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Council

Minutes of Proceedings

At the **Ordinary Meeting of the District Council of Ryedale** held in the **Council Chamber, Ryedale House, Malton** on **Thursday 3 September 2015**

Present

Councillors Acomb
 Joy Andrews
 Paul Andrews
 Steve Arnold
 Val Arnold (Chairman)
 Bailey
 Burr MBE
 Clark
 Cleary
 Cowling
 Cussons
 Duncan
 Evans
 Farnell
 Frank
 Gardiner (Vice-Chairman)
 Goodrick
 Hope
 Ives
 Jainu-Deen
 Jowitt
 Maud
 Oxley
 Raper
 Sanderson
 Shields
 Thornton
 Wainwright

In Attendance

Simon Copley
Peter Johnson
Phil Long
Janet Waggott
Anthony Winship

Minutes

29 **Apologies for absence**

Apologies for absence were received from Councillors Keal and Windress.

30 **Public Question Time**

There were no public questions.

31 Minutes

The minutes of the Ordinary Meeting of Council held on 9 July 2015 were presented.

Resolved

That the minutes of the Ordinary Meeting of Council held on 9 July 2015 be approved and signed by the Chairman as a correct record.

32 Urgent Business

There were no items of urgent business which the Chairman considered should be dealt with as a matter of urgency by virtue of Section 100B(4)(b) of the Local Government Act 1972 (as amended).

33 Declarations of Interest

The following interests were declared:

Councillor Paul Andrews declared a personal non-pecuniary but not prejudicial interest in agenda item 10 minute 54 (Judicial Review) as he had been lobbied by residents in Malton and the Malton Town Council, of which he was a member, and as a supporter of local business.

Councillors Steve Arnold, Cleary, Cowling, Cussons, Farnell, Frank, Goodrick, Hope, Jainu-Deen, Raper and Thornton declared personal non-pecuniary but not prejudicial interests in agenda item 10 minute 54 (Judicial Review) as they had been lobbied by Councillor Paul Andrews by letter and email.

Councillor Val Arnold declared a personal non-pecuniary but not prejudicial interest in agenda item 11 (North Yorkshire Fire and Rescue Service – Fire Service Review 2015) as a member of the North Yorkshire Fire Authority. She took no part in the discussion or the vote on the item.

Councillor Shields declared a personal non-pecuniary but not prejudicial interest in agenda item 11 (North Yorkshire Fire and Rescue Service – Fire Service Review 2015) as a substitute member of the North Yorkshire Fire Authority.

Councillor Clark declared a personal non-pecuniary but not prejudicial interest in agenda item 11 (North Yorkshire Fire and Rescue Service – Fire Service Review 2015) as a deputy member of the North Yorkshire Fire Authority.

Councillor Goodrick declared a personal non-pecuniary but not prejudicial interest in agenda item 12 (Funding for Citizens Advice Bureau) as the Council's representative on the Citizens Advice Bureau.

Councillor Clark declared a personal non-pecuniary but not prejudicial interest in agenda item 12 (Funding for Citizens Advice Bureau) as North Yorkshire County Council's representative on the Citizens Advice Bureau, which was an advisory role.

Councillors Val Arnold, Clark, Sanderson and Shields declared personal non-pecuniary but not prejudicial interests in agenda item 13 (Devolution – Combined Authorities) as North Yorkshire County Councillors.

34 **Announcements**

With the Chairman's permission, the Chairman of the Overview and Scrutiny Committee made the following announcement:

"I have met with KPMG who are our appointed Auditors and who were appointed by the Public Sector Audit Appointments Ltd, a statutory function delegated by the Secretary of State for Communities and Local Government and who are therefore fully independent of the Council. I asked them to consider the issues raised by the Judicial Review outcome particularly if public money has been wasted and if officers deliberately misled Members.

Work is ongoing and a report will come to Audit Committee in the future."

