

**MINUTES OF A MEETING OF  
THE EXECUTIVE  
HELD AT FOLLATON HOUSE ON THURSDAY 22 NOVEMBER 2018**

<b>Members in attendance:</b>			
<b>* Denotes attendance</b>			
<b>∅ Denotes apologies for absence</b>			
*	Cllr H D Bastone	*	Cllr R J Tucker (Chairman)
*	Cllr R D Gilbert	*	Cllr S A E Wright (Vice Chairman)
*	Cllr N A Hopwood	*	Cllr K R H Wingate

<b>Also in attendance and participating</b>		
Item 6	E.42/18	Cllrs Brazil, Green and Pennington
Item 7	E.43/18	Cllrs Bramble, Green, Pearce, Pennington and Vint
Item 9	E.45/18	Cllr Baldry
Item 10	E.46/18	Cllrs Baldry, Birch, Brazil, Brown, Green, Hicks, Hitchins, May, Pearce, Saltern, Steer and Vint
Item 12	E.48/18	Cllr Green
Item 13	E.49/18	Cllrs Baldry, Brazil, Green and Pearce

<b>Officers in attendance and participating</b>		
All items		Head of Paid Service, Group Manager Customer First and Support Services and Senior Specialist – Democratic Services
Item 7	E.43/18	Group Manager – Business Development
Item 8	E.44/18	Community Of Practice Lead – Environmental Health
Item 10	E.46/18	Group Manager – Commercial Services; Community Of Practice Lead – Environment Services; Senior Specialist (Commercial Services); and Senior Specialist (Assets)
Item 12	E.48/18	Senior Specialist (Assets)
Item 13	E.49/18	Section 151 Officer, Group Manager – Commercial Services and Commissioning Manager (Waste)

**E.39/18 MINUTES**

The minutes of the Executive meeting held on 13 September 2018 were confirmed as a true and correct record and signed off by the Chairman.

**E.40/18 DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting and the following were made:

The Chairman informed that, as a consequence of Executive Procedure Rule 1.9.4 (below):

*'Where a decision relates to an Executive Members' local ward, that Member may take part in the discussion, but will abstain from any vote on the item.'*

the Council's Deputy Monitoring Officer had granted himself and Cllrs Bastone, Gilbert and Wright a Dispensation to be able to take part in the vote on agenda item 10: 'Public Toilet Review' (Minute E.46/18 below refers). It was noted that this Dispensation would be in force until the next Annual Council meeting in May 2019;

Cllr R F D Gilbert declared a personal interest in agenda item 6: 'Heart of the South West Joint Committee Update' (Minute E.42/18 below refers) by virtue of sitting on the Local Enterprise Partnership Board and, in light of the close linkages between the Board and the Heart of the South West, he remained in the meeting during the debate, but abstained from the vote on this item;

Cllr R F D Gilbert also declared a personal interest in agenda item 7: 'Supporting the Formation of South West Mutual' (Minute E.43/18 below refers) by virtue of being the Devon County Council lead Member for the Economy. Whilst he remained in the meeting, he did not take part in the debate and abstained from the vote on this item;

Cllr R F D Gilbert also declared a Disclosable Pecuniary Interest in agenda item 10: 'Public Toilet Project' (Minute E.46/18 below refers) and specifically the proposals for the Ferry Steps at East Portlemouth. In the event of any discussion ensuing on the proposals for this site, Cllr Gilbert informed that he would leave the meeting room.

## E.41/18 **PUBLIC QUESTION TIME**

It was noted that the following public questions had been received in accordance with the Executive Procedure Rules, for consideration at this meeting:

### 1. Question received from Mr Colin Luker

*'The SHDC Councillors will no doubt be aware that on 5 November 2018, Totnes Town Council unanimously approved a similar motion to that below. I am now asking the South Hams District Council to support a similar motion.'*

*"I would ask the SHDC to write to Sarah Wollaston MP and to the Secretary of State for Work & Pensions to pause the managed roll-out of Universal Credit whilst necessary amendments are made.*

*Without the needed vital changes, it is highly likely that Universal Credit will have a significant detrimental impact on many residents & families in South Hams.*

