



## **SPECIAL MEETING OF COUNCIL**

### **MINUTES OF THE SPECIAL MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON TUESDAY, 31ST OCTOBER 2017 AT 5.00 PM**

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**PRESENT:**

Councillor J. Bevan - Mayor  
Councillor M. Adams - Deputy Mayor

**Councillors:**

Mrs E. Aldworth, C. Andrews, A. Angel, P. J. Bevan, C. Bezzina, L. Binding, S. Cook, A. Collis, D. Cushing, C. Cuss, D.T. Davies, M. Davies, N. Dix, C. Elsbury, K. Etheridge, M. Evans, A. Farina-Childs, Mrs C. Forehead, Ms E. Forehead, A. Gair, Ms J. Gale, N. George, C. Gordon, R.W. Gough, D. Harse, D. Havard, A. Higgs, A. Hussey, V. James, L. Jeremiah, G. Johnston, Mrs B. Jones, S. Kent, C.P. Mann, Mrs B. Miles, S. Morgan, Mrs G. Oliver, B. Owen, T. Parry, Mrs L. Phipps, D.V. Poole, Mrs D. Price, J. Pritchard, J. Ridgewell, J.E. Roberts, R. Saralis, Mrs M.E. Sargent, G. Simmonds, S. Skivens, Mrs E. Stenner, J. Taylor, C. Thomas, A. Whitcombe, R. Whiting, T. Williams, W. Williams, B. Zaplatynski

**Together with:**

C. Burns (Interim Chief Executive), D. Street (Corporate Director - Social Services), L. Donovan (Interim Head of Human Resources), S. Harris (Interim Head of Corporate Finance) and E. Sullivan (Interim Scrutiny Officer).

**Also present:**

Mr D. Marr (Deputy Monitoring Officer, Cardiff City Council), Mrs C. Bradbury (Geldards Associates) and Mrs K. Howell (Geldards Associates)

#### **1. WEB-CASTING FILMING AND VOTING ARRANGEMENTS**

The Interim Chief Executive reminded those present that the meeting was being filmed and would be made publicly available in live and archive form via the Council's website. He advised that decisions would be made by a show of hands.

For the benefit of the Members of Public present and those viewing the live webcast, the procedures in terms of exempt information were explained by the Interim Chief Executive. It was noted that should the Public Interest Test be accepted the webcast would be concluded and those present in the public gallery would be required to leave the Chamber to allow the meeting to move into private session.

Mr Burns confirmed that the decision taken in relation to Agenda Item 5 would be posted on the Caerphilly County Borough Council website immediately following the meeting.

## **2. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors W. David, K. Dawson, J.E. Fussell, D.T. Hardacre, L. Harding, G. Kirby, M. James, Mrs A. Leonard, Ms P. Leonard, Mrs P. Marsden, D.W.R. Preece, J. Scriven J. Simmonds and L G. Whittle.

## **3. URGENT ITEM - TO APPOINT A DEPUTY MONITORING OFFICER FOR THE DURATION OF THIS MEETING**

The Interim Chief Executive advised that due to the absence of Mrs G. Williams (Interim Monitoring Officer) and the need for a Deputy Monitoring Officer to be present at the meeting, with the agreement of the Mayor under section 100(b)(4)(b) of the Local Government Act 1972 this item had been added to the published agenda as an urgent item.

It was moved and seconded that Mr David Marr be appointed as Deputy Monitoring Officer for the duration of this meeting and by show of hands this was unanimously agreed.

RESOLVED that Mr David Marr be appointed as Deputy Monitoring Officer for the duration of this meeting.

## **4. DECLARATIONS OF INTEREST**

With regard to Declarations of Interest the Interim Chief Executive referenced the advice from Queens Counsel previously circulated to Members. However as always this was a personal matter for Members.

At the commencement of the meeting in relation to Potential Settlement Agreement report (Part 1 and 2), declarations of interest were received from Councillors J. Taylor, M. Adams, A. Angel, N. George, C. Gordon, D. Hardacre and D. Havard and from Mr S. Harris (Interim Head of Corporate Finance). Details are minuted with the respective items. Cllrs. Taylor and Angel left the meeting.

## **5. POTENTIAL SETTLEMENT AGREEMENT**

Mr S. Harris in attendance for Mrs N. Scammell, declared an interest in that since March 2013 he has been appointed to an interim position that of Head of Corporate Finance, he wished it noted that his contribution would be limited to the financial aspects of the report.

Councillor D. Hardacre declared a personal and prejudicial interest prior to the commencement of the meeting as a family member was Head of Human Resources during the period in question and as such did not attend the meeting.

Councillors J. Taylor and A. Angel declared a personal and prejudicial interest as Members of the Investigating and Disciplinary Committee and left the meeting at this point in the proceedings.

Councillors N. George and M. Adams declared a personal interest as current Members of the Investigating and Disciplinary Committee but having considered the legal advice would take part in the meeting.

