

# Council

Wednesday, 20 February 2019

**Attendees:**

Councillor Christopher Arnold, Councillor Lewis Barber, Councillor Nick Barlow, Councillor Lyn Barton, Councillor Kevin Bentley, Councillor Tina Bourne, Councillor Roger Buston, Councillor Nigel Chapman, Councillor Peter Chillingworth, Councillor Helen Chuah, Councillor Nick Cope, Councillor Mark Cory, Councillor Simon Crow, Councillor Robert Davidson, Councillor Beverly Davies, Councillor Paul Dundas, Councillor John Elliott, Councillor Andrew Ellis, Councillor Vic Flores, Councillor Adam Fox, Councillor Martin Goss, Councillor Dave Harris, Councillor Chris Hayter, Councillor Pauline Hazell, Councillor Theresa Higgins, Councillor Mike Hogg, Councillor Brian Jarvis, Councillor John Jowers, Councillor David King, Councillor Darius Laws, Councillor Cyril Liddy, Councillor Michael Lilley, Councillor Sue Lissimore, Councillor Derek Loveland, Councillor Andrea Luxford Vaughan, Councillor Fiona Maclean, Councillor Jackie Maclean, Councillor Patricia Moore, Councillor Beverley Oxford, Councillor Gerard Oxford, Councillor Philip Oxford, Councillor Lee Scordis, Councillor Lesley Scott-Boutell, Councillor Martyn Warnes, Councillor Lorcan Whitehead, Councillor Dennis Willetts, Councillor Barbara Wood, Councillor Julie Young, Councillor Tim Young

**305 Prayers**

The meeting was opened with prayers by the Mayor's Chaplain, the Reverend John Richardson.

**306 Apologies**

Apologies were received from Councillors Colman and Pearson.

**307 Minutes of the Previous Meeting (Council)**

*RESOLVED* that the minutes of the meeting held on 6 December 2018 be confirmed as a correct record, subject to the deletion of Councillor F. Maclean from the list of attendees.

**308 Have Your Say! (Council)**

Mr Orton addressed the Council pursuant to the provisions of Council Procedure Rule 6(5) to express his concern that members of the public were only allowed to address Council for a maximum of three minutes. He considered that this did not deliver on freedom of speech, for which future generations had fought, and that it should be reviewed

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, explained that the Have Your Say! Arrangements had recently been extended to allow an additional minute for speakers to respond to any reply they were given. He would consider whether to refer the matter to the Governance and Audit Committee, Policy and Public Initiatives Panel or the Member Development Group.

John Franklin addressed the Council pursuant to the provisions of Council Procedure Rule 6(5) on the future development of Colchester. He argued that there was a lack of vision and there was a need for better infrastructure. Colchester needed to plan for the next 200 years, rather than the next 30. Colchester Borough Council, Essex County Council and the government needed to work together to plan vertical living zones with reliable public transport and employment opportunities. This would provide integrated and sustainable communities. Northern Gateway offered an opportunity to develop the first vertical living zone.

Councillor T. Young thanked Mr Franklin. His suggestions were more relevant to the Local Plan Committee and he would provide details of his proposals to the relevant officers. However, Garden Communities provided some of the elements suggested by Mr Franklin.

Angel Kalyan addressed the Council pursuant to the provisions of Council Procedure Rule 6(5) to ask whether the Council still claimed that an investigation was undertaken into the claims that she made, in the light of apparently conflicting statements on the issue.

The Mayor invited Adrian Pritchard, Chief Executive, to respond. He stressed that he was not prepared to commit any more Council resources to her inquiries and complaints. He had invited Mrs Kalyan to take the Council to court over the issues she raised where it would defend its case.

Alan Short addressed the Council pursuant to the provisions of Council Procedure Rule 6(5) to enquire about the arrangements for scrutiny at Colchester Borough Council. He had raised issues relating to the Painters Yard planning application at Governance and Audit Committee, particularly in respect of the proposed lease of the site, but had been informed that these issues did not fall within their remit. He sought clarification about the appropriate body that would be able to address these concerns.

