



# MINUTES

## Council

<b>Date:</b>	Monday, 9 March 2020
<b>Venue:</b>	Town Hall, St Annes.
<b>Members Present:</b>	Mayor (Councillor Angela Jacques) Deputy Mayor (Councillor Richard Redcliffe)  Councillors Ben Aitken, Frank Andrews, Peter Anthony, Tim Armit, Mark Bamforth (via remote access), Brenda Blackshaw, Karen Buckley, Alan Clayton, Delma Collins, Peter Collins, Chris Dixon, Sue Fazackerley MBE, Trevor Fiddler, Ellie Gaunt, Brian Gill, Shirley Green, Noreen Griffiths, Will Harris, Gavin Harrison, Karen Henshaw JP, John Kirkham, Matthew Lee, Cheryl Little, Roger Lloyd, Ed Nash, Sally Nash-Walker, Jayne Nixon, Linda Nulty, Liz Oades, David O'Rourke, Bobby Rigby, Michael Sayward, Vince Settle, Elaine Silverwood, John Singleton JP, Roger Small, Ray Thomas, Tommy Threlfall, Stan Trudgill, Viv Willder, Michael Withers.
<b>Officers Present:</b>	Allan Oldfield, Ian Curtis, Stephen Reed, Katharine McDonnell, Sharon Wadsworth, Howie Dawson and the webcasting team.
<b>Other Attendees:</b>	Sixteen members of the public were present.

Councillor Oades proposed that under procedure rule 14.5 of the constitution, that all votes at the meeting be recorded. In doing so she cited government guidance, and Charity Commission guidance OG56 Part B1, paragraph 4.2, which stated that *"individuals acting on behalf of a local authority... must...act in a responsible way so as to ensure that the local authority acts properly as a charity trustee."*

Councillors Silverwood, Nulty, Lee, Clayton, Armit, Gill, Lloyd, P Collins, Blackshaw, Henshaw and Griffiths supported the request for a recorded vote.

The Mayor agreed to this request.

### 1. Declarations of Interest

Members were reminded that any disclosable pecuniary interests should be declared as required by the Localism Act 2011 and any personal or prejudicial interests should be declared as required by the Council's Code of Conduct for Members.

There were none on this occasion.

### 2. Mayor's Announcements

The Mayor announced that she had attended an International Women's Day event at Blackpool Sixth Form College, which had been excellent and very interesting. She extended her thanks to those attending the Mayor's Ball and to those who had made contributions to the Ball.

She also reminded members of a fundraising event on 1<sup>st</sup> April organised by the Deputy Mayoress.

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### 3. Chief Executive's Communications

There were no communications from the Chief Executive on this occasion.

Prior to consideration of agenda item 4, Lytham Institute, Councillor Brian Gill proposed that under procedure rule 11.2 (iii) that the council change the order of business in the agenda.

The motion was seconded by Councillor Peter Collins

A recorded vote was then held;

For the motion (12) - Councillors Armit, Blackshaw, Clayton, P Collins, Gill, Griffiths, Henshaw, Lee, Lloyd, Nulty, Oades and Silverwood.

Against the motion (30) - Councillors Aitken, Andrews, Anthony, Buckley, D Collins, Dixon, Fazackerley, Fiddler, Gaunt, Green, Harris, Harrison, Jacques, Kirkham, Little, Nash, Nash-Walker, Nixon, O'Rourke, Redcliffe, Rigby, Sayward, Settle, Singleton, Small, Thomas, Threlfall, Trudgill, Willder and Withers.

### 4. Lytham Institute

Councillor Karen Buckley introduced the report referred from Finance and Democracy Committee under Part 3, section 5 of the Constitution. She advised that the Council were being asked to make decisions as trustee of the Lytham Institute charity not as the Council, but that councillors were not individual trustees.

Councillor Buckley advised that the application to register the Institute as a charity was made in August 2019, with the registration process completed in December 2019. She further advised that the next steps were to update the charitable objects and create an administrative scheme for the Trust.

