

**BRIGHTON & HOVE CITY COUNCIL
OVERVIEW & SCRUTINY COMMISSION
4.00PM 19 JULY 2011
COUNCIL CHAMBER, HOVE TOWN HALL
MINUTES**

Present: Councillors Mitchell (Chair); Brown, Follett, Littman, Morgan, K Norman, Powell, Summers, G Theobald and MacCafferty

Also Present: Councillors Bill Randall (Council Leader) and Jason Kitcat (Cabinet Member)

PART ONE

14. PROCEDURAL BUSINESS

14a Declarations of Substitutes

Councillor G Theobald was substituting for Cllr Tony Janio and Councillor Phelim MacCafferty was substituting for Councillor Sven Rufus.

14b Declarations of Interests

There were none.

14c Declaration of Party Whip

There were none.

14d Exclusion of Press and Public

In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

RESOLVED: That the press and public be not excluded from the meeting.

15. MINUTES OF THE MEETING HELD ON 7 JUNE 2011

15.1 The minutes of the meeting held on 7 June were agreed and signed by the Chair.

16. CHAIR'S COMMUNICATIONS

16.1 Councillor Gill Mitchell, Chair, reminded Members that a call-in meeting of OSC would be held on Friday 22nd July at 3pm in Hove Town Hall. The call-in request related to the 14 July Cabinet decision 'Provision of the Commercial Portfolio's Estate Management Consultancy Contract.' Papers were being published and available for Members at the end of this meeting.

17. PUBLIC QUESTIONS/ LETTERS FROM COUNCILLORS/ REFERRALS FROM COMMITTEES/NOTICES OF MOTION REFERRED FROM COUNCIL

17.1 Councillor Mitchell welcomed Tony Mernagh, Executive Director, Brighton & Hove Economic Partnership, inviting him to present his letter regarding the 17 February Cabinet decision to sell a leasehold interest in land at Patcham Court Farm.

17.2 Mr Mernagh questioned the transparency of the decision and how it complied with established strategies for instance land use in the Local Plan. He said his concern was neither about the developers nor the use of the land for a hotel per se, and he acknowledged that jobs would be created.

17.3 However in view of the shortage of development land in the City he felt that the decision ought to be further investigated: whether this was the best strategic use of the land, any other options considered, the decision-making criteria and how closely this offer fitted with the needs of the City. The decision was not widely publicised in his view.

17.4 Mr Mernagh recognised this individual sale could not be reversed but argued that lessons could be learned from the implications of the decision and whether better outcomes for the City could be achieved from similar decisions in future. Answering a question, Mr Mernagh said he first read about the proposed sale in the local newspaper.

17.5 Some Members of OSC did not feel that scrutiny would be useful: it was widely known that the land had been on the market for many years; the site had some drawbacks and this offer was the best available. Others felt that land use in the City was a suitable topic for scrutiny, but it was unrelated to this particular decision therefore there was no urgency. Some Members spoke in favour of an in-depth scrutiny review.

17.6 Following a vote, Members agreed to ask for an officer report for the next meeting addressing the three bullet-point concerns in the letter and setting out OSC's scrutiny options.

17.7 RESOLVED that a report be requested to the next meeting of OSC on 13 September as minuted above at 17.6.

18. COUNCIL LEADER AND CABINET MEMBER; DISCUSSION

18.1 Councillor Bill Randall, Leader of the Council reminded Members of his own recent involvement in Scrutiny. He had previously chaired both the Culture Tourism and Enterprise Overview and Scrutiny Committee (CTEOSC) and the Scrutiny Panel on Environmental Industries. He spoke in support of the scrutiny function not only as a critical friend, but also as a vehicle for developing policy and helping investigate new ideas.

18.2 Councillor Randall reminded Members that the help of outside specialists on scrutiny panels was invaluable and could be regarded as free consultancy. The new administration's three priorities were on inequalities, becoming the greenest city in the country and increasing involvement in decision-making. Scrutiny involvement would be welcome in these areas, and in developments such as food waste and neighbourhood councils.

