

TUNBRIDGE WELLS BOROUGH COUNCIL

MINUTES of a meeting of the Tunbridge Wells Borough Council, duly convened and held at the Council Chamber, Royal Tunbridge Wells, Kent TN1 1RS, at 6.30 pm on Wednesday, 18 December 2019

PRESENT:

The Mayor Councillor James Scholes (Chairman)
Councillors Atkins, Atwood, Backhouse, Barrington-King, Bailey, Bland, Bruneau, Chapelard, Mrs Cobbold, Dawlings, Ellis, Everitt, Fairweather, Funnell, Dr Hall, Hamilton, Hayward, Hickey, Hill, Holden, Lewis, Lidstone, Mackonochie, March, McDermott, Morton, Neve, Noakes, Podbury (Vice-Chairman), Poile, Pope, Pound, Rands, Reilly, Scott, Simmons, Mrs Soyke, Stanyer, Mrs Thomas, Thomson, Warne, Williams, Willis and Woodward

IN ATTENDANCE: William Benson (Chief Executive), Patricia Narebor (Head of Legal Partnership) and Mark O'Callaghan (Scrutiny and Engagement Officer)

APOLOGIES FOR ABSENCE

FC61/19 Apologies were received from Councillors Horwood and Ms Palmer.

MINUTES OF THE MEETING DATED 25 SEPTEMBER 2019

FC62/19 There were no amendments.

RESOLVED – That the minutes of the meeting dated 25 September 2019 be approved as a correct record.

MINUTES OF THE MEETING DATED 08 OCTOBER 2019

FC63/19 There were no amendments.

RESOLVED – That the minutes of the meeting dated 08 October 2019 be approved as a correct record.

DECLARATIONS OF INTEREST

FC64/19 Councillor Scott noted that he owned a property in Cadogan Gardens, Royal Tunbridge Wells which was close to the Town Hall site referred to in the cross-party working group report. As the report proposed no specific decisions affecting the property this did not constitute a prejudicial interest.

ANNOUNCEMENTS

FC65/19 Details of the Mayor's activities had been circulated. The Mayor had no further announcements.

The Leader of the Council announced:

- Credit was due to everyone involved in the snap election which was achieved without any significant difficulties.

Councillor March announced:

- On 16 December 2019 the Council had entered into a contract with Willmott Dixon Interiors to construct the Amelia Scott. Work would commence on 13 January 2020 and be due for completion

mid-2021. Fit out of the new buildings would take six-months thereafter.

- 40,000 skaters at the Ice Rink were expected this year. As at the end of 13 December 2019, ticket sales were £263,000 which was 17 percent ahead of the same time last year.
- This year's pantomime at the Assembly Hall Theatre, Peter Pan, was expecting 20,000 attendances. As at the end of 13 December 2019, ticket sales were £290,000 which was nine per cent lower than the same time last year. A marketing campaign was about to start to help recover the difference.

QUESTIONS FROM MEMBERS OF THE PUBLIC

FC66/19 There were no questions from members of the public received under Council Procedure Rule 8.

QUESTIONS FROM MEMBERS OF THE COUNCIL

FC67/19 The Mayor advised that three question from members of the Council had been received under Council Procedure Rule 10.

1. Question from Councillor Ms Palmer (read by Councillor Bland)

"Following the issues with the new waste contract and in particular the issues regarding the garden waste, which our residents have paid an additional amount for, and where in some cases the waste was not collected for over a month and indeed where there are still issues with non-collection on the correct day, can the Cabinet confirm that the affected residents will receive a refund?"

Answer from Councillor Bailey

"Our waste and recycling service has recently undergone the largest reorganisation in more than two decades. The fortnightly collection rounds have been reorganised to make them more balanced and efficient, given that development and population growth has affected some areas far more than others.

A new and enhanced recycling service has also been introduced, this would have been difficult - and certainly more expensive - had we still been using the old and inefficient collection rounds. We have also moved from a taxpayer-funded garden waste service, paid for by all residents regardless of whether they even had a garden, to an opt-in service. While this has been a success with over 20,000 subscriptions it has involved further changes to the collection system.

