

KINGSWEAR PARISH COUNCIL
Minutes of the Council Meeting held remotely via Zoom
on Wednesday 14th October 2020 at 7.00pm

Present: Cllrs L Maurer (Chairman), B Longland, J Hawkins, G Webber, P Burnell, P Pudduck, E Jones, H Newcombe, J Hacking, District Cllr H Bastone.

In Attendance: Miss Sue Balsdon – Clerk to the Council.

12 members of public present.

C/072/20 – Welcome from the Chairman

The meeting was chaired by Cllr Jones (Amendment approved 11.11.20 Full Council meeting).

C/073/20 – To receive any apologies for absence from the Meeting.

Cllr B Lowe.

C/074/20 - To receive any Declaration of Interest. [Councillors are also reminded that they must register any new interest or change in any interest already registered within 28 days of that new interest or change].

There were no declarations of interest noted.

The Council Meeting was suspended to allow members of the public to ask questions and make representations to the Council:

A resident raised concerns regarding the articulated lorries transporting boats to and from the Marina, which cause major disruption to traffic. The Clerk will contact Dart Haven, to request that when haulage companies are brought in to transport boats, they ensure the vehicle used is the correct size, in terms of length and height for the route into and out of the village.

With regards to the strip of land on Higher Contour Road, a resident claimed that the Parish Council, in the press and social media, had recognised the claims of two parties over those in the community. The resident asked, that before the Council give away a village asset, could they provide assurance that the verge is being claimed legally. The resident stated that the Council had contacted SHDC to enquire about compulsory purchase of the land at a cost of £20k-25k, but that this was not the legal process that should be used to register the land. They said that the Land Registry had advised that the cost for a Vesting Declaration is £40 plus a small legal charge. The resident stated that 250 people in the village have requested that the Council acquire the land. The Council were asked why they would not take this matter forward.

The Council will receive the following reports if available:

i) Devon County Councillor - Jonathan Hawkins:

Please see Kingswear Parish Council website (Full Council Minutes) for County/District Councillor reports.

ii) South Hams District Councillors:

Please see Kingswear Parish Council website (Full Council Minutes) for District Councillor reports.

iii) Police: None.

iv) Residents Parking Working Group:

We met with Members using zoom on 23rd Sept 2020 to discuss a proposal for a parking scheme. Members expressed some concerns about the proposal and asked us to make some amendments. We revised the proposal and sent it to Members, asking them to indicate any concerns prior to this meeting on 14th October. We heard from two Members: Cllr Pudduck expressing support for the scheme and Cllr Longland who after some dialogue expressed satisfaction that the scheme should work as long as the benefits were communicated to residents of Lower Contour Road and Church Hill. Since we have not heard any concerns from other Members we are pleased that the proposal is acceptable and look forward to the progress of the proposal onto the next stage which will be presenting it to Highways for their evaluation and a costing estimate. The 2018 questionnaire of the Parish in which a parking scheme costing about £10,000 was proposed resulted in a 56% response from parishioners of which 71% were in favour. This scheme is simpler than the 2018 one so we hope the costing will be in the region of £10,000.

The New Proposal

All of Kingswear Village roads which have parking will have "residents parking only from 10am – 11am

and 4pm – 6pm”. All the residents in the village, the village outskirts and outlying settlements going to the Toll House and along Broad Road back to Kingswear will be able to apply for parking permits and visitors permits. There will be Gateway signs indicating the starting point of the “residents only” parking on all entrance roads to the village: on Mount Ridley Road just beyond the last house on the north of the road, near the cemetery, as cars come off the Lower Ferry and at the south end of the US Garden on Castle Road. This scheme is simple, flexible and easy to enforce. It will also be relatively inexpensive since it will use the Gateway system whereby parking bays will not need to be drawn up on the road. There will need to be repeater signs reminding visitors to the village about the times they cannot park on village roads.

v) Neighbourhood Plan:

The Neighbourhood Plan Group are awaiting the report from the government examiner

The Council will reconvene to discuss the following items:

C/075/20 - With reference to the information received from the legal department of the National Association of Local Councils (NALC), with regards the Strip of Land, Higher Contour Rd (Clerk):

i) To consider compulsory purchase and the cost to the Council to enact this process.

