



## LEDBURY TOWN COUNCIL

### Minutes of Full Council Meeting held On Thursday 26<sup>th</sup> July In The Community Hall – Ledbury

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#### **PRESENT:**

**Chair of the Council;** N. Shields

**Deputy Council Chair:** J. Roberts

**Councillors:** D. Baker; A. Bradford; K Francis; A. Harrison;  
E. Harvey; J. Hopkins; P Howells; N. Morris;  
A. Warmington

**In Attendance:** G. Rippon Acting as Clerk for the meeting  
M. ab Owain – Acting Clerk to the Council  
S. Fisher - Minutes

8 members of the public  
2 representatives of the Press

#### **C104–07.18 Apologies**

Apologies were received from Cllrs Eakin and Manns

#### **C105 – 07.1 Interests**

- i) Cllr Harvey declared a Pecuniary Interest in Item 12
- ii) Cllr Warmington declared a non-Precuniary Interest in Item 9.3

#### **C106 – 07.18 Public Participation**

A Member of the Public raised points concerning the Judicial Review

- i) In connection with missing records, have former employees and councillors been asked if they have any information on these.
- ii) Has the Council been able to obtain a copy of the advice from HALC, and if not what further efforts have been made on this.
- iii) What steps have been taken with respect to Security in the Town Office to prevent documents going missing in the future

The Chair responded that this would be dealt with in more detail under the Agenda Item on the Judicial Review and IT; however at present the Council's principal focus is on possible recovery of costs and therefore nothing would be done which may prejudice this.

Chair added that the Council does not have the right to question former staff and Councillors. She did confirm that systems have been updated in view of what has happened to ensure matters are dealt with in a more business-like way, and protocols are being drafted to cover this.

The member of the public also thanked the Council for providing Minutes prior to the meeting, and commented on the quality of those Minutes. He hoped this would be a benchmark for the future.

### **C107 - 07.18 Minutes**

Cllr Shields noted that that the detail of this Item on the Agenda was incorrect as the Minutes before the meeting were Minutes of a Full Council Meeting not the Annual Council Meeting.

Cllr Shields proposed that with this amendment the Minutes should be approved.

Cllr Howells asked for clarification on Item C.92 – 07.18 re the Adoption of the County Council Code of Conduct – he asked if this was the Code included with the papers for the meeting of 21<sup>st</sup> June, and if so would it be adopted in full and verbatim.

Cllr Shields – as Chair – responded that in principal it would be adopted in full and verbatim, but that before formally registering it, it would be checked and amendments made to ensure that the document referred to Ledbury TC rather than Herefordshire where necessary.

Cllr Howells accepted this assurance.

Cllr Harvey queried the wording of the Minute on Item C.93 – 07.18 re the Neighbourhood Plan.

Cllr Howells pointed out that the wording was exactly accurate in accordance with the Agenda for the Meeting.

**Proposal:** The Minutes be approved as an accurate record of the Full Meeting of Ledbury Town Council held on 21<sup>st</sup> June 2018.

**Voting:** Agreed

### **C108 - 07.18 Chairman's Report and Correspondence**

The Chairman reported that the past month has been busy She has attended 4 events on behalf of the Council: Ledbury Primary School carnival, Ledbury Celebration Day, the Mayors' Meeting at Herefordshire Council and a recording of Gardeners' Question Time.

Correspondence received and responded to was as follows:

A request for the provision of hard copies of minutes, which are now provided; questions and suggestions about the Christmas Lights switch on which were referred to the Environment and Leisure Committee; a question about her use of the title Chairman, for which she provided an explanation which has been accepted

### **C109 - 07.18 Appointment of Responsible Finance Officer**

**Proposal:** As the Council is currently without a Responsible Finance Officer Cllr Shields proposed appointing the Acting, Part-Time Clerk, Mel ab Owain, as Responsible Finance Officer until such time as a Permanent Town Clerk is appointed.

