

CABINET

18 MARCH 2009

Present :- Councillor Anne Turrell (Chairman)
Councillors Lyn Barton, Tina Dopson, Theresa Higgins,
Martin Hunt, Paul Smith and Tim Young

Date draft minutes published: 19 March 2009

Date when decisions may be implemented if not called in: 5pm 26 March 2009

All decisions except urgent decisions and those recommended to Council may be subject to call in. Requests for scrutiny of decisions by the Strategic Overview and Scrutiny Panel must be signed by at least one Councillor and counter-signed by four other Councillors (or alternatively support may be indicated). All such requests must be delivered to the Proper Officer by no later than 5pm on: 26 March 2009

60. Minutes

The minutes of the meeting on 28 January 2009 were confirmed as a correct record.

61. Have Your Say!

Andy Hamilton addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) and expressed the view that the recent poor press coverage the Council had received had been self-inflicted. He expressed concern that the Council continued to support the Visual Arts Facility despite ongoing problems. The withdrawal of the grant to Shopmobility should have been communicated better. The responsibility for the difficulties that had arisen with the phone mast in Norman Way lay with Councillors, who should have checked the application start date given that a similar problem had arisen in the past. However, the only apology had come from officers. Concern was also expressed about the lack of consultation with residents before a number of flower beds had been removed.

Councillor T. Higgins, Portfolio Holder for Culture, Tourism and Diversity, responded and explained that whilst a number of rose beds and shrubs had been grassed over they had also been planted with bulbs, so they would flower at certain points in the year. A written response would also be sent in relation to the other points raised.

62. Review of Colchester's Sustainable Community Strategy

The Executive Director submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix A to these minutes in the Minute Book.

Peter Lynn addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) and welcomed the revised vision and priorities, in particular the explicit mention of carbon reduction and healthy living. However, he questioned the emphasis placed on economic growth and considered that economic stability was a more important goal. Priority three was welcomed but would need a change of direction in order for it to be achieved and whilst priority five was a worthy statement, what was important was how this was translated into action.

The Cabinet endorsed the revised vision and priorities for the Sustainable Communities Strategy. There was considerable alignment with the Council's visions and priorities and a number of the Council's policies would help deliver the priorities set out in the Strategy. The importance of sustainable economic growth in providing jobs and homes for the residents of the Borough was also stressed. The Cabinet thanked Adrian Pritchard and Mike Crouch for the excellent work they had undertaken with the Local Strategic Partnership in relation to the Sustainable Community Strategy.

RESOLVED that the revised Vision and set of priorities for the Sustainable Community Strategy as set out in the Executive Director's report be endorsed.

REASONS

Under the Local Government Act 2000, the Council had a statutory duty to ensure that a Sustainable Community Strategy was produced for Colchester Borough via the mechanism of a Local Strategic Partnership (Colchester 2020), the establishment of which was also a requirement under the Act.

ALTERNATIVE OPTIONS

The current Sustainable Community Strategy was published in October 2007 and it would have been an option to leave this Strategy, its vision and priorities, in place. However, both national and local circumstances had changed considerably over the last 18 months and Colchester 2020 felt it was right to conduct a review of the October 2007 Strategy and in particular its vision and priorities, to check that it was still fit for purpose. That review had shown the need to promote some changes to Colchester's Sustainable Community Strategy

63. Empowerment Agenda

The Interim Head of Corporate Management submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix B to these minutes.

Councillor Harris attended and, with the consent of the Chairman, addressed the Cabinet in support of the proposals. The empowerment agenda was visionary, inclusive and would enhance the work of ward councillors. He particularly welcomed the Councillor Call for Action proposals. This would help residents feel that they were listened to and help counter apathy about public life.

