

DISTRICT COUNCIL OF SEVENOAKS

Minutes of the Meeting of the Sevenoaks District Council held on 24 July 2012 commencing at 7.00 pm

Present: Cllr. Mrs. Morris (Chairman)

Cllr. Pett (Vice-Chairman)

Cllrs. Abraham, Mrs. Ayres, Ayres, Ball, Bosley, Mrs. Bosley, Mrs. Bracken, Brookbank, Brown, Ms. Chetram, Clark, Mrs. Clark, Mrs. Cook, Mrs. Davison, Davison, Dickins, Edwards-Winser, Eyre, Firth, Fittock, Fleming, Gaywood, Mrs. George, Grint, Hogarth, Horwood, Mrs. Hunter, Maskell, McGarvey, Orridge, Mrs. Parkin, Piper, Mrs. Purves, Ramsay, Mrs. Sargeant, Miss. Thornton, Towell, Underwood and Walshe.

Apologies for absence were received from Cllrs. Mrs. Bayley, Butler, Cooke, Mrs. Dibsall, London, Ms. Lowe, Neal, Raikes, Scholey, Searles, Miss. Stack and Williamson.

11. To approve as a correct record the Minutes of the meeting of the Annual Council meeting held on 15 May 2012

The Chairman proposed that the Minutes of the meeting of the Council held on 15 May 2012 be approved and signed as a correct record.

Resolved: That the minutes of the Annual Council Meeting held on 15 May 2012 be approved and signed by the Chairman as a correct record.

12. To receive any additional declarations of interest from Members in respect of items of business included on the agenda for this meeting

No additional declarations were made.

13. Chairman's Announcements

On Friday 20th July 2012, the Olympic Torch passed through the District. The Torch itself was in the District for over an hour and the event passed without incident. The Chairman thanked all the Staff and Volunteer Stewards who had contributed to making the day such a great success.

The Chairman reported that a past member, Ron Bailey had passed away on 17th June 2012. He had been elected as a Member for Fawkham and Hartley and was both Leader of the Council from May 1992 to May 1995 and Chairman of the Council from May 2002 to May 2003.

14. To receive any petitions submitted by members of the public.

No petitions were received.

15. To appoint representatives on outside organisations.

Cllr. Fleming proposed and Cllr Mrs Davison seconded that Cllr. Miss Stack and Cllr. Raikes be appointed to the Local Democracy and Accountability Network for Councillors for 2012/13.

Resolved: That Cllr. Miss Stack and Cllr. Raikes be appointed to the Local Democracy and Accountability Network for Councillors for 2012/13.

15b. MEMBERSHIP OF COMMITTEES 2012/13

Cllr Fleming proposed and Cllr. Mrs Davison seconded that (1) Councillor Hogarth be removed from the Services Select Committee, Performance and Governance Committee and Licensing Committee; and (2) Councillor Miss Stack be removed from the Membership of the Social Affairs Committee and added to the Membership of the Services Select Committee.

Cllr. Fleming reported that Councillor Hogarth was being removed from the Committees to enable him to undertake the newly created role of Portfolio Holder for Economic Development and Partnerships.

Resolved: That (1) Councillor Hogarth be removed from the Services Select Committee, Performance and Governance Committee and Licensing Committee; and (2) Councillor Miss Stack be removed from the Membership of the Social Affairs Committee and added to the Membership of the Services Select Committee.

16. Matters considered by the Cabinet and/or other Committees:

(a) The Localism Act 2011 - The New Standards Regime

Members considered a report outlining proposals for a new Code of Conduct and new arrangements for dealing with Member complaints following implementation of the relevant provisions of the Localism Act 2011, the Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The Localism Act 2011 made fundamental changes to the system of regulation of standards of conduct for elected and co-opted Councillors. The existing Standards regime ceased to operate on 30th June 2012 with transitional arrangements being limited and not allowing for the old arrangements to continue. From 1st July, the Council was required to adopt a new Code of Conduct and put in place arrangements for investigating allegations of breaches and for making decisions in respect of those allegations.

Cllr. Fleming proposed and Cllr. Mrs Bracken seconded that the recommendations outlined on pages 25-26 of the agenda be agreed.

Cllr. Fittock welcomed the new procedure which enabled Members accused of breaching the Code of Conduct to have a right of reply and highlighted that the Independent Person, appointed by the three Leaders of the main political groups within the Council, would have the ability to review complaints prior to

consideration at Committee. Cllr Fittock expressed concerns that there was no right of appeal built into the process.

Cllr. McGarvey commended the work that had been undertaken to develop the new Code of Conduct, but expressed fundamental concerns surrounding the new requirements regarding declarations of interests, especially the requirements that interests relating to the employment of spouses needed to be declared.

