

MINUTES of the meeting of Council held at The Shirehall, St Peter's Square, Hereford. on Friday 19 November 2010 at 10.30 am

Present: Councillor J Stone (Chairman)
Councillor JB Williams (Vice Chairman)

Councillors: PA Andrews, WU Attfield, LO Barnett, CM Bartrum, PL Bettington, AJM Blackshaw, WLS Bowen, H Bramer, ACR Chappell, ME Cooper, PGH Cutter, SPA Daniels, GFM Dawe, BA Durkin, PJ Edwards, MJ Fishley, JP French, JHR Goodwin, DW Greenow, KG Grumbley, KS Guthrie, JW Hope MBE, MAF Hubbard, B Hunt, TW Hunt, JA Hyde, TM James, JG Jarvis, AW Johnson, Brig P Jones CBE, Lavender, MD Lloyd-Hayes, G Lucas, RI Matthews, PJ McCaull, PM Morgan, AT Oliver, JE Pemberton, RJ Phillips, PD Price, SJ Robertson, A Seldon, RH Smith, RV Stockton, AP Taylor, AM Toon, WJ Walling, PJ Watts and DB Wilcox

In attendance: Councillors

35. PRAYERS

The Very Reverend Michael Tavinor, Dean of Hereford, led the Council in prayer.

The Council stood in silent tribute to mark the death of Councillor DJ Benjamin.

36. APOLOGIES FOR ABSENCE

Apologies had been received from Councillors H Davies, AE Gray, RC Hunt, G Powell, DC Taylor and JD Woodward.

37. DECLARATIONS OF INTEREST

8. NOTICES OF MOTION UNDER STANDING ORDERS.

Councillor B Hunt, Personal, Family Connection to the subject member in first notice of motion.

Councillor TW Hunt, Personal, Subject member of the first notice of motion.

13. SHARED SERVICES.

Councillor PJ Edwards, Personal, Close relative working in the health sector.

14. YOUTH JUSTICE PLAN.

Councillor DB Wilcox, Personal, Youth Magistrate.

Councillor RJ Phillips, Personal, Youth Magistrate.

38. MINUTES

The minutes of the Council Meeting held on 19 July 2010 were approved as a correct record.

39. CHAIRMAN'S ANNOUNCEMENTS

The Chairman in his announcements:

- Welcomed Councillor Justin Lavender, recently elected to represent the St Nicholas ward, to his first meeting of Council and Zoe Pemberton who recently took part in Take Over (Herefordshire) Day at the Hereford Academy where she was a pupil.
- Informed Council that he had recently attended The Leadership Trust in Ross with The Princess Royal and was pleased to meet the Duke of Kent during visits to Belmont Abbey and Queenswood. Due to the county's strong links to the Dutchy, the Chairman had written to Prince William and Kate Middleton congratulating them on their recent engagement.
- Stated that the Goodwill Group had continued their fundraising efforts, raising money for a variety of good causes. Recent events which included the Macmillan Coffee Morning, Jeans for Genes Day and Wear it Pink Day had collectively raised in the order of £2,400 and employees and fellow Councillors were thanked for supporting the Goodwill Group's efforts. The next event would be the Christmas Fayre at the Town Hall on Wednesday 1 December.
- Advised Council that he had recently delivered a cheque of £220 to Herefordshire Headway following his recent sponsored walk around Hereford Racecourse and was impressed by the various activities being carried out by the charity. Councillors, staff and members of the public were thanked for their support.
- Informed Members that following its recent refurbishment, Widemarsh Street would be formally reopened on 4 December.

