



COUNCIL

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON TUESDAY, 27TH JANUARY 2015 AT 5.00 P.M.

PRESENT:

Councillor D.G. Carter - Mayor
Councillor L. Gardiner - Deputy Mayor

Councillors:

Miss L. Ackerman, M. Adams, Mrs E.M. Aldworth, H.A. Andrews, A.P. Angel, Mrs K.R. Baker, Mrs G. Bevan, J. Bevan, P.J. Bevan, L. Binding, Mrs A. Blackman, D. Bolter, Mrs P. Cook, C.J. Cuss, H.W. David, W. David, H.R. Davies, D.T. Davies, R.T. Davies, K. Dawson, N. Dix, C. Durham, C. Elsbury, Mrs C. Forehead, Miss E. E. Forehead, J.E. Fussell, N. George, C.J. Gordon, R.W. Gough, Mrs P. Griffiths, D.T. Hardacre, D. Havard, C. Hawker, A.G. Higgs, G.J. Hughes, K. James, M.P. James, Mrs B.A. Jones, G. Jones, Ms J.G. Jones, S. Kent, G. Kirby, Ms P. Leonard, A. Lewis, K. Lloyd, C.P. Mann, S. Morgan, Mrs G. Oliver, Mrs R. Passmore, D.V. Poole, D.W.R. Preece, M.J. Prew, Mrs D. Price, J. Pritchard, J.A. Pritchard, A. Rees, D. Rees, K.V. Reynolds, J.E. Roberts, R. Saralis, Mrs M.E. Sargent, S. Skivens, J. Taylor, T.J. Williams, R. Woodyatt

Together with:-

C. Burns (Interim Chief Executive), D. Street (Director of Social Services), N. Scammell (Acting Director of Corporate Services), G. Williams (Interim Head of Legal Services and Monitoring Officer), R. Hartshorn (Head of Public Protection), M.S. Williams (Head of Community and Leisure Services), C. Campbell (Transportation Engineering Manager), J. Jones (Democratic Services Manager), C. Evans (Committee Services Officer)

Also Present: -

A. Barrett, N. Jenkins and L. Pamment (Wales Audit Office) and K. Howell (Geldards Law Firm)

1. WEB-CASTING FILMING AND ELECTRONIC VOTING ARRANGEMENTS

The Mayor reminded those present that the meeting was being filmed for training purposes in advance of the planned implementation of live web-casting of Council meetings. Members were also advised that the electronic voting system would be tested at the meeting. It was also explained that during the course of the meeting, decisions would be taken using the electronic voting system.

2. BEREAVEMENT

The Mayor referred to the recent deaths of former Councillors Malcolm Pritchard and Reg Phillips and Mr Mark Davies, son of Councillor Ray Davies. As a mark of respect all present stood in silence and extended their condolences to the bereaved families.

Councillor Ray Davies expressed his sincerest gratitude for the kind words and support on behalf of himself and his family at that difficult time.

3. MAYOR'S ANNOUNCEMENTS

The Mayor reminded all those present that today was Holocaust Memorial Day, a national commemoration day, dedicated to the remembrance of those who suffered in the Holocaust. He read out a poem by Gwyneth Lewis, entitled 'One Person can make a Difference', as a mark of commemoration.

4. APOLOGIES

Apologies for absence were received from Councillors Ms J. Gale, D.M. Gray, G. Johnston, Mrs E. Stenner, Mrs J. Summers and L.G. Whittle.

5. PRESENTATION OF AWARDS

There were no awards to be presented.

6. PETITIONS

There were no petitions presented by Members.

7. DECLARATIONS OF INTEREST

Councillor D.T. Hardacre declared an interest in agenda item 16 (Buy Out of Essential Car User and Annual Leave Entitlement). Details are minuted with the respective item.

The Interim Chief Executive advised that with regards to item 16 (Buy Out of Essential Car User and Annual Leave Entitlement), G. Williams, N. Scammell, D. Street, R. Hartshorn, M.S. Williams would be required to declare an interest and leave the meeting.

