



MINUTES OF A MEETING OF THE COUNCIL HELD ON 11th SEPTEMBER 2012

PRESENT: Councillor T Clements (Chair), Councillors L Bates, M Clarke, S Claymore, D Cook, C Cooke, M Couchman, S Doyle, J Faulkner, K Gant, M Gant, M Greatorex, A James, R Kingstone, A Lunn, M McDermid, R McDermid, K Norchi, J Oates, S Peuple, R Pritchard, E Rowe, P Seekings, P Standen and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), John Wheatley (Executive Director Corporate), Jane Hackett (Solicitor to the Council and Monitoring Officer), Andrew Barratt (Director - Assets and Environment), Stefan Garner (Director of Finance), Lara Allman (Democratic & Election Services Officer) and Bernadette Flanagan (Elections Officer)

31 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J Garner, B Beale, D Foster, and G Hirons.

32 TO RECEIVE THE MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 11 July 2012 were approved and signed as a correct record.

(Moved by Councillor D Cook and seconded by Councillor R Pritchard)

33 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

34 TO RECEIVE ANY ANNOUNCEMENTS FROM THE MAYOR, LEADER, MEMBERS OF THE CABINET OR THE CHIEF EXECUTIVE

Announcement by Councillor D Cook

Given the continued ill health of Councillor Brian Beale the Committee Members have been changed. Democratic Services have received a copy of the new Committee Structure and a copy will be sent to the Leader of the opposition.

Announcement by Anthony Goodwin (Chief Executive)

Given the nature of the Questions to Council regarding the Scrutiny Meeting the Chief Executive has agreed to accept the questions but after speaking to the Solicitor of the Council it has been agreed that she attend the meeting after these questions have been asked.

35 QUESTION TIME:**QUESTIONS FROM MEMBERS OF THE COUNCIL NO.1**

Under Procedure Rule No 11, Councillor R Pritchard will ask the Leader of the Opposition the following question:-

"The Labour Candidate for the PCC elections is on the Shadow Crime board, and therefore is selecting the independent members that will scrutinise the Police and Crime Commissioner. Does the Leader of the Opposition share my concern that individual who could be running Tamworth Police is selecting the individuals that would scrutinise her or her opponent?"

The Leader of the Opposition gave the following reply:

No, I do not agree with Councillor Pritchard

Supplementary Question

So you will not be raising this issue with your party colleagues?

The Leader of the Opposition gave the following reply:

Such conversations are for party colleagues and as such I do not wish to share with the Conservative Party.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.2

Under Procedure Rule No 11, Councillor M Couchman will ask the Portfolio Holder for Environment and Waste Management, the following question:-

"Not withstanding the very wet summer which has led to prolific vegetation growth, does the Portfolio Holder accept that the Weed Management provision provided by Staffordshire County Council is not fit for purpose, and can he tell us if there are any proposals to review that contract"

The Portfolio Holder for Environment and Waste Management gave the following reply:

All SCC owned and managed highways and associated footpaths are sprayed by the CC contractors, and are the sole responsibility of SCC. Tamworth Borough Council does not incur any charges for this work, however conversely we have no control of these assets as they are the responsibility of SCC.

In respect of our own assets the majority of which are the paved areas outside of shops within housing areas, we use our reverse agency agreement with the CC to facilitate weed control.

Supplementary Question

The contract costs £6,280pa. Do you not think this could be better spent by using operatives in house?

The Portfolio Holder for Environment and Waste Management gave the following reply:

No

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.3

Under Procedure Rule No 11, Councillor J Faulkner will ask the Leader of the Council, the following question:-

"At the Aspire & Prosper Scrutiny Meeting held on 29 August 2012, Councillor Michelle Thurgood called into question the professionalism of a senior officer of this Council. What disciplinary action has been taken against Councillor Thurgood's unjustifiable and outrageous statements?"

The Leader of the Council gave the following reply:

I totally agree with Councillor Faulkner, the professionalism of any Officer should never be brought into question and **especially** in a public forum.

