

**BRIGHTON & HOVE CITY COUNCIL**

**GOVERNANCE COMMITTEE**

**4.00pm 18 NOVEMBER 2008**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Mrs Norman (Chairman), Simpson (Deputy Chairman), Mrs Brown, Mrs Cobb, Elgood, Mears, Mitchell, Oxley, Taylor and West

**PART ONE**

**36. PROCEDURAL BUSINESS**

**(A) Declarations of Substitutes**

36.1 Councillor West declared that he was attending the meeting as substitute for Councillor Duncan.

**(B) Declarations of Interest**

36.2 Councillors Mears and Taylor respectively declared personal but non-prejudicial interests in Item No.44 on the agenda, having family members who were taxi drivers.

**(C) Exclusion of Press and Public**

36.3 In accordance with Section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential or exempt information (as defined in Section 100A(3) of the Act).

36.4 **RESOLVED:** That the public be not excluded from the meeting.

**37. MINUTES OF THE PREVIOUS MEETING**

37.1 The minutes of the last meeting were agreed as a correct record of the proceedings.

**38. CHAIRMAN'S COMMUNICATIONS**

38.1 The Chairman noted that she had agreed to the acceptance of an urgent item, concerning the procedure for the appointment of assistant directors which would be

taken as Item No.51 on the agenda. She stated that because of the likelihood of appointments being made in the near future there was a need to bring the matter before the committee and if approved reported to the Council for final approval.

- 38.2 The Chairman also reminded Members of the Audit Commission's review of 'Good Governance' and the opportunity to complete an on-line survey which would feed into the review process. She asked that Members remind their colleagues of the review and that they encourage them to complete the survey which would end on the 28<sup>th</sup> November.

### **39. PETITIONS**

- 39.1 There were no petitions presented to the meeting.

### **40. PUBLIC QUESTIONS**

- 40.1 The Chairman noted that no public questions had been submitted for the meeting.

### **41. DEPUTATIONS**

- 41.1 The Chairman noted that there had been no deputations submitted for the meeting.

### **42. CALLOVER**

- 42.1 The Chairman stated that she wished to consider all the items on the agenda and therefore reserved them for discussion.

- 42.2 **RESOLVED** – That item No's. 43 – 50 inclusive, as listed on the agenda together with the urgent item No.51. be reserved for debate and determination.

### **43. REVIEW OF LEARNING DISABILITY SERVICES GOVERNANCE ARRANGEMENTS**

- 43.1 The Committee considered a report of the Director of Adult Social Care & Housing, concerning the arrangements for the future governance of Learning Disability Services (for copy see minute book).
- 43.2 The Director of Adult Social Care & Housing introduced the report and drew the committee's attention to the recommendations which proposed that the responsibility for the Learning Disability Services should remain with the Director for Social Services and the Cabinet Member for Housing. She noted that the review had been undertaken as a result of the decision taken by the Council at its meeting in April, when it had approved the new constitution and Members had agreed to the 6-month review of the areas of responsibility.
- 43.3 Councillor Taylor stated that he had been unsure as to why the report had been brought forward and suggested that it should have referred to the amendment that had been moved at the council meeting. He had not had the opportunity to discuss the proposals with his Group and suggested that the item should be deferred to the next meeting.

- 43.4 The Chairman stated that the council had agreed to the 6-month review and that the Committee had also agreed to receive a report as part of its work programme which was agreed in July. She did not therefore see the need to defer the matter.
- 43.5 Councillor Taylor noted the comments and stated that in having put the amendment forward to the council, he would have expected to have been consulted on the matter before the report was brought to the Committee. He therefore felt that a deferral would be appropriate.
- 43.6 The Director of Strategy & Governance stated that the council had asked for the review, which had been undertaken and was being reported to Members accordingly. As part of this process Members of the Committee were being asked to consider the matter and give their views before reaching a decision.
- 43.7 Councillor Oxley stated that he did not see the need to defer the matter as the report was before the Committee in accordance with the council's instructions and had recommendations from the professional officers.
- 43.8 **RESOLVED -**
- (1) That the Cabinet be recommended to agree that Learning Disability services remain the responsibility of the Director of Adult Social Care and Housing in order to execute the statutory responsibilities of the DASS.
  - (2) That the Cabinet be recommended to agree that the Executive functions should remain as they are currently set out in the constitution, thus ensuring continuity of leadership and minimising further change for those stakeholders on the Learning Disability Partnership Board.