8. COUNCIL - 18TH NOVEMBER AND 17TH DECEMBER 2014

RESOLVED that the following minutes be approved as correct records and signed by the Mayor.

Council held on 18th November 2014 (minute nos. 1 - 12) and Special Council held on 17th December 2014 (minute nos 1 - 6).

9. WALES OFFICE REPORT - FOLLOW UP OF A SPECIAL INSPECTION AND REPORTS IN THE PUBLIC INTEREST

In that representatives from the Wales Audit Office were in attendance to present the report, the item was moved forward on the agenda.

The report provided details of the Wales Audit Office (WAO) findings, following a review which was undertaken in October 2014, and the subsequent Action Plan to ensure that the single recommendation and the proposals for improvement are considered and actioned and that there is a robust monitoring process in place to ensure a successful outcome.

Ms. L. Pamment (WAO) introduced the report from the WAO, which was a follow up of the Special Inspection and Reports in the Public Interest.

Members noted that the Council had made good progress in addressing most of the recommendations following the Special Inspection Report and Reports in the Public Interest. However, a lawful decision is required on the annual leave and essential car user allowances, along with several recommendations in relation to improvements in other areas, particularly scrutiny, internal audit and self-evaluation, developing a human resources strategy and workforce planning.

In addition, it was noted that the implementation of webcasting and electronic voting, which is still in the training and development stages, remained one of the recommendations of the WAO, in order to encourage openness and transparency.

Members considered the reports and were encouraged by the progress made, noting the recommendations to be implemented. Further advice was sought on the improvements to Scrutiny arrangements and it was noted that this review has been commenced and progress will be monitored via the Improving Governance Programme Board

Following detailed consideration and discussion, it was moved and seconded that the recommendations within the Officers report be approved. By both electronic voting and show of hands, and in noting that there were two abstentions, the motion was carried by the majority present.

RESOLVED that: -

- (i) the "Wales Audit Office Follow Up Special Inspection and Reports in the Public Interest" Report including the one recommendation (R1) and the proposals for improvement (P1 to P8) be accepted;
- (ii) the Action Plan (as detailed in Appendix 2 of the report) be approved and it be agreed to continue with the Improving Governance Programme Board (IGPB) arrangements to ensure the monitoring and delivery of the Action Plan.

10. BUY - OUT OF ESSENTIAL CAR USER AND ANNUAL LEAVE ENTITLEMENTS

In that a representative from Geldards Law Firm was in attendance to give advice to Council and the representatives of the WAO were invited to remain in the Chamber for the presentation of the Report, the item was moved forward on the agenda.

Councillor D.T. Hardacre, along with the Officers G. Hardacre, R. Hartshorn, A. Price, N. Scammell, D. Street, G. Williams and M.S. Williams declared an interest in this item and left the Chamber whilst it was considered.

Mrs Howell (Geldards Law Firm) joined the Chief Executive in the presentation of the report.

In accordance with the recommendation of the Wales Audit Office, in their most recent Follow-Up Special Inspection Report on Corporate Governance, a formal decision was required regarding changes to annual leave and essential user allowances.

In December 2013 the Wales Audit Office published a Report in the Public Interest regarding the way in which decisions had been made to harmonise annual leave and essential user

payments for senior officers with other staff. The Wales Audit Office had concluded that the decision was unlawful on the basis of the procedure, which had been followed.

Members considered this report in January 2014 and agreed that “upon receipt of external legal advice a further report is submitted to a future meeting of the Council on the specific issue if the buy-out so that members can consider the options available regarding the unlawful payments and determine the appropriate course of action.”

Members noted that, the matter was not considered at an earlier date due to ongoing police investigations; however, the Police and Crown Prosecution Services have recently determined that there are no grounds for criminal proceedings and the authority is now free to finalise the matter.

Members were reminded that the practice of “buy-outs” was not unlawful and is a recognised practice. The decision required at present is merely one of either ratifying the previous decision to harmonise terms and conditions and the use of the ‘buy out’ payment or to agree some other way forward.

