

HONITON TOWN COUNCIL

**Minutes of the Meeting of the Town Council held
via Zoom on Monday 12th October 2020 at 7.00 pm**

Present

St Michael's Ward

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

St Paul's Ward

Cllr R Coombs
Cllr C Gilson
Cllr P Carrigan

In attendance

Heloise Marlow, Deputy Town Clerk
25 Members of the public
1 Member of the press

PART A

20/57 The Chairman welcomed Councillors and members of the public who were attending via ZOOM and confirmed that the meeting would be recorded.

20/58 To receive apologies for absence

Cllr P Twiss (DCC/EDDC)

20/59 To receive declarations of interest and receipt of requests for new DPI dispensations on items on the agenda

Cllr Gilson – Item 12. Personal.

20/60 To note the grant of dispensations made by the Town Clerk in relation to the business of this meeting.

None were made.

20/61 Public question time on items on the agenda

Mr S Kolek had submitted the following question:

I am a rate paying member of Honiton Mr Stephen Kolek EX14 2HR and I would like the following letter from me “read out as a Question to all Councillors” against items 8&14 on the agenda-I am asking all Councillors to resign -And for each Councillor in turn to give their response to the letter below with the “Chair of Council” to be last to comment (letter attached).

Cllr Gilson responded saying that she always put the people of Honiton first and did a lot of work in the town. She objected to being ridiculed or abused and would not be resigning.

Cllrs Dolby and Carrigan advised that they would provide a written response.

Cllr McNally confirmed that she had received the letter from Honiton Forward and had already advised that she would not be resigning.

Cllr Coombs advised that he would not be resigning but would provide Mr Kolek with a written response.

Cllr Taylor advised that he would not be resigning and was against the trolling of him which had taken place over the last few years which included the letter from Honiton Forward.

Cllr Zarczynski advised that he was appalled by the lies and the behaviour taking place on social media by members of Honiton Forward. He would not be resigning at the request of a small minority when there are over 12,000 voters in Honiton. He would continue to do his duty and carry on the work which he was elected to do.

Mrs M-A Howe asked the following question:

I think that the recommendation the Finance Committee is making to Council will come as a huge surprise to many people. If passed, it will put an end to a lengthy dispute whose details remain largely unknown to the public since it was always discussed in Part B. I would like to know :

- (a) why, and when, did the solicitors, Foote Anstey, initially tell the Council that they could win their action against Bailey's, change their minds and advise against pursuing it?
- (b) why did the Council choose to ignore this advice?
- (c) if the Council had taken the advice and dropped the action at that point, how much money would have been saved?

Cllr Zarczynski advised that the reasons HTC had held discussions in Part B was because the matter was contractual and legal advice was being discussed. HTC have never received any advice from its solicitors not to pursue the claim, rather it was advised that it had a valid claim, and HTC have always based their decisions on the legal advice received. The Council were very surprised by the arbitrator's decision and due to COVID 19 and the current backlog in the courts, HTC will be out of time to pursue the matter further. Bailey Partnership's defence was limited to a technical detail relating to the contract. He referred to the HTC statement of internal control for the year ending 31ST March 2014 and quoted the internal auditor as follows:

"in the last few months the Town Council has been made aware that there were weaknesses in the original design and specification work and overall management of the project. Whilst the Town Council had allocated the Town Clerk and a Councillor with practical building work knowledge to work closely with the project management

team, these additional... were only brought to the attention... following the handover of the building. This will have a consequence to the finances and the Council will need to take appropriate action by claiming back the money through the project management team.

HTC were not informed during the course of the build that there was an overspend. Meetings then did take place to discuss the claim for the overspend. However, he was not re-elected in 2015 and the matter was not pursued until he was elected in a bi-election in 2017 and he has been pursuing the overspend which is in the 1000s of £ ever since. Had the matter been pursued in 2015 or 2016 HTC would now not be out of time in relation to the claim

Cllr Zarczynski advised that he would be replying to Mr Burgess' questions in writing as there was insufficient time to deal with all of the questions as the meeting. Mr Burgess agreed to this so limited his question to the following and addressed it in the first instance to Cllr Taylor:

Regarding the Bailey's dispute, however you scrunch the numbers, the Council has spent at least £60,000 on this and that money is down the drain. The current members of the Council are directly responsible for the loss of this money. Will each of the Councillors accept responsibility for this and resign?

