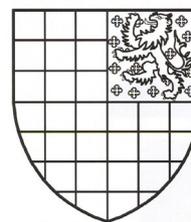


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**LEWES
TOWN
COUNCIL**

MINUTES

Of the **meeting of Lewes Town Council**,
held on **Thursday 8th November 2018**, in the **Council Chamber, Town Hall**, Lewes at **7:30pm**.

PRESENT Councillors A Ashby; J Baah (*Mayor*); A Barker; R Burrows; S Catlin (*Wischhusen*); M Chartier; W Elliott; H Jones; J Lamb; I Makepeace; Dr G Mayhew; M Milner; R Murray; S Murray (*Dep^y Mayor*); R O’Keeffe and C Renton.

In attendance: S Brigden (*Town Clerk*); Mrs F Garth (*Asst. Town Clerk & Civic Officer*); Mrs E Tingley (*Committee Admin.*)

Observing: Ms V McLachlan (*Finance and Admin. Officer*)

FC2018/59 **QUESTIONS:** There were six members of the public present. Two questions had been received. The questions; together with the answers given, are appended to these minutes.

FC2018/60 **DECLARATIONS of INTEREST:** In response to a question, TC advised on the principles of declaration. It was suggested that a standard summary or ‘prompt’ on each Agenda may be helpful, and TC undertook to provide this.

FC2018/61 **APOLOGIES FOR ABSENCE:** Apologies had been received from Cllr Rowell who was visiting family in Norfolk and Cllr Watts who was working.

It was resolved that:

FC2018/61.1 The reasons submitted for absence from this meeting are noted.

FC2018/62 **MAYOR’s ANNOUNCEMENTS:**

a) The Royal Sussex Regimental Association, Lewes Branch, had asked that the Mayor ensure that their grateful thanks were conveyed to all Members and officers of the Council, for the help and cooperation given. The Association said that it had been a pleasure to work with the Council and the project had reflected an excellent working relationship which they sincerely value; stating: *“the quality of the memorial tablet and its siting is superb and we could not have wished for anything better, and hope that Lewes Town Council are as pleased as we are”*.

b) On Saturday 10th November The Lewes Glynde and Beddingham Brass Band would present a concert of Remembrance, Reflection and Celebration in the Assembly Room, Town Hall at 4pm.

c) Members were informed of Remembrance events on Sunday 11th November. For Members attending the morning event they should arrive at the Town Hall by 10.45am and for the traditional ‘main’ ceremony in the afternoon should arrive by 2.15pm.

d) On Sunday 18th November at 7.30pm a “Winter of the World” event would be held at the All Saints Centre – tickets were available at the Town Hall reception. This would follow the 2014 event commissioned by the Council where local musicians and readers, led by composer Helen Glavin, presented a reflective and thoughtful programme of music; photographs, poetry and song.

e) Members were advised of ‘One You East Sussex’, an NHS initiative working with the County Council offering a free comprehensive personal Health Check service to East Sussex Residents between the ages of 40 and 74. They offered the Council on-site checks at the Town Hall provided that 5 or more people were interested. Checks would cover blood pressure; Body Mass Index; cholesterol/blood sugar levels etc. Members and staff who were interested should contact Mrs Tingley who had the details of eligibility and

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would coordinate an appropriate date.

FC2018/63 MINUTES:

It was resolved that:

FC2018/63.1 The minutes of the meeting of Council held on 4th October 2018 are received and signed as an accurate record.

FC2018/64 WORKING PARTIES AND OUTSIDE BODIES:

Members are reminded that anyone who may have attended a meeting of any recognized outside body which has covered issues that deserve attention by the Council, should ensure that TC is aware of this before the Council's next meeting, and preferably before the agenda deadline. Reports on all activities of the organization are not expected.

a) Audit Panel 23rd October 2018: Council considered the minutes of this meeting:

Routine financial monitoring: the working party members had been furnished with detailed information (*copies in minute book*) following the end of the second quarter of the financial year 2018/19.

