

Item 52 on agenda

BRIGHTON & HOVE CITY COUNCIL

CABINET

4.00pm, 10 July 2008

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillor Mears (Chairman), Councillors; Brown, Caulfield, Kemble, Norman, Simson, Smith, Theobald and Young.

Also in attendance:
Councillor Mitchell (Leader of the Opposition)

Other Members: Councillors Hamilton, Hawkes, Taylor and Randall.

PART ONE

25 PROCEDURAL BUSINESS

25a Declarations of Interests

25a.1 There were none.

25b Exclusion of Press and Public

25b.1 The Cabinet 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 Schedule 12A, Part 5A, Section 100A(4) or 100 1 of the Local Government Act 1972 (as amended).

25b.2 **RESOLVED** - That the press and public be excluded from the meeting during consideration of items 44 onward.

26 CHAIRMAN'S COMMUNICATIONS

26.1 The Chairman agreed that a late and urgent confidential item would be considered as item 45A; 'NCP Car Parks'.

26.2 The Chairman noted that she had determined that the Forward Plan could be flexible in respect of the following three issues; these had been previously listed on the Forward Plan, but were not included on the Cabinet agenda.

- 26.3 The Housing Green Paper. The report would be considered by the Housing Management Consultative Committee and then determined at the Housing Cabinet Member Meeting.
- 26.4 A report considering the needs of gypsies and travellers was subject to ongoing discussion and would be reported to a future meeting, prior to the timetabled September Cabinet.
- 26.5 The King Alfred Development was subject to ongoing discussions, particularly in light of the 'credit crunch' affecting the national economy and a report would be brought to a future meeting.

27 MINUTES OF THE MEETING OF CABINET HELD ON 12 JUNE 2008

- 27.1 **RESOLVED** – That the minutes of the Cabinet as held on 12 June 2008 be agreed as a correct record.

28 ITEMS RESERVED FOR DISCUSSION

- 28.1 **RESOLVED** – That with the exception of the items reserved (and marked with an asterisk), the recommendations and resolutions contained therein be approved and adopted without debate.

29 PUBLIC QUESTIONS

- 29.1 The Chairman noted that one public question had been received and welcomed Mr Chavasse to the meeting and invited him to put his question.

- 29.2 Mr Chavasse thanked the Chairman and asked the following question:

'To again allay public concerns and the circulation of rumours, and to allow sufficient opportunity for public consideration and democratic preparations, would the Cabinet Member please urgently confirm, to this Meeting, the now intended date for the publication of the completed Report and Recommendations on proposals to extend Communal Bins and to change long existing collection arrangements - early publication being in accordance with the Environment Committee resolution Item 55.12 2, whereby the analysed results of the Consultation will be reported back for consideration alongside any associated recommendations for changes to established collection systems?'

- 29.3 The Chairman invited Councillor Theobald to respond. Councillor Theobald replied as follows:

'Thank you for your question Mr Chavasse.

Communal bins will be considered by the Cabinet on the 18 September and it is anticipated that the report will be made public 5 clear working days before the date of the meeting.'

29.4 The Chairman noted that Mr Chavasse had the right of one supplementary question and invited him to put a further question.

29.5 Mr Chavasse asked the following supplementary question:

'As that is clearly an unsatisfactory, defensive and secretive answer which may lead to evasion of discussion and timely scrutiny, will the Cabinet either please confirm that proposed changes which affect household collection and waste storage in listed HMO's are the subject of open discussion to ensure that all freeholders have sufficient opportunity to meet their obligations under Planning, Listed Building, Building Control, Environmental Health & Safety and Landlord and Tenant Consultation legislation or will Cabinet confirm that the council will indemnify freeholding landlords and leaseholders against legislative breach and chaos stemming from precipitative changes upon which there has been no consultation? For example the rumoured and provocative halving of the number of collections from HMO's, no mutual effort to first promote the required increase in recycling, the long delivery of boxes and the lack of stable lids so that they can be economically stored within the many small premises'.