The Clerk advised that in 2018 the Council contacted Devon Highways to establish ownership of the strip of land. Highways confirmed that their records show they do not own the land and that nor is it recorded as being a public highway. All other attempts to identify the legal owner were unsuccessful.

The Council's solicitor registered a caution against first registration on the land. The caution states that the Parish Council will now make a request of the District Council, to purchase the land compulsorily on behalf of the Parish Council, for the purposes of residents parking. SHDC advised that the anticipated costs of a compulsory purchase order would be £20-£25k. The Council were also aware, that two residents were claiming an interest in parts of the land. In June 19, the Council voted not to pursue ownership, due to the cost of the compulsory purchase order and also the possibility of complications in the purchase with reference to the other interested parties.

The Council have been asked by residents, if they could continue registration of the land, to help with parking issues in the village and that this should be done by a General Vesting.

Legal advice has been sought from the National Association of Local Councils (NALC) and they have advised that ‘the power for a local authority to acquire land by a General Vesting Declaration (GVD) comes from the Compulsory Purchase (Vesting Declarations) Act 1981. This Act gives that power to any body with the power to compulsorily purchase land. The Parish Council does not have the power to compulsorily purchase land and therefore it cannot use a GVD. The compulsory purchase would have to be done by the principal authority on behalf of the Parish Council and therefore the cost of £20k-£25k would apply.

The Land Registry have also advised that ‘A first registration application can only be submitted by an applicant if they can demonstrate title – in this circumstance that will be either (1) the principal authority having exercised their power of compulsory acquisition and able to lodge a GVD, or (2) the parish council lodging the GVD provided by the principal authority alongside a transfer of the legal estate from the principal authority to the parish council. Registration at Land Registry is an ‘after the event’ activity, an applicant must first acquire title before making application to us.’

ii) To consider alternative options available to the Council, to obtain ownership of the land.

NALC’s solicitor has advised, that the only way to obtain title of the land, if not obtained by compulsory purchase, is to do so by adverse possession.

iii) To agree future actions required.

The following points were raised by Councillors:

- i) The cost of compulsory purchase is not affordable within the Council’s budget.
- ii) The two residents claiming an interest in parts of the strip of land, do not yet have a valid legal claim.
- iii) A third resident is now claiming a section of the land.
- iv) The Council should continue as they have been doing, by allowing residents to park on the strip of land and by using the Parish Lengthsman to maintain the area.
- v) If the land is to be used for residents parking, how many parking spaces, would the strip of land allow, at a minimum width restriction of 2.4m?

It was agreed, that as there were differing legal opinions, between that of the Council and the residents, that the matter be deferred, until further information is sought by residents in support of their

C/076/20 - With regards to Residents Parking (JH):

i) To receive an update from the residents parking working group meeting held on 23.09.20.
Please see Residents Parking Working Group report above.

ii) To consider the revised parking proposal from the Residents Parking Group.
Councillors voted unanimously to support the revised residents parking proposal.

iii) To consider the options for funding for a residents parking scheme.
Item deferred, pending confirmation of cost from Devon County Council.

iv) To agree future actions required.

The Clerk to contact Amy Garwood at Devon County Council, to ascertain whether the proposed scheme is feasible and to obtain an estimate of the cost to implement the scheme.

Advice to be sought as to whether a residents parking scheme could be seasonal/enforced during the spring/summer months only.

**C/077/20 - To resolve to approve the following minutes subject to any amendments
[Amendments to the Confidential Minutes to be noted and documented in Part II:]**

i) Full Council Meeting – 9th September 2020

ii) Amenities & Environment Meeting – 23rd September 2020.

