

Cyngor Cymuned Cwmllynfell Community Council

Minutes of the Meetings at Cwmllynfell Hall on Thursday 16th March 2017 at 6.30pm

Present Councillors

Councillor E L Morgan (Vice-Chair) presided

J C Rees, D B Thomas, D C Phillips, G J Davies, M Evans, D Lloyd, H A Lewis

In Attendance

K Rochard

116. Apologies for Absence

Cllr K Lloyd, R Evans

117. Declarations of Interest

G J Davies for Minute 64 and Minute 121.4

118. Minutes of the Council Meeting held on 16th February 2017

Resolved: Agreed and signed as a true and accurate record.

119. Matters Arising

Minute 42 c) Rhiwfawr Park – Drainage

As a result of a meeting with the Clerk to Ystradgynlais Town Council the contact details of their technical advisor was provided in order to view the three drainage proposals. The advisor was contacted and unfortunately they are unable to take on any new clients however they were agreeable at a no fee basis to carry out an assessment and view the documentation. The recommendation from the technical advisor is to select the scheme proposed by Redwood Environmental. In addition to this they suggest that annual or biennial aeration of the field would be beneficial to consider in future years for all the solutions.

In addition to this a second technical adviser was approached to discuss the scheme who again supported that Redwood Environmental provided the most effective scheme.

Each of the companies were requested to provide contact details for referees who have had similar work that can be contacted and for a copy of the insurance. All have provided satisfactory insurance information. References have been received for Paul Fox (2), Kerry Jones (2) and Redwood Environmental (1) and all were satisfactory.

Resolved to select Redwood Environmental contractor and discuss the possibility of reducing the waste disposal, Heras fencing and welfare unit costs.

Minute 57.3 Other Urgent Financial Matters – Christmas Lights

Contact has been made with Neath Town Council who have provided the details for the company they hire their Christmas decorations from. Neath Town Council have opted to have LED lights that have reduced the running costs and entered a three-year contract with Commercial Christmas who are based in Llanelli. A site meeting has been arranged for 23rd March to discuss what is possible.

Resolved for the situation to be noted.

Minute 64 Rhiwfawr Community Association

The Association has identified a third holding trustee, the Trust Deed has been drafted and is currently with Carys Miles, NPTCVS. It is anticipated that the Trust Deed will be finalised in very soon. The accounts have been audited and three quotes have been obtained for the roof repair work. Paul Hinder, NPTCBC, has been contacted and he has stated that the grant decision would be quick.

Resolved for the situation to be noted.

Minute 65 Rhiwfawr Play Park

The grant application for third party funding made to NPTCBC East Pit Opencast Community Benefit Fund has been successful. The amount secured on a conditional offer is £2,330.39 subject to a successful WREN application. The outcome of the WREN grant application will not be known until 17th May. Further information has been requested by the WREN Grant Officer and this has been provided within the deadline.

Resolved for the situation to be noted.

Minute 90.1 Future Storage of Paperwork

The Clerk is now in possession of the keys to Rhiwfawr Community Hall and the paperwork will begin to be removed over the forthcoming weeks.

Resolved for the situation to be noted.

Minute 111.1 Street Lighting – Harris Road

Cllr K Lloyd has provided an update. NPTCBC wish to upgrade the lamp posts but are in dispute with the landowner of the field opposite so matters have gone to the Legal Department. The problem is that that permission to change the light bulbs and upgrade the lamp posts cannot be separated. It needs to be established who owns the grassy verge and why the bulbs cannot be changed without intruding on the field. This can only be answered by NPT Lighting Dept Manager and he is not back from bereavement leave until 4th April. Ogwyn Williams and the residents have been updated.

Resolved for the situation to be noted.

Minute 112.3 Grounds Maintenance Contract

Invitation to quote for the grounds maintenance work was sent out 2nd February with a deadline of 9th March 2017. Four companies have submitted quotes.

The budget set is £4,268 for 2017/18. The quotes received are:

- Company 1 £4,310
- Company 2 £5,749.51
- Company 3 £6,040
- Company 3 £5,710.08

All of the companies are reputable and have the necessary insurance in place.

