

## HONITON TOWN COUNCIL

### Minutes of the Meeting of the Town Council held at the Town Council offices, The Beehive, Dowell Street, Honiton on Monday 9<sup>th</sup> January 2017

#### Present

##### St Michael's Ward

Cllr A Delasalle (formerly Alder)  
 Cllr S Edwards  
 Cllr K Hopkins  
 Cllr J McNally  
 Cllr D Perkins  
 Cllr J Taylor  
 Cllr J Zarczynski

##### St Paul's Ward

Cllr H Brown  
 Cllr R Coombs  
 Cllr P Halse  
 Cllr V Howard  
 Cllr C Kolek (Chairperson)  
 Cllr G S

#### In Attendance

Cllr S Randal-Johnson – Devon County Council  
 Cllr P Twiss - East Devon District Council

1 member of the public

Chetna Jones – Town Clerk

Prayers before the start of the meeting were led by Father Gerald.

#### 17/281 To receive apologies for absence

Apologies were received from Cllr Harvey-Ingram (P); Cllr Wadsworth (P), Cllr K Smith (P), Cllr P Diviani – (DCC), Cllr O'Leary (EDDC), Cllr D Barrow (EDDC) and Cllr J Brown (EDDC),

#### 17/282 To receive declarations of interest and receipt of requests for new DPI dispensations on items on the agenda

Cllr G Smith – ad-hoc maintenance work at Beehive – personal  
 Cllr Perkins – Director of the Beehive Companies – personal  
 Cllr A Delasalle – Honiton Street Market Trader – personal  
 Cllr J Taylor – unknown interest on matter relating to Judicial Review

The Town Clerk provided all councillors with a dispensation to approve the budget and request for precept as without this the number of persons prohibited from participating in this business would be so great a proportion of the meeting transacting the business as to impede an outcome.

#### 17/283 To receive and resolve as a correct record the minutes of the Town Council meeting held on 12<sup>th</sup> December 2016

Cllr Hopkins proposed that the minutes of the meeting held on 12<sup>th</sup> December 2016 be received and approved as a correct record of the meeting. This was seconded by Cllr G Smith and **WAS RESOLVED**.

*The Chairperson declared the meeting out of session*

#### 17/284 To receive the Police Report

Apologies were received from the Police with confirmation that a report would be provided shortly.

#### 17/285 To receive reports from District and County Ward Members

##### Devon County Council

Cllr Randal-Johnson reported that Devon Fire and Rescue Service were recruiting and were particularly keen to hire women and people of ethnic background. A successful meeting was held in December regarding market parking issues concerns were resolved amicably.

Cllr Randal-Johnson also reported that the County Council's budget was under review by Devon County Council and there were proposals to increase funding for Children and Adult services. Devon County Council spends more money looking after disabled people than the elderly.

Cllr Zarczynski thanked Cllr Randal-Johnson and Cllr Diviani for the donation of funding for a stove at 55+ club.

Cllr Randal-Johnson reminded the Council that the deadline for Locality and Invest in Devon funding was fast approaching and applications should be submitted prior to the purdah period commencing.

#### East Devon District Council

Cllr Twiss reported that following concerns raised at the last Town Council meeting a public meeting, "Love Allhallows", hosted by the Town Council was held on Thursday 15<sup>th</sup> December at 7.00pm giving local people the opportunity to communicate with one another. Another meeting has been arranged to discuss results from research carried out following the public meeting.

Cllr Twiss confirmed that an on-site meeting was arranged with East Devon District Council's Streetscene officers to discuss St Michael's Graveyard to review arrangements for maintaining and establishing responsibilities.

Cllr Twiss reported that EDDC were reviewing its budget and that funding would not be available for a footbridge at Oaklea. The need for a footbridge had been highlighted by dog walkers at the public meeting "Love Allhallows".

Cllr Twiss also reported that phase two of "Connecting Somerset and Devon broadband" had commenced and this was important to Honiton as schools in the area were connected to an exchange only and were therefore not able to access superfast broadband.

Cllr Halse thanked Cllr Twiss with his help on St Michael's Graveyard and asked if Cllr Twiss could provide a brief idea of what will happen to the relocation plans for EDDC as the planning application for the Knowle site had been rejected.

Cllr Twiss responded that the Planning Authority was truly independent to the Council and they had decided that the developer's proposals did not match their checklist which was used when considering all planning applications. EDDC were waiting to hear if the Developer will appeal or re-submit their application. Whatever the outcome EDDC will be pressing ahead with the relocation plans.

Cllr Perkins asked if EDDC will need to borrow money if the sale of the Knowle was not completed?

