At a meeting of Guildford Borough Council held at Millmead House, Millmead, Guildford on Thursday 5 July 2012.

*The Mayor, Councillor Jennifer Jordan
The Deputy Mayor, Councillor Pauline Searle

*Councillor Richard Billington
*Councillor Melanie Bright
*Councillor David Carpenter
*Councillor Adrian Chandler
*Councillor Mark Chapman
*Councillor Sarah Creedy
*Councillor Graham Ellwood
*Councillor David Elms
*Councillor Matt Furniss
*Councillor John Garrett
*Councillor Christian Gilliam
*Councillor David Goodwin
*Councillor Angela Gunning
*Councillor Gillian Harwood
*Councillor Jayne Hewlett
*Councillor Liz Hogger
*Councillor Christian Holliday
*Councillor Philip Hooper
*Councillor Gordon Jackson
*Councillor Monika Juneja
*Councillor Diana Lockyer-Nibbs
*Councillor Julia McShane
*Councillor Bob McShee
*Councillor Nigel Manning
*Councillor Stephen Mansbridge
*Councillor Wendy May
*Councillor Anne Meredith
*Councillor Mrs Marsha Moseley
*Councillor Nikki Nelson-Smith
*Councillor James Palmer
*Councillor Terence Patrick
*Councillor Tony Phillips
*Councillor Mrs Jennifer E Powell
*Councillor John Randall
*Councillor Caroline Reeves
*Councillor Doug Richards
*Councillor Iseult Roche
*Councillor Tony Rooth
*Councillor Nick Sutcliffe
*Councillor Keith Taylor
*Councillor Neil Ward
*Councillor Jenny Wicks
*Councillor David Wright

*Present

**CO21 - APOLOGIES FOR ABSENCE**
Apologies for absence were submitted on behalf of The Deputy Mayor, Councillor Pauline Searle and Councillors David Carpenter, Graham Ellwood, Zöe Franklin, John Garrett, Gillian Harwood, Wendy May, Tony Phillips, John Randall and Nick Sutcliffe.

**CO22 - MINUTES**
The Council confirmed the minutes of the meeting of the Council held on 8 May 2012 as a correct record. The Mayor signed the minutes.

**CO23 – MAYOR’S COMMUNICATIONS**
The Mayor reminded councillors of the seminar to be held on 17 July 2012 at 7pm on the key differences between the Leader and Cabinet form of governance and a Committee system, as defined in the Localism Act 2011. Councillors were asked to confirm their attendance as soon as possible.

**CO24 – LEADER AND LEAD COUNCILLORS’ AREAS OF RESPONSIBILITY**
The Council noted the Leader of the Council’s report on the revised allocation of the respective areas of responsibility for the Leader and lead councillors.
CO25 – STANDARDS AND AUDIT COMMITTEE - ANNUAL REPORT 2011-12

The Chairman of the Standards and Audit Committee, Mr Peter Williams, proposed and Councillor Andrew French seconded the recommendation of that Committee to note its Annual Report for 2011-12.

In accordance with Procedure Rule 11, Councillor Tony Rooth proposed and Councillor Steve Freeman seconded the following amendment:

Insert the following paragraph after the recommendation:

“To place on record the Council’s gratitude and appreciation to Peter Williams for his ten years’ service as independent chairman of the Standards and Audit Committee, during which time he helped to ensure that the Council maintained its focus on the principles of good corporate governance, including holding us to account in respect of our audit procedures and helping us to maintain high ethical standards.”

After a debate on the amendment, it was put to the vote and was carried unanimously.

In considering the substantive motion, the Council

RESOLVED:

(1) To note the annual report of the Standards and Audit Committee for 2011-12.

(2) To place on record the Council’s gratitude and appreciation to Peter Williams for his ten years’ service as independent chairman of the Standards and Audit Committee, during which time he helped to ensure that the Council maintained its focus on the principles of good corporate governance, including holding us to account in respect of our audit procedures and helping us to maintain high ethical standards.

CO26 – PUBLIC PARTICIPATION – RECEIPT OF E-PETITION

In accordance with Public Speaking Procedure Rule 1 (d) and the Council’s petition scheme, Chris Ward presented an e-petition containing 544 signatures to the Council. The e-petition read as follows:

“We the undersigned petition Guildford Borough Council to write to the Home Office expressing support for proposed moves to extend marriage to same-sex couples.

