

APPENDIX N



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

SIGNED: _____

DATE: _____