29.6 Councillor Theobald thanked Mr Chavasse for his question and following a further exchange to clarify some points made above responded that the decisions would be made in an open and accountable way, taking note of the consultation undertaken. Many of the rumours and concerns as detailed above would be dealt with in the report submitted for consideration.

30 WRITTEN QUESTIONS FROM COUNCILLORS

30.1 There were none.

31 PETITIONS

31.1 The Cabinet received a petition signed by 22 people, presented by Councillor Randall.

'Petition to Brighton & Hove City Council

Stonewall Education Champions Programme

We the undersigned call on Brighton & Hove City Council to sign up to the Stonewall Education Champions Programme that provides support to local authorities tackling homophobic bullying in schools.

Sonewall's recent School Report, research carried out with more that 1100 pupils in Britain's secondary schools, found that two thirds were regular victims of homophobic bullying. Ninety eight per cent regularly heard insults such as 'bender', 'queer' and 'dyke' in their schools.

Children who learn that homophobic bullying is unacceptable in schools and can destroy lives will carry that message into their adult life in the workplace and the community.'

- 31.2 The Chairman thanked Councillor Randall for his petition and that it would be referred to the next relevant meeting of the Children and Young People's Trust.

32 DEPUTATIONS

- 32.1 There were none.

33 LETTERS FROM COUNCILLORS

- 33.1 The Chairman noted a letter from Councillor Steedman in relation to GM food and trading standards (tabled at the meeting for information). As Councillor Steedman was unable to attend, Councillor Randall presented the letter on his behalf.

- 33.2 'I write to you on two matters of concerns, brought to my attention by Friends of the Earth, both relating to the possibility that Brighton and Hove residents may be unwittingly buying and consuming genetically modified foods that they neither need nor want.

Firstly, the Food Standards Agency (FSA) has recently issued a food alert regarding the contamination of some rice products by illegal genetically modified (GM) rice.

- 33.3 Two contaminated foods, both rice noodle products, were found on sale in Asian specialty stores in London in 2006, but the FSA has only just issued the alert. I am therefore concerned that contaminated food may be on sale in shops in Brighton and Hove. This is particularly worrying because scientific studies have raised concerns about the risk to human health, particularly the potential to cause food allergies. Worryingly, the FSA says that so little data on Bt63 rice exists that it is not even possible to carry out safety tests.

For full information about the food alert, including details of products that might be affected and the obligations of local authorities please see the FSA website at: <http://www.food.gov.uk/enforcement/alerts/2008/apr/bt63>

- 33.4 Secondly, GM ingredients, mainly cooking oil, may be finding their way into restaurants, cafes and pubs without customers being informed of this fact. Although I understand that it is lawful for catering establishments to use certain types of GM oil in their food, they are legally required to reveal it on the menu or on a prominent notice.

However, in some areas, such as Norfolk and York, Trading Standards officers have found that GM ingredients are being routinely used without any form of labelling by numerous caterers. This is despite the fact that failure to comply with these labelling requirements is a criminal offence with a penalty of up to £20,000.

A Business Guidance leaflet on Genetically Modified Foods, produced for caterers by Trading Standards at national level has been produced and is available at: <http://www.tradingstandards.gov.uk/cgi-bin/bglitem.cgi?file=badv070-1011.txt>.

33.5 The people of Brighton and Hove have comprehensively rejected genetically modified products. In 2003, the Council passed a motion making us the first local authority in the South East to become a GM-free zone. However, despite massive public opposition, the Government is once again expressing its support for GM technologies following extensive lobbying from the biotech industry. The Council must act to defend our record on GM and to uphold the law.

33.6 Therefore, I would request that our Trading Standards team:

- investigate the possibility that products contaminated with the illegal Bt63 GM rice are being sold in Brighton and Hove, including any necessary testing;
- investigate whether unlabelled GM products, especially cooking oil, are being used in catering establishments across the city;
- take action to remind local businesses of their legal obligations in respect of the labelling of GM products;
- take the strongest possible action against offending businesses, where repeated and wilful breaches of the law are occurring.

Yours sincerely ...'

