

Malvern Hills Trust

Ordinary Meeting of the Board

Lyttelton Rooms, Church Road, Malvern.

Thursday 13 June 2019 7.00 pm

Present: Mr R Bartholomew, Dr S Braim, Mr Bryer, Mr M Cordey, Mr M Davies (Chair), Dr P Forster, Mr A Golightly, Mr R Hall-Jones (arrived during the meeting), Mr D Hawkins, Mr J Michael, Mrs C O'Donnell, Mr C Penn, Prof Raine, Mrs Rees, Mr C Rouse, Ms S Rouse, Ms H Stace, Mr D Street, Mr Watson, Mr T Yapp.

In attendance: CEO, Conservation Manager, Finance and Administration Manager, Secretary to the Board, 6 members of the public.

No attendance: Mr D Baldwin, Ms Stewart

Ms Rouse welcomed everyone to the meeting and took the chair.

1. Election of Chair

There was one nomination and Mr Davies was elected unopposed. Mr Davies took the chair.

2. Apologies for absence

Mrs Cumming, Mr S Freeman, Mrs L Hodgson, Mr J O'Donnell.

3. Chair's announcements

- a) Mr Davies expressed regret on behalf of the Board that Mr Freeman had resigned as Chair, and thanked him for his service to the Trust.
- b) The Board elections would take place on 31 October 2019.
- c) The Stroll would take place on 22 August.
- d) There would be one item of urgent business in relation to the timing of the precept payers' meeting.

4. Declarations of interest

There were none in relation to this part of the meeting.

5. Public Questions

See Schedule to the minutes.

6. To confirm the Minutes of the Board meetings held on 14.03.2019, 19.3.2019, & 4.6.2019

On the proposal of Ms Rouse, seconded by Mrs O'Donnell it was **RESOLVED** (with 2 abstentions) to approve the minutes of the meeting held on 14 March 2019.

On the proposal of Ms Rouse, seconded by Mrs O'Donnell it was **RESOLVED** (with 4 abstentions) to approve the minutes of the meeting held on 19 March 2019.

On the proposal of Ms Rouse, seconded by Mrs Rees it was **RESOLVED** (with 4 abstentions) to approve the minutes of the meeting held on 4 June 2019.

7. Matters arising

There were none.

8. Land Management Committee

8.1 On the proposal of Mrs Rees, seconded by Mr Yapp, it was **RESOLVED** by the committee members present to approve the minutes of the meeting held on 11 April 2019.

8.2 Matters arising

Mrs Rees went through the matters reported in the minutes. In relation to the Pound Bank Road easement, CEO reported that Highways had produced a deed of dedication dated 1960 relating to that section of verge. There were queries and the Trust was taking legal advice. Whatever the outcome in relation to that deed, Highways had agreed that the easement could be constructed in accordance with the Trust's specification so the Board's approval was still requested. Mr Watson asked about the proposal to rename the newly acquired fields at Castlemorton. The Conservation Manager said that he had contacted the families of the individuals concerned and they were supportive of the proposal.

8.3 Adoption of minutes

On the proposal of Dr Braim, seconded by Mr Yapp, it was **RESOLVED** unanimously to adopt the minutes of the meeting held on 11 April 2019 and to make the following resolutions:

i. **Easement Pound Bank Road**

That the application for an easement be approved subject to:

- The existing footpath be taken up and replaced with turf and
- the Trust's standard conditions as annexed to the Easement Policy with the exception that the applicant be permitted to use a binding material either for the whole of the drive or the 5 m nearest the carriageway, such material to be approved by the CEO before installation.

ii. **Easement Ridgeway, Beacon Road**

That the existing easement be varied to extend the access over a further 3m of the track. The revised easement to be confirmed by deed of grant at the applicants' cost.

9. Governance Committee

9.1 On the proposal of Prof Raine, seconded by Mr Bartholomew, it was **RESOLVED** by the committee members present to approve the minutes of the meeting held on 25 April 2019.

9.2 Matters arising

Prof Raine confirmed that in his Paper A for that meeting, he had reported the observations of those to whom he spoke. He went through the minutes of the meeting and confirmed that 2 working groups had been established to look at Standing Orders and reputational issues.

9.3 Adoption of recommendations and the minutes

On the proposal of Prof Raine, seconded by Mr Penn it was **RESOLVED** unanimously to adopt the minutes of the meeting held on 25 April 2019 and that MHT should proceed with a public consultation on the content of proposed Charity Commission Scheme as soon as possible.

