

## Council

Monday, 27th June, 2011  
2.30 - 7.30 pm

Attendees	
<b>Councillors:</b>	Barbara Driver (Chair), Anne Regan, Garth Barnes, Ian Bickerton, Nigel Britter, Chris Coleman, Tim Cooper, Bernard Fisher, Jacky Fletcher, Wendy Flynn, Rob Garnham, Les Godwin, Penny Hall, Colin Hay (Deputy Chair), Rowena Hay, Diane Hibbert, Peter Jeffries, Steve Jordan, Paul Massey, Andrew McKinlay, Heather McLain, Paul McLain, John Rawson, Diggory Seacome, Duncan Smith, Malcolm Stennett, Charles Stewart, Klara Sudbury, Pat Thornton, Jon Walklett, Andrew Wall, John Webster, Paul Wheeldon, Simon Wheeler, Roger Whyborn and Jo Teakle
<b>Also in attendance:</b>	

## Minutes

### 1. APOLOGIES

Apologies were received from Councillors Holliday, McCloskey, McDonald and Surgenor.

Grahame Lewis, Executive Director, had also given his apologies and the Mayor wished him well in his operation on Thursday.

### 2. PRAYERS

Reverend Tim Mayfield opened the meeting with a prayer.

### 3. DECLARATIONS OF INTEREST

Councillors Barnes and Seacome declared a personal interest in agenda item 9 as members of the Cheltenham in Bloom committee. Councillor Thornton declared a personal interest in agenda item 9 as a Friend of Montpellier Bandstand and Gardens. Councillor Smith declared a personal interest in the Notices of Motion relating to the County Council as a member of the County Council. Councillor Garnham declared a similar interest.

### 4. TO APPROVE AND CONFIRM THE MINUTES OF THE MEETING HELD ON 16 MAY 2011

**RESOLVED** that the minutes of the meeting held on the 16 May 2011 be agreed and signed as an accurate record subject to Councillor Holliday and Smith being listed as giving their apologies for the meeting.

### 5. PUBLIC QUESTIONS

The following responses were given to the public questions received:

<b>1.</b>	<b>Question from David Stennet of the Friends of Imperial Square and Gardens</b>
	<p>The Friends of Imperial Square and Gardens have a positive feel about the future of Imperial Gardens and concur with your plans showing the extra pathway entrances to the Gardens. We will remain vigilant.</p> <p>If the virtual images we have seen in the public consultation display regarding the proposed new look of the Gardens become a reality then Councillors, Parks Dept., Friends of Imperial Square and Gardens, Cheltenham in Bloom and the people of Cheltenham can take a bow.</p> <p><b>i) There is a lot to live up to and we would ask for the Council's guarantee that all parties observe their promises.</b></p> <p>Floral grandeur is a major component of the project. It is proposed to reduce the floral overall area from 650 square metres to 620 square metres and from 48 flowerbeds to 33. Meanwhile, The Festivals' tent capacity is increased by one third to nearly 3000 square metres.</p> <p><b>ii) As it is the intention to board over some of the flowerbeds when Festivals take place, why can't extra floral display beds be put on the south and east sections to make up to the present volume?</b></p> <p>We would encourage the planting of mature staked specimen trees instead of young saplings to help restrict any acts of vandalism. The Jazz Festival's move away is welcome. This will relieve the eco-pressure on Imperial Gardens. It is imperative that all damage to flowerbeds and lawned areas be restored promptly after Festival use, otherwise strict penalties should be imposed. It is unfair to drift into a repeat of the past eighteen months when Imperial Gardens has looked like a wasteland. The people of Cheltenham deserve better. Tents must go up and down in double-quick time. There must be a covenant that The Festivals meet the costs of restoration of the lawns and flowerbeds to the highest order.</p> <p>We like the idea of Skillicorne Gardens being opened up, but caution about possible noise and disturbance from loud music and drinking disorders. Use for Wedding Parties is being suggested but this should not lead to the extension of existing licences appertaining to both the Garden Bar and Town Hall.</p> <p><b>iii) Can the Council give us an assurance that they have no such plans?</b></p> <p><b>iv) Can you also re-state your commitment to The Gardens' Code of Conduct Policy being enforced, namely no ball games, no bicycle riding, no alcohol drinking, no litter and no dogs allowed except on leads?</b></p> <p>This is particularly important at any time and more so now you are going to spend £140,000 on the first step of the Imperial Gardens Upgrade."</p>
	<b>Response from Cabinet Member Sustainability, Councillor Roger</b>

