

MEETING OF THE
TENDRING DISTRICT COUNCIL

9 SEPTEMBER 2014

Present:- Councillors V E Guglielmi (Chairman), Nicholls (Vice-Chairman), Aldis, Amos, Broderick, Brown, Bucke, Caines, C Callender, R Callender, Casey, Challinor, Chapman, Colbourne, Coley, Cossens, De-Vaux Balbirnie MBE, Goggin, Griffiths, G V Guglielmi, Hawkins, Heaney, I J Henderson, J Henderson, P B Honeywood, S A Honeywood, Howard, Johnson, King, D R Mayzes, S S Mayzes, McLeod, McWilliams, Miles, Mitchell, D Oxley, P J Oxley, Page, Patten, Platt, Pugh, Richardson, Sambridge, Scott, Shearing, Steady, Stock, Talbot, Tracey, Turner, Watling, White, Winfield and Wood

In Attendance:- Chief Executive (Ian Davidson), Corporate Director (Corporate Services) (Martyn Knappett), Corporate Director (Life Opportunities) (Paul Price), Corporate Director (Public Experience) (June Clare), Legal Services Manager and Monitoring Officer (Lisa Hastings), Democratic Services Manager (Colin Sweeney), Senior Democratic Services Officer (Ian Ford) and Democratic Services Officer (Janey Nice)

(7.30 p.m. - 9.19 p.m.)

47.. CHAIRMAN'S WELCOME

The Chairman welcomed Councillor Shearing on his return to Council following his recent operation and recovery. Councillor Shearing thanked Members from all Groups, and Officers, who had sent him kind messages of concern and support.

Councillor Shearing received a round of applause from Members.

48. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Calver, Simons, D C Skeels and M J D Skeels.

49. REPORT OF THE RETURNING OFFICER ON THE DISTRICT COUNCIL BY-ELECTION – MANNINGTREE, MISTLEY, LITTLE BENTLEY AND TENDRING WARD

The Returning Officer reported that, at the by-election in the Manningtree, Mistley, Little Bentley and Tendring Ward of the District, held on 3 July 2014, Alan David Coley had been duly elected as a Councillor and that he had since made a Statutory Declaration of Acceptance of Office.

Councillor Coley had also given notice that he wished to be treated as a member of the Conservative Group for the purposes of the Local Government and Housing Act 1989.

Councillor Coley received a round of applause from Members.

The Council noted the foregoing.

50. MINUTES

RESOLVED, that the minutes of the meeting of the Council, held on Tuesday 1 July 2014, be approved as a correct record and signed by the Chairman.

51. DECLARATIONS OF INTERESTS

There were none made at this time.

52. ANNOUNCEMENTS BY THE CHAIRMAN

The Chairman's and Vice-Chairman's engagements for the period 2 July to 9 September 2014 were tabled at the meeting.

The Chairman expressed her appreciation of the fantastic event that the 2014 Clacton Air Show had been and also thanked those Members who had attended her Civic Service.

53. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

Councillor Mark Cossens

The Chief Executive formally reported that, pursuant to Regulation 9(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillor Mark Cossens had served formal notice on the Council on 4 September 2014 that he wished to be treated as a member of the Conservative political group. That Notice had been counter-signed by the Leader of the Conservative Group, Councillor Page.

Essex County Council Brightlingsea Division By-Election

The Chief Executive informed Council that the by-election to fill the vacant seat in the Brightlingsea Division of Essex County Council, arising from Roger Lord's resignation, would take place on Thursday 9 October 2014 and that the period for nominations would close at 4.00 p.m. on Friday 12 September 2014.

Parliamentary By-Election – Clacton Constituency

The Chief Executive informed Council that he had received that day, the Writ from Parliament requiring him to hold a by-election to fill the vacant seat for the Clacton Constituency, arising from the resignation of Douglas Carswell. He further reported that the by-election would be held on Thursday 9 October 2014 and that the period for nominations would close at 4.00 p.m. on Tuesday 16 September 2014.

'Purdah'

The Chief Executive reminded Members that, due to the calling of the aforementioned by-elections, the Council had now entered a period of 'purdah' whereby Council resources could not be used to favour any one candidate or political party. He further reported that guidance on this issue would shortly be circulated to Members.

Council noted the foregoing announcements.

54. STATEMENTS BY THE LEADER OF THE COUNCIL

A120

The Leader of the Council (Councillor Page) reminded Members that, in November 2011, a motion had been unanimously carried by Council, which demanded that the Highways Agency took urgent action to prevent accidents on the A120. He further reminded Members that it was now almost a year since the Highways Agency had announced new

safety measures, including speed cameras, which were to have been installed in March 2014. This had then slipped to the beginning of the financial year then July, August, September and November 2014. Councillor Page stated that the Highways Agency must be held responsible to ensure safety on the A120 for all road users.

