

## **DISTRICT COUNCIL OF SEVENOAKS**

Minutes of the Meeting of the Sevenoaks District Council held on  
10 November 2009 commencing at 7 p.m.

Present: Cllr. Lankester (Chairman)  
Cllr. Loney (Vice-Chairman)

Cllrs. Abraham, Arnold, Bosley, Mrs. Bosley, Mrs. Bracken, Brigden, Brookbank, Mrs. Broomby, Brown, Bruce, Chard, Mrs. Clark, Coates, Cole, Mrs. Cook, Cooke, Darrington, Davison, Mrs. Davison, Mrs. Dawson, Dean, Dibsdall, Fleming, Gaywood, Gilbert, Grint, Harrod, Mrs. Hunter, Lankester, London, Mrs. Lowe, Maskell, McGarvey, McInnes, Mrs. Morris, Mrs. Parkin, Pett, Piper, Mrs. Purves, Ramsay, Mrs. Sargeant, Miss. Stack, Underwood, Waller, Walshe, Wigg and Williamson.

Apologies for absence were received from Cllrs. Fodor, Golding, Ms Moore, Orridge, Ryan and Scholey.

### PRAYERS

Reverend Paul Francis led Members of the Council in prayers.

### 23. MINUTES OF THE LAST MEETING

Resolved: That, the minutes of the Meeting of the Council held on 12 May 2009, pages 11 to 16, be approved as a correct record.

### 24. DECLARATIONS OF INTEREST

The list of interests declared at meetings from 9 July 2009 to 23 October 2009 was noted.

Cllr. Arnold declared a personal interest in Minute item 28(d) as the secretary of the Sevenoaks Players.

Cllr. Brigden declared a personal and prejudicial interest in Minute item 28(d) as a Member of Sevenoaks Town Council and left the room during the consideration of the item.

Cllr. Brown declared a personal interest in Minute item 28(d) as a Member of the Sevenoaks Players.

Cllr. Dawson declared a personal and prejudicial interest in Minute item 28(d) as a Member of Sevenoaks Town Council and left the room during the consideration of the item.

Cllr. McGarvey declared a personal and prejudicial interest in Minute Item 28(f) as he had an intense dislike of gambling and left the room during the consideration of the item.

Cllr. Mrs. Morris declared a personal interest in Minute Item 28c as a personal licence holder.

Cllr. Piper declared a personal and prejudicial interest in Minute item 28(d) as a Member of Sevenoaks Town Council and left the room during the consideration of the item.

25. CHAIRMAN'S ANNOUNCEMENTS

The Chairman invited Members and staff to attend the Remembrance Service which would take place in the Council Chamber on 11 November 2009 at 10:55am, led by Reverend Mark Griffin from St Luke's Church.

The Chairman informed Members of the sad death of a former Councillor, John Harris OBE MC. He had been a Member of the District Council for the Edenbridge North Ward from 1979 to 1991, was Chairman of the Council in 1983-84 and was Deputy Leader of the Council from 1990 -1992. Members stood in silence for a few moments.

The Chairman informed Members that the Chairman's Chain of Office had required considerable repair recently and that it had now become uneconomic to continue to use it. A new chain had therefore been ordered. However, it was hoped that most of the cost of replacing the chain would be met from the generosity of the current and former Chairmen, so that the cost to the Council would be as low as possible.

26. PETITIONS FROM MEMBERS OF THE PUBLIC

No petitions were received from members of the public.

27. MATTERS CONSIDERED BY THE CABINET AND/OR OTHER COMMITTEES

(a) Environment Select Committee Recommendations in Relation to the Development Control Procedures

Further to a meeting of the Environment Select Committee, Cllr. Walshe moved and Cllr. Brigden seconded that the Environment Select Committee's recommendations for changes to the Constitution, which were outlined in the agenda papers, be approved. These included the reinstatement of the previous site meeting procedure (but without voting and recommendations) and allowing local members to have the right of reply at Development Control Committee. There was a full debate on the motion, during which the Chairman of the Modern Local Government Group made members' aware of his Committee's recommendation, which was to vote against the motion and to review how the procedures were working in nine months.

Under Procedure rule 24.4, a recorded vote on the motion was requested by five members of the Council.

Cllrs. Abraham, Brigden, Chard, Darrington, Dibsdall, Gilbert, Harrod, McGarvey, Mrs Purves, Mrs Sargeant, Miss Stack, Underwood, Walshe and Wigg voted FOR the motion.

Cllrs. Arnold, Bosley, Mrs Bosley, Mrs Bracken, Brookbank, Mrs Broomby, Brown, Bruce, Mrs Clark, Cole, Cooke, Davison, Mrs Davison, Mrs Dawson, Fleming, Gaywood, Grint, Mrs Hunter, London, Mrs Lowe, Maskell, McInnes, Mrs Parkin, Piper, Ramsay, Waller and Williamson voted AGAINST the motion.