RESOLVED that:-

(a) The broad principles contained within the Government's Empowerment agenda be noted;

(b) That further investigations and discussions take place, possibly including the mechanism of a joint member / officer working group, in order to determine the appropriate direction for the Council to take in relation to the powers to delegate council functions to individual members and other related neighbourhood working issues;

RECOMMENDED to Council that:-:

(a) The detailed guidelines and procedural arrangements to provide a framework within which the Councillor Calls for Action could be dealt with, as set out in Appendix B to the Interim Head of Corporate Management' report, be approved;

(b) In accordance with the Local Government and Public Involvement in Health Act 2007, the Terms of Reference of the Strategic Overview and Scrutiny Panel be amended to provide for the designation of this Panel as the appropriate route for any member to refer a 'local government matter' in the context of the Councillor Call for Action regime and, further, to identify those 'local government matters' specifically excluded from this regime, namely matters:

(i) relating to a planning decision;

(ii) relating to a licensing decision;

(iii) where a right of recourse to a review or right of appeal is already provided for in law;

(iv) which are vexatious, discriminatory or not reasonable to be included in an agenda.

(c) In accordance with the Police and Justice Act 2006 the Terms of Reference of the Strategic Overview and Scrutiny Panel be amended to provide for the following:

The Strategic Overview and Scrutiny Panel be designated as the 'crime and disorder committee' with power:

(i) to review and scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;

(ii) to make reports and recommendations to the Council or the Cabinet with respect to the discharge of those functions;

(d) Procedure Rules in relation to Petitions, as set out in Appendix C to the Interim Head of Corporate Management's report be approved;

(e) The Monitoring Officer be authorised to make all necessary amendments to the Council's Constitution to reflect the measures contained in (a) to (d) above.

REASONS

The decisions made by the Cabinet were either requirements of the Local Government and Public Involvement in Health Act 2007 and the Police and Justice Act 2006 or were

measures to address new duties likely to be required when the Local Democracy, Economic Development and Construction Bill was enacted.

ALTERNATIVE OPTIONS

The Council was required to designate one of its Panels as the Crime and Disorder Committee. However there was discretion as to which Panel it could to so designate. In the same way the Council had scope to determine its own guidelines and procedures for Councillor Calls for Action and petitioning.

The measures proposed in the Interim Head of Corporate Management's report were formulated following detailed research and in accordance with the good practice guidelines recently made available. However it was for the Cabinet to determine whether these were appropriate and sufficient.

64. Sustainable Communities Act 2007

The Interim Head of Corporate Management submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix C to these minutes in the Minute Book.

Peter Lynn addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He had previously urged the Council to adopt the Act so was in favour of the recommendations of the report. However he considered that the report slightly downplayed some aspects of the Act. For instance, the citizens/community panel was not a "rubber stamping" body and no proposals should be submitted to the Local Government Association without their agreement. Also the Act specified that authorities had a "duty" to ensure persons from under-represented groups were involved, rather than having to take "reasonable steps" to involve them.

Councillor Harris attended and, with the consent of the chairman, addressed the Panel. He considered that the provisions of the Act were a welcome step forward and would help give ordinary people a voice. It would help reverse the trend of apathy about public life and help with the engagement of the silent majority. It was important that under-represented groups be defined as widely as possible to ensure that groups such as young people and those with disabilities were included and therefore represented on the citizens/community panel.

Councillor Barton, Portfolio Holder for Planning and Regeneration endorsed the proposal that Council be asked to adopt the Act. However the undoubted benefits needed to be balanced against the costs involved in establishing the citizens /community panel and the difficulties in securing public engagement, as evidenced by the problems in filling school governorships and vacancies on Neighbourhood Action Panels. The Council was already taking forward many of the issues identified in the Schedule to the Act, to which authorities should have regard when developing proposals.

Councillor T. Higgins, Portfolio Holder for Culture, Tourism and Diversity, stressed the diverse nature of the Borough's population and that work was underway to identify and involve under-represented groups.

RESOLVED that the potential benefits, timescales, scope and requirements of the Sustainable Communities Act 2007 be noted.

