

CANNOCK CHASE COUNCIL

MINUTES OF THE MEETING OF THE COUNCIL

HELD IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK

AT 4.00 P.M., WEDNESDAY 21 JANUARY, 2009

PART 1

PRESENT: Councillors

Ansell, Mrs. P.A. (Chairman)

Beddows, J. (Vice-Chairman)

| | |
|--------------------|---------------------|
| Allen, F.W.C. | Jones, R. |
| Ball, G.D. | Kraujalis, J.T. |
| Bennett, Mrs. D.J. | Mawle, D.L. |
| Bernard, Mrs. A.F. | Meaden, R.G. |
| Bernard, J. | Mitchell, C. |
| Bullock, L.W. | Molineux, G.N. |
| Burnett, G. | Morgan, C.W.J. |
| Burnett, J. | Pearce, Mrs. L.J. |
| Davies, D.N. | Stanley, N.K. |
| Davis, Mrs. M.A. | Stretton, Mrs. P.Z. |
| Dixon, D.I. | Thomas, D. |
| Easton, Mrs. D. M. | Todd, Mrs. D. M. |
| Easton, R. | Williams, A. |
| Freeman, M.P. | Williams, B. |
| Grice, Mrs. D. | Williams, Mrs. P. |
| Grocott, M.R. | Yates, Ms. W. |
| Holder, M.J. | 1 Vacancy |

(Apologies for absence were received from Councillors G. Alcott, K. L. Bennett, I. R. Carr, M. R. Green and J. F. Jillings).

78. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

| <u>Member</u> | <u>Nature of Interest</u> | <u>Type</u> |
|----------------|--|--------------------------|
| Bullock, L.W. | Minute 45 of the Appeals & Complaints Panel held on 18 August 2008 – Member was personally affected by the Panel's decision. | Personal and Prejudicial |
| Grice, Mrs. D. | Member of Hednesford Town Council | Personal |

79. **Minutes**

RESOLVED:

That the Minutes of the ordinary meeting of the Council held on 10 December 2008 and the extra ordinary meeting held on 22 December, 2008 be approved as a correct record.

80. **Question in Accordance with the Scheme for Receiving Questions from Members of the Public**

In accordance with the scheme for receiving questions from members of the public, Mr. M. Oakley asked the following question of the Leader of the Council, Councillor N.K. Stanley:

"Subject: Allotment Rent Increase

Introduction.

Section 10(1) Allotments Act 1950 states that Local Authorities do not have an entirely free hand in setting allotment rents, the Local Authority must determine what, reasonably, an Allotment holder could be expected to pay and ask that amount, no more and no less.

The Reigate and Banstead High Court judgement established case law on allotment charges being increased by no more than the level of increase in charge of other recreational activities and that there was a right to subsidy and reasonableness.

Question.

The Council has increased rent for allotments by about 400%. If, in the event, the Council decide not to increase the charges for all other recreational activities on an equitable basis, i.e., by a similar proportion, does it realise that it will be acting against the established case law, i.e., it will be acting illegally?"

The Leader, Councillor N. K. Stanley, provided the following response:

"The power for Local Authorities to charge rent for land used for allotment purposes is derived from Allotments Act 1950, Section 10(1), which states that:

"Land let by a council under the Allotments Acts, 1908 to 1931, for use as an allotment shall be let at such rent as a tenant may reasonably be expected to pay for the land if let for such use on the terms (other than terms as to rent) on which it is in fact let:

Provided that land may be let by a council as aforesaid to a person at a less rent if the council are satisfied that there exist special circumstances affecting that person which render it proper for them to let the land to him at a less rent."

It is accepted that Local Authorities do not have an entirely free hand in setting allotment rents. All Local Authorities must determine what *reasonably* an Allotment holder could be expected to pay for the land being used for allotment purposes.

A recent High Court judgment (given in the case of Harwood v. Reigate and Banstead Council), considered the issue of allotment rents and the meaning of reasonable

rents in the context of section 10 and other recreational activities. In summary, the High Court concluded that:

"...the council was required to determine the rent that a notional tenant rather than a particular tenant might reasonably be expected to pay; and

...that the appropriate test was that in arriving at that determination the council must take into account all relevant circumstances in a broad, commonsense way, giving such weight as the council thought fit to various factors in the situation so that it might come to a conclusion that it thought right and fair."

The High Court judgment is not binding case law but it is accepted that it is persuasive and as such cannot be ignored.

The Council's decision to increase Allotment rents is consistent with its powers and in accordance with the judgment given in the Harwood case.

The decision to withdraw the subsidy for Allotments, which in turn led to increased rents, arose as a direct result of the Council's Delivering Change Programme. The Delivering Change programme is an important mechanism that assists with the budget setting process by enabling policy options, whether growth or savings, to be proposed, considered and robustly scrutinised against the Council's aims, objectives and priorities.

The Programme did not only focus on the subsidy for allotments and nor did it apply different factors or criteria to whether the allotment subsidy should be maintained or withdrawn. The Delivery Change Programme applied a consistent yardstick to all options and measured their effectiveness in delivering the Council's priorities given the finite resources available.

Accordingly, the decision to withdraw the subsidy in relation to allotments rents was determined following a fair process that focused upon assisting the Council deliver its priorities, aims and objectives. The process adopted and resulting increase in allotment rents were therefore both justifiable and lawful."

Mr. Oakley then asked the following supplementary question:

"Is the Council prepared to go to Court on this matter?"

The Leader, Councillor N.K. Stanley, responded as follows:

"I am unable to answer that question as it will be a matter for the Council to determine".

