

**MINUTES of the meeting of Council held at The Shirehall, St Peter's Square, Hereford. on Friday 4 March 2011 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, GFM Dawe, BA Durkin, PJ Edwards, MJ Fishley, JP French, JHR Goodwin, AE Gray, DW Greenow, KG Grumbley, KS Guthrie, JW Hope MBE, MAF Hubbard, B Hunt, RC Hunt, TW Hunt, JA Hyde, TM James, JG Jarvis, AW Johnson, Brig P Jones CBE, JJD 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, DC Taylor, AM Toon, WJ Walling, PJ Watts, DB Wilcox and JD Woodward

**In attendance:** Councillors Chapman

**61. PRAYERS**

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

**62. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors SPA Daniels, H Davies, GA Powell, AP Taylor and NL Vaughan.

**63. DECLARATIONS OF INTEREST**

There were none.

**64. MINUTES**

The minutes of the Council meeting held on 4 February 2011 were approved as a correct record.

**65. CHAIRMAN'S ANNOUNCEMENTS**

**RESOLVED that Council**

**Confirm the cancellation of the Council meeting scheduled for Friday 15 April 2011.**

The Chairman in his announcements

- Thanked all Members for their support during his term of office as Chairman, and to particularly thanked those Members who would be retiring as Councillors following the elections in May.
- Advised Members that at the 2010 Midlands Excellence Awards ceremony, Advantage West Midlands was awarded the top award for Outstanding Achievement in Business. This is the largest business event of its type in the West Midlands and was a great credit to the staff and partners of the regional development agency.

- Stated that the Council's waste disposal contractor's, Mercia Waste Management, planning application for an Energy from Waste facility at Hartlebury was considered by Worcestershire County Council's Planning and Regulatory Committee on 1 March 2011. The Committee were unanimous in their decision to advise the Secretary of State that they were minded to approve the proposal. The facility would be capable of recovering energy from 200,000 tonnes of residual municipal waste per annum from Herefordshire and Worcestershire. It would have the capacity to generate up to 15.5 MW of electricity to be exported to the grid and also have the potential to supply renewable heat. It would also recycle scrap metal and bottom ash. Part of its design would include a dedicated visitor and education centre for residents, community groups, schools and individuals to visit and use.
- Informed Council that schools across the county entered a competition to design a poster on the theme of 'reduce, re-use and recycle' which would be displayed on the council's fleet of refuse and recycling tucks. Over 400 entries were received from 37 schools and the successful designers were Sarah Bedford from Lady Hawkins Secondary School and Harry Davies from Walford Primary School. Both posters would be displayed on either side of the vehicles and all the posters received were to be displayed at libraries across the county.
- Reminded Members that the Civic Service, to which all Members were invited, was to be held on Sunday, 6 March at 3.30pm at the Cathedral, followed by tea at the Town Hall.

Council was advised that two petitions had been received by the Chairman, as follows:

- Petition regarding the use of falconry to remove seagulls from the City Centre was submitted by Councillor MAF Hubbard and presented to the Cabinet Member Environment and Strategic Housing.
- Petition regarding a pedestrian crossing at Bargates, Leominster was submitted by the Mayor of Leominster, Councillor RC Hunt and presented to the Cabinet Member Highways and Transportation.

## **66. QUESTIONS FROM MEMBERS OF THE PUBLIC**

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

## **67. FORMAL QUESTIONS FROM COUNCILLORS TO THE CABINET MEMBERS AND CHAIRMEN UNDER STANDING ORDERS**

Copies of questions from Councillors to Cabinet Members and Chairmen of Committees accepted and 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 supplementary questions asked at the meeting and answers provided at the meeting, or a subsequent formal letter to a Member, are attached to the minutes as Appendix 2.

## **68. NOTICES OF MOTION UNDER STANDING ORDERS**

There were no notices of motion.

## **69. COUNCIL TAX RESOLUTION 2011/12**

The Council was requested to set the council tax amounts for each category of dwelling in Herefordshire for 2011/12 and to calculate the Council's budget requirements.

A vote was taken and the recommendations carried.