Note: Councillors Elgood, Taylor and West wished their names recorded as having abstained from voting in respect of resolution (2) above.

#### **44. TAXI TARIFF SETTING UNDER THE NEW CONSTITUTION**

- 44.1 The Committee considered a report of the Director of strategy & Governance, concerning the procedure for setting taxi fares to comply with the law, whilst retaining the expertise of the Licensing Committee (for copy see minute book).
- 44.2 The Head of Law introduced the report and explained that the proposals were being forward in order to address an anomaly caused by legislation whereby the approval for setting taxi tariffs has become an Executive function. It is felt that the expertise of the Licensing Committee in this respect should be retained and therefore it is proposed that it should continue to hear the proposals and representations as an Advisory Committee and to then make recommendations to either the Director, having delegated authority, or the Cabinet for final decision. The Head of Law also reported that the Taxi Forum had been consulted and were supportive of the recommendations.

44.3 Members of the Committee noted the proposals and felt that there was a need to ensure that if the Director was minded to reject the Advisory Committee's recommendations that they would be referred to the Cabinet for consideration. It was therefore agreed that the wording in paragraph 3.6 should be amended accordingly to remove the words 'be expected to' and that recommendation 2.3 be amended to include reference to the revised report.

44.4 The Chairman noted the concern raised by Members of the Committee and put the recommendations as amended to the Committee for approval.

**44.5 RESOLVED -**

- (1) That the Cabinet be recommended to agree that an advisory committee to the executive be established for the purpose of advising on licensing functions that are the responsibility of the Executive, including setting taxi fares;
- (2) That the membership of the advisory committee mirrors the Licensing Committee membership;
- (3) That power be delegated to the Director of Environment to set taxi fares after considering the recommendations of the advisory committee in (1) above in accordance with the report as amended; and
- (4) That the Head of Law be authorised to make the necessary amendments to the Constitution to reflect the above.

**45. REVIEW OF POLLING ARRANGEMENTS**

45.1 The Committee considered a report of the Chief Executive, concerning a review of polling arrangements in the city and proposals to create a new polling district and change boundaries of some existing polling districts (for copy see minute book).

45.2 The Electoral Services Officer introduced the report and stated that the review had been undertaken, in order to seek to ensure the polling arrangements for the city were sufficient and to make improvements for residents. He noted that all Members had been consulted and that further improvements to facilities would be made where possible.

**45.3 RESOLVED -**

- (1) That a new polling district (KS) be created in St. Peter's & North Laine Ward, bounded on the south and east by Cheapside and London Road respectively (as detailed in paragraph 3.4 of the report);
- (2) That St. Bartholomew's CE Primary School be designated as the polling place for the new polling district of KS in St. Peter's & North Laine Ward (as detailed in paragraph 3.4 of the report);

- (3) That the boundary of polling district BX in Woodingdean Ward be extended to include all of the properties numbered 10 to 20 Kevin Gardens (as detailed in paragraph 3.5 of the report);
- (4) That the Old Boat Community Centre off Carden Hill be designated as the new polling place for polling district HX in Patcham Ward, replacing Carden Primary School, Carden Avenue (as detailed in paragraphs 3.6 and 3.7 of the report);
- (5) That the Vallance Community Centre in Sackville Road be designated as the new polling place for polling district NX in Goldsmid Ward, replacing St. Barnabas Church Hall, also in Sackville Road (as detailed in paragraph 3.8 of the report);
- (6) That Mile Oak Community Centre in Chalky Road be designated as the new polling place for polling district QY in North Portslade Ward, replacing the Communal Room in Hazelholt residential home, also in Chalky Road (as detailed in paragraphs 3. 9 and 3.10 of the report);
- (7) That the Registration Officer be authorised to take the measures, required by law, to bring the changes into effect.

