

MINUTES OF THE MEETING OF THE BABERGH COUNCIL HELD IN KING EDMUND CHAMBER, ENDEAVOUR HOUSE, 8 RUSSELL ROAD, IPSWICH ON TUESDAY, 21 NOVEMBER 2017

PRESENT: Peter Burgoyne - Chairman

Clive Arthey	Sue Ayres
Melanie Barrett	Simon Barrett
Tony Bavington	Peter Beer
Tom Burrows	David Busby
Tina Campbell	Michael Creffield
Luke Cresswell	Derek Davis
Siân Dawson	Alan Ferguson
Barry Gasper	Kathryn Grandon
John Hinton	Michael Holt
Bryn Hurren	Jennie Jenkins
Richard Kemp	Frank Lawrenson
Margaret Maybury	Alastair McCraw
Mark Newman	John Nunn
Adrian Osborne	Jan Osborne
Lee Parker	Peter Patrick
Stephen Plumb	Nick Ridley
David Rose	William Shropshire
Fenella Swan	John Ward
Stephen Williams	

The following Members were unable to be present: Sue Burgoyne, Sue Carpendale, James Long, Ray Smith and Harriet Steer.

The Chairman of the Council referred to the death of Henry Engleheart, a former Member of Babergh and a Chairman and Vice-Chairman of the Council. Members stood to observe a minute's silence in his memory.

The Chairman then made a short statement regarding press coverage about his comments at a recent Overview and Scrutiny Committee meeting, confirming that they were made in his capacity as a member of that Committee and not as Chairman of the Council.

46 DECLARATION OF INTERESTS BY COUNCILLORS

None declared.

47 MINUTES OF THE MEETING HELD ON 24 OCTOBER 2017

RESOLVED

That the Minutes of the meeting held on 24 October 2017 be confirmed and signed as a correct record.

48 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH COUNCIL PROCEDURE RULES

None received.

49 QUESTIONS BY THE PUBLIC IN ACCORDANCE WITH COUNCIL PROCEDURE RULES

None received.

50 QUESTIONS BY COUNCILLORS IN ACCORDANCE WITH COUNCIL PROCEDURE RULES

Councillor Cresswell to Councillor Jenkins, Leader of the Council

As part of the ongoing discussions about the creation of a single council, will the Councils be required to make a full disclosure of their financial positions to one another including any planned spending or borrowing which is not currently in the public domain, such as confidential land acquisitions?

Answer Yes, absolutely.

Supplementary Question

Does that apply to every Councillor?

Answer Yes, absolutely.

Councillor Hinton to Councillor Jenkins, Leader of the Council

When in 2011 Babergh and Mid Suffolk Councils agreed to join together their work forces to optimise potential savings from reduced staff numbers and costs there was an expectation of considerable savings for both councils, they would remain separate Constitutional bodies, and these savings would be divided between the councils, helping to support overall finances in the light of reducing Government grants and potential cost pressures.

Question - Part one.

What were the TOTAL costs of staff for Babergh (Full time, part time, contract employees, consultants, everyone) at the start of the process and what was the equivalent cost at Mid Suffolk?

(This TOTAL to include expenditure from all potential "pots" of money which seem to appear at regular intervals.)

Answer

The total cost for Babergh in 2011/12 was £8,514k made up of £8,440k people on the payroll and £74k off-payroll costs. The equivalent cost for Mid Suffolk was £9,071k, comprising £8,969k on payroll and £102k off-payroll costs.

Question - Part two.

What are the TOTAL staff costs now for both sections of the councils (we are still separate corporate bodies) and what proportion is allocated to Babergh as its TOTAL wages bill? (Again this figure should be a TOTAL figure of ALL staff costs including contract workers, consultants, interims, pregnancy stand ins, and all other nebulous categories utilised in recent years figures.)

These initial questions are asked to identify the ability of the Councils to actually achieve savings from proposed projects as no assessment of their validity has been conducted.

