

MINUTES OF ST EDMUNDSBURY BOROUGH COUNCIL

Minutes of the Meeting of the Council held on Tuesday 29 June 2010 at 7.00 pm in the Conference Chamber, West Suffolk House, Western Way, Bury St Edmunds.

PRESENT: The Mayor (Councillor I C Houlder) (in the Chair),
Councillors Ager, Mrs Alexander, Anderson, Beckwith, Mrs Bone, Bradbury,
Mrs Broughton, Chappell, Mrs Charlesworth, Clements, Clifton-Brown,
Cockle, Cox, Everitt, Farmer, Farthing, Mrs Gower, Griffiths, Hale, Jones,
Mrs Levack, Lockwood, Marks, McManus, Mrs Mildmay-White, Nettleton,
Oliver, Price, Ray, Redhead, Mrs Richardson, Mrs Rushbrook, Spicer,
Stevens, Thorndyke, Turner, F J Warby, A Whittaker and
Mrs D A Whittaker

20. Prayers

The Mayor's Chaplain, Reverend John Parr, of All Saints Church, Bury St Edmunds, opened the meeting with prayers.

21. Minutes

An amendment was proposed to minute 115, Question on Notice, of the meeting held on 30 March 2010 and a copy of the proposed amendment was tabled. Subject to the amendment, the minutes of the meetings held on 30 March 2010 and 20 May 2010 were confirmed as correct records and signed by the Mayor.

22. Mayor's Communications

The Mayor reported on the civic engagements and charity activities which he, the Mayoress, Deputy Mayor and Consort and past Mayor, Councillor Cockle, had attended since the last meeting of the Council held on 20 May 2010.

23. Announcements from the Leader of the Council

Councillor Griffiths, Leader of the Council, considered that the state of the public finances would be bound to colour discussions tonight and in the coming months if not the coming years. The headline figure of a 25% cut in Government spending over four years was not yet broken down in any real detail, and the Council may need to wait until later in the year for this information. Given the commitment not to cut some areas, such as health, the cut to local government grant may actually be higher than 25% over four years, and some commentators were even saying as much as 30% or more, but this was speculation at this point. A 1% cut in Government grant equated to about £70,000 for St Edmundsbury. The Council also had to contend with a reduction in interest rates on its reserves. £300,000 of savings had already been identified for next year but, on the basis of the information to date, more than three times that amount of savings was now required for 2011/2012, followed by around another £3 million in the following two years. This took into account the public sector pay freeze.

St Edmundsbury would try to avoid knee-jerk reactions, but undeniably would be faced by many difficult decisions in order to preserve the core services for the community. Members would have to be realistic about what they could or could not do in the future, and Councillor Griffiths thought and hoped very much that the public would understand this.

Agreement to shared services with Forest Heath District Council would also help to meet the challenges ahead and hopefully would preserve a local focus for services but offered the chance to deliver them more effectively and efficiently. The two Councils were already looking to share expertise and management wherever possible, particularly when officers left the employment of the Councils. None of this should diminish the pride all should take as a Council in the bold decisions taken in recent years to invest Council tax payers money in the facilities and infrastructure of our own area. This huge investment had served the Borough well and had meant that it had bucked the recession, created jobs and maintained local prosperity as much as possible. None of this had been easily or uncontroversially done and decisions would not get any easier.

The Council has fought hard to get Centros to deliver a link between the arc and the historic town centre in Bury St Edmunds that all wished to see, but pursuing this any further was frankly neither realistic nor a good use of public money. This had not been an easy decision but Councillor Griffiths believed it was the right one and Councillors should focus on what had been achieved with the arc and the positive impact it has had on the whole town and the area by bringing in more visitors and preserving jobs.

Similarly, with The Apex, while it was incredibly frustrating that the budget had been exceeded, the key issue was to focus on what this superb building would offer West Suffolk and beyond, not only for residents, as a replacement for the Corn Exchange, but for the economy which increasingly depended on tourism, heritage and the arts. It was an investment not just for the present, but for future generations.

24. **Apologies for Absence**

Apologies for absence were received from Councillors Aitkens, Buckle, Ereira-Guyer, Rout and Mrs P A Warby.

25. **Declarations of Interest**

Members' declarations of interest are recorded under the item to which the declaration relates.

26. **Public Question Time**

Mr Matthew Fullerton of Bury St Edmunds asked that, given the magnitude of the monumental losses in respect of the arc development and The Apex overseen and voted for by Members of this Council was it not time that the Leader of the Council and his group actually acknowledge and publicly apologise for their failing?

In reply, **Councillor Griffiths, Leader of the Council**, stated that it was not the Members of this administration that approved the scheme but it was the previous administration of a Labour led coalition. Councillor Griffiths continued by stating that he was proud that this Council had taken tough decisions in order that Bury St Edmunds received very significant investment from the private sector, that would not be forthcoming in the current economic climate. Had tough decisions not been taken there would almost certainly be less employment and continuing downturn in the retail offer of Bury St Edmunds. He accepted ultimate responsibility for the cost overruns, which he found distressing, but the officers' figures used by Councillors from all parties to originally proceed with the scheme had been verified by independent 'experts'. The cost overrun in respect of The Apex was very unfortunate but it was a very special building, which had

been scaled down from the original proposals. He apologised profusely on behalf of all those who had 'got some figures wrong' leading to the cost overruns. However, he was immensely proud of the achievements, and it could never have been foreseen that the decisions were made at such an important time for Bury St Edmunds, and indeed West Suffolk, to attract this huge investment into the local economy.