RECOMMENDED to Council that:-

(a) The provisions of the Sustainable Communities Act 2007 be adopted by this Council;

(b) That further investigations be undertaken at both officer and member level and arrangements be put in place to establish and or recognise a panel of local representatives, taking into account the steps identified in the Sustainable Communities Regulations 2008 in terms of:

- Taking reasonable steps to provide for local people and under-represented people to be adequately involved, where 'under-represented people' means those not currently involved in civic and political activity in the area and
- Consulting and attempting to reach agreement with the Panel about any proposals.

(c) That, upon the establishment / recognition of a panel, referred to in paragraph (b) above, work be progressed with a view to the submission of a proposal or number of proposals to the Secretary of State for Communities and Local Government either in the current round of invitations or future rounds, as appropriate.

(d) The Monitoring Officer be authorised to make amendments to the Council's Constitution, as necessary, to reflect the measures contained in (a) to (c) above

REASONS

The Sustainable Communities Act aimed to promote the sustainability of local communities. It began from the principle that local people know best what needs to be done to promote the sustainability of their area, but that sometimes they need central government to act to enable them to do so. It provided a channel for local people to ask central government to take such action. It was also a new way for local authorities to ask central government to take action which they believe would better enable them to improve the economic, social or environmental well-being of their area.

ALTERNATIVE OPTIONS

An invitation was issued to all Local Authorities in October 2008 which asked each Local Authority if they wished to participate. Those wishing to 'opt in' were given until 31 July 2009 to do so in the current round. Further invitations would be issued although the timetable for these was not yet available. The Council had discretion therefore to choose when to 'opt in' and whether to 'opt in'.

Councillor Lyn Barton, Councillor Paul Smith and Councillor Tim Young (in respect of their membership of the Board of Colchester Borough Homes) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

65. Nottingham Declaration Strategy and Action Plan

The Head of Street Services submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix D to these minutes in the Minute Book together with minute 27 of the Policy Review and Development Panel meeting held on 2 March 2009.

Paula Whitney addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). In respect of the reference in the Action Plan to using biofuels in the waste and recycling collection fleet, the vehicles previously used by the Council were much more economic than the current fleet. The target of achieving 26% recycling and 14% composting in the borough by 2011 was not ambitious enough. Greater consideration should be given to the benefits of anaerobic digestion and composting.

Peter Lynn addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2) to urge the Cabinet to ensure that the actions set out in the Action Plan were implemented quickly. It was vital that both the Strategy and Action Plan were regularly reviewed and updated. The introduction of the low emissions parking scheme was noted. Intelligent charging schemes such as this could be a useful tool in changing behaviour and this could perhaps be extended to resident's parking schemes.

Councillor Barton, Portfolio Holder for Planning and Regeneration, supported the Nottingham Declaration Strategy and Action Plan which she considered to be robust, and paid tribute to the officer team that had developed them. The Strategy and Action Plan would be living documents which would be monitored.

The Cabinet also praised the leadership provided by Councillor Barton on this issue. There had been cross-party support for signing the Nottingham Declaration and it was hoped that this would translate into cross-party support for the ambitious targets in the Action Plan. Considerable reductions in carbon dioxide emissions had already been achieved.

RESOLVED that the final draft of the Nottingham declaration Strategy and Action Plan setting out the actions the Council will undertake to mitigate and adapt to climate change be adopted.

REASONS

The Nottingham Declaration Strategy and Action Plan set out recommendations on climate change mitigation and adaptation. This was necessary to meet requirements under climate change related National Performance Indicators, to fulfill the Council's role as an LSP partner and to meet the requirements of the Nottingham Declaration Commitment which was signed by Colchester Borough Council in February 2007.

ALTERNATIVE OPTIONS

To not adopt the Nottingham Declaration Strategy and Action Plan as not suitable in mitigating and adapting to climate change.

66. Capital Programme

The Head of Resource Management submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix E to these minutes in the Minute Book.

