

BRIGHTON & HOVE CITY COUNCIL

GOVERNANCE COMMITTEE

5.00PM 26 JULY 2011

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Littman (Chair), Kennedy, J Kitcat, Morgan, A Norman (Deputy Chair), Oxley, Powell, Mitchell, Randall and G Theobald

PART ONE

1. PROCEDURAL BUSINESS

1a Declaration of Substitutes

1a.1 There were none.

1b Declarations of Interest

1b.1 There were none.

1c Exclusion of Press and Public

1c.1 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 business to be transacted or the nature of the proceedings, that if members of the press and public were present during that item, there would be disclosure to them of confidential or exempt information (as detailed in Section 100A(3) of the Act).

1c.2 **RESOLVED** – That the press and public be excluded from the meeting during consideration of item 15 onwards.

2. MINUTES OF THE PREVIOUS MEETING

2.1 **RESOLVED** – That the minutes of the meeting held on 1 February 2011 be approved as a correct record.

3. APPOINTMENT OF URGENCY SUB-COMMITTEE

- 3.1 **RESOLVED** – That Councillors Littman, A Norman and Mitchell be appointed to the Governance Committee Urgency Sub-Committee.

4. CHAIR'S COMMUNICATIONS

- 4.1 The Chair welcomed everyone to the first meeting of the Governance Committee since the local elections. He stated that good governance was vital to the council and that he hoped to build on the successes of the previous committee with increased openness.
- 4.2 The Chair advised that Members were welcome to submit items that they would like the Committee to consider to the Head of Law or Democratic Services Officer and consideration would be given to adding them to the work programme.

5. CALLOVER

- 5.1 **RESOLVED** – That all the items be reserved for discussion.

6. PETITIONS

- 6.1 There were none.

7. PUBLIC QUESTIONS

- 7.1 There were none.

8. DEPUTATIONS

- 8.1 There were none.

9. WRITTEN QUESTIONS, LETTERS AND NOTICES OF MOTION FROM COUNCILLORS

- 9.1 There were none.

10. LOCAL GOVERNMENT BOUNDARY REVIEW AT SALTDEAN

- 10.1 The Committee considered a report of the Strategic Director, Resources concerning the latest situation regarding a potential review of the local government boundary at Saltdean.
- 10.2 The Senior Lawyer working on this matter explained that the Local Government Boundary Commission (LGBC) had produced a complex set of guidelines on how they would approach a request for a boundary review since the Committee's last meeting. He outlined the stages which included all affected local authorities (LAs) being in agreement, carrying out a survey, identifying a preferred option and submitting a business case. The business case must demonstrate how the change would represent value for money, how it would result in more effective and convenient local government,

how it reflected community identities and interest, and must also consider the electoral impact of the change.

The Senior Lawyer advised that the LGBC would only consider undertaking a review if all affected LAs had endorsed the change. East Sussex County Council (ESCC) remained supportive of a review, however Lewes District Council (LDC), which had undergone a change of Administration, had not yet declared its position. He suggested that the Committee may want to consider giving in principle support for a review and survey, conditional on the agreement of ESCC and LDC.

- 10.3 The Chair invited Mr Laurence O'Connor, Chair of Saltdean Residents' Association (SRA), to address the Committee.
- 10.4 Mr O'Connor reported that the matter had been raised with ESCC and LDC, as well Telscombe and Peacehaven Town Councils and that none had objected to considering a review at the time of asking; however. Telscombe Town Council had raised concerns that, depending on the preferred option, the viability of the Town Council could be jeopardised, but that they may be interested in the savings to be gained from merging with the neighbouring Town Council. He urged the Committee to support a boundary review and a survey and noted that the LAs may benefit financially from any change to the boundary. He stated that a unified approach to the needs of the community would strengthen Saltdean's voice and enable residents to have an impact on whichever LA they became a part of.
- 10.5 Councillor Mitchell stated that she supported the aims of the SRA and hoped progress could be made. She sought clarity on what the Committee would be referring to the Cabinet and asked what the survey would contain and who would design it.
- 10.6 Councillor A Norman stated that a solution for the residents of Saltdean was long overdue and asked whether LDC were considering the issue with any urgency.
- 10.7 Councillor Randall stated that he supported a review in principle, but that consideration must be given to the costs and benefits, and that the position of LDC must be ascertained.
- 10.8 Councillor Oxley advised that cost had not been considered previously because the LGBC guidance had not yet been issued. He stated that clarity of language would be key in dealing with the matter as it could result in major changes and asked how the affected Town Councils would be included in the consultation exercise.
- 10.9 In response to comments from the Committee, the Senior Lawyer made the following points:
 - All three LAs would work with the SRA to devise a questionnaire containing a number of options. The LGBC would have sight of the questionnaire prior to circulation to ensure that the answers could successfully form part of the subsequent business case.
 - As the business case would have to include consideration of the electoral impact, it was anticipated that the survey would contain suggested boundaries.