**46. HOLLINGBURY & STANMER WARD - CHANGE OF NAME**

- 46.1 The Committee considered a report of the Chief Executive, concerning the proposed change of name from Hollingbury & Stanmer Ward to Hollingdean & Stanmer Ward (for copy see minute book).
- 46.2 The Electoral Services Officer introduced the report and stated that the proposed change of name had resulted from the consultation exercise for the review of polling arrangements. He noted that since the publication of the report a member of the public had expressed concern over the loss of 'Hollingbury' as an identified polling area and acknowledged that the consultation process had not included tenants and residents associations.
- 46.3 Councillor West welcomed the proposed change of name as it would better reflect the area to be served by the ward. However, he was also concerned about the loss of identification for Hollingbury and therefore wished to propose an additional recommendation to the report. The recommendation to be, "That officers be asked to undertake the necessary consultation and report back to the Committee on the change of name from Patcham Ward to Hollingbury & Patcham Ward."
- 46.4 Councillor Taylor stated that he was happy to second the proposal.
- 46.5 Councillor Mitchell stated that she supported the proposed change of name to Hollingdean & Stanmer and could also understand the concern over the loss of the name of Hollingbury.
- 46.6 The Electoral Services Officer stated that a recent change in legislation provided for the ability to review polling arrangements including the change of ward names outside of any Boundary Review.

- 46.7 Councillor Mears noted the proposal and suggested that it would be more appropriate to consult with the respective Groups on any possible changes to ward names and to then ask officers to undertake the necessary consultation and report back. She stated that she was aware of one other proposed change and whilst it was likely that the majority of wards would be regarded as having an appropriate identity, by first asking each Group it would enable the Groups to take a collective view on any proposed changes.
- 46.8 Members of the Committee noted that the wards had been looked at as part of the recent Boundary Review in 2001 and that changes of ward names had not been forthcoming. It was suggested that the approach put forward to seek the views of the Groups and for the Leaders to be consulted on officers then undertaking a consultation exercise on changes to a small number of wards before reporting back to the Committee was a more cost effective approach.
- 46.9 Councillor Mitchell stated that she did feel the particular matter of changing to Hollingbury & Patcham could be dealt with as had been proposed and any other proposals looked at as outlined.
- 46.10 The Chairman noted the comments and asked the Director of Strategy & Governance to clarify matters before she moved to the vote.
- 46.11 The Director of Strategy & Governance stated that from the debate, he believed there was a consensus in respect of the report's recommendations. There was also consensus on the need to look at the issue raised regarding Patcham and possibly other wards, although there were differences of views as to the scope of such a review and the best way to carry it out. An amendment had been proposed which would result in an additional recommendation requesting officers to consult on and report back on the change of name from Patcham Ward to Hollingbury & Patcham Ward. It had also been suggested that the political groups should consider the question of ward names and identify any proposed changes. The Group Leaders would then be consulted on the proposals and subsequently officers then asked to consult and report back on agreed changes that should be put forward to a future meeting.
- 46.12 The Electoral Services Officer noted that any further changes could not be implemented until the next publication of the electoral register in December 2009.
- 46.13 The Chairman noted that a proposal to add an additional recommendation had been moved and seconded and put the amendment to the vote.
- 46.14 The Chairman noted that the vote had been tied at 5 votes for and 5 votes against and in choosing not to use her second and casting vote the proposal was not carried and therefore fell.
- 46.15 **RESOLVED TO RECOMMEND -**
- (1) That the change of electoral area name from 'Hollingbury & Stanmer Ward' to 'Hollingdean & Stanmer Ward' be agreed; and

- (2) That Full Council be recommended to give approval by way of a resolution in accordance with Section 59 of the Local Government and Public Involvement in Health Act 2007.