Councillor Smith, Portfolio Holder for Portfolio and Resources, explained that the overspends against capital schemes set out in paragraph 4.6 of the Head of Resource Management's report were largely on schemes inherited from the previous administration. In addition a number of unfunded schemes had also been inherited. The programme would be reviewed in due course and the practice of adding unfunded schemes to the programme would cease.

RESOLVED that:-

- (a) The current position regarding the capital programme, and the forecast position of capital receipts be noted.
- (b) The status of the capital schemes put 'on hold' by the Cabinet be reviewed.
- (c) The anticipated overspend of £64 000 against current capital schemes be approved.
- (d) The release of funding as set out in paragraph 4.7 of the Head of Resource Management's report be approved.

REASONS

The capital programme was last reviewed by Cabinet on 10 September 2008. This report provided an update of the level of resources achieved and revised forecasts to enable Cabinet to determine priorities for funding and agree new releases.

ALTERNATIVE OPTIONS

The proposals for the release of funds reflected statutory requirements and commitments contained within the 2009/2010 revenue budget. Alternative options would include releasing funding against anticipated capital receipts, or for the Council to undertake unsupported borrowing to finance the capital programme. However, this second option would require a change to the Council's prudential indicators and increased pressure on the revenue budget to finance additional borrowing costs.

Councillor Tim Young (in respect of his spouse being a member of Essex County Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

Councillor Theresa Higgins and Councillor Anne Turrell (in respect of their membership of Essex County Council) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)

67. Waste Prevention and Recycling Options Appraisal

The Head of Street Services submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix F to these minutes in the Minute Book together with minute 26 of the Policy Review and Development Panel meeting held on 2 March 2009 and the resolution of minute 46 of the Strategic Overview and Scrutiny Panel meeting of 17 March 2009.

Paula Whitney addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). She expressed her concern at the presentation given to the Strategic Overview and Scrutiny Panel on 17 March which she considered promoted the use of wheelie bins and fortnightly waste collections. She urged the Cabinet to take account of the report by WRAP referred to in paragraph 46 of Appendix 1 of the Waste Options Appraisal and the benefits of separated kerbside collection of recyclable material.

Nick Chilvers addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). It was vital that residents were allowed to contribute to the debate on the future of waste and recycling policies and the Council needed to ensure that it listened to the views expressed. For instance, fortnightly collections for food waste would be extremely unpopular. Concerns were expressed that officials may already have come to a conclusion about the most suitable way forward.

Councillor T. Young, Portfolio Holder for Street and Waste Services, stressed the need for a serious, public debate on this issue and emphasised that no decisions had been reached yet. Officers had presented a factual report, as requested. A Task and Finish Group to look at the options was the most suitable way forward. It should meet in public and would be able to undertake visits and hear evidence from experts and interested parties.

Councillor Smith, Portfolio Holder for Resources and Business, explained that the proposal also linked into the empowerment agenda as it gave backbench councillors a role. Councillor Dopson, Portfolio Holder for Performance and Partnerships, emphasised that no decision had been taken and the Council was only at the start of a long decision taking process.

The Cabinet noted the decision of the Strategic Overview and Scrutiny Panel on 17 March 2009 and agreed with its recommendations.

RESOLVED that:-

- (a) The Cabinet note the contents of the Head of Street Services report;
- (b) The establishment of a cross party Task and Finish Group to explore the options further be agreed;
- (c) Authority be delegated to the Portfolio Holder for Street and Waste Services to establish the terms of reference for the Task and Finish group and its reporting timescale back to Cabinet;
- (d) The Task and Finish Group should consider the points raised by the Strategic Overview and Scrutiny Panel within the minutes of the meeting on 17 March 2009;
- (e) All aspects of education (eg roadshows in Wards and to Parish Councils that includes similar information as presented to the Strategic Overview and Scrutiny Panel) to be considered by the Task and Finish Group;
- (f) The Task and Finish Group should consider the reduction in “Waste Collected” as important as an increase in recycling rates when considering the options on waste collection and recycling.

REASONS

The contents of the report were presented to the Policy Review and Development Panel on 2 March 2009 and the Strategic Overview and Scrutiny Panel on 17 March 2009 and the Cabinet’s decision reflected their recommendations.

