



Council Meeting

Minutes

Hamble Parish Council, Parish Office, 2 High Street, Hamble, Southampton SO31 4JE

Minutes of the **Extraordinary Meeting Cemex Governance of HAMBLE PARISH COUNCIL**
Meeting held on **Monday, December 23, 2024** at **09:00 - 10:30** in the **Roy Underdown Pavilion;**
Meeting Room

Present: Chair Chris Jones, Trevor Dann, Ian Underdown, Simon Hand, Michelle Nicholson, Sue Kendall, Serena Alexander,

Apologies: Mark Venables, Tony Moody, Malcolm Cross, Nick O'Donnell

Staff In Attendance: Clerk

Partners and Consultants in attendance: Claire Price SmartMarketing, Steve Tilbury Consultant

Minute Reference for this meeting is the following format (DD/MM/YYYY) + minute item number

MINUTES

1 WELCOME

There were apologies for absence from Cllr Venables, Cllr Cross, Cllr Moody, Cllr O'Donnell

Claire Price from Smart Marketing and Steve Tilbury were in attendance and there were 6 members of the Public present, 5 who are members of the HPRG Hamble Peninsular Residents Group.

There were no interests.

Dispensations for Cemex from Cllr Underdown, Cllr Nicholson, Cllr Alexander and Cllr Dann

The Chair outlined why this meeting had been called and what is right for the Parish Council to do and that there is an expectation to pursue being part a Rule 6 party which is the process for interested parties to be fully involved in the appeal process in addition to the County Council and the Cemex the Appellant..

He continued that in reading the statement of case from Cemex The County Council appear to not be raising any arguments and therefore, the Rule 6 party will likely be the only party to raise them.

He said the biggest risk we have is going into the process and to embrace things that are not relevant and be liable for costs. We therefore need to put in place a structure in partnership with the Borough Council and the Residents Group so there is a corporate face for this process, to manage money and make sure we are not putting ourselves as the Parish at Risk.

There had been lots of discussions with HPRG (Hamble Peninsula Residents Group) and EBC (Eastleigh Borough Council) as to how we make this happen, how we get agreements in substance and then put in place the necessary governance. The Parish Council will need to set up a mechanism that fits in with our rules with handling the financial elements.

He said we would therefore, set up a Committee of the Parish Council, which is not a group that debates what is discussed in the Rule 6 participation, these discussions will happen in our Cemex co-ordination group and this is where the debate will happen, that team is very active and clarify what we as a Council prioritises.

HPRG are doing the same and EBC who are a planning authority will assist with financial support and planning advice. When these groups reach a consensus this will be presented to the lawyer and we expect to follow whatever that opinion is, however, passionate we are the only thing that matters is what the barrister thinks our case should be.

The HPRG have already appointed a Barrister and that as lead party, the Parish will continue with this. How we co-ordinate in this process needs to be worked out.

2 GOVERNANCE/RULE 6 PARTY

The Chair continued that to put all of this into effect we need a Sub-Committee who will oversee the Governance and the Chair proposes that this be himself as Chair and Cllr Nicholson as she is the Chair of Finance, Cllr Hand who has the most experience in Council of how local government works.

Cllr Hand then mentioned that Steve Tilbury had worked with another Parish who had been involved as an Interested Party rather than Rule 6 and were able to attend the enquiry and ask questions of every witness and given the opportunity to test. Steve Tilbury stressed he is not suggesting that this should be the case for this matter and he did not wish to influence any decision.

Steve Tilbury went on to say that the most critical date is for statement of case of 23rd January and having all your witnesses lined up.

Council Underdown made it clear this must be a Committee and not a Sub-Committee. The Chair concurred.

Cllr Dann then said he would like to quantify the maximum risk that the Parish could be exposed to as a village and who would be liable if one of the 3 parties were unable to contribute to this.

The Chair responded that in the Terms of Reference it states that the Parish Council cant make a commitment for monies that have not been agreed. There are controls. But the level of risk increases as we go through the process, but if we behave reasonably there should be no costs awarded against the Parish. The key Governance is that we need to be absolutely clear as to what the legal advice is.

Steve Tilbury said the appeal is happening even if the County sign a statement of common ground. He went on, behaving unreasonably could be procedurally for instance not submitting something, so simply don't do this or putting forward evidence that the other side has to respond to and the inspector says that evidence was not 'bad' but thus making the enquiry deal with it, ie something never discussed and a witness puts up a claim and the other side have to defend. He said you will always be liable for your own costs. Liability for other side would be that 'you' have made them incur costs for something 'you' have done, ie introducing evidence that they have to defend.

The HPRG asked to speak and said let's be clear we will be responding on the advice that a Barrister gives us and wouldn't bring any evidence that is not advised. The advice we get from Counsel on which points to make and what evidence he thinks you should present.

The Chair then said based on the inquiry being only two days this will limit the costs to some degree.

We don't incur any costs until we submit the statement of case on 23rd January 2025.

The Vice Chair, asked if anyone from the Residents Group could be personally liable for this debt.

A member of the residents group stated that on Cemex's application they ticked they will not be seeking costs but Steve Tilbury urged all that they must ignore this.

Another member of the residents group stated that Leigh Day are already involved and this group knows how to ask for legal opinion and how much weight is put on this. They will only give legal opinion on what we ask. Then it is for that Barrister to tell us if any of those arguments are worth moving forward. They have looked at Hydrology and Highways and we learnt in the Regulatory Committee process that we need experts. There will be nothing that we haven't introduced before. It will be legally sound and seen as fair and reasonable.

A member of the public said a Rule 6 party is the only way to do that. The Risk issue is low and if you manage relationships properly and line up a resident as an interested party, so in the event of a 50-50 weighting you ask a third party to raise this argument.

The Chair said that he proposed that we adopt the Terms of Reference and set up of this Committee. It was **Resolved** to agree to the Committee and TOR. Proposed by Cllr Dann and seconded by Cllr Alexander and all in favour

3 CEMEX APPEAL

Cllr Dann asked whether new information could be brought in. Steve Tilbury said the Inspector will want to know that it is within the rails of the reasons for refusal. New evidence has to be relevant and what has already been provided. There was discussion about this.

Cllr Nicholson asked if the residents group would share who the Barrister would be and they responded that it was Ben Fulbrooke from Landmark Chambers

Another member said they have asked - do we have a case, are we going for an appeal or are we going for mitigation and then move to the statement of case following that advice.

The Chair said unless something comes up with a powerful reason to change, we will continue with this legal team as the lead party and he went on to applaud the work that the residents group had done.

4 PUBLIC PARTICIPATION SESSION

A member of the residents group said that their Barrister had never come across costs awarded against a Rule 6 party and this process is to encourage and not discourage the local community to participate.

Steve Tilbury agreed it is unusual to have costs awarded but it's not unheard of.

The Chair closed the meeting 09.58am

5 EXEMPT BUSINESS

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 in respect of the following item(s) of business on the grounds that it is/they are likely to involve the disclosure of exempt information as defined in paragraphs 1, 2, 3 of Part 1 of Schedule 12A of the Act. The Schedule 12A categories have been amended and are now subject to the public interest test, in accordance with the Freedom of

Information Act 2000. This came into effect on 1st March 2006. It is considered that the following items are exempt from disclosure and that the public interest in not disclosing the information outweighs the public interest in disclosing the information.

There was no exempt Business for Discussion

Meeting ended at **9.58am**

CHAIR _____