Councillor C. Gordon declared a personal interest as a Member of the Investigating and Disciplinary Committee. Also as Cabinet Member for Corporate Services in that HR formed part of his portfolio responsibilities but having considered the legal advice would take part in the meeting.

Councillor D. Havard as a previous Member of the Investigating and Disciplinary Committee declared a personal interest but having considered the legal advice would take part in the meeting.

The Interim Chief Executive introduced the report which set out the background and history of the disciplinary investigations that arose from the publication of the Public Interest Report by the Wales Audit Office, followed by the police investigation and subsequent charges which were later dismissed by the Court. Mr Burns explained the responsibilities and constraints placed on Local Authorities when determining disciplinary proceedings for Statutory Officers in accordance with the Local Government (Wales) Standing Orders Regulations. It was noted that these regulations dictate how proceedings of this nature must be handled.

Members were advised that full details of the proposed settlement agreements were contained within the second part of the report, to be considered under exemption, should Members accept the Public Interest Test (PIT). However in order to be as clear and transparent as possible with the public and staff, the decision taken by Council, including the amount of any settlement agreed would be disclosed immediately following the meeting.

Mrs Howells was invited to provide additional information on the requirements of the Local Government (Wales) Standing Orders Regulations and advised that no other public sector bodies were governed by this legislation. In fact it pertained only to local government and only in Wales. The legislation had been downgraded in England due to the bureaucratic and costly Designated Independent Person (DIP) process.

The DIP progress was explained further and the importance of Members conduct within both the open and exempt sessions emphasised. As the final arbiters over this process they must be mindful that there was at least still one disciplinary proceeding to bring to resolution. The Statutory Officers 'right of appeal' would be to Full Council and as such any statements made without hearing all the evidence had the potential to compromised the fairness of this and any future hearings. To this end Mr Burns respectfully requested that Members confine their remarks to the matter before them.

The Mayor thanked Mr Burns and Mrs Howells for their advice and the floor was opened for debate.

Councillor K. Etheridge asked to place on record his apology to the people of Caerphilly County Borough for the duration and cost of this undertaking and further more felt that all elected Members owed the rate payers of this borough such an apology.

In terms of the investigation as a whole, he requested that once concluded an Independent Officer from outside this authority be appointed to look at the process. This person to establish whether it is fit for purpose as it has been a blight on Caerphilly County Borough.

Councillor G. Simmonds asked to place on record that he would not support any settlement and would like his vote on this matter to be recorded.

Members expressed their frustration that given the length of the process which is now close to resolution that a settlement is being sought. This if taken forward would see no blame apportioned but a blank slate issued on which those concerned could move forward.

Mr Burns in response to Councillor Etheridge was of the opinion that as a consequence of the events in Caerphilly, Welsh Government would want to make a through examination of the process. Taking into account that this legislation no longer applies in England he anticipated that this would be very carefully scrutinised in order to establish if it is in fact still fit for purpose.

Members expressed their support for such an investigation and expressed concern with regard to the parts played by the Police, Crown Prosecution Service and Independent Investigator and would like to see Welsh Government review such legislation to ensure that this doesn't happen again.

## **6. PUBLIC INTEREST TEST**

Members considered the public interest test certificate from the Proper Officer and concluded that on balance the public interest in maintaining the exemption outweighed the public interest in disclosing the information. It was moved and seconded that the public interest test should apply and by show of hands this was unanimously agreed.

RESOLVED that in accordance with Section 100A(4) of the Local Government Act 1972 the public be excluded from the remainder of the meeting because of the likely disclosure to them of exempt information as identified in paragraph 15 of Part 4 of Schedule 12A of the Local Government Act 1972.

## **7. EXEMPT ITEM - POTENTIAL SETTLEMENT AGREEMENT**

Having fully considered the report it was moved and seconded that for the reason contained therein recommendations 10.1 (i), 10.1 (ii), 10,(iii) amended and 10 (iv) be approved and by show of hands and in noting that there were 6 against and 2 abstentions this was agreed by the majority present.

In accordance with Rule of Procedure 15.5 Councillor G. Simmonds wished it recorded that he had voted against the motion.

RESOLVED that: -

- (i) the settlement proposals in the terms outlined in the report be approved for both Officers (£171,000 for Mr N. Barnett and £127,000 for Mr D. Perkins);
- (ii) the settlement proceed individually should either Officer decide not to proceed;
- (iii) the Interim Chief Executive in consultation with the Leader and Deputy Leaders be authorised to make any minor adjustments required for tax, National Insurance and such matters, up to the date of final agreement provided cost remain at a level below (within £1,000.00) the anticipated savings as outlined;
- (iv) costs be funded from within the General Fund balances.

The meeting closed at 6.50 p.m.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 21st November 2017, they were signed by the Mayor.

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MAYOR