
**MINUTES OF THE MEETING OF THE CABINET,
HELD ON FRIDAY, 9TH NOVEMBER, 2018 AT 10.34 AM
ESSEX HALL, TOWN HALL, STATION ROAD, CLACTON-ON-SEA, C015 1SE**

Present: Councillors Neil Stock OBE (Leader of the Council) (Chairman), Zoe Fairley Investment and Growth Portfolio Holder), Paul Honeywood (Housing Portfolio Holder), Lynda McWilliams (Health and Education Portfolio Holder), Fred Nicholls (Corporate Enforcement Portfolio Holder), Mick Skeels (Snr) (Leisure and Tourism Portfolio Holder) and Michael Talbot (Environment Portfolio Holder)

Group Leaders Present by Invitation:

Councillors Joy Broderick (Leader of the Holland-on-Sea Group), Robert Bucke (Leader of the Liberal Democrats / Tendring First Group), Michael Bush (Deputy Leader of the Tendring Independents Group), Ivan Henderson (Leader of the Labour Group) and Mary Newton (Leader of the UKIP Group)

Also Present: None

In Attendance: Ian Davidson (Chief Executive), Martyn Knappett (Deputy Chief Executive (Corporate Services)), Ewan Green (Corporate Director (Planning and Regeneration)), Lisa Hastings (Head of Governance and Legal Services), Richard Barrett (Head of Finance, Revenues and Benefits Services), Karen Neath (Head of Leadership Support and Community), Ian Ford (Committee Services Manager) and William Lodge (Communications Manager)

Also in Attendance: Keith Simmons (Head of Democratic Services and Elections [Designate])

62. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Carlo Guglielmi (Deputy Leader of the Council & Finance and Corporate Resources Portfolio Holder) and Mark Stephenson (Leader of the Tendring Independents Group).

63. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the Minutes of the meeting of the Cabinet held on Friday 12 October 2018 be approved as a correct record and signed by the Chairman.

64. DECLARATIONS OF INTEREST

There were none declared at this time.

65. ANNOUNCEMENTS BY THE LEADER OF THE COUNCIL

HSE Prosecution

The Leader of the Council (Councillor Stock) read out the following statement:-

“Tendring District Council is being prosecuted following a case of Legionnaire’s Disease contracted by a Walton-on-the-Naze Lifestyles leisure centre customer in November 2016, two years ago.

An investigation was launched by the Health and Safety Executive, and the agency has now charged Tendring District Council with a single offence over its systems for managing the risk of Legionella at leisure centres.

The Council has its first court appearance next month, and ahead of the hearing it would be inappropriate to comment further.

I would like to reiterate our apologies to the individual concerned.

Working with specialist contractors, systems have been changed as a result. As soon as we became aware of the presence of Legionella bacteria at the new facility at Walton-on-the-Naze Lifestyles we moved to address the issue immediately, with the centre closing for three months while remedial work was carried out.

Our investigation was quickly widened to include a review of our systems and practices right across the Council and, working alongside the HSE, these are now extremely rigorous.

Over the last three years we have invested around £1.75million in our leisure centres to make sure they are of high quality for customers to enjoy.”

Cabinet noted the foregoing.

66. ANNOUNCEMENTS BY CABINET MEMBERS

There were no announcements by Cabinet Members on this occasion.

67. MATTERS REFERRED TO THE CABINET BY THE COUNCIL

There were none on this occasion.

68. MATTERS REFERRED TO THE CABINET BY A COMMITTEE - REFERENCE FROM COMMUNITY LEADERSHIP OVERVIEW AND SCRUTINY COMMITTEE - A.1 - TASK AND FINISH REVIEW TENDRING ROAD RALLY

Cabinet was informed that, at the meeting of the Community Leadership Overview and Scrutiny Committee held on 1 October 2018 (minute 19 referred), that Committee had had before it a report of the Head of Leadership Support and Community which had presented it with the outcome of the review undertaken by the Task and Finish Group on the Tendring Road Rally with recommendations for consideration and submission to Cabinet.

Having considered and discussed the report the Community Leadership Overview and Scrutiny Committee had:-

“RESOLVED that this Committee recommends to Cabinet that –

- a) *Cabinet decides whether Tendring District Council should become a joint partner, or continue to act as a consulting partner or oversight body in respect of the 2019 Road Rally;*
- b) *Cabinet be requested in its decision making to take into account the recommendations of the Task and Finish Review; and*
- c) *Cabinet be also requested to pay particular close attention to the health and safety issues around this event.”*

A full copy of the Task and Finish Group’s report and recommendations was before the Cabinet attached as Appendix A to item A.1 of the Reference from the Community Leadership Overview and Scrutiny Committee.