10. Finance Administration and Resources Committee

The meeting called in May had not been quorate. The CEO reported that the installation of the car park ticket machines had been delayed until July. The contractors had agreed to replace some of the machine plinths free of charge to compensate for the delay. Arrears of payments from the RPA were again building up. The management accounts for the year to 31 March had shown expenditure slightly below and income slightly above the budgeted levels. The FRS 102 pension valuation had shown a small increase in liabilities since the last annual valuation. The Trust had received £70,000 being the first part of a generous legacy. The Finance, Administration and Resources Committee intended to establish a working group to consider how the gift could best be used.

On the proposal of Mr Davies, seconded Mr Cordey, by it was **RESOLVED** unanimously that the balance of the unspent budget for the dog campaign of £4,330 be transferred to a designated fund at 31 March 2019.

11. Charity Commission Scheme

The Secretary to the Board said there was little to report since the Governance Committee meeting on 25 April, other than work on the consultation. Legal expenditure was currently £109,000.

12. To appoint Malvern Spa Association representative

It was agreed to appoint Mr Street.

13. Urgent Business

Mr Davies outlined that it was proposed to suspend Standing Orders in relation to the timing of the levy payers' meeting at which the accounts would be approved. It was proposed that the meeting should take place in September whilst the current Board was still in place. On the proposal of Mr Cordey, seconded by Ms Stace it was **RESOLVED** unanimously to suspend Standing Orders and hold the Levy Payers' meeting in September 2019.

14. Information

Written reports had been circulated in relation to the activities of the bodies listed below.

- 14.1 Malvern Spa Association
- 14.2 AONB Joint Advisory Committee
- 14.3 Wildlife Panel
- 14.4 Recreation Advisory Panel
- 14.5 4Cs
- 14.6 Management Report

The CEO reported that he was hoping that the contractors would start work on the Belvedere Shelter at the end of June. The Police had asked that Malvern

Hills District Council consider making a Public Spaces Protection Order in relation to Gullet Quarry. This would enable the Police to impose on the spot fines. This would go before the District Council's Executive in the next week.

15. Items for future consideration)

Mr Watson said people were leaving dog poo bags in the small car park on Malvern Common.

16. Next meeting

12 September 2019 7pm Council Chamber.

17. Confidential item (agenda items

Mr Davies thanked the members of the public for attending. On the proposal of Mr Davies, seconded by Ms Rouse, it was **RESOLVED** unanimously to exclude the public for discussion of items 18 and 19 on the agenda on the grounds that publicity would be prejudicial to the public interest by reason of the exempt or confidential nature of the business to be transacted (legal professional privilege/staff matter)

Confidential

Minutes released

Mr Davies had intended to report at the beginning of the meeting that Emma Holton had resigned from the Board.

18. Charity Structure - to approve the recommendation from Governance Committee

The Secretary to the Board went through the paper from the Governance Committee meeting. She confirmed that the Charity Commission had indicated they felt the interpretation of the structure set out in the proposed resolution was the correct one and this was how the Officers had always understood it. Wimbledon and Putney Common Conservators (whose governing Act was similarly worded) had adopted the approach proposed. BWB had not indicated that there were any consequence of adopting this approach, nor were there any practical implications. The auditors had been asked for their comments. They had suggested that the way the "purpose land" (as opposed to that used for operational purposes) was shown in the accounts should be changed to a Restricted Fund by way of an in year transfer, accompanied by an explanation in the narrative.

On the proposal of Ms Stace, seconded by Mr Bartholomew it was **RESOLVED** unanimously to adopt the following interpretation of the charity structure (using the charity's statutory name):

- (i) the incorporated body, Malvern Hills Conservators, is the charity.
The individual Conservators are the charity trustees;

- (ii) the statutory powers and functions as set out in the five Acts are exercised by the incorporated body, Malvern Hills Conservators; and
- (iii) the land acquired by Malvern Hills Conservators was acquired pursuant to its statutory powers and is held beneficially by Malvern Hills Conservators for its statutory purposes.

