

# WHITEHAVEN TOWN COUNCIL

**Interim Clerk to the Council:** Marlene Jewell  
Telephone: 01946 67366

**To: Members of Whitehaven Town Council**

You are duly **SUMMONED** to attend a meeting of the **WHITEHAVEN TOWN COUNCIL** which will be held at:-

**Venue:** United Reformed Church Hall, Market Place, Whitehaven

**Date:** Thursday 27<sup>th</sup> April 2017

**Time:** 7.00pm

Signed..........Dated. 20<sup>th</sup> April 2017  
Marlene Jewell, Interim Clerk

## AGENDA

### 1. Apologies for Absence

To receive apologies for absence

### 2. Minutes of the Council Meeting held on 30<sup>th</sup> March 2017

### 3. Declarations of Interest

To receive declarations of interests by elected members in respect of Agenda items

If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact the Clerk at least 24 hours in advance of the meeting.

### 4. Public Participation

### 5. Planning Applications

To consider planning applications received and submit any representations to Copeland Borough Council.

6. **Allotment Contract** to report on the TUPE position and consider the next steps
7. **Taste Cumbria** to hear a presentation by Taste Cumbria on a planned Summer Festival in Whitehaven on 22<sup>nd</sup> and 23rd July 2017 in Whitehaven
8. **Financial Report** invoices to be authorised
9. **Grants** to consider grant applications
10. **Grass Cutting** to consider quotes received for cutting areas of grass in Whitehaven
11. **Insurance** to consider a renewal notice
12. **Request from Cartgate Allotments**
13. **Schools Day Donation** Chairman to give a verbal report
14. **Office Accommodation** Chairman to give a verbal report on office accommodation
15. **Appointment of Policy and Resources and Finance Committee**
16. **Appointment of Advisory Groups for Christmas Festivities; Britain in Bloom and Allotments**
17. **Date and Time of Next Meeting and Venue for Council Meetings**

# WHITEHAVEN TOWN COUNCIL

## Minutes of the Council Meeting held on 30th March 2017

**Present:** Councillors R Gill (Chairman); C. Arrighi; D. Elliott; J. Forster; M. Guest; J. Kane; J. A. Laine; G McKew; B. O’Kane; G.Roberts

M. Jewell, Interim Clerk to the Council  
Anne Simpson, Whitehaven and District Operatic Society  
Ann Timson, Rosehill Theatre  
Stephen McDowell, Kie Park  
Members of the Public  
The Press

### **642/17 Apologies For Absence**

There were no apologies for absence.

### **643/17 Minutes of Meeting held on 2<sup>nd</sup> March 2017 and the continuation meeting on 16<sup>th</sup> March 2017**

A discussion was held on the Minutes. The amendments shown below were agreed and there was a recorded vote on the approval of the Minutes of 2<sup>nd</sup> March 2017 the result of which was as follows:-

Councillor R Gill	For
Councillor C Arrighi	For
Councillor D Elliott	Did not vote
Councillor J Forster	For
Councillor M Guest	Against
Councillor J Kane	Did not vote
Councillor J Laine	Against
Councillor G McKew	For
Councillor B O’Kane	For
Councillor G Roberts	For

There was also a vote on the approval subject to amendments of the Minutes of the continuation meeting held on 16<sup>th</sup> March 2017 the result of which was 7 Councillors voted for approval and 1



Councillor Arrighi	Abstained
Councillor Elliott	Did not vote
Councillor Forster	Against
Councillor Guest	For
Councillor Kane	Did not vote
Councillor Laine	For
Councillor McKew	Abstained
Councillor O’Kane	Abstained
Councillor Roberts	Against

- That an appendix be added to the Minutes containing the recommendations from BDO. Recorded vote:-

Councillor Gill	Did not vote
Councillor Arrighi	Did not vote
Councillor Elliott	Did not vote
Councillor Forster	Against
Councillor Guest	For
Councillor Kane	Against
Councillor Laine	For
Councillor McKew	Abstained
Councillor O’Kane	Against
Councillor Roberts	Against

644/17

**Declarations of Interest**

Councillor M Guest declared that he was a member of Kells Rugby Club.

Councillor McKew declared a pecuniary interest in respect of Rosehill Theatre

645/17

**Public Participation**

- (i) Peter Tyson raised the question of a venue for Town Council meetings and quoted what the Chairman had said at the last Council meeting. The Interim Clerk said the six month rule did not apply and the Chairman said the matter would be discussed at a future Council meeting.
- (ii) Charles Maudling raised the matter of £360 to Corporate Finance
- (iii) Graham Sunderland asked if he could only comment on items on the Agenda and the Chairman said he would get clarity on that.

- (iv) Julie Rayson raised the issue of the Jolan concert and asked for a refund for her godson and two adult tickets. She was concerned about the cost of food and drink and could not see where the money had gone.
- (v) Julie Rayson questioned where the Notice of the Town Council had been displayed. She said the website didn't seem to be getting updated and was concerned because money was being paid to someone to do this.
- (vi) Julie Rayson said there were key points not included in the Minutes. She said that in Town Council meetings if it is not on the Agenda it can't be discussed and she wanted to discuss Whitehaven school and asked if the Council could meet with the Principal of Whitehaven Academy. She said she had 3 concerns – The Jolan Concert; the Council's website and Whitehaven Academy. It was agreed that the Interim Clerk contact the Principal of Whitehaven Academy to arrange a meeting with the Council.
- (vii) Charles Maudling said the Council was paying a lot of money for storage of seagull proof bags and that they should be distributed to businesses in town. The Chairman told Mr Maudling that the Council was not paying for the storage of these bags as they were being kept in the Civic Hall