Cllr Taylor referred Mr Burgess to the response that the Chair had provided to Mrs Howe and referred again to the internal auditor's report. He confirmed that he would not be resigning.

Cllr Zarczynski advised Mr Burgess that he was not prepared to allow public questions to be used to ask Members again to resign. All members had already responded to this question earlier. Cllr Zarczynski confirmed that he would respond to Mr Burgess' questions in writing as soon as possible.

Mr David Perkins asked the following question and requested a response in writing:

1 Mr Mayor, you initiated the dispute against Baileys at the August 2017 council meeting. To date the legal costs are in excess of £60,000.

Will you now provide to me in writing the risk assessment carried out by council showing the likely outcomes and costs in the event of winning the case, losing the case or reaching a compromise, together with the expected probability of each event.

2 The resolution before council tonight is to resolve to abandon the case against Baileys. At the council meeting of 10th April 2017, a report was presented to council of the final costs of the Beehive construction and this included an amount due to Baileys of £17,871 and which I negotiated down to £5,000. This settlement was rejected by Council on your recommendation.

What are the expected costs you are now likely to receive from Baileys for initiating this abandoned action against them?

Cllr Zarczynski responded to Mr Perkins advising that he had not been mandated by HTC whilst a Cllr to enter into any negotiations with Bailey Partnership nor was he mandated by HTC to prepare any reports as a member of the Premises and Finance Committee but was the subject of a vote of no confidence by the Council for entering into unauthorised discussions with Bailey Partnership. As such HTC has no obligation to provide Mr Perkins with any answers regarding risk assessment.

Mr Perkins responded saying that the negotiations were conducted with the then Deputy Town Clerk and brought to Full Council for approval but were not approved by Full Council on the recommendation of Cllr Zarczynski. In December 2013 he wrote a report for Full Council advising that the Council had run out of money for the project, which was never discussed at Full Council.

3 - In 2017 I wrote a Report on the Beehive construction which you advised councillors to ignore. This Report makes it very clear the lack of oversight on this project provided by Council and in particular by yourself the designated councillor to oversee the project. There were over 190 variations to the contract but the only one reported to council was in respect of the surface drainage scheme. No report showing the progress of this project against budget was ever brought to Council during the entire period of the construction. I intend to seek advice as to whether Councillors who supported this legal action can be held personally liable for its costs.

You were asleep on the job – will you and your fellow councillors now resign having initiated the legal case that has cost the town taxpayer over £60,000 which equates to 20% of their town council tax?

Cllr Zarczynski disputed the above and reiterated that Mr Perkins had not been mandated to write any report and whilst some of the Cllrs involved are no longer on the Council, HTC has always made decisions as a corporate body and acted on advice. As regards the overspend, the former Town Clerk always provided Full Council with a report and he attended every site meeting with her and all decisions were made based on those reports. There was no overspend to report as this only came to light after handover.

This was disputed by Mr Perkins who advised that he had reported an overspend in December 2013.

Cllr Coombs requested the opportunity to respond to Mr Burgess and confirmed that he would be responding to Mr Burgess' questions in writing.

Cllr McNally advised that she would not be writing to Mr Burgess as she was not a Cllr when the contract with Bailey Partnership was entered into.

20/62 To confirm the accuracy of the minutes of the Full Council Meeting held on the 14th September 2020.

Members **RESOLVED** unanimously to approve the minutes

Proposed by Cllr Gilson and seconded by Cllr Coombs.

20/63 Reports from District and County Councillors

The Deputy Clerk confirmed that Cllr Twiss had submitted a report which has been forwarded to Members. That report will be provided with the minutes.

20/64 Planning Committee

Members received the approved minutes from the Planning Committee meeting held on the 8th September 2020.

