

MINUTES of the meeting of Council held at The Assembly Hall, Town Hall, St Owen Street, Hereford. on Friday 15 July 2011 at 10.30 am

Present: Councillor LO Barnett (Chairman)
Councillor ACR Chappell (Vice Chairman)

Councillors: PA Andrews, AM Atkinson, CNH Attwood, PL Bettington, AJM Blackshaw, WLS Bowen, H Bramer, AN Bridges, EMK Chave, MJK Cooper, PGH Cutter, BA Durkin, PJ Edwards, DW Greenow, KS Guthrie, RB Hamilton, J Hardwick, EPJ Harvey, AJ Hempton-Smith, JW Hope MBE, MAF Hubbard, JA Hyde, TM James, JG Jarvis, AW Johnson, Brig P Jones CBE, JLV Kenyon, JF Knipe, JG Lester, MD Lloyd-Hayes, G Lucas, RI Matthews, PJ McCaull, SM Michael, JW Millar, PM Morgan, NP Nenadich, C Nicholls, RJ Phillips, GA Powell, GJ Powell, R Preece, PD Price, SJ Robertson, P Rone, A Seldon, P Sinclair-Knipe, GR Swinford, DC Taylor, DB Wilcox and JD Woodward

14. PRAYERS

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

15. APOLOGIES FOR ABSENCE

Apologies had been received from Councillors CM Bartrum, FM Norman, J Stone and P J Watts.

16. DECLARATIONS OF INTEREST

Councillor H Bramer made a personal declaration, notice of motion one.

Councillor RJ Phillips, made a personal declaration, notice of motion two.

17. MINUTES

The Minutes of the Annual Council Meeting held on 27 May 2011 were approved as a correct record, subject to the following amendments:

Item 8

That it be noted that Councillor JD Woodward did not support the appointment of Councillor J Jarvis to the office of Leader of the Council.

Item 10

That '(a nem com vote by Council)' should be replaced by '(a nem con vote by Council)'.

That the typographical error on page 4 should be corrected to show 7 abstentions, not 27.

18. CHAIRMAN'S ANNOUNCEMENTS

The Chairman, in her announcements informed Council that:

- On 15 June she had jointly hosted with HM Lord-Lieutenant the Queens Award for Voluntary Service Awards Giving and Tea Party in the Council Chamber at Brockington. Herefordshire had two winners, Bromyard Light Brigade and Yarpole Community Shop.
- On Monday 20 June 2011 she had hosted on behalf of the Council the Armed Forces Day Flag Raising Ceremony in the lead up to Armed Forces Day itself. The ceremony was attended by HM Lord-Lieutenant, the High Sheriff of Herefordshire, the Deputy Mayor of Hereford and representatives of all three Forces, the Royal British Legion, Market Town Mayors and our own Local Councillors.
- On Wednesday 22 June 2011 the new Livestock Market held their first sale day, which had been well attended.
- Members were reminded that nominations for the Pride of Herefordshire Awards had been requested. The closing date for nominations was the 27 July 2011.

19. 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 provided are attached to the minutes as Appendix 1.

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

Please see Appendix 2 to the Minutes.

21. NOTICES OF MOTION UNDER STANDING ORDERS

Two notices of motion were submitted for consideration by Council. The first notice of motion was submitted by Councillors: MAF Hubbard, AN Bridges, SM Michael, JD Woodward C Nicholls, MD Lloyd-Hayes, GA Powell, J Hardwick, AJ Hempton-Smith, CNH Attwood, J Knipe, A Seldon, GR Swinford, WLS Bowen, SJ Robertson, EPJ Harvey, FM Norman, JLV Kenyon, RI Matthews, R Preece and PJ Edwards.

The second notice of motion was submitted by Councillors: RI Matthews, MAF Hubbard, TM James, SJ Robertson, SJ Hempton-Smith, and A Seldon.

FIRST NOTICE OF MOTION

This Council notes:

- 1 The introduction of the new single Overview and Scrutiny Committee agreed at Annual Council meeting in May 2011.*
- 2 The potential for improved policy development enshrined in the new system.*
- 3 The "leaner meaner" nature of the proposed system, the potential savings and efficiencies the new system could produce.*
- 4 The recommendation that any changes to scrutiny should be phased contained in the Review of the Overview and Scrutiny Function in Herefordshire Council (Lamb & Davis Dec 2008) and the lack of such phasing in the introduction of the new system by decision of Council at its annual meeting.*

- 5 *The current public perception, evidenced in the local press, that good practice is not being followed by having a member of the administration Chair the committee.*

This Council resolves to offer the Chairmanship of Overview and Scrutiny Committee to an opposition member, restoring public confidence in the new scrutiny system.

