

## Council

**Monday, 12th December, 2011**  
**2.30 - 4.30 pm**

<b>Attendees</b>	
<b>Councillors:</b>	Barbara Driver (Chair), Anne Regan, Garth Barnes, Ian Bickerton, Nigel Britter, Chris Coleman, Tim Cooper, Bernard Fisher, Jacky Fletcher, Wendy Flynn, Penny Hall, Colin Hay (Vice-Chair), Rowena Hay, Diane Hibbert, Sandra Holliday, Peter Jeffries, Steve Jordan, Robin MacDonald, Paul Massey, Helena McCloskey, Heather McLain, Paul McLain, John Rawson, Diggory Seacome, Duncan Smith, Malcolm Stennett, Charles Stewart, Klara Sudbury, Lloyd Surgenor, Jo Teakle, Pat Thornton, Jon Walklett, Andrew Wall, Paul Wheeldon, Simon Wheeler and Roger Whyborn

## Minutes

### 1. PRAYERS

Reverend Tim Mayfield opened the meeting with a prayer.

### 2. APOLOGIES

Councillor(s) Garnham, Mckinlay and Webster had given their apologies.

### 3. DECLARATIONS OF INTEREST

Councillor Barnes declared a personal interest in agenda item 15 as the chairman of the Trustees referred to in the report.

Councillor Hall declared a personal interest in agenda item 15 as a member of the Trustees referred to in the report.

Councillor Driver declared a personal interest in agenda item 15 as the Mayor was an ex-officio member of the Trustees referred to in the report and announced her intention to leave the chamber for agenda item 17.

Councillor Whyborn declared a personal interest in Agenda item 10 as a member of Hatherley Parish Council.

Councillor McCloskey declared a personal interest in Agenda item 10 as a member of Charlton Kings Parish Council.

Councillor Regan declared a personal and prejudicial interest in Agenda item 10 as a member of Leckhampton and Warden Hill Parish Council and would leave the chamber for this item.

### 4. TO APPROVE AND CONFIRM THE MINUTES OF THE MEETING HELD ON 10 NOVEMBER 2011

The draft minutes of the last meeting had been circulated with the agenda.

The Mayor reminded members that the purpose of the minutes of a meeting is to enable the reader to understand the context and reasons for the decision which was taken. Minutes are not a verbatim record of the content of the meeting but a summary of the proceedings which occurred. Consequently, speeches by members of the Council will not appear in full, but the main points will be summarised. The minutes must, of course, be accurate and therefore if there is any concern as to the accuracy, the appropriate amendment should be proposed and, if seconded, the Council will vote on whether or not to accept the amendment.

Councillor Bickerton advised that there were two important points he had raised during the debate on the consultation for the Joint Core Strategy which he did not feel were covered in the minutes. He referred to a printed sheet that had been circulated to members in which he proposed the following amendment.

"I request that the following text to be added to the 10<sup>th</sup> Nov. 2011 Council minutes, on page 13 following the paragraph beginning

"A number of Member voiced concerns....."

*A member said that in his view the Council needed to promote this public consultation, make it easy for the public to give comment and feedback in any form, email and simple website access and letters. He requested that a simple an e-petition website be provided on CBC Website, a short member agreed questionnaire and comment, to further promote public consultation in Cheltenham.*

*Given the size of the JCS tome issued to members last week, over 500 pages, not including the JCS evidence base, he considered it was fair to say that the public were going to find a consultation period of 8 weeks difficult. The complexity of the JCS with economic, social and environmental dimensions would be difficult to assimilate and analyse in this short period, members had the advantage of many member briefings. He requested officers to consider ways and means of extending the consultation period, keeping public engagement open to the summer of 2012 whilst maintaining the JCS Timetable.*

*He further added t hat the themes starting on page 84 demonstrate that development to the north and south of Cheltenham (C2 & C6) have little or no advantages, they do not feature in Theme 2 – Coalescence Avoidance or Theme 3 Existing Infrastructure and in Theme 1 the economic opportunities narrative fails to make a case under access to infrastructure or accessibility. Having looked at the JCS previous public consultation, development maps on page 165/166, he urged members to note the very few green dots on open countryside and the many RED marking inappropriate for development."*

In the absence of a seconder for this proposed amendment, it was dismissed.

Upon a vote it was

**RESOLVED that the minutes of the meeting held on the 10 November 2011 were agreed and signed as an accurate record.**

## 5. PUBLIC QUESTIONS

The following response was given to the public question received. The questioner was not present at the meeting so there was no supplementary question.