The Chairman took pleasure in congratulating:

- All the winners in the Pride of Herefordshire Awards. The Royal National College for the Blind was the overall winner and was rewarded for hosting the 2010 World Blind Football Championships in August.
- Robert Weale, a former employee of Herefordshire Council now working for Herefordshire Housing, who recently won a gold medal for bowling at the 2010 Commonwealth Games.
- Jacqueline O'Mahony, a Houses of Multiple Occupation and Enforcement Officer with Herefordshire Council, who received the Chief Fire Officer's Letter of Appreciation for her outstanding work with the Hereford and Worcester Fire and Rescue Authority and other organisations for protecting the most vulnerable members of Herefordshire communities from fire.
- Mike Phillips, Managing Director of West Mercia Supplies who had been honoured at the Institute of Directors Director of the Year Awards, winning the title of top director in the public sector.
- Brimfield and Little Hereford Bowls Club for being one of only 5 clubs in England to be awarded a Highly Commended Diploma by Bowls England in this year's National Club of the Year competition.
- Meg Swain, Assistant Member Support Officer, whose hard work was recently acknowledged at the Herefordshire Group Training Association Awards Evening.

Meg was presented with the Thelma Cornish Trophy for Commitment to First Year Administration Training.

The Chairman had received the following two petitions:

- Petition from Mrs O'Donnell of the Guild of Guides calling on the continuation of the Tourism Information Centre in Hereford was presented to Councillor AMJ Blackshaw, Cabinet Member Economic Development and Community Services.
- Petition from Mr Hannah on traffic congestion on Elm Road, Hereford was presented to Councillor DB Wilcox, Cabinet Member Highways and Transportation.

40. QUESTIONS FROM MEMBERS OF THE PUBLIC

Copies of all public questions received by the deadline, with written answers, were distributed prior to the commencement of the meeting. A copy of the public questions and written answers together with the supplementary questions asked at the meeting and answers, are attached to the minutes as Appendix 1.

41. FORMAL QUESTIONS FROM COUNCILLORS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS

Copies of all questions from Councillors to Cabinet Members and Chairmen of Committees received by the deadline, with written answers, were distributed prior to the commencement of the meeting. A copy of these questions and written answers together with the supplementary questions asked at the meeting and answers provided at the meeting, or as a formal letter to a Member following the meeting, are attached to the minutes as Appendix 2.

42. NOTICES OF MOTION UNDER STANDING ORDERS

First Notice of Motion : Chairman of Planning Committee

Councillor MAF Hubbard rose to speak on the motion and apologised for having had to bring forward the motion to Council. The information had been available on the website for some months and having considered the view of the Standards Committee he felt from a personal point of view he would not have continued in the position of Chairman of a main committee of the Council following the Standards Committee's judgement. Councillor GFM Dawe seconded the motion and stated that he would speak later.

The following points were made by Members:

- Several Members raised concern about the appropriateness of dealing with the matter at a Council meeting and that it should more properly be dealt with through the Standards Committee. It was felt that the notice of motion was misguided and every Member was answerable to their electorate.
- The Leader reiterated the legal duty of the Standards Committee and its sub-committees to deal with complaints and it was not the business of Council to deal with standards matters. The Standards Committee had the power to suspend a Member, which it had not chosen to enforce. The Committee had taken into account the long service and unblemished record of the Member and recognised it was hard to find a solution to the flooding problem, which was at the heart of

the complaint. All Members should strive to be exemplars in the way they dealt with members of the public.

- Some Members stated they would vote against the notice of motion as they were not in possession of the facts of the case.

Councillor GFM Dawe rose to speak as the seconder and stated that consideration should be given to the opinion of the person in the street. Councillor MAF Hubbard stated that he had considered the matter for some time before putting forward the motion, but felt that he needed to challenge the culture of the Council.

For	3
Abstained	6
Against	Majority

The motion was lost.

Second Notice of Motion: Road around Hereford City

The Leader moved the motion and amended the wording of the motion to state 'poll' instead of 'referendum'. This was seconded.

In speaking for the motion, the Leader stated:

- His regret that the matter of the transport infrastructure had not been dealt with before.
- That the average earnings in the county was £20,000 whilst the average earnings in England was £25,000; the disparity equated to £70 per week less in take home pay.
- It was essential to recognise the needs of businesses which were crucial for the economic, social and well being needs of the county.
- That congestion had deterred the Welsh Assembly from suggesting the use of the A49 as the best route from North to South Wales in 2001.
- The motion sought agreement in principle for a poll in order that considerations of practicalities such as cost, legal implications, timescales, and wording of questions would be had. Such practicalities would be considered with the Group Leaders.

