



Minutes of the meeting of the **Council** held in Council Chamber - East Pallant House on Tuesday 10 March 2015 at 2.30 pm

Members Present: Mr M J Bell (Chairman), Mr N R D Thomas (Vice-Chairman), Mrs C M M Apel, Mr P Budge, Mrs H P Caird, Mr A D Chaplin, Mr J L Cherry, Mr P Clementson, Mr J C P Connor, Mr Q J R Cox, Mr M A Cullen, Mrs P M Dignum, Mr A P Dignum, Mrs J E Duncton, Mr T M E Dunn, Mr J E Elliott, Mr B Finch, Mr A J French, Mrs N Graves, Mrs E Hamilton, Mrs P A Hardwick, Mr R J Hayes, Mr G H Hicks, Mr P Jarvis, Mrs G Keegan, Mrs E P Lintill, Mr S Lloyd-Williams, Mr G V McAra, Mr J A P Montyn, Mr D J Myers, Mr S J Oakley, Mr H C Potter, Mrs L C Purnell, Mr J J L T Ransley, Mr J Ridd, Anne Scicluna, Mr A M Shaxson, Mr A R H Smith, Mrs J A E Tassell, Mrs P M Tull and Mr M Woolley

Members not present: Mr G A F Barrett, Mr S L Carr, Mr R M J Marshall, Mr R T V O'Brien, Mr F Robertson and Mr B J Weekes

Officers present all items: Mrs D Shepherd (Chief Executive), Mr S Carvell (Executive Director), Mr P E Over (Executive Director), Mr J Ward (Head of Finance and Governance Services) and Mr P Coleman (Member Services Manager)

289 **Minutes**

RESOLVED

That the minutes of the meeting of the Council held on 27 January 2015 be signed as a correct record.

290 **Urgent Items**

There were no urgent items for consideration at this meeting.

291 **Declarations of Interests**

No interests were declared at this meeting.

292 **Chairman's announcements**

The Chairman announced that he and the Vice-Chairman had represented the Council at many events and commemorations. He mentioned two, in particular:-

- The first birthday celebrations of The Grange Leisure and Community Centre at Midhurst. He had been impressed by the superb facilities and reasonable prices.
- A visit to the South Downs Planetarium, Chichester, which had received a grant of £25,000 from the Council, via the Grants and Concessions Panel, for the provision of new toilet facilities, which had made a huge difference, particularly when groups of school-children coming from a distance visited. He congratulated Dr John Mason and the Planetarium volunteers for their work.

293 Public Question Time

No public questions had been submitted.

294 Budget Spending Plans 2015-16 (Cabinet minute 714)

The Council received the report of the District Treasurer, circulated with the agenda (copy attached to the official minutes).

Mr Dignum (Cabinet Member for Finance and Governance), seconded by Mrs Purnell, moved the recommendations of the Cabinet, which sought the Council's approval of the spending budget and the consequent requirement for council tax, as well as the five year capital programme in which the greater part was for the Enterprise Gateway and for housing items, particularly focused on increasing the supply of social and private housing to rent.

He pointed out that the Cabinet was recommending a council tax freeze and a transfer of over £800,000 to an Investment Opportunities Reserve. He congratulated the Finance Team of Mr Ward, Mrs Belenger and Mr Cooper on preparing this budget and led the Council in applauding them.

He reminded the Council that they had approved the Corporate Plan at the last meeting and the Financial Strategy at the meeting before that. The Budget reflected the detailed integration of the Corporate Plan and the Financial Strategy.

Mr Dignum emphasised that the Council had pursued a prudent financial strategy over the past 4 years while also pursuing the Corporate Plan objectives, of: enabling housing; care for the community; fostering the economy; and protecting the environment. The combination of Financial Strategy and Corporate Plan had yielded significant benefits for residents.

Firstly, front line services for the community had been maintained with only limited reductions. The main burden of cuts had fallen on administration and support.

Secondly, the less well off had been protected from the full effects of Government cuts in welfare support.