Councillor E Harvey proposed the Motion, and made the following points:

- That the Motion was not to be taken as a reflection of the competence of the present Chairman, but from best practice and the need for a pragmatic political approach to scrutiny.
- Concerns had been raised at 27 May Council about the proposed plans for a single scrutiny committee,
- It was recognised that there was potential for change at Overview and Scrutiny in order that it was more effective, however, it was felt that proposals had been voted through with a slim majority and in the interests of the County it was important to have public support for the proposals.
- It had been stated that the changes represented a 50% saving over the cost of the previous system, but there had been no clarity as to where these funds would come from.
- With this system, there was a 12 month lead time before any impact might be felt on the operations of the council
- There was concern that in the Lamb and Davis Report on the Overview and Scrutiny function (2008), it had been suggested that any changes to the system should be phased in. This had not taken place, and it was suggested that not more than one variable should be changed at any one time.
- The new system was being brought in without allowing Officers time to understand how it would work.

Councillor MAF Hubbard seconded the motion.

In discussion, the following points were made:

- A Member was surprised by the Motion before Council as they had attended the Call-in of the Herefordshire Music Service that had taken place on 11 July, and had been impressed by the way the meeting had been handled and by the robust debate and exhaustive question and answer session. The vote had been unanimous in favour of the amended proposal and there had been a vote of thanks for the Chairman. It was not believed that there was a public outcry over the changes proposed.
- A Member stated that whilst there had been a certain amount of double working in the Scrutiny Committee over the previous four years, this had been substantially reduced and the Committees had worked closely together. The challenge for scrutiny was how it would hold the Executive to account, and therefore provide better outcomes for the County. It was felt this process had been weakened by the appointment of the current Chairman and referred to the Constitution, which stated that no Member should be involved in scrutinising a decision which they had been directly involved in. As a Cabinet Member in the previous Administration, the Chairman of Overview and Scrutiny would inevitably be in the position of scrutinising decisions with which he had been closely involved.

- A Member said that they were not convinced of the argument concerning the negative public perception of the scrutiny appointments, and that none of their Parish Councils or residents had raised the issue in the previous six weeks.
- A Member said that a Task and Finish Group could have allayed many of the fears that had been raised at the Call-in of the Herefordshire Music Service. Parents had mistakenly believed that the Service was going to be closed down, when the decision was to restructure the Service in order to address the 10 year deficit. Task and Finish Groups would allow work to be undertaken in such areas in order to provide recommendations to Cabinet to help its decisions.

In reply to the comments and concerns that had been made, the Leader made the following remarks:

- That it was his intention to return to the original set up of scrutiny, where all Members of Council were involved in the process.
- That the correct Chairman had been chosen for the Overview & Scrutiny Committee had been shown by the way that the Call-in meeting had been chaired.
- Care should be taken that an outmoded view of opposition politics should not come to dominate the proceedings of the Council, and more emphasis should be placed upon the development of policy.
- He realised that the current Forward Plan was not appropriate to the work of the Council. This was being addressed as it was central to the decision processes of the Council.
- All roles on the Overview and Scrutiny Committee would be reviewed after the first year of the committee's operation, including that of the Chairman.

A Member reminded Council that, the Overview & Scrutiny Committee was able to hold partner organisations, such as the Police and Health Service, to account and it was important that a work plan was in place for this.

The Chairman called for a vote on the motion. Councillor MAF Hubbard raised a Point of Order.

The point of order raised was sustained, and the Monitoring Officer ruled that, under Section 4.1.13.27 of the Constitution, the procedural motion should be put to a vote.

A Named Vote was called for and taken.

The following Members voted for the Motion:

Councillors PA Andrews, CNH Attwood, WLS Bowen, AN Bridges, EMK Chave, PJ Edwards, J Hardwick, EPJ Harvey, AJ Hempton-Smith, MAF Hubbard, TM James, JLV Kenyon, J Knipe, MD Lloyd-Hayes, RI Matthews, PJ McCaull, SM Michael, C Nicholls, GA Powell, R Preece, SJ Robertson, A Seldon, GR Swinford, DC Taylor and JD Woodward.

