

**EXTRAORDINARY STANDARDS COMMITTEE held at COUNCIL OFFICES
LONDON ROAD SAFFRON WALDEN at 2.00 pm on 26 NOVEMBER 2009**

Present:- M Hall – Chairman (Independent Person - Chairman),
Councillor K L Eden (Uttlesford Member), and
Councillor M Sullivan (Town and Parish Councils).

Officers in attendance:- C Oliva (Solicitor), M J Perry (Assistant Chief
Executive) and R Procter (Democratic Services Officer).

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APOLOGIES AND DECLARATIONS OF INTEREST

There were no apologies for absence and no declarations of interest.

The Assistant Chief Executive, acting as Investigating Officer, said he had received confirmation that Councillor Hingston had indicated he was not able to attend today's hearing. Councillor Freeman had indicated he could not attend at the time which had been originally suggested, had been notified of the re-scheduled meeting time, and had not responded, nor asked for an adjournment. Therefore it would be appropriate to proceed with the hearing in the absence of both individuals.

The Chairman welcomed all those present.

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**HEARING INTO ALLEGATIONS OF BREACHES OF THE CODE OF
CONDUCT**

The Assistant Chief Executive presented reports into allegations against two members of Thaxted Parish Council. The Committee agreed there was no reason why both matters should not be heard concurrently.

The Assistant Chief Executive gave a summary of the allegations made by Dr MacPherson against Councillor Freeman, in that Councillor Freeman failed to declare a personal interest in matters before Thaxted Parish Council meetings at which such an interest should have been declared; that he improperly used his position to secure for another person an advantage in that he allegedly alerted a prospective developer via a friend that a fellow councillor owned some land which might be suitable for development by that developer; that he facilitated and supported the progression of the plans through the Parish Council by holding discussions in committee without public consultation; and that he wrote a letter of support on behalf of the Parish Council to further the application.

The Assistant Chief Executive then referred to Councillor Freeman's official details as a member of Thaxted Parish Council. Councillor Freeman was elected to the chair of Thaxted Parish Council in May 2006 and had served in that role ever since. He had given a written undertaking to observe the Code of Conduct on 10 May 2007. He had not received any training on the Code of Conduct but had confirmed that he had a copy and that he had read it. The Assistant Chief Executive set out relevant legislation and protocols, in that the Parish Council had adopted a Code of Conduct in which the relevant sections were as follows: paragraph 5 (a member must not conduct himself or herself in a manner which could reasonably be regarded as bringing the office or authority into disrepute); paragraph 6a (not to use a member's position

improperly to confer for any other person an advantage); paragraph 8 (definition of personal interest); paragraph 9 (disclosure of personal interest); paragraph 10 (prejudicial interests in general); and paragraph 12 (effect on prejudicial interest on the participation).

The Assistant Chief Executive then summarised the evidence considered and representations made, as follows:

1. That at all material times Councillor Freeman was Chairman of Thaxted Parish Council.
2. Councillor Freeman was a personal friend of one Christopher Askew who was a trustee of an organisation known as ResCU.
3. ResCU was interested in acquiring land owned by Councillor Hingston for the purpose of developing a respite centre.
4. On two occasions Councillor Freeman was instrumental in the parish council discussing the proposed development of Councillor Hingston's land in the absence of the press and public. The council deemed this as being a meeting of the council 'in committee' but no motion to exclude the press and public or move into committee was passed.
5. At those meetings (which took place on the 21 June 2007 and on 20 February 2008) and at meetings on the 17 April 2008, 5 February 2009, 19 March 2009, 2 April 2009 and 7 May 2009 when the proposed development was discussed, he failed to declare the nature and existence of his personal interest arising from his friendship with Mr Askew.
6. On 2 April 2009 when the matter was again being discussed Councillor Freeman declared an interest but did not declare the nature of that interest.
7. At that meeting Councillor Freeman having declared an interest withdrew from the chair but remained present at the meeting, thereby ignoring the statutory requirement that the chairman of the council should chair the meeting if present.
8. Councillor Freeman stated that he was not aware of the legal requirement to pass a resolution to exclude the press and public from meetings of the council. He was not aware of the legal requirement of the Chairman to chair a meeting when he was present. He had not had formal training on the Code of Conduct. He was not aware of the requirement to declare the nature of the interests as well as their existence.