Councillor Davies, Chair of the Scrutiny Panel, explained that he would be welcome to

attend meetings of the Scrutiny Panel. She explained the remit of the Panel but stressed that the issues he had raised were for the Cabinet. Councillor Fox, Chair of the Governance and Audit Committee, invited Mr Short to attend the next meeting of the Governance and Audit Committee when it would be looking at the Council's commercial companies as the Council's shareholder Committee.

Giles Coode-Adams addressed the Council pursuant to the provisions of Council Procedure 6(5) on behalf of CAUSE to express their opposition to the allocation of £450,000 towards Garden Communities, which he considered to be a waste of public money. North Essex Garden Communities Ltd would not deliver any housing for many years. It owned no land and neither did it have the finance to deliver any housing. He supported the proposed alteration to the budget. The Council needed to see proper financial viability statements before committing any finance and the funding would be better used on proper planning for affordable housing for local people.

Councillor T. Young, Portfolio Holder for Business and Culture, expressed his hope that Council would support the alteration to the budget. There was cross party and multi authority support for Garden Communities principles and it was for the Local Plan Committee to continue to work on the details.

Tom Foster, Chair of CAUSE, addressed the Council pursuant to the provisions of Council Procedure Rule 6(5), about concerns about potential conflicts of interest arising from the Council's investment in North Essex Garden Communities Ltd. It would be increasingly difficult for the Council to demonstrate it was an even-handed regulator when it was so committed to Garden Communities. Directors on NEGC Ltd would have a legal duty to act in the best interests of the company rather than in the Council's interests. CAUSE had done a survey, which had shown that most members of the public perceived that there was a conflict of interest, and the Council's should ensure that those who were directors of NEGC Ltd. should take no part in Council decisions on investment in the company. CAUSE supported the proposed alteration to the budget.

Councillor T. Young, Portfolio Holder for Business and Culture, explained that the Monitoring Officer had written to CAUSE with advice on the position of those Councillors who were also Directors of NEGC Ltd. As long as the appropriate interest was declared, they were entitled to vote on matters relating to NEGC Ltd.

Sebastian Thornton addressed the Council pursuant to the provisions of Council Procedure Rule 6(5) to seek advice about the resolution of an issue with Colchester Police and the Independent Office of Police Conduct.

Councillor Lilley, Portfolio Holder for Planning, Community Safety and Licensing, indicated that if the full details were provided to him by Mr Thornton, he would pass them on to the Police, Fire and Crime Commissioner for Essex.

Alistair Heron addressed the Council pursuant to the provisions of Council Procedure Rule 6(5) about the Broad Lane Sports Ground. It was being held in charitable trust on a 99 year lease for the benefit of the people of Wivenhoe. He understood that the Council was seeking to persuade trustees, who had a duty to protect their asset, to give up the lease. His concerns had been exacerbated following conversations with the Trustees, and he understood that contrary to previous claims, the Trustees had not been asked to take their own legal advice on whether they could lawfully give up the asset. He suggested that the Council should concentrate on the other potential sites it had identified to secure funding from the Football Association.

Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, reiterated his offer to meet with Mr Heron to discuss these issues. He stressed that he was seeking to protect the site for sporting use indefinitely and highlighted that the site was allocated for sports use in the Local Plan. The Council was looking to secure investment for the site and to introduce a new form of governance. The Chair of Trustees had been advised to take legal advice.

Sir Bob Russell addressed the Council pursuant to the provisions of Council Procedure Rule 6(5) to provide some historical perspective over the use of the term “city” in relation to Colchester in advance of the Scrutiny Panel meeting of 22 February 2019. He congratulated the Heritage and Tourism Task and Finish Group for suggesting the use of the word “city” in the branding, and the Cabinet and Councillor Gerard Oxford for taking it forward. The Council had applied for city status on four occasions since 1992 so the revised strapline was in line with Council policy, and Destination Colchester had been using it for several years.

