

HONITON TOWN COUNCIL

**Minutes of the Meeting of the Town Council held
via Zoom on Monday 10th August 2020 at 7.00 pm**

Present

St Michael's Ward

Cllr J Taylor
Cllr J Zarczynski (Chairman)
Cllr J McNally
Cllr L Dolby
Cllr M Pollington

St Paul's Ward

Cllr R Coombs
Cllr C Kolek
Cllr P Carrigan
Cllr C Gilson

In attendance

Heloise Marlow, Deputy Town Clerk
43 Members of the public

PART A

20/13 The Chairman welcomed Councillors and members of the public who were attending via ZOOM and confirmed that the meeting would be recorded.

20/14 To receive apologies for absence

Cllr P Twiss (DCC/EDDC)

20/15 To decide whether to have an Annual Meeting prior to May 2021

The Deputy Clerk presented her report.

Cllr Kolek stated that she was of the view that it was undemocratic for Honiton Town Council not to hold an Annual Meeting.

Members **RESOLVED** by a majority vote of 7 for with 2 against not to hold the 2020-2021 Annual Meeting.

Proposed by Cllr Taylor and seconded by Cllr Carrigan.

20/16 To receive declarations of interest and receipt of requests for new DPI dispensations on items on the agenda

None received.

20/17 To note the grant of dispensations made by the Town Clerk in relation to the business of this meeting.

None were made.

20/18 Public question time on items on the agenda

Mr Hannay asked the following question:

If the Council's legal dispute with Bailey Partnership fails, and the Council incurs Bailey Partnership's legal costs, can the Council guarantee the tax payers of Honiton that they will not pursue compensation by trying to take Foot Anstey solicitors to a tribunal to recuperate costs thus losing more money through legal fees and time?

Cllr Zarczynski responded that HTC has always acted on legal advice, with the solicitors acting attending meetings and the Town Clerk providing reports following meetings with the solicitors, with regards to pursuing monies owed to the public. Should HTC find itself taken to court by a third party, it does have legal cover to defend itself. Cllr Zarczynski confirmed that the insurance policy did not cover individual councillors. He could not answer the question regarding pursuing a claim against Foot Anstey solicitors as he did not know the outcome of the claim against Bailey Partnership and the resolution HTC would be making in respect of the matter.

Cllr Taylor made two points. All decisions were taken further to legal advice received. HTC is a corporate body and its insurance is a defensive policy not an offensive policy. If a third party pursues HTC for monies HTC would be able to make a counter claim.

The Deputy Clerk confirmed that HTC does not have insurance to pursue claims but does have insurance cover to defend a claim against it.

Cllr Zarczynski could not guarantee that HTC would not pursue claims even without insurance as HTC had a duty to pursue monies owed to the Council. HTC are custodians of taxpayer's money and if legal advice is given supporting a claim and the evidence is there, HTC has a duty to pursue the claim. This is what HTC has been doing – all decisions have been taken further to legal advice. Cllr Zarczynski accepted however that not all Councillors have always agreed with the decisions, but the majority did.

Mr Burgess advised that his first question was going to be

1. *Is the Bailey's arbitration process completed? If so what was the outcome?*
However clearly from Cllr Zarczynski's response above, it was not completed so he moved on to his second question below:
2. *If it is not completed:*
 - a. *What stage is it at?*
 - b. *When is it likely to be completed?*
 - c. *How much more money has the council committed towards completion?*

3. *Why does the council budget only show £2,356 spent on legal fees this financial year when the amount is actually £10,872?*

9/4/20: To Foot Anstey – £8000 (ex Vat) Legal cost relating to Bailey dispute,

6/5/20: To Arb DB Chambers – £2872 (ex Vat) Arbitration fee

£10,872 in total

Cllr Zarczynski responded that he could not answer the question regarding the budget as the Council only held one finance meeting last year. As regards the arbitration, there are several recommendations which Cllrs now need to consider relating to the Bailey Partnership claim. Members had not yet had the chance to debate those recommendations but once Members had done so and the matter was concluded a full report would be given to the public.

The Deputy Clerk confirmed that Members had resolved to take the recommendations to the next Policy and Finance Committee meeting for further discussion prior to the matter being brought back to Full Council.

Cllr Kolek asked Cllr Coombs about the email she had sent him regarding the members of the public who were keen to get the leats going and the request for a meeting to discuss this as he had looked into this in the past but she had not received a response from him. Could she have an assurance from Cllr Coombs that he would meet with her and the members of the public involved.

Cllr Coombs advised that the emails he had received were marked confidential and that he did not want to breach confidentiality. However, if members of the public wanted to contact him, he would endeavour to resolve their concerns.