20/65 Finance and Policy Committee

Members received the draft minutes of the Finance and Policy Committee meeting held on the 28th September 2020 and considered the following resolution:

20/10/FP Baileys Partnership Dispute

*Members **RESOLVED** by 6 votes, with 1 abstention to recommend to Full Council that HTC take no further action due to limitation issues against Bailey Partnership.*

Proposed by Cllr McNally and seconded by Cllr Zarczynski.

Cllr Zarczynski advised that he would be voting to approve the resolution due to limitation issues with COVID 19 causing a backlog in the Courts system but reiterated that HTC had a genuine claim against Bailey Partnership.

Cllr Taylor stated that prior to the Finance and Policy meeting on the 28th September, the previous Finance and Policy Committee meeting had been in July 2019, and therefore the Finance and Policy Committee had had no opportunity to make any

recommendations to Full Council during that 15 month gap, which has adversely impacted on the 6 year limitation period available to pursue a claim.

Cllr McNally stated that whilst she proposed the resolution, this was solely due to limitations issues. The Council were entirely right to follow legal advice and carry on with the claim.

Cllr Coombs stated that he understood the limitation issues which were behind the resolution, but that HTC had followed the advice received at the time and he was of the view that the Council should continue to look into this. He asked for an assurance from the Mayor that if the resolution was passed that it would not preclude the Council from looking into the advice that it had received and consistently followed.

Cllr Zarczynski advised that this was a matter for Council to decide and he could not give such a personal guarantee although personally he felt that Council should keep all its options open.

Cllr Coombs asked if the Deputy Clerk could advise on the matter.

The Deputy Clerk advised that the resolution only related to claims against Bailey Partnership. The resolution would not preclude the Council from looking into taking action against other third parties involved. The resolution would bring to an end the current dispute with Bailey Partnership.

Members **RESOLVED** unanimously that HTC take no further action due to limitation issues against Bailey Partnership.

Proposed by Cllr Zarczynski and seconded by Cllr Gilson.

20/66 Outside Bodies and Councillors with Special Responsibilities

The Deputy Clerk presented her updated report.

Councillors were appointed to Outside Bodies as follows:

- | | |
|-------------------------------|---|
| a. Allhallows Charity | Cllrs McNally and Carrigan |
| b. Charter Day | Cllr Carrigan |
| c. Citizens Advice | Cllr Gilson |
| d. DALC Larger Councils Cttee | Town Clerk and Deputy Clerk |
| e. DALC County Cttee | Town Clerk and Deputy Clerk |
| f. East Devon CSP (LAG) | Cllrs Taylor and Zarczynski |
| g. Honiton United Charities | Cllrs Zarczynski, McNally, Taylor, Gilson and Carrigan |
| h. Millennium Green | 2 vacancies |
| i. TRIP | Cllrs Gilson and Zarczynski |
| j. Twinning Association | Cllr Zarczynski |

- | | |
|---|---------------------------------|
| k. Honiton Hospital & Community League of Friends | Cllr Carrigan |
| l. Honiton Community Complex | Cllr Zarczynski and one vacancy |
| m. Roundball Wood | Cllr Coombs |

The Deputy Clerk advised that she was waiting to hear from Friends of the Glen. Cllr Coombs confirmed that he would contact the Deputy Clerk separately with regards to this.

With regards to the positions of Tree Warden for St Michaels and St Pauls, Cllr Coombs advised that there was a new EDDC Arboricultural officer who is now responsible for Honiton. Following a discussion as to whether being an HTC tree warden contributed to the matter, it was agreed to leave those positions to be discussed at a later date.

Members discussed whether Roundball Wood should be on the list of outside bodies as it was not an outside body. The wood is a community woodland leased by the Council. Cllr Coombs had recently inspected the paths and was unhappy with their condition, although that was not the fault of the current warden who is not a Councillor as he has tried repeatedly to meet with the relevant Councillors to no avail. Cllr Coombs advised that work is required to make the wood safe and this will require additional finance for works to the wood and the paths that lead to and from the wood.

The Chairman suggested that this should be discussed further at the next Town Management Committee meeting.