The government is consulting on extending marriage to same-sex couples. Individuals and organisations can respond to this consultation and other local authorities around the country have done so or have considered doing so. As the consultation will draw to an end on 14th June, we ask that the council, if possible, responds to it favourably, supporting extending marriage to same-sex couples but also in addition backing extending civil partnerships to mixed-sex couples. If time does not allow, in lieu of a formal response to the consultation, we ask that the council writes to the Minister for Equalities expressing support for the proposed legislation.”

At the start of the debate on the e-petition, Councillor Tony Rooth proposed and Councillor David Goodwin seconded the following motion for the purpose of the Council’s response to the e-petition:

“Whilst the Council recognises the strength of feeling expressed on this subject, it does not consider it appropriate to express a corporate view as a local authority because the issues of same-sex marriage and civil partnerships are a matter of personal conscience
for each individual and the Council has no powers or responsibilities relating to the registration of marriages and civil partnerships.”

After a debate on the subject of the e-petition and the motion referred to above, the Council

RESOLVED: To agree the following response to the e-petition:

“Whilst the Council recognises the strength of feeling expressed on this subject, it does not consider it appropriate to express a corporate view as a local authority because the issues of same-sex marriage and civil partnerships are a matter of personal conscience for each individual and the Council has no powers or responsibilities relating to the registration of marriages and civil partnerships.”

Reason for Decision:
To provide the Council’s formal response to the e-petition in accordance with the Petition Scheme.

CO27 – QUESTIONS FROM COUNCILLORS
In accordance with Council Procedure Rule 9,

(1) Councillor Angela Gunning asked the Leader of the Council (Councillor Tony Rooth) the following question:

‘With reference to the Treasury Management Annual Report [Item 10] and the three current banking scandals – NatWest computer crash, inter-bank collusion in manipulating LIBOR, and deliberate mis-selling of products claiming to protect small businesses against interest rate changes, I note that GBC investments and deposits are with at least three of the banks involved [see para 1.45, page 47].

Can the Leader of the Council clarify the position to date on the security of GBC funds and state what actions are being taken to protect funds in the future? Are there any funds/investments etc at risk – and what is being done to rectify the situation?’

The Leader’s response to this question was as follows:
“Taking each element of the question in turn:

NatWest computer crash
The Council is not exposed to any increased credit risk as a result of the NatWest computer crash. This principally affected retail clients and did not affect the Council’s accounts or dealings. However, it did serve to reinforce the Council’s treasury management and investment strategy of diversification across counterparties to mitigate such liquidity risks.

Manipulation of LIBOR
The Council has made no investments that were contractually linked to LIBOR. Therefore the mispricing of LIBOR by Barclays, and possibly other banks, has probably had little or no direct effect on the Council. Authorities who have had structured investments or LIBOR linked loans are likely to have been most affected.

Mis-selling of products
The Council has a policy of not investing in any investment that we do not fully understand. To this end we engage independent treasury management and investment advice, and we believe this to be the most effective way of avoiding being mis-sold any product.

Security of funds
There is an element of risk with all investments and we actively manage the counterparty list, though our treasury management advisors, to reduce this risk. We have no reason to think that any of our current investments will not be returned at the end of the investment term.”

Councillor Tony Rooth
Leader of the Council

(2) Councillor Christian Gilliam asked the Leader of the Council (Councillor Tony Rooth) the following question:

1. On 8 March 2012 the Corporate Improvement Scrutiny Committee discussed prayers before meetings of the full Council. This is indirect discrimination under the Equality Act 2010 even if councillors, officers and members of the public are given the opportunity to leave the room whilst prayers were being said.

Since this meeting I have failed to see any attempt to inform members of the public and councillors that prayers are not mandatory. Why has this matter been ignored? When is this going to be rectified?

2. Secondly, I would also like to seek clarification on the council’s legal opinion in light of the Bideford case. Mr. Pickles, Secretary of State for Communities and Local Government, has issued a statement saying that the Localism Act, which has now come into effect after he fast tracked it, “enables councils to continue to include prayers as part of the formal business of council meetings.” Conversely the National Secular Society said that it was far from proven that this was the case. Accordingly the Localism Act doesn’t give councils the powers that Mr. Pickles attributes to it.

The National Secular Society’s opinion was supported by Peter Keith-Lucas, a local government lawyer and partner at public services law firm Bevan Brittan, who stated: “This general power has been oversold as a universal panacea. Despite the secretary of state confidently saying that this immediate implementation should effectively overtake Mr Justice Ouseley’s ruling, the new general power may actually offer little assistance in this instance.”