Mr Gerald Travers, a resident of Bury St Edmunds, asked if it was the intention that the level of allowances paid to Councillors be frozen or reduced and, therefore, follow the lead from the present Government?

In response, **Councillor Griffiths, Leader of the Council**, informed Mr Travers that the Members' Allowance Scheme was the subject of recommendations made to full Council by the Independent Remuneration Panel. It was then for full Council to vote on the recommendations. From his recollection he considered that the Council, in the vast majority of cases, accepted the recommendations from the Panel. On a personal basis, he considered it appropriate for Councillors to freeze their allowances in the current economic climate and added that the level of allowances was not so high as to be the reason for most Councillors to stand for election.

27. **Statement of Accounts: 2009/2010**

The Council considered Report B77 (previously circulated) which sought approval for the Code of Corporate Governance, the Annual Governance Statement and the Statement of Accounts for 2009/2010.

The Performance and Audit Scrutiny Committee had responsibility for scrutinising the Statement of Accounts prior to consideration by full Council, and the Committee had undertaken its responsibilities on 24 June 2010. The Committee had recommended approval of the Code of Corporate Governance, the Annual Governance Statement and the Annual Statement of Accounts and these recommendations were incorporated into Report B77. Councillor Hale, Chairman of the Performance and Audit Scrutiny Committee, informed the Council of the work undertaken by the Committee.

(a) **Code of Corporate Governance**

Councillor Hale reminded Council that the Code of Corporate Governance was the framework within which the Council operated; every activity, transaction and decision was made within a specific procedural framework, and corporate governance was the 'glue' binding all of these practices together. The Council first produced a Code of Corporate Governance in September 2002, and it had been reviewed annually, together with compliance with the Code.

On the motion of Councillor Hale, seconded by Councillor Griffiths, and duly carried, it was

RESOLVED:-

That the Code of Corporate Governance, as contained in Appendix A to Report B77, be approved.

(b) **Annual Governance Statement: 2009/2010**

Councillor Hale informed the Council that it was required to produce and publish an Annual Governance Statement (AGS) which covered six core governance principles, and was to be approved by full Council and signed by the Leader of

the Council and the Chief Executive Officer. The AGS for 2009/2010 was presented along with the Statement of Accounts and covered the Council's responsibilities in terms of the governance framework; St Edmundsbury's governance environment relating to the six corporate governance principles; and the effectiveness of St Edmundsbury's arrangements and any significant areas of weakness identified, with proposed actions to address these. He then informed the Council that the Committee had scrutinised the Council's AGS, with particular emphasis on the adequacy of the governance framework, the adequacy of the processes to review the effectiveness of internal control, and the result of the review of the effectiveness of the system of internal audit. The Committee had confirmed that the internal control assessment and proposed additional areas for improvement were adequate.

On the motion of Councillor Hale, seconded by Councillor Spicer, and duly carried, it was

RESOLVED:- That

- (1) the Annual Governance Statement for 2009/2010, as included in the Statement of Accounts 2009/2010 attached to Report B77, be approved for issue with the Council's published accounts;
- (2) the internal control assessment and proposed additional areas for improvement (Assurance Framework and related Action Plan) at Appendices 1 and 2 of Report B60 be approved; and
- (3) the process used to compile the Annual Governance Statement and review of internal controls, as detailed in Report B59, be endorsed for application in future years.

(c) **Statement of Accounts 2009/2010**

The Statement of Accounts set out St Edmundsbury's financial performance for 2009/2010, and provided details of revenue and capital income and expenditure during the period, an explanation of significant variances between budgeted and actual activity and information regarding the Council's assets and liabilities as at 31 March 2010.

Councillor Hale informed the Council that the Committee had scrutinised the Annual Statement of Accounts 2009/2010 and sought explanations on a range of issues. No changes to the accounts were suggested by the Committee; however a small number of minor typographical amendments had been identified and made to the document prior to its consideration by Council.

Councillor Farmer, Portfolio Holder for Resources and Efficiency, thanked the Performance and Audit Scrutiny Committee and the staff within the Finance Section for the large amount of work undertaken in order to produce these accounts within the statutory timescales and also the clarity with which the Statement was presented.

During the discussion the Council was informed that information regarding Section 106 monies was the subject of a report that would be considered by the Overview and Scrutiny Committee on 7 July 2010.

On the motion of Councillor Farmer, seconded by Councillor Griffiths, and duly carried, it was

RESOLVED:- That

- (1) the Annual Statement of Accounts 2009/2010, attached to Report B77, be approved; and
- (2) the Chief Finance Officer, in consultation with the Portfolio Holder for Resources and Efficiency, be authorised to make any minor typographic, factual and/or grammatical changes.

28. Overview and Scrutiny Report: 2009/2010

The Council received and noted the Annual Report of the Overview and Scrutiny, Performance and Audit Scrutiny and Policy Development Committees, previously circulated as Report B78.

Article 7 of the Council's Constitution required that *'The Overview and Scrutiny Committee, Performance and Audit Scrutiny Committee and Policy Development Committee must report annually to the full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate'*.

Councillor Hale, Chairman of the Performance and Audit Scrutiny Committee, Councillor Houlder, Chairman of the Policy Development Committee, and Councillor Lockwood, Chairman of the Overview and Audit Scrutiny Committee, brought relevant issues to the attention of the Council.