Councillor Page then responded to questions put to him by Councillors Nicholls, Heaney, Stock, Scott, Howard and McLeod.

Jaywick

Councillor Page stated that, on 5 September 2014, the Cabinet had delivered on its promise to become the catalyst for change and direct investment in Jaywick and had taken a decision that would put in place the foundations to allow the Council to start building new, high quality, flood resilient homes for local people and turn around the fortunes of Jaywick whose residents had lived with failed promises for too long.

Councillor Page informed Council that discussions with private developers and potential investors had demonstrated that the private sector would not deliver change in Jaywick as there would be no return on investment for them in the short-term and no one was prepared to take 'a leap of faith'. He reported that this Council, working with Essex County Council and local Ward Members, had therefore taken the lead in driving forward a new approach to facilitate change in Jaywick by directly working with local landholders and landlords to create potential development sites to start the regeneration of Jaywick. He further informed Council that there were already deals in place to acquire sites and the Council was in advanced talks with partners and the local community on how to shape and fund the new development and bring the infrastructure up to modern standards.

Councillor Page welcomed the cross-party support for this project and whilst he recognised there were still many hurdles to cross, he believed that the site acquisitions were the first key step in turning ambition into reality and delivering real change for the residents of Jaywick whilst ensuring that Jaywick no longer languished at the bottom of tables of deprivation.

Councillor Page then responded to questions put to him by Councillors Hawkins, Casey, I J Henderson and Johnson.

Parliamentary and County By-Elections

Councillor Page stated that Council should recognise the huge amount of work and disruption the forthcoming by-elections would cause. He informed Members that, in order to assist in the running of those by-elections, staff had been drafted in from across other departments, were working at weekends and had cancelled holidays. He stated that this was therefore a major disruption to the day-to-day running of the Council and would take staff away from their focus on delivering frontline services and the Council's initiatives, such as in Jaywick.

Councillor Page further informed Council that there was a financial cost to taxpayers of approximately £100,000, for the Clacton Parliamentary By-Election, and approximately £25,000 for the Brightlingsea Division County Council By-Election. He reported that this was in the midst of the ongoing changes to the Electoral Roll system with the introduction of Individual Electoral Registration. Councillor Page stated that there were also serious implications outside of the Council as those schools that would be used as polling stations would face disruption.

Councillor Page then responded to questions put to him by Councillors Shearing, P J Oxley, De-Vaux Balbirnie, Stock and Watling.

55. STATEMENTS BY MEMBERS OF THE CABINET

Environment and Coast Protection Portfolio

Councillor Turner, Portfolio Holder for Environment and Coast Protection, made statements in respect of the following areas of service delivery within the remit of his portfolio:

(1) Clacton to Holland Coast Protection Project

Councillor Turner advised Council that excavation and transformation works had commenced and work on the second kilometre of groyne removal had started.

(2) Open Spaces and Bereavement

Councillor Turner advised Members that the Council had opened another two gardens this year – the Poppy Garden in Dovercourt (led by Harwich Town Council) and the garden in Clacton to commemorate the first bombing of the Second World War. Councillor Turner said that the Council had won another Green Flag and had retained the two it had in relation to its crematorium. In addition, Councillor Turner was delighted to announce that the Council's Crematorium had won a Gold Medal from Anglian in Bloom in the new category of "Crematorium Grounds" and that Frinton-on-Sea had been awarded its sixth straight Royal Horticultural Society's Gold Medal in the Best Small Town category.

Councillor Turner said that, with regard to the replacement of the Council's two cremators, this would commence in late autumn and would include ancillary works; an additional 50 spaces car park in the fields to the rear of the Crematorium; an expansion to the existing offices there and a tidying-up of the flower court. In addition, the Council would have to provide for the installation of mercury abatement equipment by 2020. Councillor Turner was delighted to advise Members that whilst the estimate for all of these works was upwards of £2m, the Council had awarded the contract (to include all of the above and the mercury abatement equipment) and that this had come in under the budget set of £1.4m.

(3) Street Scene

Councillor Turner reported that Officers had been invited to see the new Waste Transfer Station on the A120 before it came into operation in October 2014. He stated that he had been assured that it would be fit for purpose for both the District of Tendring and the Borough of Colchester for the foreseeable future.

