

MALVERN HILLS CONSERVATORS GOVERNANCE COMMITTEE

**Manor House, Grange Road, Malvern
Monday 8 October 2015 6.30 pm**

Present: Rev'd C Attwood (Chairman), Mr S Freeman, Mr S Ginn, Mr B Pilcher, Mrs G Rees, Ms H Stace (ex-officio).

In attendance: Director, Secretary to the Board, Conservation Officer, Mr R Madden, Mr R Morton, Mr C Rouse, Mr T Yapp.

1. APOLOGIES FOR ABSENCE

Mr Bartholomew, Mr Bryer, Mr Hall-Jones, Prof Raine.

2. CHAIRMAN'S ANNOUNCEMENTS

There were none.

3. DECLARATIONS OF INTEREST

There were none.

4. MATTERS ARISING FROM PREVIOUS MEETINGS

There were none.

5. WIMBLEDON AND PUTNEY COMMON GOVERNANCE REVIEW

The Director went through the paper.

On the proposal of Mr Freeman, seconded by Mrs Rees, it was **RESOLVED** unanimously that further actions should be scheduled for completion by the people, committees or working groups as specified in the paper.

6. CHARITY COMMISSION SCHEME WORKING GROUP

Rev'd Attwood thanked Mr Ginn, the Secretary to the Board and the Director for all the work carried out to prepare the paper.

Rev'd Attwood asked everyone to note that what was under consideration were the *principles* set out in the paper. The wording would have to be settled by lawyers and would come back to the Board for final approval in due course.

Mr Madden suggested, in relation to authorising further legal work, that the lawyers should be asked to detail the procedures required to complete the Scheme and the approximate cost of any legal work required.

It was agreed that Mr Freeman and the Secretary to the Board should try to settle on alternative wording of the last sentence in proposal 5 to cover what appeared to be an agreement in principle. (To be circulated to the Committee).

The Committee then debated recommendations 1 – 3. Mr Ginn as Chair of the Working Group said that the focus of the working group had been how to make the

Board truly effective so that it serves its purpose. One key point was to reduce the size and the other to have people on the Board who had the skills and experience to cover all of the likely aspects of the Boards activity. Having elected members and Board members with the right skills should go side by side. Greater knowledge and skills were now required to run the organisation in a professional manner. The organisation was a very different and more complex one to that which was envisaged in 1884/1924.

There was agreement that the size of the Board should be reduced, and that at least some members should be elected, but no agreement on the number of Board members or how those Board members should be appointed. Mr Freeman suggested that all members should either be elected or appointed by elected bodies. He thought each precepted parish should continue to elect its own member, making a total of 10. There was a discussion about how directly accountable the current nominated members were, their interest in participating, to what extent they embraced their role as charity trustees and also the percentage of MHC income that came from precept payers. The Director pointed out that notwithstanding Board members were legally bound to act in accordance with the Acts and charity regulation, nominated members had on occasions admitted using MHC to try to achieve ends that they could not achieve through their elected body. If there was a majority of elected members, there was also the danger of special interest groups putting up candidates and controlling the Board (particularly as often candidates were elected unopposed). Rev'd Attwood said that the arrangements needed to be such that it reduced the risk of the Board being swayed by certain cohorts and he believed that one of the major problems that lead to the St Ann's Well inquiry was a cultural problem arising from adversarial nature of Local Government. The Director suggested creating a voting system where there had to be more than a simple majority in favour. The Secretary to the Board highlighted that the Working Group had suggested setting up an advisory panel. Everyone agreed that there should be a smaller Board, but that made it impossible to represent all of the stakeholders. The advisory panel would give all of those interests a voice, but the main decision making body would be kept small. The panel could be responsible for nominating the non-elected Board members. There was some uncertainty about the role and function of such a panel. Mr Freeman suggested restricting the role of the Board and placing more emphasis on the committee system, and allowing committees to co-opt specialist members.

The Director had experience of several small bodies which had had consultation committees which brought in all of the stakeholders. Mr Madden said that he was hearing that the weighting between the different elements of the Board was important to people. He raised the question of a cabinet system. The Director responded that one word that came up in connection with the St Ann's Well inquiry was "cabal". The Secretary to the Board said that if there was a cabinet system, all Board members were still legally responsible for their decisions.

Rev'd Attwood distilled the principle areas of agreement to:

- (i) There needed to be some elected members on the Board.
- (ii) The size of the Board needed to be reduced (and the size would have some bearing on the need to consider an advisory panel)
- (iii) The Board needed some selected experts

On a “straw poll” of those present the suggestions for the absolute maximum numbers of Board members ranged from 8 to 15 (with a majority favouring around 12). Rev’d Attwood suggested that Committee members should go away and consider what suggestions they wished to put forward which accorded with those three principles and produced a Board of 14 or less. The Committee would therefore make no recommendation at this stage.