- The Head of Law at LDC had discussed the matter with the new Leader been made aware that it would need to be timetabled for consideration by Members, but more details on timescales had been not been offered.
- The affected Town Councils would be included in the consultation exercise.

10.10 Councillor G Theobald stated that obtaining LDC's view was essential as the review could not take place without their agreement. He suggested that the council may benefit if the whole of Saltdean became part of Brighton & Hove because the majority of the facilities were situated on the city's side of the boundary and therefore maintained by the council.

10.11 The Head of Law advised that the recommendations asked the Committee to consider whether to support a review and a survey; in light of the comments made, the recommendations would be amended to reflect the Committee's views. He read out the amended recommendations, which were then circulated to the Committee.

10.12 **RESOLVED** - That Governance Committee:

- (a) Notes the latest advice and guidance from the Local Government Boundary Commission for England on the policy and procedures for principal area boundary reviews in general, and for Saltdean in particular.
- ~~(b) Considers whether to support a boundary review at Saltdean and, if so, whether to recommend a survey of the residents of Saltdean to gauge local support.~~
- ~~(c) Refers the matter to Cabinet with recommendations.~~
- (b) Supports in principle the carrying out of a survey and review of the boundary at Saltdean.**
- (c) Recommends to the Cabinet that the council agrees to support a boundary review and undertake a survey of local people on condition that:**
 - (i) the proposal is agreed by East Sussex County Council and Lewes District Council;**
 - (ii) the cost of the survey and associated tasks is identified and agreed between the three authorities (including the sharing of the costs).**
- (d) Officers are given delegated powers, subject to conditions in (c) (i) and (ii) above, to agree the survey questions after consulting Group Leaders.**

11. LOCALISM BILL - UPDATE

11.1 The Committee considered a report of the Strategic Director, Resources concerning progress of the Localism Bill and highlighting the key amendments that have been made to the Bill.

11.2 Councillor Oxley asked whether any more information was available regarding the provisions that would allow the council to move back to a 'committee system' of governance and suggested that the Members of the Committee receive regular updates in relation to this.

