

COUNCIL

22nd April, 2002

Present: The Mayor (Councillor Lloyd), the Deputy Mayor (Councillor Buckland), Councillors Banyard, Baylis, Bowden, Mrs. Cassin, B. Cassin, Curl, Mrs. Driver, Mrs. Fletcher, Garnham, Gearing, Mrs. Hale, M. Hale, Mrs. Hawkins, Mrs. Holliday, Lawrence, Mrs. McArdle, McKinlay, P. McLain, Melville Smith, Mrs. Moreton, Mrs. Pennell, Prince, Mrs. Ryder, Seacome, Simons, Smith, Stennett, Stuart-Smith, Thompson, Todman and Reverend Whales.

Apologies: Councillors Freeman, Godwin, MacDonald, Mrs. McLain, Miss McVeagh and Mrs. Thornton.
(2.30 p.m. - 6.30 p.m.)

137 Prayers

The Mayor's Chaplain opened the meeting with Prayer.

138 Declarations of Interest

No declarations of interest were made.

139 Minutes of last meeting

Resolved, that the minutes of the meeting held on 25th February, 2002, be approved and signed as a correct record.

140 Public Question from Mr. L. Surgenor, 10 King William Drive, Cheltenham

"Could the appropriate cabinet member clarify in terms of the new wards which areas will start the experimental garden waste collection scheme this year, and which will be taken off, and also which will continue from last year."

Reply from Councillor D. J. Smith Leader of the Council

"The green waste collection scheme was introduced into Cheltenham by the Conservative administration as a 2 year pilot scheme funded from the capital programme in 2001.

The funding ensured that 16,000 properties in the town would be able to participate in the pilot in each year. The administration anticipated that in order to collect sufficient data to substantiate the likely take up of a permanent scheme, each of the 2 years would need to cover a variety of properties in different areas of the town.

The first year proved to be a success in many areas of the town, and in this years budget, the conservative administration brought forward proposals to make the scheme a permanent feature by building the cost of the green collection for 16,000 properties into base revenue budget – this is a year earlier than anticipated.

At its' meeting on April 2nd, the cabinet received a report from the deputy for community health raising concerns about the success of the scheme in some areas of town.

Officers have analysed the performance of the pilot garden waste collection scheme which was provided last year. Following a slow start the quantity of waste presented for collection gradually increased and most participating households fully supported and contributed to the scheme. However, three areas were not as successful as the others in terms of the quantity of garden waste presented per household. These were:

Wymans Brook area - Swindon Village ward
Rowanfield / Arle area - St Mark's / St Peter's wards
Kingsmead area - Springbank / St Peter's wards

An operational decision was taken to remove these areas from the pilot scheme and replace them with areas which have the potential to improve overall performance against recycling targets. This is in accordance with our desire to achieve continuous improvement and become one of the top 25% of high performance authorities. This will maximise the Council's potential to obtain earned autonomy and greater financial freedom arising from the government's proposed performance assessment framework for local authorities.

Officers chose replacement areas with good sized gardens where there was a strong probability of high participation rates. Officers were further limited in choosing replacement areas as garden waste collections are scheduled to take place on the normal day of refuse collection. The replacement areas chosen to participate in the pilot scheme this year are therefore:

Pittville area - Pittville ward
Ewans / Ryeworth areas - Battledown ward
Beeches area - Charlton Kings ward
Canterbury Walk area - Warden Hill ward

All those households who are able to participate this year have been notified through a leaflet drop. The Head of Cleansing and Transport will be pleased to provide members with detailed information about participating areas on request.

At the end of the pilot scheme in October, it is the intention of the cabinet to review the success of the scheme in the new areas and to bring forward proposals for the extension of the scheme as part of the budget consultation process.

It is our hope that this scheme will have proved to be both popular and effective and that by April 2003, council will have seen a positive response to the budget consultation and will have agreed additional funds to extend the scheme across the town.

I would like to thank Mr Surgenor for giving me the opportunity to re-confirm the Conservative groups commitment to improving the recycling record of the Council. He may already be aware that in the same report to cabinet, proposals have been brought forward for doorstep recycling and we are eagerly awaiting the outcome of further investigations in this area. These

reports and the decisions of cabinet again underline our commitment to the waste recycling agenda.

A copy of the cabinet report, which provides far more detail will be made available after this meeting.

Mr. Surgenor asked a supplementary question requesting information with regard to the percentage of materials collected from the pilot garden waste collection scheme went for land fill or composting”.

The Leader of the Council outlined his understanding of the position and indicated that he would reply fully to the supplementary question in writing.

141 Her Majesty Queen Elizabeth The Queen Mother

The Mayor, in referring to the recent death of Her Majesty Queen Elizabeth The Queen Mother, emphasised the impact she had had on many people throughout the United Kingdom and the world.

The Mayor invited the Council to stand and observe a minute silence as a mark of respect.

142 Charter Mark Awards

(a) Engineering and Transportation Services

Councillor Mrs. Fletcher, Deputy (Land Use and Transport), in presenting the Mayor with the Charter Mark Award won by the Engineering and Transportation Services Division reminded the Council that the Division impacted on so many aspects of Cheltenham.

The receipt of the Award was recognition of the excellent service given to residents of Cheltenham by the Division.

