

BATH AND NORTH EAST SOMERSET

MINUTES OF CHARITABLE TRUST BOARD MEETING

Wednesday, 29th January, 2020

Present: Councillors Paul Crossley (Chair), Rob Appleyard, Paul Myers, Mark Roper and Joanna Wright

12 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

13 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the emergency evacuation procedure.

14 APOLOGIES FOR ABSENCE AND SUBSTITUTION

There were no apologies for absence.

15 DECLARATIONS OF INTEREST

There were no declarations of interest.

16 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was no urgent business.

17 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

Mr Graham Page, Independent Member of the Alice Park Trust Sub-Committee submitted a number of questions. A copy of the questions and responses is attached as *Appendix 1* to these minutes.

18 MINUTES OF THE MEETING OF 11 JULY 2019

The minutes of the meeting held on 11 July were confirmed and signed as a correct record.

19 ALICE PARK TRUST

Mandy Bishop, Director of Environment Services, presented the report which set out three options for the future governance of the Alice Park Trust:

- Sole trusteeship
- Shared trusteeship
- Company limited by guarantee

Derek Swift, who was one of the co-sponsors of the proposal put forward to transfer responsibility for the Trust to an independent community-led initiative spoke on this item. He disagreed with the conclusion set out in the report that the retention of the current model represents the lowest risk. He stated that the Council cannot be worse off because it already provides a large subsidy to the Trust. He pointed out that under a company by guarantee the Council would have a diminished voice but that this was a negative aspect for the Council and not necessarily for the Trust. The aim would be to ensure that, over time, the level of subsidy provided by the Council decreased as long-term sustainability was very important. The structure that he had proposed provided for specialists and a “friends” group. He also queried the assumptions in the report about the provision of public conveniences and the tennis court hire income.

Graham Page, independent member of the Alice Park Trust Sub-Committee, referred to the public statement that he had submitted. He outlined the three main points – management, voting and financial arrangements. He felt that under the current governance arrangements it appeared that the Council is running the park rather than an independent Trust.

Mandy Bishop, Director of Environment Services, stated that this is a strategic issue for the Charitable Trust Board to consider, in particular, how far the Council wishes to hand over control to an outside organisation. She responded to the issues raised by Mr Swift stating that her understanding was that the break clause for the public convenience contract was 12 months for the whole Council contract. She acknowledged that the assumption made on tennis court income was based on 2018 figure and explained that there would soon be a new model for the tennis provision.

Cllr Appleyard thanked the two public speakers for their contribution. He stated that the Sub-Committee now has a clear vision for Alice Park and that the Councillors involved have a great deal of experience. As Chair of the Sub-Committee he did his best to accommodate all views. He suggested that a 10-year plan should be produced for the park with the aim of increasing the income stream and ultimately to remove the need for a Council subsidy.

Although there is a cost for providing the public conveniences in the park this covers two cleans per day, consumables, building maintenance and security. He stated that the Sub-Committee would be keen to create a small management team for the park, which would be open to the community, to undertake operational tasks such as event bookings.

The new offer for tennis court provision will provide good quality facilities. Cllr Appleyard was optimistic for the future of the park and noted that it is very well supported within the local community. The creation of a circular path around the park has proved very popular. It is now important to focus on improving the children’s play area.

Cllr Myers pointed out the any law and structure should serve the purpose of an organisation and stressed that Councillors are here to serve the community. He recognised the frustration of the public, officers and councillors who have been involved with the governance of the park. He stated that the Sub-Committee is listening to the views of the public and welcomed the opportunity to work with them.

He pointed out that the Trust is currently not financially independent and that it had originally ended up being administered by the Council for this reason. He felt that it could be difficult for an outside organisation to be financially viable. However, it would be a mistake to ignore the energy of the community and there should be a commitment to tackle any issues that arise.

He proposed that there should be a round table management committee structure enabling everyone to work together to ensure that the Trust serves the people.

The Legal Services Manager explained that the Council currently administers the Trust through the Alice Park Sub-Committee. The Local Government and Housing Act 1989 Section 13 does not permit co-opted members to have a vote on such a body. The ultimate decision must be taken by the Council unless it divests itself of the Trusteeship. Day to day operational decisions could be made by a management committee but strategic decisions must be taken by the Council as sole corporate Trustee.

Cllr Myers noted that a management group could work up a plan and bring it forward to the Sub-Committee for a final decision. Community engagement is important although it was accepted that decisions must still be taken formally.

On motion by Cllr Appleyard, seconded by Cllr Myers it was RESOLVED unanimously:

- (1) To note the report.
- (2) To agree to retain the sole trusteeship delivery model for the governance of the Alice Park Trust.
- (3) To ask the Alice Park Trust Sub-Committee to produce a 10-year plan for the Trust with the aim of becoming financially sustainable. Consultation on the proposed plan should take place with the local community.
- (4) To thank the local community for their support and to ask the Alice Park Trust Sub-Committee to work with them to develop the existing volunteering arrangements to achieve greater community engagement and involvement. To request the Sub-Committee to propose a suitable community engagement model for consideration at the next meeting of the Charitable Trust Board.