The Chief Executive made the following announcements:

- That officers from Ryedale will attend a meeting with other Districts in North Yorkshire to discuss the current migration issue.
- That she had been asked if she would like to express an interest in applying for the role of Police Area Returning Officer for York and North Yorkshire.

35 **To Receive any Questions submitted by Members Pursuant to Council Procedure Rule 10.2 (Questions on Notice at Full Council)**

1. Councillor Thornton submitted the following question:

To Councillor Windress, Chairman of Planning Committee:

"In relation to the ministerial guidance on affordable contributions on small developments, how much has the government's misleading of Tory controlled RDC cost the Council?"

In the absence of the Chairman of Planning Committee, the Vice Chairman Councillor Frank replied

"This matter was the subject of a detailed report to members of the Planning Committee on 10th February 2015 and then by Full Council at the meeting held on 24th February 2015. The report set out the reasons for not seeking developer contributions, the significance of any risks and the implications for the implementation of the Ryedale Plan and the decision

making process. A list of 15 no. Applications that were affected was also included as part of the report.

The ministerial statement has not 'cost' the Council anything in terms of how it processed or dealt with the respective applications.

However the decision not to seek developer contributions from small sites related to both off site commuted sums for affordable housing and Public Open Space (POS).

15 No. Applications were listed in the report to Council on 24th February 2015 – the foregone contributions were £325k for affordable housing and £58k for POS.

In the intervening period officers have identified another 11 no. Applications where contributions would have been sought if Policy SP3 and SP11 had been applied.

No detailed figures are available for each of these later applications as they were not subject to detailed consideration by a valuer. However it is estimated that the addition developer contributions foregone is approx £300k for affordable housing and £30k for POS.

*Total – Housing £625k
Total – POS £88k.”*

Councillor Thornton asked the following supplementary question:

“Thank you for those figures. I should point out that it's not the Council that has lost this money £625,000, £88,000 that's £700,000 - it's the public who have been disadvantaged. They've lost potential affordable housing, they've lost public open spaces. I don't think that RDC is flush with money to be able to let this slip. It seem that the slavish adherence to ministerial statements and officers' advice has cost the public considerably and should we not deal with that advice in the Chamber with detailed questioning and exploration of possible responses to perhaps avoid this loss in future?”

Councillor Frank replied that a written answer would be provided.

2. Councillor Joy Andrews submitted the following question:

To Councillor Windress, Chairman of Planning Committee:

“What is the breakdown of the costs of the attempted sale of WSCP to date?”

As this question fell within the remit of the Chairman of Policy and Resources Committee, Councillor Cowling replied

“Members will be fully aware of the distinction between the two roles of the Council on matters relating to WSCP namely :

(i) Role of the Council as a landowner;

(ii) Role of Council as a Local Planning Authority

This question is interpreted as relating solely to the Role of the Council as a landowner.

*The costs of relating to the proposed disposal of WSCP are **TOTAL £145,988.00.***

3. Councillor Clark submitted the following question:

To Councillor Windress, Chairman of Planning Committee:

“Has Councillor Windress considered his position as Chair of Planning?”

In the absence of the Chairman of Planning Committee, the Vice Chairman Councillor Frank read a statement from him:

“If I thought I needed to consider my position as Chairman of RDC's Planning Committee then I wouldn't need to be prompted by the Liberal Leader.”

Councillor Clark asked the following supplementary question:

“On the basis that tonight he was unaware of the Planning costs of the sale of Wentworth Street car park and that it is a rough estimate of those costs - has cost the people of Ryedale in excess of £500,000 - on that basis what has he done about that because if he's not considering his position then how is he going to improve his performance in future?”

Councillor Frank replied that a written answer would be provided.

36 To Receive a Statement from the Leader of the Council and to Receive Questions and Give Answers on that Statement

Councillor Cowling, the Leader of the Council, presented the following statement:

“The items for my Leader's statement are included on your agenda this evening and I am happy to answer any questions you may have as each item arises.