Councillor T. Young, Portfolio Holder for Business and Culture, thanked Sir Bob Russell for his comments. He was looking forward to these issues being the subject of a full public debate at the Scrutiny Panel on 22 February 2019.

Paul Frost addressed the Council pursuant to the provisions of Council Procedure Rule 6(5) on behalf of Hands Off Wivenhoe. He had spoken at Local Plan Committee to query the budget of NEGC Ltd and what it would be spent on, but he had not received a response. He noted that the Business Plan for NEGC Ltd had not yet been published despite claims that it would be in place by the end of January 2019.

Councillor T. Young, Portfolio Holder for Business and Culture, thanked Mr Frost for his comments. The Council would continue to listen to community groups on the Local Plan. The Business Plan for NEGC Ltd was not yet agreed but a public version would be made available when the Business Plan was published. Councillor G. Oxford, Chair of the Local Plan Committee, indicated that a full response had been provided by officers at the Local Plan Committee meeting.

Paul Griffith, addressed the Council pursuant to the provisions of Council Procedure

Rule 6(5), the Committee on Standards of Public Life had published its report on Ethical Standards in Local Government. This had made 26 recommendations. The fourth recommendation was for an objective test on the circumstances in which Councillors should withdraw and not vote. He asked Council to reflect on this recommendation and incorporate it into the Council's Constitution.

The Monitoring Officer, Andrew Weavers, was invited to respond to Mr Griffith. He explained that the Committee on Standards of Public Life had submitted its report to Parliament. Many of the recommendations, including that highlighted by Mr Griffith, required a change in law. The Council was not in a position to introduce this change itself. Once legislation was introduced and approved, the Council would amend its Code of Conduct. Under the existing arrangements all the Councillors appointed as Directors of NEGC Ltd were declaring the interests that were legally required.

Philip Parker addressed the Council pursuant to the provisions of Council Procedure Rule 6(5) about issues relating to domestic abuse against men. He had suffered domestic abuse whilst under the care of Essex County Council. He highlighted the impact that this had on victims. He believed there was a lack of support for male victims of domestic abuse and asked what the Council was doing to protect male victims.

Councillor Bourne, Portfolio Holder for Housing and Communities, responded and explained that the Council could not respond on the issues relating to Essex County Council. The Council took its duties to all groups with protected characteristics seriously. It provided funding towards Colchester and Tendring Women's Refuge, which ran the "Freedom" course for victims of any gender. The Council also provided considerable support for rough sleepers.

## **309 Mayor's Announcements**

The Mayor invited Councillor Hogg to make a personal statement about his health. He thanked members and officers for the support and best wishes he had received and stated that he would stand down as a Councillor in 2020.

The Mayor expressed Council's thanks to Ann Hedges, Chief Operating Officer, and Sean Plummer, Strategic Finance Manager, who were leaving the Council following long and valued periods of service.

The Mayor announced the following events:-

- A Sparkling Wine Tasting event, 28 February 2019;
- The Mayor's Big Run, 2 March 2019;
- Curry and Quiz Night, 21 March 2019;

- Afternoon Tea Party, 3 April 2019;
- The Mayor's Ball, 11 May 2019;

### **310 2019-20 General Fund Revenue Budget, Capital Programme and Medium Term Financial Forecast**

**Councillor T. Young (in respect of being a Director of North Essex Garden Communities Ltd and a trustee of Firstsite) and Councillor King (in respect of being a substitute Director of North Essex Garden Communities Ltd) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 9(5).**

*RESOLVED* that Council Procedure Rule 14(3) be suspended for this item only to allow the Portfolio Holder for Resources and the Group Leaders of the Conservative, Labour and the Highwoods Group to speak untimed.