646/17

### Planning Applications

- (i) The Council considered a Schedule of planning applications received and Councillor Laine raised an issue with Planning Application No. CH/4/17/2103/F1 relating to 96 dwellings at Edgehill Park, Whitehaven. Following a discussion it was  
**RESOLVED:-** (i) That a letter be sent to Copeland Borough Council Planning Department asking that the Community Infrastructure Levy be imposed on Story Homes in respect of this Development and  
(ii) that the Planning Department be informed that there were no comments on any of the other applications

647/17

**Financial Report**

- (i) The Council considered a Financial Report. Following a discussion on the approval of payment of invoices there was a recorded vote:-

Councillor Gill	For
Councillor Arrighi	For
Councillor Elliott	For
Councillor Forster	For
Councillor Guest	Against
Councillor Kane	For
Councillor Laine	Against
Councillor O’Kane	For
Councillor McKew	For
Councillor Roberts	For

**RESOLVED:-** That the invoices shown at Appendix 1 be authorised for payment

Councillor Arrighi left the meeting and did not return

There was also a recorded vote on the approval of the remainder of the Financial Report:-

Councillor Gill	For
Councillor Arrighi	Left Meeting
Councillor Elliott	Abstained
Councillor Forster	For
Councillor Guest	Abstained
Councillor Kane	For
Councillor Laine	Against
Councillor O’Kane	For
Councillor McKew	For
Councillor Roberts	For

**RESOLVED:-** (i) That the Cashbook and Income and Expenditure shown at Appendix 2 and Appendix 3 be noted and approved

(ii) That £50,000.00 be transferred from the deposit into the current account

648/17

**Grant Applications**

(i) Whitehaven and District Operatic Society

The Council heard an application deferred from the previous meeting for a grant of £5,000.00 for a production of “Oliver”.

After hearing a presentation from the Whitehaven and District Operatic Society it was:-

**RESOLVED** – That a grant of £5,000.00 be awarded.

(ii) Kie Park

The Council heard an application for a grant of £30,000.00 (£10,000 had already been paid) from Kie Park.

The representative from Kie Park said that they now only wanted £10,000.00 for new fencing, benches and waste bins.

Councillor Laine moved a motion that Kie Park should be awarded the £30,000.00 with £15,000.00 being given now and £15,000.00 over the next two years. Councillor Guest seconded this.

Councillor Kane moved a second motion that Kie Park be awarded what they had asked for at the meeting.

For the second motion there was a unanimous vote to award £10,000.00. For the substantive motion 2 Councillors voted for; 1 voted against and 6 voted against.

**RESOLVED:-** That a grant of £10,000.00 be awarded to Kie Park

(iii) Rosehill Arts Trust

Councillor McKew left the room during the discussion of this item and took no part in the decision

The Council heard an application deferred from the previous meeting for a grant of £5,000.00 from the Rosehill Arts Trust for Music Makers which was a school singing project to provide community concerts .



Following a presentation it was

**RESOLVED** – That a grant of £5,000.00 be awarded.

(iv) Kellsfest

An application for a grant of £10,000.00 from Kellsfest was before the Council for consideration.

**RESOLVED** – That consideration of the grant application be deferred to the next meeting in order that the applicants can attend to present their case.

(v) Ward Grant

It was reported that an application had been received from Councillor Gill for a Ward Grant of £500.00 to go towards the Sandwith village pantomime and the pensioners Christmas party.

**RESOLVED** – That the Ward Grant be paid.

**649/17** The Chairman moved a motion that because of lack of time Item 8 (Insurance Policy) and Item 9 (Allotments Contract) be deferred to the next Council meeting. This was seconded by Councillor Roberts.  
**RESOLVED** – That Items 8 and 9 be deferred to the next Council Meeting.

**650/17** **Appointment of Internal Auditor**

The Interim Clerk reported that following the last meeting Fiona Rooney had been contacted about the provision of an internal audit service but no reply had been received. The Interim Clerk said it was important that an internal auditor be appointed as it was now the year end and that the two people who had submitted quotes were well qualified and experienced. Following a discussion on the appointment of an Internal Auditor (JW) there was a recorded vote:-

Councillor Gill	For
Councillor Arrighi	Left meeting
Councillor Elliott	For
Councillor Forster	For
Councillor Guest	Against

Councillor Kane	For
Councillor Laine	Against
Councillor O’Kane	For
Councillor McKew	For
Councillor Roberts	For

**651 /17** **RESOLVED** – That JW be appointed as Internal Auditor to the Council  
The Chairman proposed that as Items 11 and 12 were verbal reports that they be deferred to the next meeting.

**RESOLVED** – That Items 11 and 12 be deferred to the next meeting

**652/17** The Chairman said it was now 9.30 and that in order to continue it was necessary to suspend Standing Orders for 30 minutes to consider the exempt item and proposed that this should be done. This was seconded.

**RESOLVED** – That Standing Orders be suspended for 30 minutes

**653/17** The Chairman proposed and the Council **RESOLVED** that in view of the confidential nature of the business about to be conducted that the public and the press be excluded from the meeting for the discussion of the following item.  
The public and press left the room .

**654/17** **Appointment of Clerk and Responsible Finance Officer and Appointment of Trainee Assistant Town Clerk**

A report was given by the Chairman of the Staffing Committee that interviews had been held for these two posts and that two people had been offered the positions.

