



Minutes

Name of meeting

FULL COUNCIL

Date and time

WEDNESDAY, 12 DECEMBER 2007

Venue

COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT

Present

Cllrs Roger Mazillius (Chairman), Barry Abraham, Henry Adams, George Brown, Ivan Bulwer, William Burt, Vanessa Churchman, Dawn Cousins, Mike Cunningham, John Effemey, Jonathan Fitzgerald-Bond, Barbara Foster, Deborah Gardiner, Charles Hancock, Peter Humber, Heather Humby, Tim Hunter-Henderson, Gill Kennett, David Knowles, Geoff Lumley, Muriel Miller, Brian Mosdell, Lady Pigot, David Pugh, Ian Stephens, Melanie Swan, Arthur Taylor, Diana Tuson, Ian Ward, Alan Wells, Colin West, David Whittaker, David Williams

Officers Present

Joe Duckworth, Davina Fiore, Chris Mathews, April Ross

Apologies

Cllrs Wendy Arnold, Anne Bishop, George Cameron, Charles Chapman, John Hobart, John Hobart, Win McRobert, Erica Oulton, Lora Peacey-Wilcox, Garry Price, Susan Scoccia, Andy Sutton, Margaret Webster, Jilly Wood

Prior to the start of the meeting tributes were paid to Mr Roy Westmore who had recently passed away, and a minute's silence was observed.

66. **Minutes**

RESOLVED :

THAT the Minutes of the meeting held on [21 November 2007](#) be confirmed subject to the following amendments:

Minute 59, second paragraph, second sentence to read 'The Cabinet Member informed Council that a statutory legal process had to be followed.'

Minute 65 (iii), second paragraph, first sentence to read 'Cllr Gardiner asked about staff shortages within the Council's Fostering Service and the decrease in the foster carers training programme'.

67. **Declarations of Interest**

Cllr Gardiner declared a personal interest in Item 5 due to her employment with Unison.

68. **Public Question Time**

Questions were put to the Chairman as follows :

Written questions had been received from Mr Mick Hunter (PQ 54/07, Ms Julie Jones-Evans (PQ 55/07), Ms Dianna Jones-Evans (PQ 56/07), Mr T Phillips (PQ 57/07), Mr Norman Arnold (PQ 58/07), Mr Steven Hancock (PQ 59/07) and Ms Melinda Mellor (PQ 60/07), all residents of Newport, concerning the Chapel Street experimental traffic order.

The Cabinet Member informed Council that he was a Director and Officer of the Federation of Small Businesses, but had no personal or prejudicial interest in this matter. A collective response was provided by the Cabinet Member who advised that a review would be undertaken at the end of the 6 month period, which would include all representations received.

Ms Julie Jones-Evans asked a supplemental question about the particular issues in Chapel Street. The Cabinet Member advised that health and safety issues had been recognised by officers and accident prevention action was required.

Ms Melinda Mellor asked a supplementary question regarding the increased traffic in Elm Grove. The Cabinet Member confirmed that a site meeting had been arranged, to include the ward Member and the Police Community Support Officer.

Mr Mike Starke asked an oral question regarding the Council's former Coastal Manager and the remit of possible further investigations of Council contracts and Mr John Wortham asked for confirmation that links with High Point Rendell were being severed. The Chairman advised that Mr Starke would be contacted in due course with a formal response to his question. The Leader advised that Cabinet had taken the decision to cease all work on Undercliff Drive until a review had been undertaken and that Mr Wortham would receive a response to the detail of his question.

Mr Chris Jarman asked an oral question about Members' declarations of interest regarding the future use of Weston Manor. The Chairman advised that advice would be sought on the issue.

69. **Chairman's Report**

The Chairman welcomed Davina Fiore, the Director of Legal and Democratic Services, to her first meeting of Council.

The Chairman provided an oral update to the previously circulated written report, and in particular referred to the recent trip to Poland in recognition of the ORP Blyskawica. Members received a brief presentation with photographs of the event. In addition, Cllr Geoff Banks, the Mayor of Cowes, addressed the meeting and confirmed that

he would support the Chairman in aiming to bring the ORP Blyskawica back to Cowes during 2012.

