

Minutes

Council Meeting

11th June 2012



These minutes principally record decisions taken and, where appropriate, the reasons for the decisions. A webcast of the meeting is available for 6 months at www.braintree.gov.uk.

Present:

Councillors	Present	Councillors	Present
Councillor J E Abbott	Yes	Councillor J S Allen	Yes
Councillor M J Banthorpe	Yes	Councillor P R Barlow	Yes
Councillor J Baugh	Yes	Councillor J C Beavis	Yes
Councillor D L Bebb	Yes	Councillor E Bishop	Yes
Councillor R J Bolton	Apologies	Councillor L B Bowers-Flint(Chairman)	Yes
Councillor G Butland	Yes	Councillor C A Cadman	Yes
Councillor S Canning	Yes	Councillor T G Cunningham	Yes
Councillor J G J Elliott	Yes (from 9pm)	Councillor Dr R L Evans	Yes
Councillor A V E Everard	Yes	Councillor J H G Finbow	Yes
Councillor M J Fincken	Yes (from 7.35pm)	Councillor T J W Foster	Yes
Councillor M E Galione	Yes	Councillor C Gibson	Yes (until 9pm)
Councillor M Green	Apologies	Councillor P Horner	Yes
Councillor S A Howell	Yes	Councillor H D Johnson	Yes
Councillor S C Kirby	Yes	Councillor M C M Lager	Apologies
Councillor D J Louis	Yes	Councillor C Louis	Yes
Councillor E R Lynch	Yes	Councillor D Mann	Yes (until 9pm)
Councillor J T McKee	Yes	Councillor R G S Mitchell	Yes
Councillor J M Money (Chairman)	Yes	Councillor Lady P Newton	Yes
Councillor J O'Reilly-Cicconi	Apologies	Councillor Mrs I C F Parker	Yes
Councillor J A Pell	Yes	Councillor R P Ramage	Apologies
Councillor D M Reid	Apologies	Councillor D E A Rice	Yes
Councillor F Ricci	Yes	Councillor W J Rose	Yes
Councillor V Santomauro	Yes	Councillor W D Scattergood	Yes
Councillor W Schmitt	Yes	Councillor A F Shelton	Yes
Councillor L Shepherd	Yes	Councillor C Siddall	Yes
Councillor G A Spray	Yes	Councillor J S Sutton	Yes
Councillor J R Swift	Apologies	Councillor P Tattersley	Yes
Councillor C M Thompson	No	Councillor M Thorogood	Yes
Councillor L S Walters	Yes	Councillor R G Walters	Apologies
Councillor S A Wilson	Yes	Councillor B Wright	Apologies

16. **CHAIRMAN'S AND/OR LEADER'S ANNOUNCEMENTS**

The Chairman's announcement covered the following:

- Details of the Chairman's Diamond Tea Party;
- The theme for her visits this Civic Year is to community and voluntary organisations. Members aware of organisations in their wards which would welcome visits were invited to contact the Civic Office;
- Presentation of a pair of cushions from the Council and the Braintree District Museum Trust to the Queen made from original Warner and Sons fabric woven in Braintree in 1952 for the Queen's Coronation;
- The exhibition "Celebration: Royal Designs by Warner and Sons for Coronations and State Occasions" at the Warner Textile Archive;
- Her participation in the Thames Diamond Jubilee Pageant;
- Sparks Will Fly event including acknowledging the contributions of Agnes Bishop, Chair of Braintree District Arts and Brenda Baker, Manager George Yard Shopping Centre

Councillor Lady Newton, Cabinet Member, Prosperity, wished to record her sincere thanks to officers and members for their letters of condolence in respect of husband, the late Rt. Hon. the Lord Newton of Braintree and his contribution to local life and the national scene. She also thanked Councillors Butland and McKee for picking up key issues within her portfolio over the last few months.

17. **DECLARATIONS OF INTEREST**

INFORMATION: The following interests were declared:

- Councillor D Louis declared a personal interest in Agenda Item 9, Task and Finish Group, Local Highway Liaison, as the Cabinet Member for Highways and Transportation, Essex County Council;
- Councillor Pell declared a personal interest in Agenda Item 11 (i) Reports from the Leader and Cabinet Members, Report of Councillor Schmitt, Cabinet Member, Place, as Chairman of Friends of Halstead Public Gardens.

In accordance with the Code of Conduct all Members remained in the meeting for these items and took part in the debate and decision thereon, unless stated otherwise.

18. **MINUTES**

DECISION: That the minutes of the Council meeting held on 26th April 2012 be approved as a correct record and signed by the Chairman.

19. **QUESTION TIME**

INFORMATION: One question was asked which is summarised in the Appendix to these minutes.

