

Council

Monday, 26th March, 2012

2.30 - 5.20 pm

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

Minutes

1. A MOMENT OF REFLECTION

Reverend Tim Mayfield invited Members to take a moment of reflection.

2. APOLOGIES

Councillors Wheeldon, McCloskey, H. McLain, P. McLain and Cooper had given their apologies.

3. DECLARATIONS OF INTEREST

Councillors C. Hay, R. Hay, Britter and McKinlay declared a personal interest agenda item 15 (Notices of Motion) as Members of Campaign for Real Ale (CAMRA).

4. MINUTES OF THE LAST MEETING

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

Councillor Garnham raised the issue of consistency with regard to the attributing of comments to specific Members. Throughout the minutes comments were associated to 'some members' or those members' but in the second to last paragraph of Agenda Item 10 (Reviewing the 'development of land and infill sites' SPD) Councillor Fisher had been named. The Mayor confirmed that this error had been highlight by the Officer responsible for producing the minutes and the proposal was that Councillor Fisher's name be replaced with 'A Member'. Members agreed.

Upon a vote it was unanimously

RESOLVED that the amended minutes of the meeting held on the 24 February 2012 be signed and agreed as an accurate record.

5. PUBLIC QUESTIONS

No public questions had been received.

6. COMMUNICATIONS BY THE MAYOR

The Mayor took the opportunity to thank and congratulate Reverend Tim Mayfield for the service he had held the previous day (Sunday 25 March) which was fun and unique.

She reminded Members that there was still an opportunity for them to support the Mayor's Charities by attending one of the upcoming events which included, the Churchdown male voice choir at Christchurch on the 1 April, the abseiling event at Eagle Star on the 22 April (for which disabled access was now possible) and the black tie dinner and auction to be held at Star College on the 11 May.

7. COMMUNICATIONS BY THE LEADER OF THE COUNCIL

As this would be his last opportunity before elections, the Leader of the Council thanked the Mayor for her charring of the Council meetings and her enthusiastic support of events across the town during her term as Mayor. The Leader extended his thanks to all Members ahead of the elections for their years of service and many contributions to the town but specifically those that he was aware did not intend to stand for re-election. Councillor MacDonald who was an institution in his ward of Leckhampton, Councillor Cooper with his boundless business knowledge, Councillor Wheeldon for his contributions to low carbon and sustainability, Councillor Webster whose knowledge and sheer hard work had been unmeasurable and finally, Councillor Surgenor who would be a great loss to the Planning Committee for which he was so passionate.

The Mayor echoed thanks to those Members who were choosing to stand down.

8. MEMBER QUESTIONS

No member questions had been received.

9. PAY POLICY STATEMENT

Councillor C. Hay, as Cabinet Member Corporate Services, explained that a requirement of the Localism Act 2011 was for councils to produce a pay policy statement in respect of employees for 2012-13 and subsequent financial years. Members were assured that the 2012-13 pay policy statement merely set out the approach that had been taken over the last number of years. He felt that over the coming year consideration should be given to 'discretions' as they had never been used, which posed the question, why do we have them.

Along with the Director People, Organisation Development and Change, the Cabinet Member Corporate Services gave the following responses to Member questions;

- In relation to item 1.11 of the report and Council being offered the opportunity to vote before large salary packages are offered in respect of new appointments, the Appointments and Remuneration Committee would undertake this through delegation.
- The last sentence of item 1.5 of the report was missing the word transparency after the words 'staff need more' (transparency).

Upon a vote it was unanimously

RESOLVED that

- (i) **The 2012-13 Pay Policy Statement be approved.**
- (ii) **The revised LGPS Statement of Policy/Discretions (paragraph 2.23) be approved.**

10. ANNUAL REPORT OF THE STANDARDS COMMITTEE

The Chair of the Standards Committee, Simon Lainé, introduced the Annual Report on behalf of the Standards Committee. He explained that this year the report not only provided a summary of the Committee's activities in the last year but consisted mostly of a commentary of the part of the Localism Act 2011 that concerned Standards.

The work of the Standards Committee had depleted during the last year in light of its imminent demise and therefore the number of meetings had reduced accordingly. There were very few complaints regarding possible breaches of the Code and therefore very few cases for consideration. Those that did arise did not involve major transgressions, none of the subjects of the complaints were found to be in breach and unlike in previous years, investigations were completed in a relatively short time.

The Committee had last met in February for a workshop to discuss the Localism Act and its implications and the report summarised those discussions.