**47. APPOINTMENT OF MEMBERS TO THE HOUSING LOCAL DELIVERY VEHICLE**

- 47.1 The Committee considered a report of the Director of Strategy & Governance, concerning the appointment of Members to the Housing Local Delivery Vehicle (LDV) as members of the company and its management board (for copy see minute book).
- 47.2 Members of the Committee welcomed the report and hoped that training for Members and tenant representatives would be co-ordinated and start as soon as possible.
- 47.3 **RESOLVED -**
- (1) That 4 Members (2 Conservative – Councillors Harmer-Strange and Wells, 1 Labour – Councillor Simpson and 1 Green – Councillor Randall) be appointed to become members of the LDV Company and its Management Board; and
- (2) That the Members be appointed as members of the company and its management board for a term of 3 years, providing that they may be removed or replaced in circumstances set out in paragraphs 3.4 and 3.5 of the report.

**48. METHODOLOGY FOR 6 MONTH REVIEW OF THE CONSTITUTION**

- 48.1 The Committee considered a report of the Director of Strategy & Governance, which sought agreement to the proposed City News article and questionnaires on the constitution as part of the 6-month's review of the constitution (for copy see minute book).
- 48.2 The Head of Law introduced the report and stated that it was intended to issue the questionnaires at the beginning of January and to then report back to the Committee. He noted that Members would be able to respond and identify matters that could be addressed by either the 6-month or 12-month review. He also noted that depending on the changes being proposed, approval would be sought from the Governance Committee, Full Council or the Leader/Cabinet.
- 48.3 Councillor West referred to the draft article in appendix 1 and suggested that it was too impersonal and should be looked at e.g. change 'people' to 'you'.
- 48.4 Councillor Oxley referred to appendix 2(b) and suggested that a further question was required either before or after question 2. to cover whether a person had tried to influence the decision-making process.
- 48.5 Councillor Mears asked that any reference to the council should be in full rather than simply using initials and asked who would sign the letter that went the questionnaires.
- 48.6 The Head of Law stated that the letters would be signed by the Monitoring Officer.

- 48.7 Councillor Taylor queried how the review fitted in with the Audit Commission's Good Governance Review and if the Groups had other points to raise not covered by the questionnaire how these would be taken forward.
- 48.8 The Head of Law stated that the Audit Commission was undertaking a wider review for the whole of the council as part of its annual review of good governance, and whilst there was a degree of overlap, the 6-month review of the constitution was a separate matter for the council itself.
- 48.9 The Director of Strategy & Governance stated that he would be willing to attend Group meetings to receive feedback on matters relating to the constitution and points that could be taken into account as part of the 12-month full review.
- 48.10 **RESOLVED** - That the proposed article and questionnaires as set out in appendices 1 to 4 of the report with the amendments suggested be approved.

#### **49. WORKING RELATIONS WITH THE OLDER PEOPLE'S COUNCIL**

- 49.1 The Committee considered a report of the Director of Strategy & Governance, concerning the links and working relations between the Council and the Older People's Council (OPC), and how these could be improved by building on existing good practice (for copy see minute book).
- 49.2 The Chairman introduced the report and stated that she hoped the recommendations could be taken forward and that stronger working relations could be developed between the two bodies.
- 49.3 Councillor Mears informed the Committee that as Leader of the Council she had met with the Chair of the OPC to discuss matters and a number of issues that had been raised had been taken on board within the report. She also noted that the Chair was very happy with the report and its recommendations.
- 49.4 Councillor Mitchell stated as the Chairman of the Overview & Scrutiny Commission she welcomed the report and supported the recommendations. She believed it was appropriate to have a co-opted member on the Health Overview & Scrutiny Committee and that other scrutiny committees and ad-hoc panels should take account of the need to involve the designated OPC member for the area in question. She felt that it would be helpful for the Overview & Scrutiny Commission to monitor the situation and would raise it with the Chairmen of the scrutiny committees.
- 49.5 Councillor Taylor referred to the OPC priorities listed in paragraph 3.3.4 and expressed his concern over the contradiction with the promotion of human civil rights, and the fact that a member of the OPC had been told they would have to stand down if they put their name to a political publication.
- 49.6 Councillor Mears stated that the OPC was an independent body and had the authority to determine how it should operate. The council recognised that independence and was seeking to build working relations with the OPC so that both organisations could work together effectively for the benefit of the city.



