

Bramham Parish Council

Minutes of the Extraordinary Meeting held Tuesday 23 April 2013

Present: Cllr Whitbread (Chair), Cllrs: Henderson, Innocent, Jones, Mackie, Blanchard and Silverwood

Others: 3 residents (until item 4)

In attendance: M Lynch (Clerk)

Public Session:

A resident queried the Council website's Terms & Conditions. He was advised that they belong to the website providers, and also that they are being revisited. He also said that he wished the website terms and conditions to be more accessible.

A resident queried what the meeting was about. The chairman read out the agenda.

1. Apologies for absence – Cllrs Batt and Halliday

2. Disclosure of disclosable pecuniary interests or declaration of any other significant interests which may be in the public interest - none

3. To consider exclusion of press and public due to the confidential nature of item 4.

The Chairman advised that YLCA advice was that as Cllr Jones' letter to be discussed at item 4 was largely regarding an employee, exclusion of press & public should be considered. YLCA also advised that if the letter should be discussed in public the employee would have a case for constructive dismissal.

Resolved: To exclude press & public. Proposed Cllr Whitbread, seconded Cllr Innocent. Cllr Jones asked that his vote against the resolution be recorded.

4. To consider issues raised by Cllr Jones in his letter of 2 April 2013 to the Chairman & Vice chairman.

Cllr Jones asked if the Clerk should be asked to leave the meeting. The Chairman advised that YLCA advice is that there is no legal requirement for the Clerk to leave, it is a matter for the Council to decide, taking into account the Clerk's perspective.

Proposal that the Clerk be asked to leave the meeting: Proposed Cllr Jones, seconded Cllr Silverwood. Not carried with 3 votes against, 2 for and 1 abstention. Cllr Jones asked that his vote to exclude the Clerk be minuted.

4.1 Councillor Jones query about the criteria for circulation of items

Cllr Jones was advised the following:

All matters relating to the circulation of information have a common basis of compliance with the criteria established by the Council these are as follows:

- Items referred to sub-committees are normally issued to the Members directly involved (e.g. planning). It is generally a matter for those involved to refer items more widely to the Council, depending upon the particular issue, noting that sub-committees have no delegated powers to act for the Council. In respect of certain issues, such as significant planning applications, information is circulated to the whole Council in the first instance
- E-mail correspondence is as per the Council's resolution of May 2012:- "It was agreed to restrict circulation to members of committees unless it is information which all members need to be aware of" - e.g weekly updates from LCC and or YLCA are therefore circulated to all Councillors but included in the Clerk's report and shown as circulated.
- Correspondence requiring a Council response, including that from residents, is issued by e-mail with the Clerk's report. Documents which cannot be scanned are made available for inspection at the Council meeting and Councillors are notified in advance when this circumstance arises.
- Correspondence relating to issues raised by Councillors on behalf of residents is circulated to those Councillors between meetings and reported to full Council as part of the Clerk's report. E.g Cllr Jones interest in a 20mph speed limit close to the school & more recently the request for dropped kerbs in the vicinity of the old shop Front Street.

4.2 Councillor Jones' allegation that he is excluded from circulation of some documents, and his request for copies of all clerk's correspondence listed in the clerk's reports for the last 12 months

Outcome: Cllr Jones was asked why he believed he had been excluded from circulation. He advised that he now retracts the allegation, confirmed that he did have all the correspondence prior to his letter of 2 April and also emails sent to the Clerk during February. He apologised to the clerk.

4.3 Councillor Jones' request for all correspondence related to specific items as follows.

- a.) Option Agreement with Leeds City Council
- b.) Licence to Build for the pavilion.
- c.) Lease for Playing Field
- d.) Appointment of hlw Keeble Hawson, Solicitors to act for the Council in this matter.

Outcome: Cllr Jones advised that he does already have the correspondence and apologised to the clerk.

4.4 Councillor Jones' allegation that the Clerk's home address constitutes a conflict of interest relating to the pavilion, playing field and children's playground and assertion that the Clerk should therefore be excluded from all discussion on these matters, as well as the Option Agreement relating to the development of Bramham House

The chairman advised that YLCA has confirmed that the Clerk's address does not constitute a conflict of interest and that there is no requirement for a register of officer interests. There is a clear distinction between the Clerk's role and the role of voting Members, who are required to register their interests and to act in accordance with the Code of Conduct. The Clerk has no vote. Cllrs expressed concern that Cllr Jones had made a statement to the effect that the playground, playing field and pavilion could adversely affect the value of the Clerk's home and other houses adjacent to the playing field and Bramham House.