Thirdly, a high level of employment in the District had been maintained.

Fourthly, a cushion of reserves had been built up in preparation for dealing with further rounds of Government cuts in the next parliament.

These reserves enabled the Council to share the benefits of financial prudence with residents by freezing Council Tax in 2015-16 and keeping the level of the council tax among the lowest in West Sussex.

This had been achieved despite receiving ever smaller amounts of Revenue Support Grant from central government. That grant alone would be 30% less next year than for 2014-15. Government also allowed retention of a share of business rates, approximately 5%, which was treated as a gift by government like the revenue support grant. Adding the two together, rates and grant, the Council would suffer a 15% cut year on year in government support.

However, even after freezing the council tax the Council had free, uncommitted reserves of £6.3m, deemed adequate by both Cabinet and the Corporate Governance and Audit Committee, to meet any emergency. The Council needed also to keep reserves in hand for commitment to capital spending or other purposes in future years. These free reserves amounted to a further £7.4m.

He explained that a freeze impacted on the Council's revenue not only for next year but for every year until tax is raised. Assuming council tax had been raised by 2%, then the amount sacrificed over 5 years would amount to around £625,000. This amount needed to be put in the context that in the current year (2014-15) a surplus of around £800,000 was expected compared with the balanced budget that had been planned. In the budget for 2015-16, £824,000 had been set aside for a new Investment Opportunities Reserve. Even so, it was possible to both balance the budget and freeze the council tax. These two surpluses of £800,000 this year and of £824,000 next year were each greater than the tax revenue foregone over 5 years by a freeze.

These welcome results came in part because of continuing efficiencies and increasing income, probably related to an improving economy.

He expected that the Council would receive £2.6m in New Homes Bonus which, as in previous years, would be set aside for community use.

Mr Dignum concluded that this was a budget councillors and officers could feel pleased with, because it incorporated spending plans that supported the Council's values of looking after the environment and the community, facilitating the supply of affordable housing, and helping the economy to prosper. Yet at the same time this budget met all the tests of financial prudence.

Mr McAra, seconded by Mrs Apel, moved an amendment to the recommendations published on the agenda to the following effect:-

(1) '£14,190,800' be substituted for '£14,048,900' in recommendation 2.

- (2) 'That a Council Tax of £143.62 (Band D equivalent) be approved. This represents an increase of just 5p per week (£2.81 per year) on the Band D charge or 1.9956%.' be substituted for recommendation 4.
- (3) That £64,284 of the increase in council tax should be allocated to the Economic Development Department budget to be used to improve the visitor infrastructure of the District.

Mr McAra explained that he had moved the amendment because he was keen to see investment in visitor infrastructure and was concerned that the Council's taxbase should be maximised. As Chairman of the Tourism Task and Finish Group, whose report would be considered by the Overview and Scrutiny Committee next week, he was concerned that support for tourist infrastructure appeared not to feature in the Council's operations. He cited examples of tired and worn out infrastructure, including the Council's own buildings and facilities, and felt that visitors noticed failures by the Council to maintain its assets. He reminded the Council of the contribution tourism made to the local economy and employment, and proposed that £65,000 should be allocated to improve tourist infrastructure. He also drew attention to the fact that failure to raise the council tax by 2% this year would lead to a loss of £625,000 over the next five years. In the current political uncertainties, he did not feel the Council could afford to take risks with its taxbase. His proposal would cost only 5p per week for a band D property.

Mr Dignum responded that improving the visitor infrastructure of the District as proposed was a worthy aim in principle, but before allocating any monies to it the Council should have:

- a clear idea of the elements of infrastructure to be tackled,
- the methods of implementation,
- the priorities the different projects should be accorded,
- the relevant costings, and
- other stakeholders' contributions.

In allocating funding there would be no need to raise council tax. Instead selected elements could be funded from the current year surplus, from unallocated New Homes Bonus or from the general reserves.

