

11 JUNE 2010

NEW FOREST DISTRICT COUNCIL

GENERAL PURPOSES AND LICENSING COMMITTEE

Minutes of a meeting of the General Purposes and Licensing Committee held at Appletree Court, Lyndhurst on Friday, 11 June 2010.

p Cllr L R Puttock (Chairman)
Cllr A E J Shotter (Vice-Chairman)

Councillors:

p G C Beck
p W H Dow
p J A G Hutchins
p Mrs P Jackman
p Mrs M McLean
p J Penwarden
A W Rice TD

Councillors:

p W S Rippon-Swaine
p R F Scrivens
p Mrs B Smith
p M S Wade
p S S Wade
e P R Woods

Officers Attending:

Ms M Stephens, and for part of the meeting; Ms T Harwood, A Reynolds, Mrs R Rutins, B Stockley, S Stone and P Weston.

4. MINUTES.

RESOLVED:

That the minutes of the meetings held on 15 January and 17 May 2010, having been circulated, be signed by the Chairman as correct records.

5. DECLARATIONS OF INTEREST.

No declarations of interest were made by members in connection with any agenda items.

6. PUBLIC PARTICIPATION.

No issues were raised during the public participation period.

7. PROPOSED EXTENSION OF JOINT WARRANTING BETWEEN THE HEALTH AND SAFETY EXECUTIVE AND NFDC (REPORT A).

The Committee considered the proposal to extend the joint warranting scheme between the Council and the Health and Safety Executive to include warranting of inspectors from other Hampshire authorities.

Members were pleased with the progress of the joint warranting scheme and considered it prudent to continue with the scheme and with the extension.

RESOLVED:

- (a) That the existing scheme of delegation under the Health and Safety at Work etc Act 1974 and replace with the delegation set out in section 2.1 of Appendix 1 to Report A to the Committee which includes powers for HSE and Local Authority inspectors identified in the Hampshire Flexible Warrant Scheme be amended;
- (b) That the powers set out in section 2.2 of Appendix 1 to Report A to the Committee be added to the Council's scheme of delegation to allow for NFDC inspectors to work for the HSE and other Hampshire Local Authorities as an appointed inspector under the Health and Safety at Work Etc Act 1974 within the terms of the memorandum of understanding of the Hampshire Flexible Warrant Scheme; and
- (c) That the powers set out in section 2.3 of Appendix 1 to Report A to the Committee be added to the Council's scheme of delegation to allow for enforcement in specific businesses to be transferred between the Health and Safety Executive and NFDC where there is agreement.

8. HEALTH AND SAFETY INTERVENTION PLAN 2010/11 (REPORT B).

The Committee considered the Health and Safety Intervention Plan for 2010/11 and the renewal of the Health and Safety Enforcement Policy.

Members congratulated officers on the detail of the documents.

RESOLVED:

- (a) That the Health and Safety Intervention Plan for 2010/11 as set out in Appendix 1 to Report B to the Committee be agreed; and
- (b) That the Health and Safety Enforcement Policy as set out in Appendix 2 to Report B to the Committee be agreed.

9. APPLICATION TO INCREASE THE GENERAL TARIFF FOR HACKNEY CARRIAGES IN THE DISTRICT (REPORT C).

The Licensing Officer informed members that suggestions for a revised tariff had been sent to the Hackney Carriage and Private Hire Owners' Association for comments prior to the Committee meeting. The Association had raised some concerns regarding these. It appeared that it would be prudent for further work to be undertaken with accountancy colleagues to provide alternative tariffs for the Association and the Committee to consider.

The Licensing Officer therefore requested that consideration of this matter be deferred until the September meeting to allow time for options to be explored.

RESOLVED:

That the application to increase the general tariff for hackney carriages in the District be deferred until the September Committee meeting.

10. REVIEW OF LICENSING POLICY FOR 2011-2014 – TIMETABLE (REPORT D).

The Committee considered the review of the statement of Licensing Policy for 2011-2014.

The current Policy had been published on 7 January 2008 and had to be reviewed by the Council every 3 years. Members considered the timetable for the review process concluding with the Statement of Licensing Policy being published on 7 January 2011.

Members felt that the document was well written and approved its publication.

Members discussed the conduct and outcomes of the Licensing Sub-Committees. The Committee requested that a future report be submitted to the Committee setting out the numbers and types of hearings held, the impact decisions had had on the public and issues for future progress.

RESOLVED:

- (a) That the timetable for the review of the Statement of Licensing Policy 2011-2014 as set out in paragraph 3.3 to Report D to the Committee be agreed and that a further report be submitted to the Committee on 12 November 2010; and
- (b) That a report on the numbers and types of hearings conducted by the Licensing Sub-Committee and the impact of decisions be submitted to a future Committee meeting.