	<b>Whyborn</b>
	<p>i) The Council will keep its promises.</p> <p>ii) There will be increased planting of shrubbery and perennials around the periphery of the gardens, also the central avenue with flowering trees, as well as the replanting of Skillicorne gardens using climbing plants, for example roses. Regarding the square meterage of flower beds, officers will look at whether this can be increased in a way that gives a tasteful and practical effect.</p> <p>The contract between the Council and Cheltenham Festivals will require that damage to flowerbeds and lawned areas are restored after Festival use at their expense. Both sides will attempt to undertake this as promptly as the weather allows.</p> <p>A 75 day per annum rule will be applied to the length of time tents may occupy the lawns.</p> <p>iii) The council has no plans to extend the licensing hours in the Gardens.</p> <p>iv) The council is committed to protecting the infrastructure and public enjoyment of Imperial Gardens and will take reasonable and practical steps within our power to deal with unwelcome behaviour. To do this we will continue to work closely with the police and the community.</p> <p>In a supplementary question, David Stennett, commented that recent observations had dented his enthusiasm as the appearance of the Imperial Gardens was not living up to expectations following the recent Festivals. Only a limited amount of restoration work had been done and turf needed reworking. He considered this tarnished the image of Cheltenham and asked who was going to take the possibility for making sure that the reinstatement work was carried out properly?</p> <p>The Cabinet Member replied that some returfing work had already been carried out following the Science Festival. Parks and Gardens staff were still working on this and he asked the Friends to bear with the council as it would be completed shortly.</p>
<b>2.</b>	<b>Question from Diane Lewis</b>
	<p>Why can the argument "option 2 seeming the more likely option was more based on that option being broadly acceptable to the Friends of Imperial Gardens than option 1 being unacceptable to Cheltenham Festivals" be used as a fair, rational and democratic means of arriving at a decision to give the whole of Imperial Gardens to Cheltenham Festivals and deprive the residents of Cheltenham of the most popular recreational area in Cheltenham?</p>
	<b>Response from Cabinet Member Sustainability, Councillor Roger Whyborn</b>
	<p>The plans for Imperial Gardens which were put out on consultation were arrived at after considerable deliberation as to the competing demands for their usage. On the one hand, many tens of thousands of the tickets</p>

	<p>sold for Cheltenham Festivals are bought by citizens of the Borough, whilst on the other hand it is recognised that Imperial Gardens is much loved and well used, and has been dubbed the jewel in Cheltenham's crown by some. We have sought to create a Festival in a Garden approach, and to leave adequate space for circulating and sitting down, and not just for tents. Indeed it is planned to create space around the bar area where currently we have the crazy situation of having to close the garden bar for the Literature festival! Moreover, we propose to reduce the occupancy of the gardens from 107 to 75 days pa. Early indications from the consultation are that we have pitched the design about right, with a generally sympathetic response to the plans displayed.</p> <p>In a supplementary question, Diane Lewis, asked why the council had allowed Cheltenham Festivals to bring in numerous retail outlets providing food and other services on the Saturday of the Jazz Festival when the justification for the festivals being located in Imperial Gardens was that they provided trade for businesses in Cheltenham.</p> <p>In response the Cabinet Member said that the agreement with the caterers, Fosters, at the Imperial Gardens and Town Hall, allowed for certain supplementary services to be offered supplying food and drink which Fosters were unable to supply. The Cabinet Member said he couldn't comment on this particular Saturday.</p>
3.	<p><b>Question from Fiona Wild</b></p>
	<p>It should be noted that Imperial Gardens has the highest number of visitors of any similar-sized garden in the country and the new design is certainly ingenious. However, if the experiment of spreading the festival tents more widely but sparsely across the whole area (and including Montpellier Gardens) does not work and Ms Renney carries out her threat to take the Festivals elsewhere, will the (I quote Cllr. Rawson) "historically important gardens", be restored to their former glory. In other words, is there a Plan B?</p>
	<p><b>Response from Cabinet Member Sustainability, Councillor Roger Whyborn</b></p>
	<p>No, we are not planning on failure, and the proposed design of Imperial Gardens is considered to be good in its own right. However I recognise that usage of the gardens, including Montpellier Gardens, is a moving situation. So if the Council in the future was faced with a decision to further redesign the gardens - for whatever reason, it would base its thinking on the situation at the time.</p> <p>In a supplementary question, Fiona Wild, held up a photograph showing the damage to a grassed area of Imperial Gardens. She asked whether the council was going to go down as the first in local history to be held over the barrel of a gun by Cheltenham Festivals and allow an act of vandalism on the gardens from which the gardens would never recover.</p> <p>In response, the Cabinet Member said 'No'.</p>

**6. COMMUNICATIONS BY THE MAYOR**

The Mayor said she had written a letter of condolence To the family of Colour Sergeant Kevin Fortuna, who had been killed recently in Afghanistan.

She referred to the recent death of former Councillor Gerry Gearing and asked Council to stand for a minutes silence as a mark of respect. She invited Councillor Garnham to say a few words.

Councillor Garnham reminded members that Gerry Gearing had been a borough councillor for nine years from 1999 to 2008. During that time he had served both his ward and party conscientiously and had been tenacious in getting answers and actions on behalf of his constituents. He had taken pride in being a Councillor and serving the people of both Park Ward and Cheltenham. He thanked him for his personal support and said that the thoughts of everybody were with his wife Diana and the family.

The Mayor referred to the Challenge she had put out to all councillors and officers to help raise money for her charities.

She confirmed that she had asked that a seating plan be reintroduced for the Council Chamber at Council meetings. This would benefit both herself and the press and public in identifying speakers.

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

The Leader added his own tribute to Gerry Gearing in that he had been an enthusiastic director of Gloucestershire Airport.

The Leader reminded members that any bids for Community Pride awards had to be submitted by 1 July 2011.

**8. MEMBER QUESTIONS**

No member questions were received.

