



A meeting of the Gift of A. Burrow for Allotments Sub-Committee will be held on Tuesday 11th December 2018 at 6.00pm at the Hayridge Centre

Judy Morris

SIGNED: Mrs Judy Morris (Town Clerk)

DATE: 3rd December 2018

Membership: Councillors: Iain Emmett, Eileen Andrews, Jordann Barge, Janet Johns, Liza Oxford-Booth & Will Jones.

PUBLIC QUESTION TIME: 15 minutes is set aside at the beginning of the meeting to enable members of the public to bring issues relevant to the Committee to the attention of Councillors. Up to 3 minutes is allowed for each question.

It may not be possible to reply and the question may only be noted. The question will be recorded and a response sent within 10 working days.

AGENDA

- 1. APOLOGIES:** To receive apologies for absence.
- 2. CHAIRMAN:** To elect a Chairman for this meeting.
- 3. PUBLIC QUESTION TIME:** To receive questions from members of the public present at the meeting.
- 4. MINUTES:** To approve the Minutes of the previous meeting held on 11th September 2018 (Appendix A)
- 5. FINANCES:** To receive Income & Expenditure report (Appendix B)
- 6. CULLOMPTON ALLOTMENT ASSOCIATION:** To consider any matters that the Allotment Association wish to bring to the attention of the Trustees.

7. **COMPLAINT:** To consider complaint from the National Allotment Association (Appendix C)
8. **REPORT: To consider a concern** about the condition of an allotment shed and to agree any action to be taken
9. **DATE & TIME OF NEXT MEETING:** To confirm the date & time of the next meeting.

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- In accordance with the **Public Bodies (Admission to Meetings) Act 1960**, members of the public and press are very welcome to attend this meeting.
 - Members of the public will only be permitted to speak at the beginning of the meeting during Public Question Time.
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APPENDIX A



Minutes of a meeting of Gift of A. Burrow for Allotments Sub-Committee held on Tuesday 11 September 2018 at 6.30pm at the Hayridge Centre

Present: Cllr Liza Oxford-Booth (in the chair) and Cllrs: Eileen Andrews, Kerry Baldwin and Iain Emmett plus Maria Weston (Deputy Town Clerk)

Judy Morris: Clerk

Also in attendance: 3 members of the Allotment Association.

- 1. APOLOGIES** received from Cllrs: Jordann Barge (training), James Buczkowski (personal) and Janet Johns (training).
- 2. CHAIRMAN:** Cllr Liza Oxford-Booth was elected Chairman for the meeting.
- 3. PUBLIC QUESTION TIME**

Mr Nigel Middlewick spoke on behalf of the Allotment Association and explained the Allotment Association's concerns about any increase in the current allotment rent. As the charity is currently running with a surplus of funds any increase could mean an increase in that surplus. The prime reason for the charity's existence is to provide allotments for local people. The Association appreciates that the charity needs to be run as a business.

It was explained that significant hedging work is required which will mean that any surplus funds will be needed to pay for the work.

- 4. MINUTES:** The Minutes of the previous meetings held on 10 July 2018 and 16 August 2018 were approved and signed as a correct record. Proposed Cllr Iain Emmett, seconded Cllr Liza Oxford-Booth.

NOTE: It was noted that the status of the meeting had now changed, where previously the Council members had been trustees of the charity it has now been established that it is the

Council, as the sole trustee, that is the trustee and not individual councillors. This has now been corrected with the Charity Commission.

The Council's solicitor has provided the following advice which has been circulated to all Councillors and a copy was given to the members of the Allotment Association present at the meeting.

"The Town Council is not obliged in my view to subsidise the cost of running the allotment site, although it may choose to do so. This is a decision for the Council to make entirely separately from its position as sole trustee of the charity. Just because the Town Council is sole trustee, that doesn't automatically oblige the Council to meet the costs of maintaining the allotment premises or the upkeep of the allotment charity itself from the Council's own funds.