He drew attention to the final report of the Tourism Task and Finish Group, chaired by Mr McAra, which recommended the following option:

"Within CDC set-out a brief but clear 3 to 5 year plan which sets the aspiration, establishes the baseline information and then leads the initiative required to bring partners together who will then be able to move forward under one robust and coherent strategy. The outline plan will state the potential to attract new visitors, to support and grow tourism businesses, to grow jobs, to grow the economy, and to attract inward investment if the industry is prepared to join forces."

The task of obtaining the necessary information on infrastructure could be included in the implementation of that option. He expressed surprise that there was no reference to visitor infrastructure in the report.

He invited Mr Mcara to accept his suggestion and withdraw his amendment but, if he decided not to do so, then he would request the Council to vote against the amendment.

Mr McAra declined to withdraw his amendment.

Some members spoke against the amendment and made the following points:

- There was no evidence that tourism was adversely affected by infrastructure.
- The Council should minimise the council tax levy, and reduce it if possible.
- There was no need to increase council tax in order to enable the spending on infrastructure improvements suggested by Mr McAra.
- Improvements in infrastructure should be addressed in the context of developing a vision for Chichester.
- Mr McAra's proposal was premature until the Task and Finish Group's report had been considered.

Some members spoke in favour of the amendment and made the following points:

- The Council's involvement with tourism had declined since it handed over its work to Visit Chichester. The Council needed to do more.
- Some additional funding was required to give impetus to tourism.
- The Council's reserves against future reductions in government support had been built up by raising council tax in the past two years. The Council should safeguard its future position at a time of political uncertainty.

In accordance with the Standing Order 9 as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, a recorded vote was taken as follows:-

For the amendment: Mrs Apel, Mr Cox, Mr McAra, Anne Scicluna (4)

Against the amendment: Mr Budge, Mrs Caird, Mr Chaplin, Mr Cherry, Mr Clementson, Mr Connor, Mr Cullen, Mrs Dignum, Mr Dignum, Mrs Duncton, Mr Dunn, Mr Elliott, Mr Finch, Mr French, Mrs Graves, Mrs Hamilton, Mrs Hardwick, Mr Hayes, Mr Hicks, Mr Jarvis, Mrs Keegan, Mrs Lintill, Mr Lloyd-Williams, Mr Montyn, Mr Myers, Mr Oakley, Mr Potter, Mrs Purnell, Mr Ransley, Mr Ridd, Mr Smith, Mrs Tassell, Mr Thomas, Mrs Tull, Mr Woolley (35)

Abstained: Mr Bell, Mr Shaxson (2)

The amendment was lost.

Mr Ward drew attention to an error in the Cabinet papers. The Police and Crime Commissioner precept for a band D property should be £143.91.

A further recorded vote was taken in respect of the recommendations on the agenda as follows:-

For the recommendations: Mr Budge, Mrs Caird, Mr Chaplin, Mr Cherry, Mr Clementson, Mr Connor, Mr Cox, Mr Cullen, Mrs Dignum, Mr Dignum, Mrs Duncton, Mr Dunn, Mr Elliott, Mr Finch, Mr French, Mrs Graves, Mrs Hamilton, Mrs Hardwick, Mr Hayes, Mr Hicks, Mr Jarvis, Mrs Keegan, Mrs Lintill, Mr Lloyd-Williams, Mr McAra, Mr Montyn, Mr Myers, Mr Oakley, Mr Potter, Mrs Purnell, Mr Ransley, Mr Ridd, Mr Shaxson, Mr Smith, Mrs Tassell, Mr Thomas, Mrs Tull, Mr Woolley (38)
Against the recommendations: Mrs Apel (1)
Abstained: Mr Bell, Anne Scicluna (2)

RESOLVED

- (1) That the revenue estimates for 2015-16 and the five year capital programme for the years 2015-2020, as submitted to the Cabinet meeting on 3 February 2015, be approved.
- (2) That the net budget requirement for 2015-16 in respect of the Council's own services be approved at £14,048,900.
- (3) That the Council Tax Requirement 2015-16 in respect of the Council's own services be approved at £7,111,496.
- (4) That a Council Tax of £140.81 (Band D equivalent) be approved. This represents a 0% increase or council tax freeze on the Band D charge.
- (5) That a new Investment Opportunities Reserve of £822,100 is created.
- (6) That the Council Tax Resolution as set out in Appendix A to the Report by the Head of Finance and Governance Services be passed