Councillor Turner advised Council that, in respect of the Council's Green Waste Collection Scheme, the Council had broken-even inside of three months of starting the scheme. He said that Essex County Council (ECC) had been very helpful in that Tendring District Council had only to collect and deliver the green waste for composting and that ECC would pay gate fees and any other on-costs. Councillor Turner was also delighted to announce that he had been invited to speak on the success of the Scheme at the Resource and Waste Management Exhibition to be held later in the month in Birmingham.

(4) Seafronts and Parking Service

Councillor Turner advised Council that ECC had funded the provision of two seafront changing places for use by those who were severely handicapped. These, he said, were large and had specialist equipment including hoists, wet rooms, toilets, screens and non-slip floors with easy access and the availability of special wheelchairs, which could be used on the beach. The changing facilities were close to a double beach hut with ramp access to the beaches. Councillor Turner said that the Council had accepted the offer of a third changing place, which would be sited in Dovercourt before the start of next year's summer season.

Councillor Turner then responded to questions put to him by Councillors Shearing, J Henderson, Caines, Aldis, Watling and I J Henderson.

Housing, Benefits and Revenues Portfolio

Councillor P B Honeywood, Portfolio Holder for Housing, Benefits and Revenues, made a statement in respect of the following area of service delivery within the remit of his portfolio:

Local Council Tax Support Scheme

Councillor Honeywood referred to the recent successful challenge in the High Court against Sandwell Metropolitan Borough Council's Residency Policy, within its Local Council Tax Support Scheme (LCTSS), on the grounds that it discriminated against vulnerable, new residents. Councillor Honeywood stated that he did not believe that Tendring District Council's own Residency Policy discriminated in the same way, as protection was built into the Policy for those moving into the District on grounds such as fleeing domestic violence.

However, in light of the High Court Judgement and the ways in which Councils could decide on classes of individuals, Councillor Honeywood informed Council that he had suspended the residency element of this Council's LCTSS pending consideration of the Judgement by Officers and confirmation whether Sandwell MBC would appeal against the Judgement. Councillor Honeywood stated that, in the circumstances, it had been sensible to suspend the Residency Policy and that he was working with Officers to see if this Council would have to modify its scheme.

Councillor Honeywood then responded to questions put to him by Councillors P J Oxley, Hawkins, Bucke, Talbot, Patten, I J Henderson, Howard and Stock.

Planning and Corporate Services Portfolio

The Planning and Corporate Services Portfolio Holder (Councillor G V Guglielmi) reminded Members that the next meeting of the Local Plan Committee was due to be held in the Princes Theatre, in the Town Hall, Clacton-on-Sea commencing at 6.00 p.m. on Tuesday 30 September 2014.

Culture, Tourism, Leisure and Events Portfolio

Councillor Platt, Portfolio Holder for Culture, Tourism, Leisure and Events, made a statement in respect of the following area of service delivery within the remit of his portfolio:

Clacton Air Show 2014

Councillor Platt paid tribute to the Council's partners, sponsors, Officers and praised the use of new promotional techniques such as Twitter and 'YouTube' which had all helped to make this year's Clacton Air Show such a stupendous success.

Councillor Platt then responded to questions put to him by Councillors Stock, Watling and Patten.

56. PETITIONS TO COUNCIL

In accordance with the Council's approved scheme for dealing with petitions, the Chief Executive formally reported the receipt of a petition submitted by Joanne Underhill, the lead petitioner. The petition had been signed by 278 local residents plus three persons who resided outside of the District and stated:

"The derelict eyesore of a building once known as Parkeston House is set to stay as it is, for the foreseeable future. The developer has been sent to prison for two and a half years for dangerous working practices and assaulting a Health and Safety Executive officer. We, as residents, have already put up with it for long enough. The site is a danger to everybody that passes by and/or uses the bus stop, and what was once a pretty little memorial garden with a bench (made possible from donations by the people of Parkeston) is now destroyed and unusable. So we now need Tendring District Council's help to get the building made safe and secure."

Members were informed that, In accordance with the Council's approved scheme for dealing with petitions, this matter would now be investigated and a report would be prepared, and submitted, to the next ordinary meeting of the Council for consideration. At that meeting, Ms Underhill, as the lead petitioner, would be invited to address the Council, present the petition and outline the action that the petitioners would like the Council to take. Council would then discuss the petition and decide what action, if any, should be taken. Following that decision, Ms Underhill would then be informed, in writing, of the Council's decision and the decision would be published on the Council's website.

Council noted the foregoing.

57. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 9

There were none on this occasion.

58. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.2

The Council had received questions from Members in relation to:

1. Inadequate broadband download speeds in Little Oakley;
2. Household collection of green waste;
3. Use of Section 106 monies to purchase a property in Clacton;
4. Proposed by-law to restrict use of power generated music systems on Martello Bay Beach, Clacton-on-Sea; and
5. Cost of running a Parliamentary By-Election in the Clacton Constituency.

Notice of the questions had been given in accordance with Council Procedure Rule 10.2.

Question 1

Councillor Howard put the following question to the Portfolio Holder for Regeneration, Inward Investment and Asset Management (Councillor Page):

"Parts of rural Tendring are still receiving broadband download speeds of less than the 2mb/s, which is considered to be basic broadband. 40% of Little Oakley is served by a single cabinet that falls within this category. This is quite unacceptable given that these houses fall within the 21944 houses defined as the basic broadband market intervention area by BDUK and given that 32.9% of these houses in Little Oakley registered their interest in the market stimulation exercise carried out by Essex County Council. This was one of the highest response rates to this exercise. Despite BDUK upgrading many nearby areas to superfast broadband with public funding, they have failed to upgrade a block of 200 houses in Little Oakley, instead apparently preferring the cheaper quick wins in more urban areas. In part this appears to be due to an alleged cap on BDUK spend per household imposed by Central Government.

Will you assure me that you will be pressing for all of Tendring to receive a minimum of 2mb/s at the earliest opportunity, and also join me in pressing Central Government to either confirm or deny that they are giving out hundreds of millions of pounds on one hand to

upgrade areas of market failure, and on the other hand capping the investment programme and actually preventing the investment in those areas of most need?"

In response, Councillor Page confirmed that he was pressing Essex County Council (ECC) for all of the Tendring District to receive a basic broadband speed of 2mb/s at the earliest opportunity. He informed Members that ECC's contract with BT, using BDUK funding, guaranteed that 100% of properties in Essex would receive at least 2mb/s by the end of the contract period in mid-2016. Councillor Page stated that he was happy to assist Councillor Howard in taking up the issue of an alleged cap on BDUK spending with central Government. Councillor Page further informed Members that the Rural Projects Panel, at its next meeting, would discuss the issue of rural broadband with an Officer from ECC with a view to taking this matter forward.

Question 2

Councillor Caines put the following question to the Portfolio Holder for Environment and Coast Protection (Councillor Turner):

"The elderly in my constituency are finding it increasingly difficult to recycle their green waste would the Portfolio Holder for the Environment Councillor Nick Turner please say if green waste will be collected from households in future as they do successfully in the Borough of Colchester?"

In response, Councillor Turner thanked Councillor Caines for his question and informed Members that in May 2014 a pilot garden waste collection service had been introduced for residents in the CO15, CO13, CO14 and CO12 postcode areas. He further responded by stating that this service had been rolled out across the entire District in June 2014 and that the charge for this service was £50 annual subscription plus a one-off charge of £25 for a wheeled waste bin.

Councillor Caines then asked a supplementary question:

"Would you inform me how the pilot scheme for seagull proof bin bags is progressing and would there be a cost to the residents of Tendring?"

In response, Councillor Turner said that like any other new service provided by the Council it would have to be provided at nil cost to the Council.

Question 3

Councillor McLeod put the following question to the Portfolio Holder for Planning and Corporate Services (Councillor G V Guglielmi):

"Will the Portfolio Holder for Development and Control please explain why £100,994 generated in S106 funding at the Capital House site developed by George Wimpey East Anglia Ltd - within my Harwich East Central Ward - has been used to purchase a property in Clacton?"

Will he further explain why this decision to use S106 funding generated in Harwich for purposes outside of the local community was taken without the knowledge and without consultation with the ward members representing Harwich East Central Ward?"

In response, Councillor Guglielmi thanked Councillor McLeod for his question and reminded Members that S106 payments were usually time restricted as well as often being defined for specific purposes. He stated that the Council had always endeavoured to ensure that the money was spent and not returned to the developer and that therefore there were occasions when the money had been spent in a different part of the District to

where it had originally accrued. He further stated that there were occasions when the amount of S106 money was so small that it had to be amalgamated with other amounts to make a viable scheme. This made financial sense.

In respect of the Capital House site S106 money, Councillor Guglielmi stated that the money would become time expired in 2015 and rather than give it back to the developer it had been earmarked for the compulsory purchase order of 11 Berkeley Road, Clacton-on-Sea. However, Councillor Guglielmi informed Council that the money would not technically be spent until such time as the former owner of the property exercised their right to claim the valuation price of the property and therefore had to be held for six years pending a call on it. Councillor Guglielmi stated that whilst the money was technically committed it could be transferred back for a suitable project in Harwich provided replacement funding could be found. Councillor Guglielmi stated that unfortunately no such project in Harwich had been identified or was likely to be forthcoming before the money became time expired.