Having considered the report, a Member highlighted that the Trade Unions had not been consulted prior to the report being presented to Council. It was proposed that the decision be deferred to the next full meeting of Council, in order to consult with the Trade Unions. Officers reminded Members that the report would not impact on the terms and conditions of staff and was to regularise an action, and provide a lawful position on current arrangements.

A Member sought clarification on the process that would be applied to the five members of staff that did not sign up to the “buy out”. Officers advised that negotiations would be conducted to reach an agreement, the outcome of which would be reported back to Members.

Following consideration and debate, it was moved and seconded that, subject to an amendment to recommendation 9.4, to include a further report to Members and it being agreed that that the tax and national insurance deductions made to the buy out payments be met by Council, the recommendations be approved.

An amendment was moved and seconded that the report be deferred for further discussions with Trade Unions.

Due to difficulties with the Electronic Voting system, it was agreed that electronic voting would be suspended and it was agreed from this point onwards that voting would be undertaken by a show of hands.

By a show of hands (and in noting that there was 1 abstention) the amendment was lost. Following a further show of hands (and in noting that there were 7 abstentions) the following motion was declared carried by the majority present.

RESOLVED that:-

- (i) the original principal of seeking to harmonise terms and conditions over the removal of essential car use allowance and annual leave entitlement for senior staff be endorsed;
- (ii) the use of one-off payments made to staff in 2012 as an alternative to the three-year protection afforded to other staff so affected under the Single Status Agreement be agreed;
- (iii) the use of one-off payments made to staff in 2012 as compensation for the loss of five days annual leave be agreed.
- (iv) the Authority seek harmonisation with the few remaining staff who did not

agree to the changes made in 2012 and report to Members accordingly.

- (v) It be noted that the tax and national insurance deductions made to the buy out payments was calculated at a composite rate and subsequent external specialist advice suggests that the Council may be liable to make further payments to HMRC. It was agreed that the Council would meet the cost of those additional contributions.

At this point Councillor D.T. Hardacre, along with G. Hardacre, R. Hartshorn, A. Price, N. Scammell, D. Street, G. Williams and M.S. Williams returned to the meeting.

REPORTS REFERRED FROM CABINET

Consideration was given to the following reports referred from Cabinet:-

11. ANTI SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 - AMENDMENT TO AUTHORISATION OF OFFICERS

The report, which was presented to Cabinet on 26th November 2014, provided information on the required changes to legal powers arising from the Anti-Social Behaviour, Crime and Policing Act 2014 for Officers of the Public Protection Division, Housing and Community and Leisure Services.

Members noted that Officers within the Public Protection Division, Housing Services and Community and Leisure Services require additional authorisation under the Anti-Social Behaviour, Crime and Policing Act 2014 in order to enforce new legislative provisions to deal with anti-social behaviour, which came into force on 20th October 2014.

The Act provides a new range of powers to tackle anti-social behaviour affecting communities, and the ability of members of the public to enjoy public spaces, through two new tools with enforcement responsibilities; Community Protection Notices and Public Space Protection Orders.

Following a query on the additional responsibilities of staff and response time expectations, it was clarified that staff would receive additional powers as opposed to responsibility. In addition, Members noted that Gwent Police are in the process of restructuring services, which will bring Officers back to the neighbourhood Offices and provide additional support throughout the borough.

Following consideration and debate, it was moved and seconded that the recommendations in the Officers report be approved. By a show of hands (and in noting that there was one abstention) this was agreed by the majority present.

RESOLVED that:-

- (i) the implementation of the legislation be noted and the Council's Monitoring Officer make the necessary amendments to the Council's Constitution;
- (ii) the Council's Constitution and Terms of Reference be amended to include the following: -

Anti-Social Behaviour, Crime and Policing Act 2014.