Councillor Griffiths, Leader of the Council, thanked the Committees for their work and stated that it was an integral part of the democratic process whose responsibilities were undertaken in a robust manner each year. He also acknowledged the work of the Scrutiny Manager who supported these three Committees.

A discussion was held on whether the Councillor Call for Action (CCfA) had been successful.

29. Items Referred to Full Council by Cabinet, Standards Committee and Democratic Renewal Panel

The Council considered the Schedule of Referrals contained within Report B79, Addendum to B79 and Addendum (2) to B79 (all previously circulated).

(A)(1) Revenues and Benefits Service Delivery: Options Appraisal

Councillor Farmer informed the Council that following the period of implementation planning and due diligence a full report would be presented in order that Council would make a final decision.

In response to a question, Councillor Farmer informed the Council that if the Borough Council became a full member of the Anglia Revenues Partnership then Members of the Borough Council could be appointed to its Joint Committee.

On the motion of Councillor Farmer, seconded by Councillor Mrs Mildmay-White, and duly carried, it was

RESOLVED:-

That following a period of implementation planning and detailed due diligence, St Edmundsbury Borough Council's Revenues and Benefits Section join the Anglia Revenues Partnership.

(Councillor Nettleton wished it be recorded that he voted against the resolution.)

(A)(2) Health and Safety Policy

Councillor Ray, Portfolio Holder for Performance and Organisational Development, recommended that Members read *'Personal Safety a Guide for Councillors'* as a matter of some urgency.

Concern was expressed by Councillor Beckwith that there was not a defibrillator located in West Suffolk House and Councillor Ray agreed to investigate this matter and inform Members accordingly.

On the motion of Councillor Ray, seconded by Councillor Mrs Charlesworth, and duly carried, it was

RESOLVED:-

That amendments 003 to 009 inclusive, as contained in Report A581, to the Health and Safety Policy be approved.

(A)(3) Development Brief: Chantry Mills, Former Gurteens' Factory Site, Haverhill

On the motion of Councillor Mrs Gower, seconded by Councillor Clements, and duly carried, it was

RESOLVED:- That

- (1) the Development Brief for Chantry Mills, former Gurteens' factory site, Haverhill, as detailed in Appendix 1 to Report A645, be adopted as non-statutory planning guidance for the determination of future planning and listed building applications; and
- (2) delegated authority be given to the Senior Conservation Officer, in consultation with the Portfolio Holder for Transport and Planning, to make any minor typographical, grammatical and/or factual changes to the Development Brief for Chantry Mills.

(A)(4) Public Halls: Review of Charging, Contracting and Ticketing Policy

In response to a question, the Council was informed that the new policy would provide flexibility which should assist in meeting the requirements of the Business Plan for The Apex.

On the motion of Councillor Mrs Mildmay-White, seconded by Councillor Mrs Gower, and duly carried, it was

RESOLVED:- That

- (1) the new charging, contracting and ticketing policy, as set out in Appendix A of Report A589, be approved; and
- (2) the Council's Constitution be amended to take account of the revised delegation arrangements, as set out in Appendix B of Report A589.

(B)(1) Replacement Local Plan Policy BSE 3: Suffolk Business Park, Moreton Hall, Bury St Edmunds: Approval of Masterplan

On the motion of Councillor Clements, seconded by Councillor Everitt, and duly carried, it was

RESOLVED:-

That the Masterplan for the development of Suffolk Business Park and the Eastern Relief Road, Bury St Edmunds, attached as Appendix B of Report A676, be adopted as non-statutory planning guidance.

(C)(1) Asset Management Plan: Corn Exchange, Bury St Edmunds Options for Use

(Councillor Clements declared a prejudicial interest as a Council Representative on the Abbeycroft Leisure Board and left the meeting for the consideration of this item. Councillor Mrs Charlesworth declared a personal interest as a member of the Bury Society and remained within the meeting for the consideration of this item. Councillor Spicer declared a personal interest as a founder member of the Bury Society and remained in the meeting for the consideration of this item.)

The Council considered Report B71 (previously circulated) which sought a decision on which organisation, if any, should be offered the leasehold of the Corn Exchange, Bury St Edmunds. In addition, a paper was tabled at the meeting that provided a financial comparison between the two bids received, from J D Wetherspoon Plc and Abbeycroft Leisure. The information within this paper contained much of that included in Exempt Appendix 4 to Report B71 and had been released with the specific agreement of both parties in order that the debate at Council could be held in public.

Under its asset management process, the Council agreed in 2004 that the Corn Exchange in Bury St Edmunds would be declared surplus to operational use when the new public venue (The Apex) opened. The income from a new tenant was included as part of the original business planning for the new venue. The Apex was due to open later in 2010, therefore, the Council had been working over the last year towards the marketing of the leasehold for the Corn Exchange, culminating in a formal prospectus being issued to potential commercial and community bidders in March 2010. On 26 May 2010 the Cabinet agreed to shortlist two formal bids for the leasehold of the Corn Exchange, received from J D Wetherspoon Plc and Abbeycroft Leisure, for further investigation, negotiation and consultation. Report B71 summarised the outcome of the

further negotiations with the bidders and of public consultation held on 15 June 2010. Report B71 had been considered by the Cabinet on 23 June 2010 where it was concluded that, in view of the budgetary and policy implications and in accordance with the Council's adopted option appraisal process of the Asset Management Plan, which included community management and assets, full Council should determine whether either of the two formal bids for the leasehold be accepted, and if so which, subject to receipt of planning permission and any other necessary consents.