It was resolved to approve the minutes, subject to the inclusion of the following information in the Full Council minutes (Public Participation), regarding the 'Save our Verge' petition:

'A petition to request that Kingswear Parish Council continue the registration process of the verge, was supported by 180 people, mainly residents who support this campaign.'

Agenda item C/078/20 was chaired by Cllr Newcombe (Amendment approved 11.11.20 Full Council meeting).

C/078/20 - To make comment to the Planning Authority with regards to the following planning applications:

i) Ref: 2707/20/TPO Proposal: T1: Oak – Dismantle and cut down to approx. 1.2m from ground level. Tree is suppressed by adjacent trees and growing into highway. T2: Oak – Crown lift to 3m from ground level, lateral reduction on South West by 1.5m to provide clearance from steps and property roof Site Address: High Trees, 4 Reservoir Terrace, Upper Wood Lane, Kingswear, TQ6 0DH.

SUPPORT

ii) Ref: 2886/20/TPO Proposal: T1: Pine – Remove as tree is dead; T2: Ash – Remove as suffering from fungus Site Address: Kingswear Castle, Castle Road, Kingswear, TQ6 0DX.

SUPPORT

iii) Ref: 2762/20/CLE Proposal: Certificate of lawfulness for existing use of outbuilding as ancillary, self contained, residential accommodation Site Address: Coombe Cottage, Bridge Road, Kingswear, TQ6 0DZ.

The Parish Council refute the claim based on lack of evidence.

Please Note: Cllr Jonathan Hawkins did not participate in discussion for the above planning applications.

C/079/20 - Financial Matters (Clerk).

i) To resolve to approve the expenditure of the Council for the period 01/09/20 – 30/09/20.
It was resolved to approve the expenditure of the Council for the period 1st to 30th September 20.

ii) To present for review the month end finance report and bank reconciliation as at 30/09/20.

The income and expenditure report and bank reconciliation for month ending 30th September 2020 was reviewed by Councillors.

iii) To present for review a forecast of the year end position 20/21.

The Clerk provided a detailed forecast of income and expenditure to Councillors, to advise of the anticipated year end position as at 31st March 21.

Cllr Pudduck, as Chairman of the Finance Committee, objected to a payment of £396 made to the Parish Council's lengthsman, in relation to their time attending a Chapter 8 training course and stated that he felt this was a misuse of public funds.

iv) To review and amend as necessary, the following financial regulation:

4.1 Expenditure on revenue items may be authorised up to the amounts included for that class of expenditure in the approved budget. This authority is to be determined by:

The council for all items over £1000; The Clerk, in conjunction with Chairman of Council for any items below £1000.

Councillors agreed that financial regulation 4.1, which allows the Clerk in conjunction with the Chairman to authorise expenditure below £1000, requires no amendment.

C/080/20 - To receive the Chairman's report.

None.

C/081/20 - To receive an update and agree future actions with regards to:

i) Cemetery Lodge - Septic Tank (PP).

Cllr Pudduck has met with contractors regarding the repair works required to the Cemetery Lodge Septic Tank. It has yet to be established whether the tank/soakaway can be repaired or whether a new sewerage treatment plant will need to be installed. It was agreed the item be deferred until the November meeting, pending further investigation.

ii) Churchyard Wall - Permanent Barrier (LM).

The Council received an update from the Clerk regarding the Churchyard wall and the installation of a permanent barrier for health and safety purposes. The Diocese Advisory Committee and the Planning Authority's Conservation Officer have both advised that if railings are to be installed, they should be architecturally correct. A quote of £35k has been received, for the installation of railings to the specification as advised by the DAC/Planning Authority. The Council agreed that this amount is unaffordable within the Council's budget and that the maximum they could contribute towards this project would be £5k. It was agreed that a meeting should be held with the PCC, to advise that if they wished to proceed with the installation of railings, that they would need to raise the additional monies required for the project.