The following Members voted against the Motion:

AM Atkinson PL Bettington, AJM Blackshaw, MJK Cooper, PGH Cutter, BA Durkin, DW Greenow, KS Guthrie, RB Hamilton, JW Hope MBE, JA Hyde, JG Jarvis, AW Johnson, P Jones CBE, JG Lester, G Lucas, JW Millar, PM Morgan, NP Nenadich, RJ Phillips, GJ Powell, PD Price, P Rone, P Sinclair-Knipe and DB Wilcox.

The following Members abstained:

Councillors LO Barnett, H Bramer and ACR Chappell

The Motion that the debate on the motion under standing order should be further debated was carried by 26 votes to 24 votes, with 3 abstentions.

In the ensuing discussion, the following points were made by Members:

- That the previous system had worked well for the Council, and had covered areas outside the remit of the Council.
- That the Motion had been designed to provide a public debate on the merits of the scrutiny system, and was not a reflection of the merits of individuals involved with it. This was a matter of principle and would show the electorate that the Council was transparent in its operation, and capable of working together in a consensual manner.
- That scrutiny had been set up in Herefordshire with a consensual approach, and had always been led by a Member of the Opposition.

A Named Vote was called for and taken.

The following Members voted for the Motion:

Councillors PA Andrews, CNH Attwood, WLS Bowen, AN Bridges, EMK Chave, PJ Edwards, J Hardwick, EPJ Harvey, AJ Hempton-Smith, MAF Hubbard, TM James, JLV Kenyon, J Knipe, MD Lloyd-Hayes, RI Matthews, PJ McCaull, SM Michael, C Nicholls, GA Powell, R Preece, SJ Robertson, A Seldon, GR Swinford, DC Taylor and JD Woodward.

The following Members voted against the Motion:

AM Atkinson PL Bettington, AJM Blackshaw, H Bramer, MJK Cooper, PGH Cutter, BA Durkin, DW Greenow, KS Guthrie, RB Hamilton, JW Hope MBE, JA Hyde, JG Jarvis, AW Johnson, P Jones CBE, JG Lester, G Lucas, JW Millar, PM Morgan, NP Nenadich, RJ Phillips, GJ Powell, PD Price, P Rone, P Sinclair-Knipe and DB Wilcox.

The following Members abstained:

Councillors LO Barnett and ACR Chappell

The motion that *This Council resolves to offer the Chairmanship of the Overview and Scrutiny Committee to an opposition member, restoring confidence in the new scrutiny system* was defeated by 26 votes to 25

SECOND NOTICE OF MOTION

This council notes that the economic situation is showing little sign of sustained recovery. Budgets in all areas are under great pressure, and with the knowledge that there will be a further £6,000,000 cut in Government funding from 2012-2013, further pressure is anticipated. This council therefore has no option but to make savings in order to protect frontline services, in particular where it affects the elderly and vulnerable generally.

This council therefore moves that an urgent meeting is arranged with the Chief Executive and Group Leaders to consider the possibility of a voluntary salary reduction

of senior members of staff. This would be in line with a number of local authorities who have recently implemented similar arrangements and would also assure the public that we are looking at all options during these challenging financial times

Councillor RI Matthews proposed the motion, stating it was an issue throughout the country, and believed it was appropriate that it should be debated by Council. All options should be considered during the challenging times for the country, and added that although the number of senior managers had been reduced in the Council, it would be at least two years before savings from the costs of redundancies were felt.

Councillor SJ Robertson seconded the motion.

The Leader moved the following amendment to the motion:

In paragraph one the insertion of the word “nationally” following “economic situation”; and in paragraph two the deletion of text following “This Council” and the insertion of: “commends the actions already undertaken to reduce management costs and ensure that services to support those most in need in our community are being protected as far as is possible; notes the constitutional processes in place for determining terms and conditions of senior officers; and fully embraces the proposals set out in the Localism Bill.”

The Leader went on to say that he was conscious of the significant challenges facing the Council, and recognised that the highest calibre of officer was required to provide the necessary support. As the Constitution made provision for the appointment, in consultation with Group Leaders, of an Employment Panel to determine terms and conditions of employment for senior officers; it would be the appropriate body through which the senior pay policy statement would be prepared for recommendation to Council and it would be inappropriate to debate the merits of individual officer’s salaries in Council. Analysis of 2010 senior officer salary levels amongst unitary authorities both nationally and in the West Midlands showed that Herefordshire was broadly in line with the average of payments.

Annual pay awards for council staff had not increased since April 2008 and, with steady increases in inflation, together with national insurance and pension contribution changes, there had in fact been a real term reduction since then.

