

EPPING FOREST DISTRICT COUNCIL COUNCIL MINUTES

Committee: Council **Date:** 17 August 2009

Place: Council Chamber, Civic Offices, High Street, Epping **Time:** 7.30 - 11.50 pm

Members Present: Councillors Mrs P Smith (Chairman), Mrs A Grigg (Vice-Chairman), K Angold-Stephens, R Bassett, A Boyce, Mrs R Brookes, Mrs P Brooks, K Chana, A Clark, M Cohen, Miss R Cohen, M Colling, Mrs D Collins, Mrs A Cooper, D Dodeja, R Frankel, Mrs R Gadsby, A Green, Ms J Hedges, R Law, J Markham, Mrs M McEwen, G Mohindra, R Morgan, S Murray, Mrs C Pond, G Pritchard, W Pryor, Mrs P Richardson, B Sandler, Mrs M Sartin, D Stallan, Ms S Stavrou, P Turpin, Mrs L Wagland, A Watts, C Whitbread, Mrs J H Whitehouse, J M Whitehouse, D Wixley and J Wyatt

Apologies: Councillors R Barrett, Mrs S Clapp, J Collier, P Gode, Mrs A Haigh, Mrs H Harding, J Hart, D Jacobs, Mrs J Lea, B Rolfe, P Spencer, Mrs J Sutcliffe and Mrs E Webster

Officers Present: G Lunnun (Assistant Director (Democratic Services)), C O'Boyle (Director of Corporate Support Services), R Palmer (Director of Finance and ICT) and I Willett (Assistant to the Chief Executive)

Also in Attendance: Ms J Andrew (External Legal Adviser)

58. DISTRICT COUNCILLOR D BATEMAN

It was with much sadness that the Chairman informed the Council of the death of District and Parish Councillor David Bateman.

The Chairman advised that she would offer members the opportunity of paying tribute to the past service of Councillor Bateman at the next ordinary meeting of the Council.

All present stood for a minute's silence in tribute to the memory of Councillor Bateman.

59. DECLARATIONS OF INTEREST

Pursuant to the Council's Code of Member Conduct, Councillor Mrs L Wagland declared a personal interest in agenda item 4 (Contract of Employment – Post XEX/01) by virtue of being a family friend of the Council's external legal adviser. Councillor Mrs Wagland also advised that the external legal adviser was godmother to one of her children. The Councillor advised that she had determined that her interest was not prejudicial and that she would remain in the meeting for the consideration and voting on that matter.

60. COUNCIL MEETING - 28 JULY 2009

Members sought clarification of the status of this meeting having regard to the decisions taken at the Council meeting on 28 July 2009 to defer consideration of the report on the contract of Post XEX/01 and to adjourn that meeting to a date to be determined by the Chairman of the Council.

The Chairman advised that having regard to the time lapse between the meeting on 28 July 2009 and this meeting and having taken advice she had decided in accordance with Council Procedure Rule 3.1(ii) to call this extraordinary meeting to consider the matter rather than reconvene the adjourned meeting.

RESOLVED:

- (1) That the decision of the Chairman to call this extraordinary meeting in accordance with Council Procedure Rule 3.1(ii) be noted; and
- (2) That the Council meeting adjourned on 28 July 2009 be closed.

61. EXCLUSION OF PUBLIC AND PRESS**RESOLVED:**

That in accordance with Section 100(A)(4) of the Local Government Act 1972 the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12A of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

Agenda Item Number	Subject	Exempt Information and Paragraph Number
4	Contract of Employment – Post XEX/01	1

(G Lunnun left the meeting)

62. CONTRACT OF EMPLOYMENT - POST XEX/01

The Council considered reports from the Leader of the Council and from the Monitoring Officer concerning the contract of employment of the holder of post XEX/01.

(a) Monitoring Officer Report under Section 8 of the Local Government and Housing Act 1989

The Monitoring Officer submitted a report under Section 8 of the 1989 Act concerning the process adopted in respect of the contract of employment of the holder of post XEX/01.

The report outlined the Monitoring Officer's views concerning the report presented separately on the agenda for this meeting regarding the early termination of the contract of employment of the holder of post XEX/01 including:

- (i) the report being restricted to mediation and statutory disciplinary procedure to the exclusion of direct negotiations;
- (ii) the subject matter of the proposed mediation process;
- (iii) proper authority for referring the matter to mediation;
- (iv) the subject matter of the proposed disciplinary action under Section 8 of the 1989 Act; and
- (v) the application of fair employment procedures to this case.

The Monitoring Officer's report also included a personal statement regarding her past involvement in this process and any alleged conflict between her working relationship with the holder of post XEX/01 and her role as Monitoring Officer.

Members of the Council asked questions of the Monitoring Officer on her report and noted that the Council was required to consider this report before making any decisions.

Moved by Councillor C Whitbread and seconded by Councillor Mrs D Collins

"That the report of the Monitoring Officer be noted."

On the adoption of this motion, it was thereupon –

RESOLVED:

That the report of the Monitoring Officer be noted.

(b) Report of the Leader of the Council

The Leader of the Council submitted a report on the contract of employment of the holder of post XEX/01.

The Council also received copies of notes of a meeting with the post holder held on 26 May 2009, a letter dated 13 August 2009 from the Leader of the Council to the post holder, a schedule of potential costs and a letter dated 17 August 2009 from the post holder to the Leader of the Council.

The Monitoring Officer agreed to waive her right to remain in the meeting at all times in response to the request of the Council for a discussion in private with the external legal adviser. All other officers left the meeting.

Following private discussion, all officers returned to the meeting for the purpose of recording the Council's decision on the Leader's report.

Having obtained leave from the Council, the Leader of the Council amended the recommendations contained in her report to reflect the points agreed informally in private session:

"That this Council –

- (a) agrees that the holder of post XEX/01 be invited to participate in the mediation process in accordance with the terms set out in Paragraph 4 of the letter dated 13 August 2009 from the Leader of the Council to the post holder;

- (b) agrees that, if the mediation process takes place, the Leader and Deputy Leader, have delegated authority to settle the matter at mediation, acting on external legal advice;
- (c) agrees that the mediation process set out in (a) above be conducted under the auspices of M. Loman Q.C, as mediator, on 28 August 2009 or on a mutually convenient date;
- (d) agrees that, if the mediation process takes place, the Leader and Deputy Leader report back to the Council at its September 2009 meeting on the outcome reached;
- (e) authorises the Leader and Deputy Leader to negotiate directly with the post holder to achieve a resolution of this matter but that any resolution be subject to the following:
 - (i) the prior approval of the Mediator;
 - (ii) the signing of a compromise agreement to that effect by the Council and the post holder;
- (f) approves retrospectively the action taken on behalf of the Council in engaging external legal advice and the waiving of Contract Standing Orders in that regard;
- (g) notes that the budget for legal advice and the mediation process will be found from existing resources; and
- (h) notes the initial arrangements for recruitment to the post of XEX/01 at the appropriate time.”

The Council then proceeded to vote separately on and adopt each recommendation and it was thereupon

RESOLVED: Accordingly.

CHAIRMAN