Budget monitoring update – this showed actual expenditure and income values as posted to the Council's *Sage* accounting system for all transactions processed in the period. There was some discussion on salient points of detail, and TC responded with reference to the identified sources. Apparent variations were related to known events, such as specific payments in respect of works and purchases, or perceived 'overspend' which was attributable to Reserves when the final accounts were prepared at year-end. There were no items of concern.

There was a general discussion on the distribution of overhead costs, and the effect of these on service accounts.

Oversight as required by the Governance & Accountability Code of Practice: TC introduced the file of periodic bank reconciliations, for review of the scrutiny already conducted. The Chairman appended his signature to verify this.

Internal Auditor's interim report 2018/19: The Internal Auditor had submitted his mid-year report. This was complimentary on a number of points, and confirmed that Council had met all the criteria for required "control assertions" to be declared on the end-year statutory Return (AGAR). The auditor had noted some helpful suggestions for added detail for the published Asset Register, and remarked that the present Treasury Deposit investment could obtain a greater return elsewhere. Consequently **it was resolved that:**

FC2018/64.1 The Minutes of the Audit Panel, held on 23rd October 2018 (*copy in minute book*) are noted.

b) All Saints Steering Group 25th October 2018: Council considered the minutes of this meeting:

The meeting had noted a recent event in Lewes when performance spaces and community facilities in the town had been discussed. It was understood that some theatre-oriented groups and individuals considered there was a dearth of facilities in the town offering dressing-room space or availability for daytime rehearsals. Members thought that the Centre could promote the facilities that it offered for stage performance. It was acknowledged that the church had given the building to the Council with a covenant that it be used as a broad community; arts and youth centre, which would preclude dedication or over-emphasis on theatre/stage use, although it was agreed that attention could be paid to introducing, from time to time, stage performance events promoted by the Council. This had been done three or four times in the past, with some success, and industry circulars and individual artistes' flyers were still received from time to time; any one might be booked provided there was sufficient advance notice (likely to be nearly a year ahead).

It was agreed that an open-day would be arranged and publicized, when all the facilities would be freely-available for prospective hirers to investigate. The earliest that the Centre could accommodate this would be in February or March 2019.

General matters: Members reviewed an updated analysis of all operating and hired hours dating from the Council's first employment of staff for the Centre. This showed the increase in hired hours across 12 years, and the effect of key events. There followed a lengthy discussion regarding the theoretical maximum hours that might be taken by hirers (with intervening periods for cleaning, set-up and arrangement of seating/equipment *etc*), and it was acknowledged that there were only a few short 'gaps' in any week which could, practically, be promoted.

FC2018/64.2 The Minutes of the All Saints Steering Group, held on 25th October 2018 (*copy in minute book*) are noted

FC2018/64.3 Council approves the approach taken by the All Saints Steering Group as described in the minutes of its meeting on 25th October 2018 regarding an open day and occasional performances.

c) Matters referred by the Planning Committee 30th October 2018: Council considered two matters referred by the Planning Committee:

(i) Handrails to public footpaths: Planning Committee Members had received a presentation from Cllr O'Keeffe (in her capacity as an East Sussex County Councillor) regarding handrails at two locations in Lewes.

- At the junction of Ferrers Road and Prince Edwards Road where there is a short flight of stone steps with no handrail
- The corner of De Montfort Road into Bradford Road where there is a steep slope that becomes slippery in the winter

Correspondence between Cllr O'Keeffe and ESCC officers had started in 2016 regarding the two sites and a quote had been obtained which indicated a cost of £5509.06. The Conservation Officer had accepted that the handrail to service DeMontfort Road into Bradford Road would be acceptable as long as it was painted black. The rail would be free-standing. The second rail was to service steep steps that were slippery, especially in the winter when leaves settle on them.

The project was not eligible for the 'Community Match' scheme but considered a 'Community Extra' project. The County Council were unable to fund this, but would carry out the works if funding was available from other sources, therefore Cllr O'Keeffe asked the Planning Committee, within whose remit this fell, to recommend that the Town Council fund the two handrails as described above.