**Voting:** Agreed

### **C110 - 07.18 Committee Matters: Economic Development & Planning Committee**

- i) The Council received the Minutes of the meeting held on 12<sup>th</sup> July 2018.
  - a) Cllr Warmington explained that Anthony Peake had written to him requesting that these Minutes be amended as he had not supported the comments made by Robin Oakey, as reported under Item P64-07.18 – Public Participation
  - b) Cllr Howells also commented that several of the comments noted under Item P72-07.18 – Neighbourhood Plan were inaccurate or based on incorrect information.  
He was reminded that this Agenda Item was considering whether the Minutes were an accurate record of the meeting, and that points for discussion arising from this Item on the Minutes should be deferred to the specific Agenda Item relating to the Neighbourhood Plan.

**Proposal:** The Minute for Item P64-07.18 – Public Participation be amended by deleting the final sentence of the second paragraph.

**Voting:** Agreed

With that amendment the Minutes were accepted and the Council agreed to accept the recommendations contained therein.

ii) Public Realm Meeting

The meeting was reminded that because the draft Report on Public Realm Improvements had been received late a number of the stakeholders present at the original workshop had not received copies to enable them consider and comment on this within the specific time.

**Proposal:** A meeting be arranged as soon as practicable for a Thursday evening (in August) to enable representatives of interested parties/groups to meet and comment on the Report, so that a full response could be forwarded to Herefordshire. This meeting to be held in the Market House.

**Voting:** Agreed

**Proposal:** The Acting Clerk – M. ab Owain – be asked to request from Herefordshire Council a deferral in the deadline for responses to a date in September, in view of the late receipt of the draft report.

**Voting:** Agreed

*Point of Order:*

*Cllr Howells asked the Chair if, when the Chair of a meeting was unable to attend Full Council, it would be possible for them to provide a statement of agreement with the Minutes submitted to that Council.*

*The Chair responded that she was unsure whether this was possible, and asked the Clerk of the Meeting to investigate that and let her know.*

### **C111– 07.18 Committee Matters: Environment & Leisure Committee**

i) The Council received the Minutes of the meeting held on 19<sup>th</sup> July 2018.

Cllr Warmington pointed out that he had not sent apologies to the meeting as he is not a member of this committee.

Cllr Shields expressed the Council's thanks to the Christmas Lights Working Party for taking on the planning for these.

In connection with Item E70-07.18 – the Strategic Management Plan, Cllr Francis offered to “walk round” Deer Park with Cllr Hopkins to help clarify which parts of this the Council is responsible for, as he has been involved with this in the past.

Cllr Hopkins accepted this offer with thanks.

**Proposal:** The Council consider the Minutes of the meeting held on 19<sup>th</sup> July 2018 and agree to accept the Minutes with the amendment to the list of Apologies noted above, and recommendations contained therein.

**Voting:** Agreed

iii) Deferred for consideration in closed session

#### **C112 - 07.18 Committee Matters: Finance & General Purposes Committee**

i) The Council received the Minutes of the meeting held on 7<sup>th</sup> June 2018.

These Minutes were represented to Full Council as they had been submitted to the Committee with hand-written corrections.

**Proposal:** The Council consider the Minutes of the meeting held on 7<sup>th</sup> June 2018 and agree to accept the Minutes with the hand-written amendments accepted at the Full Council Meeting on 21<sup>st</sup> June.

**Voting:** Agreed

ii) The Council received the Minutes of the meeting held on 5<sup>th</sup> July 2018.

Cllr Harvey pointed out that under Item F.73-07.18 it was agreed by the Committee to correct the Minutes of the meeting of 7<sup>th</sup> June in relation to Item F.57-06.18. This meant that despite that prior acceptance of the revised Minutes they were still incorrect.

**Proposal:** The Council re-consider the Minutes of the meeting held on 7<sup>th</sup> June 2018 and agree to further correct them in line with Item F.73-07.18 of the Minutes of the meeting of 5<sup>th</sup> July. The Re-Corrected Minutes will then be presented to the Full Council Meeting of 27<sup>th</sup> September for final confirmation.

