

Minutes of a meeting of the **Charity Board** held in the Conference Room, Riverside, Lowestoft on **Wednesday, 24 January 2018** at **5.00pm**.

Members present:

F Mortimer (Chairman), P Ashdown, S Barker, M Barnard, M Bee, P Byatt, A Cackett, J Ceresa, M Cherry, Y Cherry, L Coulam, J Craig, G Elliott, T Goldson, L Gooch, I Graham, A Green, P Light, T Mortimer, J Murray, L Nicholls, B Provan, T Reynolds, D Ritchie, C Rivett, K Springall, C Topping and S Woods.

Officers present:

A Bissett (Property Lawyer), N Khan (Strategic Director), T Rudd (Valuer, Asset Management), S Taylor (Finance Manager, Compliance) and N Wotton (Democratic Services Manager).

1 APOLOGIES

Apologies for absence were received from Councillors S Allen, S Ardley, N Brooks, G Catchpole, J Ford, T Gandy, K Grant, J Groom, M Ladd, K Patience, M Pitchers, K Robinson, M Rudd, J Smith, L Smith, N Webb and S Webb.

The Chairman took the opportunity to welcome Councillor P Byatt and L Coulam to the meeting, as the newly elected Councillors for the Kirkley Ward and the St Margaret's Ward respectively.

2 DECLARATIONS OF INTERESTS

Councillor P Ashdown declared a Local Non Pecuniary Interest in Items 4, 5, 6 and 7 as his wife was a Member of Oulton Broad Parish Council, as was one of his friends, which was to be discussed in all of those reports on the agenda.

Councillor M Barnard declared a Local Non Pecuniary Interest in Items 4, 5, 6 and 7 as he and his wife were 'Friends of Nicholas Everitt Park' which was to be discussed in all of those reports on the agenda.

Councillor P Byatt declared a Local Non Pecuniary Interest in Items 4, 5 and 6 as he was a Member of Lowestoft Town Council, which was to be discussed in all of those reports on the agenda.

Councillor I Graham declared a Local Non Pecuniary Interest in Items 4, 5 and 6 as he was the Mayor of Lowestoft and a Member of Lowestoft Town Council, which was to be discussed in all of those reports on the agenda.

Councillor A Green declared a Local Non Pecuniary Interest in Items 4, 5 and 6 as he was a Member of Lowestoft Town Council, which was to be discussed in all of those reports on the agenda.

3 MINUTES

RESOLVED

That the Minutes of the meeting held on 25 January 2017 be confirmed as a correct record and signed by the Chairman.

4 UPDATE ON THE TRANSFERS OF TRUSTEESHIP OF ARNOLDS BEQUEST TO LOWESTOFT TOWN COUNCIL AND NICHOLAS EVERITT PARK TO OULTON BROAD PARISH COUNCIL

The Strategic Director presented the report, which provided an update on the Transfers of Trusteeship of Frank Thomas Arnold Bequest to Lowestoft Town Council and Nicholas Everitt Park to Oulton Broad Parish Council.

Members noted that Waveney District Council had inherited the trusteeship of these charities when the Council was created in 1974. The individual Councillors on Waveney District Council were not separate trustees but instead, the Council itself, corporately, was the sole trustee of the charities. The Council had in place a separate Charity Board of the Council (made up of all 48 Councillors) to make decisions relating to these charities.

The Council, in its usual capacity, carried out a 'Community Governance Review' of the un-parished area of Lowestoft during 2016. Following the conclusion of this review, recommendations were made to Full Council for the creation of a new parish for Lowestoft and a new parish for Oulton Broad. The recommendations were duly approved at the Full Council meeting held on 16 November 2016, and then formally implemented through the making of a 'Reorganisation Order' at the Full Council meeting held on 25 January 2017.

The Reorganisation Order formally established the new Councils in law and also transferred to them certain assets. The charity land at Nicholas Everitt Park and Arnolds Bequest was included in the Reorganisation Order, with the intention that trusteeship of these areas could pass to Oulton Broad Parish Council and Lowestoft Town Council respectively, upon their creation on the 1 April 2017.

Members of the Charity Board met, prior to the Full Council meeting on 25 January 2017, and were asked to approve the transfer of trusteeship of the charities, subject to the further decision at Full Council, to approve the Reorganisation Order. A resolution was passed at the Charity Board meeting in January 2017 to transfer the trusteeship of the two charities, in line with the content of the Reorganisation Order.

The Council began work on the creation of the two new Councils and the Charity Commission was contacted regarding the charity land, in order that their records could be updated with the change in trusteeship. During discussions, the Council was advised that the wording of the resolution from the Charity Board meeting on 25 January 2017 did not contain specific reference to the Regulations under which the resolution was made, and as such could not be accepted by the Charity Commission. As a result, this had delayed the process of transferring the charity land at Nicholas Everitt Park and Arnolds Bequest.