12. **COLLECTION OF DRY RECYCLABLES - WASTE FRAMEWORK DIRECTIVE AND WASTE (ENGLAND & WALES) REGULATIONS 2011**

The report, which was considered by Cabinet on 17th December 2014, provided an update on the legislative changes that came into effect on 1st January 2015, and sought Council's authorisation to continue with existing collection arrangements, until further evidence is available, on which to base long term future decisions.

Members noted that The Separate Collection Requirements of the Regulations came into force on 1st January 2015. From this date Waste Collection Authorities would be required to provide separate collections of glass, metals, plastics and paper where doing so is deemed 'necessary', to ensure waste undergoes recovery operations to facilitate improved recovery (the Necessity Test) and that it is 'Technically, Environmentally and Economically Practicable' (TEEP) to do so. Members noted that collections are being monitored to determine whether separate collections would increase the quality or quantity of material collected, thus, a change from a co-mingled to a separate collection would be necessary.

Officers have reviewed the evidence available to date (customer satisfaction, high level costings, performance and limited end destination comparisons), which indicated that the Authority does not need to change its collection regime at present.

Members noted that the final guidance was not available prior to consideration of the report by Cabinet. Since that time, the guidance has been received and continues to focus on a robust evidence base and sites examples of evidence and bases for decision-making such as, council papers, business cases for investment, tender specifications, assessment of current and historical collection methods, information about materials recovery facility performance, information about relevant technological changes, and decision making within the guidance. It remains the case that there are still key pieces of evidence that the authority is still not in possession of and robust decision-making would not be possible without this additional information.

Having regard for the information provided in the report, Members discussed the legislation and the Council's current performance. Officers advised that Members would regularly receive reports on the performance in relation to the Legislation.

Following consideration and discussion it was moved and seconded that the recommendations contained in the Officers report be approved. By a show of hands, this was carried by the majority present.

RESOLVED that:-

- (i) subject to further review in 2015 and when additional evidence/ information becomes available, the existing method of kerbside collection of dry recyclables be continued;
- (ii) Officers of the Authority agree to continue to participate in the study being undertaken by the WG to gather further end destination evidence and to participate in the WG exercise to model various collection scenarios;
- (iii) reports on the Authority's recycling levels be presented to Scrutiny and Cabinet on a quarterly basis in order that Members can continue to monitor the situation.

13. CAERPHILLY COUNTY BOROUGH LOCAL DEVELOPMENT PLAN (FIRST REVIEW) - DRAFT PREFERRED STRATEGY

The report was considered by the Regeneration and Environment Scrutiny Committee and Cabinet and outlined stakeholder engagement undertaken to date, for the first review of the Caerphilly County Borough Local Development Plan (LDP) up to 2031. It also detailed the influence of the work on the Draft Preferred Strategy, as a basis for the first statutory consultation stage of the plan process scheduled for early 2015.

The report also highlighted the next stage of the LDP Review Process, together with an extract from the Review Report, which was attached at Appendix 2 of the report; it detailed the consideration given to undertaking a joint review of the LDP with Blaenau Gwent and Torfaen Councils.

Having consideration for the reports, Members sought further information on the release of Greenfield and Greenwedge sites for development. Officers highlighted that the LDP is the Corporate Policy, fed into by Officers from all departments. Where possible, the allocation of brownfield sites for development is the current practice, however some greenfield sites are considered, in pockets of the borough, where brownfield sites are not suitable for development.

In addition, Members were asked to note that the policy is under review, in which greenfields and greenwedge areas would be considered, in order to meet the housing demand. However, Ward Members would be included in the process.

Following consideration of the report, including the Draft Preferred Strategy and the position statements from each of the three local planning authorities as contained in the Review Report, it was moved and seconded that the recommendation contained in the officer's report be approved. By a show of hands (and in noting that there was one abstention) this was agreed by the majority present.

RESOLVED that the Authority's commitment to progress a single review of the Adopted Caerphilly County Borough Local Development Plan be reconfirmed.