81. The Chairman's Announcements and Correspondence

(i) Chairman's Charity Collection Box

The Chairman reported that her charity collection box was circulating for Members to make a donation to her chosen charities.

At the meeting held on 22 December 2008 a total of £64.23 was donated.

(ii) Chairman's Charity Ball

The Chairman reminded Members that tickets were now on sale and available from Chase Leisure Centre, for her Charity Carnival Ball to be held on Saturday, 7 March 2009 at Chase Leisure Centre, Stafford Road, Cannock.

All monies raised would be donated to her chosen charities, which included British Heart Foundation, Guide Dogs for the Blind and St. Giles Hospice.

82. Question in Accordance with Rule 8

No questions were submitted under Rule 8.

83. Part 1 Minutes of Cabinet, Committees, Forums and Panels

RESOLVED:

That the Part 1 Minutes of the following Cabinet, Committees, Forums and Panels be adopted and any recommendations be approved and decisions implemented following the expiry of any call-in period:-

- (A) Cabinet – 20 November 2008
- (B) Standards Committee – 25 September, 2008
- (C) Planning Control Committee – 12 November, 26 November 2008 and 17 December 2008
- (D) Audit and Governance Committee – 19 September 2008
- (E) Licensing & Public Protection Committee – 29 July and 5 August 2008
- (F) Appeals & Complaints Panel – 18 August, 4 November and 7 November 2008
- (G) Cannock Community Forum – 1 September 2008
- (H) Rugeley & Brereton Community Forum – 8 September 2008
- (I) Heath Hayes, Norton Canes & Rawnsley Community Forum – 2 September 2008

Arising from consideration of the Minutes, Councillor G.D. Ball sought clarification with regard to the lease of Hednesford Hills Raceway. The Director of Service Improvement reported that the signing of the new lease had been delayed as a result of discussions with the District Valuer in relation to the level of rents. He agreed to inform Councillor Ball once the lease had been agreed and signed.

84. Notice of Motion Under Rule 6

Consideration was given to the following motion submitted by Councillor J.T. Kraujalis in accordance with Rule 6:

"The Council is requested to re-instate the £5,000 subsidy to allotment holders in the stand still budget for 2009/10 and back dating it to 1 January 2009, thus reducing the rents to individual allotment holders to their original levels. The compensating savings required to implement this change will then form part of the 2009/10 budget process and will be considered by Council at its February Budget Setting meeting".

In moving the motion, Councillor Kraujalis made the following amendment, which was seconded:

"That in order to fund the re-instated subsidy for the period 1 January 2009 to 31 March 2009 Council is requested to approve a supplementary estimate payable from reserves and balances".

The Leader of the Council, Councillor N.K. Stanley, objected to the amendment of the motion on the basis that, in his view, a supplementary estimate could not be payable from reserves and balances without identifying a compensatory budget saving and that his objection was in accordance with previous advice given by the Section 151 Officer.

The Director of Governance suggested that in order to clarify the situation, advice be sought from the Section 151 Officer and that the meeting adjourn in order to check that the Section 151 Officer was available to be present at the meeting or that consideration of the motion be deferred to a future meeting of the Council.

RESOLVED:

That consideration of the motion be deferred to the next meeting of the Council in order that the Section 151 Officer can clarify the validity of a motion proposed by a Member which seeks the approval of a supplementary estimate payable from reserves and balances without identifying a compensatory budget saving.

85. Changes to the Council's Budget and Policy Framework

Consideration was given to the Report of the Constitution Working Group (Enclosure 9.1 – 9.4 of the Official Minutes of the Council).

RESOLVED:

That the Budget and Policy Framework, as set out in Annex 1 of the report, be approved and adopted as part of the Council's Constitution.

86. Appointment of a Representative to WMLGA Member Development Network

Consideration was given to the appointment of a representative to the WMLGA Member Development Network until the Annual Meeting in May 2009.

Councillor M.R. Grocott nominated Councillor Mrs. P.A. Ansell, which was seconded.

RESOLVED

That Councillor Mrs. P.A. Ansell be appointed as the Council's representative to the WMLGA Member Development Network until the Annual Meeting in May 2009.

87. Interim Appointment of Monitoring Officer

Consideration was given to the interim appointment of the Legal & Democratic Services Manager as Monitoring Officer with effect from 2 February 2009.

The Chairman agreed to this matter being considered as an urgent item on the basis that under Section 5 of the Local Government and Housing Act 1989 the Council must appoint a "Monitoring Officer". The Council's current Monitoring Officer was the Director of Governance, but would formally cease employment with the Council on 1 February 2009.

RESOLVED:

That the Legal & Democratic Services Manager be appointed as Monitoring Officer with effect from 2 February 2009 (upon such terms and conditions as are agreed with the Chief Executive) until Council determines and approves its 2009/10–2011/12 Budget and the Senior Management Restructure of the Chief Executive.

88. Exclusion of the Public

RESOLVED:

That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Paragraphs 2 and 3, Part 1, Schedule 12A, Local Government Act 1972 (as amended).

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PART 2

89. Part 2 Minutes of Cabinet, Committees and Panels

RESOLVED:

That the Part 2 Minutes of the following Cabinet, Committees and Panels be adopted and any recommendations be approved and decisions implemented following the expiry of any call-in period:-

- (A) Cabinet – 20 November 2008
- (B) Licensing and Public Protection Committee – 29 July and 5 August 2008
- (C) Appeals and Complaints Panel – 18 August, 4 November and 7 November 2008.

(Having declared a personal and prejudicial interest, Councillor L.W. Bullock left the meeting during consideration of the Minutes of 18 August 2008).

CHAIRMAN