Cabinet was made aware that the Leisure and Tourism Portfolio Holder had commented as follows:-

“I would like to thank the Community Leadership Committee and in particular the members of the Task and Finish Group for their hard work in producing this report.

The Road Rally is one of many diverse events that are important to promoting the Tendring area for tourists and visitors as well as residents and for generating income for the businesses in the area. Tourism brings in over £370m to the Tendring District and thousands of jobs are dependent on it.

I recommend that Tendring District Council is a joint partner in the delivery of the future Road Rally events and, whilst Chelmsford Motor Club will continue to retain responsibility for the route planning, marshalling and running of the rally for 2019, the Council is able to offer assistance in the following areas:-

- ***Distribution of residents letters*** - as well as delivering to residents along the route we will look to widen the net and also capture houses peripheral to the route.
- ***Signs and other infrastructure*** - in principal the Council can agree to placing the concrete blocks on Marine Parade as was done last year. Furthermore, we will distribute the signs and barriers to their locations in preparation for the road closures etc.
- ***PR/Communications*** – the Council will assist and support on communications and our PR Manager will provide some thoughts on a communication plan including audience, channels of communication, branding and key messages.
- ***Event Management*** – The Council is happy to share its knowledge, expertise and contacts for the running of special events.
- ***Safety Advisory Group*** – Tendring District Council will continue to chair the Safety advisory Group and will engage with partners in the emergency services and other stakeholders. It is recognised that health and safety must be and remain a key concern for the running of this event.

I will ask Officers to review the recommendations from the report to determine those that have relevance for the Council and how these can be delivered. I will also ask for the final report from the Committee to be shared with Essex Police, Chelmsford Motor Club and Essex Highways, and I would strongly urge these organisations to have regard to the recommendations of the Committee particularly those that relate to the safe running of the event.”

Having considered the recommendations of the Community Leadership Overview and Scrutiny Committee and the responses of the leisure and Tourism Portfolio Holder thereto:-

It was moved by Councillor Skeels Snr., seconded by Councillor Nicholls and:-

RESOLVED that –

- a) the Community Leadership Overview and Scrutiny Committee and Task and Finish Group be thanked for their work in producing this report;
- b) Tendring District Council commits to being a partner in the delivery of future Road Rally events offering support and assistance in the areas of resident consultation, PR and communications, event management and distribution of signage; and
- c) the final report is shared with Essex Police, Chelmsford Motor Club, Essex Highways and the Motor Sports Association and that these organisations be strongly requested to have regard to the final recommendations particularly those that relate to the safe running of the event.

69. LEADER OF THE COUNCIL'S ITEMS

There were none on this occasion.

70. CABINET MEMBERS' ITEMS - REPORT OF THE CORPORATE ENFORCEMENT PORTFOLIO HOLDER - A.2 - BROWNFIELD LAND REGISTER - PART 1

The Cabinet gave consideration to a report of the Corporate Enforcement portfolio Holder (A.2) which informed it of the legal requirement for local planning authorities to prepare, publish and maintain a 'Brownfield Land Register' (the Register) and to seek formal approval for the publication of Part 1 of the Register and a delegation to Officers to publish future updates.

It was reported that under the Housing and Planning Act 2016, the Council was required to prepare, maintain and publish a 'Brownfield Land Register' comprising two parts, namely:-

Part 1 of the Register was simply a list of sites within the District that qualified as 'Brownfield' (i.e. previously developed) and that were considered to be suitable for development, when assessed against the criteria set out in Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017.

Part 2 was a subset of Part 1 of the Register and comprised certain sites on the Register that, by virtue of their inclusion in Part 2, granted 'planning permission in principle', avoiding the need for landowners and developers to apply for outline planning permission and enabling them to progress through the planning process more swiftly, with only matters of detail requiring the Council's approval.

Members were informed that requiring Councils to produce a Brownfield Land Register was one of the Government's measures to speed up the planning process and boost the supply of new housing.

The Cabinet was made aware that in line with Government requirements, the Council had published its Part 1 Register before the deadline of 31 December 2017. However, Officers had subsequently learnt that the publication of Part 1 should have been approved by the Cabinet. The report now before the Cabinet sought its retrospective approval to publish the Register and to delegate this responsibility in the future to the Head of Planning. The Part 1 register published by the Council last year only included sites that had either already obtained planning permission in the past or had been allocated in the emerging Local Plan – i.e. sites where the principle of development had already been accepted by the Council.