It was **agreed** that a recommendation be put forward to Council, at its meeting on 8th November 2018, to fund these two handrails. TC had advised that if works were anticipated in the current financial year (which was thought unlikely) funding could be drawn from the earmarked reserve for environmental enhancements (R8 in the accounts). In the more likely event that works were scheduled for 2019/20, the Finance Working Party could be asked to make provision in their recommended budget.

(ii) Public Right-of-way (RoW) - area of Spences Lane and Malling Brooks: This path, designated FP51 on the County definitive map, had earlier been identified by ESCC as needing work. An assessment had been carried out by ESCC RoW officers, who recommended that the path be surfaced with tarmac due to its location. The cost would be approximately £12,000.

TC had reminded Members that Council had considered this path at its meeting in March 2018, when it resolved that an application be made to surface the path through the ESCC 'Community Match' scheme. ESCC had subsequently advised that, as the path was already acknowledged as in need of work, that formal process would not be needed.

RoW officers had confirmed earlier that day that whilst they did not consider this a priority for the 2019 programme of works, a contribution from the Town Council of around £3,000 would "*help raise the profile...for attention next year*". A caveat was that regardless of contribution, limited staff resources at ESCC meant that inclusion on the 2019 programme could not be guaranteed.

Given the values now being suggested, it was proposed that the Town Council could

utilize £4,387.50 that had unexpectedly been received earlier this year as the parish share of Community Infrastructure Levy (CIL). The Footpath 51 project represented a suitable use for this money. TC had been negotiating with SDNPA officers regarding s106 funds arising from development at Falcon Wharf, Railway Lane, to deploy some of that money to FP51 but SDNPA were hesitant that the particular s106 requirements may not be adequately addressed. With this recent suggestion from ESCC it was appropriate to suggest to Council that the CIL fund be utilized and ESCC be asked to prioritize the work. It was **agreed** that this should be recommended to Council.

It was resolved that:

FC2018/64.4 The recommendations of the Planning Committee, arising from its meeting on 30th October 2018 (*copy in minute book*); regarding funding contributions toward footpath handrails and the surfacing of 'Footpath 51' are agreed, as described.

d) Citizens Advice Bureau: Cllr R Murray gave a brief oral report on this. Cllr Murray reported that the new office in Newhaven had been in operation for about a year and this was considered successful. The office was heavily used and this was partly due to low parking charges in Newhaven. The Council's contribution to funding was considered as extremely 'good value' in terms of the number of local people helped each year, and the difficulty of the situations in which many found themselves.

FC2018/64.5 The oral report on the Citizens Advice Bureau is noted.

FC2018/65 **REPORT of the INTERNAL AUDITOR:**

Members considered the interim report of the Internal Auditor for 2018/19. As reported earlier via the Audit Panel Minutes, this was complimentary on a number of points, and confirmed that Council had met all the criteria for the required "control assertions" to be declared on the end-year statutory Return (AGAR). The auditor had noted some helpful suggestions for added detail for the published Asset Register, and remarked that the present Treasury Deposit investment could obtain a greater return elsewhere. Consequently **it was resolved that:**

FC2018/65.1 The interim report of the Internal Auditor for 2018/19 is accepted.

FC2018/66 **HIGH STREET TRADERS ASSOCIATION:**

Members considered a letter from the newly-formed Lewes High Street Traders Association requesting financial support for the Late Night Shopping Event to be held in Lewes on Thursday 6th December 2018. The Association were requesting support towards the street closure and marshalling of the event and insurance. It was anticipated that costs would amount to around £2,000. Members were aware that this group had formed, divergent from the Chamber of Commerce, to represent the particular interests of retail establishments in the town centre, and to ensure that Christmas Late-night Shopping included a road-closure. Council welcomed the formation of this Association, and it was suggested that regular liaison meetings with them might be helpful. This was **agreed** and **it was resolved that:**

FC2018/66.1 Lewes Town Council will support the Lewes High Street Traders Association in its efforts towards the Christmas Late-Night Shopping event on 6th December 2018, with a financial grant of up to £2,000 (*to be drawn from the General Fund*) subject to satisfactory proof of expenditure.