Members felt that the Standards Committee must retain its power to apply sanctions if the decision is that there has been a breach of the Code otherwise it would be powerless and it could be argued, pointless.

A Member welcomed the abolition of the old regime which he felt placed far too much emphasis on what Councillors said and not what they did, was open to malice and silliness and triggered too many complaints, creating an entire industry. He considered the Localism Act and proposals to be broadly sensible, with a focus on wrong doing which, in his mind, would cease what had become an entirely bureaucratic process.

In response to a Member question, the Monitoring Officer confirmed that the legislation stated that the principal authority (CBC) must investigate allegations on behalf of the Parish Councils but the Act did not actually preclude this happening at a local level.

The Mayor thanked the Chair for his attendance and all Committee Members on behalf of the Council for their hard work.

11. CORPORATE STRATEGY

The Leader of the Council introduced the Corporate Strategy – 2012/13 action plan, the third annual action plan of the five year strategy. He explained that the plan had evolved in parallel with the budget and highlighted some key points. In compliance with the public sector equality duty, three objectives were developed which were considered most important in promoting equality and diversity; Listening and responding to a wide-range of communities, Promoting

fair access to our services and Ensuring fair employment practices. The action plan included specific commitments to support the six priorities identified by the new partnership structure, though the Council was not directly responsible for delivery. Appendix 2 detailed the ongoing progress of various Commissioning Reviews and set out future plans.

The report included details of comments made by scrutiny, of which a major recurring concern was whether there were sufficient resources within the Council to deliver all of the work set out in the action plan. He assured Members that an Officer level assessment had been undertaken and Officers were fairly confident that it was achievable. The plan was always ambitious, for which he couldn't apologise and he thanked Officers for making it all happen. Overview & Scrutiny would consider a report twice a year to monitor progress.

The plan included some major projects (Art Gallery & Museum, North Place & Portland Street and St. Paul's) and next week would see the launch of GO Shared Services and UBICO. These were exciting times for the Council, but GO and UBICO needed to produce savings and this would be monitored to ensure that this was being achieved as well as working as they should be. He hoped that Members could support the recommendations.

A number of Members were dismayed that there was no mention of the Queen's Diamond Jubilee. £15k had been set aside for the Olympic celebrations and there was still £30k of Promoting Cheltenham Fund monies that had not been allocated and yet the Council appeared to have no plans to commemorate the Queen's 60th year on the throne. These Members urged that something be done to mark this occasion, whether this was an event or as one Member advocated a permanent marker.

Some Members could understand the concerns that had been raised but felt that, importantly, events were being organised to honour the Queen from the community, up. Details of various events were raised, with one Member thanking the Council for the support it had offered in facilitating a Parish Council to organise a Jubilee celebration which it was hoped would attract 1500-2000 people.

A Member pointed out that the message from the Queen herself had been that Councils should not spend vast amounts holding celebratory events and should instead look at augmenting what they already do. He expressed his surprise that nothing had been proposed at the last meeting, when the budget was approved, at which Members could have put forward a request for funding of such an event. Importantly he felt that the Olympic Torch celebration at the racecourse on the 23 May would be a spectacular event for everyone in Cheltenham.

The Mayor advised Members that a commemorative plaque and flag would be purchased to mark the Queen's Jubilee.

The Cabinet Member Finance & Community Development highlighted the importance that neighbourhood management would play in relation to strengthening communities and how this would become increasingly important in the future as resources within the emergency services, etc, reduced. First response to issues would need to come from the local community and it would

be desirable if Neighbourhood Coordination Groups took responsibility for dealing with day to day issues.

The Cabinet Member Sport & Culture responded to queries relating to his portfolio. In terms of what the Council was doing to support the partnership priority; Ensuring that our young people have access to a suitable range of positive activities, the outcomes set out on the 'people are able to lead healthy lifestyles' detailed the annual Summer of Sport initiatives for which the target attendance figure was 1,497 and the free under 16 swim, of which CBC was the only Borough in the County to offer. He assured Members that the targets that had been set, whilst very high, were legitimate and he was sure were achievable.

The Cabinet Member Housing & Safety responded to queries raised relating to her portfolio. She acknowledged the importance of youth work for which the Council had made £50k available, this funding was being used to identify gaps in provision across the town and the linkages that had been formed would help to prevent duplication. She was happy to consider a reference to the Night Time Levy for inclusion in actions relating to how Licensing would help to reduce the impact of alcohol on individuals and families. Welfare reform was a key area of concern for her personally and the strategies that were being developed aimed to protect people against these reforms. She did however voice her apprehension about the resilience of the services dealing with this issue, given that a number of resources had been lost.

