

14 March 2019

Malvern Hills Trust

Ordinary Meeting of the Board

St James Parish Church, Welland.

Thursday 14 March 2019 7.00 pm

Present: Mr D Baldwin, Dr S Braim, Mr Bryer, Mr M Cordey, Mr M Davies, Dr P Forster, Mr S Freeman (Chair), Mr A Golightly, Mr R Hall-Jones, Mr D Hawkins, Mrs L Hodgson, Mr J Michael, Mrs C O'Donnell, Mr J O'Donnell, Mrs O'Donnell, Mr C Penn, Prof Raine, 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, 4 members of the public.

No attendance: Ms Bovey, Mrs E Holton, Ms Stewart

The Chair welcomed everyone to the meeting.

1. Apologies for absence

Mr Bartholomew, Mrs Cumming, Mrs Rees.

2. Chair's announcements

- i) Special Board meeting 19 March 2019 7pm, Gryphon Room, Malvern College
- ii) Site meeting 29 March 5pm, meeting point to be confirmed
- iii) Michael McNevin, a former board member (1972 – 1996) and former Chair of the Trust had died on 20 February. Mr Freeman noted the contribution which he had made and extended the Board's sympathy to his family.
- iv) Mr Golightly said that Med Snooks of Castlemorton had died. He had been a long term member of Castlemorton Common Association.

3. Declarations of interest

There were none in relation to this meeting.

4. Public Questions

See Schedule to the minutes.

5. Declarations of interest in relation to the meeting on 19 March

Ms Rouse took the chair.

Mr Freeman made a statement about an alleged conflict of interest. He had had no reason to consider he might be perceived as having a conflict of interest in relation to the Chance Lane easement application until the Secretary to the Board advised him that she had received a call from a member of the public suggesting that he might have an indirect financial interest in the outcome of the application because of its purported effect on the value of adjacent land in the ownership of a third party with whom Mr Freeman had a connection. Although he was initially unable to understand to what the caller could be referring, it became apparent that the third party concerned was the Madresfield Estate. Mr

Freeman's wife's grandmother (the late Countess Else Beauchamp) was married to the last Earl Beauchamp. The family which now occupied Madresfield Court were descendants of the last Earl's brother. Mr Freeman's wife was neither a descendant of the Earls Beauchamp, nor a blood relative of the family. Her mother was the child of the Countess' previous marriage. Until the tax year 2013/14 Mr Freeman's daughters received an annual income distribution from a settlement established for the benefit of the descendants of the late Countess which was administered by the trustees of various Beauchamp settlements. There was no reason to believe that those distributions would ever resume.

The Secretary to the Board had contacted the Trust's solicitors, who advised that the connection was too remote to be considered a conflict of interest but that he should make full disclosure to 2 senior Board members. The disclosure was made to the Chair and Vice-Chair of Governance Committee.

The latest SHELAA map disclosed that land owned by Madresfield Estate and close to the easement site had been put forward in the call for sites.

Ten days ago Mr Freeman had been made privy to an exchange of E-mails between third parties, which disclosed an intention to attack his personal integrity and which contained significant misinformation, including that he "owned" property companies. Although he was a director of 2 companies, one of which held land, it would have been evident from the company records that he had no financial interest in either.

Mr Freeman said he would declare the matter at the meeting on 19 March and it would be for the Board to decide whether he had any conflict of interest, real or perceived.

James O'Donnell had contacted the office. He did not accept that he had a conflict of interest in relation to the Chance Lane easement application to be determined on 19 March, but he recognised that it was a matter for the Board to decide and he asked whether it would be possible to determine the matter in advance at this meeting. The Secretary to the Board's view was that Board members had had no notice of this request - some who were absent might want to contribute to the debate, and she did not feel it came within the definition of urgent business. Mr O'Donnell said it would be useful to have the Board's views to clarify his position. Ms Rouse said that she felt Board members were not forewarned about the possible debate and would not have the Conflicts Policy and legal advice to hand. She also felt it would be helpful to determine the various conflict of interest issues affecting Board members at the same time. Mr Freeman recognised Mr O'Donnell's good intentions in asking to have the matter dealt with in advance of the meeting on 19th March. Mr Hall-Jones said he believed there was a duty on Board members to take part in proceedings unless there was a recognisable interest that they had to declare. He asked under what provision of the Malvern Hills Acts were Board members excluded from participation in a Board meeting. The Secretary to the Board said it was not part of the Acts but a matter of charity law that charities had to deal appropriately with conflicts of interest and if they failed to do so it could be a matter for the Charity Commission or could result in a Judicial Review.

