

MEETING OF THE
TENDRING DISTRICT COUNCIL

7 JULY 2015

Present:- Councillors Nicholls (Chairman), Chapman (Vice-Chairman), Amos, Bray, Broderick, B E Brown, J A Brown, M Brown, Bucke, Callender, Calver, Cawthron, Chittock, Coley, Davis, Fairley, Ferguson, Fowler, Gray, Griffiths, G V Guglielmi, V E Guglielmi, I J Henderson, J Henderson, Hones, Honeywood, Howard, Hughes, Khan, King, Land, Massey, McWilliams, Miles, Newton, Pemberton, Platt, Poonian, Porter, Scott, M J D Skeels, Steady, Stephenson, Stock, Talbot, Turner, Watling, Watson, White, Whitmore, Winfield and Yallop.

In Attendance:- Chief Executive (Ian Davidson), Corporate Director (Corporate Services) (Martyn Knappett), Corporate Director (Public Experience) (June Clare), Legal Services Manager and Monitoring Officer (Lisa Hastings), Finance and Procurement Manager (Richard Barrett), Democratic Services Manager (Colin Sweeney), Communications and Public Relations Manager (Nigel Brown), Senior Democratic Services Officer (Ian Ford), Democratic Services Officer (Janey Nice).

(7.30 p.m. - 10.01 p.m.)

18.. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Baker, Bennison, Cossens, Heaney, Mooney, Raby and M J Skeels.

19. MINUTES

RESOLVED, that the minutes of the ordinary meeting of the Council, held on Tuesday 24 March 2015 and the minutes of the Annual Meeting of the Council held on 26 May 2015, be approved as correct records and signed by the Chairman.

20. DECLARATIONS OF INTERESTS

Insofar as they were both Ward Members for Little Clacton and Weeley, Councillors Bray and M Brown each declared a non-pecuniary interest in agenda item 8 – Petitions to Council – Proposed Housing Developments at Weeley.

21. ANNOUNCEMENTS BY THE CHAIRMAN

The Chairman's and Vice-Chairman's engagements for the period 27 May 2015 to 6 July 2015 were tabled at the meeting.

The Chairman announced that the theme for his year in office would be "Encouraging young people into work" and he informed Members that his Civic Service would be held on Sunday 20 September 2015 at St George's Church, Great Bromley at 3.00 p.m.

The Chairman also advised Members that Agenda Item 11 (Questions pursuant to Council Procedure Rule 10.2) would be taken after Agenda Item 23 (Report of the Monitoring Officer – Local Government Ombudsman Annual Review Letter 2015).

22. ANNOUNCEMENTS BY THE CHIEF EXECUTIVE

There were none on this occasion.

23. STATEMENTS BY THE LEADER OF THE COUNCIL

The Leader of the Council, Councillor Stock, made statements in respect of the following:

- (1) Part Night Street Lighting and Devolution; and
- (2) Boundary Review of District Wards

Councillor Stock then responded to questions and points raised on his statements by Councillors Broderick, I J Henderson, Scott, Miles and Calver.

Councillor I J Henderson raised a point of procedure under Council Procedure Rule 15.11 in which he questioned whether the action being proposed by the Leader of the Council to progress the Part Night Street Lighting issues was contrary to the decision taken by the Council at its meeting held on 24 March 2015 (minute 127 referred) and the Council's Constitution. The Monitoring Officer responded by stating that, in her opinion, there had been no breach of the Council Procedure Rules and that, referring to Council's decision, in terms of the current debate, the Leader of the Council and the Chief Executive had discussed terms with Essex County Council and that the proposed Working Party would seek to find out what terms would be for the benefit of the Council.

24. STATEMENTS BY MEMBERS OF THE CABINET

Coastal Protection Portfolio

The Portfolio Holder for Coastal Protection, Councillor Turner, made statements in respect of the following:

- (1) Financial Contribution of £3million by Anglian Water Services Limited to the Council's sea defences scheme; and
- (2) Clacton Beach and Sea Festival.

Councillor Turner then responded to questions and points raised on his statements by Councillors Broderick, Platt and Calver.

Leisure Portfolio

The Portfolio Holder for Leisure, Councillor M J D Skeels, made a statement on the recent Women's Cycle Tour event in the District.

Councillor Skeels then responded to a question and points raised by Councillor Scott.

25. PETITIONS TO COUNCIL – PROPOSED HOUSING DEVELOPMENT AT WEELEY

Further to Minute 20 above and insofar as they were both Ward Members for Little Clacton and Weeley, Councillors Bray and M Brown each declared a non-pecuniary interest in respect of this item.