She directed members to the report which explained why the charitable objects needed to be changed, and in accordance with Charity Commission guidance, could only be done following a consultation. She advised that the draft objects proposed for consultation, were based on the Charity Commission's model objects for community centres.

Regarding the administrative scheme, she advised these would normally be included in the governing document for the Trust, however the 1917 lease assignment did not contain any governance arrangements. As this was a requirement for a Trust in 2020, the recommendation was to direct officers to draft an administration scheme for approval by members.

In conclusion, Councillor Buckley directed member to an updated set of recommendations, that had been revised and clarified, in light of further guidance from the Charity Commission.

Councillor Vince Settle seconded the proposals put forward by Councillor Buckley.

Councillor Peter Collins proposed an amendment;

“that Fylde Borough Council notes

1. Councillors have been asked to take decisions without being provided with proper and sufficient information on which to base them.
2. No evidence has been provided to Council to support, nor have Council debated, the claim made to Finance and Democracy Committee that the substantive interest in this property now falls within the definition of being surplus to the Council's operational requirements.
3. Council have not been presented with any documentary evidence to support the claim that the Institute is not held for the purposes of meeting the cultural, recreational and social needs of people in Lytham and the surrounding area.

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4. Council have not received a professional officer report and evidence regarding the architectural and heritage importance of this Grade II listed building, nor have Council received details of what may be required and achievable by way of repair, maintenance or improvement.
5. Council have received no report from the Tourism and Leisure Committee concerning the value or otherwise of the Institute in respect of the Leisure, Community Development, Arts, Culture and Heritage facilities that are currently provided in and from the Institute. This is a fundamental omission when that Committee's Terms of Reference include:
  - "3. Considering reports, reviewing, and formulating where necessary, policies relating to leisure management and community development"
  - "5. Considering reports, reviewing, and formulating where necessary policies relating to arts, culture and heritage"
  - "10. To deal with issues arising in relation to the Trust set up to manage Lowther Pavilion and Gardens."
  - "13. To consider any management issues arising in relation to land or property within the remit of the committee"
  - "14. To keep the Council's sports development programme under review"
6. Council have received no report regarding the currently unmet social, cultural, recreational and community development needs of people in Lytham and surrounding areas that the trust is established to cater for.
7. No data has been provided to Council on the use of the building over time nor whether any of those uses are declining or growing.

And so, before any further decisions are taken, there is a need to produce evidence that Councillors need to properly inform their decisions on such matters and therefore this Council requests

1. That the Planning Committee report to a future Council meeting on the importance of the architectural and heritage value of the Institute Building and its current importance and relationship to Lytham Town Centre.
2. That the Tourism and Leisure Committee be asked to gather evidence detailing the existing services and facilities provided within the Institute, including their extent, and their community value and importance.
3. That the Tourism and Leisure Committee commission a survey of unmet social, recreational and cultural need in Lytham and surrounding areas.
4. That the Tourism and Leisure Committee invite the views and observations of relevant local and national bodies about need and availability that is, and could be, provided in the Institute, with the selection of those relevant bodies being guided by the expressed public desires in the 'Possible Future Uses Report' produced by the Friends of Lytham Institute."

The amendment was seconded by Councillor Roger Lloyd.

Following a brief debate, Councillor Buckley summed up, and there followed a recorded vote;

For the amendment (12) - Councillors Armit, Blackshaw, Clayton, P Collins, Gill, Griffiths, Henshaw, Lee, Lloyd, Nulty, Oades and Silverwood.

Against the amendment (30) - Councillors Aitken, Andrews, Anthony, Buckley, D Collins, Dixon, Fazackerley, Fiddler, Gaunt, Green, Harris, Harrison, Jacques, Kirkham, Little, Nash, Nash-Walker, Nixon, O'Rourke, Redcliffe, Rigby, Sayward, Settle, Singleton, Small, Thomas, Threlfall, Trudgill, Willder and Withers.

The amendment was LOST.