- 11.3 Councillor Morgan welcomed the increase in the number of members required to establish a Neighbourhood Forum (NF), but raised a number of concerns about the Bill, including the impact of reverting back to the committee system on effective scrutiny, the abolition of the Standards Board, and powers for individual LAs to develop their own social housing allocations policies with no national or regional guidelines.
- 11.4 Councillor Kennedy welcomed with caution the commitment to financial assistance for neighbourhood planning as council's would be unable to bear the cost on their own. She reported that residents were in favour of the neighbourhood planning provisions, but was concerned that they were not aware of the full facts. She suggested that Group Leaders write to the Department for Communities and Local Government to request that robust guidance be produced for Members when dealing with queries from residents.
- 11.5 Councillor G Theobald stated that he was supportive of the proposal to abolish the Standards Board. He requested more information of how NFs would be established.
- 11.6 Councillor A Norman reported that residents had begun asking about the implications of the Bill and welcomed further updates as it progressed. She noted that, although the Standards Board would be abolished, the council kept the Code of Conduct for Members under review and that checks and balances would be maintained through the Standards Committee.
- 11.7 Councillor Randall announced that work had begun in relation to NFs, but acknowledged that not all areas would welcome such an approach. He raised concerns about the provisions relating to homelessness and stated that people wanted access to registered social housing, rather than allowing LAs to rely on the private rented sector.
- 11.8 Councillor Mitchell stated that the Bill would make it difficult for the city to tackle its housing needs. She asked whether NFs would set up neighbourhood planning frameworks and whether the council could offer support in areas that were unlikely to take advantage of the opportunities without assistance.
- 11.9 In response to comments from the Committee, the Acting Assistant Head of Law made the following points:
- No changes had been made to the provisions relating to changing governance arrangements, and she was not aware of any particular lobby in respect of this.
 - LAs would have to consider applications for NFs based on specific criteria, which was outline in paragraph 3.12 of the report; if a proposal did not reflect the character of the area, the LA would have the power to refuse an application.
 - There was nothing to prevent the council from promoting the idea of NFs or providing assistance in areas that required support.
- 11.10 The Head of Planning Strategy explained that it would be for the council to decide whether the NF approach was appropriate in part of an area; it was necessary for designated areas to be adjoining, but there would be significant resource implications if NFs were established across the whole of the city.

- 11.11 Councillor Oxley noted the wide scope of the Bill and suggested that a range of comprehensive guides would be required.
- 11.12 Councillor J Kitcat reported that he had been contacted by residents in relation to the planning provisions, but noted that many residents' association would not fit the criteria for a NF. He suggested that one option could be to use ward boundaries, but acknowledged that the Bill could change further prior to enactment.
- 11.13 The Chair noted that two amendments to the recommendations had been suggested, and that the Committee was supportive of receiving further updates about the timing of changes to governance arrangement, and also to asking DCLG to produce guidance on the Bill for Members.
- 11.14 **RESOLVED -**
- (1) That the Committee notes the report and requests further updates as the Bill progresses, including proposals for implementation for Brighton & Hove.
 - (2) **That Members of the Committee receive an update on the latest position regarding the timing of changes to governance arrangements.**
 - (3) **That DCLG be requested to produce guidance to the Bill for use by Members in dealing with enquiries from constituents and that a letter requesting this be signed by the three Group Leaders.**

12. REVIEW OF PETITIONS SCHEME

- 12.1 The Committee considered a report of the Strategic Director, Resources reviewing the council's petitions scheme following 12 months' of operation and in the context of the Localism Bill, including the thresholds for triggering a Full Council debate on a petition and for holding a senior officer to account.
- 12.2 Councillor Kennedy stated that the threshold for triggering a council debate was set at the correct level and that the proportion of petitions resulting in a debate was acceptable; raising the threshold would send the wrong message to members of the public, whose participation the council welcomed. She raised concerns about the facility to hold senior officers to account, as officers primarily acting on the basis of direction from councillors.
- 12.3 Councillor A Norman advised that it was important to retain the existing threshold for triggering a council debate if the council was committed to engaging with communities; 1250 signatures represented a challenge, but had been shown to be achievable. She added that members of the public had reported difficulties in accessing the petitions facility on the council website and that it should be more clearly signposted.
- 12.4 Councillor Powell advised that an increase in the number of petitions was likely given the cuts made to budgets and services. Having been involved with a petition prior to being elected, she stated that it meant a significant amount to members of the public to be able to have their say.

- 12.5 Councillor Oxley stated that the threshold for triggering a council debate was set at the correct level and that the public were making use of it to have make their views known. He welcomed the approach at Full Council to take petition debates and related Notices of Motion together to allow members of the public to see the full debate on an issue.
- 12.6 Councillor Mitchell stated that she supported retention of the threshold at the existing levels and also reported residents did not find it easy to access the e-petitions facility.
- 12.7 Councillor Randall echoed the website access issues raised, but was encouraged by the number of people using the e-petitions facility.
- 12.8 Councillor J Kitcat noted that no significant changes could be made to the scheme until the enactment of the Localism Bill. He advised that work was being done on the council's website and that he would make the Committee's views known.
- 12.9 **RESOLVED** - That Governance Committee:
- (a) Notes the review of the operation of the petitions scheme and e-petitions facility;
 - ~~(b) Considers whether changes to the petitions scheme are required and, if so, makes recommendations for the implementation of such changes to Full Council;~~
 - (b) Agrees that no changes be made to the petitions scheme.**
 - ~~(c) Considers whether~~ **Agrees that** a further review of the petitions scheme ~~is~~ **be** required once the Localism Bill is enacted and the legal requirement to have a petitions scheme is repealed.