Answer

The total cost for Babergh in 2016/17 was £9,754k made up of £8,525k people on the payroll and £1,229k off-payroll costs. The equivalent cost for Mid Suffolk was £11,158k comprising £9,965k on payroll and £1,193k off-payroll costs.

There are several reasons why the payroll costs have changed over this period of time. I have received a summary analysis from our Section 151 Officer, which I will send to you after the meeting. The Joint Overview and Scrutiny Committee meeting on 18th December will be receiving an update on the latest position in relation to off-payroll costs.

Additional point in relation to statement above

I would also like to remind you that the Joint Scrutiny Committee kept the integration costs and savings position under review, with reports being received by them in January and October 2013, so your statement is untrue that the project was not assessed and integration did in fact deliver over £2m per annum of savings between the two councils.

Supplementary Question

Within the lobbying for central government accounting, the Transformation Fund is regularly mentioned and utilised as a source for additional funds for regular spending and in the papers before the Council concerning the potential merger, it is quoted as figures in Mid Suffolk District Council and therefore they are more economically viable, my question is: What is the Transformation Fund? Where does it receive its income and how much is in there now and in Mid Suffolk's account which Babergh Budget report shows limited information on page 3 lines 12 and 13?

Answer to be provided outside the meeting.

Councillor David Busby to Councillor Jennie Jenkins

If as you state, without a merger we are in dire financial straits, then haven't you mis-managed this Council. How do you explain the turnaround in fortunes since the last merger referendum when we were "the Council with the healthy financial future?"

Answer

I would like to begin by thanking Councillor Busby for his question. The Council's finances and how they have changed in recent years is an important part of determining what we are able to do for our residents and so it is vital that all our Councillors, but also the wider public, fully understand the Council's changed financial position and how it is likely to continue to change for the future.

My only disappointment is that Councillor Busby has sought to make this a local political point when as he knows the Council was in no overall political control up until 2015 and only changed to a Cabinet model this year. Even more fundamentally, as he knows and as I will explain again, the change to our financial position has been driven by national changes that have affected all councils.

As we are all acutely aware, because it has been mentioned many times over the years in Council meetings, the Council has seen significant reductions in Revenue Support Grant (RSG) from the Government since 2011.

In the 2011/12 year the Council received £4.7m in RSG. This has reduced to just £0.5m this year and falls further to £0.2m next financial year, which is a reduction of £4.5m per annum by the end of the 7th year. By 2019/20 this Council will be in a negative RSG position and will be required to pay £0.13m back to Government.

To offset some of this reduction in local authority funding, the Government has offered different methods of more 'incentivised' funding. The main element of this since 2011/12 has been New Homes Bonus (NHB). The Council is receiving £1.2m of NHB in the current year.

There have however also been major changes made by Government to the NHB scheme since it was first launched. It has gone from a position where each new home provided 6 years of funding to the Council to become just 4 years; and a baseline level of growth has been introduced of 0.4% so that NHB is only paid where the increased number of houses in any given year exceeds this baseline. The combination of these factors means that next year the Council is likely to receive £400k less than this year, so £0.8m. Unless there are a significant number of housing completions next year and the scheme remains unaltered then this NHB level is anticipated to fall further, to just £0.6m the following year.

Taking these changes to RSG and NHB together, the Council will have seen an overall reduction in annual funding of £3.7m compared to 2011; against an annual net budget of approximately £10m.

As I have / will explain in response to Cllr Hinton's question – since 2011, the staffing of the two councils has been amalgamated into one workforce. This has achieved significant annual savings of over £2m, mostly from management tiers.

We have also delivered other new ways of generating income. This includes installing photovoltaic panels on our council houses, investing our cash in different ways and establishing CIFCO to invest in commercial property.

All of this activity, along with driving out further efficiency savings, has meant that the Council has been able to absorb the impact of the RSG reduction and other cost pressures without significantly impacting on the delivery of our services to communities.

