

## **Cabinet**

**Tuesday, 26th October, 2010  
6.00 - 7.20 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Colin Hay (Cabinet Member Corporate Services), Steve Jordan (Leader of the Council), Andrew McKinlay (Cabinet Member Sport and Culture), John Rawson (Cabinet Member Built Environemnt), Klara Sudbury (Cabinet Member Housing and Safety), John Webster (Cabinet Member Finance and Community Development) and Roger Whyborn (Cabinet Member Sustainability)

## **Minutes**

**1. APOLOGIES**

None received

**2. DECLARATIONS OF INTEREST**

Councillor McKinlay declared a personal interest in Agenda item 9 as a member of the board of trustees responsible for fund raising for the Art Gallery and Museum development.

Councillor Sudbury declared a personal interest in Agenda item 6 as a committee member of LEGLAG (Leckhampton Green Land Action Group) as the fields LEGLAG are campaigning to save from development could be a potential source for allotment land.

Councillor C Hay declared a personal interest in Agenda item 6 as his wife was an allotment holder.

Councillor Webster declared a personal interest in Agenda item 13 as a customer of The Stable company.

**3. MINUTES OF THE LAST MEETING**

**Resolved that the minutes of the meeting of 21 September 2010 were approved as a correct record.**

**4. PUBLIC QUESTIONS AND PETITIONS**

None received.

**5. REVISED RIPA PROCEDURAL GUIDE**

The Cabinet Member Corporate Services introduced the report. The report explained that the policy and procedures for the council's use of the Regulatory Powers Act (RIPA) were considered by Cabinet in April 2010. They requested that Economy and Business Improvement Overview and Scrutiny Committee (EBI) be asked to look at the revised policy and procedure and to give their views on the document. There was a report on the use of the RIPA powers by the Office of Surveillance Commissioners in May and their recommendations were also taken into account.

EBI considered the revised guide on the 19 July 2010 and made a number of suggestions which were incorporated and subsequently reconsidered by them on 20 September 2010 and they recommended that the revised procedures be approved subject to the requirement for necessity and proportionality set out in paragraph 1.3 of the report.

A member commended the report and considered that the council was right to exercise constraint in the use of the new powers.

The Leader thanked the scrutiny committee for their input and welcomed their ongoing review of when the powers were used by the council.

#### **RESOLVED THAT:**

1. The RIPA procedural guide be approved.

#### **6. ALLOTMENT STRATEGY 5 YEAR REVIEW**

The Cabinet Member Sustainability introduced the report. He advised that the current allotment strategy "Food For Thought" 2005 – 2015 was approved by Cabinet in 2005. This report and the accompanying appendices set out the progress made over the last five years and set new actions for the remaining five years. An analysis of supply and demand had been undertaken in order to assist the council in identifying a reasonable level of provision to meet future need. The three key areas that needed to be addressed were the increasing demand from the public, the new legal responsibility for parishes to provide allotments in parished areas and a history of cheap provision of allotments. He highlighted the recent press coverage which had suggested that the council would be spending up to £500,000 on allotments. He emphasised that this money would only be spent if it was from ring-fenced allotments funds. For example if the Midwinter sale went ahead, the council would have a legal obligation to spend some of the proceeds on providing allotments. The council would be looking to move to a position where allotments were self financing in revenue terms within the context of the strategy.

The Cabinet Member Finance and Community Development welcomed the increase in allotment rents as a move towards them being self financing in the future. Referring to the recent press coverage he was concerned about the use of the word "quirk" when referring to allotments and he hoped that the Echo could correct this in their report of this meeting.

The Cabinet Member Built Environment hoped that the sale of Midwinter would go ahead at some point and it would then be appropriate to invest some of the money in allotments and bring unused pieces of land back into public use.

The Cabinet Member Sustainability was asked whether there were any limitations on the use of Section 106 monies for allotments and was he concerned about the capacity of the parish councils to meet their obligations regarding the provision of allotments in parished areas.