**RESOLVED that :**

- (1) In respect of the Council's 2011/12 Budget a council tax of £1,205.09 be levied (at Band D);  
and
- (2) in respect of council tax for 2011/12 that the following amounts be approved by the Council for the year 2011/12 in accordance with Sections 32 to 36 of the Local Government Finance Act 1992:

  - (a) £368,676,300 being the estimated aggregate expenditure of the Council in accordance with Section 32(2)(a) to (e) of the Act;
  - (b) £219,804,477 being the estimated aggregate income of the Council for the items set out in Section 32(3)(a) to (c) of the Act;
  - (c) £148,871,823 being the amount by which the aggregate at (a) above exceeds the aggregate at (b) calculated by the Council in accordance with Section 32(4) of the Act, as its total net budget requirement for the year;
  - (d) £60,190,623 being the aggregate of the sums which the Council estimated will be payable for the year into its general fund in respect of redistributed non-domestic rates, revenue support grant, additional grant or relevant special grant, increased by the transfer from the Collection Fund;
  - (e) £1,240.89 being the amount at (c) above less the amount at (d) above all divided by the amount of the Council Tax base calculated by the Council, in accordance with Section 33(1) of the Act, as the basic amount of its Council Tax for the year;
  - (f) £2,558,423 being the aggregate amount of all special items referred to in Section 34(1) of the Act;
  - (g) £1,205.09 being the amount at (e) above less the result given by dividing the

amount at (f) above by the amount of the Council Tax base calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no special item relates;

(h) that the precepting authority details incorporated in Annex 1 (i-v), relating to Special Items, West Mercia Police and Hereford and Worcester Fire and Rescue Authority be approved in accordance with Sections 30(2), 34(3), 36(1) and Section 40 of the Local Government Finance Act 1992.

- (3) Pursuant to the requirements of the Local Government (Functions and Responsibility) (England) Regulations 2000, any decisions on the application of reserves and balances as required from time to time during the financial year be taken by Cabinet.

## **70. LOCAL DEVELOPMENT FRAMEWORK AND LOCAL TRANSPORT PLAN**

Council considered a report which sought agreement to revisions to the timetable for preparation of the Local Development Framework (LDF) and to interim arrangements in respect of the Local Transport Plan (LTP). Members were advised that significant reforms to the planning system had been published within the Localism Bill and that there was a need to consider fully the implications of the changing legislative context. A revised timetable also provided opportunities for further consultation, including a community poll.

In discussion the following points were raised:

- It was queried why new issues concerning water quality and infrastructure were being revealed as it was stated that with the extensive evidence base such issues should have been addressed. It was additionally stated that through the Growth Point initiative, £200,000 had been received to pay for water supply surveys to be carried out in the county; as these monies had been received several years ago it had been surprising that the issues remained.
- Given that £479,000 had been spent on studies relating to the Outer Distributor Road (ODR) and a further £822,000 on the LDF consultation the view was expressed that this spend had been wasted especially given that 80-90% of those responding to the Hereford consultation had rejected plans for expansion of houses and the ODR; similarly Ledbury had rejected options for expansion. It was asked what procedures were in place for options other than the urbanisation of Hereford City and of the market towns.
- The opportunity to consider further the LDF and LTP in line with the new timetable was welcomed; however it was urged that future questionnaires were written in plain English and were user friendly.
- Officers and Members were complimented for the previous consultation process which solicited a tremendously positive response from the public.
- The results of the consultation carried out in relation to LTP3 were requested; it was additionally stated that the LTP3 process had not been timetabled.
- Frustration was expressed due to the limitations of the water infrastructure in parts of the county. An update was requested on progress to date on the high

level negotiations which had been taking place with Welsh Water on this and other issues.

- Consideration would need to be given in advance of the community poll as to the weighting to be given to the outcome of the public vote.

The following amendment was proposed and seconded; *'that there be an open debate on the LDF at the Council meeting in November 2011'* – following discussion, this amendment was withdrawn.

The Cabinet Member for Environment and Strategic Housing stated that:

- Much work had been undertaken by Council officers and that the existing evidence base was extensive; the revised timetable would enable the Council to fully take into account the new legislation and outcomes of the further consultation.
- The weight given to the outcome of the poll would be a matter for the next administration, however it was stated that the poll was advisory and that no decision would be bound by its outcome.
- The rate of development was just sufficient to cope with organic growth – large urbanisation was not planned.

The Cabinet Member Economic Development and Community Services offered to meet with individual Members to discuss the outcomes of the independent research projects.

In responding to some points raised in debate the Leader:

- Suggested that Member workshops on the LDF be held in public.
- That a government grant had been received to support the consultation process.
- Hereford Futures had been tasked with addressing the infrastructure issues. The utilities companies were a continued source of frustration and needed to be accountable for their lack of progress such as the significant development needs of parts of the county's sewerage system.
- If the growth agenda was not addressed, the city and county would not meet the needs of the future. House building rates had dropped to those last seen in 1924 and concern was expressed that a housing crisis was looming, especially in relation to housing provision for local residents and families.