On the motion of Councillor Mrs Mildmay-White, seconded by Councillor Griffiths, it was moved that:-

'In accordance with the Council's adopted option appraisal process of the Asset Management Plan, the terms offered by J D Wetherspoon Plc for the leasehold of the Corn Exchange, Bury St Edmunds be accepted, subject to the receipt of planning permission and any other necessary consents.'

This proposal being proposed and seconded was subject to lengthy debate. Reservations were expressed concerning both of the bids and there was an opinion from some Councillors that the Council should not take a decision at this meeting but that further marketing of the leasehold should proceed and for the proposal from the Bury Society to be developed. Reservations were also expressed on the possible impact on the quality of life for residents and businesses in close proximity to the Corn Exchange if the establishment became a public house/restaurant. In addition, concerns were expressed that if JD Wetherspoon Plc was granted the leasehold then there could be a major impact on other similar businesses within the town centre of Bury St Edmunds. However, other Members considered that JD Wetherspoon Plc had operated successfully elsewhere in the country and indeed in Haverhill. It was stated that the Tourist Information Centre often received enquiries on whether Bury St Edmunds contained a 'Wetherspoons' establishment. Due to the extensive marketing exercise already undertaken by the Council there was little support for deferring a decision in the current economic climate. It was also noted that the bid from JD Wetherspoon Plc was of considerably greater financial benefit to the Council than that proposed by Abbeycroft Leisure.

Under the procedures included in the Council's Constitution there then followed a recorded vote on the motion:-

For: Councillors Ager, Mrs Alexander, Anderson, Mrs Broughton, Clifton-Brown, Cox, Mrs Gower, Griffiths, Hale, Houlder, Mrs Levack, Marks, McManus, Mrs Mildmay-White, Oliver Price, Ray, Mrs Rushbrook, Stevens, Turner, A Whittaker and Mrs D A Whittaker

Against: Councillors Beckwith, Mrs Bone, Bradbury, Chappell, Cockle, Everitt, Farthing, Jones, Lockwood, Nettleton, Redhead, Mrs Richardson, Thorndyke and F J Warby

Abstentions: Councillors Mrs Charlesworth, Farmer and Spicer.

RESOLVED:-

That in accordance with the Council's adopted option appraisal process of the Asset Management Plan, the terms offered by J D Wetherspoon Plc for the leasehold of the Corn Exchange, Bury St Edmunds be accepted, subject to the receipt of planning permission and any other necessary consents.

(Councillor Mrs Alexander arrived during the consideration of this item. Councillor F J Warby left the meeting at the conclusion of this item.)

(D)(1) Community Governance Review

(Councillor Farmer declared a personal interest as a member of Bury St Edmunds Town Council and remained within the meeting for the consideration of this item.)

Councillor Farmer considered it appropriate that an additional recommendation be added to those recommended by the Democratic Renewal Panel in order that clarification be given to members of the public on what, in practical terms, the Community Governance Review could effectively achieve by the publication date of the Register of Electors of 1 December 2010. He proposed that an additional recommendation that *'Any proposals for the creation, abolition or disaggregation of parishes will need to be considered separately by the Democratic Renewal Panel and will not be implemented in time for the May 2011 elections.'*

It was moved by Councillor Farmer, and seconded by Councillor Hale that the recommendations contained within Report B79, together with the additional recommendation as detailed above be approved by Council.

Councillor Nettleton considered the additional recommendation to be unacceptable and outside the scope of the relevant legislation.

A detailed discussion was held on this issue and in particular the additional recommendation proposed by Councillor Farmer. It was emphasised that this proposed Community Governance Review could, within the deadline of 1 December 2010, only address minor issues and not larger issues, such as creation, abolition or disaggregation of parishes. However, any request for the creation, abolition or disaggregation of parishes would still be considered but not as part of this review but separately. The Head of Legal and Democratic Services also informed the Council that, in her opinion, the additional recommendation proposed by Councillor Farmer did not contravene the legislation as indicated by Councillor Nettleton.

An amendment to the motion was proposed by Councillor Nettleton and seconded by Councillor Beckwith that the original recommendations from the Democratic Renewal Panel be approved. On this motion being put to the vote it was declared lost. The original motion, as proposed by Councillor Farmer, seconded by Councillor Hale was put to the vote and duly carried, it was

RESOLVED:- That

- (1) a Community Governance Review be carried out under the terms of Chapter 3 of Part 4 of the Local Government and Public Involvement in Health Act 2007;
- (2) the scope of the review be as outlined in Section 5 of Report B32, as amended, namely;
 - (a) the Council conduct a Community Governance Review for the whole of the Borough of St Edmundsbury including consideration of the size of parish councils (increasing or decreasing), grouping with another parish to form a parish council covering two or more parishes, or potentially amending a boundary between two parishes;
 - (b) to establish a principle that where a community expands into a neighbouring parish the existing parish boundary should be reviewed to prevent it becoming anomalous; and
 - (c) to allow a maximum of 8 weeks for consultation responses to be received;
- (3) the Chief Executive, in consultation with the Chairman and Vice-Chairman of the Democratic Renewal Panel, be authorised to progress the review in accordance with the timetable in paragraph 4.4 of Report B32; and
- (4) any proposals for the creation, abolition or disaggregation of parishes will need to be considered separately by the Democratic Renewal Panel and will not be implemented in time for the May 2011 elections.

(Councillor Nettleton wished it be recorded that he voted against this resolution.)