Members were advised that this was a technicality only and that the resolution made previously at the Charity Board meeting on 25 January 2017 would need to be confirmed, with the correct reference to the Regulations, in order that it could be registered with the Charity Commission. Once that process had been completed, the trusteeship would be able to transfer.

A Member queried the Council's role as Charity Trustee in relation to Halesworth Swimming Pool and Bungay Town Sports Association, as mentioned in the report. It was confirmed that the Council was currently the named Charity Trustee for those Trusts and there would need to be a further report, in respect of those matters, at a future meeting of the Charity Board.

A Member raised concerns about whether the new wording would be accepted by the Charity Commission on this occasion and whether both Lowestoft Town Council and Oulton Broad Parish Council were aware that the Trusts would be transferred to them. It was confirmed that there had been significant dialogue with the Charity Commission and the Council was confident that the new resolutions would be accepted. Reassurance was provided that both Town and Parish Councils had been made aware of the impending transfers.

With regard to the two transfers, a Member queried whether the Town and Parish Councils could refuse to accept the transfer. It was reported that it was not possible for the Town and Parish Councils to refuse the transfers, as they were part of the Reorganisation Order, therefore there was no other option in this respect. The Charity Board would be advised of the new Trustees for these two charities and their records would be amended accordingly.

With regard to the income from Arnolds Bequest, confirmation was provided that Lowestoft Town Council would receive the income in future, once the transfer had been fully completed.

RESOLVED

That the report be noted.

N.B. Councillor L Gooch arrived during the discussions on this item.

5 CHARITY ACCOUNTS FOR ARNOLDS BEQUEST AND NICHOLAS EVERITT PARK

The Leader of the Council presented the report, which sought the approval of the accounts for the Frank Thomas Arnold Bequest Charity and Nicholas Everitt Park Charity, for the year ended 31 March 2017.

A Member sought clarification about the number of omissions which had been identified regarding the previously presented accounts for 2016/17 for the Nicholas Everitt Park Charity. The Finance Manager advised that this was in relation to the Broad House Museum and Oulton Broad Yacht Club, as not all of the Waveney Norse costs for maintaining those facilities had been allocated to that budget. The cost of maintaining those facilities amounted to £90,000, which Waveney District Council had paid. Members

noted that Item 7 on the agenda would cover this matter in more detail, later in the meeting.

A Member queried the high cost of electricity for Nicholas Everitt Park during 2016, which was considerably higher than in 2017. It was confirmed that electricity was often paid for in advance for these facilities, which resulted in fluctuations in cost between different years.

With regard to the income from the car parks at Nicholas Everitt Park, it was queried whether Oulton Broad Parish Council would be able to retain the car parking fees in future? It was confirmed that in accordance with the legislation and Waveney District Council's Parking Order, only the District Council was able to collect those car parking fees. It was noted that the car parking fees collected did not cover the cost of maintenance, which was currently £153,000 pa. Reassurance was provided that as part of the transfer, a full review of the car parks at Nicholas Everitt Park would be undertaken, to clarify the issues and to ensure all the titles and maps were correct. Another Member queried whether Waveney District Council was able to collect parking fees on behalf of another Council and it was confirmed that clarification in this respect would be provided outside of the meeting.

In respect of the Bowls Pavilion at Nicholas Everitt Park, it was reported that this had been taken over by Oulton Broad Parish Council. Clarification was requested about whether Waveney District Council had issued any leases relating to the Bowls Pavilion. The Property Lawyer stated that no leases had been issued in this respect, however he would check and report back outside of the meeting.

Additional information was requested in relation to the income generated at Nicholas Everitt Park, when the Park was closed for special events such as the Power Boat Racing. It was confirmed that Waveney District Council did not charge the Power Boats for the use of the park, however income was collected by charging for people to attend the event. The Finance Manager reported that he would check further to find out which accounts the monies collected from the various events held at the park were paid into.

RESOLVED

1. That the 2016/17 Accounts for the Arnold Bequest land (Charity Number 304785) as outlined in Appendix A be approved.
2. That the 2016/17 Accounts for the Nicholas Everitt Park (Charity Number 304788) as outlined in Appendix B be approved.

6 TRANSFER TRUSTEESHIP OF ARNOLDS BEQUEST TO NEW LOWESTOFT TOWN COUNCIL AND TO TRANSFER TRUSTEESHIP OF NICHOLAS EVERITT PARK TO NEW OULTON BROAD PARISH COUNCIL

The Leader of the Council presented the report, which sought the approval of the transfers of the trusteeship of the land at Frank Thomas Arnold Bequest to Lowestoft Town Council and Nicholas Everitt Park to Oulton Broad Parish Council.

