

## **Council – 28 April 2005**

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Minutes of the meeting of **Council** held on **28 April 2005** when there were present:-

Cllr Mrs R Brown (Chairman)  
Cllr P F A Webster (Vice-Chairman)

Cllr R A Amner	Cllr J R F Mason
Cllr Mrs L A Butcher	Cllr D Merrick
Cllr P A Capon	Cllr R A Oatham
Cllr Mrs T J Capon	Cllr J M Pullen
Cllr T G Cutmore	Cllr P R Robinson
Cllr K A Gibbs	Cllr P K Savill
Cllr Mrs H L A Glynn	Cllr C G Seagers
Cllr T E Goodwin	Cllr S P Smith
Cllr K J Gordon	Cllr D G Stansby
Cllr J E Grey	Cllr Mrs M A Starke
Cllr Mrs S A Harper	Cllr M G B Starke
Cllr K H Hudson	Cllr J Thomass
Cllr A J Humphries	Cllr Mrs M S Vince
Cllr C A Hungate	Cllr Mrs M J Webster
Cllr Mrs L Hungate	Cllr Mrs C A Weston
Cllr C J Lumley	Cllr Mrs B J Wilkins
Cllr Mrs J R Lumley	

### **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors C I Black, R G S Choppen and T Livings.

### **OFFICERS PRESENT**

P Warren - Chief Executive  
R Crofts - Corporate Director (Finance & External Services)  
A Bugeja - Head of Legal Services  
J Bourne - Leisure & Contracts Manager  
J Bostock - Principal Committee Administrator

During Prayers Council remembered the late Councillor G A Mockford.

### **193 MINUTES**

The Minutes of the Meeting held on 22 February 2005 and Extraordinary Meeting held on 13 April 2005 were approved as a correct record and signed by the Chairman.

### 194 DECLARATIONS OF INTEREST

It was noted that appointees to outside bodies would have a personal interest in the item on the Local Authorities (Indemnity for Members and Officers) Order 2004 within the report of the Finance & Procedures Overview & Scrutiny Committee.

### 195 ANNOUNCEMENTS FROM CHAIRMAN

At this point in the meeting the Chairman was pleased to receive a Gideon Bible, presented by Gordon Chalk and David Fryatt of Gideons International, South East Essex Branch.

The Chairman had recently attended a number of events including:-

- A Rayleigh Brass Band Concert at the Freight House, Rochford.
- The Annual General Meeting of the Cruse Bereavement Counselling Service.
- The funeral of the late Councillor G A Mockford.
- St. George's Day activities, commencing with a breakfast at the Great Wakering Community Centre and concluding with a fund raising Quiz Night at Hawkwell in aid of the Cleft Lip and Palate Association.
- A party for disadvantaged children arranged by Southend, Rochford and Castle Point taxi drivers.

### 196 COMMITTEE MINUTES AND REPORTS

Council received the Minutes of Committees and considered Committee Reports as follows:-

Committee	Date	Minute Nos.
(1) Community Services	1 March 2005	80 – 85
(2) Environmental Services	3 March 2005	86 – 95
(3) Policy & Finance	8 March 2005	96 – 103
(4) Community Overview & Scrutiny	10 March 2005	104 – 111

#### (a) Skateboarding Facility in King George's Playing Field, Rayleigh

It was noted that the decision that a Member level meeting should only be arranged between Rochford District Council and Rayleigh Town Council should any further problems arise relating to the skateboarding facility in King George's Playing Field, Rayleigh had been included under Minute 171.

Committee	Date	Minute Nos.
(5) Environment Overview & Scrutiny	15 March 2005	112 - 116
(6) Finance & Procedures Overview & Scrutiny	17 March 2005	117 – 120
(7) Planning Services	22 March 2005	121 – 123
(8) Community Services	5 April 2005	124 - 135
(9) Environmental Services	6 April 2005	136 – 143
(10) Policy & Finance	7 April 2005	144 - 156

### **(a) Timetable of Meetings 2005/06**

Council considered the report of the Policy & Finance Committee on the timetable of meetings 2005/06.

### **Resolved**

That the timetable of meetings 2005/06, as set out in Appendix 2 of the report, be adopted. (HAMS).

