



5th April 2019

TO: MEMBERS OF THE CHIGWELL PARISH COUNCIL

You are hereby **SUMMONED** to attend **AN EXTRAORDINARY COUNCIL MEETING** of the **CHIGWELL PARISH COUNCIL**, which will be held on **THURSDAY 11th APRIL 2019**, at the **Parish Council Offices**, Hainault Road, Chigwell, at 7.30pm, to transact the business shown in the Agenda below.

Anthony-Louis Belgrave
Clerk to the Council

AGENDA

1. RECORDING OF MEETINGS

Members of the Public and Councillors are asked to note that in accordance with Standing order 3 (i) photographing, recording, broadcasting or transmitting the proceedings of a meeting may take place.

2. APOLOGIES FOR ABSENCE

To **RECEIVE** any apologies for absence.

3. OTHER ABSENCES

To **NOTE** any absences for which no apology has been received.



4. **DECLARATIONS OF INTEREST** 


To **RECEIVE** any Declarations of Interest by Members.

- *A Member with a personal interest in a matter must consider whether it is a "prejudicial interest" (i.e. prejudicial to the public interest).*
- *A Member must consider him/herself as having a prejudicial interest if it is a personal interest which a member of the public with knowledge of the relevant facts would regard as so significant and particular that it could prejudice the Member's judgement of the public interest.*

Any Member who is unsure if a personal interest needs to be declared should consult the Clerk for clarification.

5. **REPORT OF THE RESPONSIBLE FINANCIAL OFFICER**

a) **Response to External Auditor** 

 Members are advised that correspondence (*shown at Appendix 1*) was sent by the Responsible Financial Officer, to the External Auditor, in response to a formerly received query. This action was confirmed by the Chairman, Vice-Chairman and the Chairman of the Finance & Performance Committee.

Members are now asked to **CONSIDER** and **APPROVE** this action.

6. **EXCLUSION OF THE PUBLIC AND THE PRESS** 

In the event that the Agenda contains Exempt (blue) pages, to **CONSIDER** the following motion to be proposed by the Vice Chairman:

"That the public and the press be excluded from the meeting, the Council believing that publicity would be prejudicial to the public interest by reason of the confidential nature of the business about to be discussed."

There are TWO confidential items to be considered

Anthony-Louis Belgrave
Clerk to the Council

Complaint – Chigwell Parish Council Accounts 2017/18

The complaints made will be dealt with in order as shown.

Complaint i) Unlawful Amendment or Variation of Financial Regulations

Following the internal auditors review in 2017, a recommendation was made regarding Financial Regulation 5.1. This recommendation was to either comply with the regulation in full, or to amend the regulation to remove the requirement for credit checks on members and employees who acted as signatories (checks had not been sought previously). The Finance Committee met on 30th November 2017 and discussed this matter. The view was taken that it was the financial position of the Parish Council itself that was relevant, rather than the creditworthiness of individual councillors, who simply approved and signed cheques. Furthermore, a number of Councillors had concerns about the implications of personal credit checks, and the possibility that a Councillor with a poor or inadequate credit history might be excluded from a specific role within the Council, for no good reason. The Finance Committee therefore agreed that the regulation should be amended and the reference to credit checks be removed. The Finance Committee had considered the impact of such an amendment to Financial Regulations and believed it would have no detrimental impact upon the prevention of fraud or the ability of the council to effectively monitor its finances.

This decision was not forwarded to full Council, in error, for their formal approval of the amendment to Financial Regulations.

As soon as the Parish Council became aware of the error, a motion was put to full Council. Full Council met on 10th October 2018 and agreed to approve an amendment to Financial Regulations, removing the requirement to seek credit checks on signatories.