18.3 Councillor Randall thanked the scrutiny team for their work and said OSC and the family of scrutiny committees would be expected to continue keeping a watching brief and providing advice.

18.4 He would be submitting a detailed request for a review of ways of supporting small businesses, with a view to developing the 'Streets Ahead' approach.

18.5 Councillor Jason Kitcat, Cabinet Member for Finance and Central Services said he hoped scrutiny would play a full part in scrutinising the budget. The timetabling of executive and scrutiny meetings would be looked at, to allow information to be available in advance where possible.

18.5 Answering a general question on consultation with residents and ward councillors on decision-making, Councillor Randall said that mistakes made should not recur.

19. COMMUNITY ENGAGEMENT FRAMEWORK PROGRESS REPORT

19.1 The Community Engagement Coordinator Michelle Pooley gave a progress report on the Community Engagement Framework. It had been an important year for the CEF that helped officers inform, involve, consult, collaborate and in some cases empower others. The CEF was developing relations with residents, helping to achieve value for money and deliver services that residents want.

19.2 There had been a focus on reward and recognition; how and why we engage and an 'easy reading' approach. A cross-sector community engagement training programme through corporate learning and development had been launched successfully. The CEF has been a key part of the recent council's equality assessment. The community and voluntary sector 's input into the assessment process by explaining how the CEF standards used by so many of the city council teams has been a significant contribution to Brighton & Hove City Council achieving the highest level of 'Excellent' within the Equality Framework for Local Government.

19.3 Members thanked the officers and noted the role of scrutiny in monitoring areas of difficulties as well as good practice.

19.4 Regarding a detailed question on the role that Overview and Scrutiny Commission had in monitoring adherence to the Community Engagement Framework and Standards; the Community Engagement Co-ordinator explained that having had a Councillor that had taken responsibility for ensuring that when partners on the Stronger Communities Partnership had in some way not been perceived to be adhering to the standards, the Councillor had taken this forward to Council Managers as a point for further development with teams.

19.5 If there were no perceived changes then this would be brought to the attention of scrutiny through this report. On a positive side where officers are carrying out good community engagement practice this is noted through this process and Appendix 3 gives an example of how Democratic Services have embraced the CEF and through their work have accessed many groups that they would not necessarily have done in the past.

19.6 Asked about ensuring different sections of the community were able to become involved on a 'level playing field' the Commissioner Communities and Equality, Mary Evans, said this was a continuing challenge. Action Learning Sets would continue from the training sessions to work on dealing with day-to-day engagement issues. The priorities of the Stronger Communities Partnership and the family of partnerships were being looked at from the point of view of embedding good engagement standards and practice; for instance using social media in addition to traditional communications means. Working on community engagement within the Intelligent Commissioning process was also key, she said.

19.7 Asked about the costs and available resources for high-intensity engagement the Commissioner said that embedding and mainstreaming equalities and engagement across the Council and across the City was helping towards efficient joint working, that was not expected to add extra costly processes.

19.8 Replying to a query about Asset Transfer Policy and links with the Development Trust Association, the Coordinator said that there had been and will continue to be links made with the Association. This work had started, and was being progressed. Learning from experience elsewhere was key, she agreed.

19.9 Turning to the subject of the request for scrutiny; planning aspects of consultation: at the invitation of the Chair, Selma Montford, Secretary and Founder Member of the Brighton Society, spoke on behalf of some local amenity societies. She said there had been significant improvements in public consultation for example on plans for The Level, and in monthly liaison meetings with residents around major developments such as American Express building and the Sussex County Hospital. However she also gave examples of what she regarded as poor consultation and confusion between consultation and simply giving information.