FC2018/67 **UPDATE ON MATTERS IN PROGRESS**

a) *Annual Plan update:*

Item 3 - Pells play equipment was ordered and expected to be installed before Christmas.

Item 4 - The Malling Community Centre refurbishment had been granted Planning consent at the District Council Planning Committee on 31st October. Planning officers had proposed a restriction on evening use of the outside café terrace which was considered draconian, but following representations to the committee by TC; Cllrs Chartier and Lamb, and the Chair of Malling Community Association, this condition had not been supported. This allowed a draft timetable to be developed,

which would be considered by the Buildings Working party the following week. It was now hoped that works might begin in May 2019, although it was too early to confirm this.

Item 6 Neighbourhood Plan – The Examiner was understood to be close to finalizing a draft report for submission to the South Downs National Park Authority.

Item 7 Contributions as discussed earlier in the meeting (handrails) would be referred to ESCC and the Fitzroy House bus shelter would be ordered shortly.

- b) Magic Circle* – initial works were underway and the SDNPA had agreed the release of s106 funds arising from the development of the former Magistrate’s Court.

FC2018/68 NOTICE of ITEMS IN PROSPECT

Members were asked to consider items, arising from this meeting, worthy of a Press Release, and indicated:

- Support for High Street Traders/Late Night Shopping
- Footpath 51 (when confirmed)

Dates to note were given as:

- a)* The next Members’ Surgery was scheduled for Tuesday 4th December – 10:00am – 12:00pm in the Corn Exchange. Cllrs Catlin; Chartier and Lamb indicated that they would attend again, but it was noted that relatively few Members volunteered for this.
- b)* The next Planning Committee meetings would take place on Tues 20th November and 11th December at 7:00pm
- c)* The Commemorations Working Party would meet at 7:00pm on Tuesday 13th December.
- d)* The Buildings Working Party would meet at 7:00pm on Wednesday 14th November.
- e)* The Highway Verges Working Party would meet at 7:00pm on Thursday 15th November
- f)* The Communications Working Party would meet at 7:00pm on Thursday 22nd November.
- g)* The Finance Working Party would meet at 7:00pm on Tuesday 27th November.
- h)* The Diversity Working Party would meet at 7:00pm on Thursday 29th November.
- i)* The next Council meeting would take place on Thursday 13th December at 7:30pm, with a deadline for agenda items to reach TC by noon on Monday 3rd December.

There being no further business the Mayor closed the meeting.

The meeting ended at 9:00 pm

Signed:

Date:



QUESTION RECEIVED:

From: Scott Durairaj **Received:** 07 November 2018

Subject: Diversity matters

Question 1

What are the parish council's *clear and cogent reasons*, satisfying the thresholds set out in relevant case law judgements⁽¹⁾, to depart from the steps listed at paragraph 3.41 of the Equality Act 2010 Statutory Code of Practice on services, public functions and associations⁽²⁾; in particular to depart from the step to 'establish a policy to ensure equality of access to and enjoyment of their services by potential service users or customers from all groups in society' in favour of its own policy and practices in managing Lewes Town Council owned premises for the purpose of providing services or exercising public functions, such as making the Town Hall available to organisations and individuals connected to Lewes Borough Bonfire Society whose actions have the effect of creating an intimidating, hostile, degrading, humiliating and offensive environment for other residents and service users, related to the statutory protected characteristic of race?

Question 2

How has Lewes Town Council, as a public authority listed in Schedule 19 of the Equality Act 2010, demonstrated due regard to the need to advance the aims of the public sector equality duty (s.149), in particular in its application of the case-law derived 'Brown Principles'⁽³⁾ in both the council's own policy *Statement of intent as to community engagement* and in its discharge of the following specific public functions:

- Power to provide and encourage the use of facilities, Local Government Act 1972, s.144
- Provision of entertainment and support of the arts, Local Government Act 1972, s.145
- Power to provide recreation facilities, including premises to local societies, Local Government (Miscellaneous Provisions) Act 1976 s.19

Endnotes

⁽¹⁾ R (*on the application of Munjaz*) v Mersey Care NHS Trust [2005] UKHL 58

⁽²⁾ Services, Public functions and Associations: Statutory Code of Practice, Equality and Human Rights Commission, Published January 2011

⁽³⁾ R. (*Brown*) v. Secretary of State for Work and Pensions [2008] EWHC 3158

Best wishes

Scott Durairaj

ANSWER:

We preface specific responses to the detailed points you have raised with the statement that the Council is shortly to convene a Working party to consider the matter of Diversity policy(ies) and the Council's retained solicitor has given advice on the issues.

