

Applecross Community Council

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www.applecrosscommunity.org.uk

Minutes of Meeting 12th February 2008 (Unapproved)

Present: Ruaridh Cameron, Ishbel Ferguson, Murdo Finlayson, Ewen Gillies, Alison Macleod, Gerry McPartlin

In attendance: Councillor Audrey Sinclair and Robbie Bain, Highland Council and 27 members of the public.

The Community Council wished to express its condolences to Janet MacKay on her recent bereavement. Gerry also wished to express sympathy to the family of Peter Grant of Lochalsh, who died in the hills last week.

1. Minutes of December Meeting

Murdo believed that the minutes of the December meeting had not been approved. However they were approved at the meeting on January 8th. Matters arising from the minutes of 13th November have not been discussed, although the minutes were approved at the meeting on 11th December.

2. Minutes of Previous Meeting

Murdo and Gerry expressed concerns about the accuracy of the minutes of the meeting on 8th January. Gerry accepted that the minutes reported Ewen's proposal about forming a community company limited by guarantee accurately, but he was concerned that there was no indication of the fact that at least two community councillors had not understood that Ewen's proposal specifically related to a Community Company created under the Land Reform Act. They had believed they were voting about the formation of an unspecified type of community company. This confusion had become apparent at the Steering Group meeting held two days after the Community Council meeting. Gerry would like a note added to the minutes to explain that there was confusion.

Murdo complained that the minutes had not mentioned the three company options described by Lorne. Ewen pointed out that Lorne had spoken about these options at a meeting with the councillors in November, not at the meeting in January.

Alison explained that she would have been happy to add a note at the end of the minutes explaining the confusion about the vote, if this was all she had been asked to do. However she had received an e-mail from Murdo which challenged the balance of the minutes, claiming that she had omitted information relating to the options described by Lorne, and added items that had never been mentioned. This was followed by 'amendments' written by Gerry and Murdo which were so extensive that they amounted to a new version of the minutes. She was shocked that the minutes had been challenged in this way as she knew them to be accurate; they were closely based on seven pages of notes taken at the meeting. Lorne had confirmed that the minutes accurately described his contribution. His assumption had been that the Community Council had accepted his recommendation in November that setting up a Community Company formed under the

Land Reform Act would be the most appropriate route to take to solve the fuel supply problems. He therefore addressed the meeting with this in mind. He made no mention of a CIC except briefly in response to a question from a member of the public.

The minutes of 8th January were approved, with the agreement that a note explaining the misunderstanding of some councillors would be added. Proposed Ewen, seconded Gerry.

3. Matters Arising

John McKeown has offered to include an encrypted e-mail address on the website for each councillor in the format of councillors_name@applecrosscommunity.org.uk . Ewen, Gerry and Murdo all agreed that they would be happy with this arrangement.

At the meeting in November Murdo had asked if it would be possible to get information on numbers accessing the community council website. John advises that it would be possible to ask a web hosting company to provide this service, but it would have to be paid for. While this may be useful for someone running a commercial website, it would be totally unnecessary for the community council one.

3. Conduct of Meetings

Ishbel and Ruaridh both expressed concern about the conduct of community council meetings. They felt that the public was playing too active a role. They suggested that if a member of the public had any matter they wished to be discussed it should be brought to the attention of a community councillor before the meeting took place and could be added to the agenda. Murdo emphasised that the public were only allowed to speak at the discretion of the chair. A member of the public pointed out that this was stated in the constitution. Ewen agreed that members of the public should request councillors to add specific items to the agenda, but that they should still be able to contribute to discussions at meetings.

4. Treasurers report

The balance in the Community Council account on 28th January was £3,347.

The balance in the Filling Station current account was £306.

5. Correspondence

- Official notice has been received of Highland Council plans to create a 30mph zone from the telephone exchange to Aonachan, with a 20 mph zone within that on either side of the school. Murdo has written to request that the zone should be extended to include the area south of Aonachan for which there is an application for planning permission for a house. Ruaridh asked if the enforcement of a 30mph zone would require street lighting to be installed. Apparently this is no longer a requirement.
- Tery Clement wrote to ask for support for her campaign to rid Applecross of plastic bags. She proposes to supply each household with a free cotton bag with an Applecross logo, and offer more bags for sale. All agreed that this was an excellent idea. Murdo will write a letter of support.
- The Highlands and Islands Fire Brigade invited comment on their Integrated Risk Management draft action plan 2008/9. This is available on their website at www.hifrs.org . Responses must be submitted by 31st March.

- The RAF offered to speak to the community about the need for low fly training.
- Liz Pritchard forwarded the 3rd Out of Hours Group Progress report.
- Liz is trying to fix a date for an NHS meeting with Community Councils in April and asked what dates would not be suitable. April 8th is the only unsuitable date.