**RESOLVED:-** That this be noted

The Meeting closed at 10.00pm

Chairman

WTC 27/04/2017

Item 5

Planning Application for Consideration by Whitehaven Town Council

<u>Application Number</u>	<u>Detail</u>
CH/4/17/2113/0F1	PROPOSED SIDE EXTENSION, 32 TANGIER STREET, WHITEHAVEN
CH/4/17/2115/0F1	REPLACEMENT GARAGE, PARK DRIVE GARAGE, MIDGEY, WHITEHAVEN
CH/4/17/2123/0A1	ADVERTISEMENT CONSENT FOR RETENTION OF SIGNAGE RELATING TO OPERATION OF PRIVATE CAR PARK, WEST CUMBERLAND HOSPITAL, HENSINGHAM, WHITEHAVEN
CH/4/17/2138/0F1	PHASE 2 – RESIDENTIAL DEVELOPMENT FOR 5 DETACHED DWELLINGS PLUS INFRASTRUCTURE AND LANDSCAPING LAND TO NORTH OF THE MOUNT, WHITEHAVEN
CH/4/17/2132/0A1	APPLICATION TO DISPLAY AN ADVERT – PROPOSED RESIDENTIAL CARE HOME FORMER SEKERS SITE, HENSINGHAM, WHITEHAVEN
CH/4/17/2134/0L1	LISTED BUILDING CONSENT FOR ERECTION OF SPLIT STOREY AND SINGLE STOREY EXTENSION TO PROVIDE KITCHEN, UTILITY, GROUND FLOOR W.C. AND FIRST FLOOR BATHROOM. 8 LONSDALE PLACE, NEW ROAD, WHITEHAVEN

**WTC 27/04/17**  
**ITEM 6**

**ALLOTMENTS CONTRACT**

**PURPOSE OF REPORT AND RECOMMENDATIONS:**

**To inform Members on the current situation regarding TUPE and to recommend a course of action as stated in paragraph 3.1 hereof**

**1. INTRODUCTION**

- 1.1 The Council resolved at the Council meeting on 26th January 2017 that tenders be invited for the provision an allotment and pigeon loft management service for a three or five year period, with Copeland Borough Council continuing to carry out the management service for the next three to six months. (report attached at Appendix 1)
- 1.2 Members will recall that this item including draft tender documentation was on the Agenda for the Council meeting on 2<sup>nd</sup> March 2017 which was adjourned due to lack of time and continued on 16<sup>th</sup> March 2017 and the decision made was that advice be taken from Jo McLeod the Human Resources Officer with Copeland Borough Council as to whether or not TUPE applied and then the matter be referred back to full Council for consideration.
- 1.3 Mr Trevaskis of the Sneckyeat Allotments submitted a letter stating that the Sneckyeat Allotment Society wished to self-manage their allotments and the hiring and firing of the contractors doing the ground maintenance. He said their proposal was that they receive a total amount in April from the Town Council (£6,500) and the society will do the hiring and firing for the ground work needed and
  - The water rates will stop with the Town Council
  - The insurance will stop with the town Council
  - Collecting of rents will stop with the Town Council
- 1.4 An email has been received from Clinton Boyce asking if the Town Council

wishes the Borough Council to continue with the management/administration of the allotments from 1<sup>st</sup> April 2017 to 30<sup>th</sup> September 2017 at the same price of £1,910.00 per month plus VAT

**2. LEGAL POSITION**

- 2.1 Councillor Laine submitted an email about TUPE following the Council meeting which was passed to Jo McLeod for her comments (attached at Appendix 2)
- 2.2. Jo McLeod replied to say that TUPE did not apply and her email containing the reasons for this is attached at Appendix 3).

**3. RECOMMENDATION**

- 3.1 As well as Mr Trevaskis' request Councillor Laine raised a number of other issues in her email at Appendix 2 which will need to be discussed and it is recommended that as consideration of these is likely to take some time that matter should be discussed in detail at a meeting of the Allotments Committee or Advisory Group rather than as part of a full Council Agenda and the decisions made referred back to the next Council meeting for ratification. The Allotments Committee has not met recently and it is recommended that the Allotments Committee or an Allotments Advisory Group be appointed in order that this and other matters can be dealt with

WTC 26/01/17

Item 9

**ALLOTMENTS CONTRACT**

To inform Members of the present position with regard to the contract for the management/administration of the Council's allotment and pigeon loft sites and to recommend that the Council make a resolution to suspend Financial Regulation 11 and all the other recommendations contained in paragraph 4 hereof

**1.0 INTRODUCTION**

- 1.1 As Members will recall Copeland Borough Council recommended the creation of the Parish of Whitehaven in the Borough of Copeland and this was brought about by The Copeland Borough Council (Reorganisation of Community Governance) Order 2014.
- 1.2 By this Order there was a transfer of certain land, property, rights and liabilities to Whitehaven Town Council namely:-
- (i) Cartgate Allotment Site
  - (ii) Crow Park Allotment Site
  - (iii) Midgey Allotment Site
  - (iv) Sneckyeat Allotment Site
  - (v) Overend Pigeon Loft Site
  - (vi) Langdale Close Pigeon Loft Site
  - (vii) Calder Club Pigeon Loft Site
  - (viii) The Whitehaven Borough Council jewel

**2.0 PRESENT POSITION**

- 2.1 The allotment and pigeon loft sites are in the process of being formally transferred to the Town Council and the ownership will need to be registered with the Land Registry.
- 2.2 Copeland Borough Council entered into an Agreement with the

Town Council for the management of the allotment and pigeon sites and the terms were as follows:-

- (i) The Agreement was for a period from 1<sup>st</sup> June 2015 to 31<sup>st</sup> March 2016 with power to extend the Agreement with the consent of both parties.
- (ii) The payment of £1,910 per month to Copeland Borough Council for the provision of allotment management and maintenance services. At Appendix 1 is a schedule which was annexed to the Agreement and which lists the services to be carried out by Copeland Borough Council.
- (iii) Provision for additional fees to be payable to be agreed between the parties for cleaning sites; drainage repairs and the provision of any other horticultural or allotment management services as may be reasonably requested by the Town Council from time to time.
- (iv) The Borough Council did not enter into a further Agreement with the Town Council for the period 1<sup>st</sup> April to 31<sup>st</sup> March 2017 as the Borough Council's Solicitor informed the Town Council in May 2016 that he would be willing to enter into a contract until 30<sup>th</sup> September 2016 to allow for continued cover and also allow the Town Council to reconsider its position by either waiving the regulations or inviting two further quotations to be considered alongside the Borough Council's. Neither of these actions appear to have been carried out and Copeland Borough Council is still carrying out the allotment management/administration at a cost of £1900 per month.