Outcome: Cllr Jones did not accept the YLCA advice and advised that he would take further advice himself. He stated that YLCA was not the source of his advice.

4.5 Councillor Jones' assertion that the Council procurement process (relating to legal services & the website), administered by the Clerk, has failed to adhere to local government best value requirements

The Chairman advised that The Council's financial regulations stipulate that there is no absolute requirement for competitive tender, and provide that quotations for work in excess of £1000 in value should be sought at the discretion of the Council. The appointment of hlw Keeble Hawson is fully in accordance with Financial Regulations and the demonstration of Best Value (although this system no longer exists), noting in particular:

- The advice of the Council's retained solicitors, Ware and Kay that specialist property legal advice should be obtained in relation to the playing field lease.
- The degree of urgency applicable to the commissioning of this advice, in view of the state of progress in the review of the lease arrangements.
- That the legal fee costs are in line with Ware and Kay's fee schedule.
- The fact that hlw Keeble Hawson has provided a substantial body of advice on a "pro-bono" basis.

The commissioning of the web-site was initiated prior to the appointment of the current Clerk. In accordance with the Council's financial regulations, 3 quotations were obtained and the choice of supplier was confirmed by the Council in July 2012, by a unanimous vote (which included Councillor Jones).

Cllr Mackie advised that after putting so much hard work into the website she was upset at this unwarranted criticism and questioned what Cllr Jones was trying to achieve by it.

Outcome: Cllr Jones accepted that the procurement process is fully in order and has been properly followed.

4.6 Councillor Jones concern at a loss of records and documents, referring to residents' correspondence, playing field lease, pavilion licence to build, and a document about adult gym equipment and other unspecified instances

It was accepted that prior to the appointment of the current Clerk it was possible that some correspondence had not been responded to by previous clerks and documents had not been filed as they should have been. However this has categorically not been the case since the current clerk's appointment.

The Clerk explained that the Council files inherited by her do not contain a signed copy of the Playing Field lease nor a signed copy of the Licence to Build. The Chair advised that the Council has never received any documents concerning adult gym equipment, which has been referred to only in verbal reports. On her appointment the Clerk had advised the Chair of her concerns about the state of historic Council files, including the absence of key documents referred to above, contrasted with the abundance of details relating to individual Planning cases, dating back over 20 years and similarly outdated material. Cllr Jones was unable to provide any examples of correspondence not replied to by the current Clerk.

Outcome: It was agreed that under the current clerk no correspondence or documentation has been lost or not replied to.

4.6 Councillor Jones' allegation that Members do not receive equal treatment regarding communications and the provision of information and that some residents receive preferential treatment in the response to queries and correspondence and in the way matters are recorded in Council Minutes. He also asserts that the Council is not consistent in its suspension of standing orders

Cllrs agreed that the explicit and implied criticism of the Clerk regarding equal treatment is without foundation or substance. All correspondence, without exception, is acknowledged and reported to Council. Minutes as drafted by the Clerk are brought to Council for approval. Councillor Jones has never requested any substantial changes to draft Minutes and any suggested minor changes have been incorporated, as agreed by the Council as a whole.

Several Cllrs pointed out that the suspension of Standing Orders is entirely a matter for the Councillors, any of whom may propose this at any time. The decision to suspend or not is for the whole Council and depends on circumstance and time. As such there is no policy. The Clerk plays no part in the suspension of Standing Orders.

Outcome: Cllr Jones declined to answer Cllrs' questions on these issues on the basis that he was unprepared. He wished to discuss with his advisers who in response to a query he identified as LCC's Monitoring Officer and Ward Cllrs.

4.7 Councillor Jones' assertion that communication by the Clerk has been misleading and that advice and information from NALC and YLCA has been misrepresented.

No evidence was produced by Cllr Jones to support this allegation and it was strongly repudiated by the Chairman and Clerk who advised that draft correspondence is subject to approval and amendment by the Council and this practice has been observed without exception during the period since the appointment of the current Clerk. The Chair also challenged Cllr Jones view that advice and information from YLCA & NALC had been misrepresented. Advice and information from NALC and YLCA has been fully and accurately presented to the Council as a whole. The Clerk reminded the Council that NALC and YLCA advice is for the sole use of the Council. Cllr Jones advised that he had not shared this information with his advisers and the view that advice had been misinterpreted was his own,

Outcome: Cllr Jones gave no evidence that NALC and YLCA advice had been mis-represented. However, Cllr Jones did not withdraw the allegation and undertook to provide any evidence by 3 May.

4.8 Councillor Jones's assertion that the Council needs to allocate more resources to meet his needs as a Councillor, in relation to requests for documents and information, and in relation to sub-committees not being formal and therefore requiring decisions by the whole Council. Also his allegation that some Councillors receive more information than others.