11. COMMUNITY GOVERNANCE REVIEW (REPORT E).

The Committee considered the progress of the Community Governance Review in Godshill.

On 15 January 2010 the Committee agreed to undertake a Community Governance Review in response to a request made by Godshill Parish Council that adjustments be made to its boundaries to include: -

- (a) the parish boundary with Fordingbridge, with a view to establishing whether the development known as Crystal Hollow should more appropriately be located in Godshill rather than Fordingbridge; and
- (b) the parish boundary with Breamore, with a view to establishing whether the triangular piece of land to the west of the River Avon, should transfer to Breamore Parish.

In accordance with the Local Government and Public Involvement in Health Act 2007, the review had been published on the Council's website and consultation had been undertaken with residents. The three week consultation period ended on 4 June 2010. The Committee considered the responses received to the consultation.

The Committee noted that the majority of respondents, including a large majority of Crystal Hollow residents, were in support of the adjustments. It was reported that the Head of Planning and Transportation considered that, in topographical terms, it was entirely appropriate to draw the boundary between the parishes around the south/east boundary of Crystal Hollow. A map showing the proposed new boundary was circulated. The National Park Authority and Hampshire County Council had no objections to the proposals. Only one objection had been received.

Cllr Dow, local ward member, spoke in support of the proposals. He said that the residents of Crystal Hollow felt part of the Godshill community which was reflected in the number of supporting letters from these residents. The postal addresses of these residents included them within the Godshill parish. All these factors, coupled with the strong sense of the Godshill community spirit amongst these residents, meant that the proposals should be supported.

RESOLVED:

- (a) That draft proposals to change the boundaries of Godshill –
- (i) with Breamore, at the property known as Armsley, as shown on Map B;
 - (ii) with Fordingbridge, so that Crystal Hollow falls within Godshill Parish, as shown on the map circulated at the meeting;
- be published and consultations on these draft proposals be undertaken; and
- (b) That the matter be further considered by the Committee at its next meeting.

12. DUTY TO RESPOND TO PETITIONS (REPORT F).

The Committee considered the Council's statutory duty to respond to petitions as set out in the Local Democracy, Economic Development and Construction Act 2009. This included requirements to publish a petitions scheme and to provide an e-petitions facility, the latter by 15 December 2010.

The Committee discussed a recommended new petitions scheme, with consequential amendments to the Council's Standing Orders for Meetings. They also considered:

- Amendments to the terms of reference of Review Panels; and
- Proposals to meet the e-petitions requirements of the Act.

The Committee expressed the view that the thresholds within the recommended petition scheme were set appropriately. They felt that the scheme would enhance opportunities for residents to petition the Council.

RECOMMENDED:

- (a) That the Chief Executive and the Monitoring Officer be designated as the appropriate officers to decide whether a petition can be excluded on the grounds that it is vexatious, abusive or otherwise inappropriate**
- (b) That the Chief Executive, the Executive Directors and the Heads of Service be designated as the senior officers who may be required to attend a public meeting of an overview and scrutiny committee to answer questions about their work;**
- (c) That the petitions scheme set out in Appendix 1 be approved and adopted as this Council's petitions scheme required under Section 11 of the Local Democracy, Economic Development and Construction Act 2009;**
- (d) That the Council's Standing Orders for Meetings be amended as set out in Appendix 2 to this report;**
- (e) That the terms of reference of Review Panels be amended as set out in Appendix 3 to this report; and**
- (f) That investigations continue into the acquisition of software to manage the new e-petitions duty, so that a facility is available by 15 December 2010.**

13. DATES OF MEETINGS 2011/2012.

RESOLVED:

That the Committee meets on the following dates (all Fridays at 9.30 a.m.) in 2011/2012:-

10 June 2011
9 September 2011
11 November 2011
13 January 2012
9 March 2012

CHAIRMAN

Attachments: Min No 11 – Appendices 1, 2 and 3.

NEW FOREST DISTRICT COUNCIL
PETITIONS SCHEME

1. PETITIONS

The Council welcomes petitions from people who live, work or study in the area. We recognise that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition, and is signed by at least 10 people who live, work, or study in the area.

Paper petitions can be sent to:

The Democratic Services Manager, New Forest District Council, Appletree Court, Beaulieu Road, Lyndhurst, SO43 7PA

or be created, signed and submitted online by following this link [not yet available].

Petitions that contain the required number of signatures as set out in paragraph 5 below can also be presented to a meeting of the Council. These meetings take place approximately every 2 months, dates and times can be found on the Council's website www.newforest.gov.uk If you would like to present your petition to the Council, or would like your councillor or someone else to present it on your behalf, please contact Rosemary Rutins/Melanie Stephens on (023) 8028 5381/5379 at least 10 working days before the meeting and they will talk you through the process.