Cllr Twiss replied that EDDC will need to pay back the interest and this money will need to be borrowed from PWLB whilst the Knowle remains unsold but this should not be for too long.

Cllr Twiss apologised to members for the misinformation regarding parking tickets during the Christmas period.

The Chairperson thanked the Ward Members for their reports.

*Cllr Randal-Johnson and Cllr Twiss left the meeting.*

#### **17/286 Public Question Time on items on the agenda**

The Town Clerk reported that there were no public questions.

*The Chairperson declared the meeting back in session.*

**17/287 Mayor's Announcements and Questions for the Mayor**

The Mayor informed the Council that she had attended the following:

- Parish Council information evening hosted by EDDC along with Cllr Edwards
- "Love Allhallows" Public meeting. Also attending were former Cllr Anne Mountjoy, Cllr Coombs, Cllr Brown and Town Clerk
- Honiton Gymnastics competition
- Soiree at Deer Park
- Pantomime at Abbeyfield

The Mayor reported to the Council that she had received two resignations. These were from Anne Mountjoy (post conflicted with work) and Julia Lake (change in working hours). The Mayor thanked them both for their efforts as councillors since the elections in May 2015.

Plans were progressing for the second Annual Ball which was to be held on 7<sup>th</sup> April. The money raised will be used towards purchasing defibrillators for the community.

The Mayor reported to members that Tony Simpson was not well and that she would be meeting with him to talk about the blue plaque walks he had planned and other historical information.

**17/288 To note the final judgement by Mr Justice Edis on the Judicial Review application - The Queen on the application of Taylor v Honiton Town Council and East Devon District Council ([attached](#)) and the additional costs ([attached](#)) and to agree the Town Council's response to the press for this outcome.**

The Mayor requested that members consider how best the Council can move forward with regard to this matter.

The Mayor invited all members to speak and the following comments were made:

- People will expect a response and any response needs to be carefully done without taking sides.
- A response should be given when an outcome is obtained in full.
- There may be appeals from either party
- Something was already in the press without council approval. This was based on the press release issued by the Town Clerk without the prior approval of the Employment Committee who had requested sight of the press release before issue
- Should comment 21 days after costs were known
- Council Tax payers should be made aware that the Council went against officer's advice
- A factual statement should be made to the public as stated in the report by the judge. A second statement could be issued when costs are known.
- Final judgement already a public document and available on the internet
- Public only interested in cost
- Press have requested a statement from the Council

Cllr Brown proposed that a statement be issued to the press only when costs were finalised by a decision by the judge and an appeal process period had elapsed (21 days), even if a request for an appeal was made. Furthermore, a link to the court website will be provided at that time. This was seconded by Cllr Hopkins and **WAS RESOLVED** (1 abstention).

Cllr Brown proposed that a link to the court website regarding the Judicial Review judgement be put on the Town Council website. This was seconded by Cllr Hopkins but the motion was NOT carried.

Cllr Perkins proposed that the Employment Committee draft a press statement to be circulated, reviewed and approved by the Council at an Extra-Ordinary meeting. This was seconded by Cllr Delasalle and **WAS RESOLVED** (1 abstention).

*The Mayor suspended the meeting for a short comfort break at 8.19pm.*

*The meeting was re-convened at 8.24pm.*

**17/289 To agree that a permanent solution be put in place to ensure electricity is always available for the Town CCTV system and to give delegated authority to the Town Clerk to proceed on that basis.**

It was considered by a member that the wording on the agenda for the motion was sloppy. Following a brief discussion on this it was agreed to move to the vote with no change to the wording as it was assumed that it would be carried out within reasonable means. It was agreed that a permanent solution be sought to ensure electricity is always available for the Town CCTV system and that the Town Clerk be given delegated authority to proceed on that basis and **WAS RESOLVED** unanimously.

**17/290** To receive and note the minutes of the Employment Committee meeting dated 14<sup>th</sup> December ([attached](#)) following the meeting with South West Councils and to approve the recommendations of the Employment Committee:

- a) To ratify Statement of Fact of Employer's Obligations and risks if these obligations are not met
- b) To ratify and adopt [Policies](#) on Absence Management, Bullying and Harassment, Capability Procedure, Disciplinary Procedure, Equal Opportunity, Flexible Working, Grievance, Whistleblowing, Leave, Maternity and Shared Parental leave
- c) To approve that a full Structural Review be carried out at an estimated project cost of £2,780 (plus travel expenses plus VAT) to obtain a better understanding of the Council's vision and priorities and the role and job of each council staff to ensure the Council's staffing is structured to meet the needs of the Council ([report attached](#))

The minutes of the Employment Committee meeting dated 14<sup>th</sup> December which had been previously circulated were noted.