It was proposed by Councillor Cory, Leader of the Council and Portfolio Holder for Strategy that the recommendations contained in minute 326 of the Cabinet meeting of 30 January 2019 and the recommendations contained in the report by the Assistant Director entitled "Precept and Council Tax Levels 2019-20" be approved and adopted subject to an alteration pursuant to Council Procedure Rule 14(15) to alter sub-paragraph (f) of the resolution from Cabinet to delete the full stop and the add the following wording at the end of the sub paragraph:-

"and subject to any decision to release any of the allocation on Local Plan work set out in paragraph 8.10 of the Assistant Director's report to North Essex Garden Communities Ltd being approved by a vote at Full Council, following consideration of North Essex Garden Communities Ltd business plan by Cabinet."

Council indicated its consent and the motion was deemed altered accordingly.

On being put to the vote the motion was carried (Twenty-five voted for, twenty-four voted against).

Further to Council Procedure Rule 15(3) a named vote was taken and the voting was as follows: -

FOR: Councillors Barlow, Barton, Bourne, Chuah, Cory, Fox, Goss, Harris, Higgins, Hogg, King, Liddy, Lilley, Luxford Vaughan, B. Oxford, G. Oxford, P. Oxford, Scordis, Scott-Boutell, Warnes, Whitehead, J. Young, T. Young. The Deputy Mayor (Cope) and the Mayor (Chillingworth).

AGAINST: Councillors Arnold, Barber, Bentley, Buston, Chapman, Crow, Davidson, Davies, Dundas, Elliott, Ellis, Flores, Hayter, Hazell, Jarvis, Jowers, Laws, Lissimore, Loveland, F. Maclean, J. Maclean, Moore, Willetts and Wood.

ABSTAINED FROM VOTING: None

**311 Changes to the Hackney Carriage and Private Hire Licensing Policy**

*RESOLVED (UNANIMOUSLY)* that the recommendation contained in minute 75 of the Licensing Committee meeting of 23 January 2019 be approved and adopted.

**312 Nomination of Deputy Mayor 2019/20**

*RESOLVED* that the recommendation contained in draft minute 334 of the Cabinet meeting of 30 January 2019 be approved and adopted and Councillor Beverley Oxford be elected as Deputy Mayor for the Borough of Colchester for the 2019-2020 municipal year.

**313 Designation of Interim Section 151 Officer**

*RESOLVED* that the decision contained in the report by the Assistant Director, Policy and Corporate, be approved and adopted and that accordingly Martin Hone be designated as the Council's Interim Section 151 officer with effect from 1 March 2019.

**314 Questions to Cabinet Members and Chairmen pursuant to Council Procedure Rule 10**

Questioner	Subject	Response
Pre-notified questions		
Councillor Liddy	Last year the idea of Essex County Council devolving its road maintenance budget to Colchester Borough Council was proposed. Is the Portfolio Holder for Waste, Environment and Transportation in a position to give the Council a report	Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, indicated that he had had a fruitful meeting with Essex County Council and he anticipated these would continue. There had been some expressions of interest

	on the current progress of the negotiations?	from Parish Councils in taking on some highways work.
Councillor Hogg	Over the last two financial years the sum of £12 k has been allocated to St Annes and St Johns Ward to spend on good and worthy causes. I see from the final Budget Summary that there is an underspend of £2281-0 in monies allocated to the ward. Can the Portfolio Holder for Housing and Communities come up with a mechanism by which this money can be retrieved so that Councillor Chuah and I can allocate to where it was intended ie, worthy and deserving causes and not lost.	Councillor Bourne, Portfolio Holder for Housing and Communities, explained that the locality budget spend could be deferred if an application to do so was received by 31 January and it related to specific identified item. However, she was prepared in the circumstances to allow the underspend to be carried over, so long as it was allocated by the end of March 2019 and spent in one sum.
Councillor Warnes	Can the Portfolio Holder for Waste, Environment and Transportation seek urgent talks with the Ministry of Defence to help re-establish appropriate parking spaces for those members of the public that want to responsibly use Friday Woods for recreational purposes so that the wider impact of the car park closure can be mitigated	Councillor Goss, Portfolio Holder for Waste, Environment and Transportation, explained that there had been a meeting with the Garrison but no progress had been made. The Council had no legal powers to force the Ministry of Defence to open the car park or take on responsibility for the car park. The Ministry of Defence had not taken the decision lightly, and had closed the car park in response to anti-social behaviour by a minority of users. The Council had looked for suitable land in