<b>1.</b>	<b>Question from Mr George Readman to the Leader of the Council</b>  Figures provided by the council in response to Freedom of Information request (ref 1455) show that, in addition to mileage costs, more than 90 employees were paid the essential car user rate in the years 2007/08 and 2008/09, and from 2009/10 more than 80.  A review was carried out in October 2010, and although the criteria had not changed, found that only 40 satisfied the criteria for "essential user" rate and the remaining 41, which included ALL of the senior management team, should have the benefit removed or reduced. Payment was not stopped and they continued to receive the "essential user" payment, at over £100/month each, until April 2011 when the changed rules would allow them to be paid "compensation" because the allowance had been either lost or reduced.  Will the Leader of the Council please explain;  <b>A.</b> Why the payment continued to be paid after the review to those found not to qualify and;  <b>B.</b> Why the council changed the car user policy and arranged that those who failed to meet the criteria and either lost the allowance or had it reduced, result should be compensated for losing a benefit for which they no longer qualified?
	<b>Response from the Cabinet Member Corporate Services</b>  <b>A.</b> The Council has consulted with its staff and their representatives to review the application of the car allowance policy to identify much needed cost saving measures. There has been a clear emphasis of collective responsibility across the Council to find these financial savings and the payment of car allowances is just one example of this approach. This does not mean that the previous payments were inappropriate or in breach of the policy. Indeed, there is evidence that some staff (notably within the senior leadership team) have effectively waived their right to receive car allowances in recognition of the imperative for financial savings.  The Council's agreed Car User Policy provides for an annual review and an agreed means of withdrawing the allowance. The Council is fully entitled to agree such policies locally as part of The Green Book (National Terms and Conditions) Part three provisions

	<b>B.</b> I refer you to my previous answer.

**6. COMMUNICATIONS BY THE MAYOR**

The Mayor congratulated the Tourist Information Centre for being awarded a Green Tourism Business Award in silver.

She referred to the seminar which had been held prior to the Council meeting by Gloucestershire Fire and Rescue and urged members to respond to the questionnaire which had been circulated.

**7. COMMUNICATIONS BY THE LEADER OF THE COUNCIL**

The Leader advised members that the consultation on the Joint Core Strategy would be launched on Tuesday 13 December. There would be a range of exhibitions, presentations and seminars throughout the consultation period and all members were urged to participate.

**8. MEMBER QUESTIONS**

The following responses were given to the two Member questions received and there were no supplementary questions.

<b>1.</b>	<b>Question from Councillor Surgenor to Cabinet Member Sustainability, Councillor Whyborn</b>
	Will the Cabinet member confirm that the collection of Garden Waste is not losing money?
	<b>Response from Cabinet Member Sustainability, Councillor Whyborn</b>
	Yes. Take up of brown bins is now 11,000, and the latest budget update for 2011/12 is as follows: Expenditure £409,400 Income £414,000  To put this in context, had the Council not introduced the new brown bin scheme, and still had to bear the cost of the previous scheme, it is doubtful if there would have been sufficient revenue to fund the new kerbside recycling scheme for food and plastics. The consequence of such inaction would have been to preclude the increase in Cheltenham's recycling rate to 50% in the first quarter of 2011/12.
<b>2.</b>	<b>Question from Councillor Surgenor to Cabinet Member Sustainability, Councillor Whyborn</b>
	Will he confirm that we are still working towards a joint waste partnership with Gloucestershire CC and other district councils for both environmental and cost saving reasons?
	<b>Response from Cabinet Member Sustainability, Councillor Whyborn</b>
	Yes we are, and clearly the principle of combining the collection and disposal organisations enables more effective and efficient working, as does the principle of working across boundaries with other collection

	<p>authorities, and sharing resources etc etc. However it would be right to add some caveats, in that Tewkesbury Borough Council have now put the Joint Waste Committee on hold, as far as TBC participation is concerned.</p> <p>As a consequence Cabinet will re-examine the business case for the Joint Waste Committee. Secondly Tewkesbury Borough Council have now applied to join the Local Authority owned company for waste collection (and some other functions, e.g. Park maintenance). This is a welcome step and accords with CBC's direction of travel. However Cabinet will want to be satisfied that this Council, and its partners in the LA company, will derive maximum benefit from the joining with other collection authorities, and on that basis negotiate maximum further benefits from joining with the disposal authority in a wider waste partnership.</p>

**9. TREASURY MID TERM REPORT 2011/12**

The Head of Financial Services introduced the item and explained that both the Treasury Management Panel and Cabinet had met to consider this report. The report highlighted a need to change some of the Council's current Prudential indicators in respect of the additional Housing Revenue Account (HRA) debt which the Council would be required to take on under the HRA Self Financing Proposals. The proposed additional debt amounted to £27.9 million.