The Assistant Chief Executive then gave a summary of the allegations against Councillor Hingston, in that he failed to declare a personal and prejudicial interest in matters before Thaxted Parish Council at which such an interest should have been declared, and that he failed to leave the Chamber when such matters were under consideration.

He went on to summarise Councillor Hingston's official details. Councillor Hingston had given a written undertaking to observe the Code of Conduct on 14 May 2007. He had not received any training on the Code of Conduct and did not know whether he was given a copy of the Code.

In respect of the allegations against Councillor Hingston, the Assistant Chief Executive then summarised the evidence considered and representations made, as follows:

1. Councillor Hingston was joint owner of land in Thaxted, the co-owners being his brother and sister.
2. Prior to becoming a councillor, Councillor Hingston was approached by Mr Christopher Askew, a trustee of ResCU, who wished to ascertain whether Councillor Hingston and his family would be prepared to sell the land for the purpose of constructing a respite centre in the event that planning permission could be granted.
3. Thereafter Councillor Hingston was co-opted on to Thaxted Parish Council.
4. The proposal to construct a respite centre on the land owned by Councillor Hingston and his family was discussed by the parish council on the 21 June 2007, 20 February 2008, 17 April 2008, 5 February 2009, 19 March 2009, 2 April 2009 and 7 May 2009.
5. At the meetings on the 2 April 2009 and 7 May 2009, Councillor Hingston declared that he had a personal and prejudicial interest and left the room. He did not declare what the nature of that interest was.
6. At all other meetings where Councillor Hingston was present and the matter was discussed he failed to declare the existence or nature of an interest and stayed in the room whilst the matter was being discussed.
7. Councillor Hingston declared that he had not had training with regard to the Code of Conduct although he acknowledged that he had signed an undertaking to be bound by it.
8. Councillor Hingston stated that his failure to follow the correct procedures was due to a lack of knowledge, training and experience and not by any desire for personal gain.
9. Councillor Hingston said that all members of the parish council were aware of his interest in the land. He complained that as a new councillor he had little support from the remainder of the committee to ensure that he followed correct procedures.
10. Councillor Hingston had made the point that he was a volunteer who was not paid for his efforts for the council.

At the conclusion of the presentation of the reports by the Assistant Chief Executive, the Chairman asked members of the press and public to withdraw. The Committee then considered the reports with regard to whether the findings of fact were accepted. A point of clarification regarding the findings of fact in relation to Councillor Hingston was sought from the Assistant Chief Executive, during which all parties were permitted to re-enter the chamber.

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FINDINGS OF FACT

The Chairman asked for members of the press and public to be called back in, and then gave a statement as to the Committee's findings of fact.

With regard to Councillor Freeman, the Committee found the facts as they were recorded in the minutes of the respective meetings of the parish council and which were not disputed by Councillor Freeman.

With regard to Councillor Hingston, the Committee found that Councillor Hingston was present at meetings of Thaxted Parish Council when proposals for development of his land were discussed on the 21 June 2007, 20 February 2008, 17 April 2008, 5 February 2009 and 19 March 2009. On each occasion, he failed to declare the existence and nature of his personal interest arising from the proposal to develop the land.

The reason for the Committee making these findings of fact was that the events were recorded in the minutes of the meetings of the parish council and were not disputed by Councillor Hingston.

The Chairman then asked that members of the press and public leave the chamber in order for the Committee to consider whether there had been breaches of the Code of Conduct.

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FINDINGS AS TO BREACHES OF THE CODE

Following the Committee's further deliberations, public session was resumed. The Chairman said the Committee had considered the reports of the Assistant Chief Executive. He said the allegations had been upheld and that the Committee found there had been breaches of the Code of Conduct as set out in the report. At the request of the Assistant Chief Executive, the Chairman confirmed that the Committee's findings reflected those set out in the report, as follows.

Regarding Councillor Freeman, the Committee held that

- 1 Councillor Freeman breached paragraph 9 of Thaxted Parish Council's Code of Conduct on 21 June 2007, 20 February 2008, 17 April 2008, 5 February 2009, 19 March 2009, 2 April 2009 and 7 May 2009 in that on each occasion he was present at a meeting of the Council when development proposals for ResCU were being discussed. Mr Askew was a trustee of ResCU. Mr Askew was a personal friend of Councillor Freeman. The proposed development would have a greater effect upon ResCU than other persons living in the parish. This would have an effect upon the wellbeing of Mr Askew as he would be more

contented than other people in the parish if planning permission were to be granted. The interest was therefore a personal one, which should have been declared.

