

**MINUTES OF THE MEETING OF THE CORPORATE MANAGEMENT
SCRUTINY COMMITTEE HELD ON MONDAY 4 JANUARY 2016 AT 9.15 A.M. IN THE
CONNAUGHT ROOM, TOWN HALL, CLACTON-ON-SEA**

Present: Councillors Steady (Chairman), Platt (Vice-Chairman), Baker, Cawthron, Chittock, Fairley, Scott and Stephenson.

Also Present: Councillors Broderick, J A Brown, I J Henderson, Howard (Finance and Transformation Portfolio Holder), Newton, Stock (Leader of the Council) and Talbot (Environment Portfolio Holder)

In Attendance: Chief Executive (Ian Davidson), Legal Services Manager & Monitoring Officer (Lisa Hastings), Finance and Procurement Manager & Section 151 Officer (Richard Barrett), Environmental Services Officer (John Fox), Street Scene Officer (Jonathan Hamlet) and Senior Democratic Services Officer (Ian Ford).

33. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor Massey, with Councillor Fairley substituting.

34. MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 14 DECEMBER 2015

The Minutes of the meeting of the Committee, held on 14 December 2015, were approved as a correct record and signed by the Chairman.

35. DECLARATIONS OF INTEREST

Councillor Stephenson declared an interest in item A.1 of the Report of the Corporate Director (Corporate Services) insofar as he was pre-determined by the virtue of the fact that he was a caller-in. He informed the Committee that he would not vote on this item.

36. CEASE DELIVERY OF BLACK SACKS

The Committee had before it a report to enable it to scrutinise the following Executive Decision - Number 2633 taken on 11 December 2015 by the Cabinet, which had been called-in:

- (a) *the future provision and delivery of black sacks by the Council to residents is ceased with effect from 2016; and*
- (b) *a promotion and press campaign is delivered to provide information about the ceasing of the service and informing residents how waste should be presented running alongside our promotion of increased recycling.*

That Decision had been called in by Councillors J Brown, I J Henderson and Stephenson and was to be the subject of scrutiny by the Committee.

In calling in the decision, Councillor Stephenson, supported by Councillors J Brown and I J Henderson, had stated:

"We are seeking further scrutiny of decision 2633 as we believe it will have an unacceptably negative impact on the quality of life for those living within the Tendring District in that it will increase the prevalence of litter, result in increased fly tipping and will discourage people from recycling at a time when TDC is unable to meet its recycling targets.

Furthermore, by withdrawing a front line service but insisting that residents continue to provide good quality black sacks at their own expense, the Council is to all intent and purpose imposing a 6% council tax increase on residents without having undertaken any public consultation or without having given the members of the Council the opportunity to debate and decide the issue.

We believe that our criteria fits the Overview and Scrutiny Procedure Rules, namely:

Article 17 (b) Overview and Scrutiny Procedure Rules - (iv) The decision-maker did not take into account relevant considerations or other material factors and therefore, the decision is unreasonable.”

The Chairman outlined aspects of the procedure that would be followed in scrutinising the decision.

The Committee was aware from Minute 35 above that Councillor Stephenson had declared an interest in this item insofar as he was pre-determined by the virtue of the fact that he was a caller-in and that he would not vote on this item.

Councillor Henderson asked if the provisions of Access to Information Procedure Rule 17.1 (which stated, inter alia, that an overview and scrutiny committee could require the Cabinet to submit a report to the Council if it felt that a key decision had been taken which was not included in the Forward Plan or had been taken using the General Exception or Special Urgency Procedures) applied in this case. The Monitoring Officer replied that this was not in fact the case as she had intervened to declare the Cabinet's original decision on this matter null and void as it had not in fact been included in the Forward Plan or had been taken using the General Exception or Special Urgency Procedures. The decision that was now being scrutinised by the Committee had been taken using the General Exception Procedure.

Councillors Stephenson, Henderson and Brown, the callers-in, each made a statement explaining their reasons for the call-in. Those reasons were along the following lines:

- (i) this Council's recycling and refuse arrangements would, as a result of this decision, contrast unfavourably with other Essex Local Authorities;
- (ii) lack of a public consultation process in contrast to that undertaken in respect of part-night street lighting;
- (iii) the implications of this decision for other discretionary services within the Council;
- (iv) this decision would reflect poorly on this Council's reputation;
- (v) confusion for members of the public as to what would constitute an appropriate receptacle for general waste;
- (vi) concern for the disabled/housebound residents; would special circumstances apply?; and
- (vii) no consideration had been given as to an alternative service provision such as using polymer bags which could still save money but enable the service to be provided.