An amendment to the motion was moved by Councillor PJ Edwards and seconded. The amendment to read: *'That the Council defer any decision to agree in principle to carrying out a poll with the people of Herefordshire to ask a question relating to construction of a road around Hereford City and that the Executive be asked to consider the practicality of such action'*.

In speaking for the amendment, Councillor PJ Edwards stated the following as sound reasons for deferral:

- As the core strategy consultation period had been extended from 5 November to 19 November the consultation was still underway.
- The wording of the motion would require further consideration as such an important issue should not be left to the Executive, indeed it should be for a matter for consideration by the whole Council at a later date.
- Clarification was needed as to the date of the poll and consideration given to the geographical area of those polled i.e. Herefordshire as a whole, or the city area solely.
- The issues of the preferred option of the western relief road had already been discussed in the LDF task group and shared with the press in advance of briefing Members.

In debating the amendment the following comments were made by Members:

- It was not considered fair for the people of Herefordshire to form a judgement prior to the end of the consultation process.
- There was disappointment that a motion submitted on the wider LDF process had been rejected therefore precluding the opportunity for debate.
- It was suggested that poll be held 5 May 2011, the date of the local election; this option would prove to be one of least cost.
- The considered opinion should be sought of the whole county electorate as the transport infrastructure of Hereford city was an important matter for all in the county.
- The question asked in the poll would need to be clear, simple and unambiguous.
- A relief road would bring with it economic benefits which would provide for higher wages in the county. Such a road would be of benefit to the county as a whole and, by providing opportunities, the county's young people would have a reason to remain.
- It was important to gain clarity on the views of the public to this matter; the motion was a clear statement of intent to investigate the best way in which this could be done.
- Caution would be required so as not to polarise views and alienate sections of the communities with differing opinions.
- The issue had been deferred too long and the original motion was to be welcomed. It was acknowledged that whilst there had been a certain amount of views collected within the Place Shaping consultation and the poll carried out by the Hereford Times, there was a need to seek the views of the people of Herefordshire as a whole to find out what their wishes were.
- The original motion was not clear, not simple and was ambiguous. The views expressed to date by residents should not be ignored.
- It was indicated that correspondence pertaining to the funding of an outer distributor road received by Herefordshire Council in July 2009 stated that any consideration of an outer distributor road would be premature before 2014. In the member's opinion, the current economic climate and public sector financial settlement would imply that consideration of such a road was far removed, especially as other schemes nationally were being cancelled or suspended. In addition, it was stated that journey times would not improve.
- A firm decision was required on a relief road, and prior to such decisions it was essential to gain the views of the people of Herefordshire. It was essential to get the process right. Members were advised that, in relation to the earlier comment on the preferred option, the LDF Task Group had met on 8 September 2010 and that all Members were provided with papers prior to a debate and discussion which was open to all members which was held on 10 September 2010. The information provided to the press was strictly embargoed.

The amendment was put to the vote.

For	10
Against	Majority

The amendment was lost

An amendment to the motion was moved by Councillor MAF Hubbard and seconded. The amendment to read: *'That the Council agree in principle to carrying out a poll with the people of Herefordshire to ask a question relating to the construction of a road around Hereford City that will be built using developer money from thousands of houses that will create such a level of traffic that congestion times in the city will never improve above the 2008 level resulting in increased journey times, and that the Executive be asked to consider the practicality of such action'*.

In speaking for the amendment, Councillor MAF Hubbard stated that:

- He believed that a poll should be held as it was essential to gain information and base a decision on facts.
- In his view current evidence supported the fact that the building of a road would not make a difference to the residents of Hereford City in relation to journey times and that no benefits would be had in building the road in the proposed way.
- It was important to ensure that the information provided was clear and based on evidence.