The Mayor proposed that each matter be considered separately.

- a) A discussion took place regarding the Statement of Fact of Employer's Obligations and risks if these obligations were not met. The following points were raised:
  - It was vital that the Council support its staff
  - The statement was "rubbish" and "incomplete" and if approved would leave the council open to an employee taking the Council to court.
  - The Mayor should be the line manager
  - Statement of fact represented best practice
  - The Employment Committee should be the Clerk's line manager, otherwise anyone can direct the staff in terms of policy and pay
  - Statement has been produced by a person with expertise
  - There had to be a boss – a "top dog" if issues with councillors or staff then there would be a chain of command
  - This was a statement of fact and if not ratified would leave the Council open to trouble
  - The "Being a good employer" booklet produced by NALC stated the Employment Committee should manage the Clerk
  - The Council should approve that the Mayor is the line manager
  - The Council decides policies, the Clerk implements these policies and this should be adhered to as best practice.
  - the wording concern could lead to issues further down the line

The Mayor encouraged all members to speak as all concerns should be heard.

Cllr Brown proposed that the Mayor be appointed as line manager for the Clerk. A vote was taken and the motion was NOT carried (4 in favour, 5 against and 4 abstentions).

The Mayor requested that a vote be taken on the original motion "To ratify Statement of Fact of Employer's Obligations and risks if these obligations are not met" **and WAS RESOLVED** (6 in favour, 4 against and 3 abstention).

- b) The Mayor confirmed that the HR policies had been scrutinised by the Employment Committee. Concern was raised about HR consultants contracted by the Employer interfacing with employees. Cllr Hopkins proposed that the policies be approved by the Council and this was seconded by Cllr Perkins and **WAS RESOLVED** (1 abstention).
- c) The Mayor requested a proposer for the motion as recommended by the Employment Committee "To approve that a full Structural Review be carried out at an estimated project cost of £2,780 (plus travel expenses plus VAT) to obtain a better understanding of the Council's vision and priorities and the role and job of each council staff to ensure the Council's staffing is structured to meet the needs of the Council".

As there was no proposer the motion failed to go to a vote and the matter was not debated.

**17/291** To receive and approve the [minutes of the Finance Committee](#) held on 3<sup>rd</sup> January 2017 (attached) and to resolve the following recommendations from the Finance Committee:

- a) That the Town Council approves the [budget and precept request for 2017/18](#)

The minutes were amended to include apologies from Cllr Delasalle.

The amended minutes of the Finance Committee meeting dated 3<sup>rd</sup> January 2017 had been circulated in advance. Cllr G Smith proposed that the minutes be approved. This was seconded by Cllr Zarczynski and **WAS RESOLVED** by those members present at the meeting.

- a) A copy of the draft budget as recommended by the Finance Committee had been circulated in advance of the meeting.

Cllr Brown requested that the response to the question, as agreed by the Finance Committee to Devon Association of Local Councils which had been circulated to all councillors be provided again at the meeting.

*The advice was "the council have taken out a loan, which they are legally required to repay. Since no court of law has ruled that the taking out of the loan or the purpose it was used for is unlawful or unreasonable – and I believe the purpose of the loan and background to the project was evident at the time the loan was taken out – the council cannot now assume the payment is unlawful and stop making the legally required repayments. Since a council has the legal powers to create a community building, or to help another organisation to do so, and since the need for the community building was based on thorough community consultation processes, I cant see how the use of this money would be judged unlawful.*

*I would therefore say the council must make budgetary provision to continue to repay the loan. It might be helpful to the council to know the consequences of stopping repayments of the loan, which I would assume would be contained in the PWLB loan documents, or available via the website."*

Advice was also provided on previous resolutions namely 10/33 and 12/70 regarding the Community Centre which confirmed that the Council had agreed to borrow funds to build the community centre and not to manage the building and that the Council had the power to raise the funds to build without using the General Power of Competence.

The matter was debated and concerns were raised as follows:

- The Town Council had moved away from Business Plan v. 6 and having moved away when leasing to a charity for a peppercorn rent the funds obtained from the precept to pay the loan was unlawful.
- Cannot raise tax for the purpose of paying for a loan used to build a community centre that was managed by a charity for a peppercorn rent.
- A loan would be unlawful if taken out to build the community centre and then used to subsidise a charity. As the charity had not been given ownership but merely a 10 year lease, it cannot be considered as a subsidy.
- Council tax was not being increased as all 3 loans are within the original amount specified when making the initial application.
- All key decisions made by the Council were done with appropriate legal and financial advice
- General Power of Competence projects cannot use the precept to raise funds.
- Council has the power to build and re-claim VAT under capital goods scheme
- Council de-railed itself when agreeing to lease to a charity and rate payers must pay a loan for a building it has no control over.