2.3 The Council's Standing Orders and Financial Regulations apply to the Contract namely:-

- (i) S.O. 10 which states that Members must ensure that value for money is obtained.
- (ii) F.R. 11.1.b states that for contracts over £25,000 tenders should be invited.
- (iii) F.R. 11.1.h which states that for all contracts under £25,000 quotations should be obtained or for contracts below £3,000 and above £100 estimates should be obtained.

2.4 It would not appear that there has been compliance with the Standing Orders and Financial Regulations and a way forward as previously recommended by the Borough Council's Solicitor

would be to suspend the Financial Regulations under F.R. 18 and then allow the Borough Council to carry on providing the service for a period of 3 to six months to allow tenders to be obtained for the provision of the allotment service.

Financial Regulation 18 states:-

"The Council may by resolution of the Council duly notified prior to the relevant meeting of Council, suspend any part of these Financial Regulations provided that reasons for the suspension are recorded and that an assessment of the risks arising has been drawn up and presented in advance to all members of the Council".

### **3.0 RESOLUTION, REASONS AND RISK ASSESSMENT FOR SUSPENDING FINANCIAL REGULATIONS**

- 3.1 Resolution – That the Council suspend Financial Regulation 11
- 3.2 Reasons for Suspending Financial Regulations – the reason for suspending Financial Regulations is that it appears that the Council may be in breach of their Financial Regulations in relation to the Allotment contract and suspension of the Financial Regulations will allow the matter to be regularised, tenders invited, evaluated, and a contract awarded and in doing so will ensure compliance with the Financial Regulations and the Council will be able to demonstrate value for money.
- 3.3 Risks of suspending Financial Regulations – it is difficult to assess risks of suspension but there is a risk that Members will not be able to ensure that best value has been obtained and that the best available terms have been obtained in respect of each transaction.

### **4.0 RECOMMENDATION**

- 4.1 It is recommended that the Council resolves to suspend Financial Regulation 11 as stated in paragraph 3.0 above.
- 4.2 It is recommended that the Borough Council Continue to provide an allotment service in the interim.
- 4.3 It is recommended that Tenders be invited for the provision of an allotment and pigeon loft service for a period and on terms to be agreed by the Council.
- 4.4 It is recommended that Tenders received be opened and evaluated by the Council and a Contract awarded to the successful tenderer.



For those services listed in part B of schedule 2 a sum to be agreed by the parties hereto for the provision of those services shall be paid by the Parish Council to the Service Provider for the performance of those Services

Payment shall be monthly in arrears payable within 14 days of the Parish Council receiving an invoice from the Service Provider.

## SCHEDULE 2 – SERVICES

### PART A

The Service Provider shall undertake the following services to the allotment sites known as Cartgate allotments site, Crow Park allotments site, Midgley allotments site, Sneckyeat allotments site, Overend pigeon loft site, Langdale Close, Mirehouse, pigeon loft site and Calder Club, Mirehouse, pigeon loft site, all situated within Whitehaven, Cumbria:

1. Provide advice and support to all tenants;
2. Manage allotment and pigeon loft waiting lists and conduct site visits with prospective new tenancy holders;
3. Draw up and send new tenancy agreements for signature by the tenant and by the Parish Council;
4. Send annual/quarterly invoices to all tenants;
5. Carry out monthly inspections of all allotment and pigeon loft sites ensuring compliance to allotment and pigeon loft agreement terms and conditions;
6. Send improvement letters when necessary following site visit(s);
7. Send eviction letters following site visits after improvement notices have been issued;
8. Carry out pathway maintenance twice yearly to ensure good access for tenants such maintenance to include grass cutting provided that this obligation shall not require the Service Provider to put the pathways into a better condition than they are at the date of this agreement;
9. Carry out hedge maintenance annually;
10. Carry out ongoing reactive and preventative maintenance to maintain/improve allotments to a desired standard provided that this obligation shall not require the Service Provider to put the allotments or pigeon lofts into a better condition than they are at the date of this agreement;
11. Maintain perimeter fencing and site security in its existing condition at the date hereof;
12. Repair water supplies as and when necessary;
13. Monitor and process utility bills;
14. Maintain access/parking areas in their condition at the date hereof;
15. Removal of any fly tipping on site;
16. Removal of any compost (leaf mould) on site, and
17. Maintain any signage on site in its existing condition at the date hereof
18. Receipt of rental income from allotment rent and pigeon loft sites to be forwarded to the Parish Council on a quarterly basis.

RE: TUPE

JM

Joanne McLeod

Mon 20/03, 14:39

Marlene Jewell; Clinton Boyce



Reply all



You forwarded this message on 23/03/2017 09:23

Marlene

Further to our discussion earlier this morning I have now had the opportunity to review the mails below in full and to review the Employment Law database.

My understanding is that the contract of service referred to is the maintenance and administration of the Allotments for and on behalf of Whitehaven Town Council. This contract is currently undertaken by CBC and has an annual value of around £22k. It should be noted however that some of this will not be related to the employment of relevant staff to carry out the work but will be, in part, be for the use of equipment, materials and insurance requirements.