Committee	Date	Minute Nos.
(11) Finance & Procedures Overview & Scrutiny	12 April 2005	157 - 159
(12) Standards	14 April 2005	164 – 170
(13) Community Overview & Scrutiny	19 April 2005	171 – 175
(14) Environment Overview & Scrutiny	20 April 2005	176 – 180
(15) Finance & Procedures Overview & Scrutiny	21 April 2005	181 – 189

### **(a) The Local Authorities (Indemnity for Members and Officers) Order 2004**

Council considered the report of the Finance & Procedures Overview & Scrutiny Committee on the Local Authorities (Indemnity for Members and Officers) Order 2004.

Responding to questions, officers advised that:-

- Reference to no indemnity being available to a Member who voluntarily joined an external organisation related to situations where a Member was acting outside formalised Council appointment arrangements.
- The risk implications detailed in the Committee report had been suggested by Zurich Municipal. Their translation into practical arrangements would need to be the subject of specific consideration. Good practice would include the seeking of advice on areas of concern when such advice is available.

- The limitations identified had been imposed by the Statutory Instrument.
- The cost associated with the proposals would be relatively minor in the context of the Council's overall insurance budget. Details of the finally negotiated cost could be provided to Members.
- The proposals provided some cover that was additional to that currently available.

During discussion Members concurred with the observation of the Leader of the Council that, notwithstanding that there may be some merit in accepting current proposals, it would be appropriate to approach the Local Government Association to ascertain its views on the adequacy of the insurance provided and the possibility of the Association lobbying for improvements to the indemnity that can be made available to Members.

### **Resolved**

- (1) That the Council provides an indemnity in relation to any action or failure to act by any Member or officer which:-
  - (a) is authorised by the Council;
  - (b) forms part of, or arises from, any powers conferred or duties placed upon that Member or officer at the request of or with the approval of the authority including acting as the Council's representative on an outside body;
  - (c) arises in respect of the cost of defending any claim for an allegation of defamation by a Member or officer acting in an official capacity (but not in respect of any punitive or exemplary damages or arising from malicious falsehood or injurious falsehood) or
  - (d) is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct for Members but, if the Member is found to have breached the Code of Conduct, and where an appeal is unsuccessful, then that Member shall reimburse the authority or the insurer for their costs incurred in relation to those proceedings.

Such indemnity to include an act or omission subsequently found to be beyond the powers of the Member or officer in question, but only to the extent that the Member or officer reasonably and genuinely believed that the act or omission was within his/her powers at the time when he/she acted.

- (2) That no indemnity be offered for legal representation to defend a criminal conviction unless specifically approved by the Council and then on a similar basis to that relating to Part 3 proceedings with regard to reimbursement.
- (3) That a revised Protocol for Outside Bodies taking these decisions into account be considered at a future meeting of the Finance & Procedures Overview & Scrutiny Committee.
- (4) That the Local Government Association be approached to ascertain its views on the adequacy of the insurance provided and the possibility of the Association lobbying for improvements to the indemnity that can be made available to Members. (CD(LPA)).

**(b) Review of Partnership Arrangements**

Council considered the report of the Finance & Procedures Overview & Scrutiny Committee on the Review of Partnership Arrangements.

**Resolved**

That, in view of growing work commitments, the review of key partnerships be undertaken by the Community Overview & Scrutiny Committee, with officers reporting into that Committee at its first meeting of the new municipal year so that the detailed focus and work programme can be agreed. (CE).

**(c) Development and Access to Land at 5 Weir Pond Road, Rochford**

Council considered the report of the Finance & Procedures Overview & Scrutiny Committee on development and access to land at 5 Weir Pond Road, Rochford.

During discussion a Member questioned whether the mechanism for identifying market value should involve the site being available on the open market. Responding to this and other questions, Officers advised that:-

- The decision relating to planning permission and the decision relating to disposal of the land at the end of Oast Way should be seen as two separate issues.
- The Council had a responsibility not to frustrate development where it would be reasonable to see it achieved.
- Any valuation determined by the District Valuer would be at open market value and in the Council's best interests. In appointing the District Valuer the Council would be following best practice.

- Land ownership was not a material consideration and was properly disregarded in determining the planning application.