There has been some disruption to residents as the contractor, and in particular the collection crews, have familiarised themselves with the new rounds and services. We have therefore been considering a compensation scheme for those subscribing to the garden waste service.

I can announce that we will be giving all current subscribers an extra month for free. We are still working through the practicalities and deciding the best way to implement this plan. I can also confirm that the contractor, Urbasser, has agreed to pick up the bill for this compensation, meaning there is no cost to local taxpayers."

Supplementary question from Councillor Bland

“What additional compensation can the Council expect given the additional cost it has incurred and the reputational damage it has suffered?”

Answer from Councillor Bailey

“Urbasser have, with prompting from the Council, put in a lot of extra resources into the contract. They have put in extra vehicles and they have brought in extra staff and extra management and they have spent a considerable sum of money to try to get the service up to the required standard. There are defaults in the contract for claiming compensation for individual missed collections but, to date, we have not considered that to be the best route because Urbasser has been putting in additional resources to get the service up to the required standard overall. But that certainly is something in our armory. Urbasser have also been picking up some of the costs incurred by the Council. For example, the tip at North Farm has stayed open longer in the day and Urbasser are picking up the cost for doing so. Urbasser have actually been very good at putting in extra resources and paying for them.”

2. Question from Councillor Lidstone

“Councillor McDermott, at the Full Council meeting of April 2018 you were asked whether this Council could link parking permit costs to vehicle emissions. Your response at the time was: “We are in the process of acquiring a new virtual parking permit system which will have the functionality to set charges based on the data held by the DVLA such as CO2 levels.” Has this acquisition taken place over the past 18 months? And if not, why not?”

Answer from Councillor McDermott

“I am pleased to say that the new virtual permit system was introduced in March of this year. This will give us the capability to set charges according to data held by the DVLA if an emission-based charging policy were to be introduced. I look forward to receiving recommendations from the Member Climate Change working-group before determining whether this is an appropriate way forward.”

Supplementary question from Councillor Lidstone

“Given that Full Council in July agreed to declare a climate emergency in Tunbridge Wells and the fact that transport accounts for 41 per cent of Kent’s emissions, and is growing, would you agree with me that this is quite an urgent area for us to focus on and something that would be desirable for the Council to do?”

Answer from Councillor McDermott

“Yes I do and I think it is appropriate to wait for the outcome of the discussions from the climate change working group which we have set up. Certainly, I am open minded about the idea. So, I’ll look into it when it comes back.”

3. Question from Councillor Bruneau

“Is it true that the Council’s finances are at risk by the Council continuing to be liable for the compensation payments in respect of the continuation in force of the Compulsory Purchase Order (CPO) and planning consent relating to Calverley Square, when this project has been definitively cancelled and the exposure to such compensation payments can be eliminated without significant cost?”

Answer from Councillor Scott

“The Council is in the process of seeking legal advice on this issue. I don’t think it would be helpful for me to respond to this question on the hoof but I have asked that this issue is addressed in full as part of the Cabinet report dealing with the close-down of the Calverley Square project. Councillor Bruneau and any other councillors will be able to attend that Cabinet meeting and the advisory board that will precede it.”

Supplementary question from Councillor Bruneau

“Given that the risk to residents and local businesses posed by the continuation in force of planning consent and the CPO powers is a potential source of uncertainty and anxiety for all those effected by them, can we have an undertaking that by our next full council meeting the CPO and planning consent will have been removed from the public register. Revoking the planning consent would definitely remove the council’s potential liability to claims for consultation in respect of blight to the properties affected?”

Answer from Councillor Scott

“It is not legally possible to revoke a confirmed CPO. Having said that, the project has closed down and a report will be submitted to the Cabinet on 6 February (2020) confirming the final position. Whilst the Cabinet can agree not to implement the CPO this does not alter the legal basis of the CPO. Revoking elements need to be taken under legal review because that could actually increase the liability of the Council rather than, necessarily, reduce it.”