33.7 The Chairman invited Councillor Theobald to respond. Councillor Theobald replied as follows:

'The Trading Standards Food Team have a risk assessed programme of inspections and carry out target sampling in line with national guidance.

They are aware of all the issues relating to GM foods, including the recent alert and the concerns of the public and will, of course, always have this in mind when they are carrying out their work.

Their current sampling programme does not include GM foods but, obviously, if information is received that suggests a problem within the city, they have the flexibility to amend the programme to take account of this.

I know that the Trading Standards Team are reviewing the local position regarding this issue to ensure that appropriate action is being taken."

34 NOTICE OF MOTION REFERRED FROM COUNCIL

34.1 There were none.

35 MATTERS REFERRED FOR RECONSIDERATION

35.1 There were none.

36 REPORTS FROM OVERVIEW & SCRUTINY COMMITTEE

36.1 There were none.

FINANCIAL MATTERS***37 TARGETED BUDGET MANAGEMENT (TBM) MONTH 2**

37.1 The Cabinet considered a report of the Director of Finance & Resources concerning the forecast outturn position on the revenue and capital budgets as at the end of May 2008 (Month 2) (for copy see minute book).

37.2 Following a request to speak the Chairman invited Councillor Hamilton to address the meeting. Councillor Hamilton raised a number of concerns and issues, reflected in the responses as detailed below.

37.3 In response to questions and comments from Councillor Hamilton, Councillor Caulfield noted concerns in respect of the Housing Revenue Account and the potential impact on meeting the Decent Homes Standard. She explained that issues concerning this would be contained in the Housing Green Paper report prepared for the Housing Management Consultative Committee and Housing Cabinet Member Meeting. It was also the case that the re-tendering of some repairs contracts should achieve major savings.

37.4 Councillor Kemble, responding to points made by Councillor Hamilton in respect of potential savings from insurance monies and un-allocated LAGBI funding, commented that this potential opportunity for savings would be considered.

37.5 Councillor Norman, noting Councillor Hamiltons' point about an overspend from the Adult Social Care budget was confident that the budget would be balanced at the end of the financial year.

37.6 **RESOLVED** – Having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:

(1) That the forecast outturn for the General Fund, Section 75 Partnerships and Housing Revenue Account (HRA) for 2008/09 as at month 2 be noted.

(2) That Directorates with forecast overspends will develop financial recovery plans, which will be included in the next report to Cabinet (Month 6 – September).

(3) That a contribution of £0.300 million to Contingency from the saving on the Insurance contract renewal be agreed.

(4) That a contribution of £0.150 million to the Risk Management Reserve, also from the saving on the Insurance contract renewal, be agreed.

(5) That the forecast outturn position on the capital budgets as at month 2 be noted.

(6) That the new capital schemes as set in Appendix 4 of the report be approved.

(7) That the capital budget changes as set out in 3.14 and 3.15 and the budget re-profile as set out in Appendix 5 of the report be approved.

***38 CORPORATE ENERGY PROCUREMENT – GAS CONTRACT**

- 38.1 The Cabinet considered a report of the Director of Finance & Resources seeking authority to delegate approval powers to the Director of Finance and Resources following a tender exercise in compliance with the European Union Public Procurement Directive to re-let the Brighton and Hove City Council Gas contract (for copy see minute book).
- 38.2 In response to questions from Councillor Mitchell, Councillor Caulfield commented that the impact of fuel price increases for tenants would be mitigated by the ongoing rent restructuring process. Options were also being considered to combat fuel poverty for tenants; including the provision of more energy efficient boilers and improved insulation. These improvements were being developed in consultation with the Sustainability Team and their advice in minimising consumption and offering advice on sustainable lifestyles would be beneficial.
- 38.3 In relation to a point raised by Councillor Mitchell about bringing pressure to bear on utility companies demanding that lower income customers use pre-payment methods, the Chairman commented that Government should be lobbied on the issue.
- 38.3 **RESOLVED** – Having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:
- (1) That a contract is awarded to the best gas bid, via the most beneficial procurement route following appraisal and recommendations from the council's energy adviser.
- (2) That the current OJEU procurement route continues whilst options are retained to place a contract through the most beneficial procurement route
- (3) That the Director of Finance & Resources be given delegated powers, following consultation with the Cabinet member, Leader, and Opposition Spokesperson to award the contract and take all other steps necessary for the implementation of the proposals.
- (4) That the Director of Adult Social Care and Housing be authorised to increase gas heating service charges for council tenants to reflect the increase in contract prices from 1st October 2008.