Councillor McLeod then asked a supplementary question:

“Is the Portfolio Holder aware that the Officers’ report and the Cabinet Minute repeatedly referred to £235,000 of S106 funding having been identified for the purpose of the purchase of 11 Berkeley Road, Clacton-on-Sea but at no point was any reference made to the fact that this included over £100,000 generated within the Harwich East Central Ward?

Does he agree with me that this is entirely wrong that this use of S106 funding for a purpose outside of the community in which it was generated should have not occurred without consultation with the Harwich East Central Ward Members and that those Members should not have been denied the opportunity to call-in the Cabinet’s decision based on those concerns as to how the project was being financed?”

In response, Councillor Guglielmi said that a decision had been taken recently to publish all the S106 monies available by area. He stated that until this time it had not been possible for the Planning Department to do so as the technical ability was absent. He reported that it had taken a huge amount of Officer time to put the system in place, hindered by the tragic death of the Council’s S106 Officer at the time who had taken a tremendous amount of knowledge with him to the grave.

Councillor Guglielmi informed Members that the Clerks of Town and Parish Councils were kept fully informed of S106 monies in their respective areas and were very good at keeping track. He reminded Members that the overriding principle in respect of S106 monies was that the money was spent before its time expired.

Question 4

Councillor Griffiths put the following question to the Portfolio Holder for Environment and Coast Protection (Councillor Turner):

“A number of residents on the Martello Bay Estate, have asked if it would be possible to introduce a by-law restricting the use of power generated music systems on the beach, without prior permission from the local authority. Whilst there is general acceptance that the Summer Season will bring large crowds, there have been occasions when large groups have arrived, without prior notification, with their own power generated music equipment, and treated both residents in the Martello Estate, and other beach users to a wide, varied and unwanted selection of loud music. Given that on some occasions liquid refreshments have been freely available, and no toilets provided for large parties, both public and private gardens have been used as public conveniences. This has done nothing to enhance the visitor experience of those seeking to enjoy a day on the beach with their families, or for those seeking a peaceful time at home.

Could the Portfolio Holder tell us what action he intends to take to protect residents and beach users from this type of unwanted intrusion?"

In response, Councillor Turner thanked Councillor Griffiths and said that there should be no requirement to introduce such a by-law and the current seashore and pleasure grounds by-laws covered this subject comprehensively. He stated that public nuisances brought to the attention of the Council are dealt with not only by the means of the by-laws but also reference to civil and criminal law. Councillor Turner informed Council that to enforce its available powers in respect of such matters the Council could call on the staff of the Parking and Seafronts sections, both full time and seasonal, who had additional powers credited to them by the Police Community Accreditation Scheme. The Council also provided a 24 hour telephone service via Careline (01255 222022).

Councillor Griffiths then asked a supplementary question:

"In the event of this happening, could the Portfolio Holder tell me how long it would take someone to respond and in the event of having large groups in excess of 200 people, how many people are we liable to have there to contain the situation and what powers are they liable to have?"

In response, Councillor Turner said that enforcement of public nuisance could range from a straight-forward request to cease which was immediately complied with, to the significantly more difficult matter of ensuring that a large group of people ceased an activity that they did not want to stop. He stated that the Council expected its staff to act in the event of any unauthorised activity on the beach being observed and also to any complaints or approaches received from a member of the public. However, Councillor Turner informed Members that the Council did not expect its staff to take unnecessary risks or place themselves in danger in dealing with such matters. He stated that in the event of resistance Council staff were expected to contact the Police and await their assistance and to provide a full report of the incident for future reference.

Question 5

Councillor I J Henderson put the following question to the Portfolio Holder for Finance and Transformation (Councillor Goggin):

"Will the Portfolio Holder for Finance please advise the Council as to whether any projected figures are available as to the cost to the Council Taxpayers of the Tendring District resulting from Douglas Carswell's politically motivated decision to impose a by-election on the Clacton Constituency?"

In response, Councillor Goggin said that the estimated cost of the by-election was in excess of £100,000 in direct costs and, in addition, a huge amount in indirect costs. He informed Members that the direct costs would be met by central Government and so would not be a burden solely on the Tendring Council Taxpayer but one on the taxpayers on a national level. Councillor Goggin stated that the key issue was that the Council's staff would have their time and energies diverted into an area which the Council would have preferred not to have had to go to.