19.10 Consultation was not therapy and lack of information naturally led to suspicion, she remarked. True consultation had to be based on a genuine desire to find out what people wanted and then if feasible to take their views into account and give reasons. Ms Montford said she hoped for 'proper' consultation on communal recycling bins. Consultations carried out by developers should be well publicised and the results reported, she stated. Ms Montford felt that there was a lot to learn from experience elsewhere and called for a scrutiny review.

19.11 The Head of Planning Strategy Rob Fraser accepted that the Council's Current Statement of Community Involvement, (SCI) that sets out how the Council goes about consultation on planning matters, was in need of updating. However this work was being deferred, in anticipation of the Localism Bill. The national planning policy framework and guidance on it was not yet in place and for example, certain statutory periods may well change. The best time to review the SCI was when the national guidance was available, in his view.

19.12 The Development Control Manager, Jeanette Walsh explained that currently there was neither a legal requirement nor a detailed Council framework for developers' consultation with the community. The current SCI did set out the Council's own non-mandatory requirement for consultation with the community on major schemes. There were examples of inadequate or 'closed' questions being asked by developers, she admitted, but a thorough assessment of replies to developer consultations was always carried out.

19.13 The situation was about to change as primary legislation on developer consultations was anticipated. This should help bring more 'neutrality' and good practice, she said. The Council would be looking to make compliance with the local SCI mandatory.

19.14 Regarding the Council's own planning consultation processes, the Head of Development Control said that Council had received praise for their consultation on the Urban Characterisation Study and the Planning Brief at Park House.

19.15 Councillor Gill Mitchell, Chair, noted that the timetable (Local Development Scheme) for producing the updated Statement of Community Involvement is due to be published in September and asked that the draft version of the SCI be brought to OSC.

19.16 Councillor Warren Morgan referred to the cost and challenges of eliciting views from a representative cross-section of residents, rather than only from 'self-selecting' consultees.

19.17 It was pointed out that lists of consultees for planning matters are published and the use of social media as well as more traditional methods for those who are not 'on-line' would be increased. But there was a general view amongst Members that consultation with communities and with minority groups can be improved.

19.18 The Head of Planning Strategy said comments heard today were useful and would be taken into account in developing the new draft SCI. There would be wide consultation on the draft, including amongst developers for whom these processes would likely be new.

19.19 RESOLVED; that

- (1) OSC considers ongoing support of the learning and direction of travel of the implementation of the Community Engagement Framework (CEF) and associated actions.
- (2) OSC continues to take a proactive role in receiving progress reports and addressing poor practice.
- (3) OSC supports the proposal for the Community Engagement Framework to be embedded as part of commissioning processes and for scoping of its appropriate use within the localism agenda.
- (4) OSC requests that the draft version of the Statement of Community Involvement (SCI) be brought to OSC for comment before being finalised.

20. TARGETED BUDGET MANAGEMENT (TBM) PROVISIONAL OUTTURN 2010/11

20.1 Councillor Jason Kitcat introduced the reports items 20 and 21. These were the final TBM of the previous administration that showed a provisional underspend of £2.56million that had been allocated into the 2011/2012 budget; and the first TBM of the new Cabinet – Month 2 for 2011/2012 that reflects the new structure of the Council with Commissioners and Delivery Units and shows more detail, for instance with a pie-chart for the Value for Money Programme, he said.

20.2 Councillor Kitcat said the Month 2 report was more open and detailed, and for the first time, helpfully showed the position with regard to corporate critical Capital expenditure as well as Revenue. It showed a £0.94 million overspend at present but this was early in the financial year and action plans were put into place to address areas of concern.

20.3 Noting the additional information that had been published as an addendum, Members asked about the reported overspend on the communications operational budget and how this affected the budget position of other services.

20.4 At the invitation of the Chair, the Head of Communications John Shewell spoke to OSC and described the findings of a review that had been carried out of all council communications activity and expenditure. He referred to the complexity of cost coding in respect of the councils'

communications activities that had needed detailed analysis and disaggregation, and said a full 160- page report was available on request.