The Secretary to the Board explained to Mrs O'Donnell that if Mr O'Donnell had a personal conflict of interest, then she too would have a conflict of interest as a connected person (his mother). The Secretary to the Board agreed to circulate a list of Board members who might possibly have a conflict of interests or loyalty according to the interests disclosed on the Register of Interest.

Mr Freeman took the chair.

6. To confirm the Minutes of the Board meetings held on 17.01.2109 (agenda item 5)

On the proposal of Mr Freeman, seconded by Mrs O'Donnell, it was **RESOLVED** (with 1 abstention) to approve the minutes of the meeting held on 17 January 2019.

7. Matters arising (agenda item 6)

The CEO reported that the funding agreement with MHDC had been signed.

8. Governance Committee (agenda item 7)

8.1 On the proposal of Prof Raine, it was **RESOLVED** by the committee members present to approve the minutes of the meeting held on 24 January 2019.

8.2 Matters arising

Prof Raine went through the matters reported in the minutes.

8.3 Adoption of minutes

On the proposal of Prof Raine, seconded by Dr Braim it was **RESOLVED** unanimously to adopt the minutes of the meeting held on 24 January 2019.

9. Finance Administration and Resources Committee (agenda item 8)

9.1 On the proposal of Mr Davies, seconded by Mrs Hodgson, it was **RESOLVED** by the committee members present to approve the minutes of the meeting held on 14 February 2019.

9.2 Matters arising

Mr Davies went through the matters reported in the minutes and confirmed that the increase in the levy for a band D property would be 2.7%.

Mr Davies also made the Board aware that the cost of tree safety work had exceeded the budget (which had been set in 2017). The work advised as a result of the tree safety survey had been double that required in the previous year. The overspend was likely to be in the region of £8,000 and FAR would be considering how better to manage the Trust's exposure to these sorts of variables. Mr Watson asked if there had been any progress with the refurbishment of Manor House.

The CEO confirmed that a meeting with the architect had been scheduled with a view to taking forward the revised plan.

9.3 Adoption of recommendations and the minutes

On the proposal of Mr Davies, seconded by Mrs Hodgson it was **RESOLVED** unanimously to adopt the minutes of the meeting held on 14 February 2019:

10. Charity Commission Scheme (agenda item 9)

Prof Raine went through the paper which set out further detail for inclusion in the consultation document for the Scheme about the working of the Independent Nomination Panel.

Mr Street suggested that the specialisations should be categorised – land and financial management as essential and human resources and charity governance as desirable. Ms Stace said she thought all the skills were

important and should not be differentiated. Mr Watson asked whether clause 4 of the draft intended to say “exceeding 75%” and whether not less than 75% would be appropriate. He also asked whether the public should attend the INP meetings. Prof Raine said it might be a deterrent to many potential candidates if they found their personal information was to be discussed in public. Prof Raine confirmed (in response to a question) that it was proposed to restrict the appointment of Board members or connected persons to the INP. Mrs Hodgson suggested phasing the turnover if INP members. She also thought that the deliberations of the INP should be made in private as they would be talking about individuals. Ms Rouse agreed that the INP’s decision making process should not be in public. Mr O’Donnell suggested that as a public body the organisation would be open to a Freedom of Information Act request. The Secretary to the Board confirmed that the Freedom of Information Act did not apply to Malvern Hills Trust. The Chair confirmed that the Trust normally responded to requests for information on a voluntary basis.

On the proposal of Mr Freeman, seconded by Prof Raine, it was **RESOLVED** (16 votes in favour, 5 against and one abstention) that the proposals contained in the paper should be incorporated into the draft Charity Commission Scheme consultation document.

11. Application to site bus shelter on Poolbrook Common (item 10 on the agenda)

Ms Hodgson declared a conflict of loyalty as she was funding the project in her capacity as County Councillor. Mr O’Donnell also declared a conflict of loyalty as MHDC ward councillor and town councillor.

