



Theydon Bois Parish Council

Parish Office, The Village Hall, Coppice Row,
Theydon Bois, Essex CM16 7ER

Clerk to the Council: Mrs Sally Crone
Responsible Financial Officer: Mr Greville Norman

Minutes of the Parish Council Meeting held at The Village Hall at 8pm on Thursday 30th June, 2011

Councillors Present: Cllrs Jones (Chair), Philip, Gooch, Hannibal, Sowerby, Hammond, Purkiss, Wood, Vincent and Howard

Apologies: Councillor Berry

Officers Present: Sally Crone (Parish Clerk), Greville Norman (RFO)

21. Apologies for Absence

Councillor Berry.

22. Declarations of Interest (existence and nature) with regard to items on the agenda. Members of the Council are subject to the Local Authorities (Model Code of Conduct) Order 2007 (S.I.2007/1159) (The Revised Code)

None declared.

23. To discuss and approve the Minutes of the Parish Council Meeting held on 30th May, 2011

The draft Minutes of the Parish Council meeting held on 30th May, 2011 were approved and signed by the Chair.

24. Public participation session with regard to items on the Agenda

24.1 Mr Newland, the Chair of Theydon Bois Community and Youth Trust (the Trust) made reference to Agenda Item 6.4. Mr Newland pointed out that the reference should be to 'land and buildings'. This was noted.

24.2 Mr Newland presented a chronology of the events leading up to the present time in relation to the former Youth Centre site. He particularly made reference to the letter dated 20th May, 2009 sent to the Council in which he set out the history and expressed the strong view that 'if successful the ownership of the site should not be by the Parish Council, and if not by the Village Association, by a charitable trust created for the purpose.' Mr Newland also referred to the comment he had made that this would "also take the facilities outside the local political arena with its pointless infighting..." Mr Newland stated that he and his fellow trustees felt strongly about the matter and should the decisions not go their way they would intend to pursue their allegation that the Council had acted ultra vires and seek a judicial review.

25. Correspondence – Clerk’s Report

The Clerk explained that a full copy of her report had been circulated to all Councillors and was available from the Parish Office for any resident who may be interested. A copy of the report is attached to these minutes. The Clerk drew particular attention to the following:

- 25.1 Letter from the Chair of Theydon Bois and District Rural Preservation Society dated 7th June 2011 with proposals for possible tree planting sites in commemoration of the Queen’s Diamond Jubilee in 2012.
- 25.2 Essex Police Survey and communication from Mrs Law advising about the new national Police non-emergency 101 telephone number which is to be used to contact Essex Police about non-emergency crime issues. The Clerk also advised that an email had just been received from the Essex Neighbourhood Watch Administrator with details of the forthcoming inaugural meeting of the Epping Forest District NHW Steering Group to be held at Epping Hall, St Johns Road, Epping from 7.30pm until 9.30pm on Tuesday 19th July. Councillor Gooch kindly agreed to attend this event on behalf of the Council and in support of Mrs Law in her role as Neighbourhood Watch Co-ordinator for the Village.
- 25.3 Letter to Mrs Jeal thanking her for her kind donation enabling the Council to purchase a bench for the Allotments in memory of her husband, Mr Philip Jeal.
- 25.4 Letters of thanks to those involved with the Council’s Avenue of Trees Opening Event held on 11th June in particular to Rev Stephen Walker, to Mrs Xanthe Bearman who had provided entertainment for the children, to the Rural Preservation Society who had staged a photographic exhibition and to Liz Hannibal and other Brownie Leaders who had attended the event with members of the Brownies.
- 25.5 Letters of thanks to Theydon Bois Folk and Country Dance Club for kindly providing the entertainment at the recent Theydon Seniors Event and to all the volunteers who had helped on the day.
- 25.6 Legal Briefings received from Essex Association of Local Councils relating to individual Councillors obligations under the Data Protection Act. These had been circulated by the Clerk and all Councillors had been advised to review their individual situations as failure to register when required is a criminal offence attracting a fine of up to £5000 in the Magistrates Court.

26. Community Centre

- 26.1 The Reports of the Clerk and of the RFO (which had been previously circulated to all Councillors and to all members of the Trust) were noted. The RFO explained that preliminary advice had been received from the National Association of Local Councils in relation both to legal aspects raised by the Clerk and in respect of various accounting issues which he had raised, such as impairment, which might arise should a longer term lease be granted to the Trust. NALC had referred the accounting queries to their Audit Consultant, Mr Peter Lacey, FCA. The RFO had upon receipt of that preliminary advice written again to NALC for clarification of the initial response which in his view had addressed some questions which had not been asked and did not provide definitive answers to those which had been asked. The RFO reiterated that pending the receipt of clear advice he was not in a position to advise the Parish Council either on the implications of gifting the freehold or granting a longer

lease now or in the longer term and nor could he presently advise as to whether an impairment review might be necessary should the Council decide to grant a long rather than a short term lease. Such an impairment review could lead to an impairment charge in the Council's accounts and a negative reserve situation. On a worst case scenario the Council may have to levy an additional precept to cover any negative reserves.

