

CABINET

27 JANUARY 2010

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

Also in Attendance :- Councillor Kevin Bentley
Councillor Nick Barlow
Councillor Elizabeth Blundell
Councillor Peter Chillingworth
Councillor Barrie Cook
Councillor Andrew Ellis
Councillor Chris Hall
Councillor Mike Hardy
Councillor Pauline Hazell
Councillor Sonia Lewis
Councillor Sue Lissimore
Councillor Jon Manning
Councillor Dennis Willetts

Date draft minutes published: 28 January 2010

Date when decisions may be implemented if not called in: 5pm 4 February 2010

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: Thursday 4 February 2010

56. Reorganisation of Portfolios

Councillor Turrell announced that Councillor Offen had resigned from the Cabinet due to ill health. This had led to the reorganisation of the Portfolios, with the former Resources and Business Portfolio being renamed Business and Tourism. An appointment to this Portfolio would be made at Council in February. The resources element of the Portfolio had been transferred to a new Portfolio named Resources, Culture, Diversity and the Arts. Responsibility for Human Resources had transferred to the Portfolio Holder for Communication, Customers and Leisure.

57. Minutes

The minutes of the meeting held on 14 December 2009 were confirmed as a correct record.

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

58. 2010/11 Revenue Budget and Medium Term Financial Forecast

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 A to these minutes in the Minute Book together with minute 42 of the Finance and Audit Scrutiny Panel meeting of 26 January 2010 and the notes of the NNDR Ratepayers meeting on 20 January 2010.

Nick Chilvers addressed the Cabinet pursuant to the provisions of Meetings General Procedure Rule 5(2). He noted the proposed rise in Council tax, but stressed that this needed to be seen in the context of frozen pension payments and low interest rates. Concern was expressed about the shrinking numbers of the population who paid Council tax. There were measures in the budget that he supported, such as the contracting out of the management of the market and he praised the performance of Street Services. Mr Chilvers queried why the Council had not implemented the proposed cut in funding to the major arts organisations, and he also considered that the proposed business hub at St James House would be a “white elephant”. He asked whether there would be funding available for generous flower planting in the town centre.

Councillor Hunt, Portfolio Holder for Customers, Communication and Leisure responded that flowers would be planted in the town centre in the planting season, and that planting on the Albert Roundabout would be completed in April.

Mr Treloar addressed the Cabinet pursuant to the provisions of Cabinet Procedure Rule 5(2). He explained that he was the owner of a graffiti removal

company. Whilst he welcomed the new policy and funding in the budget for graffiti removal, he was concerned that if the Council were to outsource this work to one company, this may lead to his company losing all its work. Businesses and the garrison should continue to be responsible for the payment for the removal of graffiti on their premises and boundaries. It was important that strategies were in place to prevent graffiti in the first place.

Councillor T. Young, Portfolio Holder for Street and Waste Services, explained that the Council had not decided on its approach for graffiti cleaning and whether it would outsource the service. It would be premature to do so before the budget was approved by Council. If the Council did outsource the service, then it would be done through a competitive tendering process which would have to follow established procedures. However, no company had been excluded at this stage.

Councillor Bentley attended and addressed the Cabinet. He considered that the Council needed to take bold steps in relation to the budget. Visionary thinking and a different way of working was required. Concern was expressed about the reliance on reserves which were getting down to dangerous levels. The proposed rise in Council tax was not modest, as claimed in the Head of Resource Management's report, and should be reduced further. In respect of the losses from the Icelandic banks, whilst it was appreciated that the Council was following Local Government Association guidelines the Council should be doing more to ensure the return of these funds. Further service reviews were required. The Council also needed to review the budget timetable, as there was too little time between Finance and Audit Scrutiny Panel scrutinising the budget and its consideration by Cabinet. If the scrutiny revealed serious issues there was not enough time for these to be resolved before the Cabinet meeting.