Further to Minute No. 101 (10.2.15), the Council considered the report of the Head of Planning Services in respect of a petition received regarding the above. The petition, submitted by Carol Bannister and signed by over 700 people stated:

"We the undersigned object to such a huge increase in housing for our village over the next 17 years on the grounds that it will destroy our community, ruin the character of our rural

environment and take up agricultural land in a farming area.”

The Chairman of Weeley Parish Council, Peter Dumsday, presented the petition, on behalf Ms Bannister who had been unable to attend the meeting.

It was moved by Councillor G V Guglielmi, seconded by Councillor Stock and:

RESOLVED that:

(a) the petition be referred to the Local Plan Committee for consideration during the preparation of the Local Plan Preferred Options; and

(b) the Council’s Petition Scheme be amended to include a new provision that any petitions received in respect of the Local Plan making process are referred straight to the Local Plan Committee, which is in line with planning and licensing matters.

26. PETITIONS TO COUNCIL – POSSIBLE CLOSURE OF CLACTON POLICE STATION

Further to Minute No. 14 (26.5.15), the Council considered the report of the Corporate Director (Corporate Services) in respect of a petition received regarding the above. The petition, submitted by Teresa-Maria O’Hara and signed by over 800 people stated:

“Say NO to closing Clacton Police Station.”

Ms O’Hara presented the petition.

Councillor Bucke asked for clarification as to how the validity of petitions was arrived at given that the two Petition reports referred, respectively, to “signed by over 700 people” and “over 800 checked signatures”. The Chief Executive responded by confirming that both petitions had been subject to the validity processes set out in the Council’s Petitions Scheme and that the different wording was merely the result of the writing styles of the different authors of the reports.

It was moved by Councillor Stock and seconded by Councillor Watling that the Police and Crime Commissioner for Essex be invited to attend a future public meeting of the Community Leadership and Partnerships Committee to explain the scope of his review of Essex Police’s property estate and to provide the opportunity for local views to be put forward.

During the discussion of the petition and at the request of Councillor Stephenson, the Leader of the Council, Councillor Stock, undertook to send a further letter to the Police and Crime Commissioner for Essex reiterating the Council’s concerns on this matter, as previously set out by the former Leader of the Council and Councillor Mick Page in a letter dated 30 March 2015, and seeking a response to those concerns.

Councillor I J Henderson proposed that Councillor Stock’s motion be amended by the addition of the following paragraph: “That this Council is strongly opposed to any closure of Clacton Police Station.”

Councillor Stock, with the consent of both his seconder and the meeting pursuant to Council Procedure Rule 15.6(b), agreed to alter his motion to incorporate Councillor Henderson’s amendment.

Councillor Stock’s motion, as amended, on being put to the vote was declared unanimously CARRIED.

27. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 9

There were none on this occasion.

28. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.2

The Council had received questions from Members in relation to:

1. Requested use of Section 106 funding for an Affordable Housing Project in the Harwich area;
2. Introduction of a payment system for subscriptions to the Green Waste Doorstep Collection Service;
3. Taking back responsibility for on-street parking;
4. Review of the resources available to Planning Enforcement;
5. Cost of extra Special Responsibility Allowances;
6. The Council's Recycling Performance; and
7. The Environment Agency's Shoreline Management Plan from Holland Haven to Frinton

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

Question 1

From Councillor Garry Calver to Councillor Paul Honeywood, Housing Portfolio Holder:

"Will the Portfolio Holder for Housing please provide an update on what action is being taken by his department to ensure that the £100,994 of Section 106 funding generated through the Capital House development within my Harwich East Central Ward is used for an 'Affordable Housing' project within the Harwich area before the agreement lapses in December this year?"

Councillor Honeywood replied by thanking Councillor Calver for his question and stated that he was also keen not to lose this funding. He said that Officers had approached a registered housing provider to offer the funding to help them bring forward a site in Dovercourt. Unfortunately, the registered housing provider had not been able to make any progress with the landowner despite the additional funding. Councillor Honeywood stated that Officers were now looking to progress proposals for a recently acquired site in Harwich by looking at combining the proceeds of the sale of the property in Harwich with the Section 106 monies to bring forward a viable proposal. Councillor Honeywood concluded by stating that he would be happy to brief Councillor Calver outside of the meeting.

Question 2

From Councillor Ivan Henderson to Councillor Michael Talbot, Environment Portfolio Holder:

"May I advise the Portfolio Holder for Environmental Services that there are many elderly residents within the Tendring District who would benefit from the Green Waste Doorstep Collection service introduced by his predecessor, but who cannot afford the upfront fee of £75 (£25 one off joining fee) £50 Annual Subscription. Will the Portfolio Holder please investigate the possibility of introducing a payment system, which would spread the cost in order to allow such residents to access the scheme and also increase the amount of green waste recycling?"