Responding to the debate, Cllr. Fleming highlighted that the old Standards regime had become uncontrollable and unfit for purpose. What was in front of the Council was a simple regime that was transparent and easy to understand. Importantly, the public would also be able to understand the new Code of Conduct for Members. Cllr Fleming stressed that the District Council retained responsibility for reviewing and investigating all complaints within the District, including those relating to Town and Parish Councils. In terms of right of appeal, Members did have a right of appeal, as cases could be referred to the Ombudsman. Turning to the issues to declarations relating to the interests of spouses, representations were being made to Government as this was an issue that had been highlighted nationally.

Resolved: That

- (a) the Department for Communities and Local Government Code, as recommended by the Task Group, be adopted as the new Code of Conduct for the District Council as attached at Appendix 2a of the report.
- (b) a Standards Committee be established with the Terms of Reference and Delegations to the Standards Committee as set out at Appendix 3.
- (c) 7 Members be appointed in accordance with the political balance rules to serve on the Standards Committee.
- (d) the revised procedures for dealing with misconduct complaints including arrangements for the investigation of complaints alleging a breach of the Member's Code of Conduct be adopted as set out in Appendix 4.
- (e) the Monitoring Officer be authorised to advertise for no less than 1 Independent Person and that a panel comprising the leaders of the political groups be set up to set the allowances and expenses for the Independent Person and to short-list and interview candidates, and to make a recommendation to Council for appointment as set out in Appendix 5, subject to the amendment outlined above.
- (f) the new Register of Interest Form for District Council Members be adopted and the definition for interests other than pecuniary interests called non pecuniary interests (NPI's) as set out in the Form and as attached to this report at Appendix 6 be agreed.
- (g) Council agrees to amend its standing orders to provide that a Member or Co-opted Member of the Authority must withdraw from the meeting

room, including the public gallery, during the whole consideration of any item of business in which he/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation. The power to amend the Council's standing orders in this way is given by virtue of s.31(10) of the Localism Act . This amendment to be incorporated into the Council's chosen new Code of Conduct.

- (h) powers to grant dispensations be delegated to the Monitoring Officer in relation to section 33(2)(a) and(d) of the Localism Act and delegate powers to grant dispensations to the Standards Committee in relation to section 33(2) (b), (c) and (e) of the Localism Act as set out in Appendix 7.
- (i) that the Monitoring Officer be authorised to make the necessary changes to the Constitution by deleting those parts of the Constitution as set out as follows:
- Part 3 – Standards Committee
 - Appendix O – Member's Register of Interests
 - Appendix Q – Member's Code of Conduct
 - Appendix S – Procedure for Local Assessment of Complaints about Allegations of Member Misconduct
 - Appendix T – Sub-Committees of the Standards Committee
 - Appendix U – Guidance on Applying the Appropriate Sanction when a Member has breached the Code of Conduct
 - Appendix V – Process and Procedure for Interviewing and Appointing (Independent and Town/Parish Council Representative) Applicants for the Standards Committee
 - Appendix X – Procedure for Referrals to the MO for Investigation and Determination

and inserting within the Constitution the new Appendices as approved by this report and any necessary consequential changes including any reference in the Constitution to personal and prejudicial interests being changed to Disclosable Pecuniary Interests (DPI's) and interests other than Pecuniary Interests called Non Pecuniary Interests (NPI's).

- (j) that the Standards Committee and or Modern Local Government Group keeps the Code and Arrangements under review and reports further to the Council as is considered necessary. The Standards Committee will consider setting up a sub-committee for this purpose.

(b) Amendments to the Constitution

Members considered a report outlining two amendments to the Council's Constitution: one relating to the number of meetings of the Select Committees and one relating to the delegated powers of the Community and Planning Director.

Part 1, paragraph 2.4 of the Council's constitution required that except for changes required by statute, changes to the Constitution would only be approved by the full Council after consideration of the proposal by the Modern Local

Government Group. The amendments to the Constitution outlined in Appendix A to the report would bring the number of meetings referred to in the Constitution in line with the new working practice of the Leader of the Council electing Chairman and Vice-Chairman of the Select Committees at the Annual Council meeting.

The amendment outlined in Appendix B to the report related to specific circumstances where planning permission had been refused under delegated powers, an appeal lodged and new information being received that led Officers to conclude that refusal of permission could not be substantiated at appeal. Under these circumstances the matter would be referred back to Members to enable the original delegated refusal to be reviewed.

Councillor Fleming proposed and Cllr. Mrs Bracken seconded that the amendments to the Constitution outlined in the report at pages 121 to 127 of the agenda be agreed.

Resolved: That the amendments to the Constitution outlined in the report be adopted.