On the proposal of Rev’d Attwood, seconded by Mr Pilcher, it was **RESOLVED** unanimously to recommend to the Board approval of the following changes:

1. Reduce the size of the Board to an absolute maximum of 14.
2. & 3. No recommendation on 2 and 3 until there had been further discussion
4. Creation of a power to remove Board members for failure to attend meetings for 6 months or for gross breach of the Code of Conduct.
5. Update MHC’s purposes:

The Board of Conservators shall at all times as far as possible:

- (i) protect, preserve and maintain the landscape character, habitats, wildlife, geology, archaeology and other cultural heritage of the Malvern Hills.
- (ii) keep the hills and commons as open space for the recreation and enjoyment of the public.
- (iii) promote opportunities for the understanding, appreciation and enjoyment of the special qualities of the hills to the public.

But in the event that those purposes cannot be reconciled by skilful management, the purpose set out in sub paragraph (i) should take priority over those set out in sub paragraphs (ii) and (iii).

6. Update the provisions in relation to collection of the precept.
7. Creation of a power to pay specified expenses to Board members:
Board members should be permitted to claim the following if they so choose:
 - (i) Actual travel costs to meetings or other functions of MHC (or a mileage charge)
 - (ii) Subsistence payments

- (iii) Ancillary expenses, such as the cost of employing a babysitter or carer
- (iv) Incidental expenses (such as phone calls)

8 Repeal of s17 MHA 1884 (Parks Regulations Act)

9 Creation of a power to purchase land off the hills and to build housing/ handling facilities for livestock to include a power to build, fence, create hardstanding etc. (and to repair, replace, maintain all of these) with a power to exclude members of the public from such land (ancillary to achieving MHC objects).

10 Creation of a power to buy, sell and own livestock and to do anything necessary for their care (ancillary to achieving MHC objects and not for business purposes).

11 Creation of an express power to grant leases of buildings and certain land.

12 Amendment of the power to erect temporary fencing by removing “rough grazing” from s15 (b) and give temporary grazing a separate sub-section (permitting it for up to 60 days). Clarify the power to make it clear that temporary fencing for grazing purposes may extend across a bridleway or footpath so long as appropriate gates are in place.

13 Creation of a power to install/ permit cattle grids and ancillary fencing, with a power to fence the boundary of MHC land where fencing does not exist.

14 Creation of a power to fence for the purpose of livestock grazing subject to the consent of the Secretary of State.

15 Repeal s4 1884 Act, s3 (2) of 1924 Act to dis-apply the Commissioners Clauses Act 1847 (see details of replacement provisions in technical paper).

16 Creation of a Power to serve papers electronically, with an option for members to opt out.

17 To change the election date to coincide with Local Authority elections.

18 To repeal the existing powers to borrow and create a fresh power.

19 To limit Occupier’s Liability so that the obligations are in line with those set out in the CROW Act 2000.

20 To make transitional Arrangements to bring to an end the term of then current Board members and implement new arrangements.

21 Creation of a power to do any lawful thing (not otherwise expressly prohibited in the Acts) to further the objects of MHC.

22 To make the consequential amendments set out in Schedule 3 and such other amendments as may be required.

And to take further legal advice at a cost limited to £600.

7. UPDATES TO GOVERNANCE HANDBOOK, MEETING DATES AND SUSPENSION OF STANDING ORDERS

On the proposal of Mrs Rees, seconded by Mr Freeman, it was **RESOLVED** unanimously that the Committee recommended to the Board the adoption of the meeting timetable set out in the paper and suspension of standing orders in order to facilitate nomination of Chairman and Vice-Chairman and Chairman and Vice Chairman of F A & R Committee within the required timescale.

On the proposal of Mrs Rees, seconded by Mr Freeman, it was **RESOLVED** unanimously that the Committee recommended to the Board approval of the amendments to the Governance Handbook set out in the schedule to the paper.

8. STAFF ATTENDANCE AT CONFIDENTIAL PART OF BOARD MEETINGS

The Director went through the paper. There was a discussion on whether there would be circumstances for example, of commercial confidentiality when staff should be excluded. Rev'd Attwood suggested taking out "HR" on point 3. There was a concern that this could make matters inconsistent and undermine the staff. There was a confidentiality policy in the new staff handbook which would become part of staff terms of employment once it was approved.

On the proposal of Rev'd Attwood, seconded by Mr Pilcher, it was **RESOLVED** unanimously that the Committee recommended adoption of the policy set out in the paper to the Board

9. PLANNING FOR THE ELECTIONS AND POST-ELECTION TRAINING

Malvern Hills District Council undertook the formal arrangements for the elections. There were 3 contested seats, West Malvern, Mathon and Priory. There would be trustee training for all Board members on 4 November and new and old Board members were strongly encouraged to attend.

10. URGENT BUSINESS

Rev'd Attwood asked all present to E-mail to him their thoughts on how the Board should be made up.

II. DATE OF NEXT MEETING

The meeting closed at 8.35pm