70. **Consideration of the Recommendations of the Investigatory and Disciplinary Committee at its meeting on the 29 November 2007**

The Leader introduced the recommendation, including a minor amendment, advising that there had been systemic failures within the Council a perceived reluctance to accept that a major contract had been procured illegally. The Council had taken a strong stance on the issue ensuring that as much information as possible had been available to the public. In addition, procurement procedures had been revised, which would provide protection against a similar occurrence in the future. The Investigatory and Disciplinary Committee was thanked for its work over recent months.

Concerns were raised about the role and accountability of officers as well as the role and subsequent reaction of the District Auditor in dealing with the procurement issues for the Undercliff Drive project. However Members were advised that adequate training was now in place and together with the revised procurement processes similar occurrences should be avoided in the future.

An amended motion was proposed as follows:

“THAT the District Auditor be asked to investigate the following questions, and to report his conclusions back to the Council, in the form of a public interest report if appropriate:

1. The Council's report suggests that the cost of the investigation has been approximately £1.3 millions. Is that an accurate assessment? In particular, does it exclude significant in-house costs, and if so, what is your assessment of the true financial cost?
2. Has the investigation, in your opinion, resulted in non-financial cost to the Council, and if so, what is the likely impact on service delivery?
3. At the Council meeting on 21st February 2007, at which the investigation was approved, likely costs were put at one hundred thousand pounds, 'to be met from within existing budgets'. With eventual costs well in excess of £1.3 millions, can you provide assurance that the investigation was properly managed on the client side by the Council? What reasons are given for the initial underestimate, and are they acceptable?
4. As this higher sum was not included in the annual budget approved on the same day, was subsequent approval of this key decision given in accordance with the Council's constitution? Even at the declared figure of £1.3 millions the sum involved equates to two-thirds of the Council's General Reserve. What impact will this unbudgeted expenditure have on delivery of the Medium Term Financial Strategy?

5. A recommendation to embark on a wide ranging investigation came in the form of confidential legal advice from Mr Greenburgh, of Wragge & Co. This company subsequently received over £800,000 in fees for carrying out the major part of the investigation. Are you able to provide assurance that proper checks and balances were in place at all times to ensure value for money was achieved for the taxpayer? Given that company's role in advising the Council to commission this investigation in the first place, was it appropriate for Wragge & Co to carry out the major portion of the work?
6. At the point at which the two investigating legal firms were appointed, it was estimated that both contracts would exceed the EU threshold. Can the Council be assured that proper procedures applicable to Schedule B services were followed? More importantly, and in particular given the eventual size of the Wragge & Co contract, were EU competition guidelines applicable to Schedule B services followed sufficiently rigorously to ensure value for money to the taxpayer?
7. When the Sharpe Pritchard report became available to the Council in June, it contained a significant divergence from the legal advice that had given rise to the investigation, in particular regarding the legality of the contract and of its payments. It also found no evidence of fraud or bad faith on the part of officers or HPR. Did this result in a fundamental review of the purpose, value and risk of the investigation? On what grounds were a further several hundreds of thousands pounds of public money then spent.
8. The Addleshaw Goddard advice in January 2005, assessed the risk of a successful challenge to the 2001 procurement process to be extremely small owing to the elapse of time. In June 2007 Sharpe Pritchard, by devising complex arguments to support a hypothetical second contract supposedly let in 2004, have materially increased that risk. Has this self-inflicted additional risk been adequately managed?
9. Would you expect a Council to have used barristers to represent itself in its own internal disciplinary hearings? How much has this cost, and does it represent an appropriate use of public funds?
10. The final Wragge report suggests that the additional cost of the investigation over and above the likely cost of reaching termination agreements with the officers is justified on the basis of the message it sends to the public about the nature of the current ruling group. Leaving aside the initial presumption of guilt that that suggests, is this essentially political message an appropriate use of public funds?
11. The recommendations of the Wragge report are generally uncontroversial and unremarkable. Do they represent an adequate return given their cost to the public purse? Of more concern, should the Council need to resort to external advice for something as fundamental as this? In early 2005 the Council was praised by the Government's inspection team for its procurement strategy, and its e-procurement plans in particular, and had achieved corporate IIP

accreditation. If the Wragge recommendations are valid, does that then reveal a negative direction of travel over the last 2½ years?