(b) Private Sector Housing Division

Councillor Mrs. Driver, Deputy, (Social), presented the Mayor with the Charter Mark Award obtained by the Private Sector Housing Division. This had been awarded in recognition of the excellent service delivery from this important area of the Council’s activities. The Award reflects particularly well on the Council and showed that its drive to provide excellent customer service was paying dividends. The Deputy gave special credit to all staff in the Division and partner organisations that had worked with the Council in this area to achieve the award.

(c) Tourism

Councillor Thompson, Deputy, (Cultural and Economic), presented the Charter Mark Award obtained by the Tourism Division of the Leisure Directorate. It was commendable that the Tourism Division had been successful in its bid for Charter Mark, particularly as assessment had taken place in the period of the outbreak of foot and mouth.

The Award emphasised the excellent service given to visitors and tourism industry alike. The Council acknowledged the importance of tourism to the town and its contribution to the town’s economy.

(d) Development Services

Councillor Mrs. Fletcher, Deputy (Land Use and Transport), in presenting the Charter Mark Award obtained by the Development Services Division, indicated that she had been proud to attend the Award Ceremony on 26th February, 2002, and to be the recipient of two awards. Again she wished to thank and offer sincere congratulations to all staff who had been involved in securing receipt of the award which showed a commitment to the public to deliver first class services.

The Mayor, in accepting the four Charter Marks on behalf of the Council, placed on record the Council's appreciation to all staff of the level of commitment and support given in delivering Council services.

143 Borough Elections

The Mayor informed the Council that the following Councillors would not be seeking re-election at the Borough Elections on 2nd May, 2002.

Alexis Cassin	23 years
Brian Cassin	20 years
Dave Banyard	15 years
Jeremy Whales	15 years
John Todman	14 years
Daphne Pennell	12 years
Les Freeman	12 years
Carol Hawkins	11 years
David Lawrence	9 years
Susan McArdle	4 years
Heather McLain	4 years
Barry Curl	3 years

The Mayor placed on record the appreciation of Council for the length of service given which totalled 144 years.

The Mayor outlined the various attributes that each of these Councillors had brought to the Council Chamber. In particular he referred to the 23 years service of Councillor Mrs. Alexis Cassin in which time she had been Deputy Mayor and long-time Liberal Democrat Group Leader. Particular reference was also made to Councillor John Todman who had been leader of the Conservative Group for many years and latterly, Leader of the Council.

Councillor Smith placed on record his appreciation of members of his group that were standing down, particularly Councillor John Todman who had been an outstanding Councillor and Leader of the Group and Council. Mention was also made of Councillor Les Freeman and his work with the elderly.

Councillor Smith also wished to place on record his appreciation of Councillor Mrs. Alexis Cassin, particularly in her role as Leader of the Liberal Democrat Group for the service and fine example that she had set to all councillors in the Chamber.

Councillor Prince, on behalf of the PAB Group, wished all those who were leaving the Chamber well for the future and spoke with particular regard for Councillors Jeremy Whales, Dave Banyard and John Todman.

Councillor Hale, on behalf of the Labour Group, supported all that had been said but wished to place particular importance on the work that Councillor Brian Cassin had undertaken with regard to the introduction of the new system of administration.

Councillor McKinlay, on behalf of the Liberal Democrat Group, thanked all the retiring councillors for the work they had put in for the benefit of the town. At this time it was important to recognise that despite individual politics, all Councillors worked together to achieve benefits for the town.

Councillor Banyard took the opportunity of his retirement to place on record his appreciation to the work of Cliff Ride, Paul Fry and Tony Morgan who would be shortly leaving the Council to all those officers who had assisted him. He also expressed best wishes toward the new Managing Director as the Council moved forward into a new era.

The Mayor thanked all those who had contributed to this item and also extended best wishes to all Councillors who were seeking re-election on 2nd May, 2002.

144 Communications by Leader of the Council

Appointment of Group Director for Environment

The Leader of the Council informed Council that he was delighted to announce that Marie Fallon had been appointed as Group Director Environment. Marie was currently Assistant Director with the responsibility for regeneration and employment at Birmingham City Council. She had begun her career in local government as a town planner and had been with a number of local authorities before joining Birmingham City Council in 1998. Marie would be joining the authority as soon as possible depending on her existing commitments in Birmingham. Her role as Group Director for Environment would include responsibility for: A strategic whole town approach to urban designed land use transportation and community environment - both built and green; delivering responsive services such as cleaning, refuse, development services and parks and landscapes; identifying private and public investment to strengthen the local economy; and to ensure the Local Plan is developed and promoted.

145 Presentation - County Council's Cabinet Programme

The Leader of the Council had extended an invitation to representatives of the County Council to address this Council as a part of the process of improving the way the authority work together. The invitation had been accepted by Councillors Peter Clark (Leader of the County Council) and Liz Boait (Leader of the Liberal Democrat Group) together with Joyce Redfern, the Chief Executive of Gloucestershire County Council.

Councillor Peter Clark explained that the Labour and Liberal Democrat Groups on the County Council had formed an administration with an agreed manifesto through to 2005.

Councillor Liz Boait indicated that like other authorities the County Council was required to undertake significant changes in the way it operated to achieve the Government Modernising Agenda. The advent of external inspections was also a major factor in change.

Although the County Council was performing well in some areas, recent external inspection had shown there was a need to improve in others.

The County Cabinet consisted of ten members and it was recognised that increased involvement with partnerships with the borough and district councils was essential. The Cabinet was also looking at setting a medium-term finance strategy and an associated capital strategy for a four to five year period.