The amendment was put to the vote.

For	4
Abstain	5
Against	Majority

The amendment was lost.

The original motion was put to the vote

Against	4
Abstained	4
For	Majority

The motion was carried.

43. LEADER'S REPORT

The Leader of the Council, Councillor RJ Phillips presented his report to Council.

In highlighting aspects of the report, the Leader;

- Emphasised the significant changes to the public sector funding as a result of the Comprehensive Spending Review 2010, the detail of which was still awaited. A substantial number of grants had been absorbed into the Revenue Support Grant.
- Informed Council that the Cabinet Member ICT, Education and Achievement had met with the Education Minister, Lord Hill, to discuss the safeguarding of cuts from the devolved schools grant and other matters of importance to schools in the county. Correspondence had also been sent to the Transport Minister and Rural Minister expressing concern about the future resource implications for concessionary travel.
- Advised Council that difficult choices would need to be made and emphasised the importance of having clarity of approach to the provision of services.
- Stated that it was essential for the Council to be mindful of new national policy developments and the implications to local authorities and the public sector as a whole. Local government would look very different five years hence.

In responding to comments from members, the Leader or appropriate Cabinet Member stated that:

- Support was being provided to staff in transition and whose posts would be at risk; the support would be flexible to meet the needs of the staff but could include redeployment, interview skills, writing a cv etc. A briefing note would be provided to all Members on the measures adopted which would include an explanation on the legal requirements of the 'at risk' processes. All Council Members were reminded of the importance of complying with the code of conduct when discussing issues of a sensitive nature.
- In terms of seeking efficiency savings several measures had been adopted by the Council including, a freeze on most recruitment, the implementation of new

systems and curtailing discretionary spend. A comment expressed about the time spent by officers in meetings (as opposed to delivering) was accepted and an analysis would be undertaken. It was additionally stated that the rationalisation of accommodation would assist with reducing officers' time away from their desks.

- Overview and Scrutiny would be consulted appropriately on the rationalisation of buildings and the importance of market towns and the development of locality working was emphasised.
- Herefordshire Council was continuing to support the provision of TICs and to comment that this was not the case was incorrect. It was however stated that the Council had to make hard decisions and that the future financial cuts were massive, as a result it was essential to consider how services were provided across a range of partners and locations and not be too precious about the approach by which this was achieved. The value and knowledge of those working in the TICs were appreciated. Herefordshire Council was committed to work with others to address tourism matters within the current budgetary constraints and in relation to meeting the Council's legal requirements such as the provision of services to the vulnerable.
- Whilst acknowledging the broadband restrictions in the city, the announcement that Herefordshire was to be a pilot for superfast broadband in rural areas was a big achievement which would tackle one of the key infrastructure constraints of the county.
- There was a need for utility companies to be held to account more closely so as not to hamper growth and be encouraged to invest in order to increase their capacity.
- That a letter be sent to the couple from Portugal who raised the alarm on seeing the fire in Hereford City. The actions of the emergency services, other organisations (including Council officers) and the local businesses were commended.
- Whilst the support of small and medium sized businesses in locating to the city was greatly appreciated, it was also stated that the retention of the larger national stores could not be taken for granted; the centre of Newport had recently lost its Marks and Spencer store.
- The importance of H:Art as an important event in promoting the county was acknowledged and it was stated that this event should continue with private support.
- It was confirmed that the cost of refurbishing Widemarsh Street was £1.4 million. For the works to have been completed quicker than the 40 weeks taken would have required additional cost.

The Cabinet Member Corporate and Customer Services and Human Resources advised Council that following the recent approval by Cabinet to the Herefordshire Equality and Human Rights Charter, several members had requested that an additional specific action on age be added to the action plan which would encompass the adequate safeguarding of children, young people, residents in care homes and carers for the elderly who may be themselves elderly and vulnerable. Agreement of Council was sought to include this action within the Herefordshire Equality and Human Rights Charter.