295 Senior Staff Pay Policy Statement (Cabinet minute 715)

Mr Ransley (Cabinet Member for Support Services), seconded by Mr Connor, moved the recommendations of the Cabinet. He reminded the Council that it was obliged by the Localism Act to publish an annual pay policy statement. He commented that pay levels for senior staff were in line with those at similar councils, that pay awards were negotiated nationally and that the ratio between highest and lowest pay had been within acceptable levels for the past ten years. A senior management review in 2013/14 had resulted in an annual saving of £328,000. Publication of the statement provided an opportunity to thank the staff for their help and support in achieving the Council's objectives.

RESOLVED

That the Senior Staff Pay Policy Statement be approved and published.

296 Community Infrastructure Levy Draft Charging Schedule - Post Consultation

Mrs Caird (Leader of the Council), seconded by Mrs Purnell, moved the recommendations of the Cabinet. She explained that the Cabinet report gave details of the outcomes of public consultation on the Community Infrastructure Levy Draft

Charging Schedule.(CIL DCS). The CIL was a tariff that raised money from new development in the Chichester District Local Plan area towards the cost of necessary infrastructure, although it could not be used to remedy existing deficiencies in infrastructure. The public consultation had drawn 57 responses from 22 consultees, and these were summarised in Appendix B to the Cabinet report. If the CIL DCS and associated documents were approved by the Council they would be submitted to the Planning Inspectorate for examination, and if found sound the CIL Charging Schedule would then be formally adopted by the Council.

The Council discussed concerns that the payment by instalments scheme could result in payments being deferred so that the provision of required infrastructure for new development would be delayed. Mrs Caird replied that this would have to be carefully managed by the Council, but it was important not to make development schemes unviable by requiring the payment of large sums of money in advance. The Council was reminded that some infrastructure would continue to be provided through Section 106 and Section 278 agreements or through planning conditions, and the CIL DCS would be backed by an enforcement scheme.

Mr McAra pointed out that self-build homes would be exempt from CIL and asked whether there were safeguards to prevent this being used for tax evasion. Mrs Caird replied that this would need to be considered.

Mrs Caird also confirmed that there was expected to be an infrastructure funding gap, even taking into account the income from CIL, Section 106/278 agreements and other sources.

RESOLVED

- (1) The Community Infrastructure Levy Draft Charging Schedule (CIL DCS) together with the draft Regulation 123 list (attached as appendix A to the Cabinet report) be approved for submission for examination.
- (2) The Regulation 19 (1) statement (attached as appendix B) including a summary of issues raised by consultees be approved for the inspector's consideration together with Chichester District Council's responses.
- (3) The suggested amendments to the draft Payment by Instalments Policy (contained within Chichester District Council's responses to representations in appendix 1 of appendix B) be approved.
- (4) The Head of Planning Services be authorised, following consultation with the Cabinet Member for Housing and Planning, to make typographical and other minor amendments.
- (5) The Chief Executive be authorised, following consultation with the Leader of the Council, to determine minor matters arising from the CIL DCS examination.

297 Treasury Management Strategy 2015-16

Mr Dignum (Cabinet Member for Finance and Governance), seconded by Mrs Purnell, moved the recommendations of the Cabinet.

He explained that the strategy for next year was different from the fairly routine update required each year. On this occasion, the strategy had been drafted by

officers, scrutinised by a members task and finish group with the help of external advisers, and then considered by the full Corporate Governance and Audit Committee, as well as by the Cabinet.