26.2 The letter received from the Trust on 6th May had been circulated to all Councillors and the Clerk had commented on some of the issues in her recent Report. The following points were made on the contents of the letter and in relation to the issues generally:

26.2.1 Councillor Jones referred to the statement that the Council had acted ultra vires i.e. beyond its legal powers and refuted this allegation. Decisions in relation to the Community Centre have been minuted in detail and at no point had the Council acted beyond its legal powers. Mr Newland's point regarding the presentation which had been made at the Public Meeting held on 19th June, 2009 had been considered and it should be pointed out that at this time the Village Association was being actively considered as a possible purchasing vehicle for the purchase. From memory approximately 25-30 residents had attended this meeting. With regard to the main thrust of the Public Consultation however, the primary method of the Consultation had been the Council's article which appeared in the June 2009 edition of Village News, the quarterly community magazine delivered to every household in the Village. This article sought feedback on the Council's proposal to purchase the land and buildings at the former Youth Centre site and to seek approval to finance the purchase by way of a further public works loan – there was no reference to ownership or lease terms and this was not the purpose of the Consultation. In response to this article the Council had received seventeen responses from residents all of which offered support for the proposal that the Council should proceed with the purchase and public works loan and none of these responses made any reference to any third party ownership. A petition had also been received by the Council in support of the acquisition and proposed public works loan and this had been signed by 100-150 residents. The petition made no reference to the charity or to any third party ownership. Thus the Public Meeting held on 19th June had been at a preliminary stage and was part of a wider Public Consultation exercise.

26.2.2 Councillor Vincent stated that he wished to give his views on the letter to which Mr Newland referred to in Minute Reference 24.2 above and to the comment which Mr Newland had made about 'political infighting' in relation to that letter. The concerns raised by Councillors Vincent, Berry, Sowerby and former Councillors Dodman and Emmett at the time were in connection with what they felt to be a lack of communication and transparency in relation to the negotiations for the purchase following their election to the Council and not due to issues relating to 'political infighting' amongst Council Members as had been suggested. Councillor Vincent pointed out that all the signatories to the letter were (and to his knowledge still remain) fully supportive of Youth initiatives in the Village. Councillor Vincent stated that he was in support of a longer term lease (probably 25 years) being offered to the Trust and also in due course a long term lease being offered to the Scouts on expiry of their present lease.

26.2.3 Councillor Philip made the point that the Public Consultation had been a continuing process as all Council Meetings are open to the public. It is true to say that the Council had looked at various options for structuring the purchase including the possibility of a third party being the named purchaser – it was

prudent to consider all the options. Negotiations with Essex County Council had been protracted due to no fault of the Council and some of the circumstances changed as time moved on. The issue of payment of Stamp Duty of £9,000 had originally been a factor in how the transaction would be structured but the Council had subsequently secured the agreement of Essex to bear the cost of this. The Village Association had been very generous with financial assistance. It was also worth noting that the Council had offered the Trust a lease before its Charity registration had been satisfactorily completed and that at the preliminary meeting of the prospective Trustees the Agenda had made it clear that the Council would be retaining the freehold but that the Council would be granting a lease to the Trust with the terms of the lease to be agreed. Councillor Philip also expressed surprise at the argument that the land and buildings would not be as safe in the hands of the Council as it would be if owned by the Trust and suggested that there are many cases of charities becoming insolvent or choosing to sell property if in financial difficulty and the vesting of the property in the Trust would not give any absolute guarantees as to its future security.