20.5 He answered a question on the pricing levels of the Council's own Print and Design Unit that were regarded as being relatively high, by stating the Council should be using its own staff and equipment resources to best effect. Consolidating print demand from all areas of the council would help reduce unit costs.

20.6 The Head of Finance, Integrated Financial Management & Planning, James Hengeveld, explained that officers were in the process of aggregating the communications spend across the council to one central budget code. This was a complex process that would reveal where savings relating to communications had been made in other service areas.

20.7 Councillor Jason Kitcat answered a question on the predicted shortfall on income from seafront leases (Item 21 Appendix 1 Delivery Unit – Tourism and Leisure.) He said all commercial leases were under pressure at present and seafront businesses were vulnerable, being generally small independent businesses that may be less able to meet rent increases. The situation was kept under review and any suitable opportunities would be taken.

20.8 Asked what could be done about the advertising shortfall for City News, the Head of Communications informed the meeting that changing from a monthly publication to quarterly had the effect of reducing advertising income while also reducing costs. However, as for communications and the Design and Print Unit, consolidation would help address this shortfall.

20.9 Replying to a question that had been asked at Cabinet, about not reducing waste collection rounds by half a round, Councillor Kitcat said that the Delivery Unit officers were producing a reply and all OSC Members would also receive a copy.

20.10 OSC heard from the Cabinet Member for Finance and Central Services and from the VFM Programme Director, following a query on an anticipated underachievement in the Value for Money (VFM) programme. The third phase of the VFM programme was more complex and ambitious than VFM phases 1 and 2, meaning more uncertainty and longer lead-in times for implementation. For instance, some projects related to complex carbon reduction and energy saving schemes including solar panels. Process efficiencies were also being pursued across services wherever possible but these involve complex methodologies, for example Systems Thinking, to review and improve.

20.11 Councillor G Theobald asked about delays to improvements at Regency Square car park that he said would have a detrimental effect on VFM. Councillor Kitcat referred to the July Cabinet meeting at which Councillor Davey, Cabinet Member had outlined the difficulties of access to the car park from the East and the related junction works that would be costly. The business case was being developed, with the intention of making best use of this council-owned asset.

20.12 Councillor Morgan asked about the complexity and likely future costs and affordability of the Local Development Vehicle (LDV). Councillor Kitcat explained the complexity of the LDV in that it would attract VAT if it were itself to do works on homes, whereas by sub-contracting with the Council, through Mears, VAT could be properly reclaimed. Key risks related for instance to the proportion of homeless people in need to attract the necessary benefits to pay the rents. Detailed modelling and a considerable amount of work had been done already on the LDV.

20.13 Members asked for a written reply to give details of the expenditure to date on the LDV and the number of properties involved so far.

20.14 Councillor K Norman asked the reasons for the potential total deficit in the Collection Fund and how to determine whether this was a one-off or on-going situation. Members heard that there could be a temporary surge in numbers of students or a structural difference in the housing market. These and other possible reasons were being researched. The situation was being monitored and would be reported back under TBM 4.

20.15 RESOLVED: (1) that the information be noted
(2) That further information as minuted above at 20.9 and 20.13; on waste collection rounds and the LDV; be forwarded to OSC Members

21. TARGETED BUDGET MANAGEMENT (TBM) 2011/12 MONTH 2

See item 20 above.

22. BUDGET UPDATE & BUDGET PROCESS REPORT 2012/13

22.1 Councillor Jason Kitcat introduced the Budget Update and Budget Process report 2012/2013, remarking that the intention was to hold open discussions and consultation with Unions, the Third sector and residents of the City, on dealing with the reductions imposed at a national level.

22.2 Services were being asked to set a budget for two years; the longer-term approach enabling better planning in the face of reductions. There would be more on Equalities Impact Assessments and Sustainability implications. Carbon budgets would be included in the budget papers, though at first these may be limited until data is collected, such as energy metering for council properties. Increasing detail would be expected in subsequent years.