Cllr Coombs, Cllr Taylor and Cllr Zarczynski did not believe the question asked to DALC had been answered.

Cllr Brown stated that regardless of view, the Council had sought Officer's advice so it would not be reckless to approve the budget. It would be more reckless to not meet the Council's obligations.

There was no further discussion on this agenda item.

Cllr Hopkins proposed that a budget of £282,565.00 and request for a precept of £247,937 be approved. This was seconded by Cllr G Smith.

Cllr Taylor requested a recorded vote.

		FOR	AGAINST	ABSTAIN
1	Cllr Delasalle	X		
2	Cllr Brown	X		
3	Cllr Coombs		X	
4	Cllr Edwards	X		
5	Cllr Harvey-Ingram	Not present		
6	Cllr Halse	X		
7	Cllr Hopkins	X		
8	Cllr Howard	X		
9	Cllr Kolek	X		
10	Cllr McNally		X	
11	Cllr Perkins	X		
12	Cllr G Smith	X		
13	Cllr K Smith	Not present		
14	Cllr Taylor		X	
15	Cllr Wadsworth	Not present		
16	Cllr Zarczynski		X	

The motion **WAS RESOLVED**.

**17/292** To approve that the Town Clerk be given delegated authority to instruct Rialtas to carry out [Year End Closedown](#) (Annual Return) at a cost of £495 to ensure smooth transfer for 2017/18

A report had been circulated in advance.

**Signed Chair**

**13<sup>th</sup> February 2017**

Cllr G Smith proposed that the Town Clerk be given delegated power to instruct Rialtas to carry out Year-End Closedown at a one-off cost of £495 to ensure smooth transfer for 2017/18. This was seconded by Cllr Hopkins and the motion **WAS RESOLVED** (1 against).

**17/293 To appoint a Director and Company Secretary for the dormant TIC company following resignations of all current directors and company secretary**

Cllr Coombs suggested that as Cllr Hopkins was the Council appointed representative he should be nominated as Director. This was proposed by Cllr G Smith but not seconded and the motion was not agreed.

It was agreed that Mr Wright be informed that the Council were not able to appoint a Director or Company Secretary and would be in agreement if Honiton Tourist Information Centre Ltd were to strike off the company rather than keeping it dormant.

**17/293 To note the minutes of the Neighbourhood Planning Steering Group meeting dated 26<sup>th</sup> October 2016 and 23<sup>rd</sup> November 2016**

The minutes of minutes of the Neighbourhood Planning Steering Group meeting dated 26<sup>th</sup> October 2016 and 23<sup>rd</sup> November 2016 were noted.

**17/293 To approve dates of meetings for 2018**

Cllr Delasalle proposed that the dates of meeting for 2018 be approved. This was seconded by Cllr G Smith and **WAS RESOLVED** unanimously.

**17/294 To receive reports from members with Special Responsibilities**

The Glen – Cllr Coombs

A response had not been received from EDDC regarding the moratorium period cut-off date for the Sale of Land in Parsonage Lane near the Glen.

Chamber of Commerce – Cllr Delasalle

Cllr Delasalle reported that the Chamber of Commerce Events Committee will be organising a pop-up kitchen on 31 March at the Mackarness Hall (tickets £25) and these can be purchased from Beauchamp Place (72 High Street) until 10<sup>th</sup> February or directly from Pickleshack's website for £26.

It was unanimously agreed to suspend Standing orders in order that the meeting may be extended beyond three hours.

**17/295 To note Correspondence received and to resolved any matters arising. The list may be viewed at the Council Office (late correspondence to be tabled)**

The list of correspondence received from 13<sup>th</sup> December to 3<sup>rd</sup> January 2017 had been circulated in advance.