If any member is either dissatisfied or has evidence of incompetence, it should be brought to the attention of the CEO.

That said; members do have the right to question and indeed challenge officer's advice **provided it is done so in a respectful, proportionate and balanced manner.**

Whilst I was not present at the meeting, it has been suggested that the boundary between **robust challenge** and **questioning officer professionalism** may have been crossed. Since hearing this three significant actions have been undertaken

1. Councillor Thurgood has met with the Solicitor to the Council and offered a full apology. This apology was supported by a written apology by E-mail straight afterwards. I believe that Cllr Thurgood recognised that her approach may have been taken wrongly and sought to make amends for any offence that may have been taken. This was not prompted by me, nor any member of my group.
2. I have agreed to meet with the Solicitor to the Council, the CEO and the Solicitors line manager to discuss and agree where we go from here and how we avoid any future repetitions; and

3. I have asked the CEO to contact the LGA member support team with a view to engaging possible peer support for all newer members in order to improve standards, agree protocols and clarify how to conduct themselves in committees. I do not wish to see any of the 30 members of this chamber lose their passion for this town or how our policies interact with the public, but we must be careful to understand we are all in this together.

None of these actions preclude any officer concerned pursuing whatever course of action they feel appropriate. There are procedures in place to deal with situations and it is our responsibility as members to let them run their course as governance demands.

Supplementary Question

While I welcome what the Leader of the Council has said, nevertheless the apologies were in private and the inappropriate comments made by Cllr Thurgood were in public. I feel a more public apology is required.

The Leader of the Council gave the following reply:

I am pleased that Cllr Faulkner has feelings on the matter.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.4

Under Procedure Rule No 11, Councillor J Faulkner will ask the Leader of the Council, the following question:-

"It is a fundamental principle of Scrutiny that Scrutiny Committees are independent of the Cabinet and are not subject to any control by the Cabinet. However, at the Aspire & Prosper Scrutiny Meeting held on 29 August 2012, Councillor Cook was contacted by Conservative members of that Committee who were seeking direction. What explanation can justify Councillor Cook's interference in the Committee which was contrary to this fundamental principle?"

The Leader of the Council gave the following reply:

The explanation in truth is simple:

They Rang me!

I simply responded to a telephone call during which I was asked for my view on an issue relating to the Constitution.

At no time was I asked and nor did I seek to influence any issue under 'Scrutiny'. I have been Leader long enough to know that would be wrong.

I shared my view on the matter in question having first sought the opinion of the CEO. I understand that same route was taken by the Solicitor to the Council at the request of members.

I do not believe they rung me as Leader of this Council, but as an experienced colleague who might offer fresh insight or be aware of where to get it.

I would hope that any Leader would offer the benefit of their knowledge and experience irrespective of politics.....Governance is key to effective scrutiny and I make myself available to any Member.

Supplementary Question

Can you give assurance you will think twice prior to giving advice to scrutiny on a governance or scrutiny issue?

The Leader of the Council gave the following reply:

That's not for me to comment on what goes on within my party. I'm sure I've heard this said somewhere before.

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.5

Under Procedure Rule No 11, Councillor C Cooke will ask the Portfolio Holder for Core Services & Assets, the following question:-

"In your view would you accept that a small advert over two weeks in the Tamworth Herald adequately fulfills the duty to consult with the Local Community on the sale of Council owned open space land, as expressed within the meaning our Tamworth Local Plan, saved policy ENV 13?"

The Portfolio Holder for Core Assets & Services gave the following reply:

Yes

Supplementary Question

Would Councillor Pritchard agree to arrange to meet with me in order to discuss the policy generally and a particular case I have in mind?

The Portfolio Holder for Core Assets & Services gave the following reply:

Yes I would. I believe I am aware of the case that you are referring to. The land sale was drive by anti social behaviour experienced by some residents so would you also consider inviting the residents this affects and explaining why you do not agree with them?