Councillor Henderson then asked a supplementary question:

"Does the Portfolio Holder share my view that the majority of politicians act in an honourable way, for example, the Liberal Democrats will stay part of the coalition Government for the whole term and will be judged in 2015 on that basis and that therefore this by-election is a dishonourable act?"

Will he agree with me that the costs of this by-election to the taxpayer will not benefit the

residents of this Constituency one bit?

Will he agree with me further that if the former MP was an honourable politician he would have stood in 2015 on the basis of all the policies that he had supported during almost the whole of this Parliament and that the people of Clacton have suffered from those policies?

Will he agree with me that the move and coast of this by-election is a cowardly act by the former MP?"

In response, Councillor Goggin said that the direct cost of the by-election equated to £13,000 a month which, to put in context, would equate to a new car every month for a nurse in the Harwich Maternity Ward. He stated that this £100,000 was therefore being moved from one area to another and was being spent in an area which he would rather have not seen it used in.

Councillor Goggin stated that this by-election detracted from this Council and its ongoing projects such as the Coast Protection Scheme, the improvement of leisure facilities across the District, free parking for residents, the introduction of the green waste collection service, funding of PCSOs and the expanded Clacton Air Show. He informed Members that, instead, during the next month the energies of Council staff would be directed into an area that most would believe was a selfish and arrogant use of money.

59. REPORT OF THE LEADER OF THE COUNCIL

There was no report on this occasion.

60. MINUTES OF COMMITTEES

RESOLVED that the minutes of the following Committees, as circulated, be received and noted:

- (a) Corporate Management Committee of Monday 16 June 2014;
- (b) Community Leadership and Partnerships Committee of Monday 23 June 2014;
- (c) Standards Committee of Wednesday 25 June 2014;
- (d) Audit Committee of Thursday 26 June 2014;
- (e) Service Development and Delivery Committee of Wednesday 2 July 2014;
- (f) Human Resources Committee of Monday 7 July 2014;
- (g) Local Plan Committee of Tuesday 15 July 2014.

Councillor I J Henderson asked the Chairman of the Local Plan Committee (Councillor G V Guglielmi) whether he would agree to postpone the next meeting of that Committee, due to be held on 30 September 2014, until after the By-Elections on 9 October 2014 in order to avoid the Local Plan becoming the subject of a political debate. Councillor Guglielmi agreed that this was a sensible course of action and undertook to consult with Officers on rearranging the meeting.

61. MOTIONS TO COUNCIL

There were none on this occasion.

62. TO CONSIDER RECOMMENDATIONS FROM THE CABINET

There were none on this occasion.

63. REPORTS SUBMITTED TO THE COUNCIL BY AN OVERVIEW AND SCRUTINY COMMITTEE

There were none on this occasion.

64. REPORT OF THE CHIEF EXECUTIVE

SILENT TRIBUTE

The Chief Executive was sad to announce the passing of a colleague, Lincoln Anderson, Facility Manager at Brightlingsea Sports Centre. Councillor Goggin paid a personal tribute to Lincoln.

Council stood silent in his memory.

MEMBERSHIP OF THE CORPORATE MANAGEMENT COMMITTEE

The Chief Executive formally reported that, in accordance with the wishes of the Leader of the Conservative Group and the authority delegated to him, the following appointment had been made:

Corporate Management Committee

Councillor Coley had been appointed to serve in place of Councillor V E Guglielmi.

Council noted the foregoing.

APPROVAL OF NON-ATTENDANCE AT MEETINGS

In light of the fact that Councillor Shearing had been able to attend this meeting, this item was withdrawn.

THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

Council was advised of statutory requirements placed upon it, effective from 6 August 2014, following the publication of the above Regulations as they related to allowing the press and public to film and to report, using social media (including blogging or tweeting), all of a body's public meetings.

The Regulations also required the Council to make publicly available, a "decision record" of certain decisions, which Officers had taken on behalf of the Council.

It was reported that on 6 August 2014, the Department for Communities and Local Government (DCLG) had written, via email, to Chief Executives of all Principal Local Authorities in England, advising them that, with immediate effect, the Openness of Local Government Bodies Regulations 2014 had come into force and that therefore all local authorities in England were legally-bound to ensure that the press and public could exercise their new rights, detailed in the Regulations and that local authorities' procedure rules be updated to include those rights.