In view of these conflicts of opinion, I ask: what is the Council’s position and what, if any, legal advice has been given, and by whom?

3. Lastly, despite the legal case, do you consider such practices as ethical and fair and if so, why?”

The Leader’s response to this question was as follows:

“1. The Corporate Improvement Scrutiny Committee did discuss this matter but only as part of the debate on the review of the Council’s Single Equality Scheme and it did not choose to recommend any changes to the Council’s arrangements. Unfortunately, Councillor Gilliam’s assertion that the saying of prayers before Council meetings amounts to indirect discrimination is wrong and is not supported by the recent case involving Bideford Town Council.

2. In the Bideford case, Mr Justice Ouseley concluded that the offering of prayers at the start of a council meeting was unlawful, as it was not covered by the incidental powers under section 111 of the Local Government Act 1972. Nonetheless, he also found that the manner in which the practice was carried out did not:

- amount to a breach of the claimant’s human rights or
• indirectly discriminate against him on the grounds of his lack of religious belief.

However, what was not considered in this case and ultimately could have resulted in a different decision, were the implications of the general power of competence introduced under section 1 of the Localism Act 2011. At the time that proceedings were originally brought, the Localism Bill had not received Royal Assent. The general power of competence gives local authorities the power to do anything an individual can, apart from that which is specifically prohibited. The Local Government Association’s view is that this ruling is overridden by the general power of competence and that it remains the decision of local authorities if they wish to hold prayers during formal meetings. If the general power of competence had been in force, it is likely that the High Court would have held that offering prayers in council meetings was lawful.

All this is, however, rather academic as we do not, and never have, included prayers as a specific numbered item on the agenda for Council meetings, which was the practice at Bideford Town Council. I would remind councillors that they are free to wait until the prayers are finished before they enter the Council Chamber and join the meeting.

3. In this case the practice was only considered ultra vires under the Local Government Act 1972 and the Court held that there was no issue with the practice under equality and discrimination legislation. In conclusion, our approach of saying prayers leaves it as a matter of personal conscience for individual councillors to decide if they wish to join in with them, and does seem to me to be both ethical and fair.”

Councillor Tony Rooth
Leader of the Council

CO28 – LOCAL CODE OF CONDUCT: DISCLOSURES OF INTEREST
There were no disclosures of disclosable pecuniary interests under the Code of Conduct.

CO29 – ADDITIONAL HOMELESSNESS GRANT FUNDING FROM THE DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT
Upon the motion of Councillor Sarah Creedy, seconded by Councillor Stephen Mansbridge, the Council

RESOLVED: To approve a supplementary revenue estimate of £420,500, to be funded by DCLG grants already received.

Reason for Decision:
To enable the additional revenue grants to be used to help prevent homelessness as requested by DCLG.

CO30 – TREASURY MANAGEMENT ANNUAL REPORT
Upon the motion of Councillor Tony Rooth, seconded by Councillor Stephen Mansbridge, the Council

RESOLVED:

(1) To note the treasury management annual report for 2011-12.

(2) To approve the actual Prudential Indicators detailed in Appendix 1 to the report submitted to the Council.
Reason for Decision:
To comply with the Council’s Treasury Management Policy Statement, the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Treasury Management and the CIPFA Prudential Code for Capital Finance in Local Authorities.

CO31 – ASH GREEN FLOOD RELIEF SCHEME: AMENDMENT TO CAPITAL SCHEME
Upon the motion of Councillor Tony Rooth, seconded by Councillor Stephen Mansbridge, the Council

RESOLVED: To approve a capital supplementary estimate of £123,000 for the Ash Green flood relief scheme.

Reason for Decision:
To enable the Ash Green flood relief scheme to continue.

CO32 – THE LOCALISM ACT 2011 – THE NEW ETHICAL STANDARDS FRAMEWORK
Upon the motion of Councillor Tony Rooth, seconded by Councillor David Goodwin, the Council

RESOLVED:

(1) To adopt with immediate effect, the draft revised code of conduct for councillors, as set out in Appendix 1.

(2) To appoint Mr Roger Pett as one of the Council’s Independent Persons for an initial term of office expiring in May 2015 and thereafter to make such appointments on the basis of a four year term, with serving Independent Persons being eligible for re-appointment.

(3) To consider the appointment of a second Independent Person at the next meeting of the Council.