**9. IMPERIAL GARDENS OUTLINE DESIGN AND CONSULTATION**

The Cabinet Member Sustainability introduced the report as circulated with the agenda. The report informed members of progress on the garden redesign and consultation process and the Cheltenham Festival proposals for Imperial and Montpellier Gardens. The intention was for the designs, together with feedback from the consultation and today's Council Debate to be reported back to Cabinet for a decision at the end of July. If approved by Cabinet, phase 1 of the works would be worked up in more detail and more accurate costings obtained. Planning and listed building consent would be applied for where required with a view to works being undertaken during this coming Autumn and Winter.

During the debate that followed, Members acknowledged that the festivals were vital for Cheltenham and the council needed to support them. However the gardens were an iconic part of Cheltenham which had been there long before the festivals and needed to be protected. It was accepted that the balance

between the festivals and the gardens was a difficult issue to resolve but it was a very important issue to the people of the town and therefore they should have the have the biggest say.

Councillor Malcolm Stennett, as the Chair of Economy and Business Improvement Overview and Scrutiny Committee (EBI), raised particular concerns about the involvement of overview and scrutiny in the process. Whilst he supported the festivals he had seen no proper business plans. On 7 March 2011, EBI had requested a report on the issue but the paper had been light weight and contained no economic information. Consequently the committee had passed two resolutions. Firstly the committee had recommended that Cabinet receive additional economic and financial information in order for them to be in a position to assess the benefit of implementing changes to the town centre parks in an endeavour to meet the requirements of Cheltenham Festivals. Along with the proposed options consideration should also be given to maintaining the status quo and / or using areas at the racecourse or in Pittville Park. Secondly the committee requested that they be involved in reviewing the economic aspects during the next stage of the consultation and receive a detailed report on the options with a full financial breakdown when it is available.

The Cabinet Member Sustainability had received a reminder in May that EBI were expecting this report at their July meeting. The response received had been disappointing as the Cabinet Member had refused EBI's request for the second time saying that he saw no benefit in officers spending time preparing the information requested. As chair of EBI, he had insisted that a report was received at their next meeting on the 18 July so that O&S comments could be fed into the Cabinet meeting on the 26<sup>th</sup> of July. He would continue to press for this report.

Councillor Stennett concluded that it was exceedingly worrying that work was proceeding without giving due consideration to the full financial aspects of a business case. It was after all a major change to a conservation area and there appeared to be no future business plans for the next five years. This seemed unprofessional. What would happen when further expansion of the festivals was requested?

In response the Cabinet Member Sustainability said he had no more to add to the written responses he had made to Councillor Stennett. The money being spent on the gardens was not solely for the benefits of Cheltenham Festivals but the expenditure was to benefit the people of Cheltenham. Therefore it was not appropriate to justify improvements to the parks in business terms. He was not prepared to spend thousands of pounds on consultants to verify the economic figures supplied by the festivals.. With regard to future expansion he was clear that the proposed schemes represented the limits for Imperial Gardens and Montpelier Gardens. Cheltenham Festivals were well aware that they would have to look elsewhere for future expansion though in his view a total out-of-town venue would not be an option he would support.

Members asked a number of questions and and the responses of the Cabinet Member are listed below:

- Will the Cabinet Member give his reassurance that there will be a written response to the concerns raised by Cheltenham in Bloom on page 15 of the report.
  - The Cabinet Member confirmed that he would reply in writing and similarly to other comments he had received. This included those from the Civic Society which had been received too late for inclusion in the papers.
- Will any new trees and plants be obtained from local producers to enhance the local economy?
  - They would do their best but the council was obliged to follow procurement rules and ensure good value for money was obtained on all its purchases.
- Can the Cabinet Member reassure members that the budget allocated of £140,000 will be sufficient to cover the work and what would happen if it proves to be insufficient or there are insufficient funds to carry out the ongoing maintenance work?
  - The Cabinet Member assured members that the plans would be thoroughly costed before taking any action and there was no plan to leave the work unfinished. The ongoing maintenance work was budgeted for and any restoration work following a festival would be carried out at Cheltenham Festival's expense.  
The Leader added that the costs of Phase 1 had been fully costed in this year's budget and any Phase 2 requirements would form part of future budget proposals.
- How confident was the Cabinet Member in the estimates for the redesign work given the experience of Pitville Park when the tenders for the work on the bridge came in well above the original estimates?
  - He gave his personal assurance that all the works would be delivered to time?
- Will the council receives some of the financial benefits from the redesign work it is carrying out to extend the bar area and Skillicorne Gardens.
  - There would be regular renegotiation of the contract with the caterers and he was confident that the Cabinet Member Sport and Culture would ensure the council receives its fair share of the profits. The Cabinet Member Sport and Culture said that consideration of Skillicorne Gardens would be taken into account when negotiating any deals with catering companies. Currently the council received 10% of turnover as commission and the contract was due to be renegotiated in October 2011.
- How will the success of the redesign work be measured to confirm that the right decision had been made? Documentation of the alternative options would have been useful.
- What guidance was going to be given to delivery lorries given the recent damage where lorries had ripped up the turf leaving a quagmire?
  - This had been noted and work was in progress to address the issue.
- What action was the council proposing to take on the fast food and mobile take-aways present in the gardens at the recent festival? The experience at the Jazz Festival on the May Bank Holiday was that the mobile food outlets smelt unpleasant and their presence demonstrated a lack of respect on behalf of Cheltenham Festivals. It was also questioned why the festivals had asked for extra tentage space if it was now being used for fast food outlets?