Interest rates continued to be historically extremely low and the forecast date for a gradual increase seemed to recede over time. Even when rates start to rise, the pace of change was expected to be slow with small incremental increases. Therefore, very low rates were forecast in section 5.3 on page 96 of the Cabinet report

The big change was in the regulatory framework. As part of the official determination to avoid another expensive bail out by governments, the losses in a future crisis were to fall on the banks' shareholders and bondholders but then also on the unsecured deposits held by government bodies, including local authorities, pension funds and large companies.

Large deposits (over £85,000) from otherwise unprotected depositors (individuals and small and medium enterprises) were to rank above other unprotected deposits in both insolvency and bail-in situations.

That left central, regional and local governments, large enterprises, banks, investment firms and pension funds unprotected. As a result, the Council was in the unprotected category. This was a complete change from the previous position where the Council's deposits had equal standing with all the other unprotected deposits and where only personal deposits up to £85,000 were protected by guaranteed compensation.

The rationale was stated by the EU thus: "Public authorities have much better access to credit than citizens, so should not be eligible for protection."

This regulatory change forced a complete reconsideration of where the Council should invest its cash reserves in order to maintain its present objectives of security and liquidity before return. A strategy for investment was proposed as set out in 5.8 on page 97.

This diversification would represent a material change in investment policy over the coming year, in order to manage the bail-in risk and spread the investment of surplus funds in a wider range of investment types.

The strategy showed the various investment types, the different credit ratings and the maximum amount that could be invested in each type for each credit rating.

In addition to limits by individual institutions, overall limits were also set for the amounts that could be invested for different periods and the total amounts per individual institution.

The Council had uncommitted reserves of £18.4m that included the General Fund Balance £5m, Revenue Support £1.3m, New Homes Bonus £4.7m and currently £7.4m uncommitted resources.

It was proposed that investments invested for 1-5 years would be capped at £15m: £15m for 1-2 years, £9m for 2-3 years and £6m for 3-5 years.

The Council's expected total cash reserves in 2015-16 would average £33m, so on average at least £18m would be invested for less than 12 months. However, this figure fluctuated considerably during the year as council tax and business rates were received and then disbursed to the other recipients (WSCC etc.) and as CDC incurred its own expenditure. These fluctuations and the need for immediately accessible deposits for emergencies together limited the sums available for longer term deposits of 12 months or more.

The management of the Council's surplus funds was very much linked to the spending plans of the Council as set out in Appendix 2 (page 116) item (a). This showed the estimated capital expenditure for the current and future years.

The impact of those investment decisions on the council taxpayer could be seen on page 118 item (g) where the incremental impact on the Band D Council Tax was a credit reflecting the increased income that was expected to be achieved from those capital spending plans, especially those to purchase properties for rent as approved by Cabinet in February.

There would be a regular monthly report on investments to all members of the Corporate Governance and Audit Committee.

Mr Dignum concluded that the new Strategy involved quite a significant change in investment policy, as a result of the new European directives, but the Council's long established principle of putting security and liquidity before return continued to underlie the Strategy.

RESOLVED

That the following be approved:

- (1) The Treasury Management Policy and Treasury Management Strategy Statement for 2015-16 as contained in appendix 1 of the report.
- (2) The Investment Strategy 2015-16 as detailed within the treasury management strategy statement (appendix 1).
- (3) The Prudential Indicators and Limits for 2015-16 to 2019-2020 as detailed in appendix 2 of the report.
- (4) The Minimum Revenue Provision (MRP) Statement contained within appendix 2, which sets out the Council's policy on MRP.

298 Electoral Review of Chichester District: Proposal on Council Size

Mr Ridd (Chairman of the Boundary Review Panel), seconded by Mr McAra, moved the recommendations on the agenda, which were supported by both the Boundary Review Panel and the Cabinet.

He reminded the Council that this matter had been debated by the Council on 20 May 2014. It had also been considered by the Cabinet four times – on 6 May and 14

October 2014 and 6 January and 3 March 2015, and by the Boundary Review Panel on 20 March 2014 and 26 February 2015.

The essence of the argument was that a lot had changed since Chichester District had last been reviewed in 2002, and the current number of 48 members might no longer be the ideal number for the Council in the future.