As part of the presentation, Council was informed of aspects of the County Council's strategic review for 2002-2005.

Councillor Peter Clark indicated that the County Council, as with many other authorities did not receive sufficient funding, it was however necessary to endeavour to meet targets by shifting appropriate resources by specifically re-scheduling resources.

It was recognised that achievement of some targets could not be achieved without partnership arrangements, and it was a desire of the County Council to work with partners to explore innovative ways to deliver services. As a development of the partnership role a County Cabinet Member had been appointed to the local district Council's strategic partnership.

Reference was made to working together by the production of the "Working Together" document for best value.

At the conclusion of the presentation, an opportunity was given for questions.

Councillor Mrs. Driver expressed concern that the County's contribution to Crime and Disorder Partnership in Cheltenham had been agreed as £3,300 with no negotiations or discussions. If the County and Borough Council were supposedly working together, why no discussion?

In response the County Council representatives indicated that the County Council's budget for Crime and Disorder Partnership was £1.2m on community safety issues. This reflected not only cash support but significant levels of staff support.

The County Council however acknowledged the Borough Council's concerns and indicated it was looking to get the approach right in the budget debate which had already started for 2003/04.

Councillor Thompson raised questions with regard to Northlands, distribution of Police and the 12 hectare shortfall of employment land arising out of the second review of the Structure Plan.

In responding to these queries, the County Council representatives indicated that the issue of Northlands had been taken on the advice of Working Party formed in 1997 and on officer advice to transfer resources from property into providing direct resources for the youth service.

In acknowledging the question with regard to employment land, the stance taken by the Borough Council with regard to Green Belt was supported although some concern with the approach being made to the employment land issue was expressed. With regard to the distribution of policing, it was

recognised there was a need to work effectively and it may be that an Area Forum with Borough Councillors and County Councillors could meet to discuss these issues in more detail.

Councillor P. McLain raised issues with regard to the Pupil Referral Centre at Rowanfield and asked if other sites were being looked at. The County Council representative indicated that arrangements had to be made for a referral centre although the location was difficult to find.

Councillor McLain also indicated that Cheltenham Borough Council was under-funded by the County Council in terms of the Highway Agency. Again the County Council representative indicated that within the County there was a backlog of highway work totalling £130m. The County Council was however aware of the funding issue referred to.

In response to a question, it was indicated that written questions could be sent either directly to County Council members or directed through Cheltenham County Councillors.

146 Constitution

The Managing Director and Head of Legal Services and Monitoring Officer submitted a report that reviewed the Council's Executive arrangements that had now been operating for six months. The report contained recommendations to address concerns and also took the opportunity to bring forward changes to the Constitution required by recent regulations made by the Secretary of State.

The report was divided into five sections:

- Consultation
- The suggested approach
- Implications of the suggested proposals
- Statutory changes
- Miscellaneous suggested amendments to the Constitution.

The Council was reminded that the Cabinet and Overview and Scrutiny Committees had participated in "SWOT" exercises to review the effectiveness of the new arrangements. These had identified a range of issues requiring attention. The summary of the SWOT process was outlined in the report.

A questionnaire had also been sent to members inviting them to comment, amongst other things, on the new Executive arrangements. Although only four replies had been received at the time of writing the report, the responses echoed the comments made during the SWOT exercises specifically

- that non-Cabinet Members felt excluded from the decision-making process;
- the operation of Overview and Scrutiny Committees;
- the concentration of power in the hands of Cabinet Members.

The Council was reminded that Article 1 of the Constitution committed the Council to provide leadership to the community in accordance with the key requirements of the Local Government Act, 2000. One of the key elements of the legislation was to develop, facilitate and promote a process of democratic

renewal and engagement. Members of Cabinet and Overview and Scrutiny Committees had expressed concern about the impact of the new Constitutional arrangements as currently implemented.

Consideration had therefore been given to how the current Constitution arrangements could be improved to reflect members' aspirations and the Managing Director had outlined proposed improvements to a meeting of the Leader, the Chairman and Vice Chairman of the Overview and Scrutiny Committees and representatives of three of the four political groups. These members had fully supported the Managing Director's proposals.

The improvements proposed to the current arrangements were as follows:

- To agree an annual Council work programme;
- To revise the current Cabinet Overview and Scrutiny Committee arrangements to mirror the thematic operational structure and to re-distribute workloads;
- Replace Area Committees with five Community Forum with specific responsibility for taking forward the community planning process;
- Produce a member training development plan and create a training budget dedicated to providing members with the support they require;
- Produce a plain English summary of the Council's revised Constitution to be included in the year book and diary to assist members' understandings of the Council's processes;
- Establish a permanent democratic support unit.

Council was reminded that the Local Government Act, 2000, required local authorities operating under executive arrangements to appoint at least one Overview and Scrutiny Committee and that the powers of that Committee were set out in the Act.

As the operation of the Overview and Scrutiny Committees had been the subject of the greatest criticism of the consultation exercise, the Managing Director proposed to redefine the role of the Committees within the statutory and constitutional position by focusing activity on policy development and service improvement, this would not affect the scrutiny role of the Committee. This would be done by Overview and Scrutiny Committees taking responsibility for:-

- Delivery of the Best Value Review process;
- Direct involvement with the budget review process;
- Policy development role;
- External scrutiny of stakeholders against the aspirations of the "Our Town, Our Future".