It was further reported that with regard to the recording of certain Officer decisions, the decision-making officer must produce a written record of any decision if it would otherwise have been taken by the relevant local government body, or a committee, sub-committee of that body or a joint committee in which that body participates, but it has been delegated to an officer of that body either:

(a) Under a specific express authorisation; or

(b) Under a general authorisation to officers to take such decisions and, the effect of the

decision is to:

- (i) Grant a permission, or licence;
- (ii) Affect the rights of an individual; or
- (iii) Award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

Members were advised that whilst the provisions within the Regulations were already in effect, the precise wording to be applied to the Council's Procedure Rules was to be considered by the Constitution Working Party and that this would form part of the overall recommendations to Cabinet on 24 October 2014 and to Council on 25 November 2014 when it was anticipated that the review of the Constitution would be approved by the full Council.

Council noted the foregoing.

65. REPORT OF THE MONITORING OFFICER

Council received the outcome of the Standards Committee and Monitoring Officer's six-month review, which had been requested by Council in November 2013, when it had approved the new standards arrangements.

It was reported that, as at June 2014, the Council had received 14 actual complaints, which had been dealt with, as summarised in Appendix A to the Report of the Monitoring Officer. It had not been necessary to hold a hearing and the Council was made aware that there had been an additional 11 instances whereby contact had been made with the Monitoring Officer however, the Code of Conduct route had either not been pursued or it had not been appropriate to do so.

Members were advised that feedback had been received from some Councillors (District and Parish), that they did not feel it was appropriate to be notified, or to respond unless a complaint form had been received. The Monitoring Officer however, considered that by acting in an open and transparent manner, by notifying a Member once correspondence had been received about them, a simple explanation or resolution of the complaint could then result. Through discussion the Standards Committee had suggested that the Councillor concerned should be informed that a letter of complaint had been received and that the contents would be made available to them on request.

Members were aware that, under Section 3.3 of the Complaints Procedure, individuals were requested to complete the Council's Complaints Form. However, there had been one or two occasions where this had not been done and the Standards Committee had been requested to consider whether this should be mandatory, together with the requirement to identify the relevant paragraph of the Code of Conduct, which was alleged to have been breached. Such information had been sought by the Monitoring Officer and, in one or two instances, had not been provided, which had resulted in the Monitoring Officer deciding not to take further action. That decision had then been informally challenged. Through discussion, the Standards Committee had suggested that there should be a degree of flexibility, however, it would be for the Monitoring Officer to exercise discretion if the original format of the complaint identified relevant information and therefore completion of the form would not be necessary. If however, the complainant did not provide the relevant information, it was difficult for the Monitoring Officer to make the appropriate decision on the next step.

Council was informed that the Standards Committee had not had to hold a hearing, as the only matter involving a District Councillor, which was the subject of an investigation, had been dealt with informally after a breach of the Code of Conduct was found. That outcome had been reported to the Standards Committee in March 2014, when Members

had expressed their disappointment in the fact that Councillor Danny Mayzes, subsequent to the breach being found by the Independent Investigator and accepted by Councillor Mayzes, had chosen not to issue an apology at Council. Councillor Danny Mayzes had then been offered a further opportunity to apologise to Council, at its meeting held on 25 March 2014. Councillor Danny Mayzes had subsequently provided a written apology to the Council at its meeting on 1 July 2014.

The Standards Committee had decided that if, in future, an apology was offered as part of the informal resolution stage, or recommended by the Committee, that the Member issue an apology to Council, the said Member be requested to do so, in person, at the next available meeting of the Council, demonstrating openness and transparency and promoting high standards.

It had also been suggested by both the Standards Committee and the Monitoring Officer that, under Section 7.1.1 of the Complaints Procedure (Informal Resolution), the following was included:

- If the Member concerned accepts that their conduct was unacceptable and offers an apology and so long as the complainant does not object, the apology will be read out by the Councillor at the next Council meeting.

Council was further advised that the Council's first hearing under the revised arrangements would be held by the Town and Parish Standards Sub-Committee on 22 September 2014, after considering the outcome of an External Investigation Report into the conduct of a Parish Councillor.

It was reported that, due to the level of complaints received and the Monitoring Officer's involvement to try and ensure that appropriate and proportionate action was taken with each complaint, the Standards Committee had agreed that the timescale under Section 3.5(a) and (b) be extended to 10 working days, which was in compliance with the Council's standard timescales for responding to correspondence. It was also considered appropriate and an effective use of resources for the Monitoring Officer to utilise the administrative support within the legal team to acknowledge complaints and request information from Councillors for the Monitoring Officer to consider the content and make decisions accordingly. Such support could also be used to respond to queries on the procedure.