Councillor Talbot replied by thanking Councillor Henderson for his question and stating that he shared his concern that there were many people who might wish to recycle their green waste but could not afford the upfront payment required to purchase the recycling bin. He said that the pilot scheme had resulted in over 3,000 residents using the fortnightly green

waste doorstep collection service and he was keen to see this figure increase. He stated that whilst the current payment system did not allow payments to be spread the forthcoming introduction of the new 'Gladstone' system, once the current 3,000 clients had been transferred onto it, would enable him to investigate the introduction of a pilot spread payment scheme and a 'shared bin' scheme between neighbours.

Question 3

From Councillor Colin Winfield to Councillor Nick Turner, Coastal Protection Portfolio Holder:

"When the sea defences are completed, we will see hoards of visitor cars parked nose to tail the whole length of the seafront. Beach trippers will bring their own food and drink, Nan and Grandad, their children, and perhaps pets too, to enjoy our free hospitality on one of our stunning beaches. At the end of their stay, many will ignore our requests to take their rubbish with them; some will even bury their debris in the sand and trot off, leaving this Council to clear up the mess. These beaches are arguably our greatest asset and we know will need ongoing maintenance and sand recharging. Other seaside towns charge a reasonable day rate for parking in key areas - it is taken as the norm and would be a small price to pay for a day on our glorious sea front.

In this new spirit of shifting powers and budget devolution, I would like to ask the portfolio holder for coastal protection and parking services if he would make a strong recommendation to Essex County Council that this seaside council take over control of the on-street parking. This Council, under your stewardship, has returned our beaches to their former glory. Let us ensure their maintenance for future generations and ask those who enjoy the facility to contribute something to their upkeep."

Councillor Turner replied by thanking Councillor Winfield for his question. He said that whilst this Council would consider requesting Essex County Council, as highway authority, to return the management and enforcement of on-street parking to this Council from the North East Essex Parking Partnership this would be to ensure parking enforcement practices that better suited local needs and this Council's Parking Strategy for the District rather than from a desire to introduce on-street parking charges on the seafront. Councillor Turner stated that the Council had not previously supported this for two reasons: firstly, because of the concerns of local businesses that it would deter visitors to the seafront and local shops; and secondly that any income from on-street parking charges would go to the Highways Authority for highways related expenditure which might not even be in this District.

Councillor Turner said that this Council would be more inclined to consider the introduction of charging on Council-owned off-street car parks which were currently free to use if it could be justified as a result of increased use arising from the popularity of the new beaches created by the construction of the new sea defences. He stressed, however, that no decision had yet been made but it would be considered after the completion of the sea defence works at Holland-on-Sea.

Question 4

From Councillor Jo Henderson to Councillor Carlo Guglielmi, Planning and Corporate Services Portfolio Holder

"With many derelict sites having blighted the local landscape for many years and those which have been improved only having seen improvements after many years of effort, will the Portfolio Holder for Planning please review the resources available to Planning Enforcement and respond with any measures he believes could be introduced to assist the excellent officers charged with the task of overseeing it?"

Councillor Guglielmi replied by thanking Councillor Henderson for recognising the excellent work done by the Council's Planning Enforcement Officers to reduce the negative impact of vacant sites within the District. He stated that the owners of vacant sites were encouraged to keep them in a safe and tidy site and provide suitable fencing where appropriate. Where the untidy site of a site was seriously detrimental to public amenity the Council could serve a notice requiring it to be tidied. However, if the owner still failed to tidy the site, the Council needed to be prepared to undertake the works itself.

Councillor Guglielmi said that making sites safe and tidy could be expensive on individual sites and very expensive on multiple sites with no guarantee that the sites would remain tidy. He reiterated that the owners of properties should be responsible for keeping their properties tidy and not putting the Council and Council taxpayers to unnecessary expense. He acknowledged that town and parish councils had a part to play in the first instance by engaging with the owners of derelict properties and using their local knowledge to try to get a faster and less expensive resolution. Councillor Guglielmi stated that a better, longer term solution would be for the sites to be brought back into economic use which the Council was working towards through encouraging economic investment and producing Local Plan that gave confidence to investors.

Councillor Henderson then asked Councillor Guglielmi by way of a supplementary question whether he believed that the Council should take a firmer, faster stance on enforcement with owners and developers for which she believed that resources were being starved,

Councillor Guglielmi replied by reminding Council that the Council had a HARM assessment policy in place and that briefing sessions for Members regularly took place and he urged Councillor Henderson to attend.