Cabinet members should also attend at least part of the relevant Overview and Scrutiny Committees to facilitate joint working and Chairmen of Overview and Scrutiny Committees should be able to submit and present reports from their Committees directly to the Cabinet.

It was suggested that Area Committees had been only partially successful, particularly with regard to engaging the community. It was therefore suggested that five Community Forums should replace the Area Committees to undertake the following.

- Assist in the development of neighbourhood improvement plans;
- Review environmental management strategies in the area and consider proposals for improving the built environment;
- Either identify steps to improve social inclusion or facilitate the Council's approach to improvements in health and wellbeing.

The Community Forums would also have a role in explaining the community planning process to members of the community and encouraging active participation. Appropriate facilitation training would be given to the Chairman and members of the Forums.

A new Democratic Services Unit would be established as part of the Council officer restructuring to support the Cabinet, the three Overview and Scrutiny Committee and Scrutiny Committees and five Consultative Forums. The Lead Officer role for Cabinet would be provided by the Managing Director and the Group Directors would assume responsibility for the relevant Overview and Scrutiny Committee. The proposed Community Forums would each be supported by one of the new Directors.

It was proposed to establish a permanent, politically balanced Standing Committee to provide long-term advice and support on key staffing issues to be known as the Staff and Support Services Committee. A politically balanced investment panel drawn from members of the Cabinet and the new Economy and Business Improvement Overview and Scrutiny Committee to review the Council's debt management and investment strategy was also proposed. The arrangements for Planning and Licensing Committees would remain.

The report set out the changes required to the Constitution flowing from the Managing Director's proposals, including draft Terms of Reference for the proposed Staff and Support Services.

In addition to statutory changes minor amendments to the following areas are proposed.

- Items placed on Agendas by non Overview and Scrutiny Committee members;
- Items placed on Agendas for Cabinet by non Cabinet members;
- Petitions;
- The Cabinet;
- Authority to the Monitoring Officer to make necessary amendments to the Constitution in consultation with the Managing Director and the appropriate Deputy with regard to changes in posts and also with regard to miscellaneous corrections.

In considering the proposals, members generally accepted the recommendations with the exception of those relating to Area Committees. The general view was that the Area Committees were becoming accepted and that to change their focus at this stage was too soon. Area Committees

enabled local people to connect with the Council and issues important to a particular area could be discussed.

The proposals with regard to Overview and Scrutiny were accepted although it was suggested that Overview and Scrutiny Committees should have the ability to summon appropriate Deputies to attend meetings.

The new role of non-Cabinet members had been a source of frustration to some. The new system should however enable non-Cabinet Members to fulfil the vital role of representing their constituents as there should be more time to deal with case work and to consult within the community.

The view was expressed that the previous committee system had evolved over a considerable period of time. It was therefore natural that, in changing the system radically as had happened in October 2001, the system would require to be reviewed and amended and allowed to develop.

The view was however expressed that although the concerns regarding Area Committees were recognised, the Council had to take forward issues with wide ranging effect upon communities through the community plan. There needed to be a mechanism to involve the public in these issues.

The Managing Director emphasised that the changes and proposals in her report attempted to address the concerns arising from the consultation and SWOT analysis which had taken place. If Council was minded to retain Area Committees, issues such as the community planning and neighbourhood improvement plans would need to be a key part of the agenda.

Councillor Smith indicated there was a need to implement most of the changes and recommendations set out in the report. At least one third of the Council would be new members after the election. It was important that they should have a framework within which they were able to contribute to the work of the Council.

Councillor Smith therefore proposed:-

“That the proposals for changes to Area Committees be noted but held in abeyance and that a report from the Board of Directors is taken to each of the Area Committees at its next meeting identifying how each Area Committee may take forward the community planning process; to allow them to establish a framework for engaging with the community in that process and to recommend to Council for April 2003 any constitutional changes that are needed.”

The amendment was seconded by Councillor P.McLain.

Upon a vote being taken the amendment was CARRIED.

Voting for	20
Against	9
Abstention	1

Resolved, (1) that the consultation exercises which had been undertaken be noted;

- (2) That the proposals for changes to Area Committees be noted but held in abeyance and that a report from the Board of Directors is taken to each of the Area Committees at its next meeting identifying how each Area Committee may take forward the community planning process; to allow them to establish a framework for engaging with the community in that process and to recommend to Council for April 2003 any constitution changes that are needed.
- (3) that the changes in working arrangements except those relating to area committees, as set out in Appendix 1 be approved and adopted;
- (4) that the establishment of a Staff and Support Services Committee with terms of reference as set out in Appendix 2 be approved;
- (5) that the officer employment procedure rules, as set out in Appendix 3 be approved and replace the existing rules;
- (6) that the statutory changes relating to the adoption of the Code of Members' Conduct and notice of meeting be noted and the Constitution changed accordingly;
- (7) that the miscellaneous amendments to the Constitution as set out in Appendix 4 be approved.

147 Biennial Elections

The Head of Legal Services as the Returning Officer presented a report regarding the future organisation of borough elections for Cheltenham.

Council was reminded that when the former Local Government Commission had considered the new ward proposals for the borough, Council had argued strenuously for biennial elections to match the new two member ward arrangements. The subsequent Electoral Changes Order however made by the Secretary of State provided for elections by thirds.