There remain however significant financial challenges for the future, as reflected in our Medium Term Financial Strategy. We therefore need to continue to be ambitious and innovative, identifying opportunities to provide even greater value for money in our services and raise additional income to reinvest in our services. To be blunt, if we don't, we will have to make reductions in the quality and / or nature of services. Personally, I am not prepared to let that happen to our residents and communities.

I therefore believe that the Council's finances have been very well managed since 2011. This has enabled us to absorb such significant reductions in funding without impacting on the vital services that we provide to our residents. We should therefore be thanking and praising each other and our officers for such an achievement; but we must not be complacent.

Supplementary Question

I thought you might use NHB as an excuse – a scheme largely out of our control – in the hands of developers. If we look at the difference between MSDC and BDC's council tax last year of about £10 per household, had we moved towards equilibrium from 2011 then this would have generated about £350k per annum – eliminating our financial problems. I know that this is simplifying the position but don't you agree that if we adopted a more financially future proofing plan of increasing council tax by 1.9%, instead of continually taking Central Government's bribes to go with a zero increase, then we would have collected many hundreds of thousands of £'s which would negate the financial hole you have created?

Answer

No.

Councillor McCraw to Councillor Jennie Jenkins

Recent meetings of both Cabinet and the Overview and Scrutiny Committee have involved discussion of the differences between Executive Functions and Decisions (those held by Cabinet) and Non-Executive Functions and Decisions (those reserved for the Council as a whole).

The Responsibilities of the Council, the non-Executive, are described in the Constitution, primarily at least, under Part Two: Sections 2.1 – 2.27.

Under Part Two: Sections 1.9 and 3.1 - 3.3 the definition of Executive or Cabinet functions and responsibilities is anything NOT covered by the Council's decision making powers.

In other words, anything else.

The separation of powers lacks clarity in some of the definitions. Their current interpretation and their implications seem to be lacking. As this is not a time for continued confusion, can a Laymans Guide to these Powers, Functions and Decisions be prepared for the use of elected members, perhaps with examples from practice and the rationale behind them?

This would be an extremely useful resource for all of us. Could it also be done quickly? I suggest within a fortnight, or at least before our next full Council meeting.

Answer

Thank you Councillor McCraw for your question. It is essential that all Councillors fully understand the definitions of decision-making as set out in legislation and the governance arrangements laid out in our own constitution. There were workshops explaining the separation of Executive and council functions when we were preparing to adopt the leader-cabinet model and Councillors who attended these workshops were asked for the views on the local choice options for Council decision-making.

However, I welcome your very helpful suggestion about the production of a 'laymans guide' to provide further clarity around these definitions and I have asked the Monitoring Officer to begin working on such a document.

Supplementary Question

Part Two of the Constitution dealing with Responsibilities of Functions gives a list of the Responsibilities of the Council, that is the Non-Executive functions, those that Cabinet expressly does NOT have.

Part Two: Para 2.14 (On Page 37 of 208) lists as one of these 'The exercise of functions relating to changing the name of the area'. There is no serious possibility of any merged authority retaining the name Babergh District Council. It wouldn't be accurate, might be misleading and is unlikely to find favour at Mid Suffolk. Even if a name change exists only in potential, does it not follow that that 'relates' to a name change?

On that basis, according to our own constitution, doesn't it follow that the exercise of all functions relating to any merger, exploration of merger or discussion of merger is a non-executive function reserved for the Council as a whole, and that each decision point involved is one for that body and that body alone?

If not, given its importance, why not?

Answer – I shall liaise with the Monitoring Officer and provide a response outside the meeting.

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RECOMMENDATION AND REPORT FROM JOINT AUDIT AND STANDARDS COMMITTEE

JAC/17/10 MID YEAR REPORT ON TREASURY MANAGEMENT 2017/18

Councillor Lawrenson, Babergh Chair of the Joint Audit and Standards Committee, introduced the Committee's recommendation to note the Mid Year position.

The Assistant Director – Corporate Resources answered questions from Members as follows:-

Local Context (Page 11)

The table on page 11 shows the total borrowing requirements – it is not a balance sheet as would appear in the accounts.