Councillor Willetts attended and addressed the Cabinet in his capacity as Deputy Leader of the Conservative Group. He believed the budget was insipid, uninspiring and did not address the needs of Colchester. The ratio of growth items to cuts suggested that the administration had not reassessed the priorities and needs of Colchester and a full alternative budget would be presented to Council in February. The budget relied heavily on reserves, which were now down to a minimum. In respect of the loss from the Icelandic banks, whilst it was welcomed that part of these had now been written off, the reality was that these funds would not be repaid and the administration should budget on that basis.

In response to the speakers Councillor Smith, Portfolio Holder for Resources, Culture, Diversity and the Arts explained the budget proposed the lowest ever rise in Council tax and allowed funding to be directed towards growing the Council's services despite the challenging economic climate. The funding of

the arts organisations had been restored as additional funding had been secured. This funding was about supporting jobs and the local economy, rather than high culture. The Council would continue with Fundamental Service Reviews to look for more efficient and new ways of working. In terms of the reserves, the administration had restored these to a prudent level and there had been a net increase in the reserves. The Council was following government and Audit Commission advice in respect of the Icelandic banks. If Essex County Council had contributed towards expenditure on the legal costs arising from the Visual Arts Facility, the Council tax rise could have been capped at 1.25%.

Councillor Turrell, Leader of the Council and Portfolio Holder for Strategy and Councillor T. Young, Portfolio Holder for Street and Waste Services, expressed their support for the budget proposals, which matched the Council's strategic priorities and protected frontline services.

RESOLVED that:-

(a) The forecast outturn for the current financial year of an underspend of £699,000 be noted (see paragraph 3.4 of the Head of Resource Management's report).

(b) The cost pressures, growth items and savings / increased income options identified during the budget forecast process as set out at Appendices B, C and D of the Head of Resource Management's report be approved.

(c) It be agreed and *RECOMMENDED* to Council that the 2010/11 Revenue Budget requirement be set at £25,670,000 (see paragraph 7.1 of the Head of Resource Management's report) supported by the underlying detailed budgets set out in the Background Papers to the Head of Resource Management's report.

(d) Revenue Balances for the financial year 2010/11 be set at a minimum of £1,500,000 and that £671,000 of balances be applied to finance items in the 2010/11 revenue budget.

(e) The following releases be agreed (see paragraph 11.9 of the Head of Resource Management's report):-

- £1,210,000 from the Capital Expenditure Reserve in 2010/11 to meet costs including the community stadium, Icelandic Investment impairment and legal costs in respect of the VAF.
- £1,184,000 to be financed from the Renewals and Repairs Fund for specific projects.
- £70,000 from the Section 106 Monitoring Reserve.
- £166,000 from the Regeneration Reserve.

(f) It be agreed and *RECOMMENDED* to Council that £100,000 of Revenue Balances be earmarked for potential unplanned expenditure within the guidelines set out at paragraph 12.3 of the Head of Resource Management's report.

(g) It be agreed and *RECOMMENDED* to Council that Colchester's element of the Council Tax for 2010/11 be set at £175.23 for Band D properties which is an increase of £4.23 per annum (2.47%) (see paragraph 13.2 of the Head of Resource Management's report).

(h) It be noted that the formal resolution from Cabinet to Council will include the Parish, Police, Fire and County Council elements and any change arising from the formal Revenue Support Grant Settlement announcement in early February 2010. This will be prepared in consultation with the Leader of the Council.

(i) The Medium Term Financial Forecast for the financial years 2011/12 and 2012/13 be noted (see paragraph 14.13 of the Head of Resource Management's report).

(j) The changes in the capital programme to agree the capital programme releases set out at paragraph 15.6 of the Head of Resource Management's report be *RECOMMENDED* to Council

(k) The comments made on the robustness of budget estimates at paragraph 16 of the Head of Resource Management's report be noted.

(l) The Prudential Indicators, Treasury Management Strategy and Annual Investment Strategy be agreed and *RECOMMENDED* to Council (see paragraph 13.2 of the Head of Resource Management's report).