Councillor Peter Collins moved a further amendment;

"Council is aware that altering the original purposes of a trust is a complex and important matter. Ultimately, as the sole Trustee, it requires exercise of the Council's judgement to fashion proposals on which it will consult.

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In order for the Council's judgement to be well informed, those taking the decision need to be fully appraised of the need for alteration, and of the options and alternatives that may be available.

I propose "that the revised recommendation be removed and replaced by

This Council requests that Officers report to a future meeting of the Tourism and Leisure Committee setting out:

- a. The original (and current) requirements of the trust instrument;
- b. Details of the reasons that change is now required, and whether such changes are mandatory or discretionary;
- c. Any criteria and constraints governing the changes that might be made;
- d. What officers consider to be the closest possible modern equivalents of the original trust instruments;

in order that the Council may be satisfied it is necessary to alter the present purposes of the trust."

The amendment was seconded by Roger Lloyd.

Following a debate, Councillor Buckley summed up. In doing so she clarified that the Trust accounts had been separated. There followed a recorded vote;

For the amendment (12) - Councillors Armit, Blackshaw, Clayton, P Collins, Gill, Griffiths, Henshaw, Lee, Lloyd, Nulty, Oades and Silverwood.

Against the amendment (30) - Councillors Aitken, Andrews, Anthony, Buckley, D Collins, Dixon, Fazackerley, Fiddler, Gaunt, Green, Harris, Harrison, Jacques, Kirkham, Little, Nash, Nash-Walker, Nixon, O'Rourke, Redcliffe, Rigby, Sayward, Settle, Singleton, Small, Thomas, Threlfall, Trudgill, Willder and Withers

The amendment was LOST.

Councillor Peter Collins moved a further amendment;

"that Fylde Borough Council notes

1. If the Council determines that a change needs to be made to the trust's purpose/objectives, Council will need to consider the range of options available to it in respect of changed purposes/objectives that lie within the criteria set by the Charity Commission. To make properly informed decisions about future purposes/objectives for the trust, the Council needs to be appraised of the options available, together with a commentary for each option, setting out the extent to which it accords with the Charity Commission criteria. Furthermore, to secure the support of the trust's beneficiaries, it is important to ensure they are invited to input into the decision-taking process in this matter at an early stage.
2. The position of a Council as a charity's sole Trustee is not always ideal, not least because – as the Charity Commission sets out in its guidance – *"local authorities often fail to appreciate that they are not free to deal with the property of a charity in the same way as they can deal with their own corporate property held for statutory purposes."*

The Commission also say "When making a Scheme for some other purpose in relation to a charity which is administered by a local authority as a trustee, we will consider whether other trusteeship arrangements might not be more appropriate. For example, we may suggest to the local authority that it retires in favour of a body of individual trustees, while perhaps retaining the right to appoint some of those trustees." This Council needs to secure arrangements that can deliver its influence, whilst at the same time engaging and encouraging users and beneficiaries of the Trust to be proactive in its governance and support.

One option amongst the possible alternative to meet this need and deliver a broad spectrum of governance perspectives would be to consider representation by (say) thirds, where one third of trustees would be nominated by the Council, one third nominated by users of the Institute, and one third nominated by beneficiaries of the Trust.

In order to reach a decision on what form of governance it should seek for the future, Council needs to be advised of the range of possible governance options that exists, and the potential advantages and

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disadvantages of each. And Council requires that the Officer's revised recommendations be removed and be replaced by

1. In respect of changed Purposes/Objects for the Institute, the Tourism and Leisure Committee receive a report setting out the range of options that exists as being close alternative purposes/objects, together with a commentary on each option setting out the extent to which each meets the Charity Commission's requirements to:
  - a. Accord with 'The spirit of the gift';
  - b. Deliver new purposes that are close to the original; and
  - c. To be suitable and effective in light of current social and economic circumstances.
2. The Tourism and Leisure Committee publish a consultation report on these options., together with its preliminary view on this matter, and invites comment from existing Institute users, interested local community groups, and the beneficiaries of the charity, prior to considering the representations it has received – in order to make a recommendation of its final view to Council.
3. That in respect of future Governance arrangements, the Council receive a report setting out the range of alternative governance options the trust could request, together with a commentary on the advantages and disadvantages of each option, in order to come to a preliminary view for consultation purposes."