The main difference between the figures shown for the two Councils as Working Capital relates to the difference in the amounts borrowed.

Combined Balance Sheet (Page 93)

Babergh has more assets and fewer liabilities in a straight comparison.

Other Investment Activity (Page 17)

Performance of Funding Circle – FC hasn't delivered as hoped, but has still produced a better return than if investments had been made at Basic Rate.

No new investments will be made in FC and as repayments come in from existing investments, that money will instead be invested elsewhere. She confirmed that the position will continue to be reported to Members.

Borehamgate purchase is not shown as it is not a current Treasury Management requirement for this type of transaction but might have to be in future following the current consultation on Treasury Management Strategy.

Pooled Fund Investments

The decline in the value of the amount invested in CCLA relates to fluctuating property values but this is a longer-term investment, the purpose of which was to generate income for the Council.

Recommendation

Reference to Babergh exceeding its daily bank account limit with Lloyds by £120k was due to the timing of income received and related to too much money, not too little.

Note:

It is a requirement of the Code of Practice on Treasury Management that the full Council notes the Mid Year position.

RESOLVED

That it be noted that Treasury Management activity for the first six months of 2017/18 was in accordance with the approved Treasury Management Strategy, and that, except for one occasion when Babergh District Council exceeded its daily bank account limit with Lloyds by £120k for one day, as mentioned in Appendix D, paragraph 1.1 of Paper JAC/17/10, both Councils have complied with all Treasury Management Indicators for this period.

BC/17/19 BOUNDARY REVIEW – RESPONSE TO STAGE TWO CONSULTATION ON WARDING PATTERNS

Councillor Jennie Jenkins, Leader of the Council, introduced Paper BC/17/19 seeking member approval to submit the Council's formal response to the Stage 2 Consultation as set out in the report, together with any further comments arising from the meeting.

During the course of the debate, Members put forward comments as referred to below for inclusion by the Chief Executive as part of the Council's formal response.

1. Councillor Arthey – reiterated the comments made by Cockfield Parish Council to avoid Cockfield being in a horseshoe-shaped ward with Long Melford.
2. Councillor Davis and others – made reference to the lack of community or geographical connections between Bentley and Chelmondiston (incorrectly spelt by the LGBCE)
3. Councillor Ward – referred to other errors in LGBCE report and to the prosaic nature of the ward names chosen which meant a loss of the sense of history on names such as 'Berners' – he will circulate his views
4. Councillor Ferguson and others – could we ask LGBCE to look again at suggestions for two / three member wards and possible warding of eg Hadleigh.
5. Councillors Bavington and Beer – it would be difficult to come up with an acceptable division into wards for Great Cornard, but the Parish Council will submit a proposed alteration about the Cats Lane boundary –
6. Councillor Simon Barrett also referred to Sudbury Town Council's view on Cats Lane
7. Councillor Rose – Holbrook and Shotley in discussions about possibly becoming a single ward
8. Councillor McCraw – will submit his comments on various models and suggestions. Other Members also indicated that they were making their own comments direct to LCBCE

In response to a query about the timing of the review, bearing in mind the current discussion about a possible merger of the two Councils, the Chief Executive explained that if any new authority accepted the numbers of Councillors agreed under the present review, there would be a more limited review. Mid Suffolk had a requirement to review prior to the 2019 elections because of the unequal electoral ratios and Babergh Council had agreed that it would be sensible to review at the same time. He also explained that the LGBCE position on growth was that electoral numbers, rather than house numbers, were taken into account, and that planning permissions granted, but not the draft Joint Local Plan projections, could be used in this context.

RESOLVED

That the Chief Executive be authorised to submit the Council's formal response to the stage two consultation on warding patterns, including the comments appended to Paper BC/17/19 at Appendix 2, together with the points made by Members at the meeting, as above.