STRATEGIC AND POLICY ISSUES***39 ANNUAL PERFORMANCE REPORT 2007 / 2008**

- 39.1 The Cabinet considered a report of the Director of Strategy & Governance providing a summary of results of the Council's end of year performance (for copy see minute book).
- 39.2 Portfolio holders introduced their areas of responsibility and responded to queries from Members.
- 39.3 In response to queries from Councillor Hawkes, Councillor Brown agreed on the importance of indicator 197 which measured the number of conceptions to females aged under 18. Both Members considered this area to be extremely important and were pleased with the results achieved to date.
- 39.4 Responding to comments from Councillor Mitchell the Chairman noted that the forty one empty council owned houses noted in the report were subject to major repair or structural integrity issues.
- 39.5 Councillor Caulfield added that the majority of these buildings demanded repairs in excess of £25,000 and that some of the long-term empty properties had been inherited from the previous administration. She noted that the report on the Housing Green Paper contained proposals for dealing with this situation. She concluded that there were no plans to transfer any of these properties away from council ownership.
- 39.6 Responding to comments from Councillor Mitchell, Councillor Brown commented that the Children and Young Peoples Trust Board would be examining why the number of statements of special educational needs had fallen.
- 39.7 Councillor Brown noted that primary school attendance had improved year on year for the last five years and that attendance at secondary school had begun to show signs of improvement.
- 39.8 Councillor Theobald accepted Councillor Mitchells' comment in regard to an increase in domestic burglaries, but noted that on the whole crime was reducing.
- 39.9 Councillor Theobald noted comments about the dirtiness of pavements in the city centre, but noted the positive impact of communal bins and the move to encourage business premises to wash the pavement areas that they were responsible for. He added that he remained to be convinced that there was a cost effective solution to the issue.
- 39.10 **RESOLVED** - Having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendation;
- (1) To approve the Annual Performance Report 2007-08, subject to a small amount of statistical information to be collected and included.

40 RISK & OPPORTUNITY MANAGEMENT STRATEGY & PROGRAMME 2008-2011

40.1 The Cabinet considered a report of the Director of Strategy & Governance that identified a number of reasons for improving the council's risk management approach and converting it into a Risk & Opportunity Management (ROM) strategy for the period 2008 – 2011 (for copy see minute book).

40.2 **RESOLVED** – Having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:

(1) To approve the ROM strategy (Appendix 1 of the report) & ROM Programme (Appendix 1.A of the report)

(2) To delegate authority to the Risk & Opportunity Manager and officer ROM Champion to alter the ROM Toolkit as necessary.

41 REVISED LOCAL DEVELOPMENT SCHEME FOR THE LOCAL DEVELOPMENT FRAMEWORK

41.1 The Cabinet considered a report of the Director of Environment seeking approval of the revised and updated Local Development Scheme (LDS). This three year work programme for the Local Development Framework (LDF) covered the period from 2008 to 2011 (for copy see minute book).

41.2 **RESOLVED** – Having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:

(1) To approve the revised Local Development Scheme for submission to the Secretary of State, subject to minor changes to the Waste and Minerals DPD timetables and minor non-material alterations that may be made in consultation with the Director of Environment and the Cabinet Member for Environment.

(2) To approve that the Local Development Scheme should be brought into effect following approval by the Secretary of State.

42 CONSULTATION ON THE FUTURE OF FALMER HIGH SCHOOL AND PROPOSALS FOR THE DEVELOPMENT OF AN ACADEMY ON THE SCHOOL SITE

42.1 The Cabinet considered a report of the Director of Children's Services that updated Members on the process for the proposed development of an Academy on the Falmer High School site. The report informed Members of the outcomes of the informal consultation process and sought approval for the further formal consultation stage (for copy see minute book).

