

**MINUTES of the meeting of HARPOLE PARISH COUNCIL held on March 17<sup>th</sup> 2014  
at the Old School Hall, School Lane, Harpole at 7.30 pm.**

PRESENT:

Miss S Eason (in the chair)	Mr B Briscoe	Mr D Ballard	Mr J Calderwood
Mr E. Church	Mr B Gibbins	Mrs R Gibbins	Mr J Green
Mrs J Jenkinson	Mr B Justice	Mr D Starmer	Mr C Wilkinson
Cllr J Eliot SNC	Cllr A Addison SNC	8 members of the Public	Clerk, G Ravine

- 1 APOLOGIES FOR ABSENCE.** Cllr J Kirkbride. NCC
- 2 DECLARATIONS OF INTEREST;** JC re Churchyard, as Trustee of the Charity, Playing Fields, and Youth Club, and member of Heritage Group. DB and JC regarding the Harpole Action Team. DS regarding land on Manor farm, Allotments, OSH and PFA. BG and RG re allotments. DB re allotments. JJ re allotments.  
BG asked whether everyone had read the code of conduct and showed that he had a copy if anyone wanted to.
- 3 REGISTER OF INTERESTS UPDATE.** None
- 4 PUBLIC DISCUSSION.** The new grasscutting contractor was felt to be doing well. Litter and fly tipping were reported on Nobottle Rd. A large pothole was reported on the junction of CarrsWay and High St. Potholes were marked a month ago but no action taken as yet.
- 5 APPROVAL OF MINUTES** of the meeting of 17<sup>th</sup> February 2014. With one small change, the minutes were accepted as a true record, and signed.
- 6 MATTERS ARISING FROM THE MINUTES.** An e-mail bank had been suggested at the previous meeting to keep interested parishioners informed. This would be put on the next agenda. The drain outside Carr House had been moved, but not as far as suggested, and as soon as rain fell the same problem occurred. Grass verge at Chester Avenue had been repaired, but ineffectively. Drainage gully outside the farm had been cleared, but not yet clear if this would stop the overflowing problem as. BG said that the problem was effluent from the farm, and parishioners were concerned that there was a public health issue. JG said disinfectant had been used. BG reported the ditches on Road Hill full of water. JG wondered whether this was Council business. DB reported that the 2<sup>nd</sup> questionnaire about a new village hall was about which facilities were required. BG opined that this was rubbish. CW complained that the Open gardens vs NCC dispute about roadworks had been rejected as worthy of consideration by the screening process for the Ombudsman, and felt the subject should be on the next agenda. Inspection cover on Sandy Lane has been restored, but the tarmac is already breaking up. Mud was reported to still be on the path at the turnpike. The tyres had been removed from Road Hill, but replaced by more. Clerk to report. Litter situation very bad. Red Lion layby has very bad litter problem, including tyres. SNC say people living there is not their responsibility. Highway Warden to be asked to look into. EC reported that the rectory hedge is in hand, but TPOs must be respected.
- 7 To Consider candidates for Co-option to the vacancy created by Cllr Eason's resignation.** SE, JJ and JG had met as a co-option panel and recommended Maxine Jones be co-opted. **Resolved.** Maxine Jones to be co-opted.  
Clerk to deal with paperwork.
- 8 To consider legal advice received and to determine whether to pursue disposal by lease or licence of that part of the allotment land formerly known as "the smallholding".** SE read out advice from the NCALC solicitor  
*the land was purchased for allotments. S 32 of the 1908 Act permits land not needed to be sold or let. However, any land purchased or appropriated for allotments cannot be sold, appropriated, used or disposed of for any purpose other than use for allotments without the consent of the Secretary of State: s 8 of the Allotments Act 1925 The matters of disposals and consent was considered in depth by the Court of Appeal in the recent case of Snelling v Barstow Parish Council. Allotments are defined in the 1922 Act which limits the size of plots and the scope of the activity i.e. to non-commercial use for all plot holders' family's consumption. It follows that the SofS's consent is required not only to the sale but the use of allotment land for any other purpose including small holdings and any type of grazing, hay taking or commercial farming purposes. The description of the proposed use appears to envisage commercial farming at least.*  
*(Turning to your questions (but subject to what I said at the outset):*  
  - 1 the leasing of land constitutes a sale or letting. A licence is not a selling, appropriation or disposal but could involve a use for other than allotments if the nature of the use changed.*
  - 2 a parish council can of course leave allotment land vacant subject to a proper compliance with its s 23 duty and any other incidents to leaving land vacant.*
  - 3 a resolution is indicative of the Council's position but is not wholly fulfilled until it has been acted upon. Sometimes a decision can take effect immediately because no further action is needed but in other cases there is an intermediate step e.g. the formal letting of a contract or issue of a formal notice before implementation. In this case the actions cannot be properly fulfilled unless and until the formal documents are entered into. I do not think that it is necessary for me to go into the issues of estoppel or change of position as they would not be relevant and I do not think that the resolution itself can be enforced by a third party.*