The Council had continue to press for biennial elections and a letter had now been received from the Department for Transport, Local Government and the Regions indicating that the Secretary of State was minded to amend existing legislation so that:

- The borough election due in 2003 would be postponed until 2004 (Councillors returned on 2nd May 2002 who would have retired in 2003 would sit for two years);
- The election due in 2004 would be for the whole of the Council;

- In 2006 half of the Councillors (those elected with the lower number of votes in the 2004 election) would retire and elections would be held to elect new Councillors for a four year term. The remaining half of the Councillors elected in 2004 would sit for the usual four years until 2008;
- Parish Council elections due in 2003 would be postponed until 2004 with the existing Parish Councillors' terms of office being extended. Comments were now invited on these proposals.

Subsequent to the letter, the Head of Legal Services had been informed that it may not be possible to postpone the parish election from 2003 to 2004. The indication was however that it may be possible for the new arrangements to start immediately so that one half of the Councillors elected in 2002 would retire in 2004 and the remainder would serve a full four year term.

Resolved, that the Secretary of State's intention to introduce biennial elections be welcomed but that he be asked to the start of the new arrangements immediately so that one half of the councillors elected in 2002 retire in 2004 and the remainder serve a full four year term.

Voting UNANIMOUS.

149 Reports from Council Committees (a) Planning, 28th March, 2002

The Chairman of Planning Committee presented the report of the Committee held on 28th March, 2002 with regard to an enhanced level of Officer delegation in respect of planning applications.

The Planning Committee had resolved to recommend

- (1) that the replacement scheme of delegation as outlined in Appendix () be approved for a trial period of six months with effect from 1st May, 2002;
- (2) that the Council's Constitution be amended accordingly;
- (3) that monitoring of retrospective planning applications be undertaken for the first three months of the trial period.

Resolved, that the recommendation of the Planning Committee be adopted.

Voting for	24
Against	1
Abstentions	2

(b) Standards Committee 5th April, 2002 Minute 132 - Code of Members' Conduct

Councillor Mrs. Cassin, on behalf of the Chairman of the Standards Committee, presented the report of the meeting held on 5th April, 2002.

The Committee had recommended the Council adopt the Cheltenham Borough Council Code of Members' Conduct.

Resolved, that Cheltenham Borough Council Code of Members' Conduct be approved and adopted.

Minute 135 - Members' Rules

The adoption of Cheltenham Borough Council Code of Members' Conduct would have the effect of largely displacing the current Standing Orders relating to members. The Standards Committee recommended to Council that Part 3 of the Standing Orders relating to members be replaced by the new members' rules as set out in the Appendix.

Resolved, that the Members' Rules be approved and adopted.

(c) Boundary Review Working Group 12th April, 2002

The Chairman presented the report of the Boundary Review Working Group that had received representation from the five parish councils relating to adjustments of their parish boundaries. The Chairman explained that the report had been referred to Council as for various circumstances only members from one party had been able to attend the meeting.

Council was informed that the recommendations if adopted would form the basis of a further round of consultation before the proposals were referred to the Secretary of State. The consultation would be undertaken through the Clarion inviting views from the public by the end of June.

The Boundary Review Working Group had resolved to recommend:

- 1, That the Swindon Parish Council proposals be adopted as the Council's draft recommendation for public consultation pursuant to Section 10.13 of the Local Government and Rating Act, 1977 (See Map A);
2. That the Prestbury Parish Council proposal be adopted as a draft scheme for consultation under Section 10.3 of the Local Government and Rating Act 1997 (see Map B);
3. That the Up Hatherley proposal, as amended, be adopted as a draft scheme for consultation under 10.3 of the Local Government and Rating Act, 1997 (see Map C);
4. That the Leckhampton Parish proposal be adopted for consultation under 10.3 of the Local Government and Rating Act, 1997 (see Map D);
5. That the Charlton Kings proposals be not accepted but that the area bounded by Moorend Road and Cirencester Road to the railway line be included within Charlton Kings Parish Council and be included within the draft scheme for consultation under 10.3 of the Local Government and Rating Act 1997 (see Map E).

Resolved, that the recommendations of the Boundary Review Working Group be approved.

150 Notices of Motion

No notices of motion had been received.

151 Common Seal

To order that the Common Seal be affixed to all Contracts, Conveyances and other documents necessary for carrying into effect all resolutions passed this day by the Council.

152 To receive any Memorials (Petitions)

- (a) Councillor Smith presented two petitions from residents of Maida Vale re operations of business on the trading estate. These related to a planning application re Cotswold Linen Care.
- (b) A petition was presented to Council with regard to the pupil referral unit. Receipt of the petition was noted.

**153 Any Other Business the Mayor determined to be urgent and which required a decision
Honorary Freeman**

The Mayor reported receipt of a nomination to confer Mr. Paul Baker and Mr. Steve Cottrell of Cheltenham Town Football Club the title Honorary Freeman.

The Mayor informed Council that the nomination had been received too late for consideration for Mayor Making 2002. He had however asked the Managing Director to bring forward a report to Council during the new municipal year.

Resolved, that the position be noted and the action by the Mayor supported.

**COUNCILLOR C. LLOYD
Mayor**

3. THE SUGGESTED APPROACH

3.1 The Managing Director's proposals identified the following improvements to the current arrangements:-

- To agree an annual Council work programme that has "member buy in" and support.
- To revise the current Cabinet and overview and scrutiny committee arrangements to mirror the new thematic operational structure and redistribute workloads.
- Replace the Area Committees with five community forums that have specific responsibility for taking forward the community planning process and engaging the community.
- Produce a member training development plan and create a training budget dedicated to providing members with the support they require.
- Produce a plain English summary of the Council's revised Constitution for inclusion in the year book and diary to assist members' understanding of the council's processes.
- Establish a permanent democratic support unit.