In closing, the Leader took the opportunity to respond to the various comments and concerns that had been raised. He felt that the comments about the Jubilee were unjustified at this stage. The Chief Executive was absent from the last Council meeting (24 February) as he had attended a briefing with the Duchess of Gloucester to discuss Jubilee events. Having been involved in the consideration of bids for the Promoting Cheltenham Fund he was able to confirm that no bids for Jubilee related events were received. The JCS offered the Town a degree of protection and this would only be benefited by working with Gloucester and Tewkesbury. He acknowledged that the economy was an important issue suggested that as part of commissioning, now, was not the right time to review the service. Partnerships were not the perfect solution but they were vital in the current circumstances. He was confident that the restructure from six to three partnerships would increase effectiveness, though admittedly this relied upon the appropriate linkages being in place and working as they should. This would be for Overview & Scrutiny to monitor and review.

Upon a vote it was

RESOLVED that the 2012-13 corporate strategy action plan be approved and used as a basis for monitoring the council's performance over the next 12 months.

(Voting: 22 For, 5 Against with 4 Abstentions)

12. COUNCIL DIARY SEPTEMBER 2012 TO AUGUST 2013

The Director of Commissioning introduced the report, which sought approval of the provisional diary of meetings for September 2012 to August 2013. She highlighted that the production of the diary was a logistical challenge and the rationale for the diary and the draft calendar had been circulated to officers and

members in February as part of the consultation. As far as possible any comments had been incorporated and the diary also took note of the comments raised by members at the last Council meeting requesting that evening meetings start at 6 p.m. to accommodate those members who are not able to leave work any earlier. She advised members that the deadline for public and member questions for Council may need amendment following the review of the constitution under agenda item 14. The diary could also be downloaded from modern.gov on to members own electronic diaries and this was to be included in the members training sessions on modern.gov being organised by the Democratic Services Manager. Since the diary had been published two amendments had been suggested, firstly that Council on 8 October 2012 should move to 15 October to avoid the party conferences and Planning Committee should be rescheduled from 15 November 2012 to 22 November 2012 to avoid the elections for the new Police Commissioner. The planning date had been agreed with planning officers prior to this meeting and the planning view would also move forward one week.

These amendments were noted.

A member was concerned about the phasing of the overview and scrutiny meetings with Cabinet and Council. He made a number of suggestions and subsequently agreed to put these in writing to the Democratic Services Manager for consideration.

The Cabinet Member Corporate Services said it was a shame that these comments had come so late in the process but nevertheless they had some merit. He proposed that Council should agree the diary subject to the Director of Commissioning reviewing the suggestions for O&S and agreeing the final schedule in consultation with the Group Leaders.

Upon a vote it was unanimously

RESOLVED that

- 1. The draft Council Diary of meetings for September 2012 to August 2013 as amended be approved subject to the Director of Commissioning agreeing the final dates for Overview and Scrutiny in consultation with the Group Leaders.**
- 2. The revised dates for the current diary as set out in paragraph 2.1 be noted.**

13. MEMBERS' ALLOWANCES REVIEW

The Director of Commissioning introduced the report which set out the recommendations of the Independent Remuneration Panel (IRP) in relation to members' allowances. The panel had specifically considered the new scrutiny arrangements effective from May 2012, the new Standards arrangements effective from July 2012 and ICT support for members'.

A member drew attention to the special responsibility allowances (SRAs) for Planning Committee chair and vice-chair where the SRAs paid by Cheltenham Borough Council seemed much lower than other councils. Another member

commented that decisions made by the Planning Committee could have long term implications and therefore the role was very important.

A member commented that the average of four hours per week for the new Chair of O&S referred to in paragraph 2.14 of the panel's report did seem quite conservative but could only be reviewed once a suitable time had elapsed. Another member felt that more information was needed in the report to explain why the allowances had been set at these levels as in a similar situation officers would not accept any reduction in their pay without this information.

The Leader wished to put on record their thanks to the IRP for their work and he felt Council should be morally obliged to accept the panel's recommendations. He noted that the future of members ICT was somewhat in limbo whilst a review of ICT was being carried out.

The Mayor felt it was wrong that councillors chose to come late to council meetings, leave early or not show up at all and she felt that should be taken into account and allowances should then be paid at the end of the year.