In addition over the last two months I have attended various meetings about Devolution and that has certainly taken up a lot of my time. I have also attended a meeting with North Yorkshire County Council, Scarborough Borough Council and our LEP to have a first look at the results of the work that is being done on preparing plans to dual parts of the A64 - you will recall that our council contributed £25k towards the first stage of this process. I will arrange for these proposals to be available to all Members of the Council so that all councillors will have a chance to view the proposals and be able to ask any questions of the officers involved. It will be a committee decision if we wish to contribute towards funding the next stage. I believe that this work and improving mobile and broadband connectivity are the biggest improvements that this Council can help facilitate to achieve greater future economic success for the benefit of the whole of Ryedale.

The only other thing that I wanted to add which is exceptionally good news for the Pickering wards is the completion of the Pickering flood defences today."

The following questions were received on the Leader's Statement:

1. From Councillor Burr

"Whilst every Leader has a particular style I honestly feel that giving us a verbal statement directly in the meeting is not good enough. Could I respectfully ask that you provide us with a written statement within the Council agenda, like our previous leader Cllr Knaggs used to give us? This was much more appropriate and respectful of fellow Councillors to absorb the information that they need to decide on asking questions. So my question is, could we adopt a more businesslike procedure and have a detailed statement sent out with the Council agenda in the future? I do believe this has been asked for previously?"

The Leader replied:

"I understand that it's personal choice as to whether I even do a Leaders Statement or not, so I'll let you know."

2. From Councillor Paul Andrews

"Will the auditors be instructed to interview Council Members including opposition Members who have opposed the use of Wentworth Street car park as a superstore? Will they also instructed to interview businesses who have been affected including and I emphasise, Fitzwilliam Estate?"

This question had been copied to the Council's auditors, KPMG, and a full response from them had been received. A copy of this was circulated to all Members at the meeting.

3. From Councillor Paul Andrews

"What other modes of enquiry are available in which the community will have confidence and that must include a review of costs, benefits and affects of the decision to sell Wentworth Street car park with planning permission?"

The Leader replied:

"You've asked what other modes of enquiry are available in which the community will have confidence that must include a review of all costs, benefits and effects of the decision to sell Wentworth Street car park with planning permission? I've no idea what other modes are available. I'm sorry you don't have confidence in the auditors and I think even when you've read the response from the auditors to your concerns, I still don't think you'll be happy but whatever form of enquiry it would be this

Council and therefore the public that would have to pay for it and you're going to say that he who pays the piper plays the tune. I'm afraid that will be the case whoever does an enquiry, so I don't think I'm ever going to be able to satisfy you unless of course Fitzwilliam Estate would like to pay for an enquiry. Then we might say that would be weighted in their favour."

Councillor Paul Andrews then asked the following supplementary question:

"How about a Scrutiny Committee?"

The Leader then replied:

"I believe that is what the Scrutiny Committee are doing through the auditors."

4. From Councillor Paul Andrews

"When will Members receive officers' comments on the documents I submitted, one of them in draft, to the Chief Executive shortly after the meeting in May of Councillors and officials of GMI and which I sent in their final form to all Members and the Planning Department on 14 July and these are the documents to which Members have received from me over the last few days. So when will I receive the officers' comments on those documents?"

The Leader replied:

"You've asked me when will Members receive the officers' comments on the documents that you've submitted. I'm afraid I can't answer that, you'll have to ask the officers involved."

Councillor Paul Andrews then asked the following supplementary question:

"Can I have an answer from the Chief Executive please because these documents have been before her for a very long time?"

The Chief Executive then replied:

"I do beg Cllr Andrews pardon because yes he has pointed out these matters to me. When I looked at the documents I realised that they had been before the Planning Inspectorate in the body of evidence, I actually thought they had already been considered by the whole process and that we had already made our comments. I didn't think that there was anything new in there so I do beg your pardon and I will speak to you directly because I thought it was something that we had already done."

5. From Councillor Ives

“Councillor Cowling you stated that you are working and consuming a lot of your time at the moment on devolution which I thank you for but would the Council leader agree with me that devolution is giving power back to local communities on an unprecedented scale and it is delivering a key Government commitment and it is to be welcomed?”