The CEO went through the paper and explained that Worcestershire County Council had now submitted an amended application taking into account the points raised by the Land Management Committee in respect of their first application. The County Council legal department had sent Heads of Terms for inclusion in a licence to formalise the arrangement.

Mr O’Donnell and Mrs Hodgson left the meeting.

On the proposal of Mr Freeman, seconded by Ms Rouse it was **RESOLVED** (19 votes in favour, 1 abstention):

- (i) That the Board grant permission to Worcestershire County Council to construct a base and erect a wooden bus shelter measuring approximately 3.5 x 2.0 metres at the location shown on the plan attached to this paper (subject to minor variation to accommodate underground services)
- (ii) That approval and signature of the documentation confirming the arrangement be delegated to the CEO

Mr O’Donnell and Mrs Hodgson returned to the meeting.

12. Charity Commission Scheme (item 11 on the agenda)

The Secretary to the Board reported that responses were still outstanding from the DCMS. These were required before MHT could make progress with the consultation. The Charity Commission had sent through an analysis which confirmed that in their view the charity was the body corporate, and the land was

held beneficially by MHT. A meeting had been arranged with Wimbledon and Putney Common Conservators, who were also preparing for a Scheme and to whom the same considerations applied. Their working group included a QC specialising in public land and a barrister who specialised in charity law. The Charity Commission were keen to ensure that organisations with similar constitutions were in agreement over the interpretation. The Secretary to the Board confirmed that she thought it was highly likely that the elections scheduled for November 2019 would go ahead as the Scheme had not made sufficient progress.

Mr Davies confirmed that costs were currently approximately £108,000.

13. To appoint another Wildlife Panel member (agenda item 12)

The constitution of the committee required 4 Board members on the panel, and there were currently 3. Dr Braim was appointed.

14. Urgent Business (agenda item 13)

There was none.

15. Information (agenda item 14)

15.1 Malvern Spa Association No report

15.2 AONB Joint Advisory Committee No report

15.3 Wildlife Panel Meeting on 6 March 2019 – report to next meeting

15.4 Recreation Advisory Panel No meeting has taken place

15.5 Management Report

The CEO confirmed that more investigations were ongoing into the drainage system for the British Camp toilets. The car park ticket machines would be replaced in late April (after Easter – at MHT request). The CEO had had 2 further meetings at Brockhill Road, to look at an alternative surfacing method and to discuss setting up a residents' association. The Conservation Manager had met with Natural England (NE) to talk about the Schemes that expired in March 2020 (Southern Hills and Castlemorton). NE thought that there would be a replacement Scheme. There were no details at this point.

16. Items for future consideration (agenda item 15)

There were none.

17. Next meeting

13 June 2019 7.15pm Lyttelton Rooms

18. Confidential item (agenda items

On the proposal of Mr Freeman, seconded by Ms Rouse, it was **RESOLVED** unanimously to exclude the public for discussion of item 18 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 (Staffing matter).

The meeting closed at 8.36pm

Schedule

Submitted by Graeme Crisp

1. For some time after the Trust's demand for residents comments on a two week deadline in August 2018 the trust announced that they were not ready to consider the RFP easement request. Why was this, and what changed to make them announce a special board meeting in December?

The Trust were unable to consider the request for an easement from RFP until all the information required was available. A meeting was scheduled when the information was to hand.

2. Is the Trust still proposing to coach the trustees in private on their view of the comments raised by residents? If so why are they not prepared to be transparent and conduct this suspect process in public?

The Trust will not be coaching Trustees on their views of the comments raised by residents.

He asked why the meeting on Tuesday was not held in public.

The "meeting" was a workshop. It was not a meeting and no decisions were taken.

3. The local residents have made their legal arguments open to the public and available to all. Will the Trust do the same? If not why not.

We have no idea what "legal arguments" have been made available to the public by "local residents". Legal advice is privileged and it is not appropriate for MHT to disclose it.

4. Has the Trust discouraged Trustees from accepting resident's invitations to visit the site in their company. If so why. If not will they make it clear that trustees are free, even at this late stage, to do so?

Board members were advised that the Trust would be making arrangements for site visits when all the necessary information was available. Any Trustees who wish to meet with local residents will have already done so.