

Walton Parish Council

Report on Matters Arising 2nd March 2017

Highway Related Issues

See 'Issues Raised with WBC Report'. Updated 24/02/17.

Towpath

John Thorpe has a site meeting arranged with Peter Parkinson and his engineer on Monday 13th February. He will let us know the outcome. John Thorpe responded on the 15th February as follows;

I met Peter Parkinson and Chris Waring from Peel at the canal on Monday and they will scrape off the deposits from Hough's Lane westwards alongside the Hall in the next couple of weeks. We are discussing internally funding some improvements to the drainage from Walton Lea Road which is contributing to the problem. Bob, I mentioned that other stretches were muddy too including Stockton Heath.

Email also sent to Peter Parkinson at Peel on 21st February 2017.

Accident waiting to happen

09/02/17 – Emailed Highways explaining the situation.

Tall fencing at the Ship Inn Development

09/02/17 – Email sent asking whether this is compliant. The following reply has been received.

Dear Sir/Madam Description: Alleged Fencing Location: FORMER SHIP INN.CHESTER ROAD, WARRINGTON Reference: ENF/17/05991

Thank you for your recent enquiry regarding the above.

The matter has been registered under our reference ENF/17/05991 and is being dealt with by Tom Hill (Enforcement Officer). They will investigate the matter further and update you again in due course.

In the meantime, should you have any further enquiries Tom Hill can be contacted by telephone on 01925 443445 or via e-mail at thill1@warrington.gov.uk.

Yours faithfully

Jason Lewis Planning Enforcement & Environmental Crime Enforcement Manager

Civic Service

Advised the vicar to include 'The Act of Commitment to Service'

Creamfields/Drug Concerns

Letter sent to Crime Commissioner and copied to Chief Constable. He was given the option to attend one of our meetings if he felt it would be beneficial.

Boundary Commission Appeal

Emails requesting support sent to Appleton, Stockton Heath, Stretton and Hatton.

Received following response from Hatton:-

We discussed at our Parish Council meeting last night and unanimously decided that we would like to join in with the campaign to maintain our identity. Let me know what the next stage is and what you need me to do.

Margaret Winstanley the Chair at Hatton copied her above response to Stretton and the Clerk has passed it on to the councillors for consideration.

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Judith Wheeler the Borough Councillor for Appleton has acknowledged.

Finance and Governance

At the last meeting, I was asked to seek advice on the issue of payments to councillors.

I initially rang the advice line at the Society of Local Council Clerks (SofLCC) and his view was that we could not pay councillors and referred me to;

Section 80 of the LGA 1972 says – ***‘a person shall be disqualified for being elected or being a member of a local authority if he—(a)holds any paid office or employment’.***

Councillor Greenshields received the same response to a question posed to Ann Wright at Cheshire Assoc of Local Councils (ChALC)

I also emailed the Advice Centre at SofLCC, with the following question:-

Is a parish councillor allowed to receive remuneration for work that he/she has done for the parish council, or is this forbidden under section 116 of the Local Govt Act 1972?

Section 116 of the LGA 1972 says – ***‘a person shall, so long as he is, and for twelve months after he ceases to be, a member of a local authority, be disqualified for being appointed by that authority to any paid office’***

Her response was as follows;

The Councillor cannot be in the paid employment of the Council; however, if there was a resolution that this member would carry out some work they are able to be recompensed for any expenses incurred.

Following this I explained the type of work being carried out and also whether payments to councillors were illegal and whether they would need to be claimed back. I explained the source of payments i.e. Cream money not precept. Her response was as follows;

I think as the Councillor is doing work that is part of his daily job he is in fact "working" for the Council and this is illegal as I advised before as Councillors can only be paid for expenses. As part of the internal/external auditor these payments should be in the audit trail, as should the donation from the organisation as this still forms part of the income into the Council and should be included in the annual accounts.

I would seek the advice of the Auditor as to whether any past payments should be reclaimed.

Councillor Greenshields had also posed questions to Jackie Weaver at ChALC and he received the following responses;

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I would just like to add that the issue is that the councillor may not be PAID by the authority although it may use the services of the councillor in an honorary capacity. This exclusion lasts for 1 year. 'A local council may appoint one or more of its members to be officers of the council without remuneration' - LGA 1972 s112(5)'A councillor cannot be appointed to a paid office while his is a councillor and for twelve months after he ceases to be one' - LGA 1972 s116 In both cases the issue is the remuneration not the appointment.

*The auditor can apply a surcharge- I have witnessed this in Cheshire in the past 5 years - however the auditor has to know about it before they could take action.
The councillor cannot be paid until 12 months has passed so standing down does not resolve the Not that it makes a material difference, but how much is involved.*

I am afraid that you are correct. The council had no power to make these payments and as such are 'ultra vires' (unlawful).

The best course of action is to reclaim the payments. It is possible that the auditor (internal or external) might pick this up and give a qualified report and require the repayment.

That said, we cannot compel you to take this action nor can you (in turn) compel the councillor to repay the monies. We could hold tight and see what (if anything happened) but I could not advise you to take that course of action.

The Good Councillors Guide says ***'In fact, councillors cannot be appointed to any paid employment in the council whilst they remain a serving councillor or within 12 months of leaving office'***.

But is paying an invoice presented by a contractor, who happens to be a councillor, the same as being in paid employment, as the Clerk is?

I also had a conversation with a legal source who was of the opinion that, being in 'paid employment' and being paid as a result of a contract, paid on production of an invoice (i.e. entering in to a contract) is not necessarily the same thing.

In his view the situation is not black and white.

He felt that the way forward was to put a detailed set of facts regarding the payments (done by contractual arrangement) to the Internal Auditor, ChALC and SofLCC, but exactly the same details to all three parties.

The facts should include, details of the work done and payments made along with the governance carried out by the PC, including the transparency, value for money and the minuted evidence. How the PC arrived at the decision to award the contract.

Audit Trail of Payments

Councillor A

1)To repair Bus Shelter roof £80

Risk assessment report Oct09, Cllr A to get estimate
Nov09 motion agreed – paid June 2010

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2) Refurb War Memorial £320

July 2010 motion agreed – Cllr A not present – paid Nov 2010

Councillor B

1) Refurb of benches £346

June 2011 motion agreed – Cllr B not present – paid Oct 2011

2) Refurb Parish Notice board £250

Nov 11 motion agreed – paid Mar 2012

3) Pruning trees on Playground

Oct 2013 motion agreed – Cllr B not present – paid Feb 2014

4) Tree maintenance £745

Oct 2014 motion agreed – Cllr B declared an interest – paid Dec 2014

5) Tree maintenance £310

Asked to provide quote - Dec 2015 agreed to accept quote – paid Feb 2016

Walton Lea Partnership

Quotation for tidy up of Community Church Hall confirmed with spending on plants to be at lower end. Stiff brush and sand suggested for removing moss.

Ray Hallam – Clerk to the Council