Since the Council had last debated this matter, the Leader of the Council and the Chief Executive had met representatives of the Local Government Boundary Commission for England. The Commission understood the arguments, having had similar approaches from other councils. They encouraged the Council to prepare a proposal on Council size during the lifetime of the present council, and suggested that this should be the product of a forward-looking “functional analysis” of the role of councillors in the future.

A task and finish group had been set up, on the nomination of party leaders, to carry out that analysis, and that was the basis of the recommendation now before the Council. The proposal on council size reviewed the changes that had occurred since 2002, looked at the current political, economic, social and technological environment, and how this was likely to develop by 2019, and considered the role of members in decision-making, scrutiny and representing their electorates.

That analysis led to a proposal for a council of 35 or 36 members from 2019.

The task and finish group’s initial draft had been circulated to all members, which had provoked a lively e-mail debate and led to some changes in the text.

It had then been sent to all parish councils, to the County Council, and to local political parties for comment. That process produced very little, but the comments that had been received were supportive.

The Boundary Commission would be carrying out a full review of West Sussex County Council during 2015/16.

Mr Oakley spoke against the proposal. He felt the scale of reduction was too great, and he was not convinced that members’ ward workload had fallen, because new technology had made councillors easier to access and the planning function had increased in complexity. He felt that a reduction in councillors would reduce the size of the pool from which the Cabinet could be selected, and would give political party organisations greater control over who they put forward as candidates.

Anne Scicluna endorsed his comments and pointed to expected growth in the electorate, especially in strategic development locations.

Other members countered these arguments, pointing out that residents were now more easily able to contact the Council direct without a councillor as intermediary, and that even with expected increase in the electorate the average electorate to be served by a council of 35 members would be around 2,800.

Mr Cherry expressed concern about the geographical size of wards in sparsely populated areas.

Mr Smith moved an amendment to the recommendation by the insertion of the word “approximately” before “35 or 36”, and this was agreed.

RESOLVED

That the proposal on council size (Appendix 2 to the Cabinet report), for a reduction in the number of councillors to approximately 35 or 36, to be implemented for the district council elections in 2019, be approved for submission to the Local Government Boundary Commission for England (LGBCE).

299 Questions to the Executive

Questions to members of the Cabinet and responses given were as follows:

(a) Question: EU Structural Funds

Mrs Apel asked whether the Cabinet Member for Finance and Governance would make representations to the Government about its ruling that only London would be allowed to decide how to spend its share of £5.3 billion of EU structural and investment funds over the next five years, denying such funding to local authorities outside the capital without Government approval.

Response:

Mr Dignum (Cabinet Member for Finance and Governance) replied that, if Mrs Apel could supply the reference she was quoting outside of the meeting, he would do his best in conjunction with officers and the Cabinet Member for Commercial Services.

(b) Question: Damage to potential development sites

Mrs Hamilton asked whether any action could be taken in respect of two potential development sites that had been ruined by the ripping out of hedges and trees and loss of wildlife habitat before any application had been submitted.

Response:

Mr Carvell replied that removal of vegetation from land did not usually require planning permission. If Mrs Hamilton would supply further details, he would arrange for an investigation to be carried out into whether any action was possible.

(c) Question: Waste and recycling

Mr Shaxson asked a number of questions about waste and recycling (listed in the response below).

Response:

Mr Connor (Cabinet Member for Environment) replied as follows:

(Q) What is the current recycling rate in Chichester District and across West Sussex?

(A) The current CDC rate is 41.9% and the WSCC rate for 13/14 was 41.1%

(Q) Is the trend up or down?

(A) The county rate has fallen slightly and the CDC rate has plateaued over the last couple of years. The dry recycle percentage has fallen but this has been balanced by the increase in green waste collected. In recent months the recycling tonnage has increased slightly, but the amount of general waste has also increased. Changes to the classification from recycling to recovery for the wood collected at the HWRS and glass fraction sent for aggregate has negatively impacted on performance.