Answer to question 1:

1.1 *For clarity:* the judgement in the cited Munjaz case relates to application (or otherwise) of a Code of practice for the guidance of mental health practitioners where persons are admitted and detained for treatment.

1.2 The Town Council in discharging its duties must *have regard to* any statutory code of practice. There are several codes of practice and the Code of Practice to which you refer does not impose legal obligations; nor is it an authoritative statement of the law: it offers a suggested approach for service providers. A service provider will be liable for unlawful acts committed *by their employees* unless they have taken reasonable steps to prevent such acts.

1.3 The Town Hall is available as halls and rooms for hire, with basic facilities for events. It is considered that the Bonfire Council annual costume competition is a legitimate use of the premises, when a town-wide organization conducts a popular and family-oriented event. Lewes Borough Bonfire Society is one of many component organizations which together form the Bonfire Council,

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and we understand that the “actions” to which you refer relate to the presentation for judging of one young boy in a version of Borough’s ‘tribal’ costume, with face paint. Our hire conditions require presentation of promotional literature *etc* for approval by the Council, and these have given no cause for concern. Our own member of staff was not directly-involved, but present on the premises.

1.4 While our hire conditions could benefit from updating they are quite properly directed to the orderly conduct of activities, public health and safety and the protection of the building. The conditions of hire do not include policies as such, but the Council is bound by implied legal constraints such as the Local Government Act 1986, the Occupiers Liabilities Acts, the Health and Safety at Work *etc.* Act 1974 and the Equality Act 2010 *eg* in relation to service provision and making reasonable adjustments in favour of disabled persons. We are also aware of the Council’s duties under the Human Rights Act 1998 which confer several, often conflicting rights, *eg* under Article 8 (right to a private and family life) but also to freedom of expression (Article 10).

1.5 The Equality Act 2010 (Specific Duties) Regulations 2011 (SI 2011 No. 2260) do not apply to Parish Councils; in other words they have no specific duties. This Council is mindful of its general responsibilities under the s149 EqA2010 Public Sector Equality Duty.

1.6 We do not consider that the Council, in hiring the premises, has acted in an unreasonable way, indeed it has striven to act in a legal and reasonable way.

Answer to question 2:

2.1 In the *Brown* case it was held that “...the imposition of a duty to have ‘due regard’ to the various identified ‘needs’ does not impose a duty to achieve results. It is a duty to have “due regard” to the “need” to achieve the identified goals. This is a vital distinction...”.

2.2 The list you present is a list of *powers available* to a Parish Council – none of these impose a duty. Provision of a service (hiring a hall) is not a public function.

2.3 “due regard” is that which is appropriate in all the particular circumstances in which the public authority concerned is carrying out its function as a public authority. There must, therefore, be a proper regard in the context of the function that is being exercised at the time, and in this instance we submit that the context of our *Statement of intent as to community engagement* is a reflection of the Council acting properly in its role as the Parish Council representing the community of Lewes.

Cllr Janet Baab

Mayor of Lewes 2018/19

for Lewes Town Council

Mr Durairaj then asked, as a supplementary question: “How does the Council discharge their equality duty as Principal in the contractual hiring of the Town Hall where the Bonfire Council is agent.” and in offering further comment regarding the offence he felt was caused during the recent event also asked: “why does the Council not consider the hiring-out of publicly-owned premises as a tool to promote equality; promote understanding, and reduce prejudice between protected groups.” Also “how would we as a town wish to be seen by the rest of the country (world) with regard to the issue of ‘blacking-up’ being repugnant to most communities....”.

The Mayor commented that these were all issues for consideration.