Members were informed that the authority for approving Part 2 of the Register lay with the Planning Committee who would be invited to grant planning permission, in principle, for certain sites, as appropriate, in due course.

Having considered the contents of the report:-

It was moved by Councillor Nicholls, seconded by Councillor P B Honeywood and:-

RESOLVED that –

- (a) the Cabinet approves, retrospectively, the publication of Part 1 of the Council's Brownfield Land Register, as attached at Appendix 1 to item A.2 of the report of the Corporate Enforcement Portfolio Holder; and
- (b) the Head of Planning Services be authorised to publish, review and maintain Part 1 of the Brownfield Land Register in accordance with the criteria set out within the aforementioned report.

71. CABINET MEMBERS' ITEMS - REPORT OF THE FINANCE AND CORPORATE RESOURCES PORTFOLIO HOLDER - A.3 - REVIEW OF THE COUNCIL'S CONSTITUTION

The Cabinet gave consideration to a report of the Finance and Corporate Resources Portfolio Holder (A.3) which sought its approval for the recommended changes to the Constitution for referral onto Full Council following a review undertaken by the Portfolio Holder through the Constitution Review Working Party.

It was reported that the main proposals covered a number of miscellaneous amendments to the Council Procedure Rules, changes required to comply with legislation and other changes to ensure the Constitution was effective, efficient and consistent at an operational level. Areas of the Constitution where changes were being recommended included:-

- (1) Council Procedure Rules;
- (2) Access to Information Procedure Rules;
- (3) Overview and Scrutiny Procedure Rules;
- (4) Articles of the Constitution;
- (5) The Scheme of Delegation;
- (6) Budget and Policy Framework Procedure Rules;
- (7) Financial Procedure Rules;
- (8) Property Dealing Procedure; and
- (9) Procurement Procedure Rules.

Cabinet was made aware that the Standards Committee had requested that the Constitution Review Working Party (CRWP) consider whether attendance at mandatory training sessions for committees should be linked to Members' allowances. Advice had been provided that this would only be feasible through amendments to the Members' Allowances Scheme and recommendations could be put forward to the Independent Remuneration Panel to research this matter further, should the CRWP decide to do so. After discussing the issue in detail, the CRWP had agreed that Members' failure to attend mandatory training sessions could be resolved through the Group Leaders ensuring that members appointed to committees were able to commit to the additional training required to fulfil their roles.

Cabinet was informed that some Members had raised with the Monitoring Officer whether the Council's arrangements in requiring individuals to observe prayers at the Full Council meeting was lawful following the High Court challenge in 2011 and whether an Equality Impact Assessment had been undertaken. The Monitoring Officer had confirmed the legal position and highlighted that individuals should have the choice whether to observe religious ceremonies at all times. For those Members, Officers or the public who did not wish to take part in prayers they should be allowed to do so without further questions. The CRWP had agreed that the Constitution did not require amendment on this matter but had requested the Monitoring Officer to issue guidance to all Members.

In addition, following recent discussions between various Members regarding practices for dealing with ward issues, the CRWP had considered guidance issued to Members by other elected Members at another Council, which had been regarded as good practice. It was agreed by the CRWP that the Constitution did not require any amendment on this point, but that the guidance could be used as part of the induction programme for elected Members following the elections in May 2019. The Monitoring Officer had been requested to take this forward.

The Leader of the Council, Councillor Stock, thanked the members of the Working Party and the Head of Governance and Legal Services, Lisa Hastings and the Committee Services Manager for the tremendous amount of work that they had undertaken in producing the proposed changes to the Constitution.

Having considered the contents of the report and the detailed proposed amendments to the Constitution set out in Appendices A to N thereto:-

It was moved by Councillor Stock, seconded by Councillor McWilliams and:-

RECOMMENDED TO COUNCIL that –

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices B to N attached to item A.3 of the Report of the Finance and Corporate Resources Portfolio Holder; and
- (b) all changes to come into effect immediately following approval.

RESOLVED that wider consultation be undertaken with all Members of the Council on the proposed changes to the Council Procedure Rules (as set out in Appendices A1 and A2 to the aforementioned report) prior to further decisions being taken.