CHANGES TO THE APPOINTMENTS TO COMMITTEES, DECEMBER 2019

FC68/19 Councillor Dawlings moved, and Councillor McDermott seconded, the recommendations set out in the report.

Debate on the motion included the following comments:

- The ‘current’ appointments to committees set out in the appendix to the report was the position immediately prior to the proposed changes. Councillor Neve’s removal from the Audit and Governance Committee and Planning and Transportation Cabinet Advisory Board at the instruction of the Liberal Democrat group had previously been applied.
- The numerical allocation of seats to political groups was for debate. Appointments to seats could be amended at a later date.

The Mayor took a vote by affirmation.

RESOLVED –

1. That the allocation of seats on committees as set out in paragraph 2.11 of the report be approved; and
2. That the changes to the appointments to committees as set out at Appendix A to the report be noted.

TIMETABLE OF MEETINGS 2020/21

FC69/19 Councillor Dawlings moved, and Councillor McDermott seconded, the recommendations set out in the report.

Debate on the motion included the following comments:

- Paragraph 3.1 of the report incorrectly referred to the timetable 2019/20, which should say 2020/21.

The Mayor took a vote by affirmation.

RESOLVED – That the Timetable of Meetings for 2020/21, as at Appendix A to the report, be agreed.

COUNCIL TAX REDUCTION SCHEME 2020/21

FC70/19 Councillor Dawlings moved, and Councillor McDermott seconded, the recommendations set out in the report.

Debate on the motion included the following comments:

- The Labour group opposed the scheme as it extracted wealth from the poorest in the Borough. The Borough had people living in poverty and people reliant on food banks. Full support should be returned to those most in need.
- There were 5,163 beneficiaries of the Council Tax scheme, 2,235 of whom were pensioners and 2,928 were of working age. 814 persons were in receipt of Universal Credit. The total amount paid out by the Council under the scheme was £5.8m.

The Mayor took a vote by affirmation.

RESOLVED –

1. That the current Council Tax Reduction Scheme, as at Appendix A to the report, be carried forward un-amended to 2020-21; and
2. That in the absence of any changes, it be noted that no public consultation will be undertaken.

POLLING PLACES REVIEW

FC71/19 Councillor Podbury moved, and Councillor Dawlings seconded, the recommendations set out in the report.

The Mayor took a vote by affirmation.

RESOLVED –

1. That proposals for ‘no change’ in Appendix A to the report be agreed; and
2. That work should be undertaken to investigate the provision of an additional polling station in Sherwood ward in time for May 2020 local elections.

CIVIC COMPLEX CROSS-PARTY WORKING GROUP

FC72/19 Councillor Scott moved, and Councillor Hickey seconded, the recommendations set out in the report.

Mr Adrian Berendt had registered to speak, which included the following comments:

- Was pleased the working party had developed the ideas of the earlier independent panel and identified a road map for the future.
- This was a community project with the Council as a key but not only stakeholder.
- The working group was not in position to provide solutions, this would require significant further work.
- The integrity of the decision making process was equally as important as the final decision.
- The Council should take advantage of the present good will in looking to the future.

Debate on the motion included the following comments:

- Members of the working party were thanked for working together in good faith.
- The report was only interim and work would continue taking account of the wider borough context.
- The Council had a facilitating role in emerging strategies, it could not do it all in isolation but must work with a wide range of community stakeholders.
- The work of the working party should continue alongside other work to develop new aspirations, particularly the new Five Year Plan.

Councillor Bruneau consulted the Chief Executive concerning the wording of an amendment to the motion.

Councillor March objected to members leaving their seats and discussing matters privately.

Councillor Bruneau moved, and Councillor Pope seconded, an amendment to remove words and add words to the effect that paragraph 2 of the motion read: “That the working Group continues with its work and collaborates with residents, businesses and appropriate professionals borough-wide to further examine and refine the recommendations and to make a further report to Full Council seeking approval of the final recommendations.”

Debate on the amendment included the following comments:

- It was too soon to be making decisions and it needed to be clarified that any affirmative actions should come back to Full Council.