Under TUPE a transfer takes place at a single point in time, which is the date on which responsibility as an employer for carrying on the business of the transferred unit moves from the transferor (*WTC*) to the transferee (*currently CBC, but could be a new contractor*). The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) can apply to a service provision change (i.e. the transfer of a contract to provide a service), as well as to the transfer of a business.

A service provision change occurs where:

- a service that has previously been carried out by the client is contracted out to a third party;
- a contract to provide a service is awarded to a different contractor following tendering; or
- a service that has previously been carried out by a contractor is brought back in-house by the client.

For a service provision change to be covered by the TUPE Regulations 2006, there must be an organised grouping of employees with the principal purpose of carrying out the activities on behalf of the client. The activities must not consist wholly or mainly of the supply of goods for the client's use.

For example, if a contract to clean the client's premises is retendered and awarded to a different contractor, if there is a team of employees (or one particular employee) dedicated to carrying out the cleaning at those premises, those employees will be transferred automatically to the new contractor.

I can confirm that there is no single employee or group of employee's employed by CBC to undertake the work outlined on behalf of Whitehaven Town Council and as such the TUPE regulations do not apply.

It should be noted, that when the responsibility for the maintenance and administration of the allotment activities were transferred to WTC (which led to the contract currently being considered) – there was no consideration at that time that the TUPE of CBC employees would occur as a result of the change.

Do not hesitate to contact me should you wish to discuss further.

Kind Regards

Jo

**From:** Marlene Jewell  
**Sent:** 20 March 2017 08:28  
**To:** Joanne McLeod <Joanne.McLeod@copeland.gov.uk>  
**Subject:** Fw: TUPE

Hello Jo

I'm sorry to bother you with this but Councillor Laine has an issue with TUPE and the Town Council Allotments Contract. I have ask Clinton and he doesn,t know a lot about TUPE but like me thinks it probably wouldn't apply in this case. The Town Council asked me to contact you about it as they said that being HR you would know all about it.

Rather than me write a novel at this stage (you've already got one to read below) could you ring me please to discuss this.

Thanks

Regards

Marlene.

**From:** jayne Laine <[jaynelaine@yahoo.com](mailto:jaynelaine@yahoo.com)>  
**Sent:** 17 March 2017 13:13  
**To:** Marlene Jewell  
**Subject:** TUPE

Dear Marlene

**RE:TUPE**

As I anticipated the TUPE issues last night seemed to go over most heads hence my preference to deal with it before Council.

I think that heavy weather is being made of this issue. What we need to do is to protect the Town Council from any claims which may arise if TUPE does affect any CBC employees. We won't know in reality until after the contract has been awarded and only then if a CBC

employee makes a claim. If that arises we may also have the appointed contractor making a claim against us if an employee claims to be employed by that contractor under TUPE.

You have an assurance from CBC that TUPE will not arise. That is all well and good but last night you indicated that that was only a verbal assurance. If any TUPE claim arises we have nothing to fall back on in any claim against CBC for misleading us and that has to be created for our own protection. This issue should form part of the risk assessment we need to have in place for any contract we award as per the BDO audit

Further any prudent Tenderer should be asking if TUPE applies. If we cannot give them as much assurance as possible then they may not wish to take the risk, or be able to price for that risk, such that only CBC can tender. That then becomes anti-competitive.

I didn't hear anyone last night saying that the Town Council should stand the risk however small that risk may be perceived to be

All that is needed is

1. Written confirmation from CBC that none of its employees would be the subject of any TUPE protection if the contract is awarded to a third party
2. That confirmation to be included in the Tender documents with a statement along the lines of

"Tenderers should note that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) as amended may apply to this contract. The current contractor, Copeland Borough Council, has confirmed that none of its employees will have TUPE protection and their confirmation is set out below. You should however consider whether these Regulations will apply if your tender is accepted. You will of course need to take your own advice on the likelihood of, and the consequences of the application of the Regulations in the event that your tender is accepted." (I admit this has been stolen!!)

3. The contract needs to include an appropriate clause obliging the contractor, at the end of the contract, to provide TUPE information if TUPE may apply at the end of the contract. Again a draft below - stolen - but I hope it helps

1. During the 12 months preceding the expiry of this Agreement or after the Council has given notice to terminate this Agreement or at any other time as directed by the Council, and within 15 working days of being so requested by the Council, the Contractor shall fully and accurately disclose to the Council any and all information in relation to all personnel engaged in providing the Services including all relevant employees who are to transfer as a consequence of the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 or any amendment or modification thereof (TUPE) as the Council may request, in particular but not necessarily restricted to any of the following:

- (a) a list of employees employed by the Contractor in relation to this contract with the % of their time spent on this contract;

- (b) a list of agency workers, agents and independent contractors engaged by the Contractor ;

- (c) the total payroll bill (i.e. total taxable pay and allowances including employer's contributions to pension schemes) of those personnel;

- (d) the terms and conditions of employment of the relevant employees who may be protected by TUPE , their age, salary, date continuous employment commenced and (if different) the

commencement date, enhancement rates, any other factors affecting their redundancy entitlement and any outstanding claims arising from employment.

2. The Contractor shall warrant the accuracy of all the information provided to the Council pursuant to clause 1 and authorises the Council to use any and all the information as it may consider necessary for the purposes of its business or for informing any tenderer for any services which are substantially the same as the Services (or any part thereof).

3. During the 12 months preceding the expiry of this Agreement or where notice to terminate this Agreement for whatever reason has been given, the Contractor shall allow the Council or such other persons as may be authorised by the Council to communicate with and meet the relevant employees who may be protected by TUPE and their trade union or employee representatives as the Council may reasonably request.