22.3 A 3.5% indicative Council Tax level would be set and service areas would be asked to consider 5%, 10% and 15% indicative levels of budget reductions. All political parties would be invited to a Star Chamber approach to budget-setting and proposals for consulting with the Unions and Third Sector would be brought forward. Councillor Kitcat discussed with OSC the approach to setting of an indicative level for Council Tax at this stage.

22.4 In answer to a question, the Head of Finance – Integrated Financial Management & Planning, said there were reductions in Government funding for academies and private sewers that were unachievable in terms of actual savings; therefore effectively these items had to be funded again, amounting to some £500,000.

22.5 Asked by the Chair about the assumed level of inflation regarding fees and charges, Councillor Kitcat said at present the general assumption for local authority inflation was 2%, rather lower than the 'consumer' inflation rates that were more widely discussed. This was partially due to the pay freeze. However there were some exceptions such as energy costs that were expected to rise by more than 2%. Council contractors may be experiencing higher inflation rates and there may be pressures on what the Council can pay; the issues would continue to be debated.

22.6 The Chair referred to the timetable for budget papers at report paragraph 3.52 and invited comments on how the budget would be scrutinised.

22.7 The Head of Scrutiny Tom Hook suggested rather than the approach taken in recent years, that had mixed results, depending on the information available to scrutiny, that a Scrutiny Panel be established to follow the proposals throughout the process, reporting back to 31 January OSC for the formal scrutiny recommendations to feed back to Budget Cabinet. This would have the advantage that it would be the same group of Members considering the budget as a whole.

22.8 It was suggested that each political group be asked to nominate two non-Executive Members to serve on the 6-Member Budget Scrutiny Panel and looking to involve external Council partners.

22.9 Councillor Kitcat welcomed that approach, as it would give continuity to budget scrutiny; however he felt some issues may best be referred to specific overview and scrutiny committees. He anticipated that could be arranged if necessary. Separately, the Budget Review Group would also take place, he said.

22.10 **RESOLVED** that a 6-Member Budget Scrutiny Panel be established as minuted above.

23. MONITORING OUTCOMES OF THE SCRUTINY REVIEW OF CLIMATE CHANGE ADAPTATION

(Note that this item was considered after Item 19)

23.1 The Strategic Director Place Geoff Raw said Councillor Pete West regretted that he had had to give apologies for this meeting. He introduced the report stating that many of the actions following the scrutiny review of climate change adaptation fell within his area, although much of the work done pre-dated his Strategic Directorship. The work of the scrutiny panel chaired by the independent specialist Professor Gordon MacKerron had been helpful.

23.2 Progress thus far was set out in the report at Appendix 1. It was noted that the response to Recommendation 13 in Appendix 1 should read 30 September 2010 not 2011. After looking at the history of severe weather events, further analysis of climate projections would add to the evidence base. There would be further development of partnership working with the police, and other public services; and the council had been successful in progressing with emergency planning exercises related to severe weather events. There was more work to be done, especially with adjoining authorities East and West Sussex County Councils and work would also be presented to the Public Service Board.

23.3 There was an undertaking to consider the budget allocation for this work. £270,000 funding had been secured from DEFRA to study surface water management in the City and develop a detailed action plan; there would be more work on community engagement.

23.4 The Head of Sustainability and Environmental Policy remarked that he was working closely with Cabinet Member Councillor Pete West. Policy Development Officer Lisa Shaw had investigated major severe weather events that had affected the City over the last decade. These could now be used to develop risk assessment related to future local climate impact projections.

23.5 Because of specific risks on coastal flooding in Chichester, and river flooding at Lewes and Cuckmere Haven, adjoining authorities were arguably further ahead with their analyses and there was much experience to share as their climate predictions were expected to be very

similar to the city's. The Administration regarded the issue as a cross-City issue, rather than involving Council services alone. For example there would be more work with the Economic Partnership, as regards risks and also opportunities, such as potentially a longer high tourist seasons and people visiting Brighton from London during heatwaves, he said.