- This would be reviewed along with the licensing requirements and the council would want any such services to be of a high standard. The Cabinet Member Sport and Culture said that burger vans had not been part of the contract so he was concerned to hear about this and would follow it up.
- There had been poor communication from the council to the public on the usage of the gardens and restoration work. Could a public notice be put on the iron railings to explain the timetable?
  - This would be considered with a view to publishing an annual plan in a public place.
- Can the Cabinet Member reassure members that any restoration work is timetabled in both the calendars of Cheltenham Festivals and Parks and Gardens to minimise the destructive aspects to the gardens and ensure the impact of the festivals is hardly noticeable. Precision and attention to detail are needed as the gardens are currently in a frightful state.
  - No amount of precision would allow the grass to regrow overnight after a festival but several options were being considered including planting the grass seed before the Festival. There was already a calendar in place which included spring bedding before the Science Festival and then planting of summer bedding before the Literature Festival and then restoration work for the winter.
- Can the Cabinet Member give a straight yes or no answer to the question asked by the Friends of Imperial Square and Gardens regarding the council's commitment to enforcement of the Gardens' Code of Conduct Policy?
  - Yes he would ensure the Code of Conduct was upheld
- Who will be responsible for enforcement of the restoration of any damage to the gardens and who will be accountable to members and to the public?
  - The contract between the council and Cheltenham Festivals would be enforced in the usual way. He was sure that the member concerned was well aware of the officers responsible for enforcement and therefore he was not prepared to answer the question in the chamber.
- Could a suspended floor area be considered for the grassed areas as well as the beds to minimise damage to the turf?
  - This could be looked at but there was likely to be a cost involved.

The Mayor thanked members for their comments and hoped that they would be considered by Cabinet when making their decision on the outline design in July.

## **10. FINANCIAL OUTFURN 2010/11 AND QUARTERLY BUDGET MONITORING TO MAY 2011**

The Cabinet Member for Finance and Community Development introduced the joint report and made the following points:

- The predicted overspend of £801,700 in the budget monitoring report to the end of August 2010 had been converted to an underspend of £174,086 in 2010/11 which was an outstanding achievement by officers across the council.
- £303,200 required Member approval at Council to carry forward



requests.

- The proposed solution for the Bath Road toilets was an innovative approach involving local people in the service and satisfying their needs at a reduced cost to the council.
- Indications were that there would be a favourable verdict to the Icelandic Bank situation but this had not been assumed.
- The LAA performance reward grant was enabling a further round of Community Pride awards to the value of £30,000.
- An innovative use of the New Homes Bonus was being proposed to fund small environmental works and a fund to support events in the town. Both of these initiatives would help to attract visitors and trade to the town during the difficult economic climate.
- He supported the recommendations of the Section 151 Officer and considered it was prudent to increase the bad debt provision in view of the changes to the benefit regime.
- Additional proposals for bringing forward the roof repairs at the Everyman Theatre and funding the much-needed toilet refurbishment at the Town Hall were included.
- There had been a drop in income from offstreet parking. He considered that this was due to the current economic climate, the increased usage of buses by those eligible for concessionary fares and the public opting for more greener ways of travel.
- The take up of the garden waste scheme had been slower than anticipated in this financial year and if this trend continued there would be a shortfall of income of £223,200 in 2011/12. He acknowledged that some members of the public were angry at having to pay a charge for a garden waste service which had previously been free. Despite the result in the take-up for the new garden waste scheme he still considered that the previous scheme had been unsustainable and it would not have been possible to continue subsidising it to the tune of £1 million per annum. A marketing campaign would now be put in place to encourage people to take up the service.

The Cabinet Member Finance and Community Development concluded that careful monitoring of the budget situation throughout the year had provided early warnings of problem areas which could then be addressed. This would continue to be a rolling programme in the current budget climate.

Councillor Garnham welcomed the use of the New Homes Bonus for environmental improvements but questioned the benefits of spending £180,000 on promoting the town in order to attract visitors and trade. The Cabinet Member had acknowledged in his introduction that footfall in the town was up and therefore there was no point in spending more money on improving it still further. He emphasised that the government was providing the New Homes Bonus to mitigate the strain that new developments made on the infrastructure of the town. Therefore the money should be spent on the residents of Cheltenham on such things as improving pavements, flower displays, additional street cleaning and increased litter bins not on promotion and cultural activity.

He proposed an amendment that recommendation 5 should be replaced with the following:

“ to establish a cross-party working group to address the spending of the New Homes Bonus, as outlined in paragraph 6.4 on page 6 of the report, on items or programmes of work that will truly mitigate the strain that the increased population brings and report back to Cabinet”.

This was seconded by Councillor McLain.

Speaking for the amendment, Councillor Smith agreed that the purpose of the bonus was for expenditure on infrastructure and to improve the quality of life for people in the town. It was a significant amount of money and therefore it was appropriate that it should be given appropriate consideration and consensus achieved by a cross-party group. As Leader of the previous administration he had been keen to spend funding from the Local Authority Business Growth Incentive Scheme to support local businesses but the emphasis had been on building a long-lasting legacy rather than funding for one-off events. The Joint Core Strategy was one area which could benefit from additional funding.