Resolved to select Company 1 for the grounds maintenance contract for demonstrating best value for money. This company is Wrenvale Nurseries and Landscapes.

The £42 shortfall is to be met from the free reserves.

Minute 114.1. Gynol Road and Harris Road

The common land map has been received and it would appear that neither road is affected.

A response has been received from the solicitor associated with One Voice Wales regarding advice requested about the powers available to the Council to undertake work to the unadopted highways, Gynol Road and Harris Road. Below is the response received 27th February.

Client: Cwmllynfell Community Council
Subject Matter: Repairs to unadopted roads.

I have been allocated this request to advise upon and I have seen your email dated 20 February 2017 together with your email exchange dated between 10 and 14 February 2017 with the Community Clerk.

The issue in this request is whether the Community Council has the power to pay for repairs to unadopted roads in the community where those roads serve the general population as well as the immediate households. The Community Council has been in contact with the highway authority, Neath Port Talbot County Borough Council (NPTCBC) but that authority is not prepared to adopt the road or pay for repairs to it. The Community Council has obtained quotes for basic repairs to the two roads of £7,000 and £12,000 respectively.

I assume that the roads in question are highways albeit not ones maintainable at the public expense. By highway I mean a route over which the general public have a right to travel at any time without permission. As they are not maintainable at public expense the duty to maintain them lies with the owners of the land over which the road runs in that they have to keep it in a condition suitable for the traffic using it. The general rule is that when a highway has different landowners on each side those properties own the land to the middle line of the highway unless evidence proves differently.

Section 43 of the Highways Act 1980 permits a local council to make repairs to a footpath, bridleway or restricted byway that is maintainable at the public expense but beyond that a local council has no power to maintain a highway.

The Power of Well-Being under section 2 of the Local Government Act 2000 (2000 Act) allows the Community Council to take any actions that it believes are for the economic, social or environmental well-being of its area, or some of the population, so long as there is no existing prohibition against the action in question. However, the Welsh Government guidance on the use of the Power of Well-Being (Statutory Guidance to Welsh Local Authorities on the Power to promote or improve Economic, Social or Environmental Well-Being under the Local Government Act 2000) issued in April 2013 states "This means that while the power to promote well-being is subject to such other powers that exist in primary or secondary legislation, it is not subject to limitations which might be implied or inferred from the way in which those powers have been drafted in existing legislation". Section 43 of the 1980 Act does not prohibit a Community Council from maintaining a highway, and therefore it is not a limitation that would exclude the Power of Well-Being.

As the unadopted road serves more than just the houses along it the Community Council could conclude that repairs to the roads were for the benefit of the area or the population. I am also told that the roads are used by non-residents to access other areas and that they therefore provide a benefit to the public at large. If this is the case then the Community Council should identify in the minutes which of the three areas of benefit (economic, social or environmental) covers the road repairs. The decision whether to use the Power of Well-Being and the benefit arising from that use are for the Community Council to decide and to justify if necessary.

However, the Power of Well-Being does not allow the Community Council to raise money so all expenditure must come from ordinary funds. The Power of Well-Being replaces the power under section 137(1) of the Local Government Act 1972 (1972 Act) but the limitation on spending under section 137 of the 1972 Act applies to the Power of Well-Being (as a pre-existing limitation) so the maximum amount that can be spent for the year 2016/2017 under the Power of Well-Being is £7.42 per elector. Any grants made under section 137(3) of the 1972 Act would also be included in this limit.

I hope that this clarifies the position but if the council requires any further information or advice please contact NALC again.

Yours sincerely

Gary Barker

Solicitor

National Association of Local Councils

The Council for 2017/18 has budgeted £3,768 against section 137, £3,000 for a community project and £768 for the various grounds maintenance that are not the responsibility of the Community Council. In addition to this under section 137 are the community grants budget of £1,000 which is also affected by the section 137 ruling. Minute 112.2 resolved for the community grants to be frozen for the financial year 2017/18.

The successful grounds maintenance contractor has quoted for the section 137 work at £640. The maximum expenditure against section 137 is £7,011.90 therefore there is scope of up to £6,371 .90.