**49.7 RESOLVED -**

- (1) That the information in the report be noted; and
- (2) That the actions set out in paragraph 3.4.1 of the report be recommended to the Cabinet and the Chairmen of the Overview & Scrutiny Committees.

**50. REVIEW OF MEETINGS TIMETABLE FOR 2009/10**

- 50.1 The Committee considered a report of the Director of Strategy & Governance, which outlined the proposed schedule of meetings for the 2009/10 municipal year (for copy see minute book).
- 50.2 Members of the Committee welcomed the report and thanked the Head of Democratic Services for his endeavours in delivering the schedule of meetings.
- 50.3 Councillors Elgood and Taylor expressed their concern over the lack of Full Council meetings and suggested that this should be looked at for the 2010/11 timetable. Councillor Taylor also questioned the effectiveness and value of Cabinet Member Meetings and asked if a financial appraisal could be undertaken in respect of the number of meetings that were held.
- 50.4 Councillor Mears stated that she believed the new Leader and Cabinet model was working well and that it was for the opposition groups to make use of the various avenues open to them. She had been determined to ensure that the decision-making system remained open and transparent for Members and members of the public.
- 50.5 Councillor Mitchell queried whether the number of council meetings had prevented the consideration of statutory items by the Full Council.
- 50.6 The Director of Strategy & Governance stated that he was not aware of the council being unable to conduct business in accordance with statutory requirements and suggested that the financial appraisal be looked at as part of the 12-month review.

**50.7 RESOLVED -**

- (1) That the changes to the timetable of meetings for 2008/2009 as a result of identifying work programmes and a more effective use of resources for certain meetings, be noted;
- (2) That the proposed timetable of meetings for 2009/10 be approved; and
- (3) That a proposed timetable for 2010/11 be brought to the committee in March 2009, for consideration.

Note: Councillors Elgood, Taylor and West wished their names recorded as having voted against the above resolutions.

**51. PROCEDURE FOR APPOINTMENT OF ASSISTANT DIRECTORS**

51.1 By reason of the special circumstances, and in accordance with section 100B(4)(b) of the 1972 Act, the Chairman of the meeting was consulted and was of the opinion that this item should be considered at the meeting as a matter of urgency.

51.2 The Committee noted that the special circumstances for non-compliance with Council Procedure Rule 19, Access to Information Rule 5 and Section 100B, Schedule 12A of the 1972 Local Government Act as amended (items not to be considered unless the agenda is open to inspection at least five days in advance of the meeting) were that a review of the Employment Procedure Rules, (which dealt, amongst other things, with the appointment of Senior Officers), was planned for a review as part of the 6-month review of the Constitution. However, it had become apparent that, given the likelihood of some appointments needing to be made before then, it was necessary for the appointment of Assistant Directors to be considered by the Governance Committee at its meeting on the 18 November before being submitted to Council for approval.

**51.3 RESOLVED TO RECOMMEND:**

- (1) That the changes to the Officer Employment Procedure Rules set out in paragraphs 3.3 and 3.4 be agreed;
- (2) That the Head of Law be authorised to amend the Constitution to give effect to the changes; and
- (3) That the changes come into force with immediate effect.

The meeting concluded at 5.45pm

Signed

Chair

Dated this

day of