

Council

Monday, 14th May, 2012
2.35 - 3.25 pm

Attendees	
Councillors:	Barbara Driver (Chair for Agenda Items 1-3), Colin Hay (Chair for Agenda Items 4-20), Wendy Flynn (Vice-Chair for Agenda Items 5-20), Garth Barnes, Ian Bickerton, Nigel Britter, Andrew Chard, Chris Coleman, Bernard Fisher, Jacky Fletcher, Rob Garnham, Les Godwin, Penny Hall, Tim Harman, Rowena Hay, Diane Hibbert, Peter Jeffries, Steve Jordan, Andrew Lansley, Paul Massey, Helena McCloskey, Andrew McKinlay, Paul McLain, John Rawson, Anne Regan, Rob Reid, Diggory Seacome, Duncan Smith, Malcolm Stennett, Charles Stewart, Klara Sudbury, Jo Teakle, Pat Thornton, Jon Walklett, Andrew Wall, Simon Wheeler, Roger Whyborn and Suzanne Williams

Minutes

1. A MOMENT OF REFLECTION

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

2. APOLOGIES

Apologies were received from Councillor Holliday.

The Mayor took this opportunity to pay thanks to all of the staff, emergency services, local authorities and various organisations from across and beyond the County for their support for residents in the aftermath of not one, but two incidents in the town.

3. ELECTION OF MAYOR 2012-13

Councillor Colin Hay was proposed for the office of Mayor by Councillor Jordan and seconded by Councillor R. Hay.

Upon a vote it was unanimously

RESOLVED that Councillor Colin Hay be, and is hereby, elected Mayor of the Borough of Cheltenham and Council chairman for the ensuing year.

Councillor Driver congratulated the Mayor on his election.

The Chief Executive invited the Mayor to sign a Declaration of Acceptance of Office of Council chairman for the ensuing municipal year 2012 – 2013.

Councillor Colin Hay took the chair.

4. ELECTION OF DEPUTY MAYOR 2012-13

Councillor Sudbury proposed Councillor Wendy Flynn for the office of Deputy Mayor, seconded by Councillor R. Hay.

Upon a vote it was unanimously

RESOLVED that Councillor Wendy Flynn be, and is hereby, elected Deputy Mayor of the Borough of Cheltenham and Council vice-chairman for the ensuing year.

The Mayor congratulated Councillor Wendy Flynn on her appointment and looked forward to working with her over the coming year.

The Chief Executive invited the Deputy Mayor to sign a Declaration of Acceptance of Office of Council vice-chairman for the ensuing municipal year 2012 – 2013.

5. ELECTION OF HONORARY ALDERMEN

Councillor Barnes proposed Lloyd Surgenor for election of Honorary Alderman which he felt recognised the many years of hard work as Chair of the Planning Committee, his role as a ward member and time as Mayor. This was seconded by Councillor Driver.

Councillor Fletcher proposed Robin MacDonald for his many years as ward Member for Leckhampton and as Mayor of the town, seconded by Councillor Garnham.

The Mayor explained that Lloyd Surgenor would be presented his scroll at the inauguration ceremony on Wednesday (16 May) and Robin MacDonald's would be presented at the next Council meeting as he was unable to attend the inauguration.

RESOLVED that in recognition of the eminent services as members of Cheltenham Borough Council and Pursuant Section 249(1) of the Local Government Act 1972, Lloyd Surgenor and Robin MacDonald be elected Honorary Aldermen of the Borough of Cheltenham.

The Mayor congratulated both on their election.

6. DECLARATIONS OF INTEREST

No interests were declared.

7. MINUTES OF THE LAST MEETING

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

Upon a vote it was unanimously

RESOLVED that the minutes of the meeting held on the 26 March 2012 be agreed and signed as an accurate record.

8. COMMUNICATIONS BY THE MAYOR

The Mayor invited the Chief Executive to make a statement regarding the election issues at Warden Hill (Appendix 1).

The Mayor hoped that all Members had received their invitations to the inauguration (16 May) and the charity launch (26 May) which were OSevern Freewheelers, Friends of the Art Gallery & Museum and Whaddown, Lynworth & Priors Neighbourhood Project.

He explained that he would be establishing a Facebook and Twitter account which would enable members to follow his activities between Council meetings.