Councillor Lloyd seconded the amendment. Councillor Buckley summed up and there followed a recorded vote;

For the amendment (12) – Councillors Armit, Blackshaw, Clayton, P Collins, Gill, Griffiths, Henshaw, Lee, Lloyd, Nulty, Oades and Silverwood.

Against the amendment (30) - Councillors Aitken, Andrews, Anthony, Buckley, D Collins, Dixon, Fazackerley, Fiddler, Gaunt, Green, Harris, Harrison, Jacques, Kirkham, Little, Nash, Nash-Walker, Nixon, O'Rourke, Redcliffe, Rigby, Sayward, Settle, Singleton, Small, Thomas, Threlfall, Trudgill, Willder and Withers.

The amendment was LOST.

Councillor Peter Collins moved a further amendment;

"that Fylde Borough Council notes

1. The Council has accepted its responsibility to comply with Charity Commission Guidance to consult at various stages in the process of refreshing the purpose and governance arrangements of the trust.
2. It has also noted the Commission has stressed that, because of the local interest in the charity and use of the Institute, there needs to be a suitable consultation before proceeding with the scheme application.
3. That consultation needs to seek the views of those who would be affected by, or might have an interest in, the changes proposed.
4. Council will separately need to come to a preliminary view on its preferred changes to the trusts's governance arrangements.
5. Council should then publish and consult upon its preferred purposes and governance arrangements with;
  - a. Existing Institute users;
  - b. Interested local community groups;
  - c. The beneficiaries of the charity,

And that having arrived at its preferred view on the trust's future purpose and governance, the Council will debate and determine an appropriate form of consultation that will meet the Charity Commission's requirements, and secure the widest support from local users, community groups, and beneficiaries."

Councillor Lloyd seconded the amendment.

Councillor Buckley summed up, there followed a recorded vote;

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For the amendment (12) – Councillors Armit, Blackshaw, Clayton, P Collins, Gill, Griffiths, Henshaw, Lee, Lloyd, Nulty, Oades and Silverwood.

Against the amendment (30) - Councillors Aitken, Andrews, Anthony, Buckley, D Collins, Dixon, Fazackerley, Fiddler, Gaunt, Green, Harris, Harrison, Jacques, Kirkham, Little, Nash, Nash-Walker, Nixon, O'Rourke, Redcliffe, Rigby, Sayward, Settle, Singleton, Small, Thomas, Threlfall, Trudgill, Willder and Withers.

The amendment was LOST.

Councillor Brian Gill proposed an amendment, an “amendment to proposed resolution 1, that the recommendation be removed.”

Councillor Brenda Blackshaw seconded the amendment.

Councillor Buckley summed up, and there followed a recorded vote;

For the amendment (12) – Councillors Armit, Blackshaw, Clayton, P Collins, Gill, Griffiths, Henshaw, Lee, Lloyd, Nulty, Oades and Silverwood.

Against the amendment (30) - Councillors Aitken, Andrews, Anthony, Buckley, D Collins, Dixon, Fazackerley, Fiddler, Gaunt, Green, Harris, Harrison, Jacques, Kirkham, Little, Nash, Nash-Walker, Nixon, O'Rourke, Redcliffe, Rigby, Sayward, Settle, Singleton, Small, Thomas, Threlfall, Trudgill, Willder and Withers.

The amendment was LOST.

Councillor Gill proposed a further amendment, “an alternate to resolution 1, to remove the words ‘or other appropriate premises’ as we are only considering Lytham Institute and not for example the Town Hall”.

Councillor Blackshaw seconded the amendment.

Following a brief debate, there followed a recorded vote;

For the amendment (12) – Councillors Armit, Blackshaw, Clayton, P Collins, Gill, Griffiths, Henshaw, Lee, Lloyd, Nulty, Oades and Silverwood.