In the ensuing discussion, the following points were made:

- A Member could not support the amendment, as they felt that it was inappropriate to support any actions that had already been taken that related to the costs of interim posts, and the borrowing that had been undertaken to support these posts.
- The motion would make little impression on the level of savings required by the Council and was an inappropriate way to achieve the required cuts.
- Herefordshire was the first Council / PCT Partnership of its kind and there were few people in the UK who had Chief Executive and Director level experience in both Local Government and the Health sector. Until very recently, Herefordshire’s public services had a low profile amongst those building a career in public services.
- A response to the Hutton Review of Fair Pay was awaited from the Government, and it would be more useful to have this debate after the response had been published.

- The amendment that had been moved was not appropriate, and was patronising to the elderly, who were being asked to pay more for their care. Private sector employees throughout the country were being asked to take pay cuts of as much as 10% in order to keep businesses viable. .
- That there had been three Directors in Children's Services in the last three years, two of which had been interims. This had been as a result of not being able to attract people of the right calibre who were prepared to apply for the post.

A Named Vote was called for and taken.

The following Members voted for the Motion:

Councillors AM Atkinson, LO Barnett, PL Bettington, AJM Blackshaw, H Bramer, MJK Cooper, PGH Cutter, BA Durkin, DW Greenow, KS Guthrie, RB Hamilton, JW Hope MBE, JA Hyde, JG Jarvis, AW Johnson, P Jones CBE, JG Lester, G Lucas, JW Millar, PM Morgan, NP Nenadich, RJ Phillips, GJ Powell, PD Price, P Rone, P Sinclair-Knipe, DC Taylor and DB Wilcox.

The following Members voted against the amended Motion

Councillors PA Andrews, CNH Attwood, WLS Bowen, AN Bridges, EMK Chave, PJ Edwards, J Hardwick, EPJ Harvey, AJ Hempton-Smith, MAF Hubbard, TM James, JLV Kenyon, MD Lloyd-Hayes, RI Matthews, PJ McCaull, SM Michael, C Nicholls, GA Powell, R Preece, SJ Robertson, A Seldon, GR Swinford and JD Woodward.

The following Members abstained:

Councillor ACR Chappell

The Notice of Motion was carried by 27 votes to 23, with 1 abstention.

RESOLVED: That: This council notes that the economic situation nationally is showing little sign of sustained recovery. Budgets in all areas are under great pressure, and with the knowledge that there will be a further £6,000,000 cut in Government funding from 2012-2013, further pressure is anticipated. This council therefore has no option but to make savings in order to protect frontline services, in particular where it affects the elderly and vulnerable generally.

This Council commends the actions already undertaken to reduce management costs and ensure that services to support those most in need in our community are being protected as far as is possible; notes the constitutional processes in place for determining terms and conditions of senior officers; and fully embraces the proposals set out in the Localism Bill.

22. LEADER'S REPORT

The Leader of the Council, Councillor J Jarvis, presented his report to Council.

In highlighting aspects of the report, the Leader mentioned two recent achievements for Herefordshire:

- The Marches Local Enterprise Partnership (LEP) had selected Herefordshire's Rotherwas based bid for enterprise zone status. The proposal had been jointly

developed by the Herefordshire Business Board and Herefordshire Council, had been submitted to Government for consideration.

- The County had secured £4.9m Government funding from the Local Sustainable Transport Fund. Funding would support a range of activities within the County.

In the ensuing discussion the following points were raised:

- A Member expressed concern that the application for the Sustainable Transport Fund monies lacked imagination and had been submitted with no consultation with local Members. The leader undertook to discuss this matter further with them.
- That it appeared that the Council budget for 2010/11 had only been balanced by the use of extensive borrowing.

The Cabinet Member, Enterprise and Culture replied that the budget had been balanced by the use of earmarked reserves that had been put aside for that purpose. An additional £500k had been spent on winter maintenance after a particularly hard winter and £4m had been allocated to the Social Care budget in order to address issues around mental health and care for the elderly. Recovery budgets had been put in place in order to balance the other budgets.

He pointed out that the public sector operated by borrowing and that 20% of the borrowing was prudential, underwritten by the tax payer. All Unitary Authorities would carry levels of debt. The measures that had been taken should be seen against the requirement for £10.3m in cuts that had been imposed on the Council in 2010/11, together with an additional £6m in 2012.