4. During the 12 months preceding the expiry of this Agreement or where notice to terminate this Agreement for whatever reason has been given, the Contractor shall not without the prior written consent of the Council unless bona fide in the ordinary course of business:

(a) vary or purport or promise to vary the terms and conditions of employment of any employee employed in connection with the Services;

(b) [materially] increase or decrease the number of employees employed in connection with the Services; or

(c) assign or redeploy any employee employed in connection with the Services to other duties unconnected with the Services.

5. Indemnities - The Contractor shall indemnify the Council and any new contractor appointed by the Council and keep the Council and any new contractor appointed by the Council indemnified in full from and against all direct, indirect or consequential liability, loss, damages, injury, claims, costs and expenses (including legal expenses) which the Council and any new contractor appointed by the Council may suffer or have awarded against them or incurred or paid by the Council or any new contractor appointed by the Council as a result of or in connection with the employment or termination of employment of any employee of the Contractor during any period prior to the date of expiry or termination of this Agreement.

6. Sub-contractors - In the event that the Contractor enters into any sub-contract in connection with this Agreement, it shall impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to these clause 1-6 and shall procure that the Sub-Contractor complies with such terms. The Contractor shall indemnify the Council and keep the Council indemnified in full from and against all direct, indirect or consequential liability, loss, damages, injury, claims, costs and expenses (including legal expenses) awarded against or incurred or paid by the Council as a result of or in connection with any failure on the part of the Sub-Contractor to comply with such terms.

As I see it that's job done

Next is the evaluation. The Public Contracts regs require us to provide some detail of the evaluation criteria on qualitative selection of a contractor. Also in the interests of transparency the Tender documents should have some indication as to the evaluation criteria in my view

e.g

The Total Cost of the service (% of the total score)

## **FINANCIAL REPORT**

### **Purpose of the Report**

Members are asked to consider a list of invoices for authorisation and payment as shown in Appendix 1, totalling £17,559.33.

## **1.0 INTRODUCTION**

- 1.1 Authorise the payment of all invoices as listed in Appendix 1.
- 1.2 The Council is asked to note the cashbook as reconciled with the bank account as shown in Appendix 2, together with the Income and Expenditure in Appendix 3

## **2.0 FINANCIAL POSITION**

- 2.1 The bank reconciliation was carried out on 19<sup>th</sup> April 2017. This shows a balance of £89,075.62, there are however cheques to the value of £7645.99 still to be presented and cleared.
- 2.2 The balance in the Deposit account is £139,885.77

### **3.0 RECOMMENDATION**

- 3.1 The invoices listed and shown in Appendix 1 be approved and authorised.
- 3.2 The Cashbook (Appendix 2) and the Income and Expenditure (Appendix 3) be noted.

## Appendix 1

Invoices for Consideration by Whitehaven Town Council

<u>Date</u>	<u>Supplier</u>	<u>Category</u>	<u>Detail</u>	<u>Total Amount</u>
27/03/2017	Whitehaven Industrial Cleaners	Winter Wonderland	Ice Rink	£1,390.00
27/03/2017	CALC	Office/Room Hire	Additional HR Support	£637.10
27/03/2017	CALC	Office/Room Hire	Advertising on CALC (Recruitment)	£78.00
30/03/2017	Whitehaven Golf Club	Office/Room Hire	Room Hire - Meetings	£44.40
03/04/2017	Online Systems	Office/Room Hire	Telephone Charges (Annual Subscription)	£252.00
03/04/2017	Copeland Borough Council	Allotments	Skip Hire X3 (Crow Park, Cartgate and Midgely)	£720.00
03/04/2017	Copeland Borough Council	Salaries	M Jewell Secondment (3 Months)	£7,989.65
04/04/2017	Copeland Borough Council	Grant	Supply of Handrail at Beck Bottom	£750.70
04/04/2017	Westcom IT Solutions	Office/Room Hire	Wipe/Install Laptop	£252.00
04/04/2017	Copeland Borough Council	Office/Room Hire	Insurance Charges (2017/18)	£109.00
04/04/2017	Copeland Borough Council	Office/Room Hire	Rent Charges (Quarterly)	£375.00
04/04/2017	Copeland Borough Council	Office/Room Hire	Service Charges (Quarterly)	£196.24
05/04/2017	Westlakes Recruit UK	Salaries	Agency: G Blaney (1 Week)	£433.34
06/04/2017	United Reformed Church	Office/Room Hire	Room Hire - Meetings	£120.00
13/04/2017	Graham Roberts	Expenses	Travel Expenses	£32.10
13/04/2017	Viking Direct	Office/Room Hire	Stationary	£37.42
18/04/2017	BT	Office/Room Hire	Telephone Charges	£132.79
18/04/2017	Copeland Borough Council	Allotments	Charges (April 2017)	£2,292.00
18/04/2017	Copeland Borough Council	Office/Room Hire	Annual Waste Charges (Quarterly)	£42.70
18/04/2017	Copeland Borough Council	Office/Room Hire	Energy Charges (April 2017)	£65.40
20/04/2017	The Parish of Whitehaven	Grant	Plating/Maintenance-St Nicholas Gardens	£1,609.49