The Leader replied:

“I would absolutely agree with you that devolution is the best offer that local government has had for many, many years. It gives the opportunity for local people to take decisions on what it the bulk of the money that is spent in our areas and it is an opportunity that we should be very grateful for and snatch it with both hands.”

6. From Councillor Clark

“I fully understand why you don't want to do written Leader's statements and have them in the agenda. I have complete sympathy with that situation from your standpoint. It seem one way out for you. However, this evening you were reading out your statement, or part of it, or what applied to something later on and I wonder if we could have a copy of whatever it was you read out as your Leaders' statement?”

The Leader replied:

“The answer is yes.”

Councillor Clark then asked the following supplementary question:

“When?”

The Leader then replied:

“Now.”

7. From Councillor Clark

“Could the Leader of Council please inform me, so that I can inform Councillor Joy Andrews, of the total planning cost involved in the process towards the sale of Wentworth Street car park?”

The Leader replied:

“That will be a written answer, it's not something I carry about in my head.”

Councillor Clark then asked the following supplementary question:

“In view of the lack of leadership and the state that we have got into in relation to that process, not only should that be a number that she has in her head, it ought to be a number that will come out from her sleep. On that basis do you intend to get a grasp of the numbers in relation to the cost to the public or are you going to say in the future I'll let you have a written reply because I don't have that number in my head?”

The Leader then replied:

“The problems around Wentworth Street car park are well known, you don't put up for sale a car park or any other piece of land without incurring costs. There is a cost to this Council of dealing with planning applications but I suppose we can set a cost against that cost against the many thousands of pounds that GMI Holbeck have paid for their planning application. There is a long way to go yet with that issue. We can't ignore the planning application that sits on our desk and I'm sure the final figures, when we've got there will be made available to all members of this Council.”

8. From Councillor Paul Andrews

“Bearing in mind that the application proceeded on the basis of out of date figures, an out of date customer survey and that customer survey will now have to be redone, do you really think that this Council is ever going to be able to issue planning consent without this being judicially challenged again?”

The Leader replied:

“I am absolutely certain that if this Council were to grant planning permission for Wentworth Street car park that it would be challenged at judicial review. I am absolutely certain that if a Planning Inspector granted planning permission for Wentworth Street car park that it would be challenged at judicial review and I'm absolutely certain that if they didn't get their own way at judicial review they would go to the next level of court. So yes, wherever it goes, wherever the answer is yes to Wentworth Street car park, it will be challenged.”

Councillor Paul Andrews then asked the following supplementary question:

“Then don't you think it's time that the Council changed direction on Wentworth Street car park?”

The Leader then replied:

“That is a decision for this Council to make when it is in full possession of all the facts and the implications of changing its mind.”

- 37 **To consider for Approval the Recommendations in respect of the following Part 'B' Committee Items:**

Licensing Committee – 21 July 2015

Minute 4 – The Gambling Act 2005 - Draft Statement of Principles

It was moved by Councillor Hope and seconded by Councillor Frank that the following recommendations of the Licensing Committee be approved and adopted.

That Council be recommended:

To adopt the Gambling Act 2005 - Statement of Principles.

Upon being put to the vote the motion was carried.

Resolved

That Council adopt the Gambling Act 2005 - Statement of Principles.

Voting Record

28 For

0 Against

0 Abstentions

Overview and Scrutiny Committee – 30 July 2015

Minute 22 – Treasury Management Annual Report 2014/15

It was moved by Councillor Wainwright and seconded by Councillor Acomb that the following recommendations of the Overview and Scrutiny Committee be approved and adopted.

That Council be recommended:

a. That the treasury management report for 2014/15 be noted;

b. That the actual 2014/15 prudential and treasury indicators in this report be approved.

Upon being put to the vote the motion was carried.

Resolved

a. That the treasury management report for 2014/15 be noted;

- b. That the actual 2014/15 prudential and treasury indicators in this report be approved.