(4) To ask the Audit and Corporate Governance Committee to produce a proposed good governance protocol, as described in the report submitted to the Council.

Reason for Decision:
To comply with the Council’s obligations under the Localism Act 2011 in respect of ethical standards.

CO33 – RESPONSIBILITY FOR FUNCTIONS AND PROPOSED AMENDMENTS TO THE SCHEME OF DELEGATION
Upon the motion of Councillor Tony Rooth, seconded by Councillor David Goodwin, the Council

RESOLVED:

(1) To note the delegation of executive functions made during the 2011-12 municipal year as set out in Appendix 1 to the report submitted to the Council.

(2) To approve the proposed amendments to the scheme of delegation to officers in respect of the non-executive functions as set out below:

(i) To authorise the Head of Environmental Health and Licensing Services to exercise all powers under sections 19 to 28 of the Criminal Justice and Police Act 2001 including:

- serving and cancelling closure notices;
- making applications for closure orders;
• issuing certificates of termination of closure orders;
• defending applications for the discharge of closure orders;
• appealing against the refusal to make closure orders;
• enforcing closure orders;
• prosecuting for obstruction of authorised officers or for offences in connection with closure orders; and
• authorising officers to exercise all or any of these powers.

(ii) To amend paragraph (k) of delegated power no. 1 to the Licensing Services Manager as follows:

“Following consultation with any designated Licensing Sub-Committee chairman, to determine whether an application for review of premises licence/club premises certificate should be rejected where the ground for review is not relevant to one or more of the licensing objectives or, in a case where the applicant is not a responsible authority, the ground for review is frivolous, vexatious or a repetition”.

(iii) To amend paragraph (e) of delegated power no. 2 to the Licensing Services Manager as follows:

“To determine, following consultation with any designated Licensing Sub-Committee chairman, whether an application for review of a premises licence should be rejected in accordance with Section 198 of the Gambling Act 2005.”

(iv) To amend delegated power no. 11 to the Head of Environmental Health and Licensing Services as follows:

“In consultation with the Head of Legal and Democratic Services, to determine all applications for licences relating to hackney carriage and private hire vehicles, drivers and operators, including the suspension of vehicles, drivers and operators, in accordance with the Council’s agreed policies”.

(v) To authorise the Head of Planning Services:

(a) to receive, consider, publicise, assess, and determine (approve/reject) proposed neighbourhood development plans, and neighbourhood development orders (including community right to build orders), area designation requests from qualifying bodies (including to adjudicate or decline to consider an application where multiple requests may overlap), and Neighbourhood Forum designation requests, and to publicise decisions made.

(b) to respond to requests from a neighbourhood forum to withdraw that designation and publicise the withdrawal.

(c) to carry out sustainability appraisal and habitats regulations assessments (if required) and to fulfill the duty to support neighbourhood planning groups preparing a neighbourhood development plan or neighbourhood development order (including community right to build order).

(d) to receive and consider final draft neighbourhood development plans, or neighbourhood development orders (including community right to build orders). To inform and invite representations from people who live, work or carry on business in the area to which the application relates by
appropriately advertising the submitted neighbourhood development plan or neighbourhood development order (including community right to build order).

(e) to organise independent examinations, including appointment of an examiner (planning inspector) and submission of the proposed neighbourhood development plan or neighbourhood development order (including community right to build order).

(f) to use the examiner’s report to assess the neighbourhood development plan or neighbourhood development order (including community right to build order) and approve the plan or make the order/reject the proposal. To inform all relevant stakeholders of the decision and make the information available.

(g) to modify or revoke a neighbourhood development plan or neighbourhood development order (including community right to build order) and to inform all relevant stakeholders of the decision and make the information available.

(vi) To authorise the Electoral Registration Officer to create the register for use for a referendum for a neighbourhood development plan or neighbourhood development order (including community right to build order).

(vii) To authorise the Returning Officer to hold a referendum on a neighbourhood development plan or neighbourhood development order (including community right to build order).

Reasons for Decision:
- To comply with Executive Procedure Rule 1.2 by providing a record of the delegation of executive functions made during the 2011-12 municipal year.
- To improve the efficiency and effectiveness of decision-making and the efficient delivery of the Council’s functions.

CO34 – MINUTES OF THE EXECUTIVE
The Council

RESOLVED: To receive and note the minutes of the meetings of the Executive held on 24 May and 21 June 2012.