9. TO APPOINT THE LEADER OF THE COUNCIL FOR THE ENSUING TWO YEARS AND TO NOTE THE MEMBERSHIP OF CABINET

Councillor Jordan was proposed as the Leader of the Council by Councillor Walklett and seconded by Councillor Rawson.

Upon being put to the vote the proposal was CARRIED, with 4 abstentions.

The Mayor invited the Leader to address the meeting. The Leader endorsed the comments made by Councillor Driver in relation to the emergencies over the previous days. People from the town and across the County had worked hard to support those affected, as they had done before. He thanked colleagues for their support and outlined the changes to the Cabinet membership; Councillor Rawson (Deputy Leader and Cabinet Member Finance), Councillor McKinlay (Cabinet Member Built Environment), Councillor R. Hay (Cabinet Member Sport & Culture), Councillor Whyborn (Cabinet Member Sustainability), Councillor Jeffries (Cabinet Member Housing & Safety) and Councillor Walklett (Cabinet Member Corporate Services). There would be minor adjustments to portfolios, which would be published in the coming days.

10. TO ESTABLISH AND APPOINT TO THE FOLLOWING COMMITTEES (INCLUDING APPOINTMENT OF SUBSTITUTE MEMBERS)

A copy of the nominations for committees, including substitutes, advised by the group leaders had been circulated to members at the start of the meeting (Appendix 2). The Mayor highlighted an error on the second page, where Councillor Webster was still listed as a Member and Councillor Williams was not, though he noted that this oversight did not affect the nominations.

The Mayor proposed that the nominations be agreed en bloc and that the Chairs and Vice-Chairs, where necessary, be elected by Council, rather than by the individual Committees in separate meetings. Members agreed.

(A) OVERVIEW AND SCRUTINY COMMITTEE

Councillor Fletcher proposed Councillor Smith for Chairman and this was seconded by Councillor Garnham.

Councillor Britter proposed Councillor Sudbury for Vice-Chairman and this was seconded by Councillor R. Hay.

Upon a vote Councillor Smith was elected as Chairman and Councillor Sudbury as Vice-Chairman.

RESOLVED that the membership of the Overview and Scrutiny Committee be as indicated in Appendix 2, the Chairman be Councillor Smith and the Vice-Chairman be Councillor Sudbury.

(B) AUDIT COMMITTEE

Councillor Thornton proposed Councillor Massey for Chairman, seconded by Councillor R. Hay.

Councillor Smith proposed Councillor Wall for Vice-Chairman, seconded by Councillor Seacome.

Upon a vote Councillor Massey was elected as Chairman and Councillor Wall as Vice-Chairman.

RESOLVED that the membership of the Audit Committee be as indicated in Appendix 2, the Chairman be Councillor Massey and the Vice-Chairman be Councillor Wall.

(C) PLANNING

Councillor Jeffries proposed Councillor McCloskey for Chairman, seconded by Councillor Barnes.

Councillor Garnham proposed Councillor Fletcher for Chairman, seconded by Councillor Regan.

Upon a vote Councillor McCloskey was elected as Chairman.

Councillor Garnham proposed Councillor Fletcher for Vice-Chairman, seconded by Councillor Regan. This was carried.

RESOLVED that the membership of the Planning Committee be as indicated in Appendix 2, the Chairman be Councillor McCloskey and the Vice-Chairman be Councillor Fletcher.

(D) LICENSING

Councillor Hall proposed Councillor Seacome for Chairman, seconded by Councillor Regan.

Councillor Reid proposed Councillor Barnes for Chairman, seconded by Councillor Whyborn.

Upon a vote Councillor Barnes was elected as Chairman.

Councillor Regan proposed Councillor Seacome for Vice-Chairman, seconded by Councillor Smith. This was carried.

RESOLVED that the membership of the Licensing Committee be as indicated in Appendix 2, the Chairman be Councillor Barnes and the Vice-Chairman be Councillor Seacome.

(E) STANDARDS COMMITTEE

The Standards Committee would elect the Chairman at their meeting on the 06 July 2012.

RESOLVED that the membership of the Standards Committee be as indicated in Appendix 2.

(F) APPOINTMENTS AND REMUNERATION COMMITTEE

Councillor Jordan proposed Councillor R. Hay for Chairman and this was seconded by Councillor Barnes.