2. WHAT ARE GUIDELINES FOR SUBMITTING A PETITION?

Petitions submitted to the Council must include

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- the name and address and signature of any person supporting the petition. These should be people who live, work or study in the area.

Petitions should be accompanied by contact details, including an address for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on our website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescales which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

3. WHAT WILL THE COUNCIL DO WHEN IT RECEIVES MY PETITION?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgment may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence (see paragraph 6), then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate.

4. HOW WILL THE COUNCIL RESPOND TO PETITIONS?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the appropriate Review Panel*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

* Review Panels are committees of councillors who are responsible for scrutinising the work of the Council – in other words, they have the power to hold the Council's decision-makers to account.

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

If your petition is about something that a different council is responsible for we will consider what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

5. FULL COUNCIL DEBATES

If a petition contains more than 1,700 signatures (approximately 1% of the population of the District) it will be debated by the full Council unless it is a petition asking for a senior officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given 5 minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation in to the matter, for example by a relevant committee. Where the issue is one on which the Cabinet is required to make the final decision (the Cabinet is responsible for the executive functions of the Council), the Council will refer the matter to the Cabinet. The Council will decide whether to make recommendations to the Cabinet to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

6. OFFICER EVIDENCE

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 850 signatures (approximately 0.5% of the population) and gives grounds for your request (which must relate to the discharge of functions for which the officer is responsible), the relevant senior officer will give evidence at a public meeting of the relevant *Review Panel. Senior staff who can be called to give evidence are the Council's Chief Executive, the Executive Directors or the Heads of Service as considered appropriate by the Chairman of the appropriate Review Panel. These are set out in Appendix 1 to this Scheme.

You should be aware that the Review Panel may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition. The Panel may also decide to call a relevant councillor to attend the meeting. Councillors will ask the questions at this meeting, but you will be able to suggest questions to the chairman of the Panel by contacting the chairman up to three working days before the meeting.

(*Review Panels are committees of councillors who are responsible for scrutinising the work of the Council – in other words, they have the power to hold the Council’s decision-makers to account.)

7. E-PETITIONS

The Council welcomes e-petitions which are created and submitted through our website [not yet available]. E-petitions must follow the same guidelines as paper petitions, as set out above. The petition organiser will need to provide us with their name, postal address and e-mail address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for 6 months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take 5 working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the ‘rejected petitions’ section of the website.

When an e-petition has closed for signature, it will automatically be submitted to [not yet available]. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If your petition has received the required number of signatures, and if you would like to present it to a meeting of the Council, please contact Rosemary Rutins/Melanie Stephens (details above) within 10 working days of receipt of the acknowledgement.

A petition acknowledgement and response will be e-mailed to everyone who has signed the e-petition and who has chosen to receive this information. The acknowledgement and response will also be published on the Council’s website.

8. HOW DO I “SIGN” AN E-PETITION?

You can see all the e-petitions currently available for signature here [not yet available].

When you sign an e-petition you will be asked to provide your name, address, postcode and a valid e-mail address. When you have submitted this information you will sent an e-mail to the e-mail address you have provided. This e-mail will include a link which you must click on in order to confirm the e-mail address is valid. Once this step is completed your “signature” will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

9. WHAT CAN I DO IF I FEEL MY PETITION HAS NOT BEEN DEALT WITH PROPERLY?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that a relevant Review Panel reviews the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The relevant Panel will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Panel determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council executive (Cabinet) and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

APPENDIX 1 TO PETITIONS SCHEME

OFFICERS WHO MAY BE REQUIRED TO APPEAR BEFORE AN OVERVIEW AND SCRUTINY COMMITTEE AS A RESULT OF A PETITION UNDER SECTION 16 OF THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009

Chief Executive
Executive Director
Executive Director (Section 151 Officer)
Head of Communities and Employment
Head of Customer Services
Head of Environment Services
Head of Housing Services
Head of Human Resources
Head of ICT Services
Head of Legal and Democratic Services
Head of Leisure Services
Head of Performance and Strategic Development
Head of Planning and Transportation
Head of Property Services
Head of Public Health and Community Safety

PROPOSED AMENDMENTS TO STANDING ORDERS FOR MEETINGS

1. Delete Standing Order 23:

23. Petitions - notice

~~23.1 Subject to 23.2 and 23.3, any member of the Council, or any member of the public, may present a petition at a Council, Committee or Panel meeting, on the following conditions:~~

- ~~(a) the nature and objects of the petition shall relate to local government matters concerning the District; and~~
- ~~(b) the person desiring to present the petition shall give the Chief Executive ten clear working days notice in writing; and~~
- ~~(c) the notice shall include a written statement of the nature and objects of the petition; and~~
- ~~(d) the petition shall be signed by at least ten residents of the District.~~

~~Note: See Standing Order 38 for procedure for presenting petitions at the Council meeting.~~