Councillor Hibbert reminded members that a significant amount of money had been redirected from Pittville Park during the last budget. The Friends of Pittville Park had been very active in exploring options for funding for improvement work and she asked the Cabinet Member whether he would be willing to meet with them to discuss future funding. She suggested that some of the New Homes Bonus could be used for this purpose.

The Cabinet Member Sustainability confirmed that he would be happy for such a meeting to take place.

Speaking against the amendment, the Leader said he would resist the change as the proposed spend was not for marketing as had been suggested. Another member suggested that the cross-party budget working group was the appropriate forum for this matter to be raised. It was also emphasised that retail businesses were currently struggling and promoting Cheltenham would help boost the economy which in turn would have a beneficial effect on the well-being of people in the town.

In seconding the amendment, Councillor McLain acknowledged the views of both sides but considered that a meeting of a cross-party group over the next four to six weeks would be the best option.

Upon a vote the amendment was LOST  
Voting For 14, against 21 with 0 abstentions.

Debate continued on the main motion.

On the subject of green waste, some members felt clarity was needed on the way the current position and predicted outcome was presented in the report. The green waste scheme had been well publicised including extensive articles in the Echo and therefore there was no benefit to be gained in spending further money on marketing the scheme. They challenged the statement of the Cabinet Member Finance that the service had been “free” as it had always been effectively paid for by council tax payers as part of the budget. The charge may be modest but it still presented difficulties for those on pensions and limited incomes. The recent queues at local recycling sites were an indication that

people were not prepared to take up the service. The council should give consideration to the additional costs of dealing with the extra green waste deposited in this way. The green waste bins provided were also not suitable for many terraced properties or those in multiple occupancies and despite prompts this issue had not been resolved. Members wanted to know how much had already been spent on marketing the green waste scheme.

The Cabinet Member Sustainability said he did not have any figures on the current marketing spend but it was not a great amount of money. He would circulate a written response to members.

In support of the current position, the Leader acknowledged that the roll-out of the kitchen waste scheme had been a priority for officers and Cabinet were now asking them to refocus on the green waste scheme to ensure that it met its 2012 targets. There was no proposal to spend thousands of pounds on marketing as some Members had suggested. The Cabinet Member Finance reminded members that the budget was about choices and they could either make a charge for green waste or make cuts elsewhere. He added that other authorities around Cheltenham had introduced such a charge.

Members asked a number of questions and the responses of the Cabinet Member are listed below:

- Should the loss of income on car parks be featured on the Corporate Risk Register? What is the target for fine income referred to in paragraph 15.5 and in the incentives being given to staff to achieve this target?
  - The Cabinet Member Finance agreed to provide a written response on the target.
- Will support for the Bath Road Toilets be in the base budget for the next two to three years?
  - The Cabinet Member confirmed that this had been factored into the base budget, £5000 for services and £10,000 to the Bath Road traders for the maintenance.
- Why was a similar approach not being adopted for the Cox's Meadow toilets which were now closed. They had been well used by local people and travellers and the nearest public toilets were a mile and a half away at Royal Well?
  - There were no plans to adopt the approach used for the Bath Road toilets but they would continue to look for alternative provision of the facilities. The usage pattern had changed and it was with reluctance that the facilities had been closed.
- Would it not be more prudent to transfer some of the underspends from 2010/11 to the general reserve to offset any future reductions in income from car parking fees etc
- What was the rationale for forming a Local Authority Company with one authority when the county strategy was for a joint waste partnership?
  - The Leader responded that the setting up of the company was a crucial step towards achieving the vision of the joint waste partnership with shared waste services across the county.

- Would spending on youth work include the subsidy required by the county for the safeguarding board which provided a critical role? How would further spending on youth work be allocated?
    - The Cabinet Member Housing and Safety indicated that she would be happy to meet with Councillor McLain, as the county member responsible for this area, to discuss the safeguarding board.
- The allocation of youth funding was work in progress in consultation with the Social and Community O&S Committee.
- A simplified explanation of the current Icelandic Bank situation was requested.
    - The Section 151 officer said that if the current situation progressed as anticipated, the council would lose £546,000 of the £11 million it had originally invested and would recover the remaining amount. He would ensure that the net loss would be reported to members in any subsequent reports and briefings

The Leader acknowledged the outstanding effort from officers in achieving this budget outturn position but also stressed that this had not been without some pain.

Councillor McClain proposed that the recommendations were taken on block omitting recommendation 5 where a separate vote was requested.