6. Update on work of the Steering Group and presentation of recommendations to community council by Chris Ward, Chair of Steering Group.

The steering group consisted of fifteen or more individuals, including four community councillors. No-one was excluded from the meetings and members of the public were encouraged to express their opinions. The group had taken expert advice from Lorne MacLeod, who attended the second meeting, Gail Rogerson of the Community Land Unit, who attended the third meeting, Sandra Holmes of the Community Land Unit, Robbie Bain and Douglas Graham, solicitor to the Community Council. The group had also conducted extensive research on the internet, including www.cicregulator.gov.uk/guidance.

Although the Steering Group had understood the original remit to be to look at a Community Company formed under the Land Reform Act, the group had in fact considered all the options.

Community Interest Companies (CICs) were created mainly for use in England and Wales. They tend to have a narrow application, may involve shareholders (including people from outside the community) who may expect a return on their investment, and paid directors. They are heavily regulated and complicated to set up and run. They may register an interest in land or property under the Land Reform Act.

Community Companies formed under the Land Reform Act are owned by community. Members must be on the electoral roll for the area specified in the Memorandum and Articles of Association. The company is able to register an interest in land or property, but registration is governed by strict rules which ensure that the registration must be in the interest of the community. This type of company is more flexible and has a proven track record in Scotland.

The steering group has produced a draft Memorandum and Articles of Association for a Community Company under the Land Reform Act, based on a model provided by HIE. This has already been checked by Douglas Graham who recommended changes to be made before it is sent to the Scottish government for approval. The Memorandum and Articles of Association set requirements for membership of the company. Directors must be members and will be elected by the other members. So Community Companies are run by members of the community on behalf of the community for the benefit of the community.

The liability of the members and directors is limited to £1.

A Community Company is able to register an interest in property or land. This means that if the property comes on to the market the Community Company would be given the first option to purchase it. Compulsory purchase is not possible; furthermore a registration of interest in property or land is only permitted if the Company can demonstrate to Scottish ministers that it is in the interests of the community. The membership must also agree to the registration. There is no possibility of malicious or hostile activity. Gail had explained that in the 5 years since the Land Reform Act had come into being, no registration of interest in a private house had ever been attempted. In fact the right to register an interest in land or property is very rarely exercised although there are now a large number of community companies in Scotland.

Should a Community Company decide that it wishes to purchase any property in which it has registered an interest, when that property comes on to the market, the whole community must be balloted to ensure that there is community support for the purchase. If there is not sufficient community support the purchase cannot go ahead.

Funders recognise that Community Companies must be run democratically and are therefore happy to award grants to them.

The recommendation of the steering group is that a Community Company under the Land Reform Act would be the most appropriate body to take over the ownership of the filling station on the behalf of the community. Murdo thanked the Steering Group for all its work and Chris for chairing it.

7. Discussion of the Steering Group's recommendations and decisions on next steps, including the proposal for a public ballot

Alison asked Robbie if it would be possible for the Highland Council to pass ownership of the land on which the filling station stood over to a Community Company, rather than lease it, as she understood from Gail that the Big Lottery Fund and Highlands and Islands Enterprise were reluctant to fund projects where the assets did not belong to the applicants. Robbie explained that Highland Council had been resisting BLF's and HIE's perceived need for ownership and would prefer that the Community Council would assign the lease for the land to the Community Company. However he offered to look into the possibility of selling the land.

Murdo asked Chris why the recommendation of the group was to form a company with powers under the Land Reform Act rather than a company without LRA powers. Chris explained that it would allow the company more flexibility. It would enable it to register an interest in other community facilities which may come under threat in the future.

A member of the public asked if there was any difference in the funding levels available to Community Companies and Community Interest Companies. As far as the filling station refurbishment is concerned it is likely that both types of company would be able to attract 95% funding.

A member of the public asked if any other community council had balloted the electorate on the establishment of a community company. Robbie explained that Applecross was in an unusual situation; a community company would not normally be established under the auspices of a community council.

Murdo said that a member of the public had asked him for a public ballot.

Ewen suggested that it would be more appropriate to hold a public meeting to provide information about the options available in order to allow an informed vote by show of hands. He believed that the options will be too complicated to allow an informed vote by ballot.

Gerry said that he was in favour of a ballot as it was such an important issue, although he acknowledged that it would be difficult to word the question. Ishbel and Ruaridh agreed with this.

Alison believed that a ballot was unnecessary as membership levels of a Community Company would demonstrate that it had community support. She believed that a Community Company with powers under the Land Reform Act was by far the best option for ensuring the continuity of the fuel supply in Applecross, as well as offering flexibility which could be used in the future to help ensure the sustainability of the community in Applecross.