14. ADOPTION OF SOUTH EAST WALES VALLEYS LOCAL TRANSPORT PLAN

The report was considered by Regeneration and Environment Scrutiny Committee and Cabinet and, in seeking the views and adoption of the South East Wales Valleys Local Transport Plan (LTP,) detailed the response from statutory and public consultation.

Members were advised that the Welsh Government (WG) required all local authorities in Wales to produce LTP's in accordance with WG LTP guidance, which will replace the 4 Regional Transport Plans (RTP's) currently in place across Wales. The LTP was to be submitted to WG by the end of January, which resulted in a very short timescale to produce the plan. In October 2014, Cabinet approved the production of a joint South East Wales Valleys LTP between Caerphilly, Rhondda Cynon Taf, Torfaen, Blaenau Gwent and Merthyr Tydfil Councils, with Rhondda Cynon Taf identified as the lead authority for the plan.

The accelerated developments were discussed, in particular referring to the scheme to extend the Park and Ride Facilities in Ystrad Mynach, which was met with some concern from Local Members. A number of issues were highlighted around traffic congestion and the loss of part of the playing field, as a result of the development. It was highlighted that there had been no consultation conducted with Ward Members and the school were not approached at the initial proposal point. Officers advised that, within the plan, many of the schemes are proposals and therefore not yet fully developed. Following adoption of the plan, engagement and consultation would be officially conducted, as part of the planning application process.

Further developments proposed within the plan were discussed, and Members noted that many would depend on funding and the planning process, but were assured that appropriate consultation would be conducted with interested parties.

Following consideration of the report and its appendix, it was moved and seconded that the South East Wales Valleys Local Transport Plan be adopted.

An amendment was moved and seconded that subject to the removal of the reference to Rail Park and Ride - Ystrad Mynach Park and Ride Extension (Page 222 of the Plan) the South East Wales Valleys Local Transport Plan be adopted.

By a show of hands (and in noting that there was one abstention) the amendment was lost.

Following a further show of hands, the following motion was declared carried by the majority present.

RESOLVED that the South East Wales Valleys Local Transport Plan be adopted.

REPORTS OF OFFICERS

Consideration was given to the following reports.

15. NOTICE OF MOTION - TAX JUSTICE

Consideration was given to the report, which detailed the following Notice of Motion received by Councillor J. Jones and supported by Council N. Dix, Mrs P. Cook, A. Rees and C. Durham, in relation to Tax Justice. In accordance with Rule 11 (3) of the Constitution, the Mayor has agreed to allow the motion to be dealt with at Council, without being first discussed at an overview and scrutiny committee.

“This council resolves to send a letter to all three local MPs asking them to support the following motion and raise this vital issue in parliament.

While many ordinary people face falling household income and rising costs of living, some multinational companies are avoiding billions of pounds of tax from a tax system that fails to make them pay their faire share. Local governments in developing countries and the UK alike would benefit from a fairer tax system where multinational companies pay their fair share, enabling authorities around the world to provide quality public services. The UK government must listen to the strength of public feeling and act to end the injustice of tax dodging by large multinational companies, in developing countries and the UK.”

It was moved and seconded that the Notice of Motion be supported. By show of hands this was unanimously agreed.

RESOLVED that the Notice of Motion be supported.

16. WLGA CHARTER FOR MEMBER SUPPORT AND DEVELOPMENT

The report, which was considered and endorsed by the Democratic Services Committee on the 15th December 2014, sought Council support and endorsement of the draft Member Support and Development Strategy 2015/18 and approval to re-apply for Wales Charter for Member Support and Development prior to its presentation to Council.

Following consideration, discussion and debate, Members voiced their support for the Member Support and Development Programme and re-application for Wales Charter for Member Support and Development.

It was moved and seconded that the recommendation in the Officers report be approved. By show of hands this was unanimously agreed.

RESOLVED that the reasons outlined in the Officers report, the Council re-affirm their commitment to the Wales Charter for Member Support and Development and endorse the Members' Development Strategy 2015/18.