RESOLVED that Council :

- (i) Receive the Leader's report**
- (ii) That an additional action on age be included in the Herefordshire Equality and Human Rights Charter.**

44. ALLOCATION OF SEATS TO POLITICAL GROUPS AND APPOINTMENTS TO COMMITTEES

The Leader presented the report on the allocation of seats to political groups and appointment to committees of Council. The Leader advised Council that all Group Leaders had been consulted in advance of the circulation of the report.

Responding to a comment from a Member, the Leader emphasised that the should the current arrangement of suspending proportionality for the Overview and Scrutiny Committee not be passed without dissent, it would be necessary for the membership of the Overview and Scrutiny Committee to be reviewed and, in order to comply with the law, the administration would hold the majority of the seats.

RESOLVED (nem con) that:

- (a) Council confirms the number of seats on each committee;**
- (b) the arrangements for proportionality be noted;**
- (c) the notice given in paragraph 9 of the need to partially suspend the rules of proportionality in respect of the Overview and Scrutiny Committee be noted and a resolution be moved to that effect;**
- (d) subject to the vote at recommendation (c) being passed nem con, the Council allocates the seats to political groups as set out in Table 2 in paragraph 15 of the report.**

45. COUNCIL CONSTITUTION

The Cabinet Member Corporate and Customer Services and Human Resources, Councillor JP French, expressed her thanks to all Members of the Constitutional Review Working Group and Task Groups for their work in reviewing constitutional matters.

RESOLVED that Council :

- a) Approves the following changes to the Constitution:**
 - i. That the Financial Procedure Rules be revised**
 - ii. That the Regulatory Committee role and functions be revised;**
 - iii. That the Regulatory Sub-Committee role and functions be revised;**
 - iv. That the regulatory role and functions of the Cabinet or Cabinet Member be noted;**
 - v. That the Chief Executive has responsibility for the discharge of all regulatory functions not specifically reserved to the Regulatory Committee, Regulatory Sub-Committee, Cabinet or Cabinet member;**
 - vi. That the Chief Executive may delegate the discharge of those functions to a Director who in turn may delegate to another officer; and**

- vii. That the Chief Executive establishes an officer review panel to review regulatory decisions by officers.
- b. Instructs the Council's Monitoring Officer to make the amendments to the Constitution to give effect to the above decisions as set out in Appendix 1 (The Financial Procedure Rules) and Appendix 2 (The Regulatory Committee and consequent changes) of the report.
- c. That the decisions recommended in (a) (i) be implemented with effect from 1 December 2010 and those in (a) (ii) to (vii) be implemented with effect from 1 February 2011.
- d. Encourages the Regulatory Committee to delegate responsibility for hearing appeals and revocation of licences to the Regulatory Sub-Committee and to consult with its stakeholders before doing so.
- e. Instructs the Regulatory Committee to review its procedures and present to Council at a future meeting Regulatory Procedure Rules for incorporating into Part 4 of the Council's Constitution.
- f. Notes the work undertaken by the Constitutional Review Working Group which will continue to assist with such further constitutional review work as it determines.

46. NEW EXECUTIVE ARRANGEMENTS

The Leader presented the report on New Executive Arrangements and moved the following two amendments to the recommendations which were seconded:

- (i) Recommendation (b): delete 'either a Mayor and Cabinet'
- (ii) Recommendation (c): delete 'or not'

In discussion the following comments were made and responded to as appropriate:

- The consultation was inadequate. In response the Leader stated that the consultation undertaken was in line with the requirements and expectations of Government.
- The local elections on 5 May 2011 would provide an opportunity for the electorate to decide on the type of executive model they would have. This would dovetail with the vote being taken on proportional representation and the alternative vote system.
- A mayoral system would see the electorate voting on the capability of the individual, not according to party lines.
- A mayoral system was better suited to close urban authorities. Such a system could add to the confusion of the current ceremonial roles in the county such as mayors of the city and town, the Council Chairman etc.
- The Leader stated that the Council had complied with the legislation and with the spirit of the Government's requirements regarding consultation. It was expected that the Localism Bill would propose changes to such requirements.

