

MARLBOROUGH TOWN COUNCIL

SPECIAL MEETING OF TOWN COUNCIL

Minutes of a SPECIAL MEETING of the Marlborough Town Council held on Monday, 13th March, 1995 in the Council Chamber, Town Hall, Marlborough at 7.35pm

PRESENT

Councillor I. J. Perryman	Town Mayor
Councillor Mrs.O.L.Delyle-Turner	Deputy Town Mayor
Councillor L.H.Bulley	
Councillor Mrs.H.A.Castle	
Councillor S.R.Dobson	
Councillor Mrs.J.C.Evans	
Councillor Mrs.J.M.A.Goodfellow	
Councillor A.V.Gray	
Councillor C.M.Green	
Councillor R.S.Notton	
Councillor S.A.Radnedge	
Councillor D.I.Smithers	
Councillor J.S.T.West	
Councillor Mrs.J.E.Western	
Councillor Mrs.J.E.White	
Mr.J.Nixon	Litigation Advisor - The Merriman Partnership
Mr.A.W.Skittrall	Town Clerk
Mrs.R.E.Johnston	Clerk

At the commencement of the meeting it was proposed by the Town Mayor, seconded by Councillor C.M.Green and RESOLVED unanimously that Members of the Public and the Press be excluded from this Meeting during the discussion of this item, as publicity would be prejudicial to the public interest, by reason of the confidential nature of the business.

RESOLVED unanimously under Section 100 of the Local Government Act 1972.

378/94 APOLOGIES

An apology for absence was received from Councillor M.P.Cooper.

379/94 NIGEL CLARK ARCHITECTS -v- MARLBOROUGH TOWN COUNCIL

Councillor C.M.Green reported on a "Without Prejudice" meeting which had taken place on the 16th February, 1995 between Mr.J.Nixon (The Merriman Partnership), himself, Mr. Birch (Townsend's, Solicitors) and Mr.N.Warren (Nigel Clark Architects Ltd.) to explore whether any progress could be made on reconciling this dispute. At this meeting, Mr. Nixon had agreed to return to Townsend's within four weeks, with the views of the full Council on proposals for settlement.

Mr.Nixon referred to Counsel's opinion on the estoppel, where as a matter of principle the final account of the 21st August, 1992 was accepted by the Town Council on the 14th December, 1992. On this point, Mr. Nixon explained that an application to have this preliminary issue tried could be made to the court, which would increase the Town Council's costs as well as those of Nigel Clark Architects Ltd.

379/94 NIGEL CLARK ARCHITECTS -v- MARLBOROUGH TOWN COUNCIL

Mr. Nixon said that Building Litigation is expensive and up to the present time, the Town Council has incurred costs of £9,635.00 and even if the Town Council were successful at the preliminary issue trial, there was no guarantee that costs would be awarded.

Alternatively, Mr. Nixon advised that a financial offer could be made to Nigel Clark Architects Ltd. within the figure of £8,025.00 and £16,000.00 to settle the dispute or go the whole way and fight the claim.

Councillor D.I.Smithers, supported by Councillor S.A.Radnedge and Councillor Mrs.J.E.Western favoured settling out of court. However, Councillor Mrs.J.C.Evans, supported by Councillor J.S.T.West were in favour of 'going the whole way.'

The general feeling was that if the Town Council went the 'whole way' it could prove very costly.

Proposed by Councillor S.R.Dobson, seconded by Councillor S.A.Radnedge and RESOLVED by six votes for the motion and three votes against, Councillor L.H.Bulley abstained, that -

Instructions are given to the Marlborough Town Council's Legal Advisor to negotiate a figure, without prejudice, not in excess of £12,000.00 - if this fails, go back to full Council.

The meeting ended at 9.22pm

[Handwritten signature]
Chair
24⁴/95