

KINGSWEAR PARISH COUNCIL

Minutes of the Council Meeting held at the Sarah Roope Trust Rooms on Tuesday 13 June 2017 at 7.00pm (for formal approval at the next Meeting of the Council)

Present: Councillor J Henshall – Chairman

Councillors: L Maurer (Vice Chairman) E Jones, E Essex, H Newcombe, R Searle, M Trevorrow, J Hawkins.

Apologies: Councillors E Parkes L Payne,
District Councillor H Bastone
Police Constable A Vaughan

In Attendance: Mr David Edwards – Clerk to the Council
Mr Gary Calland – The National Trust

There were 4 members of the public and 1 member of the Press present

C/010/17 – Welcome from the Chairman

The present Chairman welcomed everyone to the meeting including the new reporter from the Dartmouth Chronicle newspaper. She congratulated Mr Roger Williams on his appointment and hoped that he would continue in the role for some time to come.

C/011/17 – Declaration of Interests

The Members were reminded that any changes to their Declaration of Interests should be notified to the Clerk. Councillor Maurer declared that she was now a member of the Dartmouth Regatta Committee.

The Council Meeting was suspended to allow Mr Gary Calland to address the meeting and for members of the public to ask questions and make representations to the Council:

Mr Calland thanked the Council for this meeting and made it known that he welcomed the opportunity to discuss the issues that affect the residents.

The Members made known an earlier agreement in 2012 that the National Trust would arrange for the installation of additional passing places along Broad Road to prevent congestion to and from Coleton Fishacre.

The issue of the safety of pedestrians on this road highlighted the need for some widening in places.

It was noted that the opening times had been extended to 7 days per week and this had led to more inconvenience and disturbance for residents.

Mr Calland advised

- that changes in personnel had occurred over the last few years and he was unaware of any agreement.
- The opening times had been extended because of National Policy – to provide enhanced access to the property and to give a uniform approach.
- Coleton Fishacre is open from February half term until October (with a short opening period at Christmas)

- The increased opening period had not seen a dramatic increase in visitor numbers but it has allowed and “evening out” of times of visits.
- The Trust is looking at other means of transport including buses and improvements to footpaths
- The last update of numbers show that 60% of traffic along Broad Road is visitors to Coleton Fishacre, therefore, 40% is other users.
- The National Trust is a charity and all the income is used for the benefit of local communities, to improve the coastline and environment.
- The safety of road users is the responsibility of the Highway Authority but accept that the National Trust has an interest.
- There are many local people coming to Coleton Fishacre.

The point was made that the house was a private residence and the additional traffic is attributable to the change of use.

The numbers had increased quite considerably from 40K to 100K and a resident commented that it had taken 20 minutes for him to exit his property. He added that any solution needs to be made by people with local knowledge and not left to distance consultants.

It was agreed that a meeting be arranged between officers from Devon County Council Highways Department, representatives from the National Trust and Members of the Council. A report would come back to the Council in September.

Reference was made to item 17 on the agenda and a request was made that the National Trust be involved with the arrangements for a Beacon to be lit. Mr Calland said that he would take this back for consideration.

The Chairman thanked Mr Calland and he left the meeting.

Questions from the public

The issue of residence parking was raised with comment that many residents (some elderly or disabled) are unable to park near to their properties when returning home from work.

The Chairman stated that this was an ongoing problem and it was included within the Neighbourhood Plan discussions.

With regard to the Dartmouth Regatta, the Chairman advised that a meeting with Mr Peter Johnson (Regatta Committee Secretary) had taken place. It maybe that, within the TTRO, signing will be introduced that states “Resident Parking only” and the Regatta Committee will issue permits to residents.

It was stated that due consideration has to be taken with any scheme because there are many guest house/holiday accommodation businesses that could be affected if their guests have difficulty parking.

Councillor Jones advised that he was in discussion with the Regatta Committee to see if car parking could be accommodated on his land for competitors. This could also provide parking for people working in Dartmouth.

It was noted that several years ago the police directed traffic and stopped access for visitors to certain roads.

The Council will receive the following reports if available:

i. Devon County Councillor

Councillor Hawkins reported that he had instructed officers to remove some illegal

barriers along Beacon Road. He had met with Simon Cleary, the County Council solicitor, to discuss the problems associated with Beacon Road.

The Meeting of HATOC takes place on 7th July when Traffic Orders will be agreed. Councillor Hawkins made known that anyone wishing to get changes to any traffic orders to get them registered as soon as possible. (It was noted that several double yellow lines in Higher Contour Road have been extended beyond what is necessary).

Councillor Hawkins advised that he had arranged for Weed Spraying to take place in Hillhead.

ii South Hams District Councillors

Councillor Hawkins – included in above

Councillor Bastone no report

iii Police Report:

No report, however, the Clerk advised that he had a call from PC Vaughan who had hoped to attend the meeting but had been called away to attend an incident. He explained that the number of available police officers during the Music Festival was limited and all were involved in incidents in Dartmouth.