3.2 **Away Days**

Each new municipal year could commence with an "away day" for the Cabinet, chairmen of overview and scrutiny committees, the chairmen of the Council's community forums, group leaders and the Board of Directors, to identify key issues for the forthcoming year. This event will enable a Council work plan for the year to be drawn up for consideration by the Council. This work plan would drive the future work plans of Cabinet, the overview and scrutiny committees and proposed community forums.

At the same "away day", key tasks within the plan would be assigned to the Cabinet, overview and scrutiny committees and community forums to take forward on the Council's behalf.

3.3 These "away days" are considered a vital component of the council's future approach to the new executive arrangements required by government. They should ensure that the work programmes of the Cabinet and the overview and scrutiny committees are complementary and co-ordinated and directly focused on the mutually agreed "big" issues facing the town. Hopefully, such an approach will significantly improve not only the effectiveness of the new constitutional arrangements but also the level of involvement of non-Cabinet members in major policy areas and the linkages between the Cabinet and the other members of the Council.

3.4 **Overview and Scrutiny Committee**

The Local Government Act 2000 requires all local authorities operating under executive arrangements to appoint one or more overview and scrutiny committees. Authorities are required to ensure that such committees have the power:

- “(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,*
- (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,*
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,*
- (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,*
- (e) to make reports or recommendations to the authority or the executive on matters which affect the authority’s area or the inhabitants of that area”.*

and the power under (a) above to review and scrutinise a decision made but not implemented includes power

- “(a) to recommend that the decision be reconsidered by the person who made it, or*
- (b) to arrange for its function under subsection (2) (a), so far as it relates to the decision, to be exercised by the authority.”*

If, and to the extent that, a local authority’s function of conducting best value reviews is not the responsibility of an executive of the local authority, the authority may arrange for its overview and scrutiny committees to conduct such reviews.

An overview and scrutiny committee may not discharge any functions other than these set out in the Local Government Act 2000.

- 3.5 The current arrangements under which the three overview and scrutiny committees operate have been the subject of the greatest criticism during the consultation exercise.

The Managing Director’s proposals seek to respond to those criticisms by redefining the role of the committees within their existing statutory and constitutional position by focusing their activities in the future on policy development and service improvement.

The essential scrutiny role of the committees is not affected by this more inclusive role.

- 3.6 The major change in the way the committees operate is the intention to integrate the overall work programmes of the Cabinet and the overview and scrutiny committees based on the key issues identified at the “away days”.

The effect of the approach would be that the committees would be formally commissioned by the Cabinet to contribute to their work.

3.7 **The Best Value Process**

For example, the overview and scrutiny committees could assume responsibility for delivery of the best value review process as permitted by the Local Government Act 2000. Cabinet would still need to identify topics for review and be responsible for approving the draft action plans. By contract, overview and scrutiny committees would be responsible for taking forward the challenge, compare and compete components of the best value process and drafting recommendations to Cabinet for inclusion in the action plan. Cabinet would then use the work of the overview and scrutiny committee to produce the best value action plan for submission to the Audit Commission on the Council’s behalf.

3.8 **The Budget Review Process**

Overview and scrutiny committees could also be directly involved in the budget review process. Members of the overview and scrutiny committees would be responsible for reviewing group business plans and draft budget proposals for each group and service division during the budget development process in order to support the Cabinet’s budget development process. By contrast, the Cabinet would retain responsibility for approving the final budget for submission to Council.

3.9 **Policy Development**

Overview and scrutiny committees should also take on an important policy development role.

Key policies requiring review and improvement would be identified during the annual “away day”. Cabinet would then commission the relevant overview and scrutiny committee to initiate a “policy review” process within a defined brief. The committee would be responsible for identifying the effectiveness of current policies, the scope of any improvements required and formulating proposals for improving current policies including budgetary implications for consideration by the Cabinet. The Cabinet would then have responsibility for considering, amending or approving any policy changes affecting executive functions.

This approach would ensure that all members are able to be directly involved in developing policy.

3.10 **External Scrutiny**

Overview and scrutiny committees could also be given the responsibility for reviewing the activities of external stakeholders and the extent to which they were contributing to the Council’s corporate plan and the council’s aspirations as set out in “Our town, our future”.

The procedures and methods of overview and scrutiny lend themselves well to this important role. The three overview and scrutiny committees would work to a joint work plan, previously agreed with the Cabinet and prioritise issues identified during the Community Planning process.

3.11 **Cabinet/Overview and Scrutiny Committees**

It is suggested also that Cabinet members should regularly attend at least part of relevant overview and scrutiny committees, without the need to be invited or “summoned”. The purpose of these sessions would be to facilitate joint working, and:

- to provide an opportunity for informal question and answering in relation to the Cabinet’s work programme by members of the committee.
- to enable cabinet members to initiate the commissioning process in relation to particular pieces of work and receive feedback from the committee on progress to date, for example, on agreed best value reviews.

3.12 The chairmen of overview and scrutiny committees should be able to submit and present reports flowing from their committees directly to the cabinet.

3.13 **Area Committees**

Area Committees have been only partially successful and questions have been asked about how well they have succeeded in engaging the community.