- The working party was already engaging with relevant parties and the report mentioned engaging with the public therefore the amendment was superfluous.
- The Audit and Governance Committee had recently commenced an audit of the Calverley Square business case, its findings should be taken into account in the future planning process.
- The interim report started the future planning process, rather than proposed decisions to be made.
- The amendment did not add anything substantive.
- The purpose of the amendment was to clarify that the recommended actions in the interim report were not ready to be acted on.
- Collaboration with stakeholders was different to engaging with stakeholders.
- Lessons had been learnt and the future process would be more open.

Councillor Hamilton requested a recorded vote on the amendment.

Members who voted for the amendment: Councillors Bruneau, Pope, Williams and Willis. (4)

Members who votes against the amendment: Councillors Atkins, Backhouse, Bailey, Barrington-King, Bland, Chapelard, Mrs Cobbold, Dawlings, Ellis, Everitt, Fairweather, Funnell, Dr Hall, Hamilton, Hickey, Hill, Holden, Lewis, Lidstone, Mackonochie, March, McDermott, Morton, Neve, Noakes, Podbury, Poile, Pound, Rands, Reilly, Rutland, Scott, Simmons, Mrs Soyke, Stanyer, Mrs Thomas, Thomson, Warne and Woodward. (39)

Members who abstained from voting: Councillors Atwood, Hayward and Scholes. (3)

AMENDMENT NOT CARRIED

Debate returned to the original motion.

Councillor Pound raised a point of order and noted there was no procedure rule preventing members from leaving their seats and discussing matters privately. The Mayor would seek advice for future meetings.

Councillor Ellis consulted the Chief Executive concerning the wording of an amendment to the motion.

Councillor Ellis moved, and Councillor Lidstone seconded, an amendment to add a third paragraph to the motion which read: "This Council additionally recommends that any Council owned building mentioned in the report can only be sold or developed with the consent of Full Council after a formal and public consultation process."

Debate on the amendment included the following comments:

- The purpose of the amendment was to ensure due process regarding any property assets.
- The recommendations set out in the report were agreed amongst the cross-party group and therefore it was surprising that the motion was being amended.

- Requiring a full public consultation for the disposal of any council assets would set a restrictive and burdensome precedent.
- There may be unintentional consequences arising from the amendment, including implications of maintenance costs.
- The Working Group was not a decision making body, any actions would be subject to due process.

Councillor Holden moved, and Councillor McDermott seconded, a closure motion that the question be now put.

The Mayor took a vote on the closure motion by show of hands. There were 37 votes for, 2 against and 2 abstentions.

RESOLVED – That the question be now put.

Councillor Hamilton requested a recorded vote on the amendment.

Members who voted for the amendment: Councillors Chapelard, Ellis, Everitt, Funnell, Hickey, Lidstone, Morton, Poile, Pope, Rands, Rutland, Williams and Willis. (13)

Members who votes against the amendment: Councillors Atwood, Backhouse, Bailey, Barrington-King, Bland, Bruneau, Mrs Cobbold, Dawlings, Fairweather, Hamilton, Hayward, Hill, Holden, Mackonochie, March, McDermott, Neve, Noakes, Podbury, Reilly, Scott, Simmons, Mrs Soyke, Stanyer, Mrs Thomas, Thomson, Warne and Woodward. (28)

Members who abstained from voting: Councillors Atkins, Dr Hall, Lewis, Pound and Scholes. (5)

AMENDMENT NOT CARRIED

Debate returned to the original motion.

Debate on the motion included the following comments:

- The recommendations set out in the interim report were robust.
- Cross-party working was to be welcomed.
- The external audit into the Calverley Square project would provide useful insight into decision making processes.
- Future work must avoid the failures of the past.
- There was a lack of information on the cost of potential future plans, costs must be closely managed.
- 'Placeshaping' must extend beyond Royal Tunbridge Wells.
- The report lacked reference to the town's heritage which was the main draw of the town. Rejuvenation should not erase the heritage of the town.
- The future of the town centre sites would be a sensitive matter, regardless of the final outcome.
- The success of Royal Tunbridge Wells benefitted the whole borough.
- Members of the council were not necessarily qualified to take the decisions on the future of the town and a framework for collaborative planning with the community, who may have relevant expertise, should form part of the future process.