In response, he acknowledged that the use of Section 106 monies was a complex area of legislation and further investigations were underway. The Assistant Director Operations reassured members that officers had already engaged with the five parish councils in the borough and were working closely with them. The emphasis would be on partnership working to provide allotment provision across the town, working within the legal constraints on the use of finances.

Another member suggested that although environmental and sustainable issues and transition towns were referred to in the appendices, they were not given sufficient emphasis in the body of the report. The Cabinet Member Sustainability acknowledged the point but emphasised that transition towns was a key part of his remit which he was actively involved in.

The Leader commended the excellent work that had been done in providing more capacity for allotments in the town over the last few years.

#### **RESOLVED THAT:**

1. The progress made against the action plan (contained in Appendix 4 to this report) during the first five years be noted and commitment made to the revised action plan for the next five years.
2. The analysis and methodology contained in Appendix 3 to this report for the provision of new allotments to meet current and future demand be approved.
3. The principle of a revised charging structure for allotments (as set out in Appendix 2 to this report) be approved and the Assistant Director Operations (in consultation with the Cabinet Member Sustainability) be authorised to finalise the details of the new charging structure, in time to enable implementation for 1<sup>st</sup> January 2010.

#### **7. QUARTERLY BUDGET MONITORING REPORT**

The Cabinet Member for Finance and Community Development introduced the report which updated Members on the Council's current financial position for 2010/11 based on the monitoring exercise at the end of August 2010. The report covered the Council's revenue, capital, treasury management and the housing revenue account. The report identified any known significant variations (minimum £10,000) to the 2010/11 original budget and a position statement on major schemes.

The Cabinet Member highlighted the projected overspend in the order of £800,000. This was a legacy of the recession and was due to the increased cost of concessionary fares, a decrease in income from land charges and car parking and falling interest rates. The Cabinet had been working with the Senior Leadership Team to address this. A recruitment freeze was now in place and a rigorous approach had been adopted for future approval for any recruitment requests and officers had also been instructed to reduce their spend on supplies and services to essentials for the rest of the year. These measures were very important if there were not to be more cuts in services in 2011/12.

**RESOLVED THAT:**

1. The contents of this report including the key projected variances to the original 2010/11 budget identified at this stage and the potential projected overspend of £801,700 for the financial year 2010/11 be noted.
2. If, following the more detailed monitoring process currently being undertaken as part of the budget setting process for 2011/12, the potential overspend is confirmed, the Cabinet will take corrective action to ensure that the Council delivers services within the overall net budget for the year.

**8. BUDGET STRATEGY AND PROCESS**

The Cabinet Member for Finance and Community Development introduced the report which proposed a broad strategy and outlined a process for setting the budget, housing rents and council tax for 2011/12. It outlined a number of principles that need to be established at this stage to enable budget preparation to commence.

He advised that the figures in the report had been based on a cut in Government support of 25% over the period of the MTFS. This had been borne out by the announcement in the Comprehensive Spending Review (CSR) which set out a 26% reduction over four years. The CSR also confirmed financial support for councils to support the freeze in council tax over the next four years but he awaited the final details of the settlement. He indicated that he was not hopeful that the £1 million additional cost to the council of concessionary fares would be paid back.

Referring to the timetable, he announced that a provisional Cabinet meeting had been included for the 21 December 2010. The settlement figures from Government were expected in early December but this provisional date would be contingency if there was any delay.

**RESOLVED THAT:**

1. The budget setting timetable at Appendix 2 be approved subject to the inclusion of an additional, provisional Cabinet meeting on 21 December 2010.

2. The estimated funding gap for 2011/12 of £2.6m at Appendix 3, based upon a freeze in council tax increase be noted.
3. The budget strategy outlined in section 5 be approved.

**9. ART GALLERY AND MUSEUM DEVELOPMENT SCHEME**

The Cabinet Member Sport and Culture introduced the report which had been circulated separately from the agenda. The report set out the current financial position of the Art Gallery and Museum Development Scheme. The Art Gallery & Museum fundraising campaign had achieved funding commitments of £4,527,800 towards the Development Scheme total of £6.3m - leaving an outstanding shortfall of £1,772,200.