Question 5

From Councillor Jayne Chapman to Councillor Tom Howard, Finance and Transformation Portfolio Holder

"After your comments to the paper where you stated that: 'It is expected the Government will cut its grant to the District by a further £2million next year and we still face significant financial challenges over the next few years';

Could you please tell us the exact amount it is costing to have these extra Cabinet positions?"

Councillor Howard replied that the cost of increasing the size of the Cabinet from 7 Members to 10 Members was potentially three times £10,832 which was £32,496. However, given that only one Special Responsibility Allowance per Member could be claimed the actual cost to the Council was £21,389.

Question 6

From Councillor Mark Stephenson to Councillor Michael Talbot, Environment Portfolio Holder

"The recent performance outturn report for 2013/14 has highlighted that for a third year running Tendring District Council has missed its recycling target, set at 33%, and that in fact there has been no real movement towards that target in the past three years. Could the current Portfolio Holder explain why the target has been reduced to 29% for 2015/16 and what different steps he will take to that of his predecessor to ensure that we not only hit the 29% target this year but also that we continue onwards to the target set by the EU of 50% by 2020 and the 70% target set for 2030?"

Councillor Talbot replied by thanking Councillor Stephenson for his question and set out, at length, the background to the Council's current recycling position. He then stated that figures from Essex County Council showed that Tendring residents produced the lowest amount of waste per household in the County at 646kg. He said that he shared the disappointment that the Council had not reached its 33% target but he felt that such targets should be achievable. Councillor Talbot stated that, given the Council's recycling rate recorded over the last three years, that 33% was not realistic, especially as home composting was not taken into account.

Councillor Talbot said that the Council had achieved a £624,000 grant from the Department for Communities and Local Government in 2013 of which just over half had been spent on initiatives such as the employment of two recycling officers for three years to encourage recycling; a number of communication campaigns such as radio and a marquee for roadshows. He ended by saying that the Council was trying its best to achieve its targets but that a 33% recycling rate was too high.

Councillor Stephenson then asked Councillor Talbot by way of a supplementary question that, given that the cost of disposing residual waste was a significant cost pressure for waste disposal authorities such as Essex County Council which ultimately affected Council Taxpayers in Tendring, had the Council explored the possibility of a doorstep collection of glass and what programmes were in place to raise public awareness of recycling generally, and food waste collection in particular in an effort to increase the recycling rate and earn the Council greater recycling credits which would both help the Council's overall budget position and the environment.

Councillor Talbot replied that food waste collection was generally going well though with a slight dip in the rate which might be partly the result of people being unable or unwilling to clean the bins. He said that Officers were considering introducing a bin liner for food waste bins to help keep them clean and encourage their use and were working with schools to encourage them to recycle food waste. He concluded by stating that Officers were also considering collecting glass in the plastic/tin can recycling box.

Question 7

From Councillor Joy Broderick to Councillor Nick Turner, Coastal Protection Portfolio Holder

"Approximately five years ago the Environment Agency put in place a Shoreline Management Plan for our coast line from Frinton to Clacton. That was to hold the line and carry out patchwork repairs to the sea wall between Holland-on-Sea and Clacton Pier, but from Holland Haven Country Park to Frinton it would be managed realignment.

Managed realignment and patchwork hold the line will allow the sea to breach the wall, flood the marshes and Frinton Golf Course. The situation is now resolved with the new beaches and with it the expense of holding that line is removed. Does the Portfolio Holder think this would be an ideal to ask the Environment Agency to complete the job by protecting the existing stretch between the Country Park and Frinton?"

Councillor Turner replied by thanking Councillor Broderick for her question and stated that he objected to losing any land to the sea. He agreed that there was a weakness at Holland Haven which at the Environment Agency's 'Epoch 3' (2055 -2110) was down for Hold the Line/Managed Realignment. He said that he was already holding informal discussions with the Environment Agency on potential schemes for that area and would inform Council if anything tangible came forward.

29. REPORT OF THE LEADER OF THE COUNCIL

There was no report on this occasion.

30. MINUTES OF COMMITTEES

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

- (a) Audit Committee of Thursday 19 March 2015;
- (b) Corporate Management Committee of Wednesday 25 March 2015;
- (c) Community Leadership and Partnerships Committee of Monday 30 March 2015;
- (d) Service Development and Delivery Committee of Monday 13 April 2015;
- (e) Service Development and Delivery Committee of Monday 15 June 2015;
- (f) Standards Committee of Monday 22 June 2015.