REASONS

The reasons for the decisions were set out in detail in the Head of Financial Services' report.

ALTERNATIVE OPTIONS

Various options were investigated at every stage of the budget setting process, due consideration of which was taken in order to meet the objectives of the Council's Strategic Plan.

Councillor Tim Young (in respect of his spouse being a member 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)

59. Housing Revenue Account Estimates 2010/2011

The Head of Strategic Policy and Regeneration 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 in the Minute Book.

RESOLVED that:-

(a) The 2010/11 HRA revenue estimates as set out in Appendix A of the Head of Strategic Policy and Regeneration's report be approved.

(b) The dwelling rents as calculated in accordance with the rent restructuring formula (as set out in paragraph 4.6 of the Head of Strategic Policy and Regeneration's report) be approved.

(c) The rents for garages (as set out in paragraph 4.10 of the Head of Strategic Policy and Regeneration's report) be approved.

(d) The management fee of £3,535,400 for Colchester Borough Homes (CBH) (as set out in paragraph 4.23 of the Head of Strategic Policy and Regeneration's report) be approved.

(e) The revenue contribution of £407,000 to the Housing Investment Programme included in the budget be noted (see paragraphs 4.26 to 4.28 of the Head of Strategic Policy and Regeneration's report).

(f) The HRA balances position in Appendix B of the Head of Strategic Policy and Regeneration's report be noted.

(g) The Medium Term Financial Forecast (MTFF) set out at Appendix C of the Head of Strategic Policy and Regeneration's report be noted.

REASONS

Financial Procedures require the Head of Strategic Policy and Regeneration to prepare detailed HRA estimates for approval by the Cabinet, setting the new rent levels for the new financial year.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

60. Single Equality Scheme

The Executive Director 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 together with minute 22 of the Policy Review and Development Panel meeting of 11 January 2010.

RESOLVED that the Single Equality Scheme be approved.

RECOMMENDED to Full Council that the Single Equality Scheme be adopted and added to the Council's Policy Framework.

REASONS

The Council achieved Level Three of the Equality Standard for Local Government in March 2009. The Equality Standard has since changed to the Equality Framework for Local Government and the Council has migrated across to the Achieving Level of the framework. One of the recommendations of the review was that the Council considered moving to a Single Equality Scheme.

The Council has developed a Single Equality Scheme, because of the strategic, operational and financial benefits to amalgamating the Council's existing equality schemes for race, gender and disability, and having one scheme for all equality groups.

ALTERNATIVE OPTIONS

The alternative option is that the Council continues to have three separate equality schemes for race, gender and disability, each of which is required to be reviewed annually and a new scheme written every three years. Current dates for existing schemes are: Disability Equality Scheme 2006-2009; Gender Equality Scheme 2007-2010 and Race Equality Scheme 2008-2011.

Councillor Tim Young (in respect of his spouse being a member 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)

61. Housing Investment Programme 2010/2011

The Head of Strategic Policy and Regeneration 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.

RESOLVED that:

(a) The allocation of new resources totalling £5,316,000 to the housing investment programme for 2010/11 be approved

(b) The Medium Term Financial Forecast for Capital (MTFFC) as set out at Appendix A of the Head of Strategic Policy and Regeneration's report be noted.

REASONS

(a) Each year as part of the process to agree the Council's revenue and capital estimates the Cabinet is required to agree the allocations to the Housing Stock Investment Programme. These allow for work to be done to maintain, improve, and refurbish the housing stock and its environment.

(b) After the cessation of the Inspace contract and following discussions between Colchester Borough Council (CBC) and Colchester Borough Homes (CBH) a Deed of Variation was signed to allow CBH to provide the Maintenance Services. The services defined under the Deed were restricted to the essential work elements and did not include a continuance of the Decent Homes programme. The Deed had an end date of 31 December 2009 but following representations made by CBH and subsequent Cabinet agreement on 9th September 2009, the Deed has been extended to 31st March 2013. This date is designed to match the current end date for the Management Agreement with Colchester Borough Homes.

