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Groby Parish Council

**Minutes of the Meeting of Groby Parish Council held at 7.30 pm on
Monday 26th June 2006 at the Parish Council Chamber, Leicester Road, Groby.**

Cou/067/06-07 Present.

Members: Cllrs Hagan (Chair), Cllr Cartwright, Cllr Lock, Cllr Dickson, Cllr Yarwood, Cllr Beck, Cllr Jones, Cllr Purves, Cllr Coates, Cllr York, Cllr Batty, Cllr Kennard, Acting Proper Officer : Sara Cowin, Mrs Barbara McNaught: Independent Investigator

Cou/068/06-07 Apologies for Absence.

Cllrs Emmerson, Cllr York

Cou/069/06-07 Declarations of Interest

Cllr Hagan – Personal interest in Item 5
Cllr Batty – Personal interest in Item 5
Cllr Coates – None
Cllr Hodges – Personal interest in Item 5
Cllr Kennard – Personal interest in Item 5
Cllr Purves – None
Cllr Cartwright – Personal interest in Item 5, as he was interviewed
Cllr Lock – Personal interest in Item 5
Cllr York – Personal interest in Item 5
Cllr Purves – Personal interest in Item 5
Cllr Hollick – Interest in Item 5 as a Councillor
Cllr Beck – Interest in Item 5 as a Councillor
Cllr Jones - Interest in Item 5 as a Councillor
Cllr Yarwood – Interest in Item 5 as a Councillor
Cllr Dickson – Personal interest in Item 5

The Meeting adjourned for Public Participation at 7.32 pm

Cou/070/06-07 Public Participation

There were no members of the public in attendance.

The Meeting reconvened following Public Participation at 7.32 pm.

The Council moved into closed session at 7.32 pm.

Cou/071/06-07 Report from Independent Investigator

The Vice Chair asked members whether they were happy for Mrs McNaught to remain in the Chamber whilst Council were in closed session?

Cllr Hollick proposed that Cllr Batty left the Chamber whilst discussions took place on Item 5, as he has a definite prejudicial interest in the report. Cllr Batty refused and stated that Council have no jurisdiction over elected members, this information is up to date from the Monitoring Officer at HBBC. Cllr Beck wished to second this proposal as she felt that it was common sense and courtesy to Mrs McNaught. Cllr Batty asked for an amendment which meant that all members left the chamber as they all had a prejudicial interest as they were all named in the complaint.

The Chairman stated that not all Cllrs get mentioned, some only a mere suggestion. Cllr Batty felt that all Cllrs had a prejudicial interest.

Cllr Batty also informed members that he felt that Council had been acting in an ultra virus manner, it has not acted lawfully in regards to the instructions of the Investigator and Cllrs do not have any jurisdiction over elected members! The Chairman asked when he had received official confirmation of this fact and what format did it take? Cllr Batty informed members that it was Thursday 22nd June at a meeting with the Monitoring Officer. The Chairman then asked when he had intimated this to the Chairman or other members of the Council. Cllr Batty stated that he had sent in December, a document that made it very clear that he had taken advice from LRAPLC. He felt that this should have been checked by the Council as they had plenty of time to do so. The Chairman felt that Cllr Batty had used his position as a Borough Councillor to get this information. Cllr Batty stated he had met the monitoring officer and independent chair of the standards committee as a private individual.

Cllr Coates raised a point of order, and asked if a member of the Council does not behave appropriately and argues back with the Chairman, she understood that they can be asked to leave the chamber and she felt that with due respect to all parties concerned, it feels like Cllr Batty is not speaking politely and respectfully to the Chairman.

Cllr Hodges felt that the point of order that Council should be addressing is that the Council have not authority to sit in Chamber and make judgement on one Cllr in the Chamber. He therefore felt that the Council were breaking the law. He also stated that he agreed with Cllr Marvin that Council were wasting precious time and he suggested that Council could not proceed considering the report.

The Chairman reminded Council that the resolution was passed to take the report from the Independent Investigator. Cllr Coates felt that the Council had a responsibility to look at the report; this meant not making any personal attacks just accepting the report as a responsibility to Council employees. She felt that there were people who were trying to delay taking on the issue that was on the Agenda.

Cllr Purves felt that receiving the report was not a waste of time; she felt that there would be points contained in it that Council could take away and learn from. She felt that the report should be received digested and then taken away and discussed at a future meeting.