31. MOTIONS TO COUNCIL

The Council noted that, on this occasion, no Motions, on notice, from Members had been given in accordance with Council Procedure Rule 11.

32. TO CONSIDER ANY RECOMMENDATIONS FROM THE CABINET

There were no recommendations from Cabinet to consider on this occasion.

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

There were none on this occasion.

34. REPORT OF THE CHIEF EXECUTIVE - A.3: MEMBERSHIP OF COMMITTEES ETC.

Further to Minute 13 of the Annual Meeting of the Council and subsequent events including the formation of the Cabinet, the Chief Executive formally reported that, in accordance with the wishes of the Leaders of the Conservative, Holland Residents', Independent, UKIP and the then Tendring UKIP Political Groups, and the authority delegated to me, the following appointments had been made since the Annual Meeting of the Council:

Audit Committee

Councillors Broderick, Chapman (in place of Councillor Talbot) and Poonian (in place of Councillor Sibbald) had been appointed to serve.

Community Leadership and Partnerships Committee

Councillors Bennison (in place of Councillor Stephenson), Newton, Poonian (in place of Councillor Gray) and Yallop (in place of Councillor Howard) had been appointed to serve.

Corporate Management Committee

Councillors Cawthron, Scott (in place of Councillor Bucke) and Stephenson had been appointed to serve.

Council Tax Committee

Councillor Broderick, Chittock (in place of Councillor Bray) and Hughes (in place of Councillor Chapman) had been appointed to serve.

Education and Skills Committee

Councillors Amos (in place of Councillor McWilliams), Bennison, Bucke (in place of Councillor Scott), Poonian (in place of Councillor Sibbald) and Raby had been appointed to serve.

Human Resources Committee

Councillors Chittock (in place of Councillor Davis), Khan, Pemberton and Porter had been appointed to serve.

Licensing and Registration Committee

Councillors Newton, Raby, Watson and Whitmore had been appointed to serve.

Local Plan Committee

Councillors Cawthron (in place of Councillor Stephenson), Mooney, Porter, M J Skeels (in place of Councillor Gray), M J D Skeels (in place of Councillor Bray) and Talbot had been appointed to serve.

Planning Committee

Councillors Hones, Hughes (in place of Councillor Davis), Raby and Watson had been appointed to serve.

Service Development and Delivery Committee

Councillors Hones, Pemberton and M J Skeels (in place of Councillor Hughes) had been appointed to serve.

Standards Committee

Councillor Broderick had been appointed to serve.

General Purposes Sub-Committee

Councillors Newton and Watson had been appointed to serve.

Premises/Personal Licences Sub-Committee 'A'

Councillor Newton had been appointed to serve.

Premises/Personal Licences Sub-Committee 'B'

Councillor Watson had been appointed to serve.

Council noted the foregoing.

35. REPORT OF THE CHIEF EXECUTIVE - A.4: REVIEW OF THE ALLOCATION OF SEATS TO POLITICAL GROUPS

The Chief Executive formally reported that, pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillors Bray, Davis, Gray and Sibbald on 1 and 2 June 2015, had each served formal notice on the Council that they no longer wished to be treated as members of the Tendring UKIP political group.

In addition, Councillors Bray, Davis, Gray, Sibbald and Whitmore pursuant to Regulation (9(b) of the Local Government (Committees and Political Groups) Regulations 1990, had each served formal notice on the Council that they wished to be treated as members of the United Kingdom Independence Party [UKIP] political group. The notice was counter-signed by the Leader of the UKIP Group (Councillor Stephenson). Councillor Sibbald had then subsequently resigned from the Council.

The Chief Executive informed Council that in accordance with Section 15(1)(e) of the Local Government and Housing Act 1989 and Regulation 17(b) of the Local Government (Committees and Political Groups) Regulations 1990 a review of the allocation of seats to political groups had been subsequently carried out. Following that review and in accordance with the wishes of the UKIP and Coastal Independents (formerly Tendring UKIP) Group Leaders revised appointments had been made and were set out in the Schedule placed on the tables in front of Members.

The Chief Executive further reported that, on 8 June 2015, Councillor Bucke had formally submitted his resignation as a member of the Local Plan Committee. As Councillor Bucke was not a member of any political group it was a matter for Council to now fill the vacancy.

It was moved by Councillor Stock, seconded by Councillor G V Guglielmi and:

RESOLVED that:

(a) subject to resolution (b) below, and in accordance with the wishes of Group Leaders, Council approves the schedule of Members that it is proposed should serve on each of the Council's Committees and Sub-Committee, which are subject to the Widdicombe Rules.