Upon a vote Councillor R. Hay was elected as Chairman.

RESOLVED that the membership of the Appointments and Remuneration Committee be as indicated in Appendix 2 the Chairman be Councillor R. Hay.

(G) JNC DISCIPLINARY COMMITTEE

Councillor Jeffries proposed Councillor Reid for Chairman and this was seconded by Councillor Walklett.

Upon a vote Councillor Reid was elected as Chairman.

RESOLVED that the membership of the JNC Disciplinary Committee be as indicated in Appendix 2 and the Chairman be Councillor Reid.

(H) JNC APPEALS COMMITTEE

Councillor McCloskey proposed Councillor Teakle for Chairman and this was seconded by Councillor Sudbury.

Upon a vote Councillor Teakle was elected as Chairman.

RESOLVED that the membership of the JNC Appeals Committee be as indicated in Appendix 2 and the Chairman be Councillor Teakle.

11. APPOINTMENT OF CHAIR AND VICE-CHAIR TO OVERVIEW AND SCRUTINY COMMITTEE

This item had been dealt with under agenda item 10a and Councillor Smith was elected Chairman and Councillor Sudbury Vice-Chairman.

12. GLOUCESTERSHIRE COUNTY COUNCIL HEALTH, COMMUNITY AND CARE SCRUTINY COMMITTEE

The Mayor invited nominations to the Gloucestershire County Council Health, Community and Care Scrutiny Committee.

Councillor Smith nominated Councillor Hall for representative, seconded by Councillor Fletcher.

Councillor Jordan nominated Councillor Sudbury for representative, seconded by Councillor Teakle.

Upon a vote Councillor Sudbury was elected representative.

In response to query raised by Councillor Garnham, the Monitoring Officer clarified that there was nothing precluding the nomination of a County Councillor to a County group.

Councillor Sudbury nominated Councillor C. Hay for substitute, seconded by Councillor McKinlay. This was carried.

RESOLVED that Councillor Sudbury be the representative and Councillor C. Hay be substitute of the Council on the Gloucestershire County Council Health, Community and Care Scrutiny Committee.

13. GLOUCESTERSHIRE COUNTY COUNCIL COMMUNITY SAFETY OVERVIEW AND SCRUTINY COMMITTEE

The Mayor invited nominations to the Gloucestershire County Council Community Safety Overview and Scrutiny Committee.

Councillor R. Hay nominated Councillor McCloskey for representative, seconded by Councillor Jeffries.

Councillor McCloskey nominated Councillor Sudbury for substitute, seconded by Councillor Jeffries.

Upon a vote Councillor McCloskey was elected as representative and Councillor Sudbury as substitute.

RESOLVED that Councillor McCloskey be the representative and Councillor Sudbury be substitute of the Council on the Gloucestershire County Council Community Safety Committee.

14. GLOUCESTERSHIRE POLICE AND CRIME PANEL

The Cabinet Member Corporate Services introduced the report which had been circulated with the agenda. The report explained that the Police Reform and Social Responsibility Act 2011 required each police area in England to establish a Police and Crime Panel. The Panel will publicly scrutinise the Police and Crime Commissioner who themselves will hold the Chief Constable of their force to account. In Gloucestershire, the Panel will be a joint scrutiny committee of the seven councils.

Each district council was being asked to appoint a Member and a Deputy Member to the Gloucestershire Police & Crime Panel, and to adopt the terms of reference and panel arrangements.

The Mayor invited nominations to the Gloucestershire Police and Crime Panel.

Councillor Rowena Hay nominated Councillor McCloskey for representative, seconded by Councillor Jeffries.

Councillor Smith nominated Councillor Seacome for representative seconded by Councillor Chard.

In response to query raised by Councillor Jordan, the Mayor said he had been advised by the Chief Executive that the Police and Crime Panel needed to be politically balanced across Gloucestershire and therefore there could be potential difficulties if the substitute was from a different party.

Upon a vote Councillor McCloskey was elected representative.

Councillor McCloskey nominated Councillor Sudbury for substitute, seconded by Councillor Chard. This was carried.