20 ALICE PARK TRUST SUB-COMMITTEE - ANNUAL REPORT

The Board considered the Annual Report from the Alice Park Trust. Cllr Rob Appleyard presented the report and thanked officers for all their work to support the Trust. He specifically thanked Marie Todd, Democratic Services Officer and Michael Hewitt, Legal Services Manager and previous members Cllrs Geoff Ward and Lin Patterson.

Graham Page, independent member of the Alice Park Trust Sub-Committee, expressed concern that the co-opted independent members do not have voting rights. He suggested that this issue could be referred to the Charity Commission for consideration.

Derek Swift, a member of the public, stated that he believed that the accounts for the Trust were incorrect and did not comply with the relevant charity legislation.

The Democratic Services Officer stated that the Head of Management Accounts had responded to concerns expressed by Mr Swift stating that “this is a matter of presentation and that there was not a material error in the accounts that would require re-statement.”

The Chair, Cllr Crossley asked the finance officers to respond to the concerns raised. If necessary, the matter could be considered at the next Alice Park Trust Sub-Committee meeting. Cllr Appleyard stated that he would discuss this issue further with the accountants.

RESOLVED: To note the annual report of the Alice Park Trust Sub-Committee.

21 DRAFT ANNUAL REPORT TO COUNCIL FROM THE CHARITABLE TRUST BOARD

The Board considered its draft annual report for submission to full Council. The report set out details of the Board’s work over the previous year. The Board currently only oversees one Charitable Trust relating to Alice Park.

Nick Allen, a member of the public, expressed concern about the lack of representation for local people at the Alice Park Trust Sub-Committee meetings. He felt that the process could be more inclusive. He also mentioned the report from the Bath Area Play Project which had not been made available to him.

The Legal Services Manager explained that the Sub-Committee operates under the rules of the Council Constitution. There is provision for public speaking at the beginning of the meeting; however, ad hoc comments cannot be taken during the debate.

Cllr Appleyard stated that he understood the passion people had for the park and welcomed public input. However, the meeting had to run to the agreed process to enable the members to make decisions on matters put before them. He explained that the Bath Area Play Project report was a private piece of work which has not been considered by the Sub-Committee.

Members then discussed whether to retain the role of an independent member on the Charitable Trust Board. On balance members felt that the role should remain, even if the post remained vacant as someone may come forward who wishes to become involved.

RESOLVED:

- (1) To approve the report for submission to full Council subject to the deletion of the recommendation to remove the role of independent member from the Board’s Terms of Reference.

(2) To agree that the role of independent member on the Board remain vacant and that this be advertised at a later date.

22 DATE OF NEXT MEETING

The Board agreed to meet in early July and asked the Democratic Services Officer to consult on suitable dates.

The meeting ended at 4.00 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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Charitable Trust Board Wednesday 29th January 2020

Public Questions and Statements

Graham Page - (Reference Agenda Item 10)

Statement

I have read the details as laid out in item 10. I note the concern by the Director of Environmental Services. Whilst the Council are concerned about its own liabilities it does not fully address the issues surrounding the governance of the Trust and makes reference to the management of the Park.

Point 1.

The management of the Park has improved significantly under the stewardship of former Councilor Geoff Ward and built on by the present chairman Councilor Rob Appleyard. However, the involvement of BANES is primarily related to service agreements i.e. Horticultural and arboreal services, playground equipment and litter collection.

The main managerial service that was provided by the council was help with Events management in the park. This service was withdrawn in February 2019.

There are many issues such as licensing arrangements for commercial users of the park, regulation of activities e.g. barbecues, use of drones that the Trust has yet to get to grips.

Point 2.

The Board discussion covered the issue of voting. The present advice restricts decision taking to elected representatives of the council. The requirement to appoint independent members but without voting rights re-enforces the that activities in the park are totally under control of BANES.

Point 3

Whilst the council have been generous in their financial support, all financing of the park is dependent on the council. As a government organization many grant giving bodies who have funds are deterred from making grants in support of the activities the park provides as they not seen as a truly independent charitable trust.

Question

Bearing the above points in mind, how far without wishing unduly reducing the support that Banes gives to the Trust, that an alternative model of governance be devised to allow both for attracting wider sources of funding and enhancing the management of the park?

Response

This is a strategic issue to be determined by the members of the Charitable Trust Board. It very much depends upon the risk appetite of the Council in how far it is prepared to go in either divesting itself of responsibility for the Trust or delegating its decision-making function. Once that strategic decision is made there is still a risk that the perception of the Trust's Independence is considered to be insufficient to attract funding from other sources.