26.2.4 Councillor Hannibal referred to the Objects and Powers of the Trust as set out in the Trust's Constitution and before commenting on these Councillor Hannibal stated that he wished to emphasise that in no way were his comments to be construed as a negative view of the present Trustees but that it should be pointed out that no guarantees can be given as to the tenure of any Trustees. The objects of the Trust are set deliberately wide; essentially the objects are to benefit the residents of Theydon Bois to advance education and to provide facilities in the interests of social welfare for recreation and leisure time and to help young residents especially but not exclusively through leisure time activities. These objects are not exclusive to any particular property and the Trust could in fact provide facilities to meet its objects from anywhere in the Village. The Trust also has the power to establish a community centre to further its objects but this is not limited to any specific property. Further, the Trustees do have the power to dispose of any property as they think fit provided that they comply with the Charities Act. Therefore the Trustees could sell the building and the argument that it is safer in the hands of the Trust than the Council is not necessarily the case. Also the Trust is not subject to the democratic process unlike the Council which is comprised of members who are elected by residents. Further, restrictive covenants have been imposed which restrict the use of the site to community uses and these apply whether or not the site is owned by the Council or the Trust. Councillor Hannibal said that he had noted that the advice from the Solicitor at NALC had referred to the Council needing to consider whether an outright gift to the Trust is the 'best' way of delivering the benefit to the Community in all the circumstances.

26.2.5 Councillor Howard pointed out that the public works loan which had financed the purchase presently attracted repayments of approximately £18,500 per year and that it should be noted that the Council would still remain responsible for the repayments having gifted the building away and this could be of concern to residents.

26.2.6 Councillor Hammond pointed out that had the Council granted a long term lease to the Trust then he doubted that a request for the outright gifting of the building would have been made by the Trust. He also mentioned that the building requires further work to bring it up to standard for example ventilation in the ceiling and that in order to make such investments in the fabric of the building the Trust would require a long term lease. He also felt that a short term lease sent out the wrong signals to the Trustees. Councillor Philip responded by suggesting that there may be particular reasons and circumstances to go for a

particular length of lease term and that this decision had nothing to do with the Council's confidence in the present Trustees.

26.2.7 Councillor Purkiss agreed with Councillor Hammond in terms of the underlying factor being to acquire the site for the village and given that the Council is dealing with volunteers he felt that a long term interest should be given to the Trust.

26.2 **Resolved:**

That the Council do defer Agenda Items 6.4 and 6.5 in connection with the request from the Trust for a transfer of the freehold interest in the land and buildings by way of gift to the Trust and to review the lease terms previously offered to the Trust (if appropriate) pending receipt of further advice from the National Association of Local Councils on the accounting aspects and further that an Extraordinary Meeting should be arranged once the Council's Clerk and RFO are of the opinion that the Council is in receipt of sufficient information to enable the Council Members to make a decision on Agenda Items 6.4 and 6.5. If it transpires that an impairment review is needed then the Clerk will obtain estimates for the cost of such a review from appropriate Valuers for presentation to that meeting.

Proposed by: Councillor Vincent

Seconded by: Councillor Jones

All in favour save for Councillors Howard and Hammond who abstained.

26.3 The Clerk had previously circulated the details of the Trust's Insurance Policy. Various concerns were raised namely whether the cover meets all the Trust's objects and whether sufficient cover is in place to cover any liabilities arising from hiring out the building to third parties. Mr Newland confirmed that he would arrange for the Insurance to be reviewed as it was of course a priority for the Trust that the cover be appropriate. It was confirmed that the Trust's Insurance Certificate is on display at the building and that all hires sign a waiver in respect of use of the hall. The Clerk pointed out that such a waiver may not be effective in Law to exclude the relevant liabilities.

26.4 There was some discussion as to the potential Parish Council nominee trustees and whether all former Councillors who had held office in the last four years should be approached.

Resolved:

That the Council agrees to formally approach former Councillor Mr John Padfield with a request to appoint him as a Council nominee to the Trust and subject to his agreement to liaise with the Trust and to proceed with his appointment as soon as is practicable. Further that the Council agrees that approaches be made to former Councillors John Eaton and Martin Oliver and subject to their agreement to appoint either of these as the second Council nominee to the Trust. If both gentlemen indicate that they do not wish to stand then the Council agrees to approach the Clerk to ascertain whether she would be willing to stand as the Council's second nominee on an interim basis.

Proposed by: Councillor Jones

Seconded by: Councillor Gooch

Carried unanimously save for Councillor Wood who abstained.

- 26.5 Councillor Hammond reported that there was presently no update on the fencing proposal for the Community and Youth Centre as revised estimate is presently awaited from the Contractor with revision in the specification for green coloured fencing.

27. Finance and General Purposes Committee

- 27.1 The RFO reported that he had circulated a list of payments made since the last meeting.