20. **SUBMITTED MOTION**

INFORMATION: Councillor Barlow moved the motion as stated in the Agenda regarding funding support for the Witham Public Hall Trust which was seconded by Councillor Dr Evans. Councillor Barlow believed the Trust faces funding shortfalls in the next two years which are constraining its ability to plan for the long term.

Councillor Beavis believed the motion was premature and that the Council is working with the Trust and taking a flexible and supportive approach. Councillor Beavis moved an amended Motion that had been circulated to all Councillors which was seconded by Councillor Butland.

A vote on the amended motion was taken which was CARRIED and on putting the substantive motion to the vote this was also CARRIED.

DECISION: That the following Motion be approved:

"In order to maintain the viability of the Witham Public Hall Trust and support its business plan objectives this Council agrees to continue its flexible and supportive approach to working with the Trust as it continues to do with other community organisations. A revenue payment of £18,000.00 has supported the Trust in its first year and a capital investment of £100,000.00 is being spent in consultation with the Trust on the Public Hall this year. The Council commends the Administration's approach and welcomes its intentions to meet regularly with the Trust to monitor progress and offer advice".

21. **POLICY RECOMMENDATIONS AND REFERENCES – CABINET 9TH MAY 2012**

INFORMATION: The following Recommendations were considered:

Minute 6, Investment Policy 2012-13

DECISION: That the revised Investment Policy for 2012-13 as detailed in the report be approved.

REASON FOR DECISION: To ensure the Council's Investment Policy enables advice received from its Treasury Management Advisors to be responded to and implemented.

22. **REVISED CONSTITUTION – NEW STANDARDS REGIME AND CODE OF CONDUCT**

INFORMATION: In considering the report on the revised Constitution, members agreed unanimously that the rule of political balance should not be applied to the composition of the Standards Sub-committee.

DECISION:

Code of Conduct

1. From 1st July 2012 or at any later date as specified by the Secretary of State the Council adopt the Code of Conduct for elected and co-opted Members as set out in Appendix A of the report.

2. That, when the Disclosable Pecuniary Interest Regulations are published, the Monitoring Officer, after consultation with the Chairmen of the Governance Committee and the Developing Democracy Cabinet Sub-Group and Group Leaders, amends the draft Code provisions as considered appropriate for the registration and disclosure of interests as well as any consequential amendments.

Procedures for the handling of Complaints

3. That the Monitoring Officer be appointed as the Proper Officer to receive complaints for failure to comply with the Code of Conduct.
4. That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. The Monitoring Officer be instructed to seek resolution of complaints without formal investigation wherever practicable, and that they be given discretion to refer decisions on investigation to the Governance Committee where they feel that it is inappropriate for them to take the decision, and to report annually to the Governance Committee on the discharge of this function.
5. Where the investigation finds no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned and to the Independent Person, and reporting the findings to the Governance Committee and the Standards Sub-committee for information.
6. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek a resolution in appropriate cases, with a summary report for information to the Standards Sub-Committee, but only if the complainant agrees. Where such resolution is not appropriate or not possible, the Monitoring Officer to report the investigation findings to the Sub-Committee for a hearing.
7. That Council delegate to the Standards Sub-Committee such of its powers as can be delegated to take decisions in respect of a member who is found following a hearing to have failed to comply with the Code of Conduct, such actions to include:
 - a. Reporting its findings to Council (*or to the Parish Council*) for information;
 - b. Recommending to Council that the member be issued with a formal censure or reprimand (*or to the Parish Council*);
 - c. Recommending to the Council and the member's Group Leader (or in the case of ungrouped members, recommend to Council) that they be removed from any or all Committees or Sub-Committees of the Council;
 - d. Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - e. Instructing the Monitoring Officer to (*or recommend that the Parish Council*) arrange training for the member;
 - f. Recommending to Council (or Cabinet in the case of an Executive Appointment) the removal (*or recommend to the Parish Council that the*

member be removed) from all or some outside appointments to which the Member has been appointed or nominated by the authority (*or by the Parish Council*);

- g. *Withdrawing (or recommend to the Parish Council that it withdraws)* facilities provided to the member by the Council, such as a computer, website and/or email and internet access;
 - h. *Excluding (or recommend that the Parish Council exclude)* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
8. A detailed procedure for the handling of the complaints will be submitted and approved by the Governance Committee.

Appeals

- 9. A Member who is subject of a complaint may appeal the decision of the Standards Sub-Committee to the Appeals Committee (formally the Employment Appeals Committee).
- 10. An appeal must be made in writing within 14 days of receiving the decision notice of the Standards Sub-committee to the Monitoring Officer.

