

FOXEARH & LISTON PARISH COUNCIL

Minutes of the Parish Council meeting held on Wednesday 4th. February 2015 at Foxearth Village Hall at 7.30pm

Present: Cllrs Waite (Chairman), Cox, Busby, Edwards, St John Howe and Clayton Kevin Money (Clerk to the Council). There were also 13 members of the public in attendance

15/1: The Chairman opened the meeting and asked for the formal appointment of Temporary Clerk (Mr. Kevin Money). This was agreed by all Councillors and the contracts were signed and exchanged.

15/2: Apologises of Absence:

Apologises were received from Cllr Swift. Cllr Finch may be along later in the meeting

15/3: Declaration of Interests:

Cllr Cox declared an interest in the Church and Street Cleansing

15/4: Minutes

Cllr Cox requested that under item 14/126 page 3 of 6 that the wording “*and physical disability*” be removed from the minutes. This was agreed by all Councillors. Once this part had been removed the minutes were then signed to be a correct and accurate account of the meeting

15/5: Chairman’s Remarks and Clerk’s report

The Chairman informed the meeting he had nothing to report. As this was the first meeting of the temporary clerk then he had nothing to add.

15/6: Correspondence:

Cllr St John Howe thought that Mr. Keith Robson had great expertise as being an advisor to GCHQ and No. 10 Downing Street.

15/7: Current position on Flood Management:

The Chairman informed the meeting that there was no change to the flood management and he thought that nothing would be done until the next financial year.

Cllr Finch joined the meeting and offered his apologies for being late

15/8: Update on the application made by Liston Residents Association to dissolve the F&L grouping order:

No Councillors had an update on the application but the Clerk had been in contact with Ian Hunt at BDC and he read out an email he had received from Ian Hunt.

Further to our conversation yesterday I can confirm that consultation documents will be circulated shortly to seek views on the request of the dissolution of the grouping order, this will be distributed this week although unfortunately I do not think I will be able to get the formal papers to you for tonight’s meeting hence this email.

I can confirm that the Parish Council and elected Councilors will be consulted as well as there being opportunity for residents to take part in the consultation process. The closing date for submissions will be the 20th March. The basis for the request is that the Liston Parish Meeting considers that the current arrangements do not appropriately serve the needs of the residents of Liston.

15/9: Public Question Time:

The residents asked whether Cllrs Waite and Busby had issued a public apology for the letter that was sent to all residents. Cllr Waite informed the meeting that an apology had been issued but was unsure when this had happened. The residents continued to ask when this had been sent out.

Cllr Waite stated that a letter containing an apology had been written but could not recall the details and said that he would get back to residents.

A question was asked regarding the money from the precept to go towards the Village Hall Trust. The meeting was informed that alternative sources for the money for the Village Hall Trust had run out of time. A resident then strongly stated that the minutes that had been signed this evening were not an accurate record of the meeting.

15/10: District Councillors report:

This can be viewed on the Parish Council website

15/11: County Councillors report:

As Cllr Swift was not at the meeting this report was not given

15/12: To consider an appeal made by Mr. Richard Morris on 01.12.14

The Chairman read out a prepared statement

Regardless of what any member of this Council may have written, whom it may have been sent to, what medium may have been used and what the ownership of any source email account may be, the FOIA stipulates a very simple test in respect of such information in order that it should be subject to the provisions the Act and be liable for distribution to a FOI requestor as a consequence. That is that such information must be determined as being "official" and must be "held" by the Council at the time of the request. No more, no less. It is therefore the meaning of the words "official" and "held" as defined by the FOIA and the ICO's interpretation of this act that will and must determine the Council's position regarding Mr. Morris's appeal.

Section 3(2) of the FOIA states that:

For the purposes of this act, information is held by a public authority if

- (a) It is held by the authority, otherwise than on behalf of another person, or*
- (b) It is held by another person on behalf of the authority*

The ICO's guidance document entitled Official Information held in Private email accounts" states that – "the FOIA applies to official information held in private email accounts (and other media formats) when held on behalf of the public authority".