It was then moved by Councillor Stock, seconded by Councillor G V Guglielmi and:

RESOLVED that:

(b) as the seat previously occupied by Councillor Bucke had been given to Councillor Bucke by the Labour Group, the Leader of the Labour Group be requested to nominate a member of his Group to fill the vacancy on the Local Plan Committee.

36. REPORT OF THE CHIEF EXECUTIVE - A.5: RESIGNATION OF COUNCILLOR L W SIBBALD

The Chief Executive formally reported that, on 4 June 2015, Councillor Leonard Sibbald had resigned as a Member of Tendring District Council. Notice of the vacancy in the Rush Green Ward had been given and a request to fill the vacancy had been received. The by-election would be held on Thursday 16 July 2015.

Council noted the foregoing.

37. REPORT OF THE CHIEF EXECUTIVE - A.6: CHANGE OF NAME OF A POLITICAL GROUP

The Chief Executive formally reported that, pursuant to Regulation 8(5)(a) of the Local Government (Committees and Political Groups) Regulations 1990, on 12 June 2015, formal notice had been served on the Council that the Tendring UKIP political group had changed its name to the Coastal Independents Group. The notice had been signed by the Leader of the Tendring UKIP Group, Councillor M J D Skeels.

Council noted the foregoing.

38. REPORT OF THE MANAGEMENT AND MEMBERS' SUPPORT MANAGER - A.7 - REVIEW OF THE SCHEME OF MEMBERS' ALLOWANCES BY THE INDEPENDENT REMUNERATION PANEL

Council was informed that the Independent Remuneration Panel (IRP) had undertaken a review to propose its recommendations to the Council for the Scheme of Members' Allowances to apply with effect from 1 May 2015. The IRP's report was attached at Appendix A to item A.7 of the Report of the Management and Members' Support Manager.

Members were advised that the IRP's recommendations had been advertised in the local press in accordance with the Regulations and that Council must have regard to those recommendations in determining a Scheme of Members' Allowances for 2015/16. The Council was allowed to depart from the IRP's recommendations provided it could demonstrate good reasons for doing so, having taken all relevant matters into account.

Members were made aware that Council had last considered and agreed a Scheme of Allowances on 17 May 2011. Since then a system of indexation had taken place with Members' Basic and Special Responsibility Allowances being indexed to the Officers' pay award. That had resulted in an increase from 1 April 2013 of 1% and from 1 January 2015 of 2.2%.

It was reported that the latest review proposed the following changes:-

Revised allowances for the Chairmen of the following Committees: Audit, Licensing and Registration, Corporate Management Committee, Community, Leadership and Partnership, Service Development and Delivery, Education and Skills and Human Resources;

Revised rates for Leaders of Opposition Groups; and

That dependent and childcare allowance was paid at the living wage.

Otherwise it was proposed that Basic and Special Responsibility Allowances remained as for 2011 with indexes applied and that travel and subsistence allowances continued as adopted by Council on 17 May 2011.

Council was advised that, following discussions with Group Leaders, options for amending the Scheme of Members' Allowances 2015/16, as recommended by the IRP, had been agreed. The following options were therefore before Council for Members to debate and select the preferred option:

Option 1 - the Scheme of Members' Allowances recommended by the IRP, as set out in its report.

Option 2 - the Scheme of Members' Allowances recommended by the IRP, as set out in its report to the Council, together with an allowance of £700 per annum for each Member of the Planning Committee to recognise the time commitment and workload of those meetings and an allowance of £3,800 for the Chair of the Standards Committee to recognise the work of the Chair on this Committee.

Option 3a – the Scheme of Members' Allowances recommended by the IRP together with a pro rata reduction in all Special Responsibility Allowances such that the total cost of allowances in 2015/16 does not exceed the budget.

Option 3b – the Scheme of Members' Allowances recommended by the IRP with additional allowances for Planning Committee Members and the Chair of the Standards Committee together with a pro rata reduction in all Special Responsibility Allowances such that the total cost of allowances in 2015/16 does not exceed the budget.

Option 3c – the Scheme of Members' Allowances recommended by the IRP with an additional allowance for Planning Committee Members together with a pro rata reduction in all Special Responsibility Allowances such that the total cost of allowances in 2015/16 does not exceed the budget.

It was further reported that the IRP had strongly recommended that it undertook another review in 2016. However, Members did also have the option to index the allowances agreed for 2015 to an index stated by the Council for a period of up to four years.