**Resolved that:**

- (a) the Local Development Framework timetable be revised as set out in the table at paragraph 11 of the report;**
- (b) the linkage between the Local Development Framework and Local Transport Plan, and the consequent impact on the Local Transport Plan timetable be noted; and**
- (c) the existing Local Transport Plan 2 be adopted as the Council's interim Local Transport Plan 3 pending finalisation of the Local Development Framework submission;**

## **71. CONSTITUTIONAL AMENDMENTS**

### **11A. SHADOW HEALTH AND WELLBEING BOARD**

The Cabinet Member Adult Social Care, Health and Wellbeing advised Council of the proposed requirements to establish a Health and Wellbeing Board (HWBB) and to progress the Council's status as an Early Implementer for the Department of Health (DoH) by creating a shadow board.

In debate the following points were raised:

- The bringing back of democracy in the health service was welcomed. Previous structure lacked legitimacy of representation.
- The development of Herefordshire's partnership arrangements between health and the local authority had been challenging but were now paying dividends; Herefordshire was in a good place to take forward such changes.
- In welcoming the initiative, concern was expressed as to the potential extra cost burden and assurance sought that any additional costs would not be transferred to the council tax payer.
- Noting that the HWBB would include Executive Members within its composition, what arrangements would be in place for input from non-executive members?

The Cabinet Member Adult Social Care, Health and Wellbeing advised Members that a health scrutiny committee would remain.

**RESOLVED THAT:**

- (d) **a Shadow Health and Wellbeing Board be created and chaired by a Cabinet Member;**
- (e) **the powers and duties of the Shadow Board shall be:**
  - (i) **for the purpose of advancing the health and wellbeing of the people in Herefordshire, to encourage persons who arrange for the provision of any health or social care services in that area to work in an integrated manner; and**
  - (ii) **to provide such advice, assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services; and**
  - (iii) **to encourage persons who arrange for the provision of health-related services in Herefordshire to work closely with the Health and Wellbeing Board; and**
  - (iv) **to encourage persons who arrange for the provision of any health or social care services in Herefordshire and persons who arrange for the provision of any health-related services in Herefordshire to work closely together; and**
  - (v) **to advise on how the functions of the Council and its partner commissioning consortia under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") are to be exercised; and**
  - (vi) **to give to the Council its opinion on whether the Council is discharging its duty under section 116B of the 2007 Act;**
- (f) **the membership of the Shadow Board shall include:**
  - **those executive members of the Cabinet whose current**

**areas of responsibility are encompassed by the powers and duties of the Shadow Board**

- **the Chief Executive**
- **those officers whose jobs include the roles of Director of Adult Social Services, Director of Children's Services and Director of Public Health (as defined in clause 26 of the Health and Social Care Bill of 2011).**
- **a representative of LINK (Local Improvement Network)**
- **a representative of the Herefordshire Primary Care Trust**
- **a representative of Hereford Hospitals Trust or (from 1st April 2011) the new Integrated Care Organisation for Herefordshire**
- **a representative of the Herefordshire GP Consortium**
- **a representative of the voluntary and community sector in Herefordshire**
- **a representative of the business community in Herefordshire**

**PROVIDED THAT the Shadow Board may at its discretion include such further representatives as it shall determine;**

- (g) **the Shadow Board shall comply with the Standing Orders of Herefordshire Council in so far as executive members may make decisions at its meetings; and**
- (h) **the Monitoring Officer report further on appropriate delegations and other constitutional requirements for a formal Health and Wellbeing Board once the Health and Social Care Bill has been enacted and the relevant implementation date is known.**

## **11B. CONSTITUTIONAL AMENDMENTS: SUBSTITUTE MEMBERS**

The Cabinet Member Corporate and Customer Services and Human Resources presented the report which sought approval for changes to the constitution, as required in law, in relation to the wording within the procedure rules dealing with substitute members.

In discussion the following points were raised:

- The requirement for a substitute member was often not known until the day of the meeting, therefore meeting the 3.00p.m deadline would be difficult.
- Concern was expressed that ungrouped members were at a disadvantage in terms of giving notice this may be open to legal challenge.
- The opportunity to substitute at working groups was suggested.

In response, the Cabinet Member Corporate and Customer Service and Human Resources;

- Emphasised that, for groups, the giving of notice in writing no later than 3.00p.m on the last working day prior to the date of the meeting was encouraged.
- It was not usual for there to be substitutes at working groups due to potential for disruption of the business.
- Named deputies existed for all Chairmen and the Leader, therefore no additional processes were needed other than those already in the constitution to cover the Chairing of Cabinet and other committees.
- Non aligned members would need to liaise with the Monitoring Officer, therefore the deadline for such contact would need to be definitive.