Complaint ii) Failure to comply with Standing Orders and Financial Regulations

As stated in the complaint, a tender process was undertaken in the early part of 2009 to appoint a contractor to manage the Council's gardening contract. There is incontrovertible evidence of this process, including details of the ten companies approached and the six who then actually submitted a bid. The Clerk at the time was responsible for managing this process, and based upon a best value assessment, selected an independent local gardening service owned by Paul Foster. The contract awarded was for a period of three years. The documents constituting the contract are all held on file and include the original invitation to tender document, Maintenance Categories, Bill of Quantities, Site Locations Schedule, Grounds Maintenance Requirements and Grounds Maintenance Specifications. The reference in the complaint to 'no valid contract being in place' is incorrect. It is true that we have been unable to find the original signed copy of the document which would have been completed by both parties at the time the contract was awarded. In all aspects, the relationship between Pauls Foster's gardening company and the Parish Council continued in accordance with the various contract documents referred to.

When this contract came up for renewal after three years, the full Council met on 14th March 2012 and considered the matter. Minute 11.179 makes it clear that the Council considered the relevant Standing Orders and Financial Regulations and then approved a three-year extension of the contract. There is insufficient detail in the minutes to confirm which particular Standing orders or Financial Regulations were considered, but Financial Regulation 11.1 a) iv) specifically states that the general regulations in regard to contracts need not apply to contracts which are

‘for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the council’.

In addition, Standing Order 25 a) allows

‘All or part of a standing order, except one that incorporates mandatory statutory requirements, may be suspended by resolution in relation to the consideration of an item on the agenda for a meeting.’

The effect of either one of these regulations would be that the requirement for a new tender process etc. need not apply and the Council was perfectly entitled to extend an existing contract. I have asked Councillor Sandler, who has been the Chairman of the Environment Committee of the Council since its inception, for his recollection of this meeting and the decision made. He was quite clear that the decision to extend the contract was again made with the principle of ‘best value’ in mind. The contract was extended with no cost increases and no reduction in the level of service – i.e. taking inflation into account, there would be an effective reduction in costs.

At a full Council meeting on 12th February 2015 minute 14.149 makes clear that once again the Council considered a further extension to the existing contract and agreed to extend it for a further three-year period to May 2018. On this occasion, the minutes are more detailed and specifically states that Standing Order 18 d and Financial Regulation 11.1 (Both detailing the regulations applicable to contracts) were suspended by resolution, for the purpose of the contract extension. Again, it should be noted, that the best value test was applied and the contract continued for another three years with no increase in costs or change in the level of service.

No ‘purchase orders, or ‘official orders’ were raised for the work carried out by the gardening contractor (Now called Allium) during the financial year 2017/18 as the work and costs had been previously approved as a result of the three -year contract extension in 2015 made at a meeting of the full Council.

Complaint iii) Unlawful Spend, Failure to comply with Financial Regulations

The complaint refers to an absence of purchase orders raised for ‘numerous’ suppliers during the year 2017/18. Details are given of three specific suppliers – Allium, Barnsley Hewitt and Mallinson and finally rCOH. As far as Allium is concerned, as has already been mentioned in the response under complaint ii), Allium were given an extension of the gardening contract in 2015 for a period of three years, approved at full Council. No individual purchase orders

would be expected therefore during the year 2017/18 as the expenditure had already been authorised.

rCOH were engaged as consultants for the emerging Neighbourhood Plan at a meeting of the Neighbourhood Planning Committee on 25th June 2015 minute 15.07 refers. They were to provide on-going support to the Council for the Neighbourhood Planning process. Whilst no purchase order appears in relation to their engagement of the kind completed for routine orders of goods/services, – the fact that a formally constituted Council Committee with delegated responsibility has approved by resolution the employment of this company constitutes an ‘official order’ and would be recognised by officers as the necessary authority required. From the time of their initial engagement through to the present time, rCOH continued as consultants and were continually responding to the on-going development of the Neighbourhood Plan in response to the requirements of the Council. Again, no specific purchase orders were completed during the year 2017/18 because of the on-going effect of the 2015 decision.

Architects BHM were engaged on 8th May 2015. The official ‘order or letter’ in this case constituted an email sent from the then Clerk to the Council, Kay White, to hold discussions with them regarding an initial drawing and build cost plans for a proposed new project to build a Community Hub. Confirmation appears in minute 15.35 from the Council Meeting of 11th June 2015 where an update is provided on the architects engaged for the project. There is no specific further order issued during the year 2017/18. Additional work on the Community Hub project continued throughout this time on the basis of the original order, overseen by the Neighbourhood Planning Committee.