The Leader of the Council welcomed the changes relating to the financing of the Housing Revenue Account which meant that money would be kept in Cheltenham for investment in its housing stock. He stated that this was a good news report, particularly in view of the continuing difficult economic climate.

When asked whether the receipt of the Icelandic investment could be used to offset debt rather than being reinvested, the Head of Financial Services explained that this was unlikely to be received prior to 1 April 2012. He emphasised that the new borrowing would be wholly funded by the Housing Revenue Account and so there would be no cost to the council tax payer. .

The Cabinet Member Housing and Safety expressed her concerns that members may not have a full understanding of the Housing Revenue Account and suggested that a seminar for all members may be useful.

Upon a vote the recommendations were agreed unanimously.

**RESOLVED that in compliance with the requirements of the CIPFA Code of Practice the report be noted.**

**10. COMMUNITY GOVERNANCE REVIEW**

Having declared a personal and prejudicial interest in this item Councillor Regan left the room for this item and did not participate in the debate.

The Cabinet Member Corporate Services introduced the report as circulated with the agenda and explained that guidance under the Local Government and Public Involvement in Health Act suggested that councils should consider

conducting a parish boundary review every 10-15 years. Three parish councils- Up Hatherley and Leckhampton and Warden Hill and Charlton Kings had expressed an interest in a boundary review in 2012/13. If Council agreed to undertake a review it was proposed that a working party comprising 2 Liberal Democrats, 2 Conservatives and 1 PAB member would be set up to support it. It was proposed that the terms of reference for the review should be drawn up by the working group in March with a report to be sent to Council in July 2012.

A question was raised by Members as to whether the review was only taking place within borough boundaries or whether this was an opportunity to look at boundaries more generally. The Cabinet Member said that scope of this review was confined to the existing boundaries but undertook to find out when a more general review of boundaries would take place.

The issue was raised as to whether the remit of the review should also cover the whole town so that non parished areas could have the opportunity of becoming a parish. Existing neighbourhood partnerships were given as an example where the area could benefit from being able to raise its own revenue for local reinvestment. Likewise there may be areas wishing to have their parish council status removed. In terms of the make up the review group, it would be helpful to include members who were not also parish councillors to provide a balance.

In response to the questions raised the Cabinet member Corporate Services reiterated that membership of the review group would comprise 2 Liberal Democrats, 2 Conservatives and 1 PAB member and parish councillors would be invited to submit their views. At least one of the members of the review group should not be a parish councillor as well. He highlighted that it was not intended for the review to be resource intensive and there would be opportunities in the future as a Council to examine neighbourhood governance via the Localism Act.

Upon a vote it was

**RESOLVED that**

- 1. a community governance review of parish boundaries be undertaken in 2012/13 ahead of parish elections in 2014**
- 2. the Director of Commissioning be authorised to set up a cross party member working group (which would also involve parish council representatives) to support the review and to build the review into the corporate strategy action plan for 2012/13 and that terms of reference for the review to be drawn up by the working group in March 2012 for approval by Council no later than July 2012.**

(Voting carried with 2 abstentions)

**11. ADOPTION OF HACKNEY CARRIAGE BYELAWS**

The Cabinet Member Housing and Safety introduced the report which sought Council approval to repeal the current Hackney Carriage byelaws and to adopt the revised model byelaws.

The Cabinet Member outlined the background to the proposals and explained that the Licensing Committee approved the proposed Department of Transport model byelaws for the purpose of consultation on 13 May 2011. Following this a 12 week consultation was undertaken with the Hackney Carriage trade and one response was received. On 7 October the Licensing Committee resolved to recommend the adoption of the models byelaws by full Council.

Upon a vote it was unanimously

**RESOLVED that the Hackney Carriage byelaws dated 22 November 1951 be repealed and the revised model byelaws attached as Appendix 2 be adopted.**

## **12. NEW ARRANGEMENTS FOR OVERVIEW AND SCRUTINY**

The Cabinet Member Corporate Services introduced the report which set out the background to the scrutiny review and its findings. He commended the workshops run by Democratic Services which had drawn out a number of issues that members had wanted to raise. The report set out the key principles for the new scrutiny arrangements which were centred on a single overview and scrutiny committee supported by task and finish groups. In his view overview and scrutiny was greatly underutilised in the council and he stressed that if there was all-party support for a particular way forward on an issue, any Cabinet would find it difficult not to take that into account. He hoped that the new arrangements would be the starting point for change and members would enjoy the focus and independence of the task and finish groups. He acknowledged that there was much further work to be done before the new arrangements were implemented in May 2012. The constitutional changes would be supported by the Constitution Working Group and in terms of defining protocols and procedures for the new arrangements, he proposed an open invitation for any member to participate in the scrutiny workshops which would be arranged to seek members views.