If the PCC opt not to proceed with the installation of railings, Councillors agreed for the Clerk to obtain the necessary permissions, to remove the existing hedge and re-plant and to install a temporary fence, whilst the fence becomes established.

iii) Freeholders Offer – Gents Toilet (Clerk).

The Clerk advised that a response has been received from the freeholder, regarding the old gents toilets which are no longer in use. The freeholder has agreed, that this part of the premises could be removed from the lease, if required. It was noted that the terms of the lease would require amendment, in relation to the Council's responsibility for the flat roof above the toilets. The Clerk will provide an update regarding this matter at the next meeting.

iv) Reservoir / South West Water (Clerk).

South West Water have confirmed ownership of the reservoir and have advised that the tank was visually inspected within the last two years. On inspection, the tank was thought to be structurally sound and showed no sign of damage or movement, despite heavy lorries and buses, regularly using the highway. Councillors were satisfied with the response from SWW and agreed that this matter has now been concluded.

v) Remembrance Day Service (Clerk).

An update was provided to Councillors regarding the preparations for the Remembrance Day Service, which is to be held on Sunday 8th November. Unfortunately this year due to Covid restrictions, attendance at the Church will be by invite only.

vi) Climate Change Group (JH).

In July 19, the Council declared a climate emergency, but unfortunately due to other commitments the Council have been unable to progress this matter. With reference to COVID-19, it was agreed to defer discussion for a further 6 months.

vii) Refurbishment of the Chapel interior (LM).

The Council approved the temporary removal of the memorial plaques in the Chapel, to allow the interior to be re-painted.

viii) Beacon Road Signage (JH).

Devon County Council have agreed to renew the current pole and the existing signage will then be re-instated. When this work is complete a vehicle width restriction sign will be installed.

C/082/20 - To consider funds for the repair works required to the Almshouses (LM).

It was agreed for the Clerk to contact the Sarah Roope Almshouse Trust, to advise that regrettably this is something the Council would be unable to contribute towards this year, due to budget constraints.

C/083/20 - With regards to the Lower Ferry Public Toilets, to consider:

i) The closure of the toilets for the winter period - Nov 20 to Mar 21 (LM).

The Council agreed that the toilets should be closed for the period Nov 20 to Mar 21. The Clerk to notify SHDC of the closure, with reference to the FCC cleaning contract.

ii) Charging for the use of the Public Toilets, to contribute towards their running costs (JH).

Cllr Hawkins advised that a pay on entry system had been researched previously and discounted, due to the cost of installation.

C/084/20 - To consider subscription renewal CPRE - The Countryside Charity (Clerk).

The Council agreed to renew the subscription to CPRE at a cost of £36.00 per annum.

C/085/20 - To consider the Council's involvement with the Totnes, Stoke Gabriel and Paignton Cycling Project and agree any future actions (Clerk).

Item deferred.

C/086/20 - To propose agenda items for the November 20 Full Council meeting.

None.

C/087/20 - Urgent items – For information.

The Clerk advised that the new Harbour Master had been in contact regarding the proposed installation of an ANPR camera in Kingswear. The Council agreed that whilst they support this project, it isn't something the Council would wish to lead on at the present time, due to current workload and insufficient funds.

C/088/20 - 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. (Quotes and Staffing).

The following quotes were approved by the Council:

a) Repair to the Vehicle Access Gate (Jubilee Park)

£355.00 Brownstone Grounds Maintenance.

b) Installation of Remembrance Bench

£97.50 Brownstone Grounds Maintenance.

c) Christmas Trees

£400.00 Bugford Nursery.

By Order of the Council

Sue Balsdon

Sue Balsdon
Clerk to the Council

The Meeting ended at 9.00 pm.

Minutes Approved: Councillor L Maurer – Chairman