A Member stated that they were not able to support the transfer as it was against the will of Lowestoft Town Council. Another Member commented that Waveney District Council had resolved to transfer the trusteeships some time ago, so both the Town and Parish Councils had been aware that this would be happening. They also queried whether Lowestoft Town Council had approached Waveney District Council to discuss the matter. The Strategic Director advised that there had been a full and detailed public consultation as part of the Community Governance Review and the Charity Board had originally agreed to the transfer at their meeting on 25 January 2017, where the matter was thoroughly debated.

The Leader of the Council reported that there had been significant debate around this matter and if the wording of the resolutions at the Charity Board meeting on 25 January 2017 had been correct, the matter would have been closed, as the transfers would have automatically taken place. At the time of the last Charity Board, neither Lowestoft Town Council nor Oulton Broad Parish Council had been in existence, so consultations were not able to take place with them at that time. However, the Council's intention to transfer those assets to them had been clear and public knowledge for a long time, due to their inclusion in the Reorganisation Order. The report under consideration was a technicality and was required for legal reasons in order to effect the transfer which had been previously agreed.

RESOLVED

1. That the Charity Board approve the transfer of the trusteeship of the charity known as the Frank Thomas Arnold Bequest (relating to the land shown on the plan on Agenda page 28 in Appendix 1) to the new 'Lowestoft Town Council' with effect from 1 April 2018 pursuant to the provisions contained in section 280 of the Charity Act 2011.
2. That the Charity Board approve the transfer of the trusteeship of the charity known as The Nicholas Everitt Park (relating to the land shown on the plan on Agenda page 29 in Appendix 1) to the new 'Oulton Broad Parish Council' with effect from 1 April 2018 pursuant to the provisions of section 280 of the Charity Act 2011.

7 REQUEST FOR GRANT FUNDING FOR NICHOLAS EVERITT PARK FROM OULTON BROAD PARISH COUNCIL FOR THE 2017/18 YEAR

The Leader of the Council presented a report which sought approval to request a grant from Oulton Broad Parish Council in respect of Nicholas Everitt Park Charity expenditure in 2017/18.

It was noted that the 2017/18 Budget and Precept approved for Oulton Broad Parish Council in the Reorganisation Order, were prepared on the basis that the new parish council would be the sole trustee of the charity from 1 April 2017. It also included provision for the expenditure and income in relation to the charity. Waveney District Council had not made provision for this expenditure in its budget for 2017/18. Consequently, the recommendation within the report was that the Charity Board request a grant from Oulton Broad Parish Council, in respect of the charity's net expenditure in

2017/18. The Leader of the Council provided clarification that the size of the grant to be requested had been reduced from £85,975 to £70,000 and the amended recommendation was duly proposed and seconded.

A Member queried whether Oulton Broad Parish Council was legally obliged to pay the Council the £70,000 as requested. It was reported that the legal situation was currently unclear, however there was a moral and ethical reason for the Council to be reimbursed, as it had paid for the maintenance costs on behalf of Oulton Broad Parish Council in good faith. The Leader of the Council provided reassurance that the Council was in negotiations with Oulton Broad Parish Council in this respect and that they were fully apprised of the situation.

The Finance Manager provided clarification that the Council assisted with the maintenance of Nicholas Everitt Park and had paid an annual grant to assist the Charity, the last grant was of £153,628. As the Council has unwittingly paid for a large proportion of the maintenance costs, it was appropriate to request Oulton Broad Parish Council to repay the District Council £70,000 for those funds. The Council had also reduced the size of their funding request, in order not to cause Oulton Broad Parish Council financial hardship. The Leader of the Council advised that this was a technical matter and the error needed to be corrected.

A Member queried whether Oulton Broad Parish Council was willing to accept this request for a grant. It was confirmed that discussions had been going on for some time and Councillor Falat, Chairman of Oulton Broad Parish Council, confirmed that he was satisfied to accept the reduced figure of £70,000.

A Member raised concerns about whether the budget for Oulton Broad Parish Council was sufficient for the future. It was reported that significant work had been done in setting up the respective budgets for the new Parish Councils and that both Councils were financially viable in the long term.

With regard to the recommendation in the report, it was suggested that the recommendation be further amended to clarify who the grant would be paid to. This was duly moved and seconded and it was

RESOLVED

That a grant of £70,000, be requested from Oulton Broad Parish Council, to reimburse Waveney District Council for the expenditure in relation to Nicholas Everitt Park Charity, during 2017/18.

The meeting was concluded at 6.02 pm.

Chairman