		the vicinity for a Council car park, but no suitable site had been found.
Councillor Cope	<p>Could the Portfolio Holder for Planning, Community Safety and Licensing provide details of the development projects that are being held up through the non-triggering of a so-called "trigger point"? Could the Portfolio Holder provide a list of such projects and for each the trigger point that has not been reached? In view of the amount of remedial work on required on new build properties, were building standards being maintained?</p>	<p>Councillor Lilley, Portfolio Holder for Planning, Community Safety and Licensing, indicated that a written response would be sent.</p>
Councillor Barber	<p>Please will the Leader of the Council publish to all members a statement of accounts, profit and loss, for the 2017-18 financial year and the current financial year to date for North Essex Garden Communities Ltd (NEGC)? Every line of expenditure should be available to members to scrutinise.</p>	<p>Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, explained that NEGC was a limited company and its accounts could be accessed via Companies House. In terms of wider spending the partner authorities had divided responsibilities amongst themselves and some spend had been incurred by each of the authorities. This was publicly available through the Council accounts and he would forward a link to datashare where this was available. The alteration to the budget that had been</p>

		agreed would ensure transparency in respect of NEGC's Business Plan. He would consider a member briefing on the issue.
Councillor Barber	Can the Deputy Leader of the Council confirm or not as to whether there are any bonus schemes for the Managing Director or any other staff member of North Essex Garden Communities Ltd?	Councillor T. Young, Portfolio Holder for Business and Culture, explained that the Managing Director was the only employee of NEGC Ltd. The contract of employment contained provisions for an annual review and a bonus payment at the discretion of the Board. The Board consisted of members of the relevant authorities. The Managing Director had confirmed to the chair of the Board that he was not seeking an annual review of his salary or bonus payment until the milestone of section 1 of the Local Plan had been achieved.
Councillor Laws	Could the Leader of the Council explain to the Council the benefit of a development corporation running the Garden Communities and what advantage there are to the residents of Colchester?	Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, explained that changes to legislation allowed local authorities to bring forward locally led development corporations. These would allow local authorities to plan the development of high quality settlements, support sustainable development and good design and to plan for the stewardship and legacy of

		<p>the communities. Local authorities would provide oversight. In addition through the development corporation local authorities gained compulsory purchase order powers, and direction of planning to ensure the delivery of infrastructure upfront. He believed in the wording inserted in the Local Plan about local engagement and delivery. Local democratic accountability was absolutely crucial, should that model proceed.</p>
Oral questions		
Councillor Arnold	<p>Would the Leader of the Council give an assurance that under no circumstances would he vest the Council's planning powers in a local development corporation, in which the Council was in partnership with any other Council?</p>	<p>Councillor Cory, Leader of the Council and Portfolio Holder for Strategy, indicated that he agreed and that he was working towards retaining those powers.</p>
Councillor Chapman	<p>Would the Portfolio Holder for Planning, Community Safety and Licensing, provide a written response to the question on the recruitment of a Police Community Support Officer for rural areas as promised at the meeting in December 2018.</p>	<p>Councillor Lilley, Portfolio Holder Planning, Community Safety and Licensing, indicated that he would arrange for the response to be resent.</p>

**315      Schedule of Portfolio Holder decisions**

*RESOLVED* that the Schedule of Portfolio Holder decisions covering the period 22 November 2018 – 8 February 2019 be noted.