The Council Email Acceptable Use Policy states that "the only person who can authorize an official email is the Clerk who writes on your behalf to give the Council's views". This policy makes it clear that NO Councillors is empowered to write official emails on behalf of the Council. However, we see that the ICO advises that an email must be seen to be "official" in addition to being "held" by the authority in order for such emails to be deemed subject to the provisions of the FOIA. The clerk has at no time given authorization to any Councillor to produce any email "on behalf of the Council" and which might therefore be considered as "official". It follows that no Councillor can be considered to be holding official information on behalf of the Council. To the extent that a Councillor should write any email that reasonably be construed as being an official email of the Council without first securing the authorization of the clerk, he/she would have breached the Councils policy and most likely local government legislation and maybe subject to sanction as a result. However, this does not make an email subject to the FOIA since it remains an unofficial email. Given the foregoing, it would appear that the clerk acted correctly in refusing Mr. Morris in regard to his request that Councillor's private email accounts be included in the search pertaining to his FOIA request of 28th August 2014.

I therefore move that Mr. Morris's appeal against the clerk's refusal notice pertaining to his argument that Councillor's private email accounts are subject to FOIA be refused. Cllr. Busby seconded the motion. **The vote from the Councillors was For 3 : Against 3 : The Chairman used his casting vote and voted for the motion. The motion was carried**

Cllr St John Howe considers that the Chairman had looked at private emails. The Chairman refuted that suggestion. Cllr Cox suggested that the Parish Council take very seriously the Nolan recommendations and she has already made her views known to all Councillors. The Clerk informed the meeting that the Councillors should, if sending out emails, make it known that it is their own comments and not the views of the Parish Council.

15/13: The proposal by Cllr Waite:

Cllr Waite informed the meeting that he was withdrawing this motion. The chairman then proposed that any decision regarding the adoption of a new communications policy should be deferred until after the 7 May elections. This was carried unanimously by the Council.

15/14: The proposal by Cllr Cox.

“To disassociate the Council from a letter relating to Stafford Park, sent in November 2014 to the residents of Foxearth from Cllrs Waite & Busby”

The Councillors voted F6 Ag 0 The motion was carried

15/15: The proposal by Cllr St John Howe:

“To confirm the rules regarding disclosable interests and the Chairman’s casting vote”

The Clerk read out the legal standing of when a Councillor has to make a declaring Interest and how the Chairman’s casting vote works. This was accepted by the meeting

15/16: Financial matters:

The Councillors agreed (with Cllr Cox abstaining) that the cheques of:

£90.00p be paid to Mr. P. Cox & £173.88p be paid for the salary to Mrs. H. Griffiths

15/17: To consider appointing a secondary password holder:

As the new temporary clerk (Mr. Kevin Money) and the existing clerk were password holders this item was postponed

15/18: Planning Application number 15/00004/TPO – 10 The Chase Foxearth CO10 7LD

No action was taken by the Councillors

15/19: Planning Application number 14/00940/FUL – Foxearth Fisheries Glemsford Road

Foxearth CO10 7HS

No action was taken by the Councillors

15/20: Highways matters

The Chairman informed the meeting that if any resident has seen any potholes then it is better for them to report the matter to ECC Highways department as it carries more weight than from the Parish Council. If you need advice then please contact the clerk.

15/21: Public Rights of Way

There was nothing to report

15/22: Matters for information not considered elsewhere

Cllr Clayton asked the Chairman for clarification of the procedure of declaring interest.

The Chairman asked the clerk for clarification and the clerk informed Cllr Clayton the correct procedure for declaring any forms of interest. The clerk made the Councillors aware that is “good practice” to declare an interest however small. It is better to be safe than sorry.

Cllr. St John Howe read out section 10.2 of the “Code of Conduct for Members at Foxearth & Liston”. Cllr Cox stated is was best practice to make a voluntary interest.

15/23: Date of next meeting:

The Clerk informed Councillors that it would not be correct to hold the Annual Electors Meeting on 23.04.15 due to the elections on 07.05.15 and the “purdah” pre-election period. It could therefore be misconstrued as to be gaining votes from the residents. The Councillors agreed to postpone the meeting until the end of May 2015.

The next full Parish Council meeting is Thursday 26th. March 2015 at 7.30pm in the Foxearth Village Hall.

There being no further business the Chairman closed the meeting at 9.05pm

Signed.....Chairman : Date 26th. March 2015

Clive Waite