£17,559.33



WHITEHAVEN TOWN COUNCIL

CASH BOOK FROM 1 APRIL 2017

Date	Ref	Description	Salaries	Expenses	Training	Office/ Rm Hire	Allotmns	Winter Wonderta nd	Market	Cleaning/ Maint	Grants	Sponsors/ promotion	Insurance & Audit	Mayor	Ward Grants?	Net Total	VAT	Total
03/04/2017	187	Cumbria Payroll Services	96.00													96.00	19.20	115.20
03/04/2017	188	Westtaks Recruit UK - Agency Fees	2,017.88													2,017.88	403.56	2,421.44
03/04/2017	189	Viking Direct - Stationery	31.18													31.18	6.24	37.42
03/04/2017	190	Copeland Borough Council				894.78	1,910.00									2,804.78	382.00	3,186.78
03/04/2017	191	E-on						274.49								274.49	13.72	288.21
03/04/2017	192	Luke Johnston				118.00										118.00	-	118.00
03/04/2017	193	Westcom				180.00										180.00	36.00	216.00
03/04/2017	194	Midshire				514.23										514.23	102.85	617.08
03/04/2017	195	Rosehill Youth Theatre				60.00										60.00		60.00
03/04/2017	196	Cumbria County Council - Damage to Lights						353.86						500.00		353.86		353.86
11/04/2017	197	Sandwith Village Group									5,000.00					500.00		500.00
11/04/2017	198	Whitehaven District Operatic Society														5,000.00		5,000.00
<b>April</b>																		
			2,145.06	-	-	1,767.01	1,910.00	628.35	-	-	5,000.00	-	-	500.00	-	11,950.42	963.57	12,913.99

APPENDIX 2

WHITEHAVEN TOWN COUNCIL SUMMARISED INCOME & EXPENDITURE STATEMENT FINANCIAL YEAR 2017-18	Expenditure Net of VAT	Invoices not yet processed	Budget
<b>BANK BALANCES BROUGHT FORWARD</b>			
CBS 53905917	44,343.62		
CBS 53906216	<u>185,135.74</u>		
<b>TOTAL OPENING BALANCE</b>	<b><u>229,479.36</u></b>		
<b>INCOME:</b>			
Precept			
Interest (Deposit)	<u>4,750.03</u>		
<b>TOTAL INCOME</b>	<b><u>4,750.03</u></b>		
<b>EXPENDITURE</b>			
Salaries		2,145.06	
Expenses (Clerk & Councillors)		-	
Training		-	
Office Exps/Room Hire		1,767.01	
Allotments		1,910.00	
Winter Wonderland (Christmas Lights)		628.35	
Market		-	
Cleaning & Maintenance		-	
General Grants		5,000.00	
Sponsorship		-	
Insurance & Audit		-	
Mayor's Events		500.00	
Ward Grants		-	
VAT (to be reclaimed)		963.57	
<b>TOTAL EXPENDITURE</b>		<b><u>12,913.99</u></b>	
<b>CASH BOOK BALANCE</b>			
Brought forward		229,479.36	
Income		4,750.03	
Expenditure		12,913.99	
<b>Town Council Funds</b>		<b>221,315.40</b>	
<b>BANK BALANCES</b>			
CBS 53905917 (19 April 17)		89,075.62	
CBS 53906216 (19 April 17)		139,885.77	
		228,961.39	
<b>Unpresented Cheques</b>		7,645.99	
<b>FINANCIAL POSITION</b>		<b>221,315.40</b>	

**GRANT APPLICATIONS****Purpose of Report**

To consider the following grant applications from:-

- Kellsfest
- Whitehaven Heritage Action Group

and to decide the amount of grant to be awarded.

**1.0 Grant Applications for Consideration**

1.1 The following grant applications have been received:-

**a) Kellsfest**

Applicant:	Kellsfest
Amount Applied for:	£10,000.00
Total cost of project:	£16,580
Purpose of Project:	To organise and run a 3 day local sports And music festival called Kellsfest to raise the profile of grassroots sports in the Whitehaven area
Other Funding:	No information.

**b) Whitehaven Heritage Action Group**

This application was made on behalf of the Whitehaven Heritage Action Group  
In October 2016 but for some unknown reason does not appear to have  
been processed at that time.

Applicant:	Whitehaven Heritage Action Group
Amount Applied for:	£525.00
Total Cost of Project:	£1,325.00
Purpose of Project:	Contribution towards printing costs of a

booklet to mark the Group's 25<sup>th</sup>  
anniversary

Other Funding:

Group's own cash contribution £500.00

## **2.0 Budget Implications**

2.1 Members are reminded that the budget for grants in 2017/18 is £30,000.00

**QUOTATIONS FOR GRASS CUTTING WITHIN THE WHITEHAVEN AREA**

**PURPOSE OF REPORT AND RECOMMENDATIONS:**

For Councillors to consider quotations received for undertaking grass cutting for 2017 in the Whitehaven area

**1. INTRODUCTION**

- 1.1 Members will recall that this was on the Agenda for the meeting on 2<sup>nd</sup> March 2017. The Town Council had received a quote from Copeland Borough Council for cutting various areas of grass in the Whitehaven area (shown at Appendix 1) and agreed that other quotations be sought in line with Financial Regulations (11.1.H) for carrying out this work.
- 1.2 Last year the Town Council paid the Borough Council £5994.87 for cutting the grass in the same area from April to September on a two weekly cut cycle equal to 12 cuts.

**2. PRESENT POSITION**

- 2.1 One firm contacted did not wish to submit a quote as they had too much work on already and we are waiting for replies from other firms which will be reported to the Council.

**3. RECOMMENDATION**

- 3.1 That the Council consider the quotes received and make a decision on the award of the contract.