**Resolved that the following recommendations be approved:**

Voting on all recommendations excluding 5:

For 32, Against 0 with 2 abstentions

1. **Receive the financial outturn performance position for the General Fund, summarised at Appendix 2, and note that services have been delivered within the revised budget for 2010/11 resulting in a budget underspend of £174,086 which has been transferred to General Balances pending decisions over its use in 2011/12.**
2. **Recommend the following use of the underspend:**
  - £48,000 to fund carry forward requests requiring Member approval at Appendix 7 which includes £15,000 to fund the arrangements for keeping the Bath Road toilets open (see paragraph 3.4)
  - note the Cabinet's approval, under financial rules 4G, part 8.11, to use the net underspend on new green waste schemes to fund the full rollout of plastic bottles collection across the borough in 2011/12 (estimated cost £17,000) (see paragraph 3.5)
  - £124,300 to fund the one off costs of the establishment of a waste company with Cotswold District Council as set out in the exempt report to Cabinet on 21<sup>st</sup> June 2011.
  - transfer the balance of £1,786 to General Balances
3. **Note the treasury management outturn at Appendix 9.**
4. **Approve the allocation of the LAA performance award grant as set out in section 5.**

5. **Approve the allocation of the New Homes Bonus as set out in section 6 including the use of £30,000 from the civic pride reserve. (Voting: For 20, Against 13 with 1 abstention)**
6. **Approve the transfer of £50k from the benefits equalisation reserve to the benefits bad debt provision as per paragraph 7.3.**
7. **Note the capital programme outturn position as detailed in Appendix 11 and approve the carry forward of unspent budgets into 2011/12 (section 8).**
8. **Note the position in respect of section 106 agreements and partnership funding agreements at Appendix 12 (section 10).**
9. **Note the outturn position in respect of collection rates for council tax and non domestic rates for 2010/11 in Appendix 13 (section 11).**
10. **Note the outturn position in respect of collection rates for sundry debts for 2010/11 in Appendix 14 (section 12).**
11. **Receive the financial outturn performance position for the Housing Revenue Account for 2010/11 in Appendices 15 to 17 (section 13).**
12. **Note the outturn prudential indicators Appendix 18 and recommend that Council approve the revised prudential indicators for 2010/11, marked with an asterisk (section 14).**
13. **Note the budget monitoring position to the end of May 2011 (section 15).**
14. **Approve the advance of property grant to support the refurbishment of the Everyman theatre roof and the funding schedule for the next 6 years as at section 9 and Appendix 19.**
15. **Approve the one-off contribution of £170k from the Property Repairs & Renewals reserve to the programme maintenance budget to fund maintenance works at the Art Gallery & Museum in 2011/12 (section 15).**
16. **Approve the one-off contribution of £30k from the Property Repairs & Renewals reserve to the programme maintenance budget to fund toilet refurbishment works at the Town Hall in 2011/12 (section 15).**

The meeting adjourned for tea from 5.10 to 5.25 pm

#### **11. CONSTITUTION REVIEW WORKING GROUP - UPDATE ON THE REVIEW OF THE CONSTITUTION**

The Cabinet Member Corporate Services introduced the report as a member of the constitution working group. The report advised members on the proposed timescale for the review of the Constitution. The review was commenced last year but was deferred pending the outcome of various matters which will have an impact upon the drafting of the Constitution, including the Council's decision in December 2010 on strategic commissioning and the approval of a new management structure. At that meeting the Council also approved amendments to the Constitution to address actions identified by the Council to respond to recommendations in the Public Interest Report. Amendments to the Officer Delegation Scheme in Part 3H of the Constitution have also been made under authority delegated to the Borough Solicitor to ensure that the Scheme is consistent with the new management structure which was implemented in April 2011.

He advised that the Constitution Working Group had now resumed its work and intends to complete the review by October 2011. This timescale reflects the

need for the Financial Rules to be amended in collaboration with the Council's partner authorities in the GO project.

He referred to an e-mail he had written to members on 25 June 2011 suggesting that as there seemed to be a consensus from members on the need for change to the current scrutiny arrangements, a small working group be set up and proposals brought back to the October council meeting. This timetable would enable the constitution working group to consider the constitutional changes required for the new arrangements in the same timescales. The current timetable for the scrutiny review targeted the implementation of the new arrangements following the elections in May 2012 but he hoped that this could be brought forward once Council had agreed the new arrangements.

**Resolved that the amendments that have been made to the Officer Scheme of Delegation be noted and the timescale for the comprehensive review of the Constitution be approved.**

## **12. NOTICES OF MOTION**

### **Motion A**

Councillor Sudbury, seconded by Councillor McCloskey, proposed the following motion.

*"This Council notes with concern the County Councils proposals to cut £2 million from the £5 million budget for subsidised bus services. Bus journeys provide a vital public service, helping to prevent social isolation for the elderly and the vulnerable; allowing people to access essential healthcare services, employment, and leisure and shopping opportunities. Encouraging people to travel by bus also helps reduce congestion. We therefore believe the effective use of public subsidy for bus services is an appropriate use of public money.*

*Specifically, we are concerned that the current proposals could and should have been the subject of better consultation, with more meetings in Cheltenham giving more detail on the cuts proposed and changes considered.*

*Therefore this Council;*

- 1. Whilst understanding the financial pressures facing local authorities, urges the county to listen to the residents of Cheltenham who are concerned about cuts to their valued bus services.*
- 2. Recognising the high turnout at a recent public meeting in Charlton Kings about the threat to the P & Q service, appeals to the County Council to extend the consultation period and hold more public information sessions in the town with a view to protecting those subsidised services that are most valuable to local people. "*

As proposer of the motion, Councillor Sudbury, emphasised the value of the bus services to local people for retail, leisure and employment. She felt that local people had been left unclear about the exact nature of the proposals. The low attendance of 10 people at the meeting arranged as part of the County Council consultation at Charlton Kings contrasted with the 300 plus people who attended the event organised by the local parish council. This was an example

of the failure of the consultation organised by the County Council and there was a need for more face-to-face events so people could have their say on the proposals.