(D)(2) Petition Scheme

On the motion of Councillor Farmer, seconded by Councillor Chappell, and duly carried, it was

RESOLVED:- That

- (1) the proposed scheme for dealing with petitions, attached as Appendix A to this Report B79, be adopted;
- (2) a report be presented to the Democratic Renewal Panel after a year of operating the scheme, or earlier if determined necessary by the Chairman of the Democratic Renewal Panel;

- (3) a copy of petitions received be sent to appropriate Ward Councillors and also detailed in the Members' Bulletin;
- (4) the Head of Legal and Democratic Services be authorised to make the necessary changes to the Constitution; and
- (5) the Head of Legal and Democratic Services be authorised to procure on-line petition software.

(D)(3) Appointment of Parish Council Representatives on the Standards Committee

Councillor Farmer, Chairman of the Democratic Renewal Panel, informed the Council that recommendation (1) within the report had been initially made by the Standards Committee on 24 March 2010 and was then considered by the Democratic Renewal Panel on 7 June 2010. As part of its deliberations the Panel considered that the Standards Committee be requested to review the number of electors used in the three categories to appoint a Parish Council Member.

Some concern was expressed that the proposal regarding the appointment of Parish Council representatives meant that the Council would not be using the 'offices' of the Suffolk Association of Local Councils, the association which represented and supported parish councils, in the selection process.

On the motion of Councillor Farmer, seconded by Councillor Chappell, and duly carried, it was

RESOLVED:- That

- (1) Article 9 of the Constitution be amended so that paragraph 9.2.3 reads:-

"As vacancies among Parish Members arise, appropriately sized Parish/Town Councils in the Borough will be invited to submit nominations to the Monitoring Officer. The Standards Committee will then undertake a selection procedure and select one nominee. One Parish Member from each of the following categories will sit on the Committee:-

- (a) parishes with fewer than 400 electors;
- (b) parishes with between 400 and 15,000 electors; and
- (c) parishes with more than 15,000 electors (i.e. Town Councils).

The appointment will then be endorsed by the full Council"; and

- (2) the Standards Committee be requested to review the number of electors in the three categories above used to appoint a Parish Member.

(D)(4) Representation on Outside Bodies: Annual Report 2009/2010

The Council noted a narrative item which reported on the annual returns submitted by Members of the Council who had been appointed as the Council's representative on outside bodies.

(D)(5) Membership of Committees, Working Parties and Panels

On the motion of Councillor Farmer, seconded by Councillor Mrs Whittaker, and duly carried, it was

RESOLVED:- That

- (1) the current system for allocating seats to any Member group that is not required by law to be politically balanced continue to be based on the political balance of the Council, subject to the usual flexibility by arrangement between Group Leaders;
- (2) Chairmen of all groups actively encourage full attendance and attendance for the full duration of meetings; and
- (3) substitutes continue to be appointed to those bodies that do not need to be politically balanced.

(D)(6) Changes to the Constitution

On the motion of Councillor Farmer, seconded by Councillor Farthing, and duly carried, it was

RESOLVED:-

That the Council's Constitution be amended to include:-

Part 3, Responsibilities for Functions, Scheme of Delegation to Officers require the following amendments:-

Section F, Community Services Directorate, (a) Head of Environmental Health and Housing, Paragraph 5, 'To authorise the making, issue of and the serving, of Notices and Counter Notices and Orders, pursuant to the following statutes:-

Health Protection (Local Authority Powers) Regulations 2010, Regulations 2, 3, 8, 9 and 10.'

30. **Motions on Notice**

Under paragraph 12.1 of the Council Procedure Rules, as contained within the Council's Constitution, Councillor Nettleton had given notice of two motions and these were taken separately.

The first motion moved by Councillor Nettleton was as follows:-

'That membership of the Bury St Edmunds Area Working Party is drawn from the 17 Members who represent the nine town wards plus the five rural wards which abut Bury St Edmunds, namely: Barrow, Fornham, Great Barton, Horringer and Whelnetham and Rougham.'

This motion was seconded by Councillor Beckwith.

The Mayor, in accordance with the Council's Constitution, considered that this motion should be referred to the appropriate forum for consideration and on this occasion the appropriate forum was the Democratic Renewal Panel, which was scheduled to meet on 9 September 2010.

Councillor Nettleton then moved his second motion as follows:-

'That due to the regular abuses of the one hour limit imposed on staff of both St Edmundsbury Borough Council and Suffolk County Council in the short-stay car park at West Suffolk House and the unauthorised use of the four disabled bays close to the entrance to the building, the Borough Council resolves to:-

- (1) instruct all Borough Council staff to use the Olding Road car park at all times;*
- (2) publicly name anyone employed by either authority who uses the short-stay car park at any time or occupies any of the four disabled bays without prior authorisation; and*
- (3) take disciplinary action against anyone who disregards these requirements which are designed to allow the public easy access to West Suffolk House.'*

This motion was seconded by Councillor Beckwith.

The Mayor, in accordance with the Council's Constitution, considered that this motion should be referred to the appropriate forum for consideration. He considered that the appropriate forum in this instance was the West Suffolk House Joint Committee, which had operational responsibilities concerning West Suffolk House and was to consider car parking at its next meeting scheduled for 23 July 2010.

31. **Questions on Notice**

Councillor Nettleton had given notice under paragraph 11.2 of the Council Procedure Rules of two questions to Councillor Griffiths, Leader of the Council.