As the majority of the council wished to hold a ballot the discussion then moved on to what the question on the ballot paper should be.

Robbie believed that it would be a good idea to hold a ballot but advised that a straightforward question (for example whether to accept the recommendation of the steering group) with a Yes/No answer would be the only workable option. Offering a range of options would be impossible to word in a way that would allow people to understand exactly what was involved. Murdo suggested that the question should be whether to form a Community Company with powers under the Land Reform Act or a Community Company without such powers. Robbie doubted that that could be worded in a way which would allow informed voting. He also pointed out that it would be possible to change a Company without LRA powers to one with LRA powers, so it wasn't a real choice.

The discussion continued without reaching a conclusion, so it was proposed to hold a separate meeting to decide the wording of the ballot. This will take place on Friday 22nd February at 7.00pm, and will be open to the public.

8. Update on Highland Small Communities Housing Trust Surgery

The Community Council has received the draft report which was the result of the surgery held in January. Ten groups (some families and some individuals) had attended the surgery to discuss their needs. The conclusion of the report was that six affordable houses and two affordable housing plots would be sufficient to satisfy present needs.

Gerry was concerned that people had not understood that the surgery had been held not just to provide information about what might be available, but so that any housing need could be registered. This would then demonstrate the level of demand. A new consolidated register of housing needs has recently been established. Anybody already on one or more of the housing lists will have been sent forms to re-register on the new list. It is important that they complete these forms and return them. Gerry urged anyone with any kind of housing need to get in touch with him, or with the HSCHT by e-mailing Morven Taylor at morventaylor@hscht.co.uk or by phoning Morven on 01463 233549.

A member of the public asked if it would be appropriate for someone living in rented housing of an acceptable standard, but who would like to own their own house, to register a need. Gerry replied that it would be.

9. Update on Tourist Information Brochure

No progress has been made on this as so much time has been consumed by the filling station issue.

10. AOB

Date of Next Meeting: 11th March at 7.30pm.

Minutes of Meeting 22nd February 2008 (Unapproved)

Present: Ruairidh Cameron, Ishbel Ferguson, Murdo Finlayson, Alison Macleod, Gerry McPartlin

Apologies: Ewen Gillies

In attendance: 26 members of the public

This extra meeting of the Community Council was held to discuss one item only; the wording of the ballot to be conducted over the transfer of Applecross Filling Station from the ownership of Applecross Community Council.

There were two suggestions for ballot questions as follows;

Either

1. To ask if the community agreed to the operation and lease of the filling station being passed to the Community Company which had begun to form at an open meeting held the previous evening.

Or

2. To offer the community the choice between different types of community company.

Ruaridh suggested that an additional question should be included to ask if the filling station should be closed. Ishbel pointed out that the filling station would need to be passed over to a community company to allow closure. Ruaridh believed that asking the question would demonstrate whether the community wanted to keep it open. Gerry believed that the community had already demonstrated a wish to keep it open; more questions on the ballot paper would allow more scope for confusion. It was decided not to include a question on whether the filling station should be closed.

Robbie Bain had forwarded a draft demonstrating how a ballot paper offering two options could be made up. However Douglas Graham had pointed out that there were actually three options which should be offered if the Community Council decided to allow a choice of different options in the ballot.

These are:

- A single purpose community company without Land Reform Act powers
- A multi purpose community company without Land Reform Act Powers
- A multi purpose community company with Land Reform Act Powers

Douglas had explained that all three types would be able to attract funding, but that the first option may struggle to register as a charity.

Alison suggested that as the meeting the night before had been well attended and the vast majority of those there had indicated a wish to support a multi purpose community company with Land Reform Act powers, it would be best to ballot the community on whether to hand the lease and operation of the filling station over to this company. This would be a straightforward ballot with a yes/no answer, as originally recommended by Robbie Bain. There was one vote for this suggestion.

The suggestion that either two or three options should be offered received four votes.

Alison pointed out that offering options would cause confusion among the electorate. She felt it was a mistake to do so.

Gerry proposed a ballot offering the three options described by Douglas Graham and using Robbie's draft as a model; Ruaridh seconded this.

Alison suggested that the word 'council' should be removed from Robbie's wording '*I would like the Community Council to set up a company....*' as any company would be set up by the community, not the Community Council. This was agreed.

It was decided to hold the ballot as soon as possible; the electoral rolls had already been ordered and were expected at the beginning of the next week. Murdo agreed to ask June Forsyth of Highland Council to be returning officer. He suggested that the ballot papers should be returned a week after being posted out.

Alison pointed out that 16-18 days at least should be allowed for the return of ballot papers, to give anyone away on holiday a chance to vote.

Gerry suggested that people living on the coast in the Shieldaig Community Council area should be included in the ballot. Murdo agreed to ask Robbie if this would be possible.