The Town Council as trustee is under various legal duties to manage the land responsibly and ensure it is properly maintained, and to ensure the charity itself is properly administered. It seems to me that if the Town Council as trustee considers maintenance works to the allotment premises are necessary, then it is entirely appropriate for the Council to seek for the costs of these works to be funded by the charity, either through the rents charged to tenants or by seeking additional funding for the charity to fund the works, which could be either from the Council or from external funding sources.

As to the Town Council seeking a re-charge from the charity for administration and maintenance services provided by the Council, this is acceptable even if the Town Council is sole trustee if:

- *the service provided is necessary to the charity;*
- *the payment covers no more than the reasonable cost of providing that service (i.e. no profit element);*
- *the Council staff involved are suitably qualified to provide the service; and*
- *the service being provided is not one which would cause the relevant Council employee's duty to the Town Council to conflict with his or her duty to the charity..*

(Taken from Charity Commission operational guidance

OG56 <http://ogs.charitycommission.gov.uk/q056a001.aspx#>)

So there is no charity law objection in principle to the administration charge or the proposed contribution to the costs of maintenance staff as long as the above framework is complied with."

I note the Allotment Association is also complaining about the delegation of management of the charity to a Council subcommittee and that they wish to move to an individual trustee arrangement. Presumably you will be countering that by explaining the sole trustee

arrangement is in compliance with the original 1925 Indenture which established the charity. The CC guidance as to local authority trustees you have already seen makes it clear it is perfectly acceptable for a sole Council trustee to arrange for a subcommittee of the Council to have delegated authority for day to day management of the charity as long as it is understood overall responsibility for oversight and decision-making rests with the Councillors as a whole”.

- 5. **ALLOTMENT RENTS: To consider any rent increase for 2019/20. Current rent £30 per annum for a full plot and £16 per annum for a half plot.** It was explained that the Council is required to give allotment tenants one years’ notice of a rent increase and that rents were last increased in 2015.

RESOLVED: That, with effect from September 2019, rent for a full size allotment at the Burrow Field, Tiverton Road will increase from £30 to £35 and for a half-size plot from £16 to £20. Proposed Cllr Iain Emmett, seconded Cllr Eileen Andrews.

- 6. **Any other matters relating to the Tiverton Road Allotment site:** It was suggested that the Council adheres to the terms of the indenture and, in future, the allotment site is known as “Burrow Field”.

- 7. **Date and time of next meeting:** To be confirmed.

The meeting closed at 6.55pm

I confirm that these Minutes are a true and accurate reflection of the meeting

SIGNED:

NAME:

DATE:

GIFT OF A BURROW FOR ALLOTMENTS

1 April 2018- 5 NOVEMBER 2018

2017.18	2018.19
INCOME	
972.00 Allotment rents	857.00
273.00 Allotment Association fees	
1245.00	857.00
EXPENSES	
273.00 Allotment Association fees	
105.70 Water	120.00
276.00 Skip	0.00
500.00 Donation to St Andrews PCC (Foodbank)	0.00
500.00 Administration charge	0.00
13.00 Plot Markers	0.00
Hedge cutting (estimated contribution based on previous 35.00 quote)	0.00
0.00 Wasp nest removal	144.00
0.00 Purchase of bait boxes	17.85
0.00 Repairs to tap Labour and materials	41.31
1702.70	323.16
1188.86 Balance in reserve at 1st April 2018	731.16
1245.00 Add total income	857.00
2433.86	1588.16
1702.70 Less total expenditure	323.16
731.16 Balance to carry forward	1265.00

APPENDIX H

REPORT TO: Community Wellbeing Committee

PREPARED BY: Town Clerk

DATE: November 2018

Re: Complaint from National Allotment Association:

The Council has received the following email complaint relating to the Tiverton Road Allotments: The bold italics are the holding response to the questions. One of the concerns would appear to be the cost of the hedge cutting and whether the Council will be contributing towards the cost as the hedge is shared with the Upcott Recreation Field.