- 42.2 A revised version of the report had been circulated to the Cabinet and made available to Members and the public. The revised report was the version considered in determining the decision.
- 42.3 Following a request to speak the Chairman invited Councillor Hawkes to address the meeting. Councillor Hawkes broadly supported the initiative but was concerned that there was not enough detail contained within the report about the variety of responses made to the consultation.
- 42.4 Councillor Caulfield, speaking as a ward councillor for the area, thanked Councillor Hawkes for her support and noted that the prime driver for pursuing the initiative was to improve the lives and education opportunities for residents in the area.
- 42.5 Councillor Kemble endorsed the comments made by Councillors Hawkes and Caulfield, noting the unique opportunity that the project afforded.
- 42.6 **RESOLVED** – Having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendations:
- (1) To note the progress since the Policy & Resources Committee Meeting of 6 March 2008.
 - 2) To consider the outcome of the informal stage of consultation undertaken between 19 May and 4 July 2008 shown at Appendix 3 of the report.
 - 3) That based on the outcomes of that consultation, to approve the next stage of the procedure and authorise the Director of Children's Services to publish the statutory notice on 1 September 2008 for the closure of Falmer High School in August 2010.

GENERAL MATTERS

43 ESTABLISHMENT OF SUSTAINABILITY COMMITTEE OF THE CABINET

- 43.1 The Cabinet considered a report of the Director of Strategy & Governance that detailed the nature of a proposed new Sustainability Cabinet Committee and sought approval for its establishment (for copy see minute book).
- 43.2 Additional information regarding the establishment of a Sustainability Committee had been circulated to the Cabinet and made available to Members and the public. This was also considered in determining the decision. The information related to a meeting of the Governance Committee on 1 July.
- 43.3 Councillor Mitchell maintained that the new body was unnecessary and that instead of creating a new forum, the existing Sustainability Commission should report to Cabinet.
- 43.4 The Chairman considered that the formation of the new body demonstrated commitment to sustainability.

43.5 **RESOLVED** – Having considered the information and the reasons set out in the report, the Cabinet accepted the following recommendation:

(1) To approve the establishment of a Sustainability Cabinet Committee in accordance with the terms of reference as noted.

PART TWO SUMMARY**44 CORPORATE ENERGY PROCUREMENT – GAS CONTRACT
– EXEMPT CATEGORY 3**

44.1 The Cabinet considered a report of the Director of Finance & Resources seeking authority to delegate approval powers to the Director Finance and Resources following a tender exercise in compliance with the European Union Public Procurement Directive to re-let the Brighton and Hove City Council Gas contract.

44.2 **RESOLVED** – That the recommendations contained in the report be agreed.

***45 BLACK ROCK DEVELOPMENT– EXEMPT CATEGORIES 3 & 5**

45.1 The Cabinet considered a report of the Director of Environment that documented progress to date on the Black Rock development and in particular progress made by the Developer in securing new funding for the project. The report detailed progress made since a deadline of 14 March 2008 was set by the Developer for the submission of Best and Final Offers from investors.

44.2 **RESOLVED** – That the recommendations contained in the report be agreed.

45A NCP CAR PARKS - EXEMPT CATEGORY 3

The Cabinet considered a late and urgent report of the Director of Environment that reported and confirmed the decisions made on 29th November 2007 by the then Policy & Resources Committee that authorised officers to negotiate with NCP the return of five car parks currently leased to NCP (Regency Square, High Street, Trafalgar/Blackman Street, Oxford Court and Carlton Hill) and to issue appropriate Notices under the Landlord & Tenant Act 1954.

45A.1 **RESOLVED** – That the recommendations contained in the report be agreed.

46. PART 2 ITEMS

461 The committee considered whether or not any of the above items should remain exempt from disclosure to the press and public.

46.2 **RESOLVED** – That item No's 44 to 45A inclusive contained in Part 2 of the agenda and the decisions thereon remain exempt from disclosure to the press and public.

The meeting concluded at 5.25pm

Signed

Chair

Dated this

day of

2008