# APPENDIX 1

Whitehaven Town Council-Grass cutting 2017	
Area	
Verge from Firestation to Alma Bank road	
Carlton Drive to Thornton Road	Flail only
End of Carlton Drive	
Thornton Road Entrance	
Verges along Thornton Road	
End of Greenlands Ave	
Ashleigh Place	
Hillcrest Ave	
Tower Hill	
Victoria Road Verge	
Rannerdale Drive junctions	
Crossfield Road, Bransty verges	
Area next to St Gregs/St pats school	
Verges along Whinlatter rd	
Yewbarrow Close-Bank	Flail only
Whinlatter rd ,Large bank	
Wastewater rd entrance	
Monkwray Bungalows, junction of Monkwray Brow	
Verge next to Monkwray Cottages	
Corner Harbour view/High rd	
Mirehouse rd verge	
Sandwith Village Green	
Toll Bar	
Toll bar to Pelican verge	
Pocket Park, Bransty	
Hillcrest ave-Opposite Jericho play area	
Cleator Moor rd verghe, Whitehaven	
Corner at start of Foxhouses Road	
Springfield Ave 1.7.16	
Springbank junction 1.7.16	
Wordsworth Junction 1.7.16	
Richmond Hill to Homewood verge 1.7.16	
Bottom of Lincoln Rd junction - 11.8.16	
Station Rd - Coach Rd junction 11.8.16	
Corner of Winston Drive off Main St Hensingham - 31.8.16	
Substation at junction of Homewood Road & Sneckyeat Road- 31.8.16	
Cambridge Road - Garage Site (Cut only) - 31.8.16	
Total cost per cut	
Total cost per year	

**INSURANCE POLICY**

To inform the Council of the Renewal Documents received from the Council's Insurers (Zurich) and to decide whether to accept the renewal premium or seek quotes from other Insurance companies

**1.0 INTRODUCTION**

- 1.1 Members will be aware that the Town Council is insured by Zurich. The insurance policy expires on 21<sup>st</sup> May 2017.
- 1.2 When the Policy was renewed on 22<sup>nd</sup> May 2016 the premium was £700.70 and the schedule of insured items was:-
  - Ceremonial pendant
  - Cast iron Whitehaven road sign
  - Christmas lights
  - Christmas lights
- 1.3 An amendment was made to the Schedule on 13<sup>th</sup> July 2016 to include:-
  - Office computer equipment and furniture
  - Loaned civic Regalia (£93,400)
- 1.4 In February 2017 the Council signed a loan agreement for the remainder of the civic regalia which had a value of £18,400 and this was added to the insurance policy schedule

## **2.0 RENEWAL PREMIUM**

- 2.1 A renewal proposal has been submitted by Zurich shown at Appendix 1 giving a renewal premium of £2729.38 for one year; £2,597.75 for three years and £2,466.07 for five years.
- 2.2 The Insurance Company has stated that the main reason the insurance premium has increased from £700.70 to £2729.38 is because of the insurance of £111,800 for the civic regalia.

## **2.0 RECOMMENDATION**

- 2.1 Members are requested to decide whether or not they wish to renew the policy with Zurich and if so for how many years; or
- 2.2 Whether quotes from other insurance companies be sought



APPENDIX 1  
Quote

## Whitehaven Town Council

---

**From:** James Hawkins <james.hawkins@zurichtogether.co.uk>  
**Sent:** 13 March 2017 13:24  
**To:** Whitehaven Town Council  
**Subject:** Whitehaven Town Council - Renewal 2017 - YLL-2720446703  
**Attachments:** Whitehaven Town Council - Renewal Documents 2017.pdf; Whitehaven Town Council - Policy Schedule 2017.pdf; FAQs.pdf; 20 0 TAP Policy Wording Local Councils Select Policy.pdf

Dear Marlene,

As promised, please find attached the renewal documents for your 2017 policy with Zurich.

As requested I have included premiums for 1,3 and 5 year agreements.

The premium (including IPT @ 10%) for the coming year will be:

1 Year: £2729.38  
3 Year: £2597.75  
5 Year: £2466.07

Please ensure you read through the attached and confirm that it meets your requirements.

If you have any questions please don't hesitate to contact me on 01243 832030.

Kind regards,

**James Hawkins**  
Customer Account Manager

**Direct:** 01243 832030  
**Email:** [james.hawkins@zurichtogether.co.uk](mailto:james.hawkins@zurichtogether.co.uk)



All of the companies listed below are part of a group of companies of which the ultimate parent company is Zurich Insurance Group Ltd, a company registered in Switzerland. Zurich Insurance plc is a public limited company incorporated in Ireland. Registration No. 13460. Registered office: Zurich House, Ballsbridge Park, Dublin 4, Ireland.

The UK Branch of Zurich Insurance plc is registered in England and Wales No BR7985. Registered office: The Zurich Centre, 3000 Parkway, Whiteley, Fareham, Hampshire PO15 4JG. Zurich Insurance plc is authorised by the Central Bank of Ireland and subject to limited regulation by the Financial Conduct Authority. Details about the extent of our regulation is available on our website.

Each of the following companies has its registered office at The Grange, Bishops Cleeve, Cheltenham GL52 8XX.

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Zurich Assurance Ltd is registered in England and Wales No 02456671. Zurich Assurance Ltd is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority. Zurich Sterling ISA Managers Limited is registered in England and Wales No 02395416 and is authorised and regulated by the Financial Conduct Authority. Zurich is used as a trading name.

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## **REQUEST FROM CARTGATE ALLOTMENTS**

To inform Members of a request that has been received from Cartgate Allotments to use half an allotment as a delivery site and to consider the request.

### **1.0 INTRODUCTION**

- 1.1 A request has been received from Cartgate Allotments that when the half plot no. 33a which is immediately in front of the main entrance becomes vacant that it be used as an area for deliveries onto the allotment site eg skips, compost etc.
- 1.2 The rent for half an allotment site is £17.50.

### **2.0 RECOMMENDATION**

- 2.0 It is recommended that when the half site 33a becomes available that it be used as a delivery area and not an allotment