Voting Record

28 For

0 Against

0 Abstentions

Planning Committee – 18 August 2015

Minute 53 – Developer Contributions from Small Sites

It was moved by Councillor Frank and seconded by Councillor Hope that the following recommendations of the Planning Committee be approved and adopted.

That Council be recommended to resolve to:

- (i) No longer treat the Ministerial Statement of 1 December 2014 on support for small-scale developers, custom and self-builders as a material consideration in the planning process;
- (ii) To apply full weight to Policies SP3 (Affordable Housing) and Policy SP11 (Community Facilities and Services) of the Ryedale Plan - Local Plan Strategy.

Upon being put to the vote the motion was carried.

Resolved

That Council resolves to:

- (i) No longer treat the Ministerial Statement of 1 December 2014 on support for small-scale developers, custom and self-builders as a material consideration in the planning process;
- (ii) To apply full weight to Policies SP3 (Affordable Housing) and Policy SP11 (Community Facilities and Services) of the Ryedale Plan - Local Plan Strategy.

Voting Record

28 For

0 Against

0 Abstentions

Minute 54 – Judicial Review - The Queen on the Application of Milton (Peterborough) Estates Company trading as Fitzwilliam (Malton) Estate v Ryedale District Council

It was moved by Councillor Frank and seconded by Councillor Hope that the following recommendations of the Planning Committee be approved and adopted.

That Council be recommended:

- (i) That the outcome of the judicial review proceedings be noted;
- (ii) That Council meet the award of costs from the improvement, contingency and emergency fund.

Upon being put to the vote the motion was carried.

Resolved

- (i) That the outcome of the judicial review proceedings be noted;
- (ii) That Council meet the award of costs from the improvement, contingency and emergency fund.

Voting Record

20 For

1 Against

6 Abstentions

Councillor Paul Andrews requested that his vote against the motion be recorded.

38 North Yorkshire Fire and Rescue Service - Fire Service Review 2015

The Chief Executive submitted a report (previously circulated) which provided Members of Council the opportunity to agree a response to the consultation document of North Yorkshire Fire and Rescue Service (NYFRS), Fire Cover Review 2015.

Councillor Cowling moved and Councillor Steve Arnold seconded the following motion:

“That Council decide whether they wish to support option 1 or option 2.”

Councillor Ives moved and Councillor Duncan seconded the following amendment:

“This Council:

- supports option 1 over option 2 in relation to the proposals concerning the future of Malton Fire Station, which is to replace the day crewed fire engine with a day crewed Tactical Response Vehicle; and

- encourages integration across the emergency services and the wider public sector.”

Upon being put to the vote the amendment was carried.

Voting Record

19 For
5 Against
3 Abstentions

The substantive motion was then put to the vote.

Resolved

This Council:

- supports option 1 over option 2 in relation to the proposals concerning the future of Malton Fire Station, which is to replace the day crewed fire engine with a day crewed Tactical Response Vehicle; and
- encourages integration across the emergency services and the wider public sector.

Voting Record

18 For
5 Against
4 Abstentions

Councillor Paul Andrews requested that his vote against the motion be recorded.

39 Funding for Citizens Advice Bureau

The Chief Executive submitted a report (previously circulated) which updated Members following the presentation from Ryedale Citizens Advice Bureau (CAB).

Councillor Cowling moved and Councillor Frank seconded the recommendations in the report.

Councillor Cowling moved and Councillor Frank then seconded the following amendment:

“To ask that CAB officers work closely with RDC officers to keep them up to date with their financial situation.”

Upon being put to the vote the amendment was carried.

Voting Record

27 For
0 Against
0 Abstentions

The substantive motion was then put to the vote.

Resolved

(i) That Council agree to allocate the provision of the additional £35k to Ryedale CAB.

(ii) To ask that CAB officers work closely with RDC officers to keep them up to date with their financial situation.