### **Resolved**

That the land at the end of Oast Way, Rochford be sold to the Applicant at market value subject to the Applicant agreeing to meet the Council's legal fees, costs and valuation expenses and such other conditions as the Head of Legal Services considers appropriate. (HLS).

<b>Committee</b>	<b>Date</b>	<b>Minute Nos.</b>
(16) Planning Services	26 April 2005	190 – 192

### **197 HIGH HEDGES – PROPOSED FEES**

Council considered the report of the Head of Planning Services on the appropriate level of fee which should be charged for dealing with complaints about high hedges under the provisions of Part 8 of the Anti-social Behaviour Act 2003.

Responding to questions, officers advise that:-

- The introduction of a time-sheet log would allow officers to report back to Members should analysis point to there being merit in reviewing the fixed fee.
- The proposed fee of £450.00 included some allowance for costs that may be associated with appeals.
- The making of a complaint under the provisions of the Anti-Social Behaviour Act should be seen as an action of last resort used if it has not been possible to resolve matters through negotiation between parties.
- When a Council is taking planning enforcement control action the only monies that can be recovered are those associated with the cost of redressing a breach.
- The precise definition of a 'high hedge' can be included in the Members' Bulletin.
- Persons on state pensions would be eligible for the proposed concessionary charge rate.

During debate it was observed that, whilst the issue of high hedges was clearly important, the proposed fee of £450.00 could be a financial obstacle to many. Particular reference was made to the likelihood that poorer members

of the community may continue to suffer due to being unable to afford the cost of pursuing a complaint.

On a motion, moved by Councillor S P Smith and seconded by Councillor T G Cutmore, it was:-

### **Resolved**

That the fee for processing a high hedges complaint under the provisions of Part 8 of the Antisocial Behaviour Act 2003 be £320.00 with a concessionary charge of £100.00 for those on benefits or in receipt of State Pensions. (HPS).

### **EXCLUSION OF THE PRESS AND PUBLIC**

### **Resolved**

That the press and public be excluded from the meeting for the remaining business on the grounds that exempt information as defined in Paragraph 9 of Part 1 of Schedule 12A of the Local Government Act 1972 would be disclosed.

## **198 KERBSIDE RECYCLING SCHEME**

Council considered the exempt report of the Corporate Director (Finance and External Services) on proposals for a green waste contract. The report had been referred to Full Council by the Policy and Finance Committee at its meeting on 7 April 2005.

In presenting this item the Corporate Director advised that, since report publication, details had been received from DEFRA of a three-year grant relating to recycling. For the forthcoming year this involved a capital grant of £14,018 and a revenue grant of £10,902. It would be possible to apply aspects of the grant monies to green waste if considered appropriate. The Corporate Director also provided information on the level of charge set by a number of other authorities for green waste collections and confirmed that the proposals within the report would represent an average figure.

Responding to questions, officers advised that:-

- Residents would be able to have more than one bin, subject to an extra charge.
- Should it be considered of value to centre a scheme around the summer months there would be a need to review the tender process. The majority of these types of contract were applied on an all year round basis.

- Some areas, including Great Wakering, could be identified as priority locations in terms of having a green waste bring collection on Saturday mornings.
- Whilst the contractor would be responsible for marketing (including cost), the Council would have detailed input into its nature/content.
- The contractor would use 240 litre bins and collect the older smaller bins at no charge to the Council.

During discussion Council agreed that the proposals represented an innovative scheme of particular value for residents in the east of the District whose closest green waste facility was at a civic amenity site in Southend.

The scheme represented a private/public sector partnership where the Council was able to secure an additional service for residents to buy into should they chose via the private sector through public subsidy.

Reference was made to the importance of doing all that is possible to ensure that vehicles are available at the published times and that there is a robust monitoring to ensure vehicles are of sufficient capacity (with the inclusion of penalty where possible). Reference was also made to the value of stressing in any marketing material that involvement with the scheme is voluntary.

On a motion, moved by Councillor T G Cutmore and seconded by Councillor P A Capon, it was:-

### **Resolved**

That a voluntary green waste kerbside collection service, as proposed by Greens of Maldon and set out in the exempt report, be introduced. (CD(F&ES)).

The meeting closed at 9.04pm.

Chairman .....

Date .....