



DRAFT MINUTES

Meeting: EXTRAORDINARY

Date: 20 July 2015

Time: 6.30 PM

Venue: NORTH WEALD LIBRARY, 138 HIGH ROAD, NORTH WEALD

PRESENT:

Councillors (10) C Hawkins (Chairman), B Bartram, A Buckley, N Bedford, G Mulliner, B Clegg, Mrs E Godwin-Brown, A Tyler, T Blanks, R Spearman*

*For Part of the Meeting

Also in Attendance (2)

Susan De Luca – Clerk to the Council
Joanna Tyler – Senior Administrative Officer

Members of the Public (5) *Members of the Public joined for Part of the Meeting but they were awaiting the start of the Planning Meeting*

Members of the Press (0)

No Members of the Press were present.

C15.050 APOLOGIES FOR ABSENCE (4)

NOTED that apologies for absence had been received from Councillors Mrs A Grigg, B Eldridge, D Stallan, Ms D Adams

C15.051 OTHER ABSENCES (0)

No other absences were recorded.

C15.052 DECLARATIONS OF INTEREST

Councillors Bartram, Bedford and Mrs Godwin-Brown declared a Non Pecuniary Interest as Trustees of the Queens Hall Charity.

C15.053 QUESTIONS FROM MEMBERS OF THE PUBLIC

There were no questions from members of the public.

C15.054 QUEENS HALL CHARITY

Status of the Parish Council as Custodian Trustee

The Chairman reminded Members that this meeting had been called specifically to discuss the matter of the Parish Council's concerns of being Custodian Trustees for the Queens Hall Charity. Members were reminded that this Extraordinary Meeting had been called following the financial concerns that the Parish Council Trustees had and who had resigned from the Queens Hall Charity after advising the Members of the Parish Council and the Clerk of those concerns.

The Chairman referred Members to the Parish Council Meeting Minutes of 1 June

2015, in particular Cllr Stallan's comments which were recorded as follows:-

Cllr Stallan stated that in his view there should be a meeting arranged, whether it be a Parish Council meeting that goes into private session, or a meeting on its own, but the Parish Council should be preparing for the eventuality that the Queens Hall may come back to the Parish Council to manage. A plan needs to be in place.

The Chairman noted that Cllr Stallan was not present at the meeting to discuss the matter.

The Clerk was instructed, some months ago, to contact the Charity Commission regarding the position and the role of the Parish Council as Custodian Trustee. The Clerk wrote and asked numerous questions of the Charity Commission but received a very partial response. Therefore the Clerk asked the Parish Council's Internal Auditor for advice. The Internal Auditor advised the Clerk to either contact a reputable Solicitor for advice who would be experienced in Charity Law (but warned that this could turn out to be quite expensive) or to seek advice (more limited but free) by contacting the National Association of Local Councils Legal Department (NALC). This action would have to be carried out via the Essex Association of Local Councils (EALC). After liaising with the Chairman, the Clerk therefore opted for the second option. The query was submitted to EALC, who, in turn, submitted it to NALC.

The Clerk reminded Members that they had received, attached to the Agenda, copies of the following documentation:-

1. Parish Council's original letter to Charity Commission
2. Charity Commission emailed response
3. Query to NALC
4. Response from NALC
5. Charity Commission Complaint About Charities Guidance Notes
6. Legal Topic Note No. 28
7. Queens Hall Governing Document

Also included was a copy of some draft notes from Cllr Blanks for Members perusal.

Cllr Mulliner asked if it was an automatic responsibility that the Parish Council were appointed as Custodian Trustee because they own the property. The Clerk stated that it was her understanding that with regard to land and any property the interest had to be vested into an authority that could not be declared bankrupt.

Cllr Bedford referred Members to the documents reported and provided by NALC, in particular Section 13, Legal Topic Note 28, regarding local councils acting as a Custodian Trustee, the contents of which he read out. Cllr Bedford stated that it was his belief the charity would not be declared bankrupt. His understanding of the document was that the remaining appointed Parish Council Trustees have been put forward into the management of the hall, he stated that they have asked for an

increase in the fees, which is going forward at the moment. It is his understanding that the Parish Council are just trustees of the document and as such should have no say in the management of the hall.

Cllr Bartram stated that the Parish Council is the Custodian Trustee, the charity, not being a corporate body, cannot hold title, however, it could be held by the trustees as an individual. Cllr Blanks stated that the Parish Council is the Custodian of the Trust, which holds the deeds to the land as per the Governing Document, which details the land and building therein. Cllr Blanks reminded Members that the Parish Council's loan from the Public Works Loan Board was still outstanding, which the Parish Council would have to continue to repay for quite some time, he continued, stating that the Parish Council has a liability towards whatever happens to that building. Cllr Bedford stated that the Queens Hall is not liable for the loan, the Parish Council is, therefore, if the charity became insolvent they would not have to pay back the loan. Cllr Blanks stated that he thought that this meeting had been called to discuss the viability of the charity. Cllr Bedford stated that Cllr Blanks was no longer a trustee and not on that charity and therefore would not be responsible for loss of funds. Cllr Blanks stated that the Parish Council are responsible. Cllr Bedford stated that the Custodian has no liability for any loss of funds. Cllr Blanks responded that the Parish Council is not concerned about the funds, it is concerned about the building. If the charity fails, the Parish Council would need to have a fail-safe position. Cllr Bedford stated that it was his understanding, if the charity were to fail, the Charity Commission would ask another charity to take it over, he reiterated that the Parish Council were custodians for the building and the land it sits on, the Parish Council has no liability, the Charity Commission would use the £8,000 in the reserve funds to shut down the charity.