**RESOLVED that Council:**

**Approves the following changes to the Constitution:**

- That wording within the Procedure Rules which deals with substitute members be revised and replaced with the following wording to comply with the law contained in the relevant Act and Regulations.**

**4.1.23 Substitution**

**4.1.23.1 The Monitoring Officer on behalf of the Chief Executive may receive notice from a group leader or authorised nominee on behalf of that group that a different member of their group shall be substituted for the member previously allocated to a place on a committee, sub-committee or other body to which the proportionality rules apply. The giving of notice in writing no later than 3.00p.m. on the last working day prior to the date of the meeting is encouraged.**

4.1.23.2 The Monitoring Officer (in consultation with the ungrouped members concerned) may substitute another ungrouped member for an ungrouped member who has notified him in writing that he is unable to attend a meeting. Such notification must be given no later than 3.00p.m. on the last working day prior to the date of the meeting.

**72. LEADER'S REPORT**

The Leader of the Council, Councillor RJ Phillips, presented the Leader's report which provided an overview of the Executive's activity since the last meeting of Council and over the period of the administration.

In highlighting aspects of the report, the Leader;

- Advised Council that he had further corresponded with Government about the rise in fuel prices and the impact this was having on families, communities, businesses and the public sector.
- Outlined that whilst £10.3million of cuts needed to be made in the 2011/12 budget, £15m cashable efficiency savings had been delivered over the course of the administration.



- A number of reforms had been undertaken in the county as a result of the close partnership with NHS Herefordshire. These included; the single integrated care organisation which would bring together the hospital, community health and adult social care services; the selection of 2gether as the new mental health and learning disability provider; a joint venture company to deliver shared back office support services; the development of locality working.
- Outlined the significant changes ahead for education and in particular a potential increase in the number of academy schools.
- Commented on the need to continue to prepare for new reforms as a result of the Health Bill and the Localism Bill. Caution would be needed in ensuring that any changes to responsibilities to parish councils were clearly articulated and understood as those taking on e.g. planning responsibilities would also be taking on the legal responsibilities. A new charter between Herefordshire Council and the town and parish councils was being developed and would provide the framework for future discussions about devolution of local services.
- Stated that the establishment of a Police and Crime Panel would enable elected members to monitor the police commissioner and also be able to veto and control the appointment of the Chief Constable.
- Advised Members that European funding, previously administered by Advantage West Midlands, would move to CLG and DEFRA. A close eye would be needed to ensure that funding was appropriately drawn down.
- Expressed frustration that a meeting was yet to be held between the Leaders of Herefordshire and Shropshire with the Leader of the Welsh Assembly. There were clear cross border issues which impacted on the public sector which needed to be understood.
- Thanks were expressed to staff, volunteers and the wider communities in relation to the examples of how local services or assets could be managed effectively by the community e.g. Tudorville and District Community Centre.
- Reported that Herefordshire was expecting around £1million from Government towards the road infrastructure following the severe winter weather, this money would be in addition to that already accounted for in the budget. It was stated that priority should be given to the 'c' and unclassified roads. Amey and FOCSA were congratulated on a job well done during the severe winter weather.
- Drew attention to work being carried out within the Local Enterprise Partnership. Council was also advised that work would continue to ensure that AWM's assets remained in the public domain where relevant.
- Acknowledged that the meeting was to be the last under the present administration and would be the last for him as Leader as he had chosen, after eight years, to stand down from this position. Council was advised that he would stand as a candidate within his ward and hoped to provide an active support role in the future. Thanks were expressed to all Members and staff for their support during his time as Leader.

In discussion the following points were raised:

- In recognising the valuable work of the gritters during the severe winter weather, it was suggested that animal welfare (on a large scale) should be a consideration when prioritising gritting of roads or when distributing salt.
- Whilst the repair of 'c' and unclassified roads was to be welcomed some potholes remained on principal roads.
- Concerns were raised regarding the reduction in the provision of the county music service.
- Clarification was sought as to the types of goods which would be sold in the Department Store provisionally proposed for Hereford.

Responding to the point made specifically in relation to the county music service, the Cabinet Member ICT Education and Achievement assured Council that everything was

being done to retain some elements of the county music service. A debate had been held at a recent Schools Forum which agreed to support an option to change to an accredited teacher scheme; however it was emphasised that retaining the status quo would not be an option.

