

Query re minutes of council 28.11.2017

Background

1. Schedule 12 of the Local Government Act 1972 provides:

- 13 (1) Unless otherwise provided by the council's standing orders the manner of voting at meetings of a parish council shall be by a show of hands.
- (2) On the requisition of any member of the council the voting on any question shall be recorded so as to show whether each member present and voting gave his vote for or against that question.

2. This legal provision is reflected in Standing Order 3 (q).

Unless standing orders provide otherwise, voting on a question shall be by a show of hands. At the request of a councillor, the voting on any question shall be recorded so as to show whether each councillor present and voting gave his vote for or against that question. Such a request shall be made before moving on to the next item of business on the agenda.

3. Minute C151/17, Agenda Item BUDGET 2018-19 was approved at council on 18.12.2017 as follows:

The Town Clerk began the debate by explaining the proposed changes to the previous budget, and the project precept increase requirement of £18,083.

Standing Orders were suspended to allow County Cllr Georgina Hill to address council.

Standing Orders were further suspended to allow a member of the public to address council. After a full debate it was proposed by Cllr Graham seconded by Cllr Forbes, to postpone the setting of the budget until after the Freeman Trust Schedule III contribution had been received. Cllrs Roughead, Graham, Parkin, Smith and Forbes voted in favour of the motion and Cllrs Lewis, Bettison, Nichols, Bruce, Dixon, Stephenson, Gibson and Thomson voted against, so the motion fell.

On the motion of Cllr Gibson, seconded by Cllr Bruce it was **RESOLVED** to adopt the proposed budget, including the precept requirement increase of £18,083, and to refer the issue of the Financial Regulations to the Budget and Administration Committee.

4. Members queried whether in fact there had been a recorded vote requested for the substantive motion proposed by Cllr Gibson, seconded by Cllr Bruce. Having listened to the audio recording it is clear that the Mayor, while calling for the members to vote, inserted into his remarks, a request for the vote to be recorded. This was not noted in the clerk's notes, although the names of those voting were.
5. On both occasions at this meeting where recorded votes were called for, this was done after voting had commenced. The law is clear, but unhelpful; it does not contain the specific wording cited both in Arnold-Baker and your standing orders, that the request for a recorded vote can be made at any time before the meeting moves onto next business. Nor does Arnold-Baker cite any case or common law to support this interpretation of the law.
6. Neither is there any helpful explanation in the textbooks or other sources as to whether a chair, when calling for a vote to be taken (as chair) can also make a procedural request for the vote to be recorded. If it were a procedural motion (that required seconding) our view would be quite clear; that the chair would have to first move their procedural motion, before calling for the vote on the substantive motion. However, the law is, again, opaque. The call for the vote to be recorded is not a procedural motion, does not require seconding and cannot be debated.
7. Why does this matter? If Arnold-Baker and your standing orders are correct, then it is possible, if the clerk has not already recorded the names of those voting, that a request for the vote to be recorded after the outcome of the vote has been called by the chair could mean the vote has to be re-run, so that the clerk can record who voted. We will take soundings elsewhere, since there may be other councils where this issue has arisen and further report to council as to whether the current standing order 3(q) needs to be revised.
8. In this instance it is clear that the failure to record the second vote is an oversight. It is therefore proposed that the Mayor, at this meeting, sign an additional loose leaf page to be inserted behind the existing page showing Minute C151/17, showing that this council approved this action, and the re-phrasing of the minute to show that it should have read; The Town Clerk began the debate by explaining the proposed changes to the previous budget, and the project precept increase requirement of £18,083. Standing Orders were suspended to allow County Cllr Georgina Hill to address council. Standing Orders were further suspended to allow a member of the public to address council. After a full debate it was proposed by Cllr Graham seconded by Cllr Forbes, to postpone the setting of the budget until after the Freeman Trust Schedule III contribution had been received. Cllrs Roughead, Graham, Parkin, Smith and Forbes voted in favour of the motion and Cllrs Lewis, Bettison, Nichols, Bruce, Dixon, Stephenson, Gibson and Thomson voted against, so the motion fell. On the motion of Cllr Gibson, seconded by Cllr Bruce it was **RESOLVED** to adopt the proposed budget, including the precept requirement increase of £18,083, and to refer the issue of the Financial Regulations to the Budget and Administration Committee. Cllrs Lewis, Bettison, Nichols, Bruce, Dixon, Stephenson, Parkin, Gibson and Thomson voted for the motion, and Cllrs Forbes and Roughead against the motion.
9. It is important to do this to ensure the record is accurate, and that council has reacted to an inaccuracy in its minutes, even when, as in this case, the inaccuracy has no practical effect.

Recommendations

1. That council note this report,
2. That council adopt the revised wording of Minute C151/17 as laid out in para 8, and
3. That council receive a further report concerning the ambiguous nature of Standing Order 3(q).