Councillor Nettleton asked Councillor Griffiths the following question:-

'Now that the final cost of the new public hall in Charter Square, Bury St Edmunds has been revealed at £18.6 m, does the Leader of the Council regret not advising cancellation of the project in September 2005 when the estimated final cost rose to £10.8m?'

Councillor Griffiths, Leader of the Council, stated that he considered that The Apex was a tremendous asset to the community and also for the local economy. For example, Haymills, the main contractor for the fit-out, was based in Stowmarket and employed many local people. The Apex contract had helped to keep people in jobs at a tough economic time. Haymills had used nearly 50 sub-

contractors based in East Anglia, 35 of whom were within a 25 mile radius of Bury St Edmunds and accounted for nearly £7 million of the budget. Other contractors for the fit-out were also based nearby and used other smaller sub-contractors in the area. In addition, numerous jobs would be secured in the future by a strong and prosperous town centre. This investment had, therefore, had a considerable long term benefit to the economy well beyond the intrinsic value of a superb and worthy successor to the Corn Exchange. Councillor Griffiths continued by stating that he did have regrets at the cost overrun but there was no way that these were envisaged at the time and were still below the cost of the scheme desired by a previous administration. The reasons for the cost overrun were detailed in a report to be considered later at this Council meeting. He concluded by stating that The Apex project provided long-term benefits to the community and the economy of West Suffolk.

Councillor Nettleton then stated that in September 2005 he predicted that the cost of The Apex would be £18.6 million and, therefore, was not talking with hindsight.

Councillor Nettleton then asked the following question of Councillor Griffiths:-

'Following the broken promise to widen Market Thoroughfare, Bury St Edmunds made in Community Spirit, (December 2004, page 9), why should anyone believe anything the Leader of the Council says from now on?'

Councillor Griffiths responded that Councillor Nettleton had referred to an article within the December 2004 edition of *Community Spirit* but the article did not attribute any comments to the Leader, indeed there was no promise regarding the link. A paragraph within the article stated that the issue would be considered by the Council's Development Control Committee which would take a decision in the near future on which scheme could go ahead. Nothing could have been agreed or promised and, therefore, there was no broken promise. The insinuation that it was Councillor Griffiths' promise and, therefore, could not be trusted was disingenuous. Councillor Griffiths stated that he would continue to be as open and truthful as possible and act in the interest of the community he served to the best of his ability, irrespective of party political interests.

Councillor Nettleton did not ask a supplementary question on this occasion.

32. **Representation on Outside Bodies: Appointments**

(a) Suffolk Health Overview and Scrutiny Committee

On the motion of Councillor Lockwood, seconded by Councillor Griffiths, and duly carried, it was

RESOLVED:-

That Councillor Beckwith be appointed as the Borough Council's representative on the Suffolk Health Overview and Scrutiny Committee.

(b) Suffolk Joint Emergency Planning Policy Panel

On the motion of Councillor Lockwood, seconded by Councillor Griffiths, and duly carried, it was

RESOLVED:-

That Councillor Thorndyke be appointed as the Borough Council's representative on the Suffolk Joint Emergency Planning Policy Panel and Councillor Oliver be appointed as the substitute Member.

(c) Joint Scrutiny of Flooding and Flood Risk Working Party

On the motion of Councillor Griffiths, seconded by Councillor Cockle, and duly carried, it was

RESOLVED:-

That Councillors Lockwood and Price be appointed as the Borough Council's representatives on the Joint Scrutiny of Flooding and Flood Risk Working Party.

33. Chief Executive's Urgency Powers

The Council received and noted a narrative item which detailed that, after consultation with the Leader of the Council, the Chief Executive used his Emergency Powers to authorise cessation of the Compulsory Purchase Order in respect of Market Thoroughfare, Bury St Edmunds. This was necessary to enable the Compulsory Purchase Order procedure to be halted before the date of the Public Inquiry.

Some concern was expressed that the Chief Executive had signed the appropriate documentation on 7 June 2010 but that it was not publicly announced until 16 June 2010. The Head of Legal and Democratic Services informed the Council that this was because before the item could be formally withdrawn it needed the consent of the other parties.

34. Quarterly Report on Special Urgency

The Council received and noted a narrative item as required by the Council's Constitution in which the Leader of the Council reported that, at the time the Council agenda was published no executive decisions had been taken under the special urgency provisions contained within the Constitution. However, it was also noted that an urgent item had been discussed by the Cabinet on 23 June 2010, and detailed in minute 38 below.

(Councillor Spicer left the meeting at the conclusion of this item.)

35. Reports and Questions

(a) Report from the Leader of the Council: Councillor Griffiths (Report B80)

The following topics were the subject of questions put to Councillor Griffiths, who duly responded:-

- (1) the status of Clare in the Village of the Year Competition;
- (2) the tree and hedge planting grant scheme;
- (3) the success of the 'Sustaining Your Village Hall into the 21st Century' conference at Great Barton Village Hall; and
- (4) the grant awarded in respect of Great Barton Village Hall.

- (b) Report from the Cabinet Member for the Bury St Edmunds and Community Safety Portfolio: Councillor Everitt (Report B81)

The following topic was the subject of a question put to Councillor Everitt, who duly responded:-

- (1) the success of the Armed Forces Day on 26 June 2010 but that there was a need for additional toilet facilities within the Abbey Gardens at major events;
- (2) the access to the temporary park and ride site to be located on land adjacent to Rougham Airfield; and
- (3) the change in operation of the 'Wos-up' youth outreach project to each village receiving a six-week block of visits, and the need to undertake a further review of the delivery of this project.