The Harris Road improvement forms signed by residents indemnifying the Council for works carried out have been located and are dated May 1995.

Resolved to meet with the two groups to discuss how best to proceed.

Minute 114.3.2 Trees at 61 Rhiw Road

Cllr K Lloyd update. The trees have been requested for trimming.

Resolved for the situation to be noted.

120. Correspondence – Refer to Clerk’s report.

In addition:

120.1 Email received 16th March from Martin Harries, Cwmllynfell Hall. The email attached a copy of the letter received from ABM University Health Board confirming that the proposed GP practice will no longer be re-located to the Hall premises due to excessive costs.

120.2 Letter received 16th March from Jeremy Miles AM Local Surgeries. The nearest is 30th June at Ystalyfera RFC, 4.00pm – 5.00pm, 5.30pm – 6.30pm.

120.3 Email received 16th March from Grace Halfpenny, NPTCBC. Invitation to comment on the draft Wellbeing Assessment. The consultation is open until 12th April.

Resolved to write a letter of complaint to ABMUHB.

121. Financial Matters

121.1 Payment of Accounts

1863 DD	NEST	February pension payment	£10.76
1864	NPTCBC	Translation of poster	£12.86
1865	One Voice Wales	Training	£35.00
1866	NPTCBC	Grounds Maintenance	£1,183.14
1867 Elec	HMRC	Income Tax and NI	£468.49
1868	S Richards	February Wages, Mileage and Expenses	£1740.76
1869 DD	NEST	Additional Annual Payment	£66.51

Resolved for the situation to be noted.

121.2 East Pit Community Benefit Grant payments

No payments to report.

Resolved for the situation to be noted.

121.3 Financial Risk Register

Refer to Clerk's report.

Resolved to accept the Financial Risk Register and to review on an annual basis.

121.4 Other Urgent Financial Matters

The annual grant application from Rhiwfawr Community Association has been received for £1,500.

Resolved to make payment in April.

122. Planning Matters

122.1. Application Number: P2017/0149

Applicants Name /Address: Mr Carwyn Thomas, C/O Old Swan Inn, 54-58 Gurnos Road, Ystalyfera, SA9 2HY

Site Location: 12 GWILYM ROAD, CWMLLYNFELL, SWANSEA, SA9 2GH

Proposed Development: Two storey rear extension plus first floor balcony.

Resolved for the situation to be noted.

123. Reports

123.1 Review of Sub Committee Structures

The Council currently has the following sub-committee structures:

1. A Cemetery and Environment Committee be appointed comprising all Members of the Council.
2. A Rhiwfawr Park Liaison Committee be appointed comprising the following members to promote the use of the facilities at the park and to liaise with local organisations and individuals to encourage voluntary effort in managing and monitoring the use of facilities:

Councillors:	Councillors:
Chairman	Vice-Chairman
Cllr R Evans	Cllr J C Rees

3. The East Pit Community Benefit Grant Scheme comprising all Members of the Council.

Resolved to disband the Cemetery and Environment Committee and the Rhiwfawr Park Liaison Committee.

123.2 Councillor Kris Lloyd Report

- Seating has been repaired opposite the skate park and the bin has been replaced.

- Brambles overgrowing opposite 126 Rhiw Road has been reported and cut back.
- Regular dog mess outside Awel Aman Tawe has been reported, cleaned up and the suspected dog owner has been issued with a warning.
- Celtic Energy quarterly meeting reported that the regular monitoring continues to be carried out and the site is well in compliance with regards dust, air quality, noise pollution and blasting. There is approx. 16 months of coal left. The regeneration continues and the company is liable for a further 20 years.

123.3 Other Reports

123.1 A lorry associated with Gwrhyd Quarry was caught causing environmental damage to the verge above the cemetery. The quarry was informed and the mud has been cleaned up however the verge is still affected.

123.2 One of the children's seats on the cycle path has been set on fire. The location of the remaining seats is not ideal because they are hidden.

Resolved to ask Cllr K Lloyd if the seating can be relocated e.g. the skate park.

124. Information Items – see Clerk's report. In addition.

Resolved for the situation to be noted.

Meeting finished at 8.05pm.