- 2 Councillor Freeman further breached paragraph 9 of the Code of Conduct of Thaxted Parish Council at the meeting on 2 April 2009 in that although he declared the existence of a personal interest he failed to declare what the nature of that interest was.
- 3 The Committee found that Mr Askew would not benefit personally if planning permission for ResCU's proposals were granted, and, in the circumstances, concluded that a member of the public with knowledge of the relevant facts would not regard Councillor Freeman's interest as a friend of Mr Askew as being so significant as to be likely to affect his judgement of the public interest. Accordingly the Committee found that the interest was not a prejudicial interest.
- 4 The Committee further found that there was no evidence to support the allegation that Councillor Freeman improperly used his position to secure an advantage by introducing Mr Askew to Councillor Hingston.
- 5 The letter sent by Cllr Freeman supporting the proposed development was sent on behalf of the parish council and under the instructions of the parish council. This letter was therefore not in breach of the Code.
- 6 The Committee held that by permitting discussions to take place in private on what was clearly a sensitive issue, there was no breach of paragraph 6A of the Code (not to use a member's position improperly to confer for any other person an advantage), as the parish council clearly had an interest in the proposals. However, as chairman, by permitting the council to discuss controversial matters in the absence of the public in circumstances where the meeting in committee was not convened in accordance with the legislation, he brought his authority into disrepute in breach of paragraph 5 of the Code of Conduct. By failing to follow the appropriate procedures the early discussions regarding the proposal were cloaked in unnecessary secrecy. Lack of transparency would inevitably give rise to lack of confidence in the local democratic process.

Regarding Councillor Hingston, the Committee held that

- 1 Councillor Hingston breached paragraph 9 of Thaxted Parish Council's Code of Conduct on 21 June 2007, 20 February 2008, 17 April 2008, 5 February 2009 and 19 March 2009, and that he failed to declare the existence and the nature of his personal interest arising from his joint ownership of the land in question with his brother and sister.
- 2 The Committee also found that if planning permission were granted for the development there would be a probable financial benefit to Councillor Hingston and his family. The committee took the view that in the circumstances, Councillor Hingston's interest was so significant as to be likely to prejudice his judgement of the public interest. The interest was therefore a prejudicial one.

- 3 Councillor Hingston therefore breached paragraph 12 of the Code of Conduct by failing to withdraw from the meeting when the matter was discussed.
- 4 The Committee further found that by his very presence in the chamber whilst the matter was under consideration, this amounted to improperly seeking to influence the decision of the council in breach of paragraph 12.1.c of the Code of Conduct.
- 5 The Committee further found that by being present at meetings of the council held in the absence of the press and public where a matter in which he had a clear prejudicial interest was being discussed; and by failing to declare the existence and nature of the interest and by seeking to improperly influence the decision, Councillor Hingston brought his authority into disrepute in breach of paragraph 5 of the Code of Conduct. The Committee took the view that such action lacked the transparency required to ensure public confidence in local democracy.

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SANCTIONS

The Assistant Chief Executive invited the Committee to consider appropriate sanctions in light of their findings. He said both parish councillors had admitted ignorance of the provisions of the Code of Conduct, in varying degrees, and that both had signed an undertaking to be bound by the Code. Training sessions had been provided to parish councillors, but records showed that whilst four members of Thaxted Parish Council had attended these sessions, Councillors Freeman and Hingston had not done so.

The Chairman asked members of the press and public to withdraw to enable the Committee to consider the question of sanctions.

On concluding its deliberations, the Committee resumed public session, and the Chairman made a statement of the Committee's decision.

Regarding Councillor Freeman, the Committee required him to apologise formally to the parish council for having brought the council into disrepute. The Committee further determined that Councillor Freeman should be partially suspended from the council by being suspended from the position of chairman for a period of 6 months or until he had undergone training with regard to the Code of Conduct whichever was the sooner.

Regarding Councillor Hingston, the Committee directed that he should be suspended from Thaxted Parish Council for a period of six months or until he had undergone training with regard to the Code of Conduct whichever was the sooner.

The Chairman asked the Assistant Chief Executive to arrange appropriate training.

The meeting ended at 3 pm. Page 6