The report explained that the Art Gallery & Museum was working on a second-round bid to the Heritage Lottery Fund (HLF) for £750k; and further funding applications / approaches for £475k through the Development Trust. The aim was to reach a total of £5,750,000, for construction to start from spring 2011.

The submission of the second-round stage HLF bid was due by the end of November 2010 – and a decision on the outcome will be announced during March 2011. Recent changes with the Heritage Lottery has resulted in the need to ensure the fundraising campaign either secures or underwrites £5,550,000 of which council underwrites £1,022m, – before the second-round application can be submitted.

It is unlikely that the funding level required by HLF will be secured by November. Therefore, Cabinet was being asked to determine which of the options identified within the report it wished to pursue; in light of the changed position of HLF.

The Leader welcomed the members of the public who had attended the meeting for this item. He invited Graham Lockwood as chairman and Margaret Austin as a member of the fundraising Development Trust for the AG&M, to address the meeting.

Mr Lockwood emphasised the importance of the development scheme to the town. It would attract more visitors to the AG&M by providing improved facilities and would facilitate the development of that area of Cheltenham. The project had received support both locally and throughout the county. He explained that the role of the Development Trust was to access sources of funding which may not be accessible to the council. To date they had raised £2 million which was a major achievement. However he emphasised that this amount was made up of time-limited commitments of funding rather than the money itself. It was important to secure these existing commitments and to be in the best possible position to secure the balance from the HLF and this was why the underwriting by the Council was so important. A public commitment of support by the Cabinet would also provide greater opportunities for the trust to seek additional funding support from other trusts and individuals.

Ms Austin was also keen to stress the importance of retaining the existing commitments which once lost may never be regained. These commitments had been secured on the basis of the current scheme and there was a risk of losing

them if the scheme was changed at this point. She acknowledged that it is a difficult time for fundraising but advised that since the report had been written, the trust had secured another £100,000 of funding and raising additional funds would be easier once people could see the development happening. The AG&M would boost the economy of Cheltenham and would therefore be good for the town.

Mr Edward Gillespie was also invited to speak as the chairman of the Summerfield Trust. The trust had made a considerable pledge to the development and had worked very closely with council officers. The Summerfield Trust had made the decision on the basis that the new AG&M would make a big difference to the town.

Another member of the public reminded members of the experiences of Salford and Gateshead where the new art Gallery developments had a real uplifting effect on the community.

In response to a question from a member, the Museum, Arts and Tourism Manager, confirmed that if the HLF bid was successful it would be for the full amount of £750,000.

The Cabinet Member Sport and Culture commended the development trust for their support and enthusiasm and their achievements to date in fundraising for the scheme. Referring to the options listed in the report, he considered that with option 1, which would close the AG&M from 1 January 2011, there would be too high a risk that it might never be re-opened. He favoured option 2 which would delay the closure until 31st March 2011 when the outcome of the HLF decision would be known. If the trust was able to achieve the fundraising more quickly, than it may be possible to get the bulk of the funding in place in advance of the HLF announcement.

In response to a question from a member he acknowledged that there was a potential risk of losing some of the funding commitments if the Council went for option 2 rather than option 1, but on balance it was still the lowest risk option.

The Leader advised that he had received a letter of support from the Chamber of Commerce for option 1. He sympathised with their view but it was not possible to for the Council to commit to the underwriting of the funds prior to the budget setting process for 2011/12. In his view option 2 was favourable as options 3, 4 and 5 would all require the current scheme to be abandoned and to start again from scratch.

The Cabinet Member Built Environment felt the development was a golden opportunity to provide a significant community resource and information Centre and increased access to an important mediaeval part of the town in St Mary's churchyard. He was in support of proceeding carefully as close to the original brief as possible in order to secure the funding already committed.

The Cabinet Member Finance and Community Development supported option 2 but pointed out that the final decision on underwriting must lie with Council. He advised that the difficulties in proceeding with the development in the current financial climate should not be underestimated. He commended the funding commitments that had already been achieved but urged the fund raisers to seek

wider support from the population of Cheltenham. He pointed out that the summer public consultation on the budget had indicated both positive and negative support for the development.