**Voting:** Agreed

*There was some discussion relating to VAT in relation to pitches held by Market Traders, with the Temporary Clerk stating that it should be charged and Cllr Bradford stating that it never had been charged in the past. It was agreed that Cllr Harrison would look into this and report back to both the F&GP Committee and Full Council.*

The Temporary Clerk asked that it be put on record that in his opinion the Risk Register was one of the best he had seen in his career. The Chair responded that this was thanks to Cllr Hopkins hard work – but that she hoped this would be considered as an exemplar of the standard to be attained in all Council documents and works.

**Proposal:** The Council consider the Minutes of the meeting held on 5<sup>th</sup> July 2018 and agree to accept the Minutes and the Proposals therein.

**Voting:** Agreed

iii) The Council considered the list of invoices for payment brought forward from the F&GP Committee meeting of 5<sup>th</sup> July 2018.

**Proposal:** The invoices brought forward from the meeting of 5<sup>th</sup> July 2018 be paid.

**Voting:** Agreed

iv) The Council considered how invoices will be approved for payment during the summer break, before the next meeting of the F&GP Committee on 20<sup>th</sup> September.

The Clerk to the Meeting pointed out that it was standard procedure for invoices that related to items that had been through the Budget Process to be paid by the Responsible Financial Officer. New items of expenditure would need to wait for the next F&GP Committee meeting for approval.

### **C113 - 07.18 Committee Matters: Committee Membership**

The Council considered Cllr Howells request to sit on the Finance and General Purposes Committee and the Economic Development and Planning Committee.

**Proposal:** Councillor Howells request to sit on the Finance and General Purposes Committee and the Economic Development and Planning Committee be approved.

**Voting:** Agreed

### **C114 - 07.18 External Audit 2017/18**

**Proposal:** Approve the Governance and Account Return Pt 3

**Voting:** Agreed

**Proposal:** Proceed with appointing Internal Auditor

**Voting:** Agreed

Cllr Harvey requested confirmation that the Accounts would be open to scrutiny once they have been agreed and signed. This was confirmed.

### **C115 - 07.18 Judicial Review**

The Chair noted that it is important to keep in mind the difference between the application of the Law and the administration of Justice. She pointed out that the primary interest and duty of the Council now is to mitigate the cost of this process by investigating the possibility of reclaiming costs from other parties involved.

She confirmed that the documents are still not fully complete, but searches are being made to fill gaps where possible.

The following questions need to be considered:

- a) Did the Standing Committee have proper authority to take the decisions it took
- b) Did the Standing Committee follow advice – if so what advice was given and was either the advice or the committee influenced by outside parties

With reference to (a) the Minutes of the relevant Full Council Meeting show that the Standing Committee was given authority to make decisions on behalf of the Council in relation to the Judicial Review

However

It is important to note that the way the authority is worded in the Minutes is, in fact, contrary to Standing Orders.

With reference to (b) it appears from the papers now provided that there were two contradictory sets of advice offered by barristers. The first barrister consulted – who is experienced in this area but is not a QC - had a number of concerns and advised the Council not to contest the claim.

The second barrister – also an expert but a QC as well - disagreed with almost all of the points made by the first barrister.

At this point in time it is not clear why the Standing Committee decided to follow the second barrister's advice. Nor is the role of HALC clear.

It should be remembered that Ledbury Town Council does not have jurisdiction to question either former employees or former councillors in connection with this matter, and it is important that the present Council does nothing to prejudice any claim in respect of costs incurred that may be made in the future.

Cllr Bradford commented that he had been serving on the Standing Committee during this period and that he had only known of one lawyer/solicitor being used. He added that at all points the Committee members had been told that they were following HALC/NALC advice in what they were doing.

He also reminded the meeting that there had been several changes of membership within the Standing Committee during the time in which the Council were preparing for the judicial review.'

Cllr Harvey stated that she was shaken to learn of the existence of the first barrister's advice, and in a careful statement asked that those councillors still serving who had been involved in voting the powers to the Standing Committee should carefully consider their actions.

At this point Councillor Harvey left the meeting.

Cllr Francis also chose to leave the meeting, rather than be involved in the subsequent discussion.