Voting Record

27 For
0 Against
0 Abstentions

40 **Devolution - Combined Authorities**

The Chief Executive submitted a report (previously circulated) which updated Members on the current position regarding the ongoing national devolution debate, regional developments and how these may impact on Ryedale District Council.

Councillor Cowling moved and Councillor Frank seconded the recommendations in the report.

Councillor Cowling moved and Councillor Frank then seconded the following amendment:

“To delete 2.1 and replace with:

It is recommended that Council agree to be part of a combined authority within Yorkshire as a general principle, proposals for which are to be submitted to the Treasury by the 4 September deadline.”

A procedural motion that the question now be put was moved, seconded and carried.

Upon being put to the vote the proposal was carried.

Resolved

That Council agree to be part of a combined authority within Yorkshire as a general principle, proposals for which are to be submitted to the Treasury by the 4 September deadline.

Recorded Vote

For

Councillors Steve Arnold, Val Arnold, Cleary, Cowling, Duncan, Evans, Farnell, Frank, Gardiner, Hope, Ives, Jainu-Deen, Oxley and Raper

Against

Councillors Joy Andrews, Paul Andrews, Clark, Thornton and Wainwright

Abstentions

Councillor Jowitt

41 **Any other business that the Chairman decides is urgent.**

There being no other business, the meeting closed at 11.05pm.

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3 September 2015 – Responses to Supplementary Questions

Questions on Notice

From Cllr Thornton - supplementary question to the Chairman of Planning Committee

"Thank you for those figures. I should point out that it's not the Council that has lost this money £625,000, £88,000 that's £700,000 - it's the public who have been disadvantaged. They've lost potential affordable housing, they've lost public open spaces. I don't think that RDC is flush with money to be able to let this slip. It seem that the slavish adherence to ministerial statements and officers' advice has cost the public considerably and should we not deal with that advice in the Chamber with detailed questioning and exploration of possible responses to perhaps avoid this loss in future?"

Written response:

"Councillor Thornton's question is based on the benefit of hindsight.

I do not agree that Members have made a decision on the basis of a slavish adherence to ministerial statements and officers' advice.

Members had due regard to ministerial statements and officers' advice in the decision making process."

From Cllr Clark - supplementary question to the Chairman of Planning Committee

"On the basis that tonight he was unaware of the Planning costs of the sale of Wentworth Street car park and that it is a rough estimate of those costs - has cost the people of Ryedale in excess of £500,000 - on that basis what has he done about that because if he's not considering his position then how is he going to improve his performance in future?"

Written response:

"The question on notice did not specify planning costs .

If the question on notice had specified planning costs then an answer would have been forthcoming on that basis.

The action I have taken is to ensure that information about planning costs has been supplied in writing.

The question put about the Chairman of the Planning Committee considering his position has already been answered . I have nothing further to add to the reply that has been given."

Questions on the Leader's Statement

From Cllr Clark

"Could the Leader of Council please inform me, so that I can inform Councillor Joy Andrews, of the total planning cost involved in the process towards the sale of Wentworth Street car park?"

Written response:

"Fees incurred by Council acting in its capacity as a Local Planning Authority

The consultants fees prior to the Planning Committee meeting on 29 March 2012 were as follows:

11/12. Application:- Payment of £12,994 made to East Riding of Yorkshire Council for Planning Consultancy.

The consultants fees prior to the Planning Committee meeting on 24 April 2014 are as follows:

DESCRIPTION	YEAR	VALUE
<i>England & Lyle</i>	<i>13/14</i>	<i>8,000</i>
<i>England & Lyle</i>	<i>14/15</i>	<i>7,500</i>
TOTAL		15,500

Fees for commercial retail advice in relation to planning application ref: 11/00927/MOUT

YEAR	VALUE
<i>13/14</i>	<i>10,000</i>

Legal fees for Wentworth Street Car Park Malton

Barristers fees for David Manley QC - £31,000.00 plus VAT

Sharpe Pritchard- Solicitors - £17,234.50 plus VAT."