

GAVINTON, FOGO AND POLWARTH COMMUNITY COUNCIL

MINUTES of Extraordinary Meeting held on Friday, 17 February 1989 at 7.30 pm in the Village Hall, Gavinton.

Present Mr R Baillie (Chairman), Mr A Macmillan, Mr R Markby, Mrs M Mowat, Mr J Scott, Mrs J Wheadon (Secretary)

PURPOSE OF MEETING - to discuss draft of letter to be sent to the Chief Executive, Berwickshire District Council re Second Review of the Scheme for the Establishment of Community Councils. The letter had previously been circulated to members.

It is here noted that other than the change of name, the second amendment to our Constitution proposed and adopted at our meeting on 23 June 1986, after due publication, in its amended form still complies with Section 5(b) of the Revised (1981) Berwickshire Scheme for Community Councils. The amendment to our Constitution as proposed and adopted at our meeting on 25 April 1988, after due publication, in its amended form still complies with Section 8(e)(1) of the Revised (1981) Berwickshire Scheme for Community Councils and in those respects, therefore, we view the proposed additional requirement that such changes 'be subject to the approval of the District Council' to be unnecessary if the proposed change to a Community Council's own Constitution falls within the terms of a current Berwickshire Scheme.

Subject to that only substantial Amendment, Mr Macmillan proposed that the letter as drafted be sent to the Chief Executive, Berwickshire District Council.

Proposal seconded by Mr Scott and carried unanimously.

Copy of final letter attached.

R. Baillie

GAVINTON, FOGO & POLWARTH COMMUNITY COUNCIL

from the Chairman: Mr.R.S.G.Baillie

The Old Manse

Gavinton

Duns

TD11 3QT

Duns 82394

RAC/EMD/G40/02

(STD Code 0361 82394)

The Chief Executive,
The Berwickshire District Council,
Council Offices, 8 Newtown Street,
DUNS TD11 3DU.

18th.February:1989

for the attention of Mr.R.A.Christie LL.B.

Dear Mr Christie,

Second Review of the Scheme for the Establishment of
Community Councils

Thank you for your letter dated 26th.January with enclosures. You will note that with reference to your letter concerning the above dated 24th.July:1987, that you received a reply from me on behalf of our Community Council dated 3rd.November:1987 which you kindly acknowledged without further comment that same day. Since that date we have instituted one further small change to our Constitution as outlined in the Minutes of our Meeting of the 25th.April:1988 (para.5) and a copy of these Minutes was lodged at your office after they had been duly approved and adopted here (as is our usual practice). In all these cases the procedure as laid down in Section 7 of our Constitution was followed, the same Section 7 in the Constitution as signed by the Chief Executive on 15th.March:1977 after approval by Berwickshire District. Any suggestion that these ammendments are now deemed "not ratified" by your Authority at this very late stage being some TWO years in the first case and some NINE months in the second after both their approval and adoption by this Community Council and, indeed, the same time elapsing since you were informed of them by process of submission to you of the relevant Minutes, would be considered in a very poor light indeed by this Community Council. I trust none at District Council (be they Officials or Councillors) are going to now attempt to suggest that these modest changes, already long effected by our Community Council, be considered "unacceptable" or "not ratified" and so your confirmation that any requirements in respect of "approval" or "ratification" are now deemed satisfied is required urgently. [even if achieved only by failure of District Council to present timeous, reasoned, refusal]. ie. We need to know that our Constitution, to-day, as we believe it now stands in our records is indeed how you would accept it stands.

Having got that little matter out of the way !

I might draw your attention to the fact that the present conditions in respect of approval of constitutional changes are laid down in Section 7 of our Constitution. At the stage of that Constitution's first approval by Berwickshire District Council, your Council did not reserve to itself over-riding powers in respect of that section.

Accordingly the only constitutional changes that we are bound by are the ones that we accept - within reason regardless of what District may or may not propose, suggest or approve. There is/was absolutely no point in Community Councils drawing up their own Constitutions if, even in minutæ as well as substance, District would determine all by an umbrella one.

As Chairman, I have personally consulted with all those numbered as Community Councillors in our records [with the exception of ONE, our Vice-Chairman, away on holiday at present]. FIVE have called for an Extraordinary Meeting of our Council for the sole purpose of discussing a preliminary draft of this letter and after any ammendments, approving its submission to you. SIX attended this FRIDAY 17th.FEBRUARY:1989 at GAVINTON VILLAGE HALL at 7.30pm. The preliminary draft of this letter and Notice of this Meeting with invitation to attend was extended to Regional Councillors of Regional Wards 22 and 23 and District Wards 8 and 11. No such Councillors attended. At this Meeting a proposal was put to send this letter to you, it was seconded, there were no other proposals and the vote was unanimous. Following this Meeting I am asked to inform you that this Community Council would be prepared to accept those proposals shown 2(a), (c), (e), (f), (h),(i) of your letter dated 26th.January (which they have seen and which was posted on Ash Wednesday in the village shop) and if those proposals are adopted by your Authority we would be prepared to undertake the constitutional steps required to adopt/amend in our Constitution accordingly. We would be prepared to accept 2(g) with the sole provision that there be added after the words "Chief Executive""or Head of Department" as we feel that in the proper approach to Regional Council (in particular) in matters pertaining to that body, letters are in practice more appropriately so addressed.