Voting CARRIED with 2 abstentions.

Upon a vote it was CARRIED with 2 abstentions

RESOLVED that

- 1. The recommendations of the IRP (summarised in part 5 of the report) be approved for adoption.**
- 2. The Director of Commissioning be authorised to implement any necessary changes to the scheme of allowances and the Borough Solicitor and Monitoring Officer be authorised to make any necessary changes to the Council's constitution.**

14. REVIEW OF THE CONSTITUTION

The Cabinet Member Corporate Services firstly apologised for the late publication of the report and appendices, which were circulated to Members on Friday (23 March). With hindsight he felt that the review should have commenced at an earlier stage as it took longer than originally anticipated.

He took this opportunity to thank the two other Members who had formed part of the Working Group, Councillors Smith and Godwin and the Borough Solicitor & Monitoring Officer and Head of Legal Services for all their hard work.

Council were being asked to approve the revisions that had been undertaken thus far, though further contextual amendments and formatting as necessary would be delegated to the Borough Solicitor. It was recognised that there would be further amendments later in the year when the implications for the new conduct regime arising from the Localism Act 2011 had been assessed and material changes would be reported to Council for approval.

He noted that Members would no longer be provided with a hard copy of the entire document, but that the new format would allow for specific sections to be printed and the definitive version would be available on the website.

In response to queries raised by Members the Cabinet Member Corporate Services explained that;

- There had been a conscious decision to avoid being too prescriptive in relation to the new Overview & Scrutiny Committee. It was important for the Committee to establish its own working procedures and this would include if, how and when follow-up on recommendations was to be undertaken.
- The wording regarding 'call in' would be reviewed and amended as necessary to eliminate any ambiguity. 'Call in' related strictly to the principles of decision making. At present all non-executive Members were appointed to one of the three Overview & Scrutiny Committees but under the new scrutiny arrangements, only 10 Members would be appointed to the Overview & Scrutiny Committee, so any Member could 'call in' a decision.
- Option 2 was Cabinet's preferred option for the amendment to Motion on Notice. This would allow Council to decide to refer a Motion to the Cabinet or Committee for consideration, without debate and would allow for more detailed information to be collated which would facilitate an informed debate.

Members expressed the view that it was an important right to be able to raise a Motion for debate at Council and it should only be referred to Cabinet or other Committees as an exception.

The Leader highlighted the deadline for Public and Member questions which had been extended from 10am on the 5th working day before the day of the meeting to midday on the 4th working day before the day of the meeting. This would ensure that both Members and the Public had the opportunity to consider the agenda ahead of the deadline for the submission of questions.

The Monitoring Officer confirmed that the assumption was that the constitution would be reformatted ahead of May, though it could in fact need to be refreshed shortly after May as part of an ongoing process of review. The Working Group would remain with the addition of two Members, one to be Councillor Sudbury.

Upon a vote it was

RESOLVED that

- 1. The revised Overview & Scrutiny Rules (Appendix 1) be approved.**
- 2. The revised Indication of Terms of Reference for Overview & Scrutiny Sub-Committee (Appendix 2) be approved.**
- 3. The revised Budget and Policy Framework Rules (Appendix 3) be approved.**
- 4. The revised Part 2 Articles 1-16 (Appendix 5) be approved.**

5. **The Part 3 Responsibilities for Functions and the Policy Table (Appendix 4) be approved (subject to the Leader approving the Executive Functions set out in Part 3E).**
6. **The increase in membership of the Audit Committee from 5 to 7 members (paragraph 5.7 of the report) be approved.**
7. **The Contract Rules (Appendix 6) and the revised Employee Code of Conduct (Appendix 8) be approved.**
8. **The amendment to Rule 12 of the Council Procedure Rules – Public and Member Questions (paragraph 7.2 and 7.3 of the report) be approved.**
9. **The amendment of Rule 5 of the Council Procedure Rules – Motions on Notice (option 2 / paragraph 7.4 of the report) “to decide without debate whether to deal with the Motion at the meeting or to refer it to the Cabinet or Committee for consideration, in each case a decision is taken” be approved.**
10. **That, with the exception of the Contract Rules which will be implemented on 1st April 2012, the above amendments approved by Council will take effect from the new municipal year in May 2012.**
11. **The Borough Solicitor, in consultation with the Constitution Review Working Group be delegated authority to;**
 - (i) **Reformat the Constitution and make any textual or other amendments which are necessary to ensure accuracy and consistency but which do not materially affect the Constitution as approved by Council.**
 - (ii) **Devise a Public Participation Scheme to draw together in one Appendix to the Constitution, the various ways in which the public may participate in Council business.**

CARRIED with 1 Abstention.