Members were made aware that the Standards Committee was pleased to note that external endorsement had been received in respect of the improved conduct arrangements and procedures. After receiving a Decision Notice confirming that the Monitoring Officer had decided to take no further action in respect of a particular complaint, the individual had proceeded with the matter to the Local Government Ombudsman, who had been satisfied that the Council had robust procedures in place to deal with complaints against Councillors.

Council's attention was drawn to the fact that whilst the Monitoring Officer was working proactively to avoid referring complaints for investigations in accordance with the agreed procedure, it had been necessary to instruct an external independent investigation on three occasions in six months. It was acknowledged that there was a cost to undertaking investigations for which there was no specific budget. That omission would be reviewed as part of the current financial strategy and budget setting process for 2015/16.

Council recalled that, at its meeting held on 6 May 2014, it had considered a report on the proposals for the Independent Person recruitment process and had extended John Wolton's appointment pending the outcome. Unfortunately, the Council had not received any further applications and consequently, it was suggested that a paid newspaper advertisement was required to attract a wider audience to the new role. In the circumstances, whilst the recruitment process was repeated, Council was now requested to

approve the extension of John Wolton's appointment to the end of the current municipal year.

Councillor P J Oxley asked the Chairman of the Standards Committee (Councillor Stock) if a dress code for Members could be introduced. Councillor Stock stated that this subject had been discussed and would continue to be developed.

It was moved by Councillor Stock, seconded by Councillor P J Oxley and:

RESOLVED that:

- (a) the contents of the report be noted;
- (b) the suggested changes to the Complaints Procedure, as set out in the report of the Monitoring Officer, be approved; and
- (c) the appointment of John Wolton, as the current Independent Person, be extended until 6 May 2015.

66. URGENT MATTERS FOR DEBATE

There were none on this occasion.

67. PAY POLICY STATEMENT 2014/15

Further to minute 21 (A.2) of the meeting of the Human Resources Committee held on 25 February 2014 the Council gave consideration to a proposed Pay Policy Statement for 2014/15 which would meet the requirements of the Localism Act 2011 (Section 38).

The Chief Executive declared a disclosable pecuniary interest in this item.

It was moved by Councillor Page, seconded by Councillor Turner and:-

RESOLVED that

- (a) the Pay Policy Statement 2014/15, as set out in the Appendix to item A.6 of the Report of the Corporate Director (Corporate Services), be adopted with immediate effect; and
- (b) costs be met from existing salary/vacancy provision within budgets.

68. TO CONSIDER RECOMMENDATIONS FROM THE EXECUTIVE

(3) Retail Relief Scheme for 2014/2015 and 2015/2016

Further to Minute 106 above, Councillors Cossens, De-Vaux Balbirnie, Goggin, G V Guglielmi, V E Guglielmi, Johnson, King, McLeod, Platt, Patten, Sambridge, D C Skeels, M J D Skeels, Stock and Winfield each declared a Disclosable Pecuniary Interest in this item and withdrew from the meeting during the consideration thereof and the voting thereon. Councillor Hawkins declared a non-pecuniary interest in respect of this item and withdrew from the meeting during the consideration thereof and the voting thereon.

Also further to Minute 106 above Councillors Aldis, Scott, Shearing and Tracey each declared a non-pecuniary interest in respect of this item.

As the Chairman and the Vice-Chairman had both withdrawn, it was moved by Councillor Page, seconded by Councillor Watling and:

RESOLVED that Councillor Talbot chair the meeting for this item.

The Council had before it the Cabinet minute of 28 February 2014, as set out in the Council agenda, and considered whether to approve the introduction of a local Business Rates Retail Rate Relief Scheme for 2014/2015 and 2015/2016.

It was moved by Councillor P J Oxley, seconded by Councillor Page and:

RESOLVED that

(a) The retail rate relief scheme be introduced in accordance with the guidance outlined in the Department for Communities and Local Government guidance document, issued in January 2014; and

(b) In respect of the Government's Flood Support Scheme, delegation be given to the Corporate Director (Life Opportunities) in consultation with the Portfolio Holder for Housing, Benefits and Revenues to develop and implement the scheme.

69. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 15.2

The Council had received questions from Members in relation to:

1. Control of Dogs;
2. Lighting of the High Street Car Park, Clacton-on-Sea;
3. Insurance for Members whilst on Council business;
4. Windblown sand on the Martello Bay Estate, Clacton-on-Sea;
5. The Council's input into the South East Local Enterprise Partnership's Growth Deal and Strategic Economic Plan;
6. Prosecutions and fixed penalty notices relating to Dog Fouling; and
7. Public meeting request in respect of Part Night Lighting.

Notice of the questions had been given in accordance with Council Procedure Rule 15.4(a).

Chairman