Cllr Batty stated that there were points that the Council did not understand, in that there are rules and laws that apply to the Council. The Council by going into the report and the fact that any attempt to discuss a report that cross references matters which include a standards board investigation, could compromise a standards board investigation and open the Council to sanctions. It would also cause problems with the fact that no legal resolution has ever been passed to appoint an Investigator! Council then passed a resolution to unsuspend a suspension of somebody's services which had not been sanctioned in the first place and also resolutions for spending money against Standing Orders which are very clear and specific which have not been quoted correctly. Standing Order 22 makes it clear that Council meetings can not go on and conduct legal business after 10.10pm, Council have passed resolutions at 10.45pm to spend tax payers money, he stated that all of this can be challenged at tribunals/court.

Cllr York asked why Cllr Batty had not brought any of this up at the time of organising this meeting, the previous week. She also wanted to agree with Cllrs Purves and Coates that like all Cllrs she thought they were just attending to receive a report and nothing else.

Cllr Hollick stated that had the previous Clerk been in attendance he would have also suggested that she leave the chamber, not just Cllr Batty.

Cllr Hodges suggested that Council refer to the people Cllr Batty has spoken about before they start discussing it any further. The Chairman stated that he did not have any authority, Cllr Hodges said that as a Council they did not have any authority either to go forward when there is a risk which has been noted, the risk of breaking the law. He felt that as responsible Cllrs if there are laws that they know they are breaking then this doesn't demonstrate much responsibility.

Cllr Coates asked the chair to put forward the resolution that had been seconded to the vote.

Cllr Batty suggested that Council invite the Chairman of the Standards Committee, and the Monitoring Officer, who have expressed a number of concerns, to a future meeting of the Council, Cllr Batty stated that the Chairman of the Standards Committee had expressed that he would welcome an invitation from the Parish Council to attend with regard to advising on the Code of Conduct and the Councils procedures. Cllr Batty stated that he saw the Monitoring Officer as a private individual. He reminded Cllrs that in December he had placed a written document into Council making them aware that he had taken advice from LRAPLC, that Parish Councillors had no jurisdiction over elected Councillors, he also stated that the Parish Council have had since then to clarify this.

Cllr Coates asked whether certain members wished for this matter to be deferred for several months, the Council have a matter to deal with in respect of its staff.

Cllr Hodges felt that we could not go ahead and break the law for expedience sake; he asked how many times over the last few months had Standing Orders been broken for the sake of expedience? The Council are now in a position where resolutions have been passed at 10.45 pm. Cllr York asked why Cllr Hodges or Cllr Batty had not said anything at the time; Cllr Hodges stated that neither did the Responsible Financial Officer. Cllr Batty stated that Council had a Proper Officer to advise on this matter and felt that Council failed to get the advice it was paying for.

The Chairman felt that after much filibustering and avoiding the issues the situation is that the resolution had to be formulated and Cllr Hodges agreed that he may have done and engaged Mrs McNaught. Cllr Hodges objected to that as he felt that he has no authority as an individual to instruct Mrs McNaught to do anything.

Cllr Marvin felt that Council should apologise to Mrs McNaught.

Cllr Yarwood asked whether Mrs McNaught had received a payment for her attendance at the meeting on 19th June and would she be receiving a payment for attendance this meeting? As there is no Financial Officer the Chairman assumed that a payment had been made and stated that undoubtedly she would be paid for this attendance, as it was requested by members of the Council.

Through the Chairman Mrs McNaught asked to address members of the Council. Chairman requested a show of hands. For: 10, Against: 4 (Batty, Hodges, Dickson and Yarwood), Majority decision.

Mrs McNaught confirmed that every minute she is at the meeting it is costing the Council, she has tried her best to keep costs to an absolute minimum. She wanted to inform members that as a Council they have already broken the law, not just with what is going on but also from an employment point of view. It has actually broken employment law and had the Proper Officer still been employed, there may well have been very serious consequences to it. So whilst Council are considering breaking the law from a Council point of view, consider that the law has already been broken on the employment side and that dependent upon who was the Proper Officer could have had very serious consequences. She feels that she was employed to do a job and she has done this job.

Cllr Cartwright felt that the meeting was nothing to do with politics it is just about whether it is legal or not in order to conduct the meeting, usually he would take his advice in the first instance from the Proper Officer. He then posed the question to the Proper Officer whether it was legal to have the report presented tonight or whether it is a Standards Board issue. She felt that she would not like to make the recommendation either way without further clarification.

Cllr Hodges referred to the Standing Orders and felt that the Council were riding rough shot over them and acting in an improper way and he was no longer willing to continue doing so.