The Environment Portfolio Holder (Councillor Talbot) and the Finance and Transformation Portfolio Holder (Councillor Howard) each made a statement explaining the Cabinet's decision. Those reasons were along the following lines:

- (i) the decision was not one that the Cabinet particularly wanted to take but it was necessary on strictly financial grounds as part of the need to find £2million in savings;
- (ii) the Council's website recommended to the public that they used black sacks for general waste but other suitable receptacles were allowed;
- (iii) there was a door step collection service for the registered disabled;
- (iv) the removal of black sacks could lead to an increase in recycling, particularly, food waste recycling in the green 'caddy';
- (v) a public consultation exercise would have been impracticable;

- (vi) the decision needed to be taken now and not at the Budget meeting in February in order to allow time for a comprehensive information leaflet to be produced and distributed to the public;
- (vii) Basildon District Council's Council Tax levy was 70.9% higher than this Council's which gave them the scope to have a more comprehensive recycling scheme; and
- (viii) many residents ran out of the Council provided black sacks in the course of the year and were used to buying their own anyway.

The Chairman asked if any mediation had taken place to which the callers-in and the Portfolio Holders stated that none had taken place though all had been willing to do so. Members stated that they felt clarification was needed within the Constitution as to the mediation process and the Monitoring Officer undertook to review the relevant part of the Overview and Scrutiny Procedure Rules and make amendments as necessary.

The callers-in then put their questions to the decision-makers, as appropriate.

The Portfolio Holders then put questions to the callers-in, as appropriate.

Members of the Committee then put their questions to the decision-maker, the callers-in and the Officers, as appropriate.

After further discussion and consideration of the matter in hand it was moved by Councillor Platt, seconded by Councillor Scott and:

RESOLVED that the Committee refers the decision back to the decision maker (i.e. Cabinet), in the light of the fact that a mediation process has not been able to take place, and requests that the Cabinet reconsiders its decision within the required 15 working days, following this meeting, and preferably following mediation.

37. INCOME GENERATION AND EFFICIENCY SAVINGS – ESTABLISHING THE PROCESSES FOR PROGRESSION BY MEMBERS

Further to Minute 25 (3.12.15), the Chairman of the Committee sought to agree the approach to be taken by members of the Committee in pursuit of the efficiency and income generation strands identified.

Councillor Platt outlined to the Committee the progress to date of the review he was conducting, with Councillor Massey, of the District's Beach Economy.

Councillor Cawthron outlined to the Committee the progress to date of the review he was conducting, with Councillor Stephenson, of Office Rationalisation.

38. UPDATED FINANCIAL BASELINE 2016/17 AND DETAILED BUDGET PROPOSALS FOR A REVISED BUDGET 2015/16 AND ORIGINAL BUDGET FOR 2016/17

The Committee's comments were sought on the updated Financial Baseline 2016/17 and proposals for a revised budget for 2015/16 and original budget for 2016/17, which had been approved at the meeting of the Cabinet held on 11 December 2015 (minute 118 referred).

The Chief Executive reminded the Committee that the Council faced a £2million funding 'gap' for 2017/18 and an estimated £1.4million funding 'gap' for 2018/19 and it was an ongoing challenge to find further efficiencies, maximise income and prudently manage staff vacancies and staff restructuring with Union engagement and support. He also stated that the Council needed to find the correct, qualitative level of balance between statutory and discretionary services. The Chief Executive complimented the Committee on its work in engaging seriously with this process.

The Chief Executive also referred to the Government's stated aim of abolishing the Revenue Support Grant (RSG) by 2020 with National Non-Domestic Rates (NNDR) income being kept by local authorities from 2020 which potentially meant that there was a gap between those two events. There was also uncertainty as to how NNDR income would be split between County and District/Borough council levels and it was therefore unlikely that NNDR income would cover the loss of RSG. The Chief Executive's message, in a nutshell, to Members was that the 'job would only get harder'.

The Committee had before it, broken down by both Departments and Portfolios, a summary of changes to budgets and estimates for 2015/16 (revised) and 2016/17 (original) that had been made since the Cabinet meeting on 11 December 2015.

The Finance and Procurement Manager took the Committee through those changes which Members discussed and asked questions of the Finance and Procurement Manager, as appropriate.

The Committee then discussed and agreed the questions and issues that it would put to Portfolio Holders and senior Officers on 6 January 2016.

The Chairman then adjourned the meeting until 9.15 a.m. on Wednesday 6 January 2016.

Chairman