- The brief for the cross-party group was to examine the business case for each of the sites that made up the Calverley Square project. It was not for the working group to define the cultural strategy for the Borough.
- Ambitions to be more open were yet to be fully realised.
- The report showed that the Council was addressing the concerns of the public on openness and responding to the key concerns following the Calverley Square project.
- The Council would be engaging with the public on developing future plans.
- Heritage was important but outside the remit of the working group's report.
- The report is only the start of a new collaborative approach.

The Mayor took a vote on the substantive motion by affirmation.

RESOLVED –

1. That the interim report of the Working Group, as set out at Appendix A to the report, be noted; and
2. That the Working Group continues with its work in accordance with the recommended actions set out at paragraphs 25 to 28 of the interim report and to engage with Councillors and the general public.

MOTION ON NOTICE FROM COUNCILLOR DR HALL

FC73/19 Councillor Dr Hall moved, and Councillor Fairweather seconded, the recommendation set out in the report.

Debate on the motion included the following comments:

- Members welcomed the report.
- The complexity of the issue and trying to find alternatives to single use plastic that will keep food fresh and avoid waste.
- A suggestion that if councillors were minded to approve the motion, that they work in conjunction with Kent Resource Partnership who may be able to provide guidance and advise on how to facilitate moving forward.
- Cross Party Group set up from Overview and Scrutiny Committee had made changes to remove single use plastic within the Council.
- A recent audit of bins carried out showed an improvement on previous waste amounts.
- Supermarkets were limited in terms of relying on suppliers who should be contacted.
- In order to get a weight of opinion of representatives across the County a suggestion of reaching out to work with Kent County Council other Councils in the County was made.

Councillor Pound moved, and Councillor Bland seconded a closure motion that the question be now put.

The Mayor took a vote on the closure motion by affirmation.

RESOLVED – That the question be now put.

The Mayor took a vote on the substantive motion by affirmation.

RESOLVED – This Council proposes to write to all national supermarkets with stores in the borough to urge them to dispense with all plastic food packaging as soon as possible and preferably within the next year. This should apply not just to single-use plastic bags but to any foodstuffs encased in plastic containers.

MOTION ON NOTICE FROM COUNCILLOR ATWOOD

FC74/19 Councillor Atwood moved, and Councillor Bruneau, seconded the motion set out in the report.

Debate on the motion included the following comments:

- The motion's primary concern was education not the removal of fireworks as a form of entertainment.
- The sudden noise was a major issue for the vulnerable including pets and farm animals.
- The Government recognised that the range of audible sound for a human was between 0-140 decibels with 140 decibels being at the threshold of pain. Fireworks sold for domestic use could be as high as 120 decibels.
- The RSPCA were pushing for a reduction in level from 120 to 97 decibels to further reduce stress to animals.
- The 4 main effects of noise were noise induced hearing impairment, speech communication, sleep and environmental noise which could cause an acceleration of the development latent disorders.
- Safety was also a consideration with domestic fireworks now much larger and more powerful. Compliance of recommended safety distances in residential areas was more difficult.
- Guidance already existed on safety around fireworks and included measures to ensure animals were kept safe.
- A Safety Advisory Group existed that looked at displays taking place on public land. The Council also had a guide which was available on the website that gave guidance on how to organise and manage public events. There was a legal duty for organisers to ensure the event did not constitute a nuisance to residents in the immediate vicinity.
- Silent fireworks were an option for the future.
- Enforcement of measures to control the decibel level would be difficult.
- Consideration should be given to limit the amount of time allowed to sell fireworks.
- A petition signed by 500k people existed that sought to get the rules about the use of fireworks changed.

The Mayor took a vote by a show of hands. There were 32 votes for, 3 against and 6 abstentions.