15. NOTICES OF MOTION

Councillor C. Hay, seconded by Councillor Walklett, proposed the following motion:

In the last decade more than 800 Public Houses have closed in Gloucestershire, of which 115 have closed in Cheltenham alone. Many of which provided a valued social amenity, these have been lost forever. Community assets - such as local pubs, can be afforded protection from changes of use and demolition. Cheltenham planners do look at the viability of local pubs in coming to any recommendations and decisions, however, it has proved very difficult to stop the 115 closures.

In order to preserve those pubs that do provide a community asset, this council resolves to;

Adopt the Public House Viability Test developed by CAMRA (Campaign for Real Ale) and develop policies which further protect local Public Houses and other community assets.

In proposing the motion, Councillor C. Hay had done so as there had been issues locally in his ward, where residents had been vocally opposed to the closure of public houses. The figure of 155 closures would, he suggested, need to be looked at with care, as some had in fact closed and reopened as restaurants. He considered that many pubs that had closed in recent years across the town could, in the right hands, have continued to serve their local communities as well as providing a decent living for those running them and CAMRA were at the forefront of protecting these community assets. The majority of those pubs closed each week were owned by pubco, not small breweries or owner/occupiers, who tended to change the business model to meet the need. He proposed that pubco had adopted a business model based on significant borrowing that meant that they were worth more in development terms than they were as public houses and his suspicion was that pubco had in place a run-down process which aimed to justify the closures.

As seconder, Councillor Walklett spoke in support of the motion by highlighting that 4 of the 7 public houses in his Ward, St. Pauls, had closed in the last 10 to 12 years. He saw the motion as a means of making communities aware that there were alternatives to the closure of local pubs, which were a community asset and should be protected.

Those Members who felt unable to support the motion, admired the sentiment behind it, but were unconvinced that the Council could do anything locally to prevent the closure of public houses in the Town. The situation was the same across the country and was attributed to the rising cost of alcohol which was undoubtedly leading people to purchase alcohol for consumption at home. These Members were unwilling to agree to 'adoption' of the viability test without sufficient detail of what this would entail and suggested that they would be more comfortable if the motion proposed that adoption be considered.

A Member considered that some would argue that there were too many pubs, or too many of the wrong kind of establishments in Cheltenham. He queried whether in addition to public houses, the proposed closure of 'community assets' including churches, post offices, banks, etc should also be considered. He was unconvinced the Council should interfere in the way private individuals and/or businesses use their assets.

Another Member reiterated the point that any individual had the right to submit a Planning Application to demolish and rebuild. Some years ago the Council had developed a list of non-listed properties which it felt had architectural merit worth preserving but there was nothing to stop these properties being demolished as there was no force of law. Planning Law was specific and this was why the Council had Planning Policies.

Members speaking in support of the motion did so as they felt that pubco were sacrificing community assets in place of financial reward and considered it more viable to demolish instead of developing a more sound business model. The CAMRA Public House Viability Test looked beyond the current financial business case and Members felt that it would be a useful tool for the Planning

Committee. They commended Councillor Hay for challenging the status quo that nothing could be done.

Councillor Hay felt that there had been a lot of discussion of the issue which he had imagined would have been done outside of the meeting, perhaps by a working group. He was happy to amend the motion so that council resolves to;

Investigate the adoption the Public House Viability Test developed by CAMRA (Campaign for Real Ale) and develop policies which further protect local Public Houses and other community assets.

He reiterated that the pubco business models didn't work and seemingly had one thing in mind, realising their market value.

Upon a vote the substantive motion was CARRIED with 2 Against.

16. TO RECEIVE PETITIONS

No petitions had been received since the last meeting.

Councillor Regan presented a petition with approximately 1020 signatures on behalf of local residents adjacent to Weavers Field;

"We the undersigned are very much against the current preliminary proposal which could see up to 88 allotments on part of Weavers Field. The council say that only 3.1 acres of the 8.1 acre field would be turned into allotments – however this does not take into account the creation of a large allotment car park area in order to cope with a significant number of vehicles. This area is the only open green space in this locality and the preliminary proposal is not acceptable".

The Mayor explained that a letter confirming how and when the petition would be dealt with by the Council would be sent to the petition organiser in due course.

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

There were no urgent items for discussion.

Barbara Driver
Chair