72. **CABINET MEMBERS' ITEMS - REPORT OF THE FINANCE AND CORPORATE RESOURCES PORTFOLIO HOLDER - A.4 - CORPORATE PEER CHALLENGE - ACTION PLAN UPDATE**

The Cabinet gave consideration to a report of the Finance and Corporate Resources Portfolio Holder (A.4) which provided it with an update on the actions identified within the Peer Review Action Plan which had originally been presented to Cabinet at its meeting held on 18 May 2018.

Progress towards achieving each of the actions had been identified and was set out in Appendix A to the report and where necessary revised target dates had been included. A further update would be provided to Cabinet in May 2019.

Having considered the progress made:-

It was moved by Councillor Stock, seconded by Councillor P B Honeywood and:-

RESOLVED that the progress made towards achieving the actions and targets contained in the Peer Review Action Plan, as attached at Appendix A to item A.4 of the Report of the Finance and Corporate Services Portfolio Holder, be noted.

73. **CABINET MEMBERS' ITEMS - REPORT OF THE FINANCE AND CORPORATE RESOURCES PORTFOLIO HOLDER - A.5 - PERFORMANCE REPORT JULY - SEPTEMBER 2018 (QUARTER 2)**

The Cabinet gave consideration to a report of the Finance and Corporate Services Portfolio Holder (A.5) which presented it with the Performance Reports (Resources & Services and Community Leadership) (2018/19) for the period July – September 2018 (Quarter 2). The Performance Reports included both the Corporate Plan and Priorities and Projects 2018/19.

It was reported that, of the 18 indicators and projects where performance is measured in the Resources & Services Performance Report, the second quarter's position demonstrated that 15 (84%) were on, or above, their expected target and 3 (16%) were not currently in line with the expected performance. The indicators and projects highlighted in the Community Leadership Performance Report were deemed 'non measurable' as this Council's role was that of 'influence only'.

Cabinet was aware that the respective reports would be/had been presented to the Community Leadership Overview and Scrutiny Committee on 3 December 2018 and the Resources and Services Overview and Scrutiny Committee on 5 November 2018.

Having considered the current position in relation to the Council's performance:-

It was moved by Councillor Stock, seconded by Councillor P B Honeywood and:-

RESOLVED that the contents of the Performance Reports for the period July – September 2018 (Quarter 2) be noted.

74. **CABINET MEMBERS' ITEMS - REPORT OF THE FINANCE AND CORPORATE RESOURCES PORTFOLIO HOLDER - A.6 - FINANCIAL PERFORMANCE REPORT - IN-YEAR PERFORMANCE AGAINST THE BUDGET AS AT THE END OF SEPTEMBER 2018 AND LONG-TERM FINANCIAL FORECAST UPDATE**

The Cabinet gave consideration to a report of the Finance and Corporate Resources Portfolio Holder (A.6) which provided it with an overview of the Council's financial position against the budget as at the end of September 2018 and also presented it with an updated forecast on an on-going basis as part of developing the budget for 2019/20 and beyond.

The report was presented in two distinct sections as follows:-

- 1) The Council's in-year financial position against the budget at the end of September 2018; and
- 2) An updated long term financial forecast and estimated position for 2019/20.

In respect of the in-year financial position at the end of September 2018:

- In respect of the position at the end of September, it was acknowledged that expenditure or income trends might still be emerging. However any significant issues arising to date had been highlighted and comments provided as necessary.
- The position to the end of September 2018, as set out in more detail in the Executive Summary, showed that, overall, the General Fund Revenue position was behind the profiled budget by £3.468m. As had been the case in previous quarters, the variance to date primarily reflected the timing of expenditure and income although as mentioned above, underlying trends might emerge or be confirmed over the remainder of the year.
- In respect of other areas of the budget such as the Housing Revenue Account, capital programme, collection performance and treasury activity, apart from additional details provided in the report, there were no major issues that had been identified to date.
- Any emerging issues would be monitored and updates provided in future reports which would include their consideration as part of updating the long term financial forecast.
- As highlighted in the corresponding report at the end of July 2018, those regular finance reports would respond to in-year budget pressures and other changes as they emerged rather than wait until the detailed estimates were prepared in December / January of each year. Appendix H to the report therefore set out a number of changes to in-year budgets with an associated recommendation also included within the report.
- The net impact of all of the budget adjustments would be moved to, or from, the Forecast Risk Fund. The long term forecast relied upon £0.500m of in-year outturn savings being set aside over the course of the whole year within the Forecast Risk Fund in order to support the long term plan.
- A half year treasury management review had been carried out with a summary set out in the report along with an associated recommendation to temporarily increase the aggregate limit of funds that could be placed overnight with the Council's bankers for the period that the offices would be closed over the Christmas break.