It was moved by Councillor Stock and seconded by Councillor G V Guglielmi that:

(a) Council notes the outcome of the Independent Remuneration Panel's review and wishes to record its gratitude to the Panel for the work they have undertaken to date;

(b) the Independent Remuneration Panel undertakes a further review and makes recommendations to the Council as soon as practicable to take into account the alternative options and suggestions put forward by Group Leaders and other Members, contained within the report and the review will also reflect the number of new Members who have not had the opportunity to contribute to the review;

(c) the current Scheme of Members' Allowances continues to apply in the interim; and

(d) the Independent Remuneration Panel takes into account the allocated budget for Members' Allowances.

Councillor Calver, supported by 10 other Members who rose in their places, demanded, pursuant to Council Procedure Rule 18.4, a recorded vote on Councillor Stock's motion. The voting was as follows:

Councillors For

Amos

B E Brown

M Brown

Callender

Chittock

Coley

Fairley

Ferguson

Griffiths

G V Guglielmi

V E Guglielmi

Honeywood

Hughes

Land

Massey

McWilliams

Miles

Nicholls

Platt

Poonian

M J D Skeels

Stock

Talbot

Turner

Watling

White

Councillors Against

Bray
Broderick
J A Brown
Bucke
Calver
Cawthron
Chapman
Davis
Fowler
Gray
I Henderson
J Henderson
Hones
Khan
King
Newton
Pemberton
Porter
Scott
Steady
Stephenson
Watson
Whitmore
Winfield
Yallop

Councillors Abstaining

Howard

Councillors Not Present

Baker
Bennison
Cossens
Heaney
Mooney
Raby
M J Skeels

Councillor Stock's motion was declared CARRIED.

39. REPORT OF THE MONITORING OFFICER – A.8 – AMENDMENTS TO THE CONSTITUTION – CHANGES TO THE OFFICER EMPLOYMENT PROCEDURE RULES

It was reported that special arrangements for the appointment of, and dismissal of, the Council's Statutory Officers had been in place in local government since the Local Authorities (Standing Orders) (England) Regulations 2001 had introduced a degree of statutory protection. The Officers who were afforded this protection were the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer. The rationale for this protection was based on the fact that those officers had specific statutory duties and personal obligations to ensure that a Council acted lawfully and had effective governance in place, which had the potential to put them in difficult situations by raising matters

bringing them into conflict with their employer, the local authority.

Council was informed that, on 25 March 2015, the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881) had been made, which amended the Local Authorities (Standing Orders) (England) Regulations 2001 (SI 2001/3384).

The main changes made by the amended Regulations were that:

- (a) There was no longer a requirement for a report from a designated independent person recommending disciplinary action against the Head of the Paid Service, the Chief Finance Officer or the Monitoring Officer before such action is taken;
- (b) Dismissals of the Head of Paid Service, Chief Finance Officer or the Monitoring Officer must be approved by full Council before notice of dismissal was given – previously it was only the dismissal of the Head of Paid Service that had required approval of full Council.
- (c) In considering any decision to dismiss, full Council must consider any advice, views or recommendations from a Panel established to advise the Council on matters relating to the dismissal of the relevant officers (“the Panel”), the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer concerned.

Therefore, the Council is required, before making any decision, to invite Independent Persons, who had been appointed for the purposes of the Members’ conduct regime introduced under the Localism Act 2011, to form an Independent Panel of two or more Independent Persons. The authority was required to appoint the Independent Panel at least 20 working days before the relevant meeting of the Council to consider whether to approve a proposal to dismiss the relevant post-holder and take account of their recommendations. The Panel’s views, advice and recommendations and subsequent consideration by full Council, had to follow on from the conclusions of any investigation into the proposed dismissal and any representations from the Statutory Officer, both of those steps followed usual employment law provisions and obligations, which remained unchanged by the 2015 Regulations.

Members were made aware that the 2015 Regulations stated that it was to be a Panel drawn from the Council in accordance with the Local Government Act 1972 which meant that it must comply with certain legal requirements. As by law, it was an advisory panel under Section 102(4) of the 1972 Act, therefore, this could either be a panel consisting of solely independent (non-elected) members appointed for that purpose, or include elected members. If elected members were included then the political proportionality rules would apply to any elected members on the Panel, unless full Council voted unanimously that proportionality would not apply. In considering the composition of any Panel the principles of natural justice and employment law considerations had to be borne in mind. By virtue of Section 13(3) and (4) of the Local Government and Housing Act 1989 Independent Persons who were appointed to an advisory Panel had the right, alongside any elected members to vote on matters at that Panel.