A member considered the new arrangements were change for change's sake and their implementation would take up a lot of officer time unnecessarily. He considered the system worked well at the moment and the current committee structure facilitated the setting up of working groups. He was concerned that if the task groups met in private, the public accountability and transparency of the current arrangements would disappear.

Another member felt that the business of the council was too varied to be dealt with by a single committee and the current arrangements allowed members to build up specialist knowledge for their particular committee. She was also concerned that the scrutiny management committee at the County Council had a tendency to get too involved in particular issues and the ruling group was able to veto what items went on to the scrutiny workplan.

Other members spoke in support of the new arrangements and experience at the County did not mean the structure was wrong but purely the way it was operated. They considered that task and finish groups had the potential to make much better use of members' expertise but questioned whether a suggested limit of four task groups would be sufficient. One member was concerned that members should not be disenfranchised by the timing of working groups, particularly those who were not available before 6 p.m. in the evening.

It was important that when a working group was constituted, the members agreed the optimum time when the greatest number of members could attend. Other members spoke of the importance of Cabinet Member involvement and participation in the scrutiny process. There was a concern that it would always be the same group of members that were putting themselves forward for working groups. Members should be encouraged to participate in working groups where they had interest or expertise. A member highlighted that only 14% of members had completed the recent member skills audit and she encouraged members to return the questionnaire if they have not already done so.

Councillor Hall, as sponsor of the Scrutiny Review, considered that good member training and involvement would be important but there would also need to be a huge change in members commitment to the scrutiny process to ensure it was a successful. It was important that the workload was spread across all members. She reminded members that current task groups do not meet in public and she hoped that members of the public would be invited to participate in the task groups.

The Leader raised the issue of scrutiny of partnerships as there was no mention of this in the report and the new arrangements should make provision for this important role. He also highlighted that the council was not in a position to provide dedicated scrutiny officers and the new arrangements would rely on officers from the relevant service area to support the working groups.

In his summing up, the Cabinet Member Corporate Services stressed that it was not change for change's sake and most members responding to the questionnaire had wanted a change and supported more use of working groups. In his view it was not essential that every task group should report back to the overview and scrutiny committee and there would be flexibility here. He acknowledged that resources would be a challenge but it was important to see how the new arrangements bedded in and then see what further resources were necessary. It would be up to the overview and scrutiny committee to manage the scrutiny workplan and the available resources. The task and finish groups could go for a combination of private and public meetings and would also have the option to meet in alternative venues. Their final reports would always be made public. In his view there was no reason why the new arrangements should be dominated by the ruling group. Finally he encouraged members to complete the Member skills audit.

Upon a vote it was

**RESOLVED that**

- 1. The key principles of the new scrutiny arrangements set out in sections 5.3 to 5.21 of the report be approved.**
- 2. Officers be authorised to develop the detailed procedures and processes to support the new arrangements ready for implementation immediately following the borough elections in May 2012, in consultation with the Project Sponsor, Councillor Penny Hall and the Cabinet Member Corporate Services.**



- 3. The Constitution Working Group be requested to review the constitutional changes required to support the new arrangements and include them in its planned revisions to the Council's Constitution due for approval by Council in March 2012.**
- 4. Officers be authorised to reconvene the independent Members Remuneration Panel to review any changes to the Special Responsibility Allowances arising from the new arrangements.**

Voting For 26, Against 3 with 1 abstention.

**13. NOTICES OF MOTION**

No motions had been received.

**14. TO RECEIVE PETITIONS**

No petitions were received.

**15. ANY OTHER ITEM THE MAYOR DETERMINES AS URGENT AND WHICH REQUIRES A DECISION**

The Mayor advised Members of an urgent item which required a decision. The urgent decision was necessary because the Trustees had only just been advised by their external solicitors that the Council must have passed the resolutions set out in this report before a planned meeting of the Trustees in January.

The Cabinet Member Corporate Services introduced the report, on the Appointment of Trustees to the Hay and Strickland and other Charitable Trusts, which had been circulated prior to the meeting. The report explained that the Council nominates trustees to 4 Charitable Trusts (Hay Trust Fund and the Caroline Strickland Homes, which provide almshouses at Naunton Park and Hales Road respectively, and the Turner Long Fund and the Walker Memorial Trust, which both provide for the grant of small sums of money to the elderly).