3.14 It is therefore suggested that they should be replaced by five community forums whose prime role would be to take forward the community planning process on council’s behalf.

The community forums would address key issues of importance to the community in their area. They could, for example,

- assist in the future development of neighbourhood improvement plans
- review the effectiveness of environmental management strategies in the area
- consider proposals for improving the built environment, such as the civic pride initiative
- identify steps to improve social inclusion, or,
- facilitate the Council’s approach to improvements in health and well being

Community forums would also play a key roles in explaining the community planning process to members of the community and encourage their active participation. For example, members of each community forum would be expected to meet with resident groups, visit local schools and organisations and generally encourage participation in the community planning process.

The chairmen and members of the five forums would receive facilitation training as the purpose of these meetings would be consultative rather than decision taking. Nevertheless each community forum would have the ability to ask the Cabinet to review or initiate policy improvements identified by their communities. Forums would be accountable to the areas they serve as well

as the Council as a whole, and members of overview and scrutiny committees would play an important role in ensuring this in this case.

3.15 **Democratic Support**

The Cabinet, the three overview and scrutiny committees and the five consultative forums would be supported by a new democratic services unit to be established as part of the council officer re-structuring.

The Managing Director would continue to support the Cabinet whilst the three Group Directors would each assume responsibility for their relevant overview and scrutiny committee.

The community forums would each be supported by one of the new Assistant Directors proposed in a report elsewhere on the agenda.

3.16 **Additional Proposals**

Additional proposals made by the Board of Directors are:-

- The current Structural Review Committee, which was established as a temporary committee, should become a permanent politically balanced standing committee for staff and support services activity to provide the Board with long term advice and support on key staffing issues.
- A politically balanced investment panel should be established comprising members of the Cabinet and representatives of a new economy and business improvement overview and scrutiny committee to review the effectiveness of the Council's debt management and investment strategy

3.17 The current arrangements for planning and licensing committee would continue unamended.

STAFF AND SUPPORT SERVICES COMMITTEE

1. MEMBERSHIP

A proportional committee of the Council including the leaders of all of the political groups represented on the Council (or their deputies).

Notes:

1. The Functions and Responsibilities Regulations provide that:

“the power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for dismissal)”

shall not be exercised by the executive.

2. This provision does not prohibit the Council appointing a member or members of the Cabinet to the proposed Committee, but clearly they would then be acting on behalf of the Council.

Terms of Reference

- 1.1 To be the committee responsible under the Officer Employment Procedure Rules for making recommendations to the Council as to the appointment of the Head of Paid Service.
- 1.2 To be the committee under the Officer Employment Procedure Rules for making appointments of Directors or Deputy Chief Officers or from which, as appropriate, a sub-committee is drawn to make such appointments.
- 1.3 To be the committee responsible for determining matters relating to the early retirement of the Head of Paid Service or a Director as required by the Officer Employment Procedure Rules.
- 1.4 To support the Head of Paid Service and Directors in the exercise of their delegated powers relating to staffing matters.
- 1.5 To appoint from amongst its membership any necessary appeals panels to determine grading or disciplinary appeals as may be provided from time to time by the Council's rules.
- 1.6 To develop and determine the personnel policies of the Council including those relating to equal opportunities.
- 1.7 To nominate members of the Committee to represent the Council on all joint staff and staff consultative committees.

OFFICER EMPLOYMENT PROCEDURE RULES

1. DEFINITIONS

In these Officer Employment Procedure Rules:

“Appointor” means, in relation to the appointment of an officer, the Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer.

“Chief Finance Officer” means the officer having responsibility for the purposes of Section 151 of the Local Government Act 1972.

“Designated Independent Person” means the person appointed to investigate and report on an allegation of misconduct by:

- the Head of Paid Service
- the Monitoring Officer
- the Chief Finance Officer

in accordance with these Rules.

“Deputy Chief Officer” means an officer defined as such by Section 2(8) of the Local Government and Housing Act 1989.

“Disciplinary action” means in relation to a member of the Council’s staff any action occasioned by alleged misconduct which, if proved, would according to the Council’s usual practice be recorded on the member of staff’s personal file and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

“Dismissor” means, in relation to the dismissal of an officer, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer.

“Head of Paid Service” means the officer designated under Section 4(1) of the Local Government and Housing Act 1989.

“Monitoring Officer” means the officer designated under Section 5(1) of the Local Government and Housing Act 1989.

2. RECRUITMENT AND APPOINTMENT GENERALLY

(a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the spouse, parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant director or an officer nominated by him.

(b) Seeking support for appointment

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

3. RECRUITMENT OF HEAD OF PAID SERVICE AND DIRECTORS

Where the Council proposes to appoint the Head of Paid Service or a director and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed
- (b) make arrangements for the post to be advertised in such a way as is likely to bring to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

4. APPOINTMENT OF HEAD OF PAID SERVICE

- (a) The Council will approve the appointment of the Head of Paid Service having received the recommendation of a committee or sub-committee of the Council. That committee or sub-committee must include the Leader of the Council.
- (b) An offer of appointment as Head of Paid Service shall not be made by the Appointor until:
 - (i) the proposed appointment has been approved by the Council; and
 - (ii) the Appointor has notified the Proper Officer of the name of the person to whom the Appointor wishes to make the offer and of any other particulars which the Appointor considers are relevant to the appointment; and
 - (iii) the Proper Officer has notified every member of the Cabinet of:
 - the name of the person to whom the Appointor wishes to make the offer
 - any other particulars relevant to the appointment which the Appointor has notified to the Proper Officer; and
 - the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
- (c) Either:
 - (i) the Leader has, within the specified period, notified the Appointor that neither he nor any other member of the Cabinet has any objection to the making of the offer;
 - (ii) the Proper Officer has notified the Appointor that no objection was received by him within the specified period from the Leader; or
 - (iii) the Appointor is satisfied that any objection received from the Leader within the specified period is not material or is not well-founded.

