

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

CABINET SCRUTINY COMMITTEE

**Minutes of a Special Meeting of the Cabinet Scrutiny Committee
held on Tuesday 12 May 2009 at 6.30pm
in the Committee Suite, King's Court, Chapel Street, King's Lynn.**

PRESENT:

Councillors D Collis (Chairman),
C Crofts (substitute for C Sampson), J Legg (substitute for B Ayres),
J Loveless (substitute for P Burall), I Mack (Vice Chairman),
R Payn, D Pope, J M Tilbury and A Tyler

Other Members Present:

Councillor N Daubney, Leader and Portfolio Holder for Resources
Councillor B Long, Deputy Leader and Portfolio Holder for Environment
Councillor R Johnston, Portfolio Holder for Performance

Apologies for absence were received from Councillors B Ayres, P Burall and C Sampson

CSC82: **URGENT BUSINESS**

There was none.

CSC83: **DECLARATIONS OF INTEREST**

There was none.

CSC84: **MEMBERS PRESENT PURSUANT TO STANDING ORDER 34**

There was none.

CSC85: **CHAIRMAN'S CORRESPONDENCE**

There was none.

CSC86: **LOCAL GOVERNMENT REVIEW – BOUNDARY COMMITTEE CONSULTATION**

The Chairman made reference to the comprehensive report presented to Cabinet and to the recommendations which had been made. He confirmed that recommendation 1 recommended that the issues raised in the report be supported as a basis for a response to the Boundary Committee on its latest draft proposals for unitary local government in Norfolk and invited the Panel's comments on this recommendation.

The Vice Chairman made reference to the invitation which had been issued to the Boundary Committee to attend this meeting. This would have afforded an opportunity for them to put forward the fundamentals of their proposals, but they had declined to take up the opportunity.

The Chairman commented that the Boundary Committee's response indicated that they considered this to be a local authority matter and were unable to contribute and comment at this stage.

In response, the Leader made reference to a similar situation at a previous Cabinet Scrutiny Committee meeting when an external representative had been invited, and indicated that had a Boundary Committee representative attended this meeting, he would have objected to their presence. He considered that it was a separate argument as to whether it had been right or wrong to invite a representative, but he felt that an opportunity had been missed by the Boundary Committee. He commented that Members and Political Groups had worked closely on this matter and were largely in agreement on many areas.

Reference was made to the complexity of the Boundary Committee's calculations of the costings and savings of the proposed options. A query was raised about the way in which this information might be presented to the public, which was sensible and meaningful, if it were decided to support a referendum.

In response, the Leader acknowledged that this was an issue. He advised that evidence from reviews undertaken in the rest of the country indicated that transition costs had been underestimated by as much as 5 times, against the Boundary Committee's original estimates. It was noted that their estimates of the transition costs had increased significantly in the latest proposals, when compared to the original submission. He stated that the Appeal Court had told the Boundary Committee that it must provide the information to the public in a way which was understandable, and although this information was now available on the Boundary Committee's website, it was still meaningless.

The Chief Executive explained that a significant amount of documentation had been produced, which had been analysed by independent financial consultants and a risk analysis of the options undertaken. The group of 5 Norfolk Districts (King's Lynn and West Norfolk, Breckland, Broadland, North Norfolk and South Norfolk) had now commissioned a former Director of Finance of two County Councils in the Midlands to produce a simplified 15 page report on their behalf, including an analysis of the various proposals. He commented that the information now published by the Boundary Committee was too simplified and fairly meaningless, and made no reference to risk. They had now been requested to provide better information. He stated that it was considered that this was unlikely to meet the expectations of the Appeal Court. In response to a question from the Chairman, the Chief Executive confirmed that the Councils' response to the Boundary

Committee would not be submitted until a few days after the deadline, but a letter would be sent before the deadline. The Boundary Committee had confirmed that this was acceptable.

Councillor Tyler commented that it was often difficult for the layman to understand topics of a complicated nature and he hoped that the financial information would be presented in a user-friendly way. He stated that he was happy to support officers, generally, in what was proposed in the response to the Boundary Committee's proposals to date. However, it was his view that the all parties should be kept fully informed about the advice received and that there be an opportunity for consultation.

With regard to recommendation 2 in respect of a potential referendum, the Chairman stated that a lot of time and effort would need to be put into ensuring that the public had a clear understanding of what the proposals were and the issues involved. He invited the Leader to provide more information on why this authority was being sought at this time.

In response, the Leader advised that there was the complication of 'purdah' during the election period and there was the possibility of a rapid decision being made by the Secretary of State that the reorganisation should proceed on the broad basis of public support. It was considered that this had not been demonstrated so far and the Boundary Committee had made little effort to involve the public. As it was understood that the public view was a key issue, it was necessary to have the authority to call for a referendum, if necessary. It was acknowledged that in order to be robust and credible, it must be ensured that a referendum was conducted properly and involve the whole county. He stated that a referendum would not proceed without wide support and alternative ways to convince the Government may need to be considered.

The Vice Chairman sought clarification on the legal issues with regard to holding a referendum, including the County Council's powers to compel another authority to run a referendum. He asked whether there was any evidence of the effectiveness elsewhere in the country and how the referendum would be conducted, including the questions to be asked and literature provided.