QUESTIONS FROM MEMBERS OF THE COUNCIL NO.6

Under Procedure Rule No 11, Councillor C Cooke will ask the Portfolio Holder for Core Services and Assets, the following question:-

"Under the Council Tax and Housing benefits system rules in place there is a 100% DWP subsidy to Tamworth Council for all benefits payments made. But where payments are found to be wrong the system allows for only a 40% subsidy

to be paid to Tamworth Council - however the Council is then allowed to keep any overpayments that are recovered. This may lead to a position of loss or profit to Tamworth Council depending on a number of pre-coded factors describing how the overpayment came about. Can you tell me what loss or a profit this system of subsidy has given Tamworth Council for the latest known accounting period of one year?"

The Portfolio Holder for Core Assets & Services gave the following reply:

Due to the technical nature of the answer to this question a written Response will be provided.

Written response:

Local Authorities receive, for the greater part of qualifying benefit expenditure they incur, a direct subsidy of 100% from the Department for Work and Pensions. However, in some areas of expenditure, lower overpayment subsidy rates apply.

Qualifying expenditure is the total of Housing Benefit and Council Tax Benefit paid by an authority during the relevant financial year, subject to certain deductions. The deductions are

- modular improvement schemes (rent rebate only), unless the authority qualifies for exemption
- rent free weeks and credits
- awards to tenants
- prior year overpayments – including recovered Departmental error overpayments
- uncashed instruments of payment
- recovered payments on account which occurred in a previous year
- expenditure on modified schemes

Qualifying expenditure for current year overpayments is the net sum of gross payments made, less overpayments identified for current year awards.

The areas of benefit spending which attract a lower rate of subsidy include certain types of overpaid benefit. However, it is not as straight forward as assuming that the Council is reimbursed a flat rate of 40% subsidy where overpayments have subsequently occurred.

The level of subsidy received depends on the reason for the overpayment. Overpayment classifications are;

Eligible (customer error or other error)	40%
Local Authority/Administrative delay error	0%, 40% or 100%,

depending on whether or not the authority has reached a threshold figure. If Local Authority overpayments total less than 0.48% of total expenditure attracting

full subsidy, they are reimbursed 100%. If Local Authority overpayments identified are between 0.49% and 0.53% of total expenditure attracting full subsidy, the Authority receives 40% subsidy for those overpayments. If Local Authority overpayments total 0.54% or more than the total expenditure attracting full subsidy, 0% subsidy is due. For 2011/12, Tamworth Borough Council's figures were;

Total expenditure attracting full subsidy	£25,479,207
Lower threshold figure (0.48%)	£ 122,300
Upper threshold figure (0.54%)	£ 137,588
Actual total Local Authority/Admin delay amounts identified in 2011/12	£ 54,526

This means that Tamworth Borough Council will receive full subsidy of £54,526 (100%) for Local Authority error overpayments identified, as the total is less than 0.48% of total expenditure attracting full subsidy

Technical/Excess Council Tax Benefit/recovered Indicative Rent Level/recovered DWP error 0%

Duplicate payments	25%
Indicative Rent Level	100%

In terms of a profit/loss statement, please see below high-level figures from e-Financials, which is based on 2011-12 actual and budgeted benefit expenditure, subsidy due, and overpayments.

GT0101 BENEFITS	2011-12	
	Budgeted	Actual
<i>Expenditure</i>		
Provision for bad debts	100,000	169,287
Rent Allowances	10,052,950	10,457,449
Council Tax Benefit	5,703,330	5,397,825
Non-HRA Rent Rebates	37,640	31,512
HRA Rent Rebates	10,034,330	10,314,059
	25,928,250	26,370,133
<i>Subsidy</i>		
Rent Allowances Subsidy	-9,950,770	-10,229,711
Council Tax Benefit Subsidy	-5,737,850	-5,457,405
Non-HRA Rent Rebate Subsidy	-6,380	-27,098
HRA Rent Rebate Subsidy	-9,870,420	-10,141,447
	-	-25,855,660