The meeting closed at 9.20pm

Schedule - Public Question

Dr Crisp (not present)

Will the trustees please note that, in the words of the author of paper A, presented to the governance subcommittee on 25 April 2019, the statements about the special meeting of the board held on 19 March 2019 are:

- Impressions and perceptions from the meeting on March 19th - nothing more nor less
- Simply a stock-take of views from those trustees and staff members who volunteered to meet him
- In no sense was he conducting a more formal or comprehensive public inquiry

and that they:

- Involved no input from over 200 members of the public who attended the meeting
- Did not include the questions asked of the self selected witnesses
- Included no indication if the questions asked of the officers and trustees were open, closed or compound
- That as a result the answers are of no evidential value, and cannot be relied upon in any way

Thank you Dr Crisp, we will ensure that your comments are distributed to those trustees who have not received them here.

Mr McCulloch

1. Please would the chairman explain, at least in outline terms, the nature of the issue discussed at the special board meeting on 25th April from which the public was excluded? Note: the public were excluded from further discussion of this on 4th June and may be excluded from more debate tonight; an explanation might allay disquiet.

The issue discussed at the special board meetings and that will be discussed this evening concerns an unusual complaint received from a member of the public. The nature and scope of the complaint had wide ranging implications bearing on many aspects of the Trust's activity including HR matters and thus could not be properly dealt with by the Trust's complaints procedure. The meetings were convened to consider how to properly handle the complaint and how to properly respond to it.

2. On the 4th June the public was excluded from discussion of the Trust's response to a complaint dated 25th April 2019. Is the Trust going to make

either its response, or a summary of the response, available to members of the public?

At the meeting this evening the Board will be continuing its consideration of the Trust's response to the complaint including how much, if any, of the complaint and response should be made public.

3. At the last Governance meeting the Trust appeared to be reconsidering how work on the Charity Commission Scheme should proceed. Will the Trust be publishing a revised project plan with milestones, costings, and timetable; and if so when?

The timetabling and costing of the CCS are under continuous review as they have been from the inception of the process, albeit progress is presently impeded by other activities in Whitehall. As soon as there is more clarity a roadmap will be published.

4. At the Governance meeting on 25th April the Secretary proposed that the Trust goes ahead with a Public Consultation on the Charity Commission Scheme "going through all of the issues in plain English without the solicitor's draft being completed". Is the Trust certain this will meet the Charity Commission's requirement for a full and robust consultation, because if not the exercise might need to be repeated at extra cost?

The Charity Commission had been consulted on the sequencing of the Public Consultation and are happy that we go ahead.

5. When is it projected the (first) Public Consultation might occur?

We are working towards the Public Consultation in the autumn.

6. Are elections to the Board of Trustees still planned for 24th October 2019?

Elections are now planned for 31st October 2019.

7. It is noted that the public was excluded from discussion of the Charity Structure at the last Governance meeting on 25th April, and again tonight it is proposed that the public is excluded from a vote to approve the charity structure (agenda 18). Does the chairman not agree that publication of the 'Charity Structure' is in the public interest?

Not only this Chairman but the Board would also agree that the Charity Structure is a matter of public interest. The Board are considering the advice received from their lawyers and the analysis of the Charity Commission on the existing structure of the charity and assuming we

reach a conclusion tonight the decision will be confirmed in the minutes of this meeting

8. Agenda item 17 proposes the public are excluded from the discussion of item 18 because of a staffing matter. Please would the Trust explain how a staffing matter is related to the Charity structure?

It's a cut and paste error, it should say legal advice/ legal professional privilege

Mrs McCulloch

Item 9.2 on the Agenda is that the Chair of the Governance Committee will present the Minutes of their meeting on April 25th, plus matters arising since the meeting. That evening I gave some comments on his Paper A to the Chairman, Professor Raine, which were also circulated by the Secretary to Trustees. Are these comments included in the "matters arising"? If not, why?

We understand that Professor Raine responded to you after the meeting and you can be assured that your notes have been delivered to all trustees.

Mrs Harris

1. Question 1 had already been dealt with.

2. Ref. Prof Raine's Paper A:

The review has identified that disruption and hostility from the public made it extremely difficult to conduct the meeting effectively and allow proper debate. Will the Trustees consider amending this sentence when the paper comes before the Board, as it gives a very inaccurate and false impression of the meeting on 19th March 2019?

Professor Raine's report gathered together the views of some trustees and staff about the meeting and about the preparations that preceded it and, as we trust that Professor Raine faithfully reported what he was told, we see no reason to amend the report.

Clearly, other people at the meeting have different views, many of which have been communicated to the Trust and the Trustees through a variety of channels including today's questions and the Malvern Gazette report. We expect that all of those disparate views will be considered by the Board in due course.