RESOLVED that

1. Councillor McCloskey be the representative and Councillor Sudbury be substitute of the Council on the Gloucestershire Police and Crime Panel.
2. The terms of reference attached at Appendix 1 and the panels arrangements attached at Appendix 2 be adopted.
3. That the Chair of the Panel receive a special responsibility allowance of £5,808 and that Members of the Panel be able to claim travel, subsistence and carers' allowances from Gloucestershire County Council.
4. Gloucestershire County Council be the host authority in establishing the Panel and providing the necessary officer support.
5. The Council's Constitution be amended accordingly.

15. APPOINTMENT OF INDEPENDENT PERSONS UNDER THE LOCALISM ACT 2011 - NEW STANDARDS REGIME

Councillor Walklett in his role as Cabinet Member Corporate Services, introduced the report explaining that the recommendations were a consequence of Section 28 of the Localism Act. He highlighted the financial implications as set out in the report, which noted that the cost of the Independent Persons could be met within the existing member's allowance budget and was therefore cost neutral.

Upon a vote it was unanimously

RESOLVED that;

1. Up to three Independent Persons be appointed under Section 28 of the Localism Act 2012.
2. An allowance of £300pa, plus travel expenses, be paid to each Independent Person.
3. The opportunity to apply be advertised on the Council's website and the Person Specification and Job Description (appendix 2 and 3) be approved.
4. An Interviewing Panel, comprising the Group Leaders (or their nominated representatives) and the Monitoring Officer, make recommendations to Council at its meeting on the 25 June on the appointment of up to 3 Independent Persons.

16. APPOINTMENT TO ADVISORY GROUPS AND WORKING GROUPS

Nominations for these groups were included on the list that had been circulated to members at the start of the meeting (Appendix 2).

(A) TREASURY MANAGEMENT PANEL

The Mayor invited nominations for Chairman and Vice-Chairman of the Treasury Management Group.

Councillor Smith proposed Councillor Harman as Chairman, seconded by Councillor Rawson.

Councillor Rawson proposed Councillor Massey as Vice-Chairman, seconded by Councillor Thornton.

Upon a vote Councillor Harman was elected as Chairman and Councillor Massey as Vice-Chairman.

RESOLVED that the membership of the Treasury Management Panel be as indicated in Appendix 2, the Chairman be Councillor Harman and the Vice-Chairman be Councillor Massey.

(B) CONSTITUTION WORKING GROUP

The Mayor confirmed that no nominations for Chairman or Vice-Chairman were required for the Constitution Working Group.

RESOLVED that the membership of the Constitution Working Group be as indicated in Appendix 2.

17. TO APPROVE THE CONSEQUENTIAL CHANGES TO THE CONSTITUTION

The Monitoring Officer confirmed that there were some consequential changes to the constitution as a result of the nominations though these were minor.

Upon a vote it was

RESOLVED that the Monitoring Officer be delegated authority to make any consequential changes to the constitution arising from the nominations.

18. NOTICES OF MOTION

No notices of motion had been received.

19. TO RECEIVE PETITIONS

No petitions had been received since the last meeting, nor were any presented at the meeting.

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

There were no urgent items for discussion.

Colin Hay
Chair

**Statement to the Council meeting on Monday 14 May 2012
by Andrew North in his capacity as Returning Officer for the 2012 Local Elections**

I have been asked by Councillors to make a statement to this Council meeting about a problem which occurred in the Warden Hill ward during the local elections on 3 May. I am happy to do so.

At approximately 4.30pm on polling day, the elections office at the Municipal Offices were telephoned by a resident who informed the office that she had just visited St Christopher's Church Hall in Lincoln Avenue, Warden Hill to vote and she had noticed that the poll clerk had written her unique voter number on the back of her ballot paper before handing it to her. This voter had questioned the process but had been told by the presiding officer that this was correct. The voter telephoned the elections office because she continued to believe that this process was flawed.

This voter was absolutely correct to be concerned and the elections office immediately contacted the polling station and instructed the staff to refrain from putting voter numbers on ballot papers. Next the elections office contacted me and I directed that the presiding officer be replaced by another experienced presiding officer as a matter of urgency. In conjunction with the election team I considered what (if any) remedial action might be taken to permit votes cast in this way to be counted. After consideration it became clear that I would have no alternative as returning officer but to disallow any such votes at the count. The statutory rule is set out in Schedule 1 to the Representation of the People Act 1983 rule 47. The operative words say: -

“any ballot paper ... on which anything is written or marked by which the voter can be identified ... shall ... be void and not counted”.