(c) Following a full OJEU procurement exercise two contractors have been appointed by the Council to deliver its Capital Improvements Programme which is designed to include statistical decency by 31st December 2012. The contracts are commissioned for four years with the potential to continue for a further two years by one year extensions depending upon performance. Additionally, a further contract has been let designed to meet the Council's obligations to convert the current analogue signals provided through the Council's communal aerial systems into digital in time for the switchover date in 2011.

(d) The CBH Board has not yet met to discuss and agree a 2010/11 Capital investment plan for submission to CBC for approval and funding. As such this report broadly seeks the release of funds under the same headings as described in the Deed of Variation but with approval and funding to support the continuation of the Capital Improvement Programme and Digital Conversion.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

62. Half Yearly Performance Report and Progress Report on the Strategic Plan Action Plan

The 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 E to these minutes in the Minute Book.

RESOLVED that:-

(a) The combined performance update at Appendix 1 of the Head of Corporate Management's report, for the period up to the end of September 2009 in relation to the Council's Organisational performance measures, and progress update of the Strategic Plan Action Plan (SPAP) as at Appendix 2 of the Head of Corporate Management's report be noted.

(b) The proposals from the Strategic Overview and Scrutiny Panel, as per section 4 of the Head of Corporate management's report, following their review of the report on the 5th January 2010 be agreed.

REASONS

The Council has agreed a number of key performance areas which it uses as part of its Performance Management Framework to help monitor progress and improvement. This report provides an update of the Council's organisational indicators along with a half yearly review of progress against the Strategic Plan Action Plan (SPAP).

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

63. Councillor Development

The 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 F to these minutes in the Minute Book.

Councillor Hunt, Portfolio Holder for Communication, Customers and Leisure endorsed the proposals in the Head of Corporate Management's report but

also proposed that the Leader of the Council be given delegated authority to make minor amendments to the role profiles.

RESOLVED that:-

(a) The Councillor Development Policy at Appendix 1 of the Head of Corporate Management's report be approved.

(b) The Councillor Roles at Appendix 2 of the Head of Corporate Management's report be approved subject to minor amendments to be agreed by the Leader of the Council.

(c) The introduction of a Councillor self assessment process as proposed at paragraphs 4.9 – 4.12 of the Head of Corporate Management's report be agreed.

RECOMMENDED to Council that the Councillor Development Policy and Councillor Roles be adopted.

REASONS

(a) The proposals in this report are aimed at improving the Council's Councillor learning and development procedures so that Councillor development is delivered in a more consistent and coherent way and so that the opportunities provided meet the requirements of Councillors.

(b) The Council is committed to obtaining Member Charter status. Each of the political groups has indicated its support to the principle of seeking Charter status. The proposals in this report are consistent with good practice elsewhere and are in line with the requirements for Charter Status. Charter Status is externally validated recognition of good practice in member development issues and as such would be a significant asset to the Council in external assessments of the Council.

ALTERNATIVE OPTIONS

Not to agree a Councillor Development Policy and Councillor Roles and not to agree a Councillor Self Assessment process. However, this would mean that it would be unlikely that the Council would achieve Member Charter Status.

64. Colchester Borough Council Safeguarding Children Policies and Procedures

The Head of Life Opportunities submitted a report 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.

It was proposed that the Portfolio Holder for Performance and Partnerships be given delegated authority to agree minor amendments to the policy before it was referred to Council for adoption.

RESOLVED that the Safeguarding Children Policy and Procedures at appendix 1 of the Head of Life Opportunities report be approved, subject to minor amendments to be agreed by the Portfolio Holder for Performance and Partnerships.

RECOMMENDED to Full Council the adoption of the Safeguarding Children Policy and Procedures and its inclusion in the Council's Policy Framework.

REASONS

(a) Section 11 of The Children Act 2004 places duties on organisations and individuals to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children. Colchester Borough Council, as a district local authority, is one of the organisations specified in Section 11 of the Act.