	<u>25,565,420</u>	
Overpayments		
Private Tenant OVPs	-246,780	-383,011
Council Tenant OVPs	-253,820	-264,292
	<u>-500,600</u>	<u>-647,303</u>
TOTAL	<u>-137,770</u>	<u>-132,831</u>

The generation of an overpayment does not guarantee it will be recovered. Many minor amounts are written off immediately as are not cost effective to pursue; other overpayments would require significant staff resource (the costs of which are not accounted for under figures on GT0101) and may take months or years to recover.

If you have any further question please let me know.

36 ANNUAL REPORT ON THE TREASURY MANAGEMENT SERVICE AND ACTUAL PRUDENTIAL INDICATORS 2011/12

The Report of the Portfolio Holder for Core Services and Assets seeking approval for the Annual Report on the Treasury Management Service and Actual Prudential Indicators 2011/12 was considered.

RESOLVED: That:

- 1 The actual 2011/12 Prudential Indicators within the report and shown at appendix 1 be approved, and;
- 2 The Treasury Management stewardship report for 2011/12 be accepted.

(Moved by Councillor R Pritchard and seconded by Councillor D Cook)

37 TAMWORTH RUGBY UNION FOOTBALL CLUB LEASE ADDITION DUE TO GRANT FUNDING APPLICATION

The Report of the Portfolio Holder for Core Services and Assets seeking approval to vary the lease to allow the Rugby Club to create an additional floodlit pitch; to further re-negotiate the lease to include occupation of the entire lodge building, carryout refurbishment works (new planning application/building regulation approval required), and to complete improvements to current car parking provision was considered.

RESOLVED: That:

- 1 Landlord consent to Tamworth Rugby Union Football Club for the creation of a new Training/Junior pitch at Wigginton Park with associated drainage and the provision of floodlighting be granted, and;

- 2 The re-negotiation of the existing lease to include occupation of all Wigginton Lodge (including the creation of a small garden area) to enable refurbishment works and general enhancements be undertaken be authorised, and;
- 3 The Director for Assets & Environment in conjunction with the Portfolio Holder for Core Services & Assets be authorised to agree the details of the revised lease with the Rugby Club Committee, and;
- 4 The provision of enhanced car parking (in accordance with prior planning permission), subject to satisfactory agreement of the revised lease be approved.
(Moved by Councillor R Pritchard and seconded by Councillor D Cook)

38 CONSIDERATION OF THE CABINET RESPONSES TO THE CEMETERY GATES PETITION

The Report of the Portfolio Holder for Environment and Waste Management informing Council of Cabinets' preferred option in response to the petition received by the Council in respect of locking and unlocking all cemetery gates all year round was considered.

RESOLVED: That the preferred option of supporting the establishment of a Friends of Group for the cemeteries to undertake the locking and unlocking of the gates be endorsed.

(Moved by Councillor S Doyle and seconded by Councillor R Pritchard)

A motion was made to make the following amendment:

b) The Council resume locking and unlocking the Cemetery gates.
(Moved by Councillor J Faulkner and seconded by Councillor R McDermid)

This was a motion without notice.

It was negated by the substantive motion being carried, accordingly rule 14.6(a) did not apply.

39 COUNTER FRAUD AND CORRUPTION POLICY STATEMENT, STRATEGY & GUIDANCE NOTES AND WHISTLEBLOWING POLICY

The Report of the Chair of Audit and Governance Committee seeking Member approval for the adoption of the revised Counter Fraud and Corruption Policy Statement, Strategy & Guidance Notes and Whistleblowing Policy was considered.

RESOLVED: That:
1 The Counter Fraud and Corruption Policy Statement,

- Strategy & Guidance Notes be endorsed, and;
- 2 The Whistleblowing Policy be endorsed
(Moved by Councillor M Gant and seconded by Councillor J Faulkner)

The Mayor