On reaching this conclusion I attempted to contact the election agents for candidates taking part in the election for Warden Hill ward. I was successful in speaking to two out of three agents shortly after 6pm. I explained the problem which had occurred, and told them that I would have to disallow ballot papers with unique voter numbers written on the reverse though it was my intention to

Page 2

examine those ballot papers which were rejected so as to give certainty as to whether the result of the election had been affected by the presiding officer's error. I asked these agents to let their respective candidates know the position.

I spoke to the remaining agent at around 10pm at the count venue to provide the same information (this being the earliest time I was able to speak to this agent).

In the event 413 votes which had been cast at St Christopher's Church Hall polling station were disallowed owing to the error described. Having extracted the 413 votes my staff worked with the election agents to ascertain how (if they had been counted) those 413 votes would have been distributed between the three candidates. In doing this we sought to ensure that the secrecy of the ballot was preserved so far as possible so that the way the voter had voted on the front of the ballot paper could not be linked to the voter's number on the reverse of the ballot paper.

In the event I (and I believe all of the agents and candidates) were satisfied that the result of the election (in terms of who was elected) was not affected by the error though obviously the majority was affected.

I find it difficult to explain to Council why a presiding officer should feel it appropriate to put a unique voter's number on the back of a ballot paper, it so clearly being a breach of the fundamental principle of our election system that votes should be secret.

In common with other returning officers I implement procedures which should safeguard against such errors occurring.

- We only employ people who are experienced (at least as poll clerks) to be presiding officers.

Page 3

- We issue to all presiding officers and poll clerks the electoral commission's handbook for polling station staff along with a quick guide for polling station staff. We expect such materials to be read.
- We maintain a presence in the elections office during polling hours so that any presiding officer can contact the elections office to obtain clarification on procedures.
- We require presiding officers and poll clerks to attend training sessions prior to any election.
- We appoint polling station inspectors to visit every polling station on polling day to ensure that processes are being correctly carried out.

Obviously on this occasion these processes failed - seemingly because of human error. However as a number of councillors have asked for an enquiry I have decided to ask Mrs Marie Rosenthal, the Returning Officer for the Forest of Dean District Council, to carry out an independent enquiry and to advise us on what happened and whether any further steps should be taken to safeguard against such problems occurring in the future. This enquiry will be at no cost to this council.

In closing I would like to repeat apologies which I have already made through the media to voters in Warden Hill who sought in good faith to cast their votes and which were then disallowed through no fault of theirs. I would also apologise to the candidates in the Warden Hill election for whom this problem must have come as an unpleasant shock.

My intention is to inform councillors of the findings of the enquiry as soon as reasonably possible.

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Page 4

Members	Party	Cabinet	O&S	Adutr	Planning	Licensing	Standards	Appointments	Disciplinary	Appeals	Treasury Mgmt	Constitution	GHOSC(non-exec)	GComsaty(non-exec)	Police and Crime Panel	TOTAL for Member
Sudbury Klara	id	1 Vc			Sub				1	1 Ch			1	Sub	Sub	2
Teakle Josephine	id	1								1 Ch						1
Thornton Pat	id			1	Sub			Sub	Sub	Sub	1					4
Walklett Jon	id	Cabinet									1	1				3
Wheeler Simon	id		Sub	1												2
Whyborn Roger	id	Cabinet			1											1
Williams Suzanne				Sub												1
no of lib dem nominated		0	6	4	9	6	1	5	3	3	6	2	1	1	1	46
no of pab on each committee		1	1	2	1	1	1	1	1	1	1	1				11
Godwin Leslie	pab			1	1	1		1	1	1		1				6
Hibbert Diane	pab	1														1
Prince, David		s		1						1						2
Stennett Malcolm	pab			1	1											2
no of pab nominated		0	1	1	2	1	1	1	1	1	1	1	0	0	0	9
Total nominated		10	7	15	10	3	8	5	5	9	9	4	1	1	1	
Total on committee		10	7	15	10	3	9	5	5	9	9	4	0	0	0	
Substitutes		For each committee the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that committee up to a maximum of 3														
		Put a 1 in the above table to indicate a member has been nominated a seat on a committee														
		Put a s in the above table to indicate a member has been nominated as a substitute														