Agreed: To approve the payments made since the last meeting as previously circulated and as referred to above and to authorise the Chairman to sign list of said payments in acknowledgement of such approval

- 27.2 The RFO reported that letter had been received from HM Revenue and Customs seeking further information and copies of invoices in connection with the Council's recent VAT refund claim to the value of £9960.44. Most of the items which were the subject of the refund claim related to expenses incurred by the Council on the recent refurbishment of the Community and Youth Centre. A draft response to the Revenue had been prepared by the RFO and submitted to NALC for further guidance. Further information had also been obtained from the Trust in relation to the charges they are making for the use of the Community and Youth Centre Building. The response from NALC had been of comfort and it now appears that the Revenue are unlikely to have grounds to challenge the refund claim. Confirmation is however awaited from the Revenue.

28. Highways and Environment Committee

- 28.1 Councillor Purkiss reported that a number of jobs have been undertaken by Highways in recent weeks. In particular, work has now been completed on the haunching in of new kerbs at bottom of Purlieu Way and also on the corner of The Weind and Orchard Drive with the level of the pavement also having been raised in Poplar Row and a new pavement put in at the top of Woburn Avenue. The Zebra crossing and other white and yellow lines in the vicinity of the Coppice Row/Poplar Row junction are also due to be repainted shortly.
- 28.2 Councillor Vincent reported that the land adjacent to the rear of 25 Woburn Avenue is finally clear of rubbish after a long campaign to resolve the problem.

29. Community Liaison Committee

- 29.1 Theydon Seniors

Councillor Sowerby reported that the Afternoon Tea held on 17th June had gone well with approximately 35-40 attendees. The next event will take place on Friday 23rd September between 3-5pm at the Village Hall. Entertainment will be provided by Loughton Ladies Choir.

- 29.2 Avenue of Trees Celebratory Event

Councillor Sowerby reported that this event had gone well and had been well attended. The Council had written to express its thanks to the various volunteers and helpers who had made the event a success.

29.3 2012 Diamond Jubilee Celebrations

The Clerk had reported upon the receipt of several letters from residents expressing the desire for the Council to organise a Village Event to celebrate the Queen's Diamond Jubilee on 2nd June 2012. In particular the Council had received a letter from the Chair of Theydon Bois and District Rural Preservation Society dated 7th June 2011 with proposals for possible tree planting sites in commemoration of the Diamond Jubilee.

Agreed: that the Community Liaison Committee will consider and make recommendations for a Village Event to celebrate the Queens Diamond Jubilee in June 2012 and the request from the Rural Preservation Society with regard to commemorative tree planting will be passed to the Highways and Environment Committee for further consideration and subsequent liaison with the Rural Preservation Society

30. Cemetery Committee

Councillor Hammond reported that he and Councillor Purkiss had met with Officers from the Woodland Trust at the Cemetery on Tuesday 28th June to discuss the Council's proposed purchase of additional land to extend the Cemetery. As reported at the last Council Meeting, the Woodland Trust had previously written to the Council (letter dated 18th May, 2011) with a formal offer of sale and enclosing a plan showing an area of land approximately 0.6 acres in size. However the Woodland Trust have planning permission for a sculpture /landscaping project at the their adjacent site and a revised plan is to be prepared showing the land which is now available for sale to the Council and with revised terms removing the requirement to divert the existing roadway within the land to be sold.

31. Reports from Representatives

Nothing to report save that Councillor Vincent reminded all Councillors of the date of the forthcoming Donkey Derby event on the Village Green namely 10th July.

32. Any other urgent business for report (without decision)

32.1 See Minute Reference 33 below.

32.2 Councillor Philip confirmed that he had been advised that no formal approach had yet been made to EFDC in connection with proposals for a caravan site at the former Blunts Farm site.

32.3 Mr Newland enquired if he may speak again with regard to Agenda Item 6 and the Chair agreed. Mr Newland stated that he wished to put forward a proposal that the Council consider as an alternative solution with regard to the long term ownership of the former Youth Centre land and building that the freehold be transferred by the Council and vested in the Official Custodian for Charities.

33. Matters excluding Public and Press:

Pursuant to section 1 (2) of the Public Bodies (Admission to Meetings) Act 1960 it is resolved that because of the confidential nature of the business to be transacted, the public and press leave the meeting during consideration of the following item of business:

Cemetery

Councillor Vincent circulated a photograph of a proposed memorial which had been discussed at the previous Council Meeting held on 26th May for consideration. Councillor Vincent reported that he had been in touch with the stonemason and now had the correct dimensions which were far smaller than those previously circulated. Although different in design to the usual monuments in the cemetery, the dimensions exceeded the Council's maximum requirements by a mere 4 inches. In the light of this the Council members agreed unanimously that the memorial should be allowed on this occasion. Councillor Vincent undertook to advise the family accordingly.

Sally Crone
Clerk to the Council

Cllr Mike Hannibal
Vice-Chairman
28.7.2011