

# COUNCIL (EXTRAORDINARY)

## MINUTES

### 24 OCTOBER 2013

- Present:**
- \* Councillor Nana Asante (The Worshipful the Mayor)
  - \* Councillor Mrs Camilla Bath (The Deputy Mayor)
- Councillors:**
- |                              |                     |
|------------------------------|---------------------|
| * Husain Akhtar              | * Amir Moshenson    |
| * Sue Anderson               | * Chris Mote        |
| * Marilyn Ashton             | * Janet Mote        |
| * Christine Bednell          | * John Nickolay     |
| † James Bond                 | * Joyce Nickolay    |
| * Mrs Lurline Champagnie OBE | * Christopher Noyce |
| * Kam Chana                  | * Phillip O'Dell    |
| * Ramji Chauhan              | † Asad Omar         |
| † Mrinal Choudhury           | * Paul Osborn       |
| * Bob Currie                 | * Varsha Parmar     |
| * Margaret Davine            | * David Perry       |
| * Mano Dharmarajah           | * Bill Phillips     |
| * Tony Ferrari               | * Raj Ray           |
| * Keith Ferry                | * Christine Robson  |
| * David Gawn                 | * Richard Romain    |
| * Stephen Greek              | * Anthony Seymour   |
| * Mitzi Green                | * Lynda Seymour     |
| * Susan Hall                 | * Navin Shah        |
| * Graham Henson              | * Mrs Rekha Shah    |
| * Thaya Idaikkadar           | * Sachin Shah       |
| * Nizam Ismail               | * Stanley Sheinwald |
| * Krishna James              | * Victoria Silver   |
| * Manji Kara                 | * Bill Stephenson   |
| * Zarina Khalid              | † William Stoodley  |
| * Jean Lammiman              | * Krishna Suresh    |
| * Barry Macleod-Cullinane    | * Sasi Suresh       |
| * Kairul Kareema Marikar     | * Yogesh Teli       |
| * Ajay Maru                  | * Ben Wealthy       |
| † Jerry Miles                | * Simon Williams    |
| * Mrs Vina Mithani           | * Stephen Wright    |

- \* Denotes Member present
- † Denotes apologies received

## **PRAYERS**

The meeting opened with Prayers offered by Rev Dr Suzanne Nti.

### **335. DECLARATIONS OF INTEREST**

**RESOLVED:** To note that there were no declarations of interests made by Members.

### **336. MINUTE'S SILENCE**

Upon a request by a Member, Council agreed to hold a minute's silence for those who had recently passed away in Northern India in a tragic event.

### **337. THE CONSTITUTION**

- (i) The Mayor introduced the item and stated that Article 5 of the Constitution made it clear that it was the Mayor's responsibility to uphold the Constitution and promote its purposes and interpret it when necessary. It is also the Mayor's role to preside over meetings so business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The action to suspend 70% of the Council Procedure Rules at the second Extraordinary meeting on the 16 September 2013 contravened Article 16.01 of the Constitution which is echoed in 27.1. This therefore raised legal issues. Concern had been raised by members of the public and other Members on this. The Mayor quoted Cornel West: "the aim of Constitutional Democracy is to safeguard the rights of the minority and avoid tyranny of the majority". The Mayor apologised to Members for the late circulation of background papers for this item which she had requested be circulated with the Summons. She asked the Leader of the Council to ensure that this did not occur again.
- (ii) During the discussion on this item, several Members raised issues of concern which are summarised as follows:
  - Constitution exists to enable Council to manage its business in a framework of fairness, openness, integrity and accountability.
  - The suspension of provisions of the Constitution at the last meeting was ill-judged and politically motivated;
  - The authority of the Mayor had to be respected and the setting aside of Constitutional provisions at the last meeting was pre-meditated; Councillors led astray. Meeting not a waste of money and time, important not to undermine Constitution and Rule of Law.

- Action not constitutional, Council destroyed its own protection. 70% of rule book was torn up, possibility of anarchy;
- Several hundred pages to protect each citizen and Councillors;
- It was important to obey the provisions in the Constitution and in any event the suspension of the provisions at the last meeting was not necessary;
- The welfare of the people cannot be served with such a cavalier treatment of the Constitution which is supposed to protect everyone.
- Residents had contacted Members to express their worry on the implications of suspending provisions of the Constitution at the last meeting;
- The suspension of the Mayor's powers at the last meeting was unprecedented;
- Suspending Rule 27.1 had the effect of suspending Article 5 and Article 16. Articles of the Constitution cannot be suspended;
- The Constitution was ambiguous and required redrafting urgently; it needs debate and independent legal advice to avoid the events of the last month manifesting themselves a second time
- The Council should seek a judicial review on the legality of the second Extraordinary Council on 16 September 2013;
- The Constitution was designed to protect all Members;
- Whilst the Constitution may have been vague from a moral point of view, it was clear that its moral authority had been tarnished at the second Extraordinary Council meeting on 16 September 2013;
- The events that took place at the second Extraordinary Council meeting on 16 September 2013 should not happen again;
- Independent Legal Advice should be sought on the events surrounding the second Extraordinary Council meeting on 16 September 2013;
- The Chief Executive had provided the go ahead for an investigation into allegations of racism. This investigation should be outcome based and its Terms of Reference agreed by all Political Groups.

(iii) In response to the concerns raised, several Members responded as follows:

- Rule 25.1 of the Council Procedure Rules provided the Council with an option to suspend certain specific rules. It was recognised that Articles could not be suspended and there was no attempt made to suspend these;
  - Council Procedure Rules were annually suspended when debating the Budget in February and this was always agreed unanimously. This was important to note as it ensured a more efficient debate;
  - Legal advice had been obtained before the suspension of provisions of the Constitution had been proposed;
  - The Constitution Review Working Group's membership could be widened to include Independent Councillors and this would be welcomed;
  - The Constitution Review Working Group was the correct forum for any concerns regarding the suspension of Constitutional Provisions to be raised;
  - The Constitution was a fluid document and could always be improved. The Constitution did allow the Council to be flexible in its approach on rare occasions;
  - Need a debate outside the chamber. Need to have a definitive legal ruling.
- (iv) The Mayor gave opportunity to the Councillors who had called the meeting to sum up the debate. The Mayor then stated
- The debate had been meaningful and useful but it was important to have a definitive Legal Ruling;
  - There was a need to restore the Rule of Law and address the issue of legality;
  - She welcomed the Leader's proposal that representation of Members on the Constitutional Review Working Group should be increased;
  - However she believed that Independent Legal Advice into the events surrounding the second Extraordinary Council meeting was required and expected officers to address this with the Leader of the Council.

**(CLOSE OF MEETING:** All business having been completed, the Mayor declared the meeting closed at 8.45 pm).