The Deputy Clerk confirmed that should the office receive a response from the outside bodies who had yet to respond, she would bring the matter back to Members at that time.

Councillors with special responsibilities were appointed as follows:

- a. Arts and Culture – Cllr Carrigan
- b. Crime – Cllrs Zarczynski and Dolby
- c. Health and Social Care (including domestic abuse, disabilities) – Cllrs Zarczynski and Gilson
- d. Environment (including recycling and waste disposal) and Open Spaces – Cllrs Coombs and Taylor
- e. Sports – Cllr Zarczynski
- f. Education and Young People – Cllr Dolby
- g. Footpaths (including P3) – Cllrs Coombs, Taylor
- h. History and Heritage – Cllr Coombs
- i. Tourism (including Friends of Honiton Railway) – Cllr Zarczynski.

20/67 Public Questions

Cllr Zarczynski provided a verbal report. He advised that prior to 2017 any public questions had to be received in writing by the office by midday on the day of the

meeting. In 2017 the policy was changed to allow public questions to be raised without notice at a meeting which was considered more democratic and more beneficial to the public. However recently public questions have been used to disrupt meetings and abuse Councillors and this also restricts the number of questions put forward and as such he was proposing to revert back to the original policy.

It was confirmed that members of the public could still make a statement rather than put forward a question, but these would still need to be received in writing by midday on the day of the Council meeting.

Members **RESOLVED** unanimously that all public questions must be received in writing at the Town Council offices by midday on the day of any Council meeting. Questions received after midday will not be accepted.

Proposed by Cllr Zarczynski and seconded by Cllr McNally.

20/68 HTC Facebook page

Members **RESOLVED** unanimously that Cllr Dolby be appointed as the administrator for the HTC Facebook page.

Proposed by Cllr Zarczynski and seconded by Cllr Carrigan.

Cllr Coombs put forward his report as follows:

Title: Communications

Purpose of Report

To draw attention to the current way Honiton Town Council communicates with Residents of Honiton and further afield.

Recommendation:

Honiton Town Council **RESOLVES** to set up a working party to look into ways the Council communicates its activities and its role in local government to Residents of Honiton and promotes Honiton and District to those further afield and to identify and put forward ways in which such communications could be improved.

Report:

The Council seeks to communicate by various means:

1) Notice Boards. There are several Council notice boards, at least one of which still needs repair, however there is no notice board outside the Council Offices thereby forcing members of the public to use stairs or a lift to be able to read notices even when the building is open which of course due to Coronavirus it is not at present. The limited hours of opening and the means of accessing the notice boards clearly discriminate against residents living near the Council Offices as the nearest notice boards available 24 hours a day are at New Street and Silver Street.

2) Websites.

The statement on the home page that the Council's website is very dated is unnecessary and only partly correct however a similar statement would be relevant at sections where that statement does apply such as Council Policies & Papers.

Visit Honiton website, now archived, is the replacement for the physical Tourist Information Centre and the Honiton and District Official Guide with the aspiration that it would provide tourist information fit for the Twenty-first Century. Should Honiton promote itself as hidden when there are two trunk roads, two other main roads and not only a main line railway line but even a station?

Visit South Devon website includes incorrect information about Honiton's areas of outstanding natural beauty.

3) Facebook

Council: There is mention of a July Council Meeting but not of meetings that have been held in August and September this year or of any Committee Meetings.

Street Market: Last updated on 13 June 2020. There is no basic information such as that the market operates on three days a week though hours of operation (8am – 3pm) are given but need checking.

4) Twitter

Council: last updated in January 2020.

Street Market: There is no basic information such as days and hours of operation.

5) Street Maps: All have been removed from (EDDC) car parks and from elsewhere in the town.

6) Bypassed Community: Trunk road publicity has been lacking for several years.

Proposal:

Honiton Town Council **RESOLVES** to set up a working party to look into ways the Council communicates its activities and its role in Local Government to Residents of Honiton and promotes Honiton and District to those further afield and to identify and put forward ways in which such communications could be improved.