Complaint iv) Progress against budget was not correctly monitored.

The complaint lists a series of payments that were related in some way to the emerging Neighbourhood Plan process. It also makes reference to figures provided by Councillor Alvin, the Vice Chairman of the Neighbourhood Plan Committee and discrepancies that are believed to have been included in the figures he provided. Councillor Alvin is not a member of the Finance Committee and would not have been present therefore at the meetings that looked in detail at the expenses incurred by the Council and the progress against the allocated budget. I have some memory of Councillor Alvin asking for figures relating to various items of expenditure in connection with the Neighbourhood Plan. I cannot however remember the details, so any figures he provided would have been on the basis of the specific question he had asked me. It should be noted that Neighbourhood Plan expenditure had been incurred over a number of financial years, and that expenditure relating to a variety of different areas of the Plan, had been incurred. Some expenditure had been coded even before a dedicated Neighbourhood Plan code had been created. The accounts package used by the Council would only allow one code to be used against an item of expenditure, so it would be possible to include architect fees for example, as ‘legal and professional fees’ or under the more general ‘Neighbourhood Plan’ code. There is no option for a secondary code, that would have identified the expenditure as both ‘legal and professional fees’ and ‘Neighbourhood Plan’ related simultaneously. As the Neighbourhood Plan developed, a specific project included within the plan i.e. a local bus service, was introduced. Initially the expenditure on the bus service was coded as ‘Neighbourhood Plan’ until a decision was taken that new codes would

be required to apportion expenditure more specifically i.e. a new bus service code was introduced. Taken together, it is understandable why details of the spend provided by Councillor Alvin may have been incorrect. Once I had been approached directly for confirmation of the specific question that was being asked, I was able to confirm and provide the detailed breakdown requested – as can be seen from the attachments sent to you.

The complaint further states that whilst the allowance in the 2017/18 budget for 'Legal/Professional Fees' was £20,000, the total for the year appears to be in excess of £42,000. This is broadly correct. The budget set at the end of 2016 clearly includes an estimate of the expected expenditure in each area. The amount set aside for legal and professional fees was inadequate. The fees incurred as the Neighbourhood Plan developed were simply greater than anticipated. It should be noted that a specific reserve had been created by the Council in 2012 to deal with the costs expected as part of the Neighbourhood Plan – detailed under the next section. The additional spend was clearly understood by the council and approved at each stage.

The complaint then makes reference to Financial Regulation 5.2 and the process to be followed. The complainant states that 'There is no evidence within or attached to minutes that this instruction is being followed'.

Financial Regulation 5.2 reads as follows –

The RFO shall prepare a schedule of payments requiring authorisation, forming part of the Agenda for the Meeting and, together with the relevant invoices, present the schedule to Council (or Finance Committee). The council/committee shall review the schedule for compliance and, having satisfied itself shall authorise payment by a resolution of the council (or finance committee). The approved schedule shall be ruled off and initialled by the Chairman of the Meeting. A detailed list of all payments shall be disclosed within or as an attachment to the minutes of the meeting at which payment was authorised. Personal payments (including salaries, wages expenses and any payment made in relation to the termination of a contract of employment) may be summarised to remove public access to any personal information.

A schedule is indeed prepared for each Council meeting, detailing all payments requiring authorisation and forms part of the Agenda for the Meeting. The corresponding invoices are also presented to Council. A standing Agenda item exists that requires a resolution by Council that they have checked the items on the schedule and authorise their payments. The schedule is initialled by two Councillors, who are authorised signatories and will have checked each invoice and signed the cheques for payment. In this respect there is variance from the strict letter of the Regulation – only because the Chairman of the Council is not always an authorised signatory and cannot deal with the cheques. Personal payments i.e. staff salaries, are summarised to avoid disclosing access to personal information. One area that needs to be addressed is that the detailed list of all payments is kept in a separate file rather than included as an attachment to the minutes. This will be changed with immediate effect to fully comply with the Regulation.