Comment was made that there was a particular problem with some youths, who were clearly under the influence of alcohol, who drove a car that collided with several parked vehicles causing a great deal of damage.

It was suggested and agreed that the organisers of all the major events in Dartmouth be written to and ask that some security staff are employed in Kingswear. A letter is also sent to The Police and Crime Commissioner expressing concern over the level of policing at these major events.

The Chairman advised that PC Vaughan had spoken to her and the break-in at the Wishing Well remains unresolved. It was suggested that CCTV camera be installed on the Station or Ferry Office.

The Council reconvened to discuss the following items:

C/012/17 - To resolve to approve the following minutes subject to any amendments:

- i. Full Council Meeting (AGM) – 09 May 2017
- ii. Full Council Meeting – 09 May 2017 (Confidential)
- iii. Planning Committee Meeting – 09 May 2017
- iv. Planning Committee Meeting – 23 May 2017

It was RESOLVED to approve the Minutes without amendment.

C/013/17 - To discuss the employment, in principle, of a Parish Lengthsman and to look at how this can be achieved, the costs and the work that will be undertaken. (Cllr Maurer)

It was noted that the Parish Lengthsman Scheme is being extended throughout several parts of the country. The focus is on a locally controlled contractor who will be employed to carry out general maintenance duties. The Lengthsman was contracted to clear drains, ditches and gulleys but the work can be extended to other maintenance duties. The local control is important as repairs can be made at an early stage, thus reducing overall costs.

The Council general maintenance contract is with South Hams District Council and this is due for renewal in February.

A schedule of the works that might be included within the scheme is required to be drawn up and further enquiries made.

It was RESOLVED to investigate and look to employ a suitable contractor.

C/014/17- To receive an update on the progress and actions taken to reopen Beacon Road for public access and as part of the coastal footpath and to resolve the action now to be taken to meet this objective.(Cllr Hawkins)

It was reported that the Council at its meeting in February RESOLVED that DALAG, the Council and the Neighbourhood Plan Group, through their respective representatives, work together to raise the funding as the community contribution required. The funding to be based on the previous quote held which showed a funding requirement from the community of £40000 but this may alter should revised quotes be forthcoming from the landowners.

This had not progressed because of the difficulty in arranging a meeting with the landowners to agree the contract details. Meetings had taken place individually but no agreement reached.

It was RESOLVED that the Clerk write to the landowners to arrange a meeting with the landowners, officers from Devon County Council, representatives from DALAG and the Neighbourhood Plan Group.

C/015/17 - To discuss the action required and to reach an agreement on either the use of the cemetery as a right of way for near residents to access their properties safely or the installation of a separate path on the roadside verge opposite the cemetery.(Councillors Parkes & Hawkins)

The Clerk had received the following advice:

The first question this council must ask itself is what are the existing rights in respect of this council cemetery? If there is no right to use the informal route which has been in use for 'a period of time', then it is up to the council to decide whether it wants to permit the use or stop it. On one side of the argument is the assertion of the nearby residents, who think their safety is improved if they can use the informal route, and on the other the concerns of the council about the safety of all visitors to the cemetery. If the council is so concerned about the creation of a formal access point that it considers a locked gate will be necessary, then it would, in my view, be a better option to secure the boundary properly, refusing all access along that section, and being prepared to take action, such as reporting the matter to the police, if the boundary hedge (or fence or whatever) is damaged. Deliberate damage to council property is likely to constitute criminal damage, unless the person who damaged the property can show he or she had a lawful excuse for his or her action.

Although it is theoretically possible to make a formal agreement with some individuals that they are permitted access to use the informal route and may have a key to a locked

gate, it will be difficult to control. There is the possibility of residents leaving the gate unlocked and / or of passing on copies of the key to other people. I agree that it may raise expectations amongst other residents about access over this or other council land. I would not recommend this as a solution, in the absence of the residents having any lawful right to use the route.

It is difficult to determine whether or not the council would have liability if a child ran out and was injured on the road. There would be multiple considerations in such a scenario – whether and to what extent the child was supervised by a parent / or guardian, whether the motorist was at fault, whether the council should have taken greater precautions to avoid the risk arising. It is not possible to safeguard against all risks. What the council as landowner must do, is whatever is reasonably practicable to ensure the safety of visitors to its land. Even if the council were found not to have been liable, it would be upsetting for council members and staff to know that such an incident had occurred, especially if they felt it could have been avoided.

In my opinion, the best solution for this council is the creation of a Permissive Path. If the council provides the informal route for people to walk through the cemetery rather than along the road, then it has the option of providing that route as a 'permissive path' – ie one which is signposted as clearly being provided with the permission of the owner, as set out in my earlier advice. That means the council retains the right to withdraw permission and to stop the use of the route should the owner wish to do so. If the route is used, but is not clearly sign-posted as a permissive path, then there is the risk that individuals or the public at large may in time acquire rights over it so that it may become a public or a private right of way.

Nick Hancox

National Legal Adviser SLCC

It was proposed that a locked gate be installed with the key or code being made available to the residents that use this access point, however, in view of the above the Clerk explained that is contrary to the advice of the solicitor.