Councillor Everitt agreed to inform the appropriate officer in respect of (1) above and to provide a written response in respect of (3) above.

- (c) Report from the Cabinet Member for the Culture and Sport Portfolio: Councillor Mrs Alexander (Report B82)

(Councillor Cox declared a personal interest as an affiliated member of the Suffolk and Cambridge Football Associations and the Football Association and remained in the meeting for the consideration of this item.)

The following topics were the subject of questions put to Councillor Mrs Alexander, who duly responded:-

- (1) the support given to headstones in the Bury St Edmunds cemetery;
- (2) the title of the Haverhill Community Sports Association within the report and on the metal sign outside of the Chalkstone playing field; and
- (3) whether the Association had a TV licence to show World Cup football matches.

- (d) Report from the Cabinet Member for the Economy and Asset Management Portfolio: Councillor Mrs Mildmay-White (Report B83)

Councillor Mrs Mildmay-White drew the Council's attention to the significant number and success of events being organised by the Tourist Information Centre in Bury St Edmunds.

The following topic was the subject of a question put to Councillor Mrs Mildmay-White, who duly responded:-

- (1) the air conditioning in the Council Chamber in West Suffolk House.

- (e) Report from the Cabinet Member for the Environment and Street Scene Portfolio: Councillor Stevens (Report B84)

Councillor Stevens informed the Council on the current status with the revision of the waste collection rounds.

The following topics were the subject of questions put to Councillor Stevens, who duly responded:-

- (1) the communications associated with the revision of the waste collection rounds; and
- (2) the use of the software package associated with the revision of the waste collection rounds and other operational functions.

(Councillor Cockle left the meeting at the conclusion of this item.)

- (f) Report from the Cabinet Member for the Haverhill and Housing Portfolio: Councillor Mrs Gower (Report B85)

Councillor Mrs Gower informed the Council that on Friday, 16 July 2010 the official opening of the Queen Street gates in Haverhill would take place and invited all Members to attend. She paid tribute to the extensive work undertaken by Councillors Price, Mrs Richardson and Mrs Rushbrook in ensuring the success of this project.

No questions were asked.

- (g) Report from the Cabinet Member for the Performance and Organisational Development Portfolio: Councillor Ray (Report B86)

Councillor Ray informed the Council that the inspection by South East Employers Organisation in respect of the Member Development Charter would take place on 27 October 2010.

No questions were asked.

- (h) Report from the Cabinet Member for the Resources and Efficiency Portfolio: Councillor Farmer (Report B87)

The following topics were the subject of questions put to Councillor Farmer, who duly responded:-

- (1) the procurement newsletter should be sent to all Members of the Council;
- (2) the loss of investment income due to the rising cost of The Apex, Bury St Edmunds; and
- (3) the details of the services provided by the consultants on The Apex and Cattle Market Projects in return for the fees paid.

Councillor Farmer agreed to inform the appropriate officer in respect of item (1) above and to provide written answers in respect of items (2) and (3) above.

- (i) Report from the Cabinet Member for the Transport and Planning Portfolio: Councillor Clements (Report B88)

The following topics were the subject of questions put to Councillor Clements, who duly responded:-

- (1) the implications of the abolition of the Regional Spatial Strategy; and
- (2) consultation on the Core Strategic Sites document.

- (j) Report from the Chairman of the Overview and Scrutiny Committee: Councillor Lockwood (Report B89)

No questions were asked.

- (k) Report from the Chairman of the Performance and Audit Scrutiny Committee: Councillor Hale (Report B90)

The following topic was the subject of a question put to Councillor Hale, who duly responded:-

- (1) monitoring of construction cost overruns.

- (l) Report from the Chairman of the Policy Development Committee: Councillor Aitkens (Report B91)

In the absence of Councillor Aitkens, Chairman of the Committee, Councillor Bradbury Vice-Chairman responded to a question on the following topic:-

- (1) the revision to the Vision 2025 document to be considered by full Council.

- (m) Questions to the Chairmen of other Committees

No questions were asked.

(In accordance with the Council's Constitution the Mayor determined that even though the full one and a half hours allocated to this session was not fully utilised no more questions should be asked. Councillor Cox wished it be recorded that he objected to the decision that no further questions would be allowed.)

(Councillor Clifton-Brown left the meeting at the conclusion of this item.)

36. **Exempt Information: Exclusion of the Public**

On the motion of Councillor Farthing, seconded by Councillor Mrs Mildmay-White, and duly carried, it was

RESOLVED:- That

- (1) under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Part 1 of Schedule 12(A) of the Act; and

- (2) Reverend John Parr, Mayor's Chaplain, be specifically requested to remain in the meeting.

37. Items Referred to full Council by Cabinet: Construction of the Public Venue (The Apex) Fit-Out: Final Account

The Council considered Exempt Report B92 which sought approval for the budget for The Apex to be increased to £18,594,655, therefore requiring an additional budget allocation of £1.5 million for settlement of the final cost of The Apex.

Attached to Report B92 was Report B74, which was considered by the Cabinet on 23 June 2010. In addition an amendment to B92 was previously circulated with minor changes to the recommendations from the Cabinet.

Members of the Public Venue (The Apex) Working Party had been regularly advised of the cost status of The Apex. In December 2009 a settlement for the final account of the shell and core construction was agreed with Taylor Woodrow Construction (TWC) and approved by full Council on 15 December 2009 (minute 87 referred). The fit-out of The Apex was the more substantive part of the construction project and Exempt Report B74 set out the background to this element of the build in addition to the financial status.