ALTERNATIVE OPTIONS

Not to establish a Task and Finish Group.

Councillor Lyn Barton, Councillor Paul Smith and Councillor Tim Young (in respect of their membership of Colcesher Borough Homes) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (3)

68. Review of the Responsive Repairs and Decent Homes Contract

The Cabinet considered minute 54 of the Finance and Audit Scrutiny Panel’s meeting of 29 January 2009 a copy of which had been circulated to each Member and a copy of which appears as Appendix G to these minutes in the Minute Book.

Councillor T. Young read a statement to the Cabinet, a copy of which appears as Appendix H to these minutes in the Minute Book.

RESOLVED that:-

- (a) The lessons learnt identified in paragraph 8 of the report by Topmarks Consultants

presented to the Finance and Audit Scrutiny Panel be implemented for significant contracts;

(b) Future contracts should identify the Service Manager's responsibilities to ensure contract controls and systems were properly managed on a regular basis;

(c) An annual independent external audit of partnership systems and controls of all significant contracts should be undertaken and reported to the Finance and Audit Scrutiny Panel.

REASONS

The Finance and Audit Scrutiny Panel had made recommendations arising from its review of the Council's Responsive Repairs and Decent Homes Contract with Inspace on 29 January 2009.

ALTERNATIVE OPTIONS

Not to accept the Finance and Audit Scrutiny Panel's recommendations.

69. Local Code of Corporate Governance

The Monitoring Officer submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix I to these minutes in the Minute Book together with minute 13 of the Standards Committee meeting on 6 March 2009.

Councillor T. Higgins, Portfolio Holder for Culture, Tourism and Diversity, expressed her disappointment that a member to member protocol had still not been introduced.

RESOLVED that the Local Code of Corporate Governance be approved.

RECOMMENDED to Council that the Local Code of Corporate Governance be included in the Council's Policy Framework

REASONS

The Council sought to meet the highest standards of corporate governance to help ensure it met its objectives. Members and Officers were responsible for putting in place proper arrangements for the governance of the Council's affairs and the stewardship of the resources at its disposal. The Local Code of Corporate Governance was a key element in those arrangements.

The Council had previously approved a Local Code of Corporate Governance several years ago. The revised Local Code of Corporate Governance had been developed in accordance with guidance issued in 2007 jointly by CIPFA (The Chartered Institute of Public Finance and Accountancy) and SOLACE (The Society of Local Authority Chief Executives) entitled "Delivering Good Governance in Local Authorities".

ALTERNATIVE OPTIONS

Not to approve the Local Code of Corporate Governance nor to recommend to Council that it be included in the Council's Policy Framework.

70. Revised Contract Procedure Rules

The Monitoring Officer of submitted a report a copy of which had been circulated to each Member and a copy of which appears as Appendix J to these minutes in the Minute Book.

RESOLVED that the revised Contract Procedure Rules contained at Appendix 1 of the Monitoring Officer's report be approved.

REASONS

The 2008 Annual Governance Statement included a review of the effectiveness of the Council's governance and internal control arrangements. The Statement identified some areas where actions were required to ensure that the Council continued to provide appropriate and cost effective services. One of the identified areas for improvement was the creation of a central register of contracts. The Council's Contract Procedure Rules required updating to reflect this.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

71. Progress of Responses to the Public

The Head of Corporate Services submitted a progress sheet a copy of which had been circulated to each Member and a copy of which appears as Appendix K to these minutes in the Minute Book.

RESOLVED that the contents of the Progress Sheet be noted.

REASONS

The progress sheet was a mechanism by which the Cabinet could ensure that public statements and questions were responded to appropriately and promptly.

ALTERNATIVE OPTIONS

No other options were presented to the Cabinet for consideration.

72. Mike Crouch

The Cabinet expressed its thanks and appreciation to Mike Crouch for his excellent service to the Council and its best wishes for his retirement.