1. Please can the Committee consider how much (or what percentage) the Council will contribute towards the cost of the hedge work which is likely to cost in the region of £3k (estimates to be considered at the end of the meeting).
2. Please can the Committee decide whether it would like to hold a meeting of the Gift of A Burrow Sub-Committee to consider the complaint, and if so decide a date for that meeting.

Our concern about changes to custom and practice is that after many years of having a 'Board of Trustees' from nominated Councillors, which worked well and allowed decisions to be made on the basis of our sites uniqueness, this has now changed and Councillors we feel are now more likely to have a conflict of interest and make decisions based on what is good for the Council, not what is good for our site.

Whilst the name of the group now responsible for the allotment site has changed from trustees to sub-committee, the membership of the group has not changed, it is still the same Councillors that will be making the decisions.

Our concern about the issue of rent remains the fact that any excess has to be given away and therefore if the accounts are in surplus this has to be carried out. As previously mentioned they were in surplus last year and £500.00 was given to the local food bank.

If you check the accounts it will be noted that the Council did not deduct £500 for administration in the 2015/16 financial year which is why there was a surplus on the account which was donated to the local food bank.

The added complication is that the Council are Trustees for both our site and the adjoining Upcott Recreation Field site, the latter of which has no funds and its maintenance has always been paid for by the Town Council. To raise our rents to pay for the hedge now seems unjust. If this work was so badly needed and there was any definitive evidence that our site had any responsibility for even part of this hedge then it was mismanagement that funds last year were given away.

The Council is the sole trustee for both the allotment site and the recreation field and will make allowance for this when considering the cost share of the work. It is the Allotment Association

tenants that have requested that the trees and hedge are cut back, the Council recognises that this work is necessary in order to ensure the good condition of the hedge and trees.

I attach the Agenda Pack for the Town Council meeting on 11 September which at the back has a comparison of Allotment rents in the local area. The more information you have the better! Only the Tiverton Road (our site), Top Field and Haymans Close are in Cullompton and managed by the Town Council.

As you will see all maintenance is carried out by the Town Council for the Top Field and Haymans Close whereas we maintain and pay for our own security and cut the hedge adjacent to a bridle path and cemetery ourselves (this is the opposite side to the hedge under discussion by the Town Council and, because we take responsibility for this side may indicate that the opposite side hedge has nothing to do with us and is entirely the responsibility of the Upcott Recreation Field Charity??). We also cut all internal pathways ourselves which is a considerable amount of work. Again, it feels unjust to compare us to other sites managed by Cullompton Town Council, and no account has been taken of the additional £7.00 we charge our members and all the benefits our Association brings to managing an active and well run site. You will also see in the pack that no accounts are kept for the other two sites managed by the Town Council.

In terms of the accounts for our site that are attached, you will see that the Town Council takes £500.00 a year for administration and states that the time is subsidised by the Town Council. However, it fails to state that there are many weeks when no work will be done on behalf of our allotment site by Town Council staff. Likewise, to show a £30.00 surplus the accounts have £850.00 marked for the hedge cutting despite the fact that it has not been ascertained that this is our sites responsibility and no quotations have been obtained. They also note that grants could be obtained for this. Indeed, if there ever was any evidence that both our site and the Upcott Recreation Field have a joint responsibility for the hedge, there is no reason why an application for grant funding could not be made on behalf of both charities, without raising our rents.

The Council charges its staff time out at £25 per hour, as we are charging the Allotment Association £10 per week this equates to about 25 minutes staff time per week. Please be assured that the Council staff spend more than 25 minutes each week on work associated with the Tiverton Road allotment site. There is work that the Allotment Association may not be aware of, such as keeping the waiting list up-to-date and liaising with tenants.

I look forward to your reply.

Kind regards,

Tyler Harris, Legal Assistant