Other members disagreed that the consultation had been ineffective and said there had been extensive coverage in the local media. They could not support the motion as it appeared to focus on Charlton Kings whereas local bus services were an issue across the town. They cited examples where the county was proposing to reduce services which were not well used and therefore uneconomic and other services which were being increased to respond to residents needs. As the consultation had now closed the second part of the motion was inappropriate.

Councillor McClain, speaking as the County Council Deputy Leader and Cabinet Member for Vulnerable Families explained that the County Council were aiming to redesign the bus services by providing a hub of town centre services with links to the rural bus services forming the spokes. The key priorities were to provide transport to get people to hospital, schools and to work. This would be achieved by asking bus companies to take on more, to change the service or to provide flexible transport alternatives. If £2 million pounds was not saved from this budget then it would have to be found elsewhere in the county's budget. He was surprised that Councillor Sudbury as a County Council member had not taken the opportunity to raise the issue at a recent County Council meeting or with the county overview and scrutiny committee. He also pointed out that this Council's Cabinet had approved the scrapping of the grant for Charlton Kings community transport as part of the budget proposals. The reason given was that it was not the most effective use of public money and similar tough decisions had to be taken at county level.

In supporting the motion members emphasised that the amendment was not disputing that savings were needed but focused on the inadequate consultation. The motion to Charlton Kings purely as an example of where the consultation had been ineffective,

Councillor Barnes, as seconder of the motion, felt that it was appropriate to discuss County Council matters in this chamber when they affected Cheltenham. Frequently it was the young, vulnerable and elderly who are most affected by these types of cuts and the consultation had not been effective.

In her summing up, Councillor Sudbury felt that some members had missed the point of motion and emphasised that she had only been using Charlton Kings as an example of inadequate consultation.

Upon a separate vote on each part of the motion they were both CARRIED.  
Voting on part 1): For 23, Against 0 with 3 abstentions.  
Voting on part 2): For 22, Against 8 with 4 abstentions.

### **Motion B**

Councillor Smith seconded by Councillor Godwin proposed the following motion.

*“It is now two years since the Supplementary Planning Document (SPD) on Garden Land and Infill Sites was published and a first review of the document should be undertaken.*

*Parts of the SPD are out-of-date- and as a result of changes introduced by Planning Policy Statement (PPS3). There are also differences of opinion regarding the interpretation of parts of the document from all sources, which indicates that the time has come for the SPD to be reviewed and updated.*

*Therefore this Council;*

- 1. Propose that members of the original working group, plus replacements and additions where required, should be reconvened as soon as possible with the aim of reporting back to the Council meeting on October 10<sup>th</sup> 2011. “*

As proposer of the motion, Councillor Smith, considered that the aspirations of the SPD were not being delivered and it was not working effectively. Therefore it was appropriate to review the SPD and ensure it was still fit for purpose. The results of the government’s National Planning Policy Framework were expected in July and the SPD could be reviewed in the light of experience over the last two years and the proposed national framework.

In seconding the motion, Councillor Godwin, indicated some areas where the SPD was out of date and cited pages 5, 6, 9 and 12 as examples. The document was important and this had been acknowledged by Planning Inspectors who had referred to it as part of any appeals process. A recent meeting had been held with officers to discuss this issue but members attending did not consider it had been a very effective meeting and therefore the working group should be reconvened to address this important issue.

In supporting the motion, members felt that the problems stemmed from different interpretations of the document by officers and members and there were a few paragraphs that needed reviewing. There appeared to continue to be doubts and confusions whenever garden developments were discussed at Planning Committee.

Speaking against the motion, the Leader said that feedback on the SPD he had received was that it was working well and proving useful. The National Planning Policy Framework related to all SPDs and planning documents and therefore its publication did not justify the setting up of this working group. This would be reviewed as part of the JCS work.

The Cabinet Member Built Environment did not recognize the SPD as being fatally flawed or that the Planning Committee was making unsound decisions. He was concerned that members should consider rewriting the SPD after only two years.

Councillor Jordan, seconded by Councillor Webster, proposed an amendment to delete paragraph 2 of the motion and amend paragraph 3 as follows:

*“ Council requests that Planning Committee reviews the implementation of the SPD and reports back to Council if it feels any changes are necessary.”*



In proposing the amendment, Councillor Jordan, considered this was an appropriate matter for the Planning Committee to review.

Speaking against the amendment, Councillor Smith, considered that the Planning Committee on the 21 July was too far away and the JCS would need some input on this matter earlier. He suggested that it would be useful to have some non-Planning Committee members on the working group to add some balance.

The Head of Legal Services advised members that if the amendment was carried there may be issues arising for Planning Committee if members were minded to change the SPD and then the same set of members subsequently made decisions based on the SPD which they had determined should change. Therefore, a working group approach including some non Planning Committee members may be a better option. Also, formulation of planning policy was generally an Executive matter where Cabinet formulates proposals for Council approval and he suggested that Cabinet should have some role to play in any review that was carried out.

In his summing up, Councillor Smith expressed his concern about any working group comprising only members of the Planning Committee and he felt, with reference to the legal advice, that a wider working group approach would result in a stronger planning framework.

