

OVER HADDON PARISH COUNCIL

Clerk to the Council: Mrs Helen Foreman,
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Minutes of the Parish Council Meeting held at The Village Hall, Over Haddon on Tuesday 7th April 2009 at 8.00 pm

Present

Councillors Bob Osborn(Chair), Tricia Gillies, Colin Nicol, Frank Parker, James Armstrong
Helen Foreman (Clerk)

Public attendance

Roger Truscott, Steve Miller, Dick Foxon, Jen Foxon, Helen Head, Rita Firr, Sue Smith, Marion Ambler.

Mr Miller provided an update on the Village Hall redevelopment.

In summary, pre-qualification letters had been sent to an agreed list of contractors. Replies covering Health & Safety, quality and financial aspects of the contractors had been reviewed and as a result 6 contractors (2 big, 2 medium and 2 smaller) have been short-listed. Formal invitations to tender are now being prepared in conjunction with a Mechanical & Electrical Engineering Consultant and the Architect. Invitations to tender should be issued in May, responses are expected in June/July and rebuilding work should be started September-October.

Councillor Armstrong identified a Bakewell contractor, with experience in local stonework, which he felt could be an additional candidate for consideration.

Councillor Nicol asked about the nature of the pre-qualification financial assessment; Mr Miller responded that Mr Foxon had reviewed the supplied financial information. Councillor Nicol enquired about rebuild cost estimates and Mr Miller replied that final prices and shortfalls will be known after the responses to tender had been collated in June-July. Mr Miller responded to a question by confirming that the BLF grant would not be cut if tender prices came in below estimates already submitted at the time of grant application.

Councillor Armstrong remarked that in his experience even relatively minor grants had incurred some stringent conditions and he asked, in view of the large amount of offer, if the BLF had set conditions or had a claw back policy. Mr Foxon responded that there were no conditions. Councillor Osborn disagreed with this and said he was aware of several conditions in the BLF contract that OHVHMC had signed, including one requiring "100 extra hirers". Mr Foxon replied that the BLF contract set out milestones that the OHVHMC should try to achieve, not a set of conditions that had to be achieved. Mr Foxon stated that he had written confirmation from the BLF that they would not be asking for their grant back if the contract milestones were not achieved.

Mr Foxon asked the Council why their meeting of 24th March had not been subject to public notice, as he believed all meetings had to be and had sought guidance to confirm his opinion. Councillor Parker made an initial reply reminding Mr Foxon that the Council, even under Mr Foxon's former Chairmanship, was periodically obliged to meet without public notice, in order

to address urgent matters, such as Planning Applications, in a timely manner. Mr Foxon accepted the precedence but felt it only applied under special circumstances.

Councillor Osborn explained that the meeting of 24th March was not a formal or normal Parish Council Meeting but was a special meeting of the Custodian Trustees of the Village Hall and as such was not, in his interpretation, subject to public notice or participation. Councillor Osborn further explained that the Custodian Trustees had, on 17th March, suggested a meeting with the OHVHMC to progress some issues but as OHVHMC had yet been unable to respond with a date, the Custodian Trustees had met, at short notice, in order that they could react quickly and appropriately to the urgent requests from OHVHMC in respect of Village Hall deeds and title.

Mr Foxon voiced concerns at why and how the Village Hall had been registered at Land Registry. Councillor Parker replied that the Council had acted on a recent recommendation from NALC to undertake voluntary Registration of all land/property under its "title", before 6th April, and that the timing whilst coincidental was entirely appropriate to meet the needs of the OHVHMC, whose solicitor had to prepare/present a "certificate of title".

Councillor Osborn clarified that the registration was straightforward and the two original deeds had been submitted for registration with forms FR1 and DL.

Mr Foxon wished to ensure that no changes to governance had been applied and asked if he could have copies of the forms submitted. Councillor Osborn explained that forms FR1 and DL were web based Adobe© PDF forms that were completed on-line, printed and sent to Land Registry. The forms could not be saved (a restriction of the on-line system) and so copies of the originals were not available. However, Councillor Osborn assured Mr Foxon that the original deeds had been submitted for registry "as is", the forms clearly identified the Council's title as being that of Custodian Trustees and that no changes or provisions had been effected.