(Q) Are there any 'new' initiatives in the pipeline?

(A) During the spring 2015 we will be able to accept mixed plastics (pots, tubs and trays). There will be a communication campaign to explain the changes to the public ahead of this change. This should increase the recycling rate by approx. 2%. Once Brookhurst Wood is operational, metals will be extracted from the general waste and sent for recycling (approx. 1%). Officers are currently investigating additional options.

(Q) What has been the reaction of householders to having to buy their wheeled bins?

(A) This has generally been accepted by householders

(Q) Are they taking the view that having paid for them they own them, and take them if they move house?

(A) Yes they now own the bins, so are free to take them if they move house.

(Q) Now that 13 years have elapsed is there a significant incidence of breakages?

(A) No. Relatively few bins are being reported as damaged.

(Q) Has WSCC secured a proper long-term contract for disposal of the Refuse Derived Fuel from the Brookhurst Wood Mechanical Biological Treatment plant. If not, and noting that landfill sites in West Sussex will run out next year, what is happening to the waste material and what is the cost to the West Sussex taxpayer? Does it have to go to landfill?

(A) I may know more after a meeting of the inter-authority waste group on Thursday, but here is a response from WSCC:

“In West Sussex household waste is currently managed under contracts with two waste operators, Viridor and Biffa. The Materials Resource Management Contract (MRMC), which West Sussex County Council awarded to Biffa in 2010, relates to the design, construction, operation and maintenance of a mechanical biological treatment (MBT) facility at Brookhurst Wood, Horsham.

The MBT facility is currently in the commissioning phase, although a number of matters have been complicating factors, and have resulted in delay to the commissioning process. The County Council is currently working with Biffa in order to overcome these matters and to explore savings that might be made in connection with the MRM services.

“One of the outputs from the MBT facility is a refused derived fuel (RDF). The County Council has commenced a procurement process in relation to the treatment of RDF, although the matters at the MBT facility have impacted on that RDF procurement process.

“The MRMC, which is set to run until 2035, allows for the use of the landfill site at Brookhurst Wood and, when this site reaches capacity or there is otherwise a need to put in place an alternative arrangement, the Redhill landfill site in Surrey or other landfill sites identified by Biffa as appropriate. The cost to the taxpayers of West Sussex remains the same whichever landfill site is being used.”

(d) Question: Westgate Leisure Centre Combined Heat and Power Units

Mr Potter asked for an update on the replacement of the failed combined heat and power units at the Westgate Leisure Centre.

Response:

Mr Over replied that the Council was about to issue public tenders for the replacement of the engines. He would send a confidential email briefing note to members about the progress of litigation, as this was likely to disclose exempt information as defined in Schedule 12A of the Local Government Act 1972.

300 **Notice of a new proposal**

Mr Simon Oakley, seconded by Mrs Duncton, submitted the following new proposal in accordance with Standing Order 18:-

‘That the Council’s Constitution, Part 4.5 Overview and Scrutiny Rules, paragraph 36, Urgent Decisions, be amended by adding the words in bold italics and deleting the words struck through as follows:

“Urgent Decisions

36. The call-in procedure set out above shall not apply where the decision being taken by the Cabinet or one of its members is considered by them to be urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council’s interests or the public’s interests. ***As soon as it is intended by Officers and/or Cabinet Members for a decision to be made urgent under this procedure, all Members of the Council are to be notified of this intention.*** The record of the decision shall state whether in the opinion of the decision-maker the decision is an urgent one, and therefore not subject to call-in. The consent of the chairman

of the Council must be obtained both that the decision is reasonable in all the circumstances and to it being treated as a matter of urgency. (In the absence of the chairman, the vice-chairman's consent shall be required and in the absence of both, the ~~Chief Executive~~ **Chairman of the Overview and Scrutiny Committee** or his/her nominee's consent shall be required.) **The Chairman's, or substitute's, decision shall be made 24 hours after the Cabinet (or one of its Members) decision is made.** Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.”