RESOLVED THAT Council:

- (a) notes the two available "strong leader" governance models

and the results of the public consultation;

- (b) agrees to adopt Leader and Cabinet executive governance model with effect from the 3rd day after its elections on 5 May 2011;**
- (c) agrees to provide that the Council may remove and replace the appointed Leader during his or her term of office;**
- (d) approves the proposals set out in the Appendix to the report to reflect Council's determination of b) and c) above; and**
- (e) authorises the Monitoring Officer to make all necessary amendments to the Council's constitution.**

Councillors GFM Dawe and MD Lloyd-Hayes requested that their opposition to the recommendations be formally minuted.

47. SHARED SERVICES

The Cabinet Member Corporate and Customer Services and Human Resources, Councillor JP French, presented the report on Shared Services. Council was advised that the Joint Venture Company (JVC) approach would have low overheads and would help sustain public sector jobs within Herefordshire. Assurance was provided that the Council would be kept appropriately briefed.

Responding to comments from Members, the Cabinet Member:

- Acknowledged the support from members across parties to the approach taken on shared services which demonstrated the shared benefits to the partnership entered into by the Council and health partners.
- Provided assurance that market testing and value for money exercises had been undertaken.
- Advised Council that the services available within the JVC would be marketed to other organisation and would therefore not refer to Herefordshire in the company name.
- The integration of ICT systems and processes was well advanced and that Herefordshire was acknowledged as a national leading light in such developments.
- Accepted the challenges that a public/public partnership would have, which would need to be balanced against the retention of jobs in the county. Alternative options for a shared services approach such as a lead partner, would not have guaranteed jobs to the county.
- Assurances were given that the costs of winding down NHSH and the establishment of a GP consortium would be appropriately met by the relevant bodies.

RESOLVED that Council:

- (a) Agrees that a Joint Venture Company be established by the Council and its partner(s) to provide shared support services;**
- (b) Notes that the Cabinet agreed that a Joint Venture Company be established and that the negotiation of the terms of the Joint Venture be delegated to the Chief Executive.**

48. YOUTH JUSTICE PLAN

The Cabinet Member Children's Services presented the report on the Youth Justice Plan to the Council.

RESOLVED: That the Youth Justice Plan as prepared be approved within the Policy Framework

49. STANDARDS COMMITTEE

Mr Robert Rogers presented the report of the meeting of the Standards Committee held on 22 October 2010.

Responding to comments from Members, Mr Rogers:

- Acknowledged that whilst there were some shortcomings of the current local filter system, these shortcomings did not take away from the fact that the localisation of the system had been a positive step.
- Reminded Council that the Standards Committee's overriding principles were to be open, fair and proportionate.
- Stated that when considering any matters, judgement was taken on the balance of probability and was evidentially based.
- Advised Council that Committee Members were kept up to date with relevant case law, provided with guidance on relevant issues and regularly reviewed their activities to ensure that we followed best practice.
- Informed Members that certain achievements of Herefordshire Standards Committee had been recognised as demonstrating national best practice and shared with other authorities.

RESOLVED: That the report of the meeting of the Standards Committee held on 22 October 2010 be received.

50. WEST MERCIA POLICE AUTHORITY

Councillor B Hunt presented the reports on the meetings of the West Mercia Police Authority held on 15 June and 28 September 2010 and stated that he would respond to a question from a Member regarding the creation of 22 new staff posts outside of the meeting.

RESOLVED: That the reports of the meeting of the West Mercia Police Authority held on 15 June and 28 September 2010 be received.

51. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY

Councillor Brig P Jones presented the reports of the meeting of the Hereford and Worcester Fire and Rescue Authority which had been held on 25 June and 28 September 2010 and commended the response to the recent fire in Hereford City.

RESOLVED: That the report of the meetings of the Hereford and Worcester Fire and Rescue Authority which were held 25 June and 28 September 2010 be received.

The meeting ended at 1.30 pm

CHAIRMAN