RESOLVED –

1. This Council notes the potential impact of firework displays on animals and vulnerable people. It urges all suppliers of fireworks to stock quieter fireworks and for those organising displays to show consideration to neighbouring properties;

2. The Council further requests that the advisory conditions are included for public displays requiring advance warning and that this should be a condition for any displays taking place on Council-owned land; and
3. Finally, the Council will actively promote a public awareness campaign about the impact of fireworks on animal welfare and vulnerable people – including the precautions that can be taken to mitigate risks.

MOTION ON NOTICE FROM COUNCILLOR REILLY

FC75/19 Councillor Reilly moved, and Councillor Barrington-King seconded, the recommendations set out in the report.

Debate on the motion included the following comments:

- At the bi-monthly meeting of the Audit and Governance Committee, the Monitoring Officer was required to provide an update on the complaints received under the Members Code of Conduct.
- An increase in the number of complaints received which related to alleged bullying and harassment had been reported in recent meetings in September and November and the purpose of the motion was to raise Member awareness.
- Bullying could take many forms but all caused harm regardless of physical, verbal or through social media.
- Notwithstanding the Council absolute commitment against bullying, the Localism Act had limited the Council's ability to admonish poor public behaviour from councillors.
- Bullying and harassing behaviour has been witnessed during Council meetings.
- Members were required when they took up office to comply with the provisions of the local Code of Conduct and in turn expected to conduct themselves in an appropriate manner in public.
- If a complaint was raised, the Monitoring officer could investigate the alleged complaint which may result in a hearing or seek informal resolution, the latter being the route preferred and over relied on.
- The Localism Act provided a lack of robust sanctions to deal with more serious complaints.
- The Committee of Standards in Public Life issued new guidance and recommends the power of suspension of Members for serious breaches of Code of Conduct.
- The Constitution Review Working Party would look into seeking improvements to constitution and the Audit and Governance Committee will monitor progress.
- It was acknowledged there was a problem, but concerns were made regarding attacks on freedom of speech.
- Solid party majority had previously stifled debate.
- Constructive conflict and robust challenge should be seen as a good thing however some Members do not see it that way.
- Comments posted on social media about one Member, since proven to be wrong made by a portfolio holder were considered unacceptable.

- The motion was welcomed after a Member being a victim of fake news which persisted and was detrimental to the Members health.
- Group leaders needed to take action and lead by example, ignoring problems condoned behaviour.
- No way to challenge behaviour of members of the public.

The Mayor took a vote on the motion by affirmation.

RESOLVED – There are growing concerns about the impact an increasing level of public intimidation and toxicity of debate is having on our country's democratic processes, particularly at a local level.

Whilst debate and having different views is all part of a healthy democracy; abuse, public intimidation and threats are designed to undermine democratic decision making by generating fear in those who represent it. Equally, if we are to expect decent standards of behaviour from members of the public when they engage with councillors, then good standards of behaviour need to be modelled within the Council.

We welcome the report from the Committee on Standards in Public Life and the work being undertaken by the LGA to promote Civility in Politics and to review the Model Code of Conduct. More locally, the Council welcomes the production of guidelines from Mid Kent Legal Services on the use of social media and on the importance of respect, and also the work of the Constitution Review Working Party to review the Council's Code of Conduct and Associated Protocols.

The Council urges all local political parties, campaigning groups, organisations and individuals to engage in positive political discourse, to encourage, consistent and high standards for all holding public office and to pursue positive outcomes through civil and respectful debate, discussion and decision-making.

URGENT BUSINESS

FC76/19 There was no urgent business.

COMMON SEAL OF THE COUNCIL

FC77/19 **RESOLVED** – That the Common Seal of the Council be affixed to any contract, minute, notice or other document arising out of the minutes or pursuant to any delegation, authority or power conferred by the Council.

DATE OF NEXT MEETING

FC78/19 The next scheduled meeting was Wednesday 26 February 2020.

NOTES:

The meeting concluded at 9.35 pm.

An audio recording of this meeting is available on the Tunbridge Wells Borough Council website.