Upon a vote on the amendment was CARRIED and this became the substantive motion.

Voting: For 19, Against 13 with 0 abstentions.

Councillor Godwin, made it clear that he had not said that the SPD was 'fatally flawed' but had suggested that it needed clarification in several places.

Councillor Smith hoped that Cabinet could put aside some money to support this review. The SPD was currently a useful document for officers when vetting applications but currently not so useful for the public or for members. He hopes the chair of Planning Committee could pull together some work on this before the next Planning Committee meeting.

Upon a vote the motion as amended was CARRIED unanimously.

### **Motion C**

Councillor McClain seconded by Councillor Stennett proposed the following motion.

*"The Cheltenham Borough Local Plan (second review) was adopted in July 2006 and covers the period 1991 to 2011. Plan policies have been saved and will form part of the Local Development Framework (LDF).*

*Important changes have occurred to core policies and proposals as a result of central government changes contained in Planning Policy Statement (PPS3). Whilst these changes have affected housing development policies, other changes have occurred, or they have become outdated.*

*Therefore this Council*

1. *Propose that a third review of the Local Plan policies as a matter of urgency should be undertaken before final acceptance of the LDF”*

As proposer of the motion, Councillor McClain sought advice on the statutory process for reviewing planning policy. The legal position was that that the provisions of the Town and Country Planning Act 1990 dealing with the preparation of local plans had been repealed. Therefore it was not possible to have a third review of the Cheltenham Local Plan and the only way to change the policies was via the LDF Process.

Having considered the position, Councillor McLain decided to withdraw rather than amend his motion and would consider reframing it for a future meeting

Councillor Jordan referred members to the Cabinet report of the 19 April 2011 which set out a timetable for the review of SPDs.

#### **Motion D**

Councillor Godwin seconded by Councillor Wall proposed the following motion.

*“The present system of dealing with planning appeals appears to be flawed. Whether a planning application is refused by the committee, or as a result of an officer’s delegated recommendation to refuse and the applicant goes to appeal, we believe a substantial statement should be made in writing to the Planning Inspectorate.*

*The statement should set out all of the reasons given for the refusal and carried out professionally. The present system of sending a copy of the case officer’s report to committee, plus a copy of the minutes to the Inspectorate is inadequate.*

*Therefore this Council;*

1. *Propose that a time-limited review of the Council’s approach to planning appeals, through a member group, or an officer report to the next Council meeting, should be undertaken.*
2. *Ask that officers consider the re-employment of a qualified Appeals Officer.” “”*

As proposer of the motion, Councillor Godwin, said that the public were not impressed with the council’s record at appeals and their poor showing at inquiries and he cited several examples. Sometimes consultants had been engaged to prepare the appeals who had little knowledge of the background. Planning Inspectors had also complained about the lack of information presented in supporting the council’s appeals. There was currently no requirement for a separately articulated case on behalf the council which fully represented the position of the Planning Committee, planning officers and the council as a whole. A more professional and consistent approach was needed.

In supporting the motion members welcomed the comments made by Councillor Godwin. Councillor Fletcher suggested that the biggest mistake had been the deletion of the planning officer appeals post. Other members suggested that losing the officer was a false economy especially when consultants were being used. There was a lack of evidence on whether outcomes would have been different and this was where a time-limited review could help.

As the meeting had been in session for over four hours, the Mayor confirmed that members wished to continue.

Speaking against the motion, the Cabinet Member Built Environment thought the motion was a nonsense. There had been no specialist appeals officer since 2008 and performance had improved since then with 66% of appeals being won. A consultant had been used on two appeals only in the last year and in both cases there had been particular reasons. The current commissioning exercise looking at Built Environment would also be looking at this area.

In his summing up, Councillor Godwin, referred to the statistics he had been maintaining on planning appeals since 1991 and he considered that the appeals officer was a key factor in their likely success. He was also concerned that in some cases the relevant planning officer had been too busy to deal with the appeal and another officer had been appointed to carry out this work.

Upon a vote on the motion was LOST  
Voting: For 13, Against 19.

#### **Motion E**

Councillor Wheeldon seconded by Councillor Bickerton proposed the following motion.

*“With Cheltenham Borough Council’s electricity contract due to be renewed shortly and in order to reach our CO2 reduction target of a 30% reduction by 2015, purchasing zero carbon electricity from a green energy provider should be considered.*

*Therefore this Council;*

- 1. Recommends that purchasing zero carbon electricity from a green energy provider be a major consideration when choosing the new supplier.* “

As proposer of the motion, Councillor Wheeldon, said that the contract renewal provided the opportunity to reduce the council’s energy consumption and meet its target on CO2 emissions in the next 12 months. The cost implication should be relatively small.

As seconder of the motion, Councillor Bickerton, said that the cost of coal and gas were likely to increase but the cost of renewable energy would fall, therefore the motion was a sensible approach.

Upon a vote on the motion was CARRIED unanimously.

**13. TO RECEIVE PETITIONS**  
No petitions were received.

**14. ANY OTHER ITEM THE MAYOR DETERMINES AS URGENT AND WHICH  
REQUIRES A DECISION**  
There were no urgent items for discussion.

Barbara Driver  
**Chair**