The difficulty of the access point is that there is no route that will not involve the crossing of grave plots.

It was noted that the current cemetery path connects to the boundary of the neighbours land and there is a strip of land that could be cleared to create an access point. This would negate the need for the Council to consider a locked gate.

It was RESOLVED that the Clerk contacts the owners of the neighbouring property and investigates the option of a swing gate on the cemetery boundary leading into the neighbouring land where access will be controlled by the owners.

C/016/17 - To discuss and agree the future actions required to take forward the Resident Parking schemes in conjunction with any report that is available from Agenda Item 9 below.

In the absence of any report and the discussion that took place earlier in the meeting this was deferred.

C/017/17 - To receive the Neighbourhood Plan Report from Councillor Parkes (General) and Councillor Payne (Residents Parking) (if available) and to discuss and approve the actions and any expenditure detailed in the report.

The General Report is attached and form part of the minutes. There was no Resident Parking report.

C/018/17 - To resolve to approve the Expenditure of the Council for the period 01 May 2017 to 05 June 2017 – see attached.

It was RESOLVED to approve the report.

C/019/17 - To resolve and finalise the Annual Return for the year 2016/2017:

a. Approve the Annual Governance Statement – (see attached)

b. The Accounting Statements – documents provided at 09 May 2017

c. To ratify that the Members of the Finance Committee have independently checked and verified the accounts to the invoices, records of income and bank statements.

d. To ratify the review of the Financial Risk Management Register by the Chairman, Vice Chairman and the Clerk (see attached)

It was RESOLVED to approve the reports.

C/020/17 - To ratify that the Council Insurance for the forthcoming year be taken out through Aon UK Ltd at a cost of £982.62.

The Clerk explained that a review of the cover had taken place but due to the timescales it was not possible to complete the necessary enquiries to make any changes this year. The lowest quote gave a saving of £149. The Council assets would need to be valued; however, the benefits provided by the current insurer ensure that there is over riding cover.

It was RESOLVED to approve and ratify that the Council Insurance be with Aon UK at a cost of £982.62..

C/021/17 - To resolve that a grant be paid up to a *maximum amount to be agreed*, to Kingswear Family Fun Day to cover the cost of the organisations Public Liability Insurance or if permitted that it be covered through the Council insurance.

It was RESOLVED that a grant of £170 be made to Kingswear Family Fun Day.

C/022/17 - To resolve to approve the release of the remaining 10% of the payment to Caledonia Play and to repay the Vat amount of £4745.00 to Kingswear Combined Charities.

Reference was made to the letter dated 7th June 2016 from Caledonia Play that states: "*All fixings, chains and fastenings are made of stainless steel*"

Investigation by some Members of the Council has given them some concern that the screws are galvanised and in some cases there is evidence of corrosion.

It was proposed that the outstanding payment of 10% be withheld until all the fittings are replaced with stainless steel.

A recorded vote was requested and Councillors Henshall, Essex and Newcombe voted in favour of the motion and Councillors Maurer, Jones and Hawkins voted against the motion. Councillors Trevorrow and Searle abstained. On the casting vote of the Chairman

It was RESOLVED that a letter be written to Caledonia Play to request that they adhere to agreement as stated in the letter dated 7th June 2016 and no outstanding funds be released until the fittings are all stainless steel.

It was noted that the donation from Kingswear Combined Charities covered the net cost of the equipment; however, the total donated also included the Vat. The Council is able to reclaim the Vat, therefore, the donation exceeds the net cost. It is correct that the Council returns this amount to the Kingswear Combined Charities.

It was RESOLVED that a payment of £4745 be made to Kingswear Combined Charities.

C/023/17 - To discuss the formation of a Working Group to investigate the options for improvements to be made to Jubilee Park and the provision of open space at Hillhead (Cllr Hawkins)

This item was deferred.

C/024/17 - To discuss the option for Councillors and residents to be provided with Defibrillator training. (Cllr Henshall)

It was RESOLVED that a Training Session be held during mid to end of July for local residents and Councillors.

C/025/17 - To discuss and agree whether the Council supports the lighting of a Beacon to commemorate the Anniversary of World War I on 11th November 2018. The option of a Committee or "Working Group" to be formed to take this forward. (Cllr Hawkins)

The previous discussion with Mr Calland of the National Trust is the initial step to obtain agreement for the location of the Beacon.

C/026/17 - To discuss the damage to property and disturbance to residents from members of the public returning from the Dart Music Festival (to include the option of making a grant payment to the Torbay Community Bus Association) and the action now to be taken to prevent similar problems occurring in the future.

This item was covered in the Police Report.

C/027/17 - To discuss items of a confidential nature and resolve that in accordance with the Public Bodies (Admission to Meetings) Act 1960 Sub section 2, and the Local Government Act 1972 Section 100A sub sections (2) and (4) that the public and press be excluded from the Meeting in view of the items to be discussed.(Staff matters)

The Meeting ended at 21.20

Minutes Approved:

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Councillor J Henshall - Chairman