Four companies had tendered for the work to fit-out The Apex and the contract was placed with Haymills Construction Limited (Haymills) in accordance with European Procurement Rules. This contract was tendered on the basis that it would be a 'traditional' construction contract, which meant that design responsibility remained with the Council and the technical team it had appointed. The fit-out contractor was responsible for carrying out construction work to the designs and specifications provided under the contract. The advantage of this contractual arrangement was to ensure that the detailing of the design by Hopkins Architects and the rest of the design team was not 'diluted' by the contractor as might be the case under a 'design and build' contract. The disadvantage was that the design risk remained with the client, the Borough Council. During the period of fit-out tender review the programme for the completion of the shell and core continued to slip. The tender was opened on 19 October 2007 but Haymills did not take possession of the construction site to begin fit-out until 15 May 2009. The fit-out of The Apex involved a number of considerable challenges.

Exempt Appendix A provided a breakdown of additional cost items incurred on the fit-out.

The most serious issue that had to be dealt with during the fit-out period was the insolvency of Haymills and their ultimate buy-out by Vinci Construction UK Limited. The outcome of this situation could have been much worse if there had not been a buyer for Haymills.

Attached as Exempt Appendix B was the latest Project Status Report for the shell and core and fit-out. In order to provide further detail of the cost build-up in the Project Status Report, Exempt Appendix C provided a further breakdown of the costs. This breakdown indicated that not all costs were due from the Council's allocated budget as there were substantial contributions that offset these figures.

Some concern was expressed that the Council had not been best served by its consultants and in particular by its costs consultants.

In response to a question the Council was informed that the £65,400 authorised by the Chief Executive Officer under his urgency powers for fitting out the first

floor lettable area was due to this area now being within the ownership of the Council and there was an urgent need to complete this area while Haymills were still working on site and the required materials were readily available. In addition, this area would not be fully fitted out until a lease had been agreed with an appropriate contractor and a contingency sum had been allowed for within the costings.

On the motion of Councillor Mrs Mildmay-White, seconded by Councillor Griffiths, and duly carried, it was

RESOLVED:-

- (1) the position regarding the background and current progress of the construction of The Apex be noted;
- (2) urgency powers exercised by the Chief Executive Officer on 28 May 2010 authorised £65,400 on fitting out the first floor area be noted in accordance with Rule 4 of the Budget and Procedure Policy Rules and Rule 2.2 (ii) of the Contracts Procedure Rules;
- (3) it be noted that the revised estimated cost for the construction of The Apex in Bury St Edmunds town centre has increased to £18,594,655; and
- (4) the additional estimated amount of £1,500,000 for settlement of the final cost of The Apex be funded from an additional capital allocation to be financed from the Council's unallocated capital provision.

38. Construction: Use of Urgency Powers: Hamlet Croft, Haverhill

(With the agreement of the Mayor, this item was considered as a matter of urgency, in accordance with S100 B(4) of the Local Government Act 1972, in order that this matter could be resolved within the necessary timescale.)

The Council received and noted Report B97.

At the meeting of Cabinet on 23 June 2010, the following item was considered as a matter of urgency. The decision was outside of the budget framework, and it was not practical to convene full Council because the work described was required to be undertaken immediately to prevent danger to the public. The consent of the Chairman of the Overview and Scrutiny Committee was obtained in accordance with Rule 4 of the Budget and Policy Framework Procedure Rules, '*urgent decisions outside of the budget or policy framework*', as contained in the Council's Constitution. In addition, as the call-in process that usually applied to Cabinet decisions would '*seriously prejudice the Council's or the public's interest*' the consent of the Mayor under Rule 15.4 of the Overview and Scrutiny Procedure Rules was also obtained so that the decision was not subject to call-in and could be implemented immediately. It was a requirement of the Constitution that urgent matters decided by Cabinet be reported to the next available Council meeting. With the consent of the Mayor, this report was therefore included as a late item for consideration at this meeting.

Following the physical vacation of the Hamlet Croft Football Club by Haverhill Rovers the site had in effect passed to the Council. Whilst Haverhill Rovers had yet to relinquish their lease, they had already moved out and the duty of care to safeguard the site and protect the public from harm now fell to the Council as

landowner. Having assessed the dangers present on the site, officers were of the opinion that the condition of the site represented a considerable danger to the public. A duty of care was owed to visitors and trespassers alike. In order to be absolutely sure that the public was protected, it was concluded that the only option was to demolish the buildings, which was estimated to cost in the region of £50,000. It was noted that officers had previously anticipated that the cost of demolition would have been reflected in the eventual purchase price of the site. Cabinet had resolved:-

- (1) to approve the immediate demolition of the buildings on site;*
- (2) pending demolition, to approve a sealing-off of the site by securely fencing it and erecting warning notices; and*
- (3) to approve the use of monies allocated to the 'land awaiting development' budget and the maintenance budget to meet the cost of (1) and (2) above.*

Councillor Cox considered that the liability for the security of the site and the demolition of the buildings was the responsibility of Haverhill Rovers Football Club and that the Council should not have funded these works. However, it was re-emphasised that it was the ultimate responsibility of the Council, as landowner, to ensure the protection of the public from harm.

39. **Conclusion of Business**

The meeting concluded at 11.02 pm.

MAYOR