The Chairman reminded the Council that the Constitution required that changes to the Constitution are made by the full Council, after consideration of the proposal by the Cabinet.

If Mr Oakley's proposal was supported, therefore, it would stand referred to the Cabinet for consideration, and be brought back to the next meeting of the Council for decision.

He proposed, therefore, to give Mr Oakley an opportunity to explain his proposal, and then for a short debate to take place, followed by a vote in order to see whether his proposal carried sufficient support for it to be referred to the Cabinet.

For the guidance of the Council in that debate, the merits or otherwise of the Cabinet's decisions on the future of land at the former Portfield Football Ground, reported at agenda item 13, should not be debated in relation to Mr Oakley's proposal. The Council should focus on whether it supported the purpose of Mr Oakley's proposal and not discuss its detailed wording. If it was referred to them, the Cabinet would scrutinise the wording carefully to make sure that any change to the Constitution does not have any unintended consequences.

Mr Oakley explained that his proposal was intended to address weaknesses in the urgent decision procedure in order to enable participation by all councillors. Although it was acceptable to make an exception for cases of real emergency, where life or property was in danger, he was suggesting that all members should be given the earliest possible notification of any intention to invoke the urgent decision procedure and that urgent decisions should not be implemented for at least 24 hours after being taken.

Mrs Caird explained that the Urgent Decisions procedure, as worded, was taken from the model constitution for local authorities published by the Government (with expert local authority input) in the early 2000s. Identically worded paragraphs could be found in the Constitutions of many other councils. The guidance that went along with that model constitution made it clear that a local authority's call-in procedure needed to include provisions to prevent genuinely urgent decisions from being called-in or in any other way delayed. This was because a call-in suspended implementation of a decision for potentially at least five weeks. She emphasised that it was really important to retain the urgent decisions procedure, in order that necessary and urgent decisions are not frustrated by call-in. As worded in the Constitution, the procedure contained safeguards to prevent it being used as a device to avoid scrutiny and to ensure that accountability was preserved. However,

she would be willing to accept a reference to Cabinet to consider Mr Oakley's proposal.

Mr Finch believed that Mr Oakley's proposals were tangled and would give rise to difficulties. He understood that the aim was to improve democracy, but he felt that was achieved under the present procedure which required democratically elected people to be consulted.

Mr Dunn agreed, pointing out that there was nothing to prevent subsequent scrutiny of decisions taken under the urgent procedure.

Mr Clementson pointed out that urgency was a subjective judgment and needed to be defined.

After further debate a vote was taken. 12 votes were in favour of Mr Oakley's proposal and 13 votes were against.

RESOLVED

That Mr Oakley's proposal be not accepted.

301 Urgent decision by Cabinet (Cabinet minute 726)

The Council noted that, in accordance with the relevant section of the Constitution (Part 4.5 Overview & Scrutiny Rules paragraph 36), the following decision had been considered by the Cabinet to be urgent because any delay would be likely to seriously prejudice the council's and the public's interests, and should not, therefore, be subject to call-in. The Chairman of the Council's consent had been obtained that the decision was reasonable in all the circumstances and that it should be treated as a matter of urgency, and his consent had been confirmed after the meeting, as Cabinet approved different options from those originally recommended.

The decision related to the land at Church Road, Chichester, commonly known as the former Portfield Football ground. The grounds for urgency were that both the submission of the planning application and the marketing of the site (allowing time for potential purchasers to consider it and submit offers) needed to take place before the current planning permission expired. In each case there would be opportunities for further debate in that the Planning Committee would determine the planning application and the Cabinet would consider offers for the land before agreeing to its disposal.

The Cabinet had **RESOLVED:**

That options (a) (Resubmit the Extension of Time application to the Planning Committee) and (c) (Market the site now with the benefit of the remaining life of the outline permission) with (e) (Pursue an off the market disposal), as detailed in paragraph 6.1 of the report, be proceeded with.

The meeting ended at 4.50 pm

CHAIRMAN

Date:

