

Minutes of the
RETTENDON ANNUAL PARISH MEETING
HELD AT THE RETTENDON MEMORIAL HALL
Main Road, Rettendon, Essex. CM3 8DP.
TUESDAY 28th MAY 2019, commencing at 7.30pm.

1. Apologies for absence

Apologies were received from Councillor Ray Ride.

2. To agree the minutes of the Annual Parish Meeting held on 8th May 2018.

The minutes of the Annual Parish Meeting held on 8th May 2018 were agreed as a true record and signed by Cllr Mark Fleming.

3. To Receive the Chairman's Annual Report

The Chairman gave the following report:

1. I would like to begin by thanking those who have served as parish councillors for the last 4 years:

- Chapman
- Cheater
- Copsey
- Fleming
- Hart
- Jones
- Millane
- Ride

I welcome newly elected councillors:

- Cottee
- Dale-Evans
- Knight
- Phillips
- Wright

and welcome back re-elected councillors:

- Fleming
- Hart
- Ride

and we look forward to working with our Ward Councillors Clark and Millane, and Essex County Councillor Ian Grundy.

2. Our Clerk, Katherine Kane, has worked with exceptional diligence and enthusiasm since joining in November 2016. Thank you.

3. In March the PC published our end of term report to share with residents what the parish council has been doing since publication of the mid term report in 2017. It's not my intention to repeat in this report what has already been reported elsewhere. There are a few spare copies of the end of term report available for anyone who hasn't already seen it. I will say that a great deal of our effort over the last 4 years has been concentrated on the primary concerns reported by residents, which are road safety and the state of highways and footpaths. These are mostly outside our direct control, and progress can be slow, but has certainly been made.

4. The PC has been accused of hoarding funds so I decided to do some fact finding. As of 31 March 2008 (the earliest records I could find) the PC had over £86K in the bank. At 31 March 2011 the balance had risen to nearly £95K. By 31 March 2015 this had risen by nearly £24K to just over £118K. The balance this March was £138K, so £19K added over the last 4 years.

That means for at least the last 11 years there's a clear pattern of parish council income exceeding outgoings by a substantial margin. I believe a priority for this council is to draw up and agree in principle a list of the projects to be funded, with estimated costs, and to agree what is an appropriate level of cash reserves to maintain. This will help to ensure our precept request for the next financial year is set appropriately for our planned expenditure.

5. Bell Fields update

The PC's position regarding the dispute was explained in the recent end of term report and there's far too much detail to cover here and now, so let me summarise progress since my report this time last year:

- We received a formal legal opinion from a barrister and specialist in charity law, Joshua Winfield, that the PC itself is the sole trustee for both the charities that manage the two Bell Fields.
- With the other party in the dispute still refusing to discuss the matter, the PC was advised to seek approval from the Charity Commission to take the matter to court for resolution.
- After a 5 month wait we finally received a written reply from the Charity Commission stating that they agree with Joshua Winfield's opinion. However, the Charity Commission preferred to see the matter resolved via mediation and declined our request to take the matter to court, but with a narrow window for us to appeal their decision.
- Our only option to ensure that the dispute does get resolved, and doesn't rumble on indefinitely, was to apply to the High Court to overrule the Charity Commission decision.
- In the meantime, a mediation session was held on 18 April. Participants were generous with their time, though no settlement was reached.
- On 23 May at the High Court, RPC received approval to take the matter to court for final resolution, though we must decide whether or not to do so by Friday 26 July 2019.
- Our Clerk is arranging a meeting for councillors with our legal advisor David Perry of Tees Law. The intent is to schedule this in advance of our next PC meeting to enable an informed discussion on 25 June.
- We will schedule an extraordinary meeting in advance of the 26 July deadline, or bring forward the regular 30 July meeting, for councillors to resolve whether to accept whatever proposed settlement may have been reached through mediation, or to take the matter to court.

That concludes my report for 2018 / 2019

4. Discussion and Questions from the Public on matters affecting the Parish

A resident asked why discussion of the Bell Fields had not been allowed before the matter went to the High Court.

The Chairman said this had not been on the agenda for the May meeting of the Council.

A resident referred to the planning application for Morelands.

The Chairman said this had been discussed under Planning Applications, which had been on the agenda.

A resident said Morelands was not in the parish.

A resident said she had felt let down at the first meeting. She said all members of the Council should sign a paper accepting their responsibilities. She said she had been given a pile of paperwork as she arrived so she had had no chance to catch up prior to the meeting. She asked if the election of the Chairman was valid and said it was not good practice for the Chairman to lead. She said all votes should be recorded by name. She said three quotes should have been received for the work to the gateways and the RFO should write a detailed response as to why this was exempt.

The resident referred to the Bell Fields and the recent hearing. She said £20,000 had been allocated in the budget for this but this was likely to be unrealistic and could be ten times that figure. She asked if insurance cover had been arranged.

She said updating Standing Orders should be an agenda item for June.

A resident said Cllr Hart had been humiliated for the past four years and this had to stop. She said Cllr Hart was a good person and a well-respected councillor.

A resident referred to the benches that had been agreed for installation.

The Clerk said this was down to her and she would ensure the matter was taken forward.

A resident said that four years ago when Councillors had stood down gifts had been given. He said the same should be done for Cllr Copsey.

The Chairman said it would be wholly appropriate to recognise her contribution.

Cllr Cottee said she did not understand how the Council felt they had a right to take charge of the Bell Fields.

The Chairman explained the changes in the law over the past 150 years which had led to the Council taking responsibility. He said licences for the Bell Fields had been signed by a previous Chair of the Parish Council on Council headed paper. He said the charities had been established in 1976 and up until then the Parish Council had acted as trustee. He said in 2013 the Council had appointed trustees, and in 2014 there had been a block appointment at the Annual Meeting of the Council.

A resident referred to action the Parish Council had taken historically on the Bell Fields for the benefit of residents. She said the Fields could not be used for anything other than recreation. She said the Council had made a mess of Sonters Down and residents wanted answers.

A resident said the Bell Fields were running well and the Charity Commission were looking after it.

The Chairman said historically the Parish Council have looked after the Bell Fields. He said it was probably not even in the authority of the Council to waive its responsibilities towards the Fields. He said speaking as a resident, a group of people had set themselves up as trustees and asked why the Parish Council would relinquish its responsibilities? He said the Charity Commission had concluded that it agreed with the legal Opinion of the barrister although they had recommended mediation. He said if the Parish Council was the trustee, they would be answerable at the ballot box. He said if the Council did not pursue this matter, there would be no accountability from those running the Fields towards residents. He said they might decide to do things residents would not like.

A resident said not all Councillors wanted to take over the Bell Fields. He said if specific councillors wanted to take over the Fields they should pay for it out of their own pockets.

Cllr D Fleming asked the resident to clarify which councillors did not want to take over the Fields.

Cllr Wright said the new Council had not had time to decide.

Cllr Dale-Evans said that as a resident she had watched Cllr Hart's requests for help denied.

The Chairman asked all to respect each other's opinion.

A resident said that regardless of who was running the Fields, if it wasn't the Council, the Council should not fund it. He said he did not believe the Council should fund an asset that they did not run.

Cllr Phillips asked to whom the group of people running the Fields were accountable.

Cllr Knight said he believed the Fields were self-funded. He said views on the matter might change.

Cllr Hart said the Bell Fields cost the Council no money at all. He said there was £3,500 in the bank. He said the Council had received good legal advice from Birkett Long. He said once managing trustees were appointed, they could appoint new trustees, and that returns were up-to-date. He said the run-up to the High Court hearing had cost the Council £10,000 at least and total cost could be £150,000. He said new councillors should have known the background prior to the meeting. He asked if the Parish Council had insurance in case they lost the case.

Cllr D Fleming asked if the purported trustees had insurance.

Cllr Hart said they did not think they were going to lose.

A resident asked what the Council wanted to do with the Bell Fields. He said he could not see the Council doing as good a job as the "managing trustees". He said it had not been discussed in open meetings and that there must be something that could stop the nonsense on both sides. He said when the pavilion was built, he had given the Council a paper setting out the three ways that the Fields could be run. He said there must be some common ground and that this was not benefitting the village.

Cllr Hart said he had offered to take two or three councillors on to the board of the Bell Fields.

The Chairman reminded the meeting that all who had attended the mediation session had signed a confidentiality agreement. He said the three models were: sole trustee, managing trustees/custodian

trustees, appointment of trustees. He said the Council's Position Statement summed up the Council's view, and concluded the Council was sole trustee. He said as sole trustee the Council could approach the Charity Commission to change the model.

The Chairman referred to the analogy of a stolen car. He said it was irrelevant whether the Fields were being well-looked after or not. He said Cllr Dale-Evans had made the point that the Parish Council had as trustees in the past and that this had only changed to appointing named trustees in 2013.

A resident said it should be documented how this would be dealt with for future generations.

The Chairman said the two charities were registered on the Charity Commission's website. He said this website clarified that to determine whether a person was a valid trustee, reference should be made to the charity's governing document. He said the Bell Fields' governing document was the 1861 Enclosure Award, and that through subsequent legislation trusteeship had passed to the Parish Council. He said if the charities were being managed by invalid trustees, this was in breach of charity regulations. He said the Council was being denied the opportunity to act as the lawful trustee.

A resident asked if there was really no common ground.

The Chairman said the Council had been trying to engage with the purported trustees for two years. He said Birkett Long had been responding to a different question.

Cllr Wright asked why Tees Law had been selected.

The Chairman said Birkett Long had fielded a trainee and then a commercial lawyer. He said they had not read the governing document of the charities prior to responding. He said he had placed a request in the EALC bulletin asking for recommendations for a specialist in charity law and that David Perry had come forward.

Cllr Dale-Evans said Parish Council trusteeship of the Fields should be an agenda item.

The Chairman said Councillors can add agenda items. He said a meeting was planned with David Perry from Tees so that an informed decision could be made at the June Council meeting. He said individual councillors would not be personally liable. He said the Clerk was at all times checking the the Council was acting lawfully.

Cllr Hart said if a former chairman was still in the post there would be no problems. He said current councillors wanted to extinguish the charities and he would bring letters to the next meeting. He said the purchase of land for affordable housing had been cancelled. He said he did not trust the Chairman of the Council.

The Chairman clarified what had happened with the right of way to the land behind the village hall. He said the Parish Council had not asserted a right over a resident's land, as the Council already had the right. He said this had been discussed at a Parish Council meeting where it had been agreed to waive the right. The owner had realised that the Cricket Club needed the right of way and the Council had agreed to this.

A resident said that the original entrance to the Cricket ground was in Church Lane. He said a permissory access was required, not a right of way.

The Chairman said that the Council had not tried to assert a new right of way across land they did not own, and had granted access across the car park to the cricket club.

A resident said the village hall was an asset to the village run by trustees. He asked why the Bell Fields could not be run the same way.

The Chairman said that was because this was not the model that applied to the Bell Fields. In response to a further question, he said the model could be changed but that this would have to come from the true trustee, therefore it was necessary to establish who that was.

Cllr Dale-Evans said if all could agree, money could be saved. She said whoever was trustee, they needed to care about the Fields.

The Chairman said he felt it was genuinely unfortunate that the Council had had to take the legal route. He said he did not feel the Council could let others go off with Council assets.

A resident said he had lived in the parish for a long time and that it was split four ways. He said unless all groups came together they would not get anywhere.

Cllr Hart said if the Council lost, individual councillors would not be liable for costs. He asked if the Council won, would the individual purported trustees be liable, or the trust itself.

The Chairman said settlement could be reached either through mediation or at the High Court, in which case it would be for the judge to award costs.

A resident suggested another option was for the purported trustees to stand down.

A meeting of the purported trustees was requested so that questions could be put to them.

A resident asked if the PA system could be used at future meetings.

The Chairman said that would be possible if a volunteer would set it up, and if it could be stored at the village hall.

Cllr Wright offered to set it up and store it.

Cllr Hart asked why there was no Question & Answer session at the start of a Parish Council meeting.

The Chairman said the agenda was a notice of business to be transacted so Councillors could prepare themselves to make decisions, sometimes involving a large amount of money. He said a public forum, where residents could bring up anything would not be particularly fair on Councillors. He said it was done out of fairness and respect to Councillors and although the constraint on discussion could be frustrating there was a legal and logical basis to it.

A resident asked why the session could not be at the end of the meeting.

The Chairman said it had been moved to the start prior to 2015 and that it made sense for it to be at the start of the meeting.

5. Date, Time and Place of the next Annual Parish Meeting.

The next Annual Parish Meeting will take place in May 2020, date and time to be confirmed.