17. GROUNDWORK WALES REPRESENTATION

Following the merger of Groundwork Caerphilly in Groundwork Wales, which was approved by Cabinet in November 2014, Caerphilly County Borough Council was accepted as a Member on the Groundwork Wales Board. The report requested that Council agree the Council's representative on the Board through its one nomination.

It was moved and seconded that Councillor Mrs P. Cook be nominated as the representative for Caerphilly County Borough Council. By show of hands (and in noting that there was 1 abstention) this was agreed by the majority present.

RESOLVED that Councillor Mrs P. Cook be the nominated representative to sit on Groundwork Wales Board.

18. AMENDMENT OF THE COUNCIL'S CONSTITUTION - REVIEW OF TERMS OF REFERENCE OF COUNCIL

The report recommended to Members, amendments to the Council's Constitution to reflect interim working arrangements.

As a result of the recent changes to the Interim Management arrangements currently in operation within the Authority, consequential temporary amendments to the Terms of Reference of the Council's Health Social Care and Well Being and Regeneration and Environment Scrutiny Committees were required. The temporary amendments would be effective for the duration of the interim management arrangements, and a further report would be presented to Members, regarding the consequential amendments, when the arrangements cease.

Members discussed the changes and queried whether the Chairs of the respective Scrutiny Committees had been consulted on the proposals. Officers advised that consultation had taken place and asked Members to note that the Scrutiny Committees were brought in-line with the managerial structure implemented, in an attempt to place area responsibility more effectively.

It was moved and seconded that the recommendation in the Officers report be approved. By show of hands this was unanimously agreed.

RESOLVED that for the reasons outlined in the Officers report, Members noted and approved the changes proposed to the relevant extract within the Council's Constitution and authorised the Council's Interim Monitoring Officer to update the Council's Constitution accordingly.

19. QUESTIONS UNDER RULE OF PROCEDURE 10(2)

Consideration was given to the following Questions under Rule of Procedure 10(2). In accordance with the revisions to the constitution, the answers are also provided.

Residual Waste Stream Contract - to the Cabinet Member for Community and Leisure Services from Councillor Mrs A. Blackman.

1. On what date will the Council's residual waste stream Contract with Project Gwyrdd start?
2. What procedures and resources will the Council have in place to ensure that all of its residual waste stream will not contain any recycling materials such as cardboard, paper, cans, plastics and glass?
3. What will be the cost to the Council for these procedures/resources?
4. How much per ton/tonne of waste is the Council paying the Project Gwyrdd Contract?
5. How many tons/tonnes a year is the Council contracted for?
6. What are the financial consequences for the Council if it does not produce the tonnages agreed to in the Project Gwyrdd Contract?

RESPONSE FROM THE CABINET MEMBER FOR COMMUNITY AND LEISURE SERVICES - COUNCILLOR DAVE POOLE

1. Full Service commencement in accordance with the contract is 1st April 2016.
2. The authority offers a recycling collection service separate to the residual waste collection service and this service currently performs well in terms of recycling when compared to other Welsh LA's. It is practically impossible to ensure that the residual waste stream contains absolutely no recyclable materials and the practicalities surrounding such issues have been accepted by Welsh Government in its assessment of the final business case for Project Gwyrdd.
3. The 2014/15 budget for the collection of dry recyclables at the kerbside is £2.33m.
4. The financial consequences of the Project Gwyrdd contract were outlined in detail in the report to full council dated 26th February 2013. As the financial issues are complex I would refer you again to this report and its relevant appendices.
5. The issues surrounding contractual tonnages, waste flow models and relevant tonnage bandings are complex and were outlined in detail in the report to full council dated 26th February 2013. I would refer you again to this report and its relevant appendices.
6. The financial consequences of the Project Gwyrdd contract were outlined in detail in the report to full council dated 26th February 2013. As the financial issues are complex I would refer you again to this report and its relevant appendices.

The meeting closed at 7.58 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 10th March 2015 they were signed by the Mayor.

MAYOR