

Shrewsbury Friends of the Earth

Business Meeting: 5 November 2012: 7.30pm: Marches Energy Agency

EXTRAORDINARY MEETING. Notes

Present	Frank Oldaker, Philip Pool, Barbara Phillips, Dave Green, Judy Coleridge, Mark Phillips	
Apologies	Denise Thompson, Judith Rice, John Rice, Mike Richardson, Ian Gregson, Steve Boulding, Sue Fisher	
Agenda Item	Notes	Action
Incinerator	<p>This was an extraordinary meeting held to discuss the withdrawal from the judicial review relating to the incinerator and to discuss a payment of £900 for advice from the solicitor and barrister.</p> <p>Below is the email that was sent to all business group members to ask them whether they would like to attend an extraordinary meeting.</p> <p>Frank and Barbara had telephoned, spoken face-to-face with, or been in email contact individually with all the people who sent their apologies. All of them agreed that the £900 should be paid, although Denise requested that we urgently consider asking the lawyers to quash the bill.</p> <p>Mark explained in full detail what had happened. He fleshed out the email below, which was sent by Frank to all business group members:</p> <p>“As I'm sure you are aware SFoE has withdrawn the application for a Judicial Review into Shropshire Council's failure to carry out a "merits review" of proceeding with the construction of the incinerator. We are acutely aware that only Dave, Mark, Barbara and myself were involved in the decisions taken as we went through the process from initiation to withdrawal and this leaves everyone else with only part of the "story" (and therefore unable to answer any questions you may be asked by friends and the public). Also at the AGM on the 6th there won't time to discuss it so we think it is important to have our usual business meeting to go through what happened , tell you how we have incurred £900 of costs and give you the opportunity to ask any questions you may have.</p> <p>This isn't a short explanation, but we want to give you the main points in case you can't come to the meeting.</p> <ul style="list-style-type: none"> -- Judicial Review is a high court procedure which considers whether a local authority, in taking a particular decision, has acted reasonably. -- We don't think SC has acted reasonably - despite many changes over 5 years, it is refusing to review the incinerator. -- A JR involves several steps. Step (1) was to send a letter to SC telling them why we thought their actions were unlawful. So at this point, they learned what we were planning. -- Step (2) is to ask the court's permission to proceed with a JR. The court looks at the arguments and said "yes, you can proceed" or "no, you can't". In most cases, if a court says "you can proceed", everyone assumes that the LA has in fact acted unreasonably, so the LA reviews their decision. -- We needed to act quickly because we learned that Veolia was intending to start building end Oct/beginning Nov. -- So a lot of work was done very quickly to collect all the documents for step (2). We delivered all these documents to the court. 	

- We then got a letter from SC's solicitors threatening that they would oblige us (through the court) to meet all their legal costs. (They would have had to make representations to the court during step (2)).
- Worried about having to pay costs, we (a) asked the court to protect us against paying SC's costs before we went any further with step (2) and (b) asked specialist solicitors for advice.
- The court said they wouldn't give us a protective costs order at this very early stage.
- We told the specialist solicitors that we would like them to (a) give us advice on the risk of our having to pay SC's costs and what the costs would be likely to be and (b) look at all the documents (which we sent them) and give us their opinion on whether the court was likely to decide "yes you can proceed". We asked them what it would cost to have an advice meeting. They suggested a telephone conference to include a leading barrister. We were considering whether to do the telephone conference and expecting a quote for the cost - when we received written advice from the barrister in conjunction with the solicitors. The advice was that - having analysed what we asked of SC, what SC said and did, and what recorded cases said about the procedures SC should have followed - the claim was unlikely to succeed.
- At this stage we pulled out.

We think that we acted as best we could at each stage and with an eye on the potential costs. But in our discussions with the solicitors, we were stressing the urgency. The solicitors and the barrister they were recommending took the need for speed at face value and proceeded to look at the bundle of documents and give us their opinion without any formal agreement with us. We thus incurred a cost of £900 without having taken a decision to do so, before we had the chance to call an SFoE meeting and seek agreement of the Group for the expenditure. We are sorry this happened but feel in retrospect it was money well spent.

Having reviewed the current situation we believe it is worth continuing the fight against incineration. There are methods of waste treatment that are much better and much more economical, the public agree with our action, there has been great support in the media and it is not unlikely that a continuing campaign could result in the early demise of the burner. But, we need a discussion before we decide whether and how to continue.

To give everyone the chance to ask questions about the JR and what we did, and to consider what our future action is to be, we will hold our meeting as usual on Monday 5th Nov. Barbara, Mark, (Barbara's husband who has done the JR preparatory work) Dave and myself will be there.

The meeting will be for this alone (and just any other urgent items).

Frank”

There was further discussion by all present. This included Denise's point about asking the lawyers to withdraw their bill. This had already been considered. Mark's comments: lawyers of this seniority would normally charge £300-£500 an hour; it was a very reasonable bill given that both lawyers will have spent several hours reading the bundle of documents, the solicitor drafted a long letter to the court supporting our request for the case to be considered in such a way so that

	<p>we were protected from paying the adversaries' costs; and the barrister sent us written advice. It was not what we were asking for, but nevertheless was valuable. These lawyers work almost entirely on behalf of community groups etc, usually on legal aid, and we believe it would be unfair not to pay for what they did.</p> <p>It was agreed that the £900 should be paid. Dave and Mark also have some personal expenses amounting to about £300. It was agreed that these would be paid also. They may choose not to claim.</p>	
Next business meeting	3 December 2012. 7.30 Marches Energy Agency	