Devon County Council

1. Update from Cllr Diviani regarding connecting Devon and Somerset
2. Devon County Council newsletter Connectme 16<sup>th</sup> and 21<sup>st</sup> December

East Devon District Council

3. The Knowledge – issues 31
4. Consultation on new public Space Protection Orders from 16<sup>th</sup> December to 31<sup>st</sup> January

Other

5. NALC bulletin on national developments and meetings 16 December and 9 December correction
6. Government News – 14<sup>th</sup> and 21<sup>st</sup> December

7. Police & Crime Commissioner monthly report - December
8. Beehive Charity members update
9. DALC Update – no extension on Council Tax Referendum
10. Historic Towns Forum December 2016 Newsletter
11. Parish Online December 2016 Newsletter
12. Scope – About Disability – notice of collection dates
13. Honiton Surgery Newsletter no. 3
14. Healthy People - December 2016 Newsletter
15. Email from Mr D Head of Willow Walk requesting when the final judgement and costs in defending the Judicial Review will be published

Correspondence was noted and it was agreed that the Open Spaces working group would review the consultation on new public Space Protection Orders and respond prior to the deadline of 31<sup>st</sup> January.

Late Correspondence received from 4<sup>th</sup> January 2017 to 9<sup>th</sup> January 2017

#### **East Devon District Council**

- a) The Knowledge issues 32
- b) Invoicing for EDDC services – to be collected in advance of services

#### **Other**

- c) Local Government News – 04/01/17
- d) Honiton The Voice – 2017/17
- e) Clerks and Councils Direct January 2017 Issue 109
- f) Honiton Hospital Friends – response to consultation
- g) Letter from Griffin Accounts with outline of internal audit process and engagement letter
- h) DALC – Nominations for Buckingham Palace Garden Party 2017
- i) The Clerk magazine January 2017 including articles on responding to planning matters, outcome on brief/Cemetery survey and various finance matters
- j) Letter from Mayor of Gronau Town (Germany)
- k) Honiton Surgery Newsletter No 3

Item g. - The letter from Griffin Chartered Accountants had been circulated to all councillors

Cllr Brown asked the Clerk for her advice as to whether Standing Order 21 had been breached when making the decision to appoint an Internal Auditor. The Clerk advised that as she had not been present at the meeting she had relied upon the minutes of that meeting which were approved earlier as a true record and these minutes stated “Cllr Brown, as Chairman of the Finance Committee, reported that he had met with one potential internal auditor, Griffin Chartered Accountants, to discuss the package offered by them, and that he was in favour of their appointment. The Clerk’s opinion was that Cllr Brown had not made a recommendation but merely expressed his views which he is entitled to do.

Councillors were asked to review the new information for the Council to confirm that it was satisfied and had obtained the assurances as advised by DALC. The question was raised ‘were the assurances that DALC had advised the Council to obtain, put to Griffin for them to respond to?’

The matter was debated at length and the following matters were raised prior to the vote.

*Cllr Brown left the room*

- Cllr Brown had used the word recommend at the last meeting
- Councillors have the ability to express their views
- Others were more qualified and not as expensive
- Councillors voted individually and independently on the decision to appoint Griffin
- The other two quotes were not even considered and neither was the Officer’s report

**Signed Chair**

**13<sup>th</sup> February 2017**



- It was unusual for the auditor to provide training and even more unusual that they need training by Officers who were to be audited.
- Letter lacked the detail required to obtain the assurances
- Local Council Accounting was complicated and Griffin being inexperienced may not be able to carry out the task

*Cllr Brown entered the room*

- Resolution already passed and the Council needed to satisfy that Griffin were competent
- The report circulated prior to the last Town Council meeting had not been discussed properly
- Griffin may well be the best but this matter had not been given fair discussion. Should be squeaky clean and independent to the Beehive
- Council accounting very different to other accounting

Cllr Perkins proposed that the Council confirms that it is satisfied that Griffin Chartered Accountants have met the requirements as specified by DALC. This was seconded by Cllr Hopkins.

Cllr Coombs requested a recorded vote.

		FOR	AGAINST	ABSTAIN
1	Cllr Delasalle	X		
2	Cllr Brown	X		
3	Cllr Coombs		X	
4	Cllr Edwards	X		
5	Cllr Harvey-Ingram	Not present		
6	Cllr Halse		X	
7	Cllr Hopkins	X		
8	Cllr Howard		X	
9	Cllr Kolek	X		
10	Cllr McNally		X	
11	Cllr Perkins	X		
12	Cllr G Smith	X		
13	Cllr K Smith	Not present		
14	Cllr Taylor		X	
15	Cllr Wadsworth	Not present		
16	Cllr Zarczynski		X	

The motion **WAS RESOLVED**.

**17/296 To agree the additional costs to receive the judgement for the Judicial Review**

A report on the additional costs for work relating to the judgement had been circulated in advance.

Cllr Perkins proposed that the Council approves the additional costs as per the report. This was seconded by Cllr Kolek and **IT WAS RESOLVED** (3 abstentions).

**17/297 To close the meeting**

The meeting was closed at 10.29pm.