The Chief Executive stated that he was not a lawyer, but responded on the basis of his understanding of the issues. He advised that any referendum would be undertaken by the Electoral Reform Society (ERS) or equivalent organisation. It would be conducted as a postal vote, which could be helpful to maximise turnout, as evidence showed there was usually a higher turnout in 'all postal' elections. The County Council had the power to require that an electoral register be provided by a district council, so even if Norwich City Council did not wish to participate, the information could be obtained and passed to the ERS. It was noted that, following the elections, there would be a significant

number of new County Councillors and it was hoped that these new members would be supportive of a referendum. With regard to the framing of questions, this could only be done once the final recommendations were known. The ERS would not allow biased or leading questions. With regard to the evidence of effectiveness of referenda held elsewhere on this issue, it was highlighted that the results had had no credence where the whole of an affected area was not covered by the referendum.

The Chief Executive highlighted that this issue was linked to recommendation 3 in relation to potential further legal action. There was uncertainty about interpretation of the meaning of 'a broad cross section of support', which was highlighted in section 5 of the report. It was highlighted that the responses shown on the Boundary Committee's website to date indicated that 60% preferred the status quo, around 30% preferred the single unitary option and 7% preferred the donut option. There was negligible support in the rest of Norfolk for the donut option.

In response to a question, the Leader advised that the Norfolk Local Government Association, which involved the Leaders and Chief Executives of all the District Councils and the County Council, had not met for some time and there had been mixed views expressed on the review when the group last met. He advised that the Leaders and Chief Executives of the District Councils continued to meet separately and constructive discussions had taken place. The actions which had been taken so far had been driven by that group. However, if a referendum was to be undertaken, there would need to be total engagement with all the other authorities. He confirmed that a referendum would be able to proceed including the Norwich City Council area, even without the support of the City Council.

The Vice Chairman commented that the County Council was key to the referendum process and queried whether the appropriate mechanism could be put in place to ensure that the contribution towards the costs of a referendum were not disproportionate, or that districts would not bear costs which should fall to the County Council. The Chief Executive advised that Counsel's opinion was being sought to seek to confirm that it was legally acceptable to contribute to the costs of a countywide referendum, even if some of the Councils were not willing to do so. He reiterated that another way may need to be found to get the views of the public and a fall back position was being worked on, which could be presented to the Boundary Committee or Secretary of State.

Councillor Tilbury stated that he was happy to support the recommendation giving authority to the Chief Executive in consultation with the Leader to approve the Council's participation in a referendum, if required. However, he sought reassurance that, before committing the Council to a large amount of expenditure, Members would be kept informed. He stated that this should have the support of the whole Council.

The Leader commented that the Council largely presented a united front on this issue, which was a great strength. He gave his assurance that he would make sure that the process was transparent and Members would be kept informed. He gave a promise that he would not lead the Council into a referendum which did not engage with all the people of Norfolk.

The Vice Chairman welcomed the Leader's reassurance and suggested that, in order to reinforce the position, some minor amendments be made to the wording of recommendation 2. He stated that, due to the urgent nature of this issue, agreement of the Cabinet decision was being sought at the Annual Council meeting, rather than waiting until the Council meeting at the end of June. He stated that he would not want to cause unnecessary difficulties on this important Civic occasion and it was, therefore, important for the Committee to be more specific. He suggested that recommendation 2 be amended as follows (suggested amendments shown in italics):

"That the Chief Executive in consultation with the Leader of the Council be authorised to approve the Council's participation in, and a *proportionate* contribution towards the costs of a referendum of *all* residents in Norfolk on the Boundary Committees recommended option(s)."

Councillor Loveless commented that the suggested amendments refined the recommendation without affecting the intention.

In response to a question from the Chairman, the Leader indicated that he would not want to be fettered by the decision and considered that the Cabinet recommendation should remain unchanged. He reiterated that he had given an undertaking to be open and transparent and to keep Members informed, and that he was not interested in holding a referendum which was not robust. He wanted to make sure that the best result was achieved for the district and would not do anything without getting advice from the Chief Executive.

The Deputy Leader commented if the wording of the delegation was to be amended, this could result in being financially disadvantageous of the Borough Council, if the proportion of cost was to be based on the population rather than being agreed through negotiation.

Councillor Pope commented that the review had been an ongoing issue for more than a year. The Leader had been a driving force and put in a lot of work with other Members and officers. The Council's stance had the full support of the Council and rather than suggesting applying further restrictions, he felt that the Committee should support the Leader.

In response, the Vice Chairman commented that his purpose of requesting scrutiny of this decision was to look at the legal aspects and evidence. He stated that he would not pursue his amendment to the

recommendation as this would be to the detriment of the dignity of the Mayoralty.

The Leader thanked the Vice Chairman for taking this position. He stated that he understood the views behind the proposed amendment and reiterated that he did not want to let Members down.

With regard to recommendation 3, the Chairman asked whether it was premature to be seeking authorisation at this stage.

In response, the Leader commented that he was sad that the review process had been lengthened and additional costs had been incurred. He stated he was determined to win and to challenge the Boundary Committee's behaviour in this process and it may be necessary to go back quickly to the Court of Appeal.

The Chief Executive highlighted the key issues which would determine whether it was necessary to go back to the Court of Appeal. These related to the comparability of the proposed options, inadequate consultation and presenting a financial analysis which was clear and could be understood by the public. He emphasised that if the Boundary Committee were not forced back to the table, the final structure for Norfolk might not be what anyone wanted. He clarified that preparation of the information required to address these issues was ongoing. It was considered necessary for the authority to be put in place at this time, so that the Council would be in a position to proceed quickly, if necessary.

The Chairman thanked everyone involved on this issue for their hard work and thanked Members and the Chief Executive for their contributions at the meeting.

Meeting closed at 7.40 pm