12. The Wragge Report states that there were some difficulties in obtaining accurate financial information. This is surprising given the findings of frequent internal and external audits of financial systems over many years, and you are asked to determine whether this represents a genuine cause for concern or merely a shortcoming of the investigation.
13. Is there a justifiable reason, from the point of view of the taxpayer, why an officer who was on an unpaid career break, and had obtained a job offer elsewhere, was brought back onto the payroll for 9 months so that he could be dismissed? What was the cost of this exercise?
14. The Council has an established policy dealing with behaviours that it deems to fall within the category of gross misconduct, and for which dismissal is a possible sanction. In diverging from that policy without due process, is there a risk that the Council has acted unlawfully?
15. The Council claims to view the delay in putting the HPR contract into writing as a very serious matter, although arguably this could have been done at any time up to the sixth anniversary of its commencement, i.e. November 2007, without putting the Council at increased risk from limited warranties. In view of that deadline, has the Council made sufficient progress to remedy the situation since February 2007? On what date was the contract finally reduced to writing?
16. It is not clear why it has taken 10 months to decide to refer matters as yet unspecified to the Police. Can you assure the Council that there is sufficient justification for any resultant additional costs that will be incurred by the Council?
17. When the findings of the investigation are measured against the costs, both financial and non-financial, do they represent good value for the taxpayer? In your experience of these matters elsewhere, could the same information have been obtained in a more cost effective, less disruptive way?"

A ten minute adjournment was proposed and agreed to enable time for Members to consider the detailed amendment put forward.

When the meeting reconvened, concerns were raised regarding the late receipt of the amendment and it was suggested that the Scrutiny Committee could address the queries raised.

It was further suggested that the proposed amendment could be incorporated as part of the original recommendation, under paragraph 10 of the report, with questions to be addressed by the District Auditor.

During the continuing debate Members' prime concern was that confidence in future management must be restored. Council was also reminded that a separate investigation was currently being undertaken by the police.

Following the vote, the amended motion was lost.

A further ten minute adjournment was proposed and agreed.

Upon reconvening the Chief Executive read out an amended substantive motion, to include the involvement of the Scrutiny Committee in a monitoring role.

After further debate and the vote it was

RESOLVED:

- (i) THAT the Council receives the Wragge & Co report and accepts its conclusions and recommendations.
- (ii) THAT the Cabinet be invited, at the earliest opportunity, to draw up an action plan for implementation of the recommendations with resource implications for the Council.
- (iii) THAT the Scrutiny Committee be invited to review progress of that action plan as part of its work programme.
- (iv) THAT the Audit Committee be asked to review the process of the investigation and receive representation from Councillors.
- (v) THAT the Council seeks a review from the District Auditor as set out in paragraph 10.16 of the Wragge & Co report and refers any representations received from Councillors on the process of the investigation.
- (vi) THAT the Council be invited to dissolve the Investigatory and Disciplinary Committee, as work had been concluded, and that the Chair of the Committee be authorised to sign the final minutes of the Committee.

71. Budget Update

Council was apprised of significant pressure on the year's budget, primarily due to the take up of concessionary fares and a reduction in car parking income. Despite this, however, some previously planned improvements had been achieved and it was envisaged that the revenue budget would remain on target, with the capital programme delivering a number of One Island projects.

The situation would be continually monitored, although it was envisaged that some difficult decisions would be required to address significant gaps in the revenue budget over the next few years. A three year medium term financial plan would be needed as well as prudential borrowing.

Members were advised that a consultation exercise would be conducted during the next few weeks to include focus groups, an interactive website and the local press. The Scrutiny Committee would receive progress reports.

RESOLVED:

THAT the report be noted.

72. **Constitutional Matters**

It was proposed and agreed that Procedure Rule 18(4) be suspended for this item.

