.00 pm to allow for the two minutes' silence to be observed at 11.00 am on Remembrance Day.

It was suggested that meetings of the Corporate Parenting Committee, which were scheduled in the calendar to start at 2.00 pm, should start at 4.00 pm as at present to enable children's representatives to attend. It was also felt that the number of scheduled meetings of the Committee should remain at six. Officers advised that the calendar of meetings was flexible and that committee chairmen would be able to approve additional meetings as and when it was considered appropriate. In this respect, it was noted that the Corporate Parenting Committee at its meeting on 30th March 2021 had resolved to review the frequency of its meetings following the implementation of the committee system.

RESOLVED

That the draft Calendar of Meetings for Cheshire East Council 2021-22 be recommended to Council for approval subject to:

- (a) the meeting of the Environment and Communities Committee scheduled for 11th November 2021 be held at 2.00 pm to allow for the two minutes' silence to be observed at 11.00 am on Remembrance Day; and
- (b) meetings of the Corporate Parenting Committee be held at 4.00 pm as at present.

At this point, the meeting was adjourned for half an hour, to reconvene at 2.00 pm.

15 CHESHIRE EAST MAYORALTY

The Committee considered a report summarising the work of the Mayoral Working Group that had been established by the Constitution Committee late in 2019.

At the Chairman's invitation, Councillor B Murphy addressed the meeting as Chairman of the Mayoral Working Group.

RESOLVED

That the Committee recommends to Council the recommendations set out in the report, including the adoption of a revised Mayoral Code of Practice as set out in Appendix 2 to the report, subject to the following:

- (a) Paragraph 2.3 of the revised Code be augmented by the requirement that the Mayor must not reference their role as Mayor when campaigning in local elections.
- (b) The Mayor must not sit on the board of directors of an ASDV.
- (c) The Mayor should be advised not to sit on any committees of the Council.
- (d) Paragraph 7 of the revised Code be amended to provide that when the Mayor is attending an event alongside a town mayor in Cheshire East, and that event is hosted by the town council or by a third party, both mayors will enjoy equal status unless national protocols provide otherwise.
- (e) The Mayor to decide upon when it is appropriate for them to wear their formal robes, and upon whether to have a chaplain.
- (f) The officers make such other minor changes to the Protocol as agreed by the Committee.

16 CONSTITUTIONAL UPDATE TO IMPLEMENT THE COMMITTEE SYSTEM

The Committee considered an early draft of a revised constitution designed to address the needs of the new committee system.

Members felt that there were a number of matters which required further detailed consideration before a formal recommendation could be made to Council on the adoption of a revised constitution. In this respect it was noted that a special meeting of the Committee had been convened for 29th April.

RESOLVED

That consideration of the revised constitution be deferred to the Committee's meeting on 29th April 2021.

17 TRANSITIONAL PROVISIONS AND FUTURE CONSTITUTIONAL WORK

The Committee considered a report which made provision for the transition of past executive decisions into the new committee system. The report also set out the consequential impacts relating to some sub committees, external boards and appointments, provided an indicative process for budget-setting for next year and summarised the further work that would be undertaken on the constitution.

The Committee noted that where Cabinet had delegated a decision to an individual Portfolio Holder, that decision would in future be taken by the relevant Executive Director or Director unless it fell within the specific categories referred to in the transitional provisions. Members asked that this provision be deleted.

The Committee noted that the new budget process would provide each service committee with a review of the mid-year position and the opportunity to comment on future proposals relating to its area of work. Members asked that such information be provided by individual service area. The Monitoring Officer undertook to raise the matter with the Section 151 Officer.

RESOLVED

That the report attached as Appendix A to the report, and the recommendations set out therein, be recommended to Council for approval subject to the following:

- (a) the deletion of the provision whereby a decision delegated to an individual Portfolio Holder would in future be taken by the relevant Executive Director or Director unless it fell within the specific categories referred to in the transitional provisions; and
- (b) consideration being given to providing service committees with budgetary/financial information by individual service area.

18 AUDIT AND GOVERNANCE COMMITTEE STRUCTURE AND COMPOSITION

The Committee considered the recommendations of the Audit and Governance Committee on its future composition and structure, and terms of reference.

The changes proposed by the Audit and Governance Committee were summarised in section 4 of the report. These included a Committee of nine elected members plus two co-opted independent members on a fixed term membership of four years. Proposed terms of reference were set out in Appendix 1 to the report, subject to a suggested amendment in paragraphs 4.3 and 4.4 of the report to provide clarification on the proportionality arrangements for a hearing sub-committee.

RESOLVED

That the changes proposed by the Audit and Governance Committee, with the additional clarification identified after the Committee, as set out in the report, be recommended to full Council, with any outstanding matters being delegated to the Director of Governance and Compliance to resolve in consultation with the Chairman and Vice-Chairman of the Constitution Committee if required.

19 APPOINTMENT OF NEW MEMBER TO THE INDEPENDENT SCHOOL ADMISSION APPEALS PANEL AND INDEPENDENT REVIEW PANEL FOR EXCLUSION REVIEWS

The Committee considered the appointment of an individual to become a member of the Independent School Admission Appeals Panel and the Independent Review Panel for Exclusion Reviews.

RESOLVED

That the Committee approves the appointment of the individual to become a member of the Independent School Admission Appeals Panel and Independent Review Panel for Exclusion Reviews.

20 PROPOSED CHANGES TO THE CHESHIRE EAST HEALTH AND WELLBEING BOARD TERMS OF REFERENCE

The Committee considered proposed changes to the terms of reference of the Cheshire East Health and Wellbeing Board as set out in Appendix 1 to the report.

The Cheshire East Health and Wellbeing Board had approved the changes at its meeting on 23rd March 2021.

RESOLVED

That

1. the suggested amendments to the Cheshire East Health and Wellbeing Board terms of reference as set out in Appendix 1 to the report be endorsed;

2. the Acting Director of Adult Social Services be included as a core voting member of the Health and Wellbeing Board and the Interim Director of Children's Services a core non-voting member;
3. the wording regarding the nomination of Councillors to sit on the Health and Wellbeing Board be amended as shown in paragraph 5.1 of the draft amended terms of reference; and
4. the amended references to the naming of the Scrutiny Committee in paragraph 4.6 of the draft terms of reference be accepted.

21 AMALGAMATION OF THE COUNCIL'S MEMBER FORUM AND PANELS

The Committee considered proposals to amalgamate the Council's three informal member panels: the Brighter Future Members' Forum, the Member Technology and Development Panel and the Members' Enquiries Service Panel, into one body to be known as the Members' Input Panel.

The merger would create efficiencies, avoid duplication and promote a more holistic approach to the support provided to Members.

RESOLVED

That

1. the Brighter Future Members' Forum, the Member Technology and Development Panel and the Members' Enquiries Service Panel be replaced with a single body to be known as the Members' Input Panel;
2. the terms of reference for the Members' Input Panel as appended to the report be approved; and
3. the Head of Democratic Services and Governance be authorised to agree the number of Panel members in consultation with the Chairman and Vice-Chairman of the Committee, based upon political proportionality, excepting that the Panel should have representation from all of the Council's political Groups.

The meeting commenced at 11.00 am and concluded at 6.30 pm

Councillor J Nicholas (Chairman)