(b) The Essex Safeguarding Children Board (ESCB) is the body responsible under the provisions in the Children Act 2004 for improving outcomes for children by coordinating the work of local agencies to safeguard and promote the welfare of children and ensuring the effectiveness of that work.

(c) The ESCB has asked all relevant agencies in Essex to audit their safeguarding practices and procedures, and as part of the work to complete this audit for the Council, this revised Safeguarding Children Policy has been developed to reflect the current legislative environment and to ensure the Council is demonstrating best practice in this field.

(d) The audit process requires the Council to demonstrate:

- senior management commitment to the importance of safeguarding and promoting children's welfare
- a clear statement of the council's responsibilities towards children, available for all staff
- a clear line of accountability within the organisation for work on safeguarding and promoting the welfare of children
- service development that takes account of the need to safeguard and promote welfare – and is informed by the views of children and families
- safe recruitment procedures
- training on safeguarding and promoting the welfare of children for all staff

working with, or in contact with, children and families, including work on case studies

- effective inter-agency working to safeguard and promote the welfare of children
- effective information sharing.

(e) The Safeguarding Policy and Procedures seek to set out the policy framework to comply with these requirements and a programme of work is in place, led by the Council's senior named officer for safeguarding (Head of Life Opportunities), to work towards best practice in this field.

ALTERNATIVE OPTIONS

To not approve the Policy. This would prevent the Council from having up to date and compliant policy and procedures and put at risk the authority's ability to comply with the provisions of the Children Act 2004 and to respond to scrutiny from the ESCB.

To request amendments to the Policy. The Policy has been developed by the Council's senior named officer for safeguarding (Head of Life Opportunities) and safeguarding co-ordinator, and is believed to reflect current best practice in this field.

65. Progress of Responses to the Public

The Head of Corporate Management submitted a progress sheet a copy of which had been circulated to each Member and a copy of which appears as Appendix H 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 alternative options were presented to the Cabinet.

Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

66. North Colchester Business Incubation Centre - Construction Contract

The Cabinet noted the decision taken by the Deputy Leader of the Council as a matter of urgency in accordance with Cabinet Procedure Rule 22 to let the construction contract to Rose Builders Ltd to build the North Colchester Business Incubation Centre – a key regeneration project for the borough. A copy of the report of the decision appears at Appendix I to these minutes in the Minute Book.

REASONS

Cabinet Procedure Rule 22(1) provides for Cabinet decisions to be taken earlier than the date of the next scheduled meeting when the Proper Officer considers that the matter is urgent. Any decisions taken under these provisions need to be reported to the next meeting of the Cabinet.

The decision was considered urgent as the Council had secured £1,000,000 of funding for from the East of England Development Agency (EEDA) for this project. This funding must be spent by the 31st March 2010 or it would be withdrawn. This would result in the Council needing to either replace the funding from other sources or cancel the project.

To ensure as far as practical that the EEDA funding is not lost a construction contractor needed to be appointed immediately. Delaying a decision until the Cabinet meeting on the 27th January 2010 would have put the funding in jeopardy.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.

The Cabinet/Panel resolved under Section 100A(4) of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A to the Local Government Act 1972.

67. VAF related issues

The Cabinet noted the decision taken by the Leader of the Council as a matter of urgency in accordance with Cabinet Procedure Rule 22 to approve the commencement of legal proceedings against contractors involved in the project for the reasons set out in the Executive Director's report at Appendix J to these minutes in the Minute Book, and to note that the Council was required to comply with standard pre-action protocols.

REASONS

Cabinet Procedure Rule 22(1) provides for Cabinet decisions to be taken earlier than the date of the next scheduled meeting when the Proper Officer considers that the matter is urgent. Any decisions taken under these provisions need to be reported to the next meeting of the Cabinet.

The decision was considered urgent because of the need to issue proceedings in order to preserve the Council's legal and financial position.

ALTERNATIVE OPTIONS

No alternative options were presented to the Cabinet.