The complainant has formed the opinion that there is insufficient evidence that progress against the budget can be evidenced on the basis of the interaction with Councillor Alvin

alone. No other councillor or specifically a member of the Finance Committee, was spoken to. No reference is made to public meetings of the Finance Committee, at which the spend against the budget is examined. Finally, there is the suggestion that the spend on legal and professional fees is evidence that there was insufficient monitoring of the budget. On the contrary, the spend in excess of the allocated budget was well known and approved. The Neighbourhood Plan was a central policy of the Council and was being developed to a timescale that had to be followed – the option not to ask for support from its consultants due to limitations of the budget was not an option that could be entertained. A virement from the reserve account that was specifically set up to provide the financial support for the Neighbourhood Plan would provide any spend in excess of the budget allocation.

Complaint v) Progress against the budget was not correctly monitored

The complainant refers to a number of budgetary items and then to the fact that the total is incorrect. When I was asked initially for a budget breakdown, a copy of a spreadsheet was supplied with other documents, which is used for budget planning purposes. This spreadsheet did include an error in one line as the incorrect 'sum' equation had been used, and an item of expenditure of £10,000 was missed out, hence the total for the Open Spaces section of the budget read £30,606 rather than £40,606 as it should have done. What the complainant did not appreciate and would have been told if he had asked me, was that by the time the actual budget plans had been checked and agreed, this planning error had been corrected and the amounts read as they should have.

The complainant refers to an overspend regarding SparkX on festive lighting. The 2017/18 allocated budget was in fact reduced from £2000 as mentioned by the complainant, to £1500 in the final agreed version. This amount is to cover the annual installation of our lights and checking prior to their turning on at the beginning of December. It also covers the taking down of the lights in January. The spend for 2017/18 was £1053.00

During the summer of 2017/18, our Christmas lights were found to be defective, and performing poorly due to their age. The Environment Committee decided that new Christmas Lights would be purchased. Quotes were obtained and the bid by SparkX was agreed at the meeting of 18th August 2017. As the total spend would require agreement of the full Council, the proposal was put before the full Council meeting on 7th September 2017. This meeting agreed the bid from Sparkx for new lights. It also agreed that the funds would be taken from our Chigwell Amenities budget. This budget line (Allocated £50,000 for 2017/18) was specifically for projects in and around the parish that would require a one-off spend and were not necessarily known about at the beginning of the year. After the return of VAT, the cost of the new lights was £8998.00. Again, the complainant had not asked about the 'festive lighting' spend and I would have explained the different budget lines used and the approval process, if concerns had been raised with me at the beginning.

The complainant considers the Council's general arrangements for securing value for money are 'inadequate'. I would strongly disagree. The 'evidence' put forward by the complainant is both incorrect and mistaken. I would cite a decision by the Council, taken during the early part of the financial 2017/18 year, to employ a new Grounds Maintenance apprentice as

evidence that the Council is forward thinking and intent on securing the best possible value for residents. This additional member of staff has received training to both allow us to take the gardening contract in house, but also provide a grave digging service to supplement the current grave digger. We no longer need to pay an outside cemetery contractor to cover for holiday periods and absence. After the first year, when there were set-up costs for the new grounds-maintenance arrangements and hence no net savings, the Council is looking at future savings of approx. £15,000 per annum, with an improvement in the quality of work.

Finally, the complainant refers to previous governance reports and the failings indicated within them. For the year 2016/17 these dealt with a fraud practiced by the previous Clerk who stole a sum of money from the Council. Lessons have been learned from this incident and the comments of the internal auditor should be considered following his inspection of the Council in April 2017. In summary, the vast majority of the issues raised by the complainant regarding the accounts year 2017/18 are either incorrect or a result of misunderstandings, all of which could have been addressed if he had approached me and raised his concerns.

The three areas where there has been a divergence from standing orders or financial regulations (Removal of credit check requirements and Chairman not initialling schedule of payments and schedule not forming part of minutes) were a result of a simple error in the first case, which was corrected as soon as it became known and an oversight in the other two cases, which had become established over a period of time, but which will now be addressed.

I would suggest that neither of these issues has prevented the parish council from maintaining effective internal control measures, preventing fraud or securing value for money for it's residents.

Mark Hembury

Responsible Financial Officer