BC/17/20 FUTURE OPTIONS FOR 'WORKING TOGETHER' BETWEEN BABERGH AND MID SUFFOLK DISTRICT COUNCILS

Prior to inviting the Leader of the Council, Jennie Jenkins, to introduce Paper BC/17/20, the Chairman advised that initially, because of the anticipated level of interest in this item, he would let Members ask one question. If there was sufficient time, or if a completely separate point was being made, he would allow a further opportunity to speak.

Councillor Jenkins began by thanking the Overview and Scrutiny Committee for its careful consideration of the Cabinet decision on the original report, and referred Members to the financial case as set out in the revised Appendix C with tracked changes [circulated prior to the meeting] and details of the proposed engagement programme added as Appendix D.

Councillor Jenkins outlined the reasons behind the proposal to explore the merger option and emphasised the importance of the suggested public engagement process and the current debate. She also referred to what would happen, following the Council meeting, including the timetable for progressing public engagement and the business case, if Cabinet gave its approval to proceed. Members were advised by the Chairman that there was no recommendation for Council to vote on.

As a result of questions about whether Cabinet or Council should make decisions regarding merger, the Monitoring Officer advised that any decision around the option to dissolve a council and re-establish a new council were executive functions and were therefore reserved to Cabinet to make.

The Chief Executive added that the DCLG was very clear that the decision was for Council (ie not the electorate via a poll as was the case in 2011) but to be distinct in relation to that, not a full council decision but an executive cabinet decision and that was also the external legal advice that had been received.

A Motion without Notice was moved (a) to obtain external legal advice in writing from an independent firm as to whether Council or Cabinet should make the above decisions, and (b) to refer the legal advice for consideration by a Committee set up for that purpose. After discussion and further advice from the Monitoring Officer and the Chief Executive, the Motion was re-worded with the consent of the proposer and seconder, taking into account that Counsel's oral advice had been received, and that the matter could not be referred to another Committee as the appropriate body in this case was the Cabinet.

Further queries were put to the officers in relation to the 2011 poll, the effectiveness of the proposed process of engagement, whether a unitary authority might be a future option and the effect of the 'sunset clause' in the Devolution Cities Act. Members were reassured that the telephone poll which had commenced in Mid Suffolk had been halted, once the Babergh call-in was made.

The re-worded Motion was carried on being put to the vote.

RESOLVED

That the independent legal advice received by the Chief Executive as to whether Council or Cabinet should make decisions around merger be obtained in writing and made available to all Babergh Members.

Further discussion followed in which reference was made to concerns about the telephone polling process, questions and the demographic which would be used, the way in which the Cabinet meetings were operating and the opportunity for non-Cabinet Members to attend which had been taken up to a very limited extent to date. The current and future financial position of the Council and its housing delivery programme were also the subject of questions.

Notes:

1. A full transcript of this item is available on request.
2. The following Members left the meeting during this item at the approximate times indicated:

Frank Lawrenson (7.55pm – prior to the vote on the Motion without Notice)
Richard Kemp (8.15pm)
John Nunn (8.15pm)
Peter Beer (8.20pm)
Mark Newman (8.20pm)
Melanie Barrett (8.20pm)
Simon Barrett (8.20pm)
Stephen Williams (8.23pm)

54 BC/17/21 DRAFT TIMETABLE OF MEETINGS 2018/19

Members had before them Paper BC/17/21 which was introduced by Councillor Peter Patrick, the Cabinet Member for Organisational Development.

Members commented on various matters and asked that the following be taken into account when finalising the timetable:-

It was requested that further thought be given to

54 start times of meetings

55 moving the Overview and Scrutiny meeting scheduled for Christmas Eve 2019

RESOLVED

That the draft Timetable of Meetings for 2018/19 (Paper BC/17/21) be agreed, subject to any amendments as necessary arising from the comments made at the meeting, as set out above.

55 APPOINTMENTS

Members noted that the Monitoring Officer would action the changes to the membership of the Joint Audit and Standards Committee together with any consequential amendments as and when notified by the Group Leaders, and report the changes to the next available meeting of the Council.

The business of the meeting was concluded at 8.40 p.m.

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Chairman