~~23.2 Petitions under Standing Order 23.1 shall not be put to the Annual Council Meeting, or to the Annual Meeting of the Cabinet, a Committee or Panel held immediately after the annual Council Meeting.~~

~~23.3 A petition shall not be put to an extraordinary or special Council meeting, or to a special Cabinet, Committee or Panel meeting, unless, in the Chief Executive's opinion, it is relevant to a subject specified or to be specified on the summons or agenda for that meeting.~~

~~23.4 Where:~~

~~the subject of a petition is of a quasi-judicial nature, and the Monitoring Officer considers presenting it would prejudice any legal proceedings to be taken by the Council; or~~

~~the petition refers to legal proceedings being taken, or anticipated to be taken, by or against the Council,~~

~~the petitioner shall be advised, and the petition shall not be entertained.~~

2. Amend Standing Order 34 by the substitution for 34.1(h) of the words in bold italics:

34. Order of Business

Those marked * apply to Council meetings only. The rest apply to all meetings.

- 34.1 Subject to Standing Order 35, the order of business at every meeting shall be:
- (a) To choose a person to preside if the Chairman and Vice-Chairman is absent.
 - (b) To deal with any business statute requires to be done before any other business.
 - (c) To approve as a correct record and sign the minutes of the last meeting **(Standing Order 36)**.
 - (d) To allow members to declare personal and prejudicial interests **(Standing Order 37)**.
 - (e) To deal with any business statute expressly requires to be done.
 - (f) Chairman's announcements.
 - (g) * Leader of the Council's announcements **(Standing Order 37A)**
 - ~~(h) * To receive petitions of which notice has been given under Standing Order No. 23 **(Standing Order 38)**.~~
 - (h) To receive petitions requiring consideration by the Council under the Council's Petitions Scheme.**
 - (i) To dispose of any business remaining from the last meeting.
 - (j) * To review decisions taken at a previous Council meeting where the Council has not adopted any recommendation of Cabinet.
 - (k) * To receive and consider reports and recommendations of:
 - (i) The Cabinet
 - (ii) Committees
 - (iii) Review Panels **(Standing Order 39)**.
 - (l) * To answer questions asked under Standing Order No. 22 **(Standing Order 40)**.
 - (m) * To consider motions of which notice has been received under Standing Order 21 **(Standing Order 41)**.
 - (n) * To answer questions asked under Standing Order No. 22A **(Standing Order 40A)**.
 - (o) Any other business stated in the summons.
 - (p) Any other items which the Chairman decides are urgent **(Standing Order 42)**.

- 3) ***By the substitution of Standing Order 38 with the wording set out in bold italics:***

~~38. Presenting petitions~~

~~38.1 A member of the public presenting a petition may speak for no more than three minutes when presenting the petition. No more than two persons may present a petition. If both persons speak, the length of both speeches added together shall not exceed three minutes.~~

~~38.2 No more than two petitions may be presented at any meeting.~~

~~38.3 The Chairman shall consider whether or not a petition presented at a Council meeting is urgent.~~

~~If it is, the Council shall consider it, subject to 38.4 and 38.5.~~

~~If it is not, it shall be referred to the Cabinet, Committee or Panel within whose terms of reference it falls.~~

~~38.4 Where a petition affects the Council's approved strategies, policies or budgets, the Council shall not make a final decision until the Cabinet has had the opportunity to consider and make recommendations on the issue to the Council.~~

~~38.5 After considering a petition, the Council may not reach a decision on a matter which is reserved to the Executive.~~

~~38.6 Standing Order 23.3 also applies to this Standing Order.~~

38. Presenting Petitions

38.1 Where a petition containing the required number of signatures under the Council's Petitions Scheme is received, and subject to compliance with other requirements of the Petitions Scheme, the petition organiser or his or her nominee may present the petition for a maximum of five minutes. No more than two persons may present a petition. If both persons speak, the length of both speeches added together shall not exceed five minutes.

38.2 Councillors may debate the petition for a maximum of 15 minutes.

38.3 No more than two petitions may be presented at a meeting of the Council.

38.4 *Where a petition affects the Council's approved strategies, policies or budgets, the Council shall not make a final decision until the Cabinet has had the opportunity to consider and made recommendations on the issue to the Council.*

**PROPOSED AMENDMENTS TO TERMS OF REFERENCE OF
REVIEW PANELS**

Add:

- 2(xviii)** *“To require a relevant senior officer of the Council set out in the council’s petitions scheme to give evidence to the Panel in the event of a petition calling for a senior officer to be called to account under the provisions of section 16 of the Local Democracy, Economic Development and Construction Act 2009.”*
- 2(xix)** *“To review the adequacy of steps taken in response to a petition where a request for a review is received under Section 17 of the Local Democracy, Economic Development and Construction Act 2009.”*