Independent Persons

- 11. That the Monitoring Officer advertises a vacancy of the appointment of 1 Independent Person and 2 reserve Independent Persons.
- 12. The appointment will be for a period of 4 years and for no more than 3 terms of office.
- 13. That a Committee comprising the Chairman and 2 other members of the Governance Committee be set up to short-list and interview candidates and to make a recommendation to Council for the appointments.
- 14. That the Monitoring Officer, in consultation with the Chairman of the Governance Committee and the Leader of the Council, be authorised to set the initial allowances and expenses for the Independent Person and any reserve Independent Persons, and this function subsequently be delegated to the Governance Committee.

Governance Committee and Standards Sub-Committee

- 15. That, the terms of reference of the Governance Committee be amended, such amendment to include the creation of a Standards Sub-Committee to discharge the Council's obligations under the arrangements for handling complaints in respect of the Code of Conduct. Proposed terms of reference are set out in Appendix B of the report.
- 16. That the composition and the terms of reference of the Standards Sub-Committee as set out in Appendix B of the report are adopted.

- 16a. That the rule of political balance not be applied to the composition of the Standards Sub-Committee. The Governance Committee should accept nominations from Group Leaders to ensure that the Standards Sub-Committee consist of more than 1 political party.
17. Subject to approval of Recommendations 15 and 16, the Monitoring Officer be authorised to seek nominations from the Braintree Association of Local Council for non-voting Parish Representatives for the Standards Sub-Committee.

Register of Member's Interests

18. That the Monitoring Officer prepares and maintains a register of members interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensures that it is available for inspection as required by the Act;
19. That the Monitoring Officer ensures that all members are informed of their duty to register interests;
20. That the Monitoring Officer prepares and maintains new registers of members' interests for each Parish and Town Council to comply with the Act and any Code of Conduct adopted by each Parish and Town Council and ensures that it is available for inspection as required by the Act; and
21. That Standing Orders are amended to prohibit a Member with a Disclosable Pecuniary Interests (DPI) from participating in authority business and to withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which they have a DPI, except where they are permitted to remain as a result of the grant of a dispensation. In addition Standing Orders be amended to require a Member with a DPI to declare the existence and nature of the DPI at a meeting at which he is present.

Dispensations

22. That powers are delegated to the Monitoring Officer to grant dispensation on the following grounds and with an appeal to the Standards Sub-Committee
- a. That so many members of the decision-making body have DPis in a matter that it would "impede the transaction of the business"; and
 - b. That, without a dispensation, no member of the Cabinet would be able to participate in the matter before the Council.
23. That powers are delegated to the Standards Sub-Committee, after consultation with the Independent Person to grant dispensation on the following grounds:
- a. That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
 - b. That the authority considers that the dispensation is in the interests of persons living in the authority's area;

- c. That the authority considers that it is otherwise appropriate to grant a dispensation.

Employment Appeals Committee

24. That the Employment Appeals Committee is renamed the Appeals Committee.
25. To clarify and define the role and purpose of Appeals Committee (formerly the Employment Appeals Committee) and to enable the Appeals Committee to deal with appeals of the Decisions of the Standard Sub-Committee the Terms of Reference of the Appeals Committee are amended to the following:
 - a. The Appeals Committee will make decisions on any appeal under the Council's employment procedures.
 - b. The Appeals Committee will make decisions on any appeal by a member who is the subject of a complaint under the Code of Conduct.
 - c. When considering the appeal the Appeals Committee may:
 - I. Uphold the original decision of the Standards Sub-Committee;
 - II. Uphold the original decision of the Standards Sub-Committee and substitute the sanction determined by the Standards Sub-Committee with one which the Appeals Committee considers appropriate, after consultation with the Monitoring Officer and the Independent Person.
 - III. Overturn the decision of the Standards Sub-Committee.
26. The Appeals Committee when dealing with appeals under the Council's employment procedure will comprise any 3 Members of the Council appointed at the Annual General meeting of the Council and substitutes may be appointed EXCEPT when dealing with an appeal of a decision of the Standards Committee, the Appeals Committee will normally comprise the Chairman of the Governance Committee and 2 Members of the Governance Committee who were not involved in the original decision.

Training

27. The Monitoring Officer to provide training on the Standards Regime to all District, Parish and Town Councillors.

REASON FOR DECISION: To ensure that the Council adopts a Code of Conduct and procedures for the Standards regime, including the creating of Sub-Committee of the Governance Committee to discharge the Council's standards functions.

Recommendation 16a was added following the unanimous decision of the members present that the membership of the Standards Sub-Committee should not be subject to the rules of political balance but based upon skills, expertise and interests of the individual members and to avoid a membership made up of a single political party.