5. APPOINTMENT OF DIRECTORS AND DEPUTY CHIEF OFFICERS

- (a) A committee or sub-committee of the Council will appoint Directors and Deputy Chief Officers.

That committee or sub-committee must include at least one member of the Cabinet.
- (b) An offer of appointment as Director or Deputy Chief Officer shall not be made by the Appointor until:

- (i) the proposed appointment has been approved by the Council; and
 - (ii) the Appointor has notified the Proper Officer of the name of the person to whom the Appointor wishes to make the offer and of any other particulars which the Appointor considers are relevant to the appointment; and
 - (iii) the Proper Officer has notified every member of the Cabinet of:
 - the name of the person to whom the Appointor wishes to make the offer;
 - any other particulars relevant to the appointment which the Appointor has notified to the Proper Officer; and
 - the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
- (c) Either:
- (i) the Leader has, within the specified period, notified the Appointor that neither he nor any other member of the Cabinet has any objection to the making of the offer;
 - (ii) the Proper Officer has notified the Appointor that no objection was received by him within the specified period from the Leader;
 - (iii) the Appointor is satisfied that any objection received from the Leader within the specified period is not material or is not well-founded.

6. OTHER APPOINTMENTS

(a) Officers below Deputy Chief Officer level

Appointment of officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or her nominee and may not be made by councillors.

(b) Assistants to Political Groups

The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

7. DISCIPLINARY ACTION

(a) Suspension

The Head of Paid Service, Monitoring Officer, Chief Finance Officer and directors may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.

- (b) Councillors will not be involved in the disciplinary action against any officer other than the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Directors, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to members in respect of disciplinary action.

8. DISMISSAL

Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

9. EARLY RETIREMENT

In the case of the possible early retirement of the Head of Paid Service and/or a Director the Council will appoint a committee to determine the matter.

The Council will also deal with other early retirement situations in accordance with advice given, from time to time, by the Audit Commission.

Miscellaneous Amendments

- 1 A number of practical issues have been identified from the operation of the new Constitution arrangements during the past six months.

We set out our recommendations upon them below.

- 2 **Items placed on agendas by non-overview and scrutiny committee members**

Paragraph 8 of the Overview and Scrutiny Rules allows any member to put an item on the agenda of an overview and scrutiny committee.

The Rules do not say what happens at the actual meeting and we suggest that the Rules be amended by the addition of the following:

The member or co-optee who asked for the item to be included on the agenda shall be notified of the date and time of the meeting(s) at which it will be considered and given the opportunity to speak for no more than three minutes at the beginning of the committee's consideration of the item. He may, with the chairman's consent, speak again for no more than three minutes at the close of the committee's discussion of the item..

- 3 **Items placed on agendas of Cabinet by non-Cabinet members**

Paragraph 2.5 of the Cabinet Procedure Rules allows any member to request the Leader to put an item on the agenda of a Cabinet meeting.

The Rules requires the member to be given notice of the Cabinet meeting at which the item is to be considered and invited to attend. They do not, however, give him the opportunity to speak and we suggest that such members should be given the opportunity to speak for no more than three minutes at the beginning and, with the Leader's consent, the end of the Cabinets consideration of the item.

- 4 **Petitions**

Article 3.1(c) allows citizens to petition the Council about any matter which causes concern to them and affects the Borough.

It does not say how petitions can be presented to the Council nor what happens to them.

We suggest Article 3 be extended by adding the following:

Petitions may be presented to the Council or to the Cabinet

Any person registered as a local government elector for the Borough may in presenting a petition speak about it for no more than five minutes, provided he has delivered a written statement about the petition to the Proper Officer not later than three working days before the meeting and the petition relates to a policy matter and is signed by at least ten local government electors for the Borough. If the Proper Officer considers the petition does not fall within

the responsibilities of the Council, or deals solely with “confidential” or “exempt business” or is otherwise inappropriate, he will determine that the petition shall not be presented and notify the petitioner accordingly.

Where a petition is presented to the Council, the Mayor, and where a petition is presented to the Cabinet, the Leader shall determine how it should be considered and who should respond to the petitioner and his determination shall be recorded in the minutes of the meeting concerned

5 The Cabinet

Article 7 sets out the role and composition of the Cabinet.

It is suggested that provision should be made within this Article to make it clear that the Cabinet continues to have responsibility for executive functions until a new Cabinet is appointed by the Council.

6 Alterations due to changes in names et cetera

The Constitution refers to members and officers by their titles which will be changed from time to time as a result, for example, of the present officer structure review.

We suggest that the Monitoring Officer be given authority to make any necessary amendments to the Constitution to keep it up to date in consultation with the Managing Director and the appropriate Deputy without having to seek further Council or Cabinet approval.

7 Miscellaneous corrections et cetera

We also suggest that the Monitoring Officer be authorised again in consultation where appropriate with the Managing Director and the appropriate Deputy to correct any typographical or other inadvertent errors found in the Constitution.