The Leader introduced the report, explaining that the proposal was that performance management be included in the terms of reference for the Scrutiny Committee.

In addition, Cllr Colin West was nominated for Chair of the Audit Committee. There were no further nominations.

It was also suggested that whilst Policy Commissioners should be allowed to sit on the Scrutiny Committee, Cabinet Members and/or Cabinet Secretaries should not be permitted to serve on the Committee.

Following a brief debate it was

RESOLVED:

- (i) THAT the revisions to the terms of reference of the Audit and Performance Committee and Scrutiny Committee as set out in Appendix 1 of the report (copy attached).
- (ii) THAT in addition to Appendix 1, the words “or Cabinet Secretary” be added to the heading ‘ No Cabinet Member will be a member of the Scrutiny Committee’
- (iii) THAT the Audit and Performance Committee be renamed the Audit Committee.
- (iv) THAT Cllr West be appointed Chair of the Audit Committee.

73. **Cabinet**

Reports of The Cabinet Members

- (i) **[The Leader and Cabinet Member for Housing, Leisure and Governance](#)**

A written report had been circulated.

Cllr Gardiner asked about the delay in obtaining a copy of the direction of travel statement and an acknowledgement for the Freedom of Information Act request about the Westminster contract. The Chief Executive apologised and agreed to forward the Direction of Travel statement with immediate effect.

(ii) **The Deputy Leader and Cabinet Member for Economy, Planning and Property**

A written report had been circulated.

Cllr Hancock asked about whether the Island would be included in the Government's statement regarding offshore wind farms. The Cabinet Member advised that limited possibilities existed on the Isle of Wight for offshore wind turbines.

Cllr Mosdell asked for reassurance that his remark about the state of Northwood House had not prompted the resignation of the Chairman of the Trustees. The Cabinet Member advised that he was unable to respond for the Chairman of the Trustees.

(iii) **Cabinet Member for Safer Communities**

A written report had been circulated.

(iv) **Cabinet Member for Children and Young People**

A written report had been circulated.

(v) **Cabinet Member for Environment and Transport**

A written report had been circulated.

Cllr Lumley asked about a reversion of the Trafalgar Road traffic system, which might resolve issues at Chapel Street. The Cabinet Member explained that he following a meeting with Cllr Lumley and the Director, a full written response to had already been provided for the Member.

Cllr Adams asked about issues surrounding Ryde Interchange, and the possible affect on Government funding for this project, requesting that local members be involved in future discussion. The Cabinet Member referred to his written report, adding that although some issues still required resolution, work was currently being undertaken to address any difficulties.

Cllr Hancock asked about the cost effectiveness of installing recharging points for electrical vehicles, and also whether East Cowes toilets were on the list for refurbishment. The Cabinet Member advised that the electrical points had been provided to encourage the use of electrical vehicles. A written response would be provided on the East Cowes toilets.

Cllr Miller raised concerns about the difficulties at Ryde Interchange in the light of the Council's recent experience with the Undercliff Drive project. The Cabinet Member advised that further information would be forwarded as soon as it became available.

Cllr Whittaker asked what tonnage of waste would be going to landfill during whilst the gasification plant was under construction. The Cabinet Member would provide a written response.

(vi) **Chair of Scrutiny**

A written report had been circulated.

(vii) **Cabinet Member for Health and Community Wellbeing**

A written report had been circulated.

Cllr Mosdell asked if the electric moped company could be invited to provide a presentation. The Cabinet Member would confer with Cllr Mosdell after the meeting.

Cllr Hancock asked if the Cabinet Member was satisfied with the safeguarding policy for direct payments for care. The Cabinet Member explained that Council would ensure that people were well protected whilst continuing to make greater choices available.

Cllr Lumley asked for clarification about the term 'underwriting' in the Council's partnership arrangements with the NHS Trust. The Cabinet Member advised that the term referred to partnership, not money, and a meeting could be arranged to discuss this further if required.

(viii) **Cabinet Member for Residents and Resources**

A written report had been circulated.

CHAIRMAN