The management of these four Trusts (who are separate legal entities, and whose accounts and records have to be maintained separately from the Council's, and in accordance with Charity Commission requirements) was outside the course of the Council's usual business, and imposed a substantial administrative burden both upon the nominated Members and upon Council staff.

Discussions had therefore been taking place with the Cheltenham Family Welfare Association (CFWA) with a view to the CFWA taking over the administrative role in respect of the four Charities. The CFWA also had the necessary expertise to ensure the almshouse trusts were managed according to the high standards required for Almshouse management. The CFWA had expressed a willingness to do so, but as a condition of so doing required the power of appointment of trustees to be consistent with the other charitable trusts the CFWA manages.

This requirement would mean that the Council would surrender its rights to nominate trustees in the future, and that the Mayor would no longer be an ex-officio Trustee on any of the above named charities.

The Cabinet Member Corporate Services updated members on the consultation that had taken place with residents via newsletters, a consultation meeting and various visits to residents in their homes. The majority of residents were comfortable with the move to CFWA who were well regarded in this field and best placed to do a better job for the residents than the council was able to provide. Residents were generally looking forward to the planned refurbishment of the properties and acknowledged that there was a need to increase their maintenance contributions to bring them in line with other almshouse properties offering similar facilities.

Councillor Garth Barnes, as chair of the Trusts, supported the move to CFWA who had been managing almshouses for a number of years and were clearly running a tight ship. He hoped that the Council would be able to support the recommendations which would ensure that the almshouses could remain sustainable in the future and available to current and future residents.

A member questioned whether the Council should maintain a representative on the trustees to ensure that the Council could continue to have a role in ensuring that the charity was operating in the public good which had been the original intention of the benefactor. In response the Cabinet Member reassured members that the Board of Trustees for each one of the charities concerned would remain in place and it was the role of the Charity Commission to ensure that any charity was the fulfilling its aims and objectives.

Upon a vote it was

**RESOLVED that**

- 1. Council consents to the amendment of the Schemes to the Hay Trust Fund, the Caroline Strickland Homes, the Turner Long Fund and the Walker Memorial Trust whereby the Council will no longer have power to nominate Trustees to those charities; and**
- 2. Council consents to the amendment of the Schemes to the Hay Trust Fund, the Caroline Strickland Homes, the Turner Long Fund and the Walker Memorial Trust whereby the Mayor of Cheltenham Borough Council will no longer be an ex-officio Trustee of those charities.**

Voting: For; 26 with 5 abstentions

**16. LOCAL GOVERNMENT ACT 1972 -EXEMPT INFORMATION**

Upon a vote it was (unanimously)

**RESOLVED that in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in**

**paragraphs 1,3 and 5, Part (1) Schedule (12A) Local Government Act 1972, namely:**

**Paragraph 1;** Information relating to any individual

**Paragraph 3;** Information relating to the financial or business affairs of any particular person (including the authority holding that information)

**Paragraph 5;** Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

## **17. EXEMPT MINUTES**

Following advice received from the Monitoring Officer, a number of Members left the meeting having declared their intention not to participate in this item.

The following members were in attendance for this item:

Councillors Garth Barnes, Nigel Britter, Tim Cooper, Bernard Fisher, Jacky Fletcher, Penny Hall, Diane Hibbert, Sandra Holliday, Pete Jeffries, Paul Massey, Helena McCloskey, John Rawson, Malcolm Stennett, Charles Stewart, Jo Teakle, Andy Wall, and Simon Wheeler.

In the absence of the Mayor and Deputy Mayor, the Chief Executive took the chair and invited nominations for a member to preside as set out in rule eight of the Council Procedure Rules. Councillor Barnes took the chair.

The exempt minutes of the last meeting had been circulated with the agenda.

Members were advised that as a number of members had left during the exempt business, the minutes should record which members were present for the vote. The following amendment was circulated:

*Members present for the vote were Councillors Barnes, Bickerton, Britter, Fletcher, Fisher, Hall, Holliday, Massey, McCloskey, Rawson, Stennett, Stewart, Sudbury and Wheeler.*

Councillor Fletcher advised that she had been present for the vote and therefore her name should be added and the voting for the motion be amended accordingly.

It was also noted that in paragraph 11 the second sentence should read "however the financial implications had not been finalised at that time".

Upon a vote it was

**RESOLVED that the exempt minutes (as amended) of the meeting held on the 10 November 2011 be agreed and signed as an accurate record.**

Voting: CARRIED with 2 Abstentions

Barbara Driver  
**Chair**