The Chairman advised that the Clerk does meet the Council's obligations to provide a service to local residents and priorities as agreed by the Council, whilst maintaining proper practice in relation to the proper administration and management of Council business. The only request she had been unable to meet was that made by Cllr Jones for correspondence going back over 2 years, which has now in any case been withdrawn by Cllr Jones. The current arrangements, whereby committees of the Council operate on a relatively informal basis, meeting according to circumstances, follow custom and practice which has been long established under previous Councils and Clerks. Any Cllr can propose a change to practise and clerk's contracted hours if they wish.

Regarding the allegation that some Cllrs receive more information than others, Cllr Jones was referred to the explanation at 4.1 above.

Outcome: Cllr Jones accepted that if he wishes to suggest a change in the Clerk's contracted hours and / or a change to the way committees work he should bring an agenda item & proposal to a Council meeting.

4.9 Councillor Jones' allegation that the Clerk has taken action without the approval of Council and has re-interpreted discussions at Council meetings

The allegation of re-interpretation related to a briefing note produced by the Clerk 7 March. Several Cllrs commented that this had not been a re-interpretation but a helpful summary of financial probity issues. It was also pointed out that Cllr Jones' response to the note, wherein he advised that he had issued it beyond the Council, could have breached the Data Protection Act given that it included a resident's name and Cllrs' private email addresses.

Outcome: Cllr Jones gave no evidence of the clerk having taking action without the approval of the Council but did not withdraw the allegation and undertook to provide any evidence by 3 May.

4.10. Councillor Jones' statement that should the Clerk have a grievance it would be against the whole Council as a corporate entity, and his assertion that the Clerk has intimated the intention to pursue a grievance against the Council, with potential reference to an employment tribunal

The chair advised that it is correct that any grievance would be against the whole Council. However the Clerk has never expressed any grievance or given any such intimation. Cllr Henderson pointed out that she had advised Cllr Jones that the Clerk *could* do this if she had a grievance, **not** that the Clerk intended to do so.

Outcome: Cllr Jones accepted that the Clerk has not expressed any intention to pursue a grievance.

4.11 Councillor Jones assertion that he has been advised that there are matters of potential maladministration within the Council and that internal and external auditors should be asked to act on the issues.

Allegations of maladministration were strongly rebutted by the Chairman, vice Chairman, and other Cllrs, who were angry and upset at what they consider to be totally unfounded allegations. The Chair asked if any Cllrs other than Cllr Jones agreed with the allegations. None did.

The Chairman pointed out that Cllr Jones is a party to all Council decisions and that accusations of maladministration are against a whole Council, not specific Cllrs.

The Clerk pointed out that the last audit of the Council was successful, and this year's internal and external audits are scheduled.

Cllr Jones was asked where his advice was from and he stated that it was from the Monitoring Officer and a Ward Cllr.

Cllr Jones was asked what evidence he had of maladministration. He did not give any.

Cllr Jones was advised that his allegations were serious and risked bringing the Council into disrepute.

Outcome: Cllr Jones was unable to identify any areas which his advisers had said should be referred to the internal and external auditor. He gave no comment on the issue of potential maladministration.

4.12 Councillor Jones' reference to factional infighting within the Council

Several Cllrs expressed the view that they felt, that the Council has been working well together. The Chairman pointed out what the Council as a whole has achieved, as documented in the Chairman's APM report, including its vastly improved (by the clerk) financial awareness.

4.13 Councillor Jones' reference to working with our Ward Cllr and Member of Parliament

Cllr Innocent expressed his surprise at the mention of the MP. Cllr Henderson pointed out that a Parish Council is an independent body, not answerable to the Ward Cllr or MP, and is the only level of government without Party Political affiliations, and it is important to retain this independence.

4.14 Councillor Jones' reference to the possibility of the Council being dissolved.

The Chair passed on the YLCA advice that Ward Cllrs have no power to dissolve Parish Councils and that if a Parish Council were dissolved it is the whole entity that is dissolved not simply the current Cllrs.

Cllr Mackie asked what Cllr Jones was trying to achieve, if he wanted the council to be dissolved. He stated that he did not.

The Chairman asked Cllr Jones how he thought the Council could be dissolved. Cllr Jones was unclear.

4.15 Discussion regarding the Clerk's presence during item 4.

Cllr Jones advised that he felt the Clerk should not have been present. He was reminded of the advice at the beginning of para 4 above.

Cllr Henderson advised that backed by her experience of working in Human Resources for a large company, any employee against whom allegations are made has the right to hear what evidence is to be presented against them.