*I presume that that the relevant members are aware of their obligations under the Council's code of Members' conduct and*

*under the standards framework of the 2011 Act with respect to interests?*

In a subsequent letter he confirmed this advice, having seen the deeds and recommended that the land be registered properly, which he offered to do at a cost of £500 plus VAT and a £40 land registry fee. RG felt that the land was not a smallholding, and should be regarded as allotment land and could and should be let as such in a block.

The clerk was asked to read out the advice from NCALC as read out at the last meeting.

*"In summary the advice is that the council should not enter into an agreement with any party to use that area of the allotment land that is not currently marked out as allotment plots.*

*The understanding is that the whole area (i.e. the area currently marked out as allotment plots plus the area formerly known as the smallholding) is classified as allotment land. This understanding is based on the fact that the parish council purchased the whole parcel of land for the purpose of providing allotments.*

*If the whole area is allotment land then the council must follow certain procedures if it wants to dispose of the allotment land, or any part thereof. "Disposal" includes entering into a lease agreement.*

*The conclusion is that the informal agreement that existed prior to 2013 was probably not lawful but the understanding is that the agreement was terminated as of September 2013.*

*Equally, I conclude that the agreement proposed at the council's meeting in September 2013 to allow Mr Gibbins and Mr Bransby to use the land would also be unlawful if it were put in place, since it amounts to a disposal of allotment land and the correct procedures for that have not yet been followed.*

*The understanding is that the terms of agreement were not concluded, that no money has exchanged hands and that no occupation has yet taken place. That being the case the advice to the council is to pass a resolution at its next meeting that the agreement with any other party be not pursued.*

*My advice to the council is to leave the spare allotment land vacant whilst the village hall project is being discussed. The council will of course receive no rent in this time but the likely lost income is only c. £150 per year. The council will incur costs in keeping the area tidy, but the cost of topping it twice per year should not be very great.*

*Once the village hall project has concluded, whether the decision is to build it or not build it, then the council can reappraise the spare allotment land and decide then what to do with it.*

*The above recommendations will ensure that the council remains within its powers, operates lawfully and maintains the maximum flexibility over control of the land in the short term.*

*NCALC's solicitor has been asked to clarify this advice in writing (hopefully for Mondays meeting) so that everything is legal and above board."*

RG stood and said that this was "codswallop", and that she profoundly disagreed with this and the legal advice. She felt that NCALC's chief executive was wrong, and that the solicitor's advice was erroneous. The Chair proposed "That the council does not pursue disposal by lease or licence of that part of the allotment land formerly known as "the smallholding"

BG insisted that the chair could not make such a proposal.

JJ felt the land should be broken up into plots. RG said there was nothing to stop the 32 poles being leased as allotment land. EC asked whether this would be a commercial enterprise. BG felt this was all rubbish as allotment law allowed for the sale of produce. RG stated that it should be used, and not sat on while its future was deliberated on and quoted from Clayden's allotment law book to support this argument. JC pointed out that RG had an interest as mother of the applicant. RG replied that she had declared an interest, but that she could take part in the discussions but would not vote.

DB felt that Council must abide by the law, and having taken advice from NCALC on the subject, should take it. BG felt DB had an interest regarding the Village Hall, and that although he had declared an interest he should be privy to all information. RG suggested going to her own lawyer, a pro bono lawyer or NSALG. She felt the whole situation ridiculous, and disliked her judgement being called into question. DS asked about rent and recalled that the allotment land should be charged at the same rate as the allotments. BG said this was a lie, and RG said it was to have been charged at the same rate as the previous incumbent, which was £125 p/a. The chair reminded Council that the NCALC solicitor had given the opinion that the land should not be let en bloc. BG and RG both insisted this was wrong, and DB again urged that the solicitor's advice not be ignored at which BG stated that it was his opinion that this was all about a hidden agenda regarding a Village Hall. DB replied that it was Council policy to investigate sites for a village hall, hence the working party, and suggested sending RG's suggestions to another solicitor.

