*Clerk and Responsible Financial Officer to the Council: Jennifer Spear*

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**Minutes of the Extraordinary Parish Council Meeting held on the 14th September 2023 at The Village Hall, Plough Road Great Bentley Colchester CO7 8LG**

Present: Cllr. P. Dennitts (Chair) Cllr. P. Harry (Vice Chair) Cllr. B. Herbert

Cllr. R. Taylor Cllr. F. Edwards Cllr. J. Wharton

Cllr. J. Jepson

In attendance: Mrs Jennifer Spear (Clerk) and 0 members of the public.

**Minutes**

**09.140.23 To Receive and approve any Apologies of Absence**

Cllr. F. Edwards sent her apologies.

**09.140.23 To Receive any declarations of Interest.**

None declared

**09.141.23 Minutes of the Full Council Meeting from the 07th September meeting (previously circulated) to be approved and signed.**

There were some amendments to the minutes, Cllr. P. Dennitts proposed correcting Cllr. P. Harry’s name from Cllr. P. Harris, in 2 places and also under item number 09.129.23, the wording should be changed to “bringing quotations and options for this to the next meeting” otherwise it implies that the council resolved to purchase a tractor. Cllr. P. Harry proposed under item 09.117.23 where a MOP asked for the grass to be cut outside the gates to the allotment, it only read as “Can the outside of the gates into the allotment” which didn’t make sense so needed amending, also under section 09.122.23 need to add in that defibrillators stored in a cabinet outside will also need a power supply”.

Cllr. R. Taylor questioned the legality of signing the minutes as this is not a full council meeting, and he has not seen the amendments. It was discussed that as only one member of the full parish council is not at the meeting that this is a correct resolution to be made. These amendments were made by the clerk.

**Resolved** Cllr. P. Harry proposed that the minutes of the parish council meeting with the above amendments held on the 07th September 2023 are approved as a correct record, seconded by Cllr. B. Herbert, Cllr. J. Jepson and Cllr. K. Plummer abstained due to meeting absence, 1 Councillor against, all other councillors in favour, motion carried these were signed by the Chair.

**09.142.23 Public Participation session with respect to items on the Agenda and matters of mutual interest (time limited to 15 minutes)**

No Public present

**09.143.23 To review the legal advice from Birketts Solicitors received 27th July 2021, about the South Side Track.**

The councillors reviewed the letter and its most valid points to be able to move the Southside Track project along whilst adhering to the legal advice provided by our Solicitors:

* *To check if the village green is registered as Common Land or village green?*

The Parish Council received confirmation from Essex County Council in 2007, that the Village Green is registered Village Green, and the parish council have this record and map as the required evidence.

* *Although Parish Councils do not have to maintain village greens, Great Bentley PC (GBPC) have chosen to do so, and as part of this we have a responsibility as the landowner to ensure that all the areas on the green are safe.*

It could be argued that the South Side Track (SST) is not in a safe state of repair.

* *Does the track precede the registration of the village green?*

Cllr. B. Herbert confirmed that the track has been there for longer than the village green has been registered, it is even labelled on the 1897 Ordinance Survey Map (that GBPC have a copy of).

Which confirms that the case law supplied by our solicitor of TW Logistics (the owners of a commercial port argued that if the quay at Mistley was designated village green it would render their commercial business illegal) the case was decided in favour of this area becoming a village green as the continued commercial use of the port could continue alongside residents for recreation. Although this is not exactly the same, the principal of the argument is, there are restrictions placed on the land due to The Inclosure Act 1857 but the land is used as a track and has been since before the official registration.

There are valid lawful reasons to carry out the work on the track:

* It will stop any further encroachment onto the village green.
* It is being made to further the enjoyment of the green.
* It will ensure all areas of the green are being maintained to a high standard to prevent any possible accidents.
* *The council need to demonstrate that GBPC have consulted or tried to consult with our district and county councils.*

Cllr. A. Goggin has from Essex County Council has confirmed with his team at member enquiries that if the track is not registered as a public highway (which it is not) than this is not something that would be dealt with by Essex County Council.

The council have not received a response from Tendring District Council via their district cllr, but the clerk has also now sent this letter to Mark Stephenson the new leader of the council.

The council are awaiting a response from NALC and the EALC, which has been chased.

GBPC have received advice from The Open Spaces Society that advises that the project would be lawful “if the measures proposed can be justified on the grounds that they are for the better enjoyment of the green, then there will not be a breach of the protective legislation.”

* *Consultation of local residents*

Cllr. R. Taylor advised that they decided against this until the project was further along as at the time they were not sure how the project would be funded, but they instead asked for residents to become members of the working group, of which some of them did.

* *Would planning permission be required?*

The solicitor advised that they could not comment on this without seeing the plans (which were not in place at the time), but also suggested it may be worth applying for a certificate of lawfulness from planning before proceeding with the project.

Discussed how a public consultation could take place with this project, due to the cost of this project versus the annual precept, however GBPC already spends thousands each year on the maintenance of the track, also is it a complete village consultation or just the residents are questions that need to be considered, and this entire process needs to be transparent. The solicitors advise is that the parish council need to consider a consultation process.

* *The council should consider deregistering this area as village green to be able to move the project forward.*

**Resolved** Cllr. P. Harry proposed that this is not possible due to not having the same size land available to exchange if the SST was deregistered, seconded by Cllr. J. Jepson, all in favour.

* *Timing of the project needs to be such that it minimises disruption of any activity on the green and minimal impact on the residents.*

Which needs to be considered should the council get to this stage.

**This section of the meeting is closed and will exclude members of the press and public from the meeting (Admissions to meetings Act 1960) due to the confidential matter of Contracts being discussed.**

**09.144.23 To Review the quotes received from the contractors for the work and agree on next steps for the South Side Track**

Cllr. P. Dennitts closed the meeting to the public at this stage.

The clerk advised she has received 3 quotations, but that she met with 5 contractors in total, 2 of which have not retuned their quotations by the time of this meeting. Sealed envelopes with the quotations inside were handed to the Chair for her to break the seal.

There was much discussion about the three proposals between the whole council.

Cllr. G. Wright proposed that due to the scale of the project and the variables in the quotations received from the contractors, within their component parts that the council go back to the expert consulted during the SST working party meetings (Steve Sawyer) to officially engage his services to go through the 2 quotations that followed the PC’s specifications and make advisements on the quotations that have been received and if they are correct to the specifications required by GBPC or if amendments need to be made. Cllr. R. Taylor proposed an amendment that we send all 3, due to being completely transparent in the council looking into as many options as possible, Cllr. G. Wright accepted this amendment. The proposal was seconded by Cllr. R. Taylor, all in favour.

**Action Clerk and Cllr. G. Wright**

Cllr. R. Taylor advised that the planned layout map that was sent to the contractors was not the most up to date agreed plan, that was agreed by the SST working party, the clerk referred to the meeting notes from their last meeting (16th May 2022) which confirmed this, so the quotations received will be slightly incorrect because of this, as it was missing the road barrier that is to be placed outside Chase End to stop the SST becoming a though road. The council then discussed the reasoning behind the placement of the road barrier (to prevent through traffic).

**Resolved** that the drawing with the barrier outside Chase End is the correct plan that the Parish Council should be working from as was agreed from the working group.

At this point the Parish Council want to re-iterate that that decision to move this project forward is to help preserve the enjoyment of the green.

**09.145.23 To confirm date of the next Parish Council Meeting**

The next Council meeting is booked for 7:00pm on Thursday 5th October 2023.

There being no further business the chair closed the meeting at 21:31

…………………………………………………………signed………………………………………..date