(c) Localisation of Council Tax Support

Cllr. Fleming proposed and Cllr. Ramsey seconded that (a) That the Council consult with its community on the proposal to reduce the council tax support payable to working age claimants by a standard percentage amount that delivers a local support for council tax scheme within the funding provided by Government; and (b) Members approve the principles of broad-based consultation and delegate authority to the Leader of the Council and the Portfolio Holder for Value for Money to approve the information and questions provide to the community within the consultation questionnaire.

Cllr. Fittock proposed and Cllr. Underwood seconded the following amendment to the motion:

That the following be added as point c):

c) that this Council explains how it will provide support for the most vulnerable families and how the proposal will lift people off benefit and support them into work.

Cllr. Fittock noted that paragraph 12 of the report outlined that the two underlying principles behind the localisation of council tax benefit were that 1) Localised schemes should provide support for the most vulnerable, including vulnerable pensioners; and 2) Localised schemes should assist with lifting the poorest off benefits and supporting them into work. These were the two basic principles that had to be worked to however, there was nothing in the report to explain how this support would be provided.

Cllr. Fleming responded that these issues would be covered in the proposed consultation. The only groups specifically covered within the legislation were elderly vulnerable groups. The District Council needed to ensure that a sustainable scheme was developed for the future. It was inevitable that some

groups would fall outside of the support that would be available in the future as there would not be enough funding.

Following a vote, the amendment was LOST.

Members returned to debating the original motion, following a vote it was

Resolved: That

- (a) the Council consult with its community on the proposal to reduce the council tax support payable to working age claimants by a standard percentage amount that delivers a local support for council tax scheme within the funding provided by Government; and
- (b) the principles of broad-based consultation be approved and that authority be delegated to the Leader of the Council and the Portfolio Holder for Value for Money to approve the information and questions provide to the community within the consultation questionnaire.

(d) Community Right to Challenge

Members considered a report setting out the duty placed on local authorities in the Localism Act 2011 to administer the Community Right to Challenge. The Community Right to Challenge allowed relevant bodies to express an interest in running Council services and placed a duty on local authorities to consider expressions of interest. Where expressions of interest were accepted a full tender process for future delivery of that service would have to be conducted.

The report proposed that Members adopted a policy that aligned the management of the Community Right to Challenge within existing budget setting processes and ensured the Council placed a priority on the cost to the District and the quality of service delivered when drawing up any tender document required as a result of an expression of interest under the Community Right to Challenge.

Cllr. Fleming proposed and Cllr. Mrs Davison seconded that (a) the Sevenoaks District Council Community Right to Challenge Policy be approved; and (b) that authority be delegated to the Portfolio Holder for Planning and Improvement to agree any final adjustments to the Community Right to Challenge Policy that may result from the finalisation of Government policy and statutory guidance.

Resolved: That

- (a) the Sevenoaks District Council Community Right to Challenge Policy be approved; and
- (b) authority be delegated to the Portfolio Holder for Planning and Improvement to agree any final adjustments to the Community Right to Challenge Policy that may result from the finalisation of Government policy and statutory guidance.

17. To consider any questions by Members under Paragraph 19.3 of Part 2 (the Council and District Council Members) of the Constitution, notice of which have been duly given.

No questions were received.

18. To receive any questions from members of the Public under Paragraph 17 of Part 2 (the Council and District Council Members) of the Constitution.

No questions were received.

19. To receive the report of the Leader of the Council on the work of the Cabinet since the last Council meeting.

The Leader of the Council reported on the work that he and the Cabinet had undertaken in the period 7 April 2012 to 12 July 2012.

In June, Cllr. Fleming attended the South East England Councils (SEEC) All Member Meeting. The new Chairman of SEEC was a District Council Leader and as a result of this it was anticipated that there would be a greater focus on the work of district Councils.

In July, the Leader had attended the Memorial Service of Mark Worrall OBE, Leader of Tonbridge and Malling Borough Council. Over 500 people had attended the Service including 3 Secretaries of State.

A new Portfolio for Economic Development and Partnerships had been created. In the future, the grant that the District Council received from Central Government would be based on the business rates collected by the Council and therefore Economic Development was increasingly important for the Council. Councillor Hogarth, the Portfolio Holder for Economic Development and Partnerships had a background in business and would be well placed to lead the Portfolio through the challenges ahead.

20. To receive a report from the Chairmen of the Select Committees on the work of the Committees since the last Council meeting.

The Council received the reports from the Chairmen of the Select Committees as follows:

- Environment Select Committee – 29 May 2012
- Services Select Committee – 19 June 2012
- Social Affairs Select Committee – 21 June 2012

21. To receive a report from the Chairman of the Performance and Governance Committee on the work of the Committee since the last Council meeting

The Council received the report from the Chairman of the Performance and Governance Committee on the work undertaken by the Committee at its meeting on 12 June 2012.

THE MEETING WAS CONCLUDED AT 7.35 pm

Chairman