Cllr Batty asked for clarification from Mrs McNaught, as he did not feel that Council have got the full picture when she says that they have broken employment law, he would agree in the way that Council have not responded to the complaint made against Cllrs. The Council can not be held liable for something that is not in its jurisdiction and all the Council should have done when the Clerk made a complaint against a Cllr was to refer her to the Standards Board, which her own Association advised her to do. The Proper Officer was told to take it to the Standards Board, she did meet with the Monitoring Officer at HBBC where she received the same advice and as she put in writing she did follow that course. The Parish Council can not duplicate an investigation by the Standards Board.

Cllr Hollick asked Cllr Batty whether he feels that the report is factual? Cllr Batty stated that he didn't and that there were a lot of inaccuracies in it and a lot of areas which are not correct. Cllr Hollick asked whether the report should be sent to the Standards Board, Cllr Batty said "by all means try".

The Chairman felt that the point that was being ignored that an Independent Investigator had completed an independent report to get the Council out of the situation that it was in.

Cllr Purves felt that the report is not a waste of time, that there are some very good points that Council should take away.

Cllr Cartwright stated that this item could not be discussed as it has been suggested that it may be illegal. Therefore until further clarification has been sought it should not be discussed.

The Chairman asked for a formal resolution to discharge the services of Mrs McNaught and process her accounts through the normal process.

Cllr Kennard proposed that Council discharge of the services of Mrs McNaught and ensure that payment of her invoices are made, this was seconded by Cllr Marvin. A vote was taken For: 9, Against: 0, Abstentions: 5 (Cllrs Batty, Hodges, Yarwood, Cartwright and Dickson)

The Chairman thanked Mrs McNaught and gave apologies from members who were in attendance not for what has happened but for the situation.

Item 5 was discharged at 8.33 pm

Mrs McNaught left the Chamber at 8.33 pm.

Cou/072/06-07 Staffing Matters

4a) To transact outstanding business from agenda item 15 meeting 19th June 2006

Cllr Hollick informed members that the temporary Clerk that was appointed did one meeting and never returned. Cllr Cartwright asked why that was. Cllr Hollick stated that she was going to put it in writing to him but he hadn't received it to date but again it was down to the attitude of one Cllr. Cllr Cartwright asked whether she had said that personally to Cllr Hollick, which he confirmed she had and it was witnessed by numerous Cllrs at the end of the meeting. She was contacted on the Thursday as she was due in at 1.00pm but she did not arrive and was therefore contacted by telephone. Cllr Cartwright was surprised to find out on his return from Holiday that she had not started. He has since seen her and he did ask her out of Parish Council time what her reasons were and she did confirm to him that she didn't like the conduct of the meeting on the Monday evening but was also told twice that the terms that were agreed were changed twice, she had received the letter detailing the terms that were agreed by Council and she was not willing to start on that basis. Cllr Kennard asked whether Cllr Cartwright had seen her when he was alone, which he confirmed was the case. Cllr Hollick wanted to clarify the situation, that she had met with the Staffing Committee and it was agreed how Council were going to employ her on a consultancy basis, Cllr Hollick subsequently found out that Council are not allowed to employ a Clerk on a consultancy basis as they have to be employed by the Council. He explained this to her and she was quite understanding about it and she actually signed a letter where the bits had been crossed out that referred to the consultancy arrangement and she signed to say that she was in agreement with this.

Cllr Hodges wanted to take issue with the general tone which seemed to imply that as Cllr Batty is bullish in the Chamber all of our Clerks are not up to the job. He felt that if the performance of the Clerk was looked at over a period of time, Council would see that she was not up to the job. There were lots of occasions where the job that she was employed to do, was not done.

Cllr Jones asked whether Cllr Hodges felt that the Staffing Committee should consist of 16 Cllrs instead of 3? Cllr Hodges disagreed with this.

Cllr Purves felt the tone of the meeting was inappropriate and therefore left the meeting.

Cllrs Purves and Marvin left the Chamber at 8.44 pm

4b) To discuss and update recruitment of new clerk and any other urgent personnel matters

Cllr Hollick informed members that the last time an advert was placed for the Clerk it cost £650.00, the time prior to that it cost £900.00 and he was unsure what it was going to cost this time but it all adds up.

Cllr Hodges wished to take on board Cllr Purves comments about his previous statement and apologise to fellow Cllrs and the Proper Officer.

Cllr York felt that it is the duty of the Council to look to try and employ another Clerk and if the same thing happens again then they will know that the rot is somewhere within the Council.

Cllr Hodges proposed that between £600.00 and £1,000.00 is spent on placing an advertisement for the position of Clerk in the local publications with a view to securing a Clerk to the Parish Council, this was seconded by Cllr Coates. A vote was taken and a unanimous decision reached.

Date of Next Meeting: Monday 6th July 2006

The meeting closed at 8.51 pm.