Cllr Kolek queried the statement made by Cllr Zarczynski at the meeting on the 27th July that when he took over as Chair in 2017 there was only £3000 in the accounts. Cllr Kolek advised that she had checked the audited accounts which show that there was £119,000 in the accounts including £104,000 in cash and short term investments which conflicts with the statement made.

Cllr Zarczynski advised that the figures he was quoting had been shown to him by a previous Town Clerk and following a discussion with a previous Chair of Finance.

Cllr Taylor advised that there was £3000 in the accounts and then 3 days before the end of the year a £98,000 payment from the Public Loan Works Board was pushed through to get the account over £100,000 otherwise the Council would not have had the legal requirement minimum. He voted against the loan as this was to pay the overpayment on the Beehive bills.

Cllr Kolek queried whether this occurred in 2017. Cllr Taylor was unable to confirm the year and Cllr Kolek advised that what Cllr Taylor had described occurred before she was Mayor.

20/19 Election of the Deputy Mayor

Cllr Carol Gilson was nominated by Cllr Carrigan. This was seconded by Cllr Taylor. Cllr Gilson accepted the nomination.

There were no other nominations.

Members **RESOLVED** to elect Cllr Carol Gilson as Deputy Mayor by a majority vote of 7 votes in favour with 2 votes against.

20/20 To confirm the accuracy of the minutes of the Full Council Meeting held on the 11th March 2020.

Members **RESOLVED** to approve the minutes

Proposed by Cllr Gilson and seconded by Cllr McNally.

20/21 Reports from District and County Councillors

The Deputy Clerk confirmed that Cllr Twiss had submitted two reports which have been forwarded to Members. Those reports will be provided with the minutes and if any Cllr has any questions, they should email the Deputy Clerk with these and she would forward those questions to Cllr Twiss.

20/22 Committee/Working Groups Membership and Appointments and the Terms of Reference for Committees.

The Deputy Clerk presented her report and confirmed that Honiton Town Council had 4 operating Committees – Planning, Finance and Policy, Town Management and Green and Open Spaces. In addition, Members needed to consider whether to reinstate the HR Committee. Honiton Town Council also has 3 operating working groups, Christmas Lights, Premises and Finance Review and Allotments.

Members **RESOLVED** unanimously that all Councillors be members of the four operating Committees listed above.

Proposed by Cllr Taylor and seconded by Cllr Dolby

Members **RESOLVED** unanimously the following appointments:

Christmas Lights Working Group

Cllrs Carrigan, Dolby, Kolek and Pollington

Mayor and Deputy Mayor as ex officio.

Allotments Working Group

Cllrs Carrigan, Coombs, Dolby, Pollington and Taylor
Mayor and Deputy Mayor as ex officio.

Premises and Finance Review Working Group

Cllrs Carrigan, Coombs, Dolby, McNally, and Taylor
Mayor and Deputy Mayor as ex officio.

Proposed by Cllr Zarczynski and seconded by Cllr McNally

Members discussed the composition and terms of reference for the HR Committee. The Deputy Clerk advised that whichever terms of reference were adopted, that these should be amended to include the Green and Open Spaces Committee as a relevant committee and amended to note that the Finance Committee and the Policy Committee had now merged into one committee.

Members **RESOLVED** by 6 votes in favour, 2 votes against and 1 abstention to reinstate the HR Committee with the Terms of Reference for as those adopted in December 2018 noting that the Finance Committee and Policy Committee had merged into one committee and adding the Green and Open Spaces Committee as a relevant committee. Current Chairs, **or in the absence of a Chair**, Vice-Chairs of Committees would sit on the HR Committee until all Committees had met and elected their Chairs and Vice-Chairs.

It was noted that both the Chair and Deputy Chair of the Town Management Committee had resigned and therefore there would be no Chair from that Committee able to sit on the HR Committee prior to that Committee meeting and electing a Chair and Vice-Chair.

Proposed by Cllr Carrigan and seconded by Cllr Taylor

20/23 Outside Bodies and Councillors with Special Responsibilities

The Deputy Clerk presented her report

Members **RESOLVED** unanimously that the Deputy Clerk contact the relevant outside bodies to obtain their confirmation that they wished to invite HTC to nominate a Council representative and that the Honiton Glen Conservation Group be added to the list of relevant outside bodies.

It was noted that the responses received would be brought back to Full Council so that HTC can appoint the representatives requested.

Proposed by Cllr Zarczynski and seconded by Cllr Pollington.

As regards Cllrs with special responsibilities, Cllr Taylor suggested that Members put forward their names in writing as to which position of special responsibility they wished to have.