It was confirmed that the proposed working group could meet and bring forward proposals to Full Council without the need for a clerk to attend the meetings.

Cllr Dolby offered his services with regards to updating the HTC website.

Members **RESOLVED** unanimously to set up a working party to look into ways the Council communicates its activities and its role in Local Government to Residents of Honiton and promotes Honiton and District to those further afield and to identify and put forward ways in which such communications could be improved.

Proposed by Cllr Coombs and seconded by Cllr Zarczynski

20/69 Honiton Town Council Market

Members discussed the current situation regarding the market and its reopening.

Cllr Taylor suggested that prior to the review in April 2021 the charging system and the banking of market income will need to be reviewed in view of COVID 19 and whether a cashless system could be implemented. He also suggested that the market should be listed on the Council's asset register as it has a sale value.

Members **RESOLVED** by 6 votes in favour with 1 abstention to refrain from introducing charges for the street market traders' pitches until April 2021 when the matter would be reviewed.

Proposed by Cllr Carrigan and seconded by Cllr McNally.

20/70 Recruitment of new Town Clerk

Cllr Zarczynski confirmed that the advertisement for this was nearly finalised and that Mr Vanderwolfe, the Tiverton Town Council Clerk, had agreed to assist the Deputy Clerk with regards to this.

Members **RESOLVED** unanimously that the Deputy Clerk liaise with the Clerk at Tiverton Town Council in relation to advertising process for the position of Honiton Town Clerk.

Proposed by Cllr Zarczynski and seconded by Cllr Taylor

20/71 Honiton Community Complex

The Deputy Clerk confirmed that her understanding at the time of drafting the agenda was that the Cllrs who had attended the meeting with representatives from Honiton Community Complex on Monday 5th October would be bringing a verbal report to Full Council in respect of that meeting, to include details of any proposed agreement which had been discussed and that these discussions would take place under Part B as they were confidential. However, Members would need to vote to take the item into Part B. If the item remains in Part A, the Deputy Clerk did advise that as yet Full Council had not approved or discussed the offer which had been made to HCC by the Cllrs who had attended the meeting. HCC have already responded to the offer and therefore it was up to Members to decide whether they wanted to discuss the offer and HCC's response to it in Part A or Part B.

Cllr Carrigan suggested that the decision depended on the views of HCC and the Chair agreed that the item should be discussed in Part A for reasons of transparency and made the following points:

- HTC's offer as put forward by the Cllrs who attended the meeting on the 5th October has not been discussed or approved by Full Council.
- Prior to such a discussion, HCC had already notified HTC that the offer was not acceptable.
- Due to high level of discussion relating to the matter on social media, the public should be made aware of the offer made by HTC.

Mrs Sexton responded as follows:

- She took the offer put forward at the meeting on the 5th October to the Trustees who were not happy about how the monies offered were being divided into a guaranteed sum and a discretionary grant.
- She understood that the offer had not been approved by Full Council but if the matter was discussed in Part B she would have no right of reply.
- In addition, emails she had received subsequent to the meeting set out contradictory explanations of the offer put forward.

The Chair invited the two other Cllrs who had attended the meeting to provide their report:

Cllr Carrigan requested confirmation from Mrs Sexton that she was happy for the offer to be discussed in Part A. Mrs Sexton confirmed that she was if she was given a right of reply.

Cllr Carrigan advised that the offer was as follows:

- An emergency grant of £15,000.00 to HCC.
- The grant would be tied into an agreement that the SLA be varied to remove the complex 10% calculation based on invoices, which are often disputed, to a fixed yearly amount of £10,000.00 per year until the end of the lease.
- If the above was agreed, the insurance premium for 2019/20 in the sum of £3,122.27 would be waived.

Cllr Taylor advised that he still had an issue regarding S137 of the Local Government Act 1972 and stated that the maximum amount a Council can provide as a grant to one organisation is 20% of the precept, and that organisation has to have 100% of its users from Honiton. If only 50% of the users are from Honiton, the Council can only award a maximum grant of 10% of its precept.

The Deputy Clerk advised that she could not confirm whether this was in fact correct.