Council was advised that, as the requirements to change Standing Orders were set down in the 2015 Regulations, the Council did not have the option not to comply with the Regulations; however, it did have the choice on how the Panel would be formed with the Independent Persons. This Council had delegated staff related matters to the Human Resources Committee and therefore, it was proposed that the Committee would form the Independent Panel, together with the Independent Persons, in accordance with the legislation.

Members were aware that currently, the Council had appointed two Independent Persons under the Localism Act 2011 (Section 28(7) referred) for the purposes of its standards framework with respect to Members and their Code of Conduct. The two current Independent Persons were both local government electors and had been consulted on the extension of their role. The Council’s Statutory Officers had also been notified of the impact

of the 2015 Regulations and had been consulted on the proposed changes. The Manager of Human Resources would formally write to those Officers to inform them of the policy and procedural changes which affected the dismissal process however, the terms and conditions of their contracts of employment with the Council would remain unaffected.

The provisions which must be incorporated into the Council's Standing Orders were set out in Appendix A to item A.8 of the Report of the Monitoring Officer.

It was also reported that, as a result of the new statutory requirements, changes were also required within the Council's own disciplinary procedures and it was proposed that the Manager of Human Resources would exercise their delegated authority and ensure that the Council's Human Resources Policies and Procedures were amended accordingly.

The 2015 Regulations also allowed an allowance to be paid to any Independent Persons appointed to the Panel. The Regulations stated that this allowance could not be more than the allowance paid to the Independent Persons for their 'Member conduct' role. The implication was that they would receive two separate allowances, and this would be included within the Council's scheme.

Having considered the Monitoring Officer's report, advice and recommendations it was moved by Councillor Callender, seconded by Councillor G V Guglielmi and:

RESOLVED that:

- (a) the contents of the Report and the legislative requirement to amend the Council's Standing Orders to make changes to the dismissal procedure in relation to the Council's Statutory Officers be noted;
- (b) the Council's Human Resources Committee forms the Independent Advisory Panel under the Regulations, together with the Independent Persons;
- (c) the terms and reference of the Human Resources Committee be amended to include the function of an Independent Panel;
- (d) the Officer Employment Procedure Rules be amended, as set out in Appendix A to item A.8 of the Report of the Monitoring Officer;
- (e) authority be delegated to the Monitoring Officer to amend the Council's Constitution in accordance with the Regulations and to make any necessary consequential changes applying to the Articles, Terms and Reference and Procedure Rules relating to dismissal of relevant Officers;
- (f) the Human Resources Policies and Procedures be amended, as necessary, to reflect any changes required based on the principles in the Monitoring Officer's report; and
- (g) the Independent Persons be paid an annual allowance of £100 plus expenses for this additional, but mandatory, role.

40. REPORT OF THE MONITORING OFFICER – A.9 – LOCAL GOVERNMENT OMBUDSMAN ANNUAL REVIEW LETTER 2015

It was reported that the Annual Review Letter for 2015 had recently been received from the Local Government Ombudsman.

Council was informed that, of the 13 complaints made to the Ombudsman about the Council, four had been subject to detailed investigation with one complaint being upheld.

The Council's Constitution (Article 12.03(a)) required the Monitoring Officer to report to Council, or to Cabinet, for executive functions, if any decision, or omission, had given rise to maladministration. The case in question concerned an applicant for a hackney carriage driver's licence who had been referred to information held on the Council's website which had, in fact, been out of date. The Ombudsman had determined that, in providing misleading information on the website the complainant had suffered a significant injustice because, in relying on this information, he had decided to apply for a licence and had incurred costs. The Ombudsman was, however, satisfied with the action the Council had taken to remedy the injustice caused.

Council noted the foregoing.

41. URGENT MATTERS FOR DEBATE

There were none on this occasion.

42. POTENTIAL LEASE OF LAND AT GAS HOUSE QUAY, HARWICH (REPORT TO FOLLOW)

The Cabinet considered the principle of leasing Council owned land at Gas House Quay, Harwich either as a whole or in two parts.

Members had submitted to them as Appendix 'B' to item A.7 of the Report of the Acting Head of Corporate Performance a letter which had been received from the High Steward of Harwich. The Cabinet were also aware of a petition which had been received calling on the Council to create a car park at Gas House Quay. The full petition was available at the meeting.

The Executive Leader expressed his disappointment that the confidential report on this matter, to be considered later in the meeting, had been leaked to the press.

It was moved by Councillor Halliday, seconded by Councillor Henderson and:-

RESOLVED – That, having considered both correspondence received from the High Steward of Harwich and the petition, the land be let for commercial use, subject to consideration of terms later in the meeting.

Chairman