- In reply to a Member's question, the Leader said that the Local Enterprise Partnership bid had made it into the last 29 in the country, and that the Defence Industries in the county had been considered as part of the bid.
- The Leader stated that Hereford needed a bypass of some description in order to alleviate traffic congestion, but that the statement in his report did not prejudge the issue, pre-empt where a road would be sited, or how it would be utilised. A Members' workshop on the matter would be held on the matter in August.
- That the main objective with the new scrutiny model was to get Members working on policy through Task and Finish Groups. The structure would be reviewed in 12 months time, and reconsidered if it had not delivered the required outcomes.

RESOLVED: That the report be noted.

23. REVISED CHIEF EXECUTIVE'S SCHEME OF DELEGATION

Council received a report on the revised Chief Executive's Scheme of Delegation.

RESOLVED:

THAT:

- (a) the Council note the Scheme of Delegation in accordance with rule 3.8.10 of the Constitution;**

(b) for the purposes of the operations of rule 3.8.10 the Chief Executive reports the scheme annually to the Council only if he finds it necessary to make changes to the scheme.

24. SPECIAL RESPONSIBILITY ALLOWANCES

(Councillor A Seldon declared a personal interest.)

Council considered a report on the payment of special responsibility allowances to Vice-Chairmen of the Overview and Scrutiny Committee.

Councillor MAF Hubbard proposed that an additional recommendation be included, to read: *That 50% of the annual savings made from the reduction in expenditure on Special Responsibility Allowances allocated to the Scrutiny process be set aside to be used as a discrete budget accessed by Chairman of Task & Finish Groups to cover the expenses of expert witnesses for particular reviews.*

Councillor A Seldon seconded the amendment.

The Leader said that he agreed with the sentiments of the amendment, but that it was not possible to provide funding from this source for technical reasons. He undertook to find funding for expert witnesses from other sources, and would discuss the matter further with the Chief Executive.

RESOLVED:

THAT special responsibility allowances be payable as follows:

- **to the Vice-Chairman of the Overview and Scrutiny Committee with responsibility for Health and Wellbeing the sum of £4,000 per annum;**
- **to all other such Vice-Chairmen the sum of £3,500 per annum**

25. OVERVIEW AND SCRUTINY PROVISIONS IN THE CONSTITUTION

Council considered a paper on revisions to the Constitution as a consequence of Council's adoption of a new scrutiny model.

In discussion, the following points were raised:

- A Member questioned the Call in provision at section 4.5.16.3, which limited Call-in to members of the Overview and Scrutiny Committee. He asked that the provision be reconsidered in order to allow all Members to have the opportunity to call in decisions. The Leader replied this suggestion would be given further consideration outside of the Council meeting.
- A Member questioned the provision at section 4.5.7.1 that allowed for the Chairman to cancel or postpone meetings of the Overview and Scrutiny Committee if there was no business to be conducted. He said that, by its very nature, there would always be business to be conducted by the Committee, and asked that this provision be removed.
- A Member asked that section 4.5.13.4 be amended to read 'if a Cabinet Member wishes to extend the deadline a report will be made to the Overview and Scrutiny Committee explaining why this is considered necessary.'

The Leader thanked Members for their comments, and said that they would be given further consideration outside of the Council meeting.

RESOLVED

THAT:

- (a) **the revisions to the Constitution as set out in the appendix to this report be approved;**
- (b) **the proportionality rules be suspended for Scrutiny Task and Finish Groups, on condition that no Task and Finish Group will consist solely of Members of one Political Group and the aim should be to secure cross-party engagement; and**
- (c) **the Monitoring Officer be authorised to make any further consequential amendments to the Constitution.**

26. STANDARDS COMMITTEE

Mr David Stevens presented the report of the Standards Committee.

RESOLVED: That the reported be noted.

27. WEST MERCIA POLICE AUTHORITY

Councillor WLS Bowen presented the report of the meetings of the West Mercia Police Authority held on 14 and 28 June 2011.

He reported that the Chief Constable of West Mercia Police, Mr Paul West QPM, would leave the force at the end of July 2011. The Deputy Chief Constable, Mr David Shaw, had been appointed with effect from 1 August 2011.

RESOLVED: That the report of the meeting of the West Mercia Police Authority held on held on 14 and 28 June 2011be received.

28. HEREFORD & WORCESTER FIRE AND RESCUE AUTHORITY

Councillor Brigadier P Jones CBE presented the report of the meeting of the Hereford & Worcester Fire and Rescue Authority which was held on 22 June 2011

RESOLVED: That the report of the meetings of the Hereford & Worcester Fire and Rescue Authority which were held on 22 June 2011 be received.

The meeting ended at 2.30 pm

CHAIRMAN