Cllr Blanks stated that he understood the point that Cllr Bedford had made, however, the Parish Council has ownership of the building and may not approve of any charity that the Charity Commission decides to ask to take it over. Cllr Bedford reiterated that the Parish Council is not responsible, therefore does not have any control over that decision. The Chairman stated that the Parish Council has no say whatsoever and he would suggest that we write to the Queens Hall Charity confirming that the Parish Council has no liability. The Clerk reminded Members that when the loan from the Public Works Loan Board was taken out, the Parish Council believed, at that time, that it owned the hall, which it did. The Charity Commission decided that the land was given to the Parish Council under a Deed of Gift and the Charity Commission made a decision of the way the land was given and decided that the hall and the land that it stood on should be given for charitable purposes. The Clerk added that the Parish Council had been advised at that time that this Parish Council was not the only one that this had happened to and that if the Parish Council decided to challenge the decision it would be very costly to do so in the courts. The Parish Council could have challenged the decision at the time, but no one at the Parish Council wanted to challenge this.

Cllr Buckley asked the Clerk how much of the loan was outstanding. The Clerk stated that the Parish Council pays £1900 per year and believes there is around £18,000,

outstanding however she did not have the figures to hand, this figure would need to be verified with the Financial Officer.

Cllr Bartram stated that the Public Works Loan is itemised every year on the precept. Cllr Bedford stated that he understood that there was a penalty if the loan was redeemed early. The Chairman stated that he believed there was no need to discuss the issue of whether the charity was to fail any further.

The Clerk reminded Members that the Parish Council has the power to appoint 8 trustees annually, and it is for Councillors to decide whether or not they are appointed.

There are currently three appointed trustees, Cllr Bartram (Chairman), Cllr Bedford (Vice Chairman) and Cllr Mrs Godwin-Brown. Next year the Parish Council may decide that they do not want to appoint 8 trustees. Cllr Mulliner asked the Clerk if the appointed trustees could act for the Parish Council and tell the committee how the hall should be managed. The Clerk reminded Members of the situation that occurred earlier in the year regarding fees and which resulted in 5 trustees resigning from the committee, however, stated that it was one avenue that could be discussed at a future Parish Council meeting. Cllr Bartram stated that ALL the trustees have full responsibility for the fees and reminded Members that if the number of trustees falls below 5, nobody can resign (5 is required for a quorum).

Cllr Bedford asked if it would help the Members if they were given a financial report from the Queens Hall Charity.

The Chairman reiterated his belief that a letter should be sent to the charity from the Parish Council advising that Parish Council would have no further dealings with them. The Clerk stated that there would then be a requirement for the Governing Document to be amended.

Members may decide not to appoint any trustees for one year, then the document would not need to be amended. Cllr Bedford stated that a letter could be written to the charity confirming that the Parish Council wish to appoint no more than 3 trustees.

The Clerk stated that what the Chairman had said was not to appoint anyone from the Parish Council on to the committee.

Cllr Mulliner stated that if Cllrs Bartram, Bedford and Mrs Godwin-Brown wish to be on that committee why should the Parish Council stop them.

No decisions were taken regarding any changes to numbers of trustees.

However it was seemingly **NOTED** that the Parish Council has No Financial Liabilities as Custodian Trustees.

Cllr Blanks stated that he believes the concern is with the amount that residents of the Parish have to pay for the loan which is outstanding and the interest paid each year.

The Chairman reiterated that the Parish Council has to pay back the loan regardless. The Clerk stated that the Parish Council signed up to the loan in 1999/2000 and further investigation would need to be made to ascertain if it could be redeemed earlier, without incurring penalty charges.

Cllr Bartram stated that, as Custodian Trustee, the Parish Council have to list the hall on its asset list as zero value.

Cllr Tyler stated that, with respect, the discussion appeared to be going round in circles and it was his belief that the remaining trustees should be left to manage the hall.

Cllr Bedford **PROPOSED** that the subject be brought to a close, the Clerk reminded Cllr Bedford that he could not propose this as he was a trustee of the Queens Hall Charity and asked for another proposer. Cllr Mulliner stated that he would **PROPOSE** that the subject be brought to a close, this proposal was **SECONDED** by Cllr Tyler.

A vote was then taken. Cllr Blanks asked that it be recorded that he had abstained from voting.

Meeting closed: 7.10 pm

Signed

Date