**Resolved.** Another solicitor to be approached with a view to obtaining advice for an EGM prior to the next meeting.

BG withdrew from the meeting giving a warning that he intended to take action regarding the code of conduct.

## 9 REPORTS FROM ADVISORY GROUPS.

**Allotments.** No further reports.

**Churchyard.** JG reported that the hedge had not been cut due to the weather, and would need cutting later in the year.

**Finance.** No report.

**Footpaths.** JJ had reported potholes, and speeding had been reported. Bus stop opposite the Turnpike – drain blocked again. Clerk to report. EC had spoken to new grass cutting contractor, who had shown himself to be keen to get everything right.

**Lighting.** DS and DB to inspect when weather improves.

**South View.** Bus Top drain still problematic. Manhole cover in Sandy Lane reinstated but tarmac already breaking up. Lighting still broken on roundabout. Resident has reported pothole. Bin at bus stop full.

- 10 **PLANNING.** SE announced a planning meeting on march 24<sup>th</sup>. JC, CW, DB and SE will all attend the Inspectorate meetings concerning the JCS. SNC had announced that they would seek mitigation for Harpole. Clerk to enquire what mitigation means.

S/2014/0229/FUL	6 Park Lane Harpole	New vehicular access and new access gates	To be considered
S/2014/0213/SCR	Midway Park Land off M1 J 16	Screening opinion for mixed use development	Information only

- 11 **Scarecrow Event** – JJ reported that it would take place on Sept 13/14<sup>th</sup>. Committee positions all taken.

- 12 **Neighbourhood Plan** – No further report.

- 13 **New Village Hall** – no further report.

- 14 **New Homes bonus** – JJ reported that the grant for new flooring had been approved. Clerk to enquire about Parish Clock application.

- 15 **Review of the effectiveness of the Internal Audit.** Clerk had prepared a report. This was considered and accepted by Council.

**\*Resolved.** Council accepted the Review of the Effectiveness of the Internal Audit. Which was signed.

- 16 **Risk Assessments.** - Risk Assessments. Financial, and Health and Safety risk assessments had been distributed. Health and safety assessment amended to ensure regular checks on assets and responsibility.

**\*Resolved.** Council accepted the Risk Assessments. Which were signed.

- 17 **Staff Assessment** – report and recommendation. Deferred.

- 18 **Correspondence.**

*D Moody, re allots –*

*I Davidson re allots*

*Local Govnt Ombudsman re open gdns*

*Kris Hunt re treeplanting*

*P Baker re pavement Npton Rd*

*CPRE – Planning seminar*

*Prologis re Pineham Park*

*SNC re co option*

*Press release - all noted and included in correspondence folder and distributed.*

*SNC – South Northants Council NCC – Northamptonshire County Council OSHMC – Old School Hall Management Committee . NCALC – Northants County Association of Local Councils. CLASP – Community Landscape & Archaeology Survey Project. WNJPU – West Northants Joint Planning Unit. SNH –South Northants homes*

### **Accounts for payment.**

Name	Chq no.	Amount	Incl VAT	Power used
G. Ravine – salary includes holiday pay.	Chq. 1039	£496.63		LGA 1972 s 112
Inland revenue Tax 124.16 Nis 0Emp Nis 85.48	Chq. 1040	£209.64		LGA 1972 s 112
R Howey – Bus shelters, benches, graffiti removal.	Chq. 1041	£20.00		Clean N/hoods & Env/ Act 2005
AH Contracts –Dog bin clearing.	Chq. 1042	£60.00	£10.00	Highways Act 1980 S96
Hampton Print – Newsletter	Chq. 1043	£63.00		Clean N/hoods & Env/ Act 2005
NCALC – course payment	Chq. 1044	£29.00		
Income Bowls Club rent. £125				
Water £83.66				
Allots £75.00				

Bank balances HSBC Community Account £85,483.46 16/2/2014

**Resolved.** Payments to be made.

19. **Items for next agenda.** E-mail bank for Parish Council.

**DATE OF NEXT MEETING.** April 14th 2014.

*There being no further business the meeting closed at 21.31.*

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