**Proposal:** To pay the Court Order Interim Costs of £30,000 by Bank Transfer as soon as possible, to avoid penalties.

**Voting:** Agreed

The Chair informed the meeting that Cllr Harvey had requested that the Council pay the part of her legal costs incurred in the run-up to the Judicial Review. Although not covered by that Judgement the Judge had ruled that all costs should be paid. Invoices for these costs, totalling £7,005, were made available to the meeting. This would be the maximum liability in connection with these costs. These invoices had been discussed at an earlier meeting of the Standing Committee, which had agreed in principle to pay them, subject to Cllr Harvey supplying a Statement of Reasonableness and Proportionality. This Cllr Harvey has agreed to do.



It was pointed out that all members of the Council are entitled to attend and participate in discussions at meetings of the Standing Committee, even though as non-members of the Committee they are not entitled to make or vote on proposals. This applies to all committees.

**Proposal:** The Standing Committee be authorised to pay the £7,005 costs subject to Cllr Harvey supplying a Statement of Reasonableness and Proportionality and the Standing Committee agreeing that Statement.

**Voting:** Agreed

Cllrs Harvey and Francis returned to the meeting.

They were informed that the payment of £30,000 would be made on 27<sup>th</sup> July, and that payment of the £7,005 costs would be made subject to receiving the Statement of Reasonableness and Proportionality and the Standing Committee agreeing that Statement.

Cllr Howells thanked the Chair for the hard work put in on this matter and her clear explanation of the situation.

#### **C116 - 07.18 Councillors' IT Use**

Cllr Hopkins had drafted a paper on this, but it had not been included with the documents for the meeting. It will be circulated to Councillors, but as the matter seems urgent she gave a verbal report.

The bottom line was that the current situation is not secure and probably does not comply with Freedom of Information requirements or Data Protection and GDPR regulations. For example councillors' business emails are being deleted en bloc after 3 months. She advised that it is possible to amend the current IT support contract to be compliant. This would cost approximately £360 per councillor per year

**Proposal:** The Standing Committee be mandated to act as quickly as is practicable to ensure Security concerns are met and compliance with Freedom of Information, Data Protection and GDPR requirements. The Maximum cost of this, using a specialised company cleared for dealing with Local Authorities, to be £7,500 pa.

**Voting:** Agreed

### **C117 - 07.18 Progress on Town Council Policies**

The Chair confirmed that matters are moving forward on these, and Policies are being collated.

### **C118 - 07.18 Proposal to Carry Forward Items on the Agenda**

**Proposal:** To defer Items 16; 18;19; 20 and 23 to the next Full Council Meeting on 27<sup>th</sup> September 2018.

**Voting:** Agreed

### **C119 - 07.18 Neighbourhood Plan**

After some discussion of various matters relating to the Local Plan from the Minutes of the Economic Development and Planning Committee Meeting on 12<sup>th</sup> July it was clear that further and more detailed discussion was required.

Cllr Harvey was concerned that the councillors appointed as Ledbury Town Council representatives to answer questions regarding the Progression to Examination Report had acted beyond that remit is responded to a request from Herefordshire Council in responding to express a preference in the choice of Inspector.

Cllr Howells was concerned that the matters listed as being in question were based on inaccurate or insufficient information.

There was a general view that councillors have not been sufficiently well briefed on the Local Plan to enable them to make informed decisions at the meeting.

**Proposal:** To hold a meeting of all councillors as soon as possible in August to brief them on all aspects of the Local Plan on which they may be called to decide.

**Voting:** Agreed

**C120 - 07.18 Exclusion of Members of the Public**

*Public Bodies (Admission to Meeting) Act 1960 Section 1 extended by Local Government Act 1972 Section 100. In order to consider confidential legal, financial and employment matters the Chairman proposed to exclude members of the public. The proposal was seconded by Cllr Hopkins and duly carried*

**Proposal:** To exclude members of the public from the rest of the meeting

**Voting:** Agreed

\* \* \*

**C121–07.18 Date of Next Meeting:**

The date of the next meeting of the Full Council was confirmed at Thursday 27<sup>th</sup> September 2018

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The meeting following the closed session closed at 10.15pm

CHAIRMAN ..... DATE .....