Cllrs. Coates, Mrs Cook, Dean, Lankester, Loney, Mrs Morris and Pett ABSTAINED.

The motion was LOST.

All other recommendations from Committees were discussed under their respective items below.

28. TO CONSIDER THE FOLLOWING REPORTS FROM THE CHIEF EXECUTIVE OR OTHER DIRECTORS ON MATTERS REQUIRING THE ATTENTION OF COUNCIL

(a) Development Control Committee Membership

This item was withdrawn from the agenda.

(b) Licensing Minor Variations - Delegation (Report 6b)

Further to meetings of the Modern Local Government Group and the Licensing Committee, Cllr. Loney moved and Cllr. Fleming seconded that the recommendation of the Licensing Committee be adopted.

Following a full discussion, during which arguments were made for and against the motion, it was

Resolved: That the Community and Planning Services Director receive delegated authority “To determine all applications for Minor Variations to premises/club premises licences” and that Part 13 of the Constitution be amended accordingly.

(c) Officer Responsibilities and Delegations (Report 6c)

Further to meetings of the Modern Local Government Group and the Licensing Committee, Cllr. Loney moved and Cllr. Fleming seconded that the recommendation of the Licensing Committee be adopted.

Resolved: That the Community and Planning Services Director receive delegated authority “To determine all applications for removal of the mandatory condition to have a Designated Premises Supervisor at Community Premises” and that Part 13 of the Constitution be amended accordingly.

(d) STAG Community Arts Centre: Heads of Terms (Report 6d)

Further to meetings of the Social Affairs Select Committee and Cabinet, Cllr. Fleming moved and Cllr. Mrs Bracken seconded that the Cabinet’s recommendations be approved.

Resolved: a) That the Heads of Terms of a long-term lease, set out in the Appendix to the report, to secure the future of the Stag by way of land disposal to Sevenoaks Town Council be approved; and

b) that authority be delegated to the Chief Executive in consultation with the Leader and Portfolio Holders to agree the detailed terms of the long-term lease based on the approved Heads of Terms, together with a funding agreement relating to the approved grant.

(e) Publication of Members' Register of Interests Online

Further to a meeting of the Standards Committee, Cllr. Fleming moved and Cllr. Mrs Bracken seconded that the Standards Committee's recommendations be agreed.

Resolved: That approval be given to the online publication of all District Councillors' and Standards Committee Members' Register of Interest forms, subject to any individual Councillor or Standards Committee member being able to opt out.

(f) Gambling Act 2005: Statement of Licensing Policy

Further to meetings of the Services Select Committee, Cabinet and Licensing Committee, Cllr. Loney moved and Cllr. Fleming seconded that the Licensing Committee's and Cabinet's recommendations be agreed. Cllr. Loney clarified that the Council was being asked to approve the draft policy at Appendix A, subject to the inclusion of the amendments made by Committees set out in Appendix B.

Resolved: That the Statement of Principles for the Gambling Act Policy set out in Appendix A to the report be approved, subject to the inclusion of the amendments made by Committees as set out in Appendix B to the report.

(g) Financial Strategy

Further to meetings of the Performance and Governance Committee and the Cabinet, Cllr. Fleming moved and Cllr. Ramsay seconded that the Cabinet's recommendation be approved.

There was some debate on the difficulties that would be faced during the next budget round. In particular, issues were raised in relation to the Council's pension liability, partnership working, opportunities to obtain funding through s.106 agreements and the cost of the Members' Christmas Dinner.

Resolved: That the Financial Strategy be approved.

(h) Annual Report

Further to a meeting of the Cabinet, Cllr. Fleming moved and Cllr. Mrs. Davison seconded that the Cabinet's recommendation be adopted.

Resolved: That the Annual Report 2009 be approved.

29. QUESTIONS FROM MEMBERS UNDER PARA. 19.3 OF PART 2 OF THE CONSTITUTION

**(a) Cllr. Gilbert asked the following question:**

If the Council takes professional advice which is then reported on gold paper as being confidential, should Cabinet Members and officers comply with that advice in their public statements?

**The Portfolio Holder for Safe Community replied as follows:**

"Members are not bound to comply with professional advice, whether that advice is confidential, exempt from publication under Schedule 12A to the Local Government Act 1972 or otherwise. However, I would not expect Members to depart from professional advice unless they had good reason to do so. With respect to advice from Officers to Members, the relationship between Members and Officers at Sevenoaks is one of mutual trust, confidence and respect, and I would not expect Members to depart from the Officers' advice unless they had good reason to do so. Advice reported to Cabinet as exempt information remains exempt until such time as the Council decides that the public interest in maintaining the exemption is outweighed by the public interest in disclosure. Therefore, Members should not disclose specific details of such advice in any public statement."