Other members supported the development and commended everybody involved for their efforts to date in getting the development to this stage.

**RESOLVED THAT:**

1. Option 2 be pursued as the best option
2. The Cabinet supports the underwriting of any shortfall to the £5,550,000 up to a maximum of £922,000 and Cabinet recommend to Council that this is agreed as part of the budget process for 2011/12.

**10. INTERNAL AUDIT PARTNERSHIP EXPANSION**

The Cabinet Member Corporate Services introduced the report. In 2009 the council agreed to establish an audit partnership with Cotswold District Council which would deliver savings for both councils and more importantly a resilient audit service. He said that the audit partnership between Cheltenham and Cotswold had been working very well.

Work had been ongoing over the last few months to develop a business case for extending the partnership to West Oxfordshire District Council. The proposal was to initially work with an enhanced version of the Cheltenham & Cotswold Audit Partnership Memorandum of Understanding, with a view that over the next twelve months work would be ongoing to develop a full transfer framework which best meets the aims and objectives of the partnership, which would need to be approved by Council. Although the savings were relatively modest he still considered it was an excellent way to proceed and one which benefit the people of Cheltenham.

He advised that the Audit Committee had considered the proposal and their comments were included in the report.

**RESOLVED THAT:**

1. The inclusion of West Oxfordshire into the current Cotswold and Cheltenham Shared Internal Audit service be approved
2. Authority be delegated to the Assistant Chief Executive in consultation with the Leader and Chief Finance Officer, to revise the existing Memorandum of Understanding as approved by the Borough Solicitor to be effective from 1 November 2010.
3. Proposals for the development of a full transfer framework be brought back with a view that a s101 agency agreement is in place by November 2011.

**11. SINGLE ADVICE CONTRACT WAIVER**

The Cabinet Member Finance and Community Development introduced the report. The report advised that the Single Advice Contract; awarded following a tendering process in 2007, for a three year contract period for provision of advice services to Cheltenham residents; was due to cease in March 2011. If the council was to continue to procure these services based on current arrangements then the opportunity to explore the business case and potentially participate in a county commissioning process would be missed.

Under Rule 3.7 of the Council's Contract Rules, contracts with an aggregate value of over £50,000 must be subjected to a Tender Procedure, with a minimum of three written tenders being sought. However, waivers can be agreed in certain circumstances. Under Rule 9.1 i) of the Contract Rules a Waiver must be agreed by Cabinet for contracts over £50,000.

The Leader commented that it seemed a very sensible approach in the circumstances.

**RESOLVED THAT:**

1. For the reasons set out in this report, a Waiver under Rule 9.1 i) of the Contracts Rules in respect of the Single Advice Contract for a period of one year until March 2012 be agreed.
2. Authority be delegated the AD Community Services, in consultation with the Cabinet Member Finance and Community development, to enter into any necessary documentation as approved by the Borough Solicitor and Monitoring Officer.

**12. CABINET BRIEFINGS**

The Cabinet Member Corporate Services advised that four local authorities had now signed up to the GO programme which was excellent news. He also commended the work that had been done in revising the committee report procedures and the introduction of the Modern.Gov system which was due to be implemented on the website this week. This would provide enhanced facilities for the public, members and officers in accessing democratic information.

**13. CABINET MEMBERS DECISIONS**

The Leader announced a decision he had made regarding the allocation of the remaining community pride funds. Cabinet on 21 September 2010 approved a list of projects to be funded through the community pride fund and also delegated authority to the Leader of the Council to determine how best to allocate a remaining sum of £10,080 across five projects. His decision was as follows:

- The Stable Company - £1,500
- St. Margarets Hall Users Group - £3,396
- Leckhampton with Warden Hill Parish Council - £4,184
- Charlton Kings Parish Council - £1,000

Draft minutes to be approved at the next meeting on Tuesday, 16 November 2010.

In addition, following a review of community pride awards made in previous years, he announced that £17,000 of unclaimed funds would be returned to the general fund to support the council's budget position for 2010-11.

**Chairman**