Cllr Kolek suggested that Members should do short verbal 30 second presentations at the next Town Council meeting setting out which position of special responsibility they wished to have. She also suggested that it should be limited to 1 Cllr per role although other Cllrs could be asked for advice where necessary.

Members **RESOLVED** unanimously that Cllrs advise the Deputy Clerk prior to the next meeting which special responsibilities they wished to undertake, with those Cllrs providing Full Council with a short verbal presentation in support. Members would be able to put themselves forward for more than one special responsibility.

Proposed by Cllr Taylor and seconded by Cllr Zarczynski

20/24 Council Vacancies

The Deputy Clerk presented her report which was noted.

20/25 Payments and Receipts Report – April, May, June 2020

The Deputy Clerk presented her report.

Members **RESOLVED** unanimously to approve the payments made in April, May and June 2020.

Proposed by Cllr McNally and seconded by Cllr Carrigan.

20/26 Annual Governance and Accountability Return for the year ending 31st March 2020

The Deputy Clerk referred to the report which had been sent out to Members and advised Members that she had based this report on the report prepared by the Town Clerk last year as she had limited knowledge of the process involved.

Members were required to consider the observation report received from IAC, the internal auditor dated the 16th July 2020 and section 1 – Annual Governance Statement 2019/20. IAC have advised that Members will have to answer question 5

in the negative and the Deputy Clerk advised that in her opinion Members would also need to answer question 7 in the negative also as a result.

IAC Report 2019/20

B. 1. Members **RESOLVED** unanimously to do so in future.

Proposed by Cllr McNally and seconded by Cllr Carrigan.

C. 1. Members **RESOLVED** unanimously to accept the recommendation.

Proposed by Cllr Carrigan and seconded by Cllr McNally

G. 1. and 2 – Noted by Members

H. 1. Members **RESOLVED** unanimously to accept the recommendation.

Proposed by Cllr Taylor and seconded by Cllr Zarczynski

H. 2. Members **RESOLVED** unanimously to accept the recommendation with photographs.

Proposed by Cllr Taylor and Cllr Dolby.

- 1. Members **RESOLVED** unanimously to accept the recommendation to ensure that the Year End bank reconciliations are reviewed, signed and dated.
- Members **RESOLVED** unanimously to note the Year End bank statements dates.

Proposed by Cllr Carrigan and seconded by Cllr Zarczynski.

The Deputy Clerk noted by the bank reconciliations referred to had been carried out by Rialtus after the 31st March 2020 and confirmed that she would discuss with IAC how this recommendation could be complied with. Council have approved the accounts for 2019/20 and the Deputy Clerk confirmed that she would clarify with IAC whether by doing so Council had complied with this recommendation.

Annual Governance Statement 2019/20

1 We have put in place arrangements for effective financial management during the year, and for the preparation of the accounting statements.

Members **RESOLVED** by 7 votes for, 1 against and 1 abstention to answer No.
Proposed by Cllr Zarczynski and seconded by Cllr Taylor.

2. We maintained an adequate system of internal control including measures designed to prevent and detect fraud and corruption and reviewed its effectiveness.

Cllr Taylor proposed to answer No to this question but as there was no seconder the motion failed.

Members **RESOLVED** by 7 votes for, 1 against and 1 abstention that this was agreed.

Proposed by Cllr McNally and seconded by Cllr Zarczynski.

3. We took all reasonable steps to assure ourselves that there are no matters of actual or potential non-compliance with laws, regulations and Proper Practices that could have a significant financial effect on the ability of this authority to conduct its business or manage its finances.

Members **RESOLVED** by 6 votes for with 3 abstentions that this was agreed.

Proposed by Cllr Pollington and seconded by Cllr Carrigan.

4. We provided proper opportunity during the year for the exercise of electors' rights in accordance with the requirements of the Accounts and Audit Regulations.

Members **RESOLVED** by 8 votes for with 1 abstention that this was agreed.

Proposed by Cllr Zarczynski and seconded by Cllr McNally.

5. We carried out an assessment of the risks facing this authority and took appropriate steps to manage those risks, including the introduction of internal controls and/or external insurance cover where required.

Members **RESOLVED** unanimously to answer No.

Proposed by Cllr Zarczynski and seconded by Cllr McNally.

6. We maintained throughout the year an adequate and effective system of internal audit of the accounting records and control systems.

Members **RESOLVED** by 6 votes for with 3 abstentions that this was agreed.

Proposed by Cllr McNally and seconded by Cllr Carrigan.

7. We took appropriate action on all matters raised in reports from internal and external audit.

Members **RESOLVED** unanimously to answer No.