13. WEBCASTING PROTOCOL

- 13.1 The Committee considered a report of the Strategic Director, Resources concerning a proposed amendment to the council's Webcasting Protocol following consideration by the Standards Committee.
- 13.2 The Head of Law explained that the recommendation before the Committee was to agree the amendment proposed by the Standards Committee.
- 13.3 In response to a question from Councillor Morgan, the Head of Law confirmed that a report dealing with a review of the Webcasting Protocol in its entirety would be brought to the Committee in the autumn and that it would include the potential for extending webcasting to other council meetings.
- 13.4 Councillor J Kitcat noted that the link on the public notice displayed at meetings was broken. He stated that he supported the recommendations of the Standards Committee and explained that a protocol would be retained, but that the unenforceable elements of paragraph 4.5 would be deleted. He advised that any misuse of webcasting images and video would be covered by the Code of Conduct for Members. He noted that the amendment was consistent with the council's move towards implementing the Open Government Licence.

- 13.5 In response to concerns from Councillor G Theobald, the Head of Law confirmed that there was no mechanism by which the council could tackle Members who used the footage elsewhere and that, on balance, it was appropriate to reduce the restrictions. He added that the council would retain the copyright to the material and that, by agreeing the amendment, the council would move back into line with other local authorities.
- 13.6 Councillor A Norman stated that she had concerns, but recognised that technology had moved on since the protocol was drawn up and acknowledge that it was pointless to have a protocol that could not be enforced.
- 13.7 Councillor G Theobald moved an amendment to the recommendations, which would ensure that all Members would be aware that the Code of Conduct would continue to apply to use of webcast material.
- 13.8 Councillor Mitchell formally seconded the amendment.
- 13.9 The Chair put the amendment to the vote, which was passed.
- 13.10 **RESOLVED –**

- (1) That paragraph 4.5 of the Webcasting Protocol be amended to read as follows:

“The actual webcasts and archived material, and copyright therein, remain the property of the Council. A DVD copy of a webcast can be obtained for a fee of £75 from Democratic Services.”

- (2) **That an additional paragraph be inserted in to the Webcasting Protocol that reads as follows:**

“Members are reminded that the Code of Conduct for Members applies to the use of webcast material by Members of the Council.”

14. CABINET PORTFOLIOS AND WAYS OF WORKING

- 14.1 The Committee considered a report of the Strategic Director, Resources concerning changes to the Cabinet portfolios as agreed by the Leader of the Council on 19th May 2011 and the arrangements for the Cabinet Member Meetings that would support the new portfolios, as agreed by the Cabinet on 9 June.
- 14.2 The Head of Law explained that such changes would normally be considered by the Governance Committee prior to approval, but that in light of local elections and resulting change of Administration it had not been practical to delay implementation until after the Committee had met.
- 14.3 Councillor G Theobald stated that it was disappointing that the Committee had not been given the opportunity to comment on the proposals before they were approved.
- 14.4 **RESOLVED** - That the Committee notes the changes to the Cabinet portfolios and ways of working.

PART TWO

15. PART TWO MINUTES OF THE PREVIOUS MEETING

15.1 **RESOLVED** – That the Part Two minutes of the meeting held on 1 February 2011 be approved as a correct record.

16. PART TWO ITEMS

16.1 The Committee considered whether or not any of the above items should remain exempt from disclosure to the press and public.

16.2 **RESOLVED** – That item 15, contained in Part Two of the agenda, remains exempt from disclosure to the press and public.

The meeting concluded at 7.00pm

Signed

Chair

Dated this

day of