We would not be prepared to accept proposals 2(b) and proposal 2(d) for the following reasons:-

In the case of 2(b).

It is our experience that provisions for the welcome attendance of both Regional and District Councillors by specific invitation and notice always extended to all our meetings; serves much better than placing those Councillors in the sometimes invidious position of "conflict of interest" as between one Community and another, or in the context of "wider considerations" when those Councillors are placed in such position in respect of conflict between the views of a specific community and those of the District or Region, particularly where by choice or adoption they are now suggesting that they be ex-officio members of diverse Community Councils as well as their District function (and, in some cases, additional Regional commitment as well). The concept of "our" Councillor is good: it does not need bolstering by added membership of the Community Council, and in such cases it can (and has been) taken too literally in the past to the detriment of the relationship between Community Councils and their Regional/District Councillors who, because they must consider the wider view, should act in Community Councils as "Watching Brief", "Adviser", "Channel of Communications"not "Delegate" of the Community Council to District or Region. Ex-officio member, as far as I can see, would entitle them to VOTE at Community Council Meetings unless such membership was qualified "Non-Voting". This voting power was specifically excluded in our Constitution as it has stood and now stands. Our Constitution to-day makes allowance for such Regional/

/District Councillors to be members of the Community Council if so chosen by us. ie. in no-way are they ex-officio excluded from Membership, they just are not either ex-officio or automatically co-opted in Membership.

This allows Regional/District Councillors to be Community Councillors particularly in that area in which they may properly consider themselves part of that specific small community if it is the choice of that Community.

in the case of 2d.

Should a District be setting-up Community Councils as a brand new venture in their area..... should those in that area be uncertain or as yet unclear as to what the role of Community Councils should be then it might be desirable for District Councils during what might be termed a 'probationary period', to oversee the Constitution of such fledgelings to prevent irregular or unacceptable developments that would take that Community outwith the overall Scheme as a result of misconceptions as to the point or purpose of Community Councils. To now institute such a measure as 'Constitutional change subject to prior approval of District' leaves one suspicious as to the intent of this proposal particularly as it is not further explained. Once on their feet, one might expect District to actually dispense with this requirement in due course.... not to belatedly institute it.

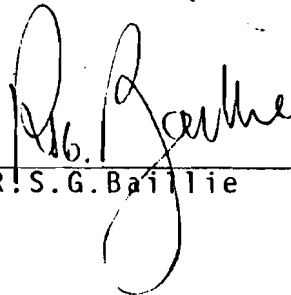
The *raison d'être* of Community Councils was that they might fulfil the purpose of reflecting and drawing attention to the needs and views of the Community so that the executive sections of Local Government at District and Regional levels might be able to refer to a body that might be said to speak for that local community and assist District and Regional Councillors in their task to provide good, appropriate government that is relevant to the local community requirements. After a number of years one might expect Community Councils to have determined for themselves how best to model their Constitution to form a body best able to speak for that Community without the diktat of District exercised by what amounts to a prior opportunity of Veto.

It is here noted that other than the change of name, the second amendment to our Constitution proposed and adopted at our meeting on 23rd.June:1986, after due publication, in its amended form still complies with Section 5 (b) of the Revised (1981) Berwickshire Scheme for Community Councils. The amendment to our Constitution as proposed and adopted at our meeting on 25th.April:1988 after due publication, in its amended form still complies with Section 8 (e)(i) of the Revised (1981) Berwickshire Scheme for Community Councils and in those respects, therefore, we see the proposed requirement of "subject to the prior approval of the District Council" to be unnecessarily additional if the proposal falls within a current Scheme at its adoption and quite superfluous in the light of the fact that no proposal is now mooted to therefore cancel the post adopted "ratification". This "fore and aft" requirement would present an opportunity for endless silliness if District Councillors had a change of mind in between - a phenomenon not unknown.[12(c) of the Revised (1981) Berwickshire Scheme for Community Councils].

Without enshrining the requirement in Constitution, it is both possible and reasonable for District to "suggest guidelines" where appropriate in this matter or even suggest it be referred for further consideration. Indeed, it would be

an irresponsible Community Council that did not carefully consider what it was doing and, if there appeared to be any doubt, to take advice, presumably from the District Chief Executive in the first instance. Without further satisfactory explanation it is our view that this is a proposal without purpose and thus neither particularly suitable nor particularly acceptable.

Yours sincerely,


R.S.G. Baillie

Note

In view of many recent announcements and changes this letter has not be sent to any Regional or District Councillors (those whose Wards, in part or in whole, are encompassed in the Community Council's area).

Circulation to them is at the option of the addressee.

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4. This certificate will be date stamped and cancelled as a receipt. Please keep safe and produce it in the event of a claim.

Name: Mr. Baillie
Address: Barnack Road
Barnack
8 Kenton St. Duns
Postcode: DD1 3DU

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