Responding to comments from Members of the Council, the Leader stated that:

- In relation to severe winter weather, it would be incumbent on communities and the county to prepare for harsher, longer winters with possibly 5-6 weeks of snow.
- Whilst the development of a department store would be dependent on other processes, should such a development be granted, he was confident that a department store would sell a variety of goods (not solely household goods).

The Chairman, on behalf of the Council, thanked the Leader for his service over the past eight years and stated that he had been a powerful and articulate advocate for the county and had raised the profile of Herefordshire on both a regional and national basis.

**RESOLVED: That the Leader's report be received.**

### **73. ANNUAL REPORT OF THE STANDARDS COMMITTEE**

Mr Robert Rogers, the Chairman of the Standards Committee, presented the annual report of Standards Committee. Three areas were highlighted to Members as follows:

- Major changes in the standards regime would include arrangements being voluntary without statutory backing. The Committee had asked what in the new circumstances would be the best way of demonstrating and maintaining high standards of conduct, and most importantly, what were the expectations of the people of Herefordshire. These would be questions for the new Council.
- With the Council elections approaching, Members were reminded that whilst it was right that it would be a time of robust even fierce debate, Members were not to be tempted to use the formal code of conduct mechanism to settle purely political differences.
- Whilst recognising that the relationship between an authority and its standards committee would quite rightly never be a cosy one, the Council's strong support for the standards process had reflected very well on the Council. The Chairman expressed his thanks, and that of his committee for the support, courtesy and the assistance of council officers.

Responding to comments raised in discussion, Mr Rogers stated that:

- In recognising that the standards process was bureaucratic, the process followed statutory procedures.
- Whilst there was no formal bureaucratic programme of training, the standards committee was kept abreast of appropriate legal judgements and other matters of interest or note in relation to their role as a Standards Committee Member.
- The current code of conduct would remain until otherwise notified. Members were advised that it was intended that the non declaration of interests would become a serious criminal offence.
- Balancing enforceability with credibility was key to any future standards arrangements.

**RESOLVED: That the annual report to Council of the Standards Committee be received.**

### **74. ANNUAL REPORT OF THE PLANNING COMMITTEE 2010-2011**

Councillor TW Hunt presented the annual report of the Planning Committee.

**RESOLVED: That the annual report of the Planning Committee be received.**

**75. ANNUAL REPORT OF THE REGULATORY COMMITTEE 2010-2011**

Councillor JW Hope MBE presented the annual report of the Regulatory Committee and Council was requested to consider the adoption of the Licensing Policy and Cumulative Impact Policy and the adoption of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

**RESOLVED that**

- (a) **The Licensing Policy and the Cumulative Impact Policy, Licensing Act 2003, as submitted to the Regulatory Committee at its meeting on 1 February 2011, be adopted, subject to any subsequent review which may be required;**
- (b) **Schedule 3 and the amendment to Section 27 to the Local Government (miscellaneous Provisions Act 1982) which gives power to regulate lap dancing clubs and similar venues be adopted; and**
- (c) **The annual report of the Regulatory Committee be received.**

**76. ANNUAL REPORT OF THE AUDIT AND GOVERNANCE COMMITTEE 2010-2011**

Councillor ACR Chappell presented the annual report to Council of the Audit and Governance Committee.

**RESOLVED: That the annual report of the Audit and Governance Committee be received.**

**77. ANNUAL REPORT OF THE OVERVIEW AND SCRUTINY COMMITTEE 2010-2011**

Councillor PJ Edwards presented the annual report to Council of the Overview and Scrutiny Committee which outlined work undertaken by the scrutiny function between May 2010 and February 2011. All Members were thanked for their enthusiasm, professionalism and contributions to the scrutiny process. It had been pleasing to note that the Executive had taken on board 93% of the Committees' recommendations.

**RESOLVED: That the annual report of the Overview and Scrutiny Committee be received.**

**78. WEST MERCIA POLICE AUTHORITY**

Councillor B Hunt presented the report of the West Mercia Police Authority held on 14 December 2010.

Responding to an operational issue raised by a Member regarding the reduction in beat officers within the county, Councillor Hunt stated that whilst the Police Authority did not

have responsibility for operational matters he would investigate the situation and respond.

**RESOLVED: That the report of the meeting of the West Mercia Police Authority held on 14 December 2010 be received.**

**79. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY**

Councillor Brig P Jones presented the reports of the meetings of the Hereford & Worcester Fire and Rescue Authority which were held on 17 December 2010 and 16 February 2011.

**RESOLVED: That the report of the meetings of the Hereford & Worcester Fire and Rescue Authority which were held on 17 December 2010 and 16 February 2011 be received.**

The meeting ended at 1.05 pm

**CHAIRMAN**