Cllr McNally left the meeting at 20.44pm advising that she did not want to take part any further.

The Deputy Clerk advised that with Cllr McNally no longer present, the meeting had the minimum number of Cllrs present (6) to make it quorate.

Cllr Zarczynski confirmed that both HTC and HCC were interpreting the terms of the lease in different ways. As such HTC brought in the author of the lease who advised that HTC had in the past overpaid and advised that the correct figure was in the region of £6-7,000.00 per year. The proposed offer is in excess of this. The SLA

allows for HCC to invoice HTC 10% of the invoices submitted by HCC and at the end of the year HCC provide HTC with copies of those invoices for validation and to adjust the payments made with regards to any overpayments or underpayments made. This however is a time-consuming process for both HCC and HTC and as such a fixed annual amount of £10,000.00 has been put forward. However, HCC have requested around £45,000.00 per year which is excessive. Due to COVID 19, an emergency £15,000.00 grant was also offered with HCC having the option to apply as part of the grant process thereafter.

Mrs Sexton was invited to respond:

- The annual £10,000.00 offered would replace the amount due under the SLA which is approximately £16,000.00 to £17,000.00 so there would be a reduction in the amount HTC would be paying HCC for the operating costs.
- Taking into account the insurance contribution to be paid each year which is around £3,500.00, the £10,000.00 offered would be reduced to around £6,500.00.
- HCC have previously asked for £45,000.00 to take into account the effects of COVID 19.
- The £15,000.00 discretionary grant was tied to HCC agreeing to the £10,000.00 per year instead of the SLA calculation and was not being offered as a result of COVID 19, so if HCC did not agree to the £10,000.00 fixed yearly amount they would not get the £15,000.00 grant.
- She disputed the advice from the author of the lease.

The Deputy Clerk advised Members that as yet no resolutions had been made in relation to this item and that if Members wanted to discuss and make those resolutions in Part B, then the item would need to be voted into Part B.

One of the items yet to be discussed or resolved was the balance of the invoice dated 30th April 2020 submitted by HCC under the SLA.

Cllr Carrigan proposed that further discussion regarding this item be moved to Part B and this was seconded by Cllr Zarczynski.

Cllr Coombs advised that if the item was moved into Part B he would not attend as he did not have the zoom passcode for such a meeting. The Deputy Clerk advised that the Part B meeting id/passcode is unchanged from the last meeting. However Cllr Coombs advised that it would probably take him 15 minutes to locate those details. The Deputy Clerk offered to ring Cllr Coombs with the details but advised Members that if Cllr Coombs did not attend any Part B meeting, then the meeting would not be quorate.

At that time, a member of the public (anonymously) page shared a picture disrupting the meeting. Under Standing Order 2, that member of the public had already been asked to stop interrupting the meeting, the Deputy Clerk requested that the Chairman move that the person be excluded from the meeting.

Members **RESOLVED** unanimously to remove the anonymous MOP from the meeting.

Proposed by Cllr Zarczynski and seconded by Cllr Dolby and actioned by the Deputy Clerk.

Discussion then took place regarding the payment of the outstanding invoice from HCC and with regards to seeking advice from DALC and NALC on the matter generally.

Members **RESOLVED** unanimously to extend the meeting by 10 minutes.

Proposed by Cllr Coombs and seconded by Cllr Zarczynski.

Members **RESOLVED** by 5 votes for with 1 abstention to settle the outstanding invoice dated 30th April 2020 submitted by HCC in the sum of £3569.00 and to defer the further discussion relating to this item to the November Full Council meeting.

Proposed by Cllr Zarczynski and seconded by Cllr Gilson

Cllrs requested that it be minuted that a Cllr had left the meeting due to the disruptive actions by some members of the public.

Members **RESOLVED** unanimously to take advice from DALC and NALC in relation to the concerns Cllr Coombs had raised regarding HCC and with regards to the proposal made to HCC at the meeting on the 5th October 2020.

Proposed by Cllr Coombs and seconded by Cllr Carrigan

29/72 To close the meeting

The meeting was closed at 21.10pm.