23. **TASK AND FINISH GROUP - SCRUTINY LOCAL HIGHWAYS LIAISON**

INFORMATION: Councillor Abbott, Chairman of the Task and Finish Group, thanked officers and members for their work in supporting the scrutiny review. Councillor Abbott also thanked Cabinet for taking early sight of the report and already implementing some of its recommendations.

Issues covered in considering the report included the following:

- Several Members welcomed the reported;
- Essex County Council and the Highways Agency have Service Agreements with contractors although it was recognised that there are some issues in monitoring the satisfactory completion of works;
- Concern was expressed at a lack of consultation with District and parish Councils with an example of removing cobblestones from Great Notley being cited as an example;
- Greater clarity in public information as to “who does what” would be welcomed;
- An improved tracking system to monitor progress on maintenance issues would also be welcomed;
- Greater lobbying of the Highways Agency for better highway provision was outside the terms of Reference of the group.

Members noted that the recommendations in the report would now be referred to Cabinet.

24. **APPOINTMENT OF HEAD OF PAID SERVICE (CHIEF EXECUTIVE)**

DECISION: That an Appointment Committee is established to deal with the appointment of Head of Paid Service

REASON FOR DECISION: To establish a process for the appointment of a new Head of Paid Service due to the retirement of the current postholder.

25. **QUESTIONS BY MEMBERS**

(i) **Reports from the Leader and Cabinet Members**

INFORMATION: Consideration was given to the written reports of the Leader and Cabinet Members.

Councillor Lady Newton, Cabinet Member, Prosperity, added to her report that the Council had now exchanged the Development Contract with Henry Boot Developments for the Braintree Town Centre Development scheme.

Members asked several questions arising from the reports. The questions and responses of Cabinet Members can be viewed on the Council’s website at:

http://www.braintree.public-i.tv/core/portal/webcast_interactive/80128

Topics covered included:

- Reviewing the development of the contract Witham Leisure Contract at some stage;
- Possible longer term funding approach with the Rural Community Council of Essex;
- Improved Broadband facilities in the district;
- Cycle routes in the district, in particular, improvements to the B1018 road;
- Future recycling targets;
- Tackling litter in the district and the support of Courts;
- Forewarning landowners of possible travellers issues and informing members;
- Re-visiting the Zero Waste Charter to which the Council became a signatory of in 2001.

The following actions were agreed in response to questions raised by members:

- The Leader could give no definitive answer to a question on additional car parking arrangements in schools during the Olympics but agreed to raise with Essex County Council whether the time of operation of the Park and Ride facilities near to Chelmsford could be extended during the Olympics period;
- Councillor Beavis, Cabinet Member, People, would discuss consultation of the use of S106 funds for the River Walk in Halstead with Councillors Fincken and Pell.
- Councillor Beavis, Cabinet Member, People, would make enquires on the whereabouts of the opening plaque for Halstead Leisure Centre in response to a question from Councillor Pell.

(ii) **Chairmen's Statements**

INFORMATION: No statements were made.

(iii) **Minutes of Meetings (Public Session)**

INFORMATION: No statements were made.

26. **BUSINESS OF EXTERNAL ORGANISATIONS**

INFORMATION: Member noted the report from Councillors Abbott and Wright on the Rivenhall Playing Fields Association.

EXCLUSION OF PUBLIC AND PRESS

DECISION: That under Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

The following is a public summary of the exempt information under S.100C (2) of the Local Government Act 1972. Exempt minutes exist as a separate document.

27. **DECLARATIONS OF INTEREST**

INFORMATION: 2 Councillors declared personal and prejudicial interests in Agenda Item 15, Urgent Business, Report from Asset Management, and vacated the meeting in accordance with the Code of Conduct.

In accordance with the Code of Conduct all Members remained in the meeting for these items and took part in the debate and decision thereon, unless stated otherwise.

28. **REPORT FROM ASSET MANAGEMENT**

INFORMATION: Members agreed that a final decision on the proposals contained in the report be delegated to Cabinet if required.

The meeting commenced at 7.15pm and closed at 9.15pm.

L B Bowers-Flint
(Chairman)

Council Meeting, 11th June 2012 – Public Question Time

Question from Kenneth Spencer-Holloway, Braintree

Mr Spencer-Holloway referred to a report in the Braintree and Witham Times of a loss of £45,000 from a total Council grant of £85,000 to the Braintree Improvement District (BID). He asked if the remaining funds would be given to those whom he saw as having the best interests in the town centre and when the expenditure will be audited.

Response

The Leader replied that there has been absolutely no loss of public money and that the Council will use the remaining grant funds on town improvement projects in consultation with businesses and retailers in the town. The Council will retain control of the funds. As part of the grant funding it had been agreed that the Council would audit the expenditure and that audit will take place.