Against the amendment (30) - Councillors Aitken, Andrews, Anthony, Buckley, D Collins, Dixon, Fazackerley, Fiddler, Gaunt, Green, Harris, Harrison, Jacques, Kirkham, Little, Nash, Nash-Walker, Nixon, O'Rourke, Redcliffe, Rigby, Sayward, Settle, Singleton, Small, Thomas, Threlfall, Trudgill, Willder and Withers.

The amendment was LOST.

Councillor Gill proposed a further amendment, “an amendment to resolution 3, that the order be changed in paragraph 15 for item (d) to replace item (a) and the wording change from ‘online representation’ to ‘elected members in their respective wards to facilitate workshops/surgeries using a standard information pack agreed by council with a minimum of 100 responses.’”

Councillor Blackshaw seconded the amendment.

There followed a recorded vote;

For the amendment (12) – Councillors Armit, Blackshaw, Clayton, P Collins, Gill, Griffiths, Henshaw, Lee, Lloyd, Nulty, Oades and Silverwood.

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Against the amendment (30) - Councillors Aitken, Andrews, Anthony, Buckley, D Collins, Dixon, Fazackerley, Fiddler, Gaunt, Green, Harris, Harrison, Jacques, Kirkham, Little, Nash, Nash-Walker, Nixon, O'Rourke, Redcliffe, Rigby, Sayward, Settle, Singleton, Small, Thomas, Threlfall, Trudgill, Willder and Withers.

The amendment was LOST.

With no further amendments, there followed a brief debate and then Councillor Buckley summed up. There then followed a recorded vote on the substantive motion;

For the motion (34) - Councillors Aitken, Andrews, Anthony, Armit, Blackshaw, Buckley, Clayton, D Collins, Dixon, Fazackerley, Fiddler, Gaunt, Green, Harris, Harrison, Jacques, Kirkham, Lee, Little, Nash, Nash-Walker, Nixon, O'Rourke, Redcliffe, Rigby, Sayward, Settle, Singleton, Small, Thomas, Threlfall, Trudgill, Willder and Withers.

Abstain (8) - P Collins, Gill, Griffiths, Henshaw, Lloyd, Nulty, Oades and Silverwood.

It was therefore RESOLVED

1. That the council acting as trustee of the Lytham Institute approve the proposed objects as set out in paragraph 12 of the report for consultation in accordance with the Charity Commission guidance;
2. That the council acting as the trustee of the Lytham Institute accept the recent advice of the Charity Commission that administrative provisions as referred to in paragraph 13 of the report should be adopted by way of a resolution under section 280 of the Charities Act 2011 and instruct the officers to draft detailed administrative provisions, to include the matters set out in paragraph 13, to be considered by members prior to consultation;
3. That the council acting as trustee of the Lytham Institute approve consultation on the proposed objects, with the stakeholders listed in paragraph 15 of the report, with a deadline date of April 20th after which all feedback will be considered by members prior to submission of the proposed revised objects to the Charity Commission; and
4. The council acknowledges that, under part 3 of the constitution, Finance and Democracy Committee is the appropriate forum to take future decisions of the council as trustee of the Lytham Institute, in line with Charity Commission guidance that decisions by local authorities in their capacity as charity trustee should be taken through their normal decision-making procedures; and that a special meeting of the committee is scheduled to consider the feedback from the consultation on 1 above.
5. Lytham Institute Trust

Councillor Roger Lloyd moved the propositions as printed in the agenda papers.

Before the motion was seconded, Councillor Peter Collins sought advice in regards to paragraph 13.2 of the procedural standing orders, stating that the proposed motion could be considered similar to one previously rejected.

The Mayor ruled that proposed motion was indeed similar to one previously rejected, and therefore under paragraph 13.2 of the procedural standing orders the matter could not be considered for six months.

The Mayor closed the meeting.

(Councillor Bamforth, accessing the meeting via remote means, did not participate in the vote on any matter, pursuant to Schedule 12, Part VI 39(1) of the Local Government Act 1972)

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