Mr Foxon said that there was frustration within the OHVHMC over some of the Council's actions (or inactions). The OHVHMC believe that the role of Custodian Trustees was clear and Mr Foxon read out an excerpt from Charity Commission guidelines and also read out a judgement he had received from the Charity Commission which both indicated that Custodian Trustees should comply with all directions of Management Trustees (OHVHMC) provided they were not a breach of trust. Mr Foxon said that the OHVHMC felt that none of their actions were a breach of trust and asked why the Custodian Trustees could not just act as instructed.

Councillor Parker responded that while the OHVHMC had one interpretation of the role of Custodian Trustees he wished them to be aware that there were other interpretations. He stated that Councillors felt they were obliged to exercise due care and diligence over all their actions and he asked that the OHVHMC respect that view. Councillor Parker went on to say that the Councillors had genuine concerns over their individual personal liability that may result from a specific "BLF charge" being made against the Village Hall deeds.

Mr Foxon had stated that it was quite normal for a charge to be required by BLF and Councillor Parker remarked that as the OHVHMC would have been aware of this at the time their application was progressed in September the requirement could have been made known to OHPC at the time of the informal meeting. Councillor Parker also commented that the Council had repeatedly requested information and at times felt uninformed. This of course made action difficult.

Councillor Osborn made a supplementary statement to further explain the Council's position. He said that as well as the excerpts that Mr Foxon had identified there were other regulations, which applied to Custodian Trustees, including a direction that they should take no action through which they would incur a personal liability. Councillor Osborn explained

that the “BLF charge” against the deeds, for which the Council held legal title, could constitute a liability and the absence of any details about the charge prevented the Council being able to act.

Another complication had arisen from yet a further Charity Commission guideline, which (paraphrased) states that all money paid to the trust property should be paid to the Custodian Trustees. The implication is that the BLF and other Grants should be payable to the Council, which was not its wish and needed to be addressed.

Councillor Parker said that the Council had written, via DRCC, seeking urgent clarification from Mr Dawson, who had given an earlier solicitor’s opinion, in the hope that all the issues could be resolved. If the response came back clearly stating that the Custodian Trustees had no responsibilities or liabilities and could act solely as instructed, this would be done. However Councillor Parker went on to say, that if the response came back indicating that Custodian Trustees did have an obligation to be diligent, then he personally would seek to view a range of documentation on both costs and income. In particular he would wish to be satisfied that no unattainable conditions were attached to the grant offers.

Mr Foxon requested a copy of the solicitor’s letter and Councillor Nicol agreed that the Council would forward a copy of the reply as soon as one had been received.

Mrs Foxon asked if the Council supported the Village Hall rebuild and Councillor Osborn replied that whatever the Councillor’s individual opinions, as a body, the OHPC had always supported the initiative.

At several points throughout the discussion the Councillors referred to their invitation to the Management Committee, dated 17 March, to arrange meeting to discuss many of the above and other issues. Mr Foxon was still unable to agree a date for a formal meeting but wished to progress an informal meeting. Councillor Parker suggested that a meeting before both the OHVHMC and OHPC annual meetings would be useful to ensure a common understanding of both parties and Councillors Parker and Nicol indicated their availability to attend a meeting as early as Monday 13th April. Councillor Armstrong was also willing to attend, subject to his “lambing” commitments. The Management Committee representatives were not in a position to commit to a date immediately but Mr Foxon undertook to confirm a date and attendance as soon as possible.

Mrs Smith, asked if was too late to submit an item for the agenda of the Parish Meeting and stated the opinion that the “Dog Bin” at the western end of Wellgate Lane should be moved to the eastern end. Councillor Osborn replied that her item would be considered.

They all then left the meeting.

1 Apologies

None.

2 Declarations of Members Interests

No members declared an interest in any of the items for discussion.