Proposed by Cllr Taylor and seconded by Cllr McNally.

8. We considered whether any litigation, liabilities or commitments, events or transactions, occurring either during or after the year-end, have a financial impact on this authority and, where appropriate, have included them in the accounting statements.

Members **RESOLVED** by 8 votes for with 1 abstention that this was agreed.

Proposed by Cllr Taylor and seconded by Cllr Zarczynski.

9. (For local councils only) Trust funds including charitable. In our capacity as the sole managing trustee we discharged our accountability responsibilities for the

fund(s)/assets, including financial reporting and, if required, independent examination or audit.

Members **RESOLVED** unanimously that this was not applicable.
Proposed by Cllr Zarczynski and seconded by Cllr Taylor.

Members **RESOLVED** unanimously that the Chairman and the Deputy Clerk be authorised to sign the AGS on behalf of HTC.

Proposed by Cllr McNally and seconded by Cllr Gilson

20/27 Honiton Community Complex and The Beehive

Members discussed the correspondence received from HCC and the impact COVID 19 was having on the Beehive. Cllr Zarczynski make the following points:

- HTC was committed to keeping the Beehive open for user groups.
- HCC was a private company and was seeking to come out of the Service Level Agreement entered into and instead was seeking an annual payment of £45,000.00.
- These monies would be in addition to the mortgage payments paid by HTC.
- District Valuer had valued the building at £46,000.00 per year (rent) with HCC paying £1 per year.
- HCC had indicated that without the monies requested from HTC, it would cease operating.
- HTC's duty is to the taxpayers of Honiton and the users of the Beehive.
- HCC have been managing the Beehive for the last 5 years and have been in financial difficulty for some time.
- He was disappointed by HCC's inference that HTC had not done enough to support the Beehive when HTC have fulfilled their legal obligations to HCC.
- HTC settled the outstanding invoices dispute with a payment of £20,000.00 and have paid a further £4,000.00 on account of the service charge.
- HCC have received a £25,000.00 grant from the Government.
- There is a risk that even if HTC provides HCC with the funding requested, that HCC will either still cease operating or will require further funding to continue.
- He would not support any move to shut the Beehive but user groups may have to provide their own volunteers to assist with running the building if HCC cease to operate.

Members **RESOLVED** by 8 for with 1 against to extend the meeting until 10pm.

Proposed by Cllr Zarczynski and seconded by Cllr Gilson.

Cllr McNally referred to the numerous emails received from the users of the Community Centre and was of the view that in due course HTC should contact each user and respond to their queries/concerns.

She raised the following:

- HCC is a Charity and the Beehive is no longer controlled by the Town Council.
- HTC cannot fund a company over which it has insufficient control.
- HCC admit in their letter that they were failing prior to COVID 19 which may now have put a lid on HCC as it has on my other businesses.
- Even if HTC provided HCC with the funding requested, HCC could still go under.
- HTC would need to increase its precept to provide this funding.
- Would it be legal to provide this funding to HCC to the detriment of other groups in Honiton who also require funding?

Cllr Kolek also referred to the 29 emails received from the user groups. She stated that HTC had an obligation and had to stand by this and whilst HCC is a Charity, HTC had a say in that Charity being formed. The user groups are keen for the Charity to continue and she feared that there was a hidden agenda to get rid of HCC and bring the running of the Beehive inhouse. Her view was that HTC would not be able to run the Beehive.

Cllr Zarczynski denied that there was any intention for HTC to run the Beehive. Under the Localism Act 2011 Council are not allowed to use public money to subsidise private companies which he had already discussed with HCC.

Cllr Taylor referred to the internal auditor's recommendation regarding grants and the current subsidy to HCC in respect of rent payments. He stated that HTC could not provide the monies requested by HCC under the grant regulations.

Mrs Serena Sexton the Chair of HCC was invited to speak and made the following points:

- She was disappointed that there was such a limited amount of time available to discuss such an important issue and as such she would not be able to justify and answer all the points raised by Cllrs in the way that she would have liked to.
- The Beehive was an excellent Town Council project and it was at the request of the Town Council that HCC became a charity, and this is part of the Service Level Agreement.
- HCC is a charity and a limited company to protect the Trustees of the Charity and the Directors. None of the Trustees or Directors receive any remuneration.
- HCC are the managing agents of the Beehive which is wholly owned by HTC.
- HCC provide all the service within the building and pay 90% of the ongoing costs of maintaining the building.
- She referred to HCC's losses last year and stated that some of these were due to the invoice dispute which has now been settled on the basis that both parties would move forwards.
- The users are charged room hire costs on a community rate and not a commercial rate. If HCC charged a commercial rate, then they would break even but this is not the purpose or the aim of the charity.