**Cllr. Gilbert asked a supplementary question as follows:**

"You said that the Council has a duty to get the best price possible in disposing of the STAG. However, without referring to the gold papers, the law is that if a Local Authority considers it would result in the general wellbeing of the community, it can sell for less than the best price as long as the difference does not exceed £2m. Why did you say the former?"

**The Portfolio Holder for Safe Community replied as follows:**

"I would refer Councillor Gilbert to the Minutes of the Cabinet meeting held on 9 July 2009, which contain full details about the fiduciary duties we are subject to."

**(b) Cllr Gilbert asked the following question:**

"If Cabinet Members or officers contradict specialist legal or other professional advice taken by the Council and retained as confidential, without first securing alternative specialist advice which supports a contradictory view, what remedies are available to ensure that the full true picture becomes known to the public to prevent misunderstanding?"

**The Portfolio Holder for Safe Community replied as follows:**

"As I indicated in my answer to question 1, advice reported to Cabinet as exempt information remains exempt until such time as the Council decides that the public interest in maintaining the exemption is outweighed by the public interest in disclosure. Therefore, due to the nature of the advice, it is not made available to the public. If any Member believes another has not complied with the Code of Conduct, that Member can pursue appropriate measures. "

**Cllr. Gilbert asked a supplementary question as follows:**

“What are those appropriate measures? Why did you say that we need to dispose of the land at best value when that is not in accordance with advice?”

**The Portfolio Holder for Safe Community replied as follows:**

“I would refer Councillor Gilbert to the Minutes of the Cabinet meeting held on 9 July 2009 and all the public documents referred to in the Report presented before Full Council tonight regarding the Heads of Terms, which contain full details about the fiduciary duties we are subject to. I appreciate that these are complex matters and it is possible that he has not understood them.”

**(c) Cllr. Underwood asked the following question:**

Would the Leader confirm that the allocation of committee seats has been done under the Widdecombe rules and that all parties and political groups have been duly credited accordingly to their allowance and have all such seats been accepted?

**The Leader replied as follows:**

“I can confirm that Committee Memberships appointed at the Annual Council meeting on 12 May 2009 were made in accordance with what Cllr. Underwood refers to as “the Widdecombe Rules” i.e. the requirements under the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990. Each political group was allocated seats on Committees in proportion to their total elected membership and the appointments were made in accordance with the wishes of those groups as expressed by their leaders.

Although there is no legal requirement for the Council to allocate Committee seats to members who are not members of political groups, Sevenoaks has in the past done so. It is not a requirement that seats have to be taken up and if they are not they are then redistributed. Three seats were redistributed at the last Council meeting in accordance with the regulations.”

**Cllr. Underwood asked a supplementary question as follows:**

“Would the Leader agree with me about the importance of Committee work, regardless of political allegiance. Would he agree that a Member deciding not to take up his seats is unfortunate?”

**The Leader replied as follows:**

“Any individual Member has the option to take up seats, or not to. Members will need to make their own judgements.”

30. QUESTIONS FROM THE PUBLIC UNDER PARA. 17 OF PART 2 OF THE CONSTITUTION

No questions had been received from members of the public.

31. REPORT FROM THE LEADER OF THE COUNCIL (Report 9)

The Leader of the Council made the following additions to his report. He informed Members that the new District Councils network on the LGA had been established. He stated that this was a significant step as it would allow Districts to take part in significant lobbying. He also informed Members that he was looking at different models around the country to increase local engagement and would be meeting with Kent County Council to look at a virtual town hall model.

Cllr. McGarvey asked the Leader to give a guarantee that the Cabinet would not use the disposal of amenity land as an opportunity to pass significant liabilities onto parish councils. The Leader replied that parish and town councils had a choice as to whether they wanted to take on responsibility for such land.

Cllr. Darrington asked about the Clean Kent Smart Water launch. The Leader replied that the southeast of England had less water than any part of mainland Europe. He stated that simply building new reservoirs would not solve these problems and that there would need to be a serious change in the way that people and businesses used water in order to ensure continuity of supply in the future.

Cllr. Walshe asked what efforts Cllr Fleming was making to influence the Joint Transport Strategy so that it improved facilities for bicycles, improved the integration between buses and rail and reduced reliance on the car. Cllr. Fleming stated that he was not able to give Cllr. Walshe a full response as he had not yet been able to review submissions from the Sevenoaks Cycle Users Group and others.

32. REPORT OF THE CHAIRMEN OF THE SELECT COMMITTEES (Report 10)

Members were presented with reports on the work of the Environment, Services and Social Affairs Select Committees since the last meeting of the Council.

33. REPORT OF THE CHAIRMAN OF THE PERFORMANCE AND GOVERNANCE COMMITTEE

Members were presented with a report on the work of the Performance and Governance Committee since the last meeting of the Council.

THE MEETING WAS CONCLUDED AT 9.45 P.M.

CHAIRMAN