23.6 Policy Development Officer Lisa Shaw said that colleagues in Highways were working with partners on the surface water management plan (SWMP) and the preliminary flood risk assessment had been submitted to the Environment Agency. The next phases are due to be completed in 2015.

23.7 The Head of Sustainability and Environmental Policy noted that the Community and Voluntary Sector Forum was keen to work on community resilience to enable people with the least resources and potentially most affected by flood risk, for example, to be well prepared. The later phases of the SWMP would be emphasising the role of neighbourhood Plans and community engagement.

23.8 OSC discussed the potential sources of funding for implementation of mitigation strategies and heard that this would be considered within the regular budget-setting process from September. The Head of Sustainability and Environmental Policy did reply to a question, that capacity to apply for external funding was an issue. Specialist advice had been that there was only a small chance of securing Joseph Rowntree Foundation funding, so after initial investigation including by University experts, that avenue was not pursued, he explained.

23.9 Councillor G Theobald said in recent years some Patcham residents had been watching water levels keenly, especially in the Autumn when levels tended to rise. He asked how the flooding events during 2000 – 2001 including in Bevendean and estimates of up to £15 million for engineering works in Patcham were likely to affect the plan. He asked for reassurance that the issue was being taken seriously. He told officers he knew of a local Patcham resident and former academic expert in the field, who would be happy to share his expertise. This suggestion was welcomed.

23.10 The Head of Sustainability and Environmental Policy said that because of their flooding history, those areas would be definitely included in the SWMP. The next stages of the formal assessment process would go into more detail of those areas and neighbourhoods to develop high level water modelling and a strategy to deal with flooding there. The Policy Development Officer confirmed that this work was being done jointly with the Environment Agency and Water company partners.

23.11 Asked if all planning documents now reflected climate change adaptation (point 9, Appendix, 1 refers) the Development Control Manager reassured Members that the matter would be revisited as part of the work on the emerging Core Strategy revisions; and brought forward for instance in Supplementary Planning Documents. These latter were not formal policy but they did set benchmarks.

23.12 The Chair Councillor Gill Mitchell was pleased that the NI188 indicator was being retained. She asked in strong terms that especially the recommendations 3,4 and 5 on the Climate Change Action Plan and analysis of climate change and adaptation at a local level be continued. She thanked the officers for the report.

23.13 RESOLVED: (1) that the above feedback be provided to the Executive and (2) That a further tracking report be provided to a future OSC meeting.

24. UPDATE FROM RECENT MEETINGS INCLUDING VERBAL UPDATE FROM ECSOSC CHAIRMAN

24.1 Councillor Morgan gave an update on ECSOSC; one meeting had been held so far this year. The Committee had made recommendations on draft reports on Vehicle and Plant Procurement and the revised Community Safety Strategy.

24.2 He referred to the timing of Scrutiny and Executive meetings, that did not always allow enough time for considered scrutiny input to decision-making. He asked that the scheduling of meeting be better coordinated in future where possible.

24.3 Councillor Morgan said that in considering the revised draft Community Safety Strategy, it had been suggested that ECSOSC look at Strategic Plans and Strategies with a view to considering how community safety issues are addressed across the City. For instance he had a recent ward issue relating to housing and anti-social behaviour, he said. An alternative approach would be for each O&S Committee to cover their own community safety issues.

24.4 RESOLVED that ECSOSC consider a range of strategic plans and strategies to investigate how the Council and partners are looking to tackle community safety issues.

25. OSC WORK PLAN AND COUNCIL FORWARD PLANS

25.1 Members noted the draft OSC work plan and Council Forward Plans.

26. ITEMS TO GO FORWARD TO CABINET MEMBER, CABINET OR FULL COUNCIL

26.1 There were none.

The meeting concluded at 6.15pm

Signed

Chair

Dated this

day of