3 Minutes - 9th March 2009

RESOLVED - To confirm as a correct record the Minutes of the Meeting held on 9th March 2009.

4 Reports

4.1 Alterations to Monyash Road Junction

ONGOING – PDRHA have now appointed a consultant to assess the three quotes/tenders received.

4.2 Risk Assessments

RESOLVED – Risk Assessments are not due again until October 2009.

4.3 Agenda items for the Annual Parish Meeting – Wednesday 22nd April 2009

Notes were posted on both the Parish Council noticeboard and in the Bus shelter requesting agenda items but none were received.

Councillors Judith Twigg and Carol Walker have been invited to the meeting. Both are hoping to attend but have a meeting in Matlock the same evening.

4.4 Minute in respect of the Councillors meeting to discuss Custodian Trustee matters

The Councillors met on 24th March 2009 to discuss their position and responsibilities as Custodian Trustees of Over Haddon Village Hall(OHVVH).

The Councillors were unable to resolve their concerns over interpretations of duties, which include issues related to liability.

The Councillors agreed to comply with NALC recommendations to register all its land and OHVVH deeds, being straight forward will be registered to assist the OHVVHMC solicitors requirement to obtain a Certificate of Title.

The Councillors also agreed to seek specific clarification on their role as Custodian Trustees from Mr Jonathan Dawson or an alternative solicitor.

5. Planning Applications and Reports

NP/DDD/0708/066 – Mill Farm, Haddon Grove

Notification that an appeal hearing is to be held at 10am on Tuesday 14th May 2009 at Aldern House, Bakewell.

6 Financial Report

RESOLVED.

Current Account. Balance £1249.92 @ 27 March 2009(Statement received after agenda posted).

Deposit Account. Balance £3182.82 @ 28 January 2009.

To note that the following payments were authorised:-

- Cheque No:- 000274 for £136.28 to Mrs H Foreman for Clerks Salary March 2009(Includes final pay award arrears from 1.4.08).
- Cheque No:- 000275 for £34.00 to Post Office Ltd for PAYE on Clerks salary March 2009.
- Cheque No:- 000276 for £91.07 to DALC for Annual Subscription (01.04.09 – 31.03.10).
- Cheque No:- 000273 for £110.00 to Land Registry for registration of the village hall.

7 Other Reports

- **Hawthorne saplings on land adjacent to the Bus Shelter**

RESOLVED – It was decided not to pursue this matter as it was originally made as a comment only.

- **Broken Glass around Recycling bins in the Public Car Park**

RESOLVED – DDDC Clean Team have attended and tidied up the area.

8. Correspondence for Discussion

DALC Circulars – 9,10,11,12,13,14, 15 and 16/2009 circulated – Contents noted.

Peak Park Parishes' Forum – Subscription for 2009/10 now due - £20.00.

Councillor Nicol is to review our membership and report back at our next meeting.

Commission for Rural Communities- Rural advocate wants to hear the voices of our region's upland communities.

Derbyshire & Derby Development Plans Joint Advisory Committee – Minerals and Waste Core Strategy Development Plan Documents – Invitation to make representations on what the Development Plan Document ought to contain.

East Midlands Regional Assembly – Notification of changes made to the Partial Review Project Plan following consultation.

Society of Local Council Clerks – Details of a Derbyshire Clerks Training event on 24th April 2009 at Dronfield. Clerk unable to attend.

Society of Local Council Clerks – Invitation to join.

9 Exchange of Information

Two complaints have been received by the Council regarding the stones/rocks left outside Pendleton House, School Lane following the rebuilding of the wall.

It was resolved to write to Mr Pendleton asking him to remove the residue rubble.

The original deeds relating to the allotments and Jubilee spinney have been obtained. The Chairman has spoken to Land Registry and the Parish Council are to go ahead with the registration of the allotment land, at an approximate cost of £45.00, with further consideration to be given to the spinney.

10 Date of next meeting

Wednesday 22nd April 2009 – Annual Parish Meeting

Monday 11th May 2009 – AGM.