- She referred to the history of the Beehive and information on the HTC website which referred to the Public Works Loan being repayable on a fixed interest rate over 50 years at a cost of £60,000 per year; the loan repayments being already affordable under the precept; there being no intention that the precept would rise to cover the building cost; the Honiton precept is significantly lower than some of the other towns in the area; one of the main problems with community facilities is the ongoing running costs; the plan to overcome that problem by the Town Council, the Registrar and the Robert Owen Communities Charity relocating to the Community Complex guaranteeing an income of over £60,000; this would enable the facilities to be offered to local people and groups at a reduced cost and still ensure that running costs are covered; HTC had surveyed local groups with 24 showing an interest in using the facilities; programs of entertainment and participation would be run for the general public, rooms would be available for hire, a café and internet café would be available.
- The above was what was agreed with the charity when they took on the lease and the SLA.
- There is a difference between running the building as a private company with shareholders and profits and HCC who are a non-profit charity. All the profit, including from the subsidiary company which HCC are allowed to run under the SLA, goes back into the Beehive.
- The Beehive is staffed by one full-time member of staff with 4 part-time staff members who work more hours than they are contracted to, and a large group of volunteers. Without the volunteers the building could not function or open as it does from 9am to often 10.30pm.
- Giving users community room hire rates means running at a loss.
- As regards the effects of COVID 19, HCC have received a £25,000 COVID grant, as even though the building has been closed, there are still fixed costs to pay.

Cllr Zarczynski responded as follows:

- It was HCC who chose to become a charity.
- HTC have always honoured their legal and contractual obligations
- Should HCC have built up more reserves over the last 5 years

Cllr Taylor stated the following:

- In its 1st year HCC was a wholly owned company. It made £26,000 profit and paid £5,000 corporation tax.
- HTC provided HCC with £20,000.00 and this stayed with HCC when it became a charity in 2015 as a gratuity.
- HTC did not agree to provide the charity with £20,000 each year

Cllr Carrigan advised that HTC was being asked to make a decision in a vacuum as no financial reports or financial plans had been received from HCC.

Cllr Gilson expressed her support for the Beehive and suggested a further meeting with Mrs Sexton to try and find a way to assist HCC.

Mrs Serena Sexton was invited to speak further and made the following points:

- When the Beehive opened it was run mainly by volunteers. However, as it became more successful, paid staff were required.
- HCC was never going to have sufficient money to run the facility without support from HTC.
- Room hire only will mean the loss of the cinema, entertainment, pantomime.
- HTC needs to answer the following question – Has the Council got the resources and the wherewithal to run the Beehive and to continue the winning formula with all of the overheads and not just the contribution?
- It will be for the public to decide!
- The Trustees will now have to meet to discuss their options.

Cllr Kolek sought clarification from Cllr Zarczynski with regards to his proposal to keep the building open to all users whatever the outcome of the future discussions with HCC and how that could be done without supporting HCC?

Cllr Zarczynski response was that if HCC ceased to operate HTC would either have to mothball the building or keep the building open for the users by possibly employing a centre manager and the users would probably have to provide their own volunteer to assist. The income from the users would cover the cost of a centre manager

Members **RESOLVED** by 6 votes for and 3 abstentions that HTC commits to keeping the doors to the Beehive open to all users whatever the outcome of the discussions with HCC and enter into further urgent discussions with HCC to discuss their request for funding.

Proposed by Cllr Zarczynski and seconded by Cllr Gilson

Members **RESOLVED** by 5 votes for, 2 against and 2 abstentions that Mrs Sexton be invited on behalf of HCC to bring to the next Full Council meeting a business plan setting out how HCC would use the £45,000 funding sought from HTC to be debated in Part A.

Proposed by Cllr Kolek and seconded by Cllr Pollington.

Cllr Taylor requested that the Deputy Clerk investigate under what powers HTC would be able to provide HCC with the funding requested.

Cllr Zarczynski requested that the Deputy Clerk contact Mrs Serena Sexton to invite her to attend an urgent meeting. Mrs Sexton who was still in attendance did express her disappointment that HTC had failed to make a decision regarding the funding

request made and confirmed that she would now have to go back to the Trustees with regards to this. She also confirmed that had she been asked in advance for a copy of their business plan, this could have been provided prior to the meeting.

20/28 HR and current staffing matter

Members **RESOLVED** by 8 votes in favour to have extra-ordinary Full Council meeting to deal with this item – date to be confirmed as soon as possible.

Proposed by Cllr Zarczynski and seconded by Cllr Dolby.

20/29 To close the meeting

The meeting was closed at 10.00pm.