In respect of the updated long term financial forecast:

- The forecast had been reviewed, as at the end of September 2018 and updated from 2019/20 onwards. The required changes did not expose the Council to any additional risk and although the annual deficit or surplus position for each year of the forecast had been amended, they could still be accommodated within the overall projected financial position supported by an increased Forecast Risk Fund.

- A review of risks associated with the long term approach to the forecast was also the subject of on-going review and was reported within Appendix J to the report.
- As previously mentioned last year, it was important to continue to deliver against the new longer term approach to the budget as it continued to provide a credible alternative to the more traditional short term approach which would require significant savings to be identified over 2019/20 and 2020/21.
- Work remained on-going across the 5 key work strands of:-
 - 1) Increases to underlying income;
 - 2) Controlling expenditure / inflationary increases;
 - 3) The identification of savings / efficiencies;
 - 4) Delivering a positive outturn position each year; and
 - 5) The mitigation of cost pressures wherever possible.

The Leader of the Labour Group, Councillor I J Henderson, paid tribute to the ongoing hard work and dedication of the staff in these financially stringent times.

The Leader of the Council, Councillor Stock, paid tribute to the Head of Finance, Revenues and Benefits Services, Richard Barrett and his Officers for their continued efforts in keeping the Council's budget in a robust condition.

Having considered and discussed the information provided in the report and the appendices attached thereto:-

It was moved by Councillor Stock, seconded by Councillor Skeels Snr. and:-

RESOLVED that

- (1) in respect of the financial performance against the budget at the end of September 2018:
 - (a) the position be noted;
 - (b) the proposed in-year adjustments to the budget, as set out in Appendix H to item A.6 of the Report of the Finance and Corporate Resources Portfolio Holder be agreed; and
 - (c) in respect of the Council's Treasury Management Practices, the aggregate amount of money that can be placed overnight with the Council's bankers be increased temporarily from £1.000m to £1.500m for each day the offices are closed over the Christmas break.
- (2) in respect of the Updated Long Term Forecast revised at the end of September 2018:
 - (a) updated forecast be agreed; and
 - (b) the Resources and Service Overview and Scrutiny Committee be consulted on the updated position.

75. CABINET MEMBERS' ITEMS - REPORT OF THE HOUSING PORTFOLIO HOLDER - A.7 - THE LOCAL COUNCIL TAX SUPPORT SCHEME, DISCRETIONARY COUNCIL TAX EXEMPTIONS / DISCOUNTS FOR 2019/20 AND ANNUAL MINIMUM REVENUE PROVISION POLICY STATEMENT 2019/20

There was submitted a report by the Portfolio Holder for Housing (Report A.7), which sought Cabinet's agreement to recommend to full Council the following:

- Local Council Tax Support Scheme 2019/20 (including associated exceptional hardship policy);
- Discretionary Council Tax Exemptions and Discounts 201/20; and
- Annual Minimum Revenue Policy Statement for 2019/20.

Accordingly and in order to allow these matters to progress to Council it was moved by Councillor P B Honeywood, seconded by Councillor McWilliams and:

RECOMMENDED TO COUNCIL that

- (a) the Local Council Tax Support Scheme (LCTS) remains the same as the current year, as set out as Appendix A to item A.7 of the Report of the Housing Portfolio Holder and that therefore:
 - i) the LCTS be approved with the maximum LCTS award being 80% for working age claimants; and
 - ii) the Deputy Chief Executive be authorised, in consultation with the Housing Portfolio Holder, to undertake the necessary steps and actions to implement the LCTS scheme from 1 April 2019.
- (b) the Council Tax Exceptional Hardship Policy, as set out in Appendix B to the aforesaid report, be approved.
- (c) the proposed discretionary Council Tax exemptions and discounts remain unchanged, as set out in Appendix C to the aforementioned report, and that the Deputy Chief Executive, in consultation with the Housing Portfolio Holder, be authorised to undertake the necessary steps and actions to implement the Council Tax exemptions and discounts from 1 April 2019.
- (d) the Annual Minimum Revenue Provision Policy Statement for 2019/20, as set out in Appendix D to the above report, be approved.

76. MANAGEMENT TEAM ITEMS

There were none on this occasion.

The Meeting was declared closed at 11.24 am

Chairman