*The recent Secretary of State for Work & Pensions, Esther McVey, acknowledged that many people would be financially worse off as a result of their existing benefits being consolidated into one payment.”*

*May I request a polled vote on this matter.’*

In response, Cllr Tucker informed that the Executive had no jurisdiction to ask that a letter be written on behalf of the Council without the prior approval of the Council. That being said, Cllr Tucker did wish to provide some relevant background facts as follows:-

- The Council had closely observed the national picture with regard to Universal Credit and had monitored closely the recent roll out in South Hams;
- Areas of the South Hams first went to full service in April 2018, with the remainder of the District (including Totnes) going in September 2018;
- Council officers were working very closely with the Department of Work and Pensions and Job Centre Plus and had processes in place to assist the most vulnerable to ensure that people did not slip through the net;
- The Council had used its Discretionary Housing payment pot to assist people in financial hardship with their living costs and the Council's Housing Options service was also assisting;
- Furthermore, Citizens Advice was offering budgeting support and residents could receive assistance with making their claim online from Mobile Locality Officers and by coming in to the Council offices;
- The new Secretary of State for Works & Pensions had indicated that she would be listening very carefully to concerns over Universal Credit and it was important to give her the opportunity to undertake this task.

In reply to a supplementary question over the Council's position regarding the abolition of severe disability premium, Cllr Tucker reaffirmed his previous point that the Executive was in no position to provide a formal Council view in this respect.

2. Question received from Dr Rob van Es

*‘Will the Council agree that to close the toilets at Millbay, East Portlemouth, will result in visitors using the unofficial public convenience of the adjacent woodland, causing untreated urine and faeces to run-off into the freshwater stream running across the beach, which is a favourite playing area for children?’*

In reply, Cllr Tucker advised that a revised recommendation would be tabled to the meeting during consideration of agenda item 10: ‘Public Toilet Review’ (agenda item E.46/18 below refers) that was likely to allay Dr Van Es' concerns.

3. Question received from Mrs Fiona van Es

*'I read with grave concern of the possible closure of the Mill Bay toilets in East Portlemouth so my question is this:*

*Is it considered safe and reasonable for families with young children to have to walk ten minutes to the ferry toilets along a busy single track road.'*

Cllr Tucker replied by reiterating the response he delivered to Question 2 (above) whereby a revised recommendation would be tabled to the meeting during consideration of agenda item 10: 'Public Toilet Review' (agenda item E.46/18 below refers) that was likely to allay Mrs Van Es' concerns.

E.42/18 **HEART OF THE SOUTH WEST JOINT COMMITTEE UPDATE**

A report was considered that reminded Members that the Heart of the South West Joint Committee was formally established in early 2018 by the partner councils and organisations that had been involved since 2015 in the Devolution Partnership. The report noted that the Joint Committee was tasked with improving productivity across the Heart of the South West (HotSW) area in collaboration with the HotSW LEP and other organisations as necessary.

The Leader introduced the report that summarised the progress made by the Joint Committee over recent months in key areas of activity and set out actions proposed in the coming months.

In the ensuing discussion, reference was made to:-

- (a) the need to be involved. On balance, a number of Members were of the view that the benefits to the Council were greater from being involved in the Heart of the South West Partnership than being on the outside;
- (b) the Brexit Joint Regional Sounding Board event on 12 November 2018. In reply to a request, a commitment was given to provide an interested Member with feedback from this event outside of this meeting;
- (c) the Local Industrial Strategy (LIS). A Member expressed his concern at the extent of the influence that the Local Enterprise Partnership was to have in the development and endorsement of the LIS;
- (d) the Productivity Strategy. A Member took issue with the intention in the Strategy to 'double the size of the HoTSW area economy over 20 years'. Whilst an admirable intention, the Member was of the view that it was an unrealistic target and therefore brought into question the credibility of the whole Strategy;

- (e) the annual Council contribution. It was confirmed that, in the event of any future proposal being brought forward to increase the Council's annual contribution of £1,400, then this would require the approval of the Council.

It was then

### **RECOMMENDED**

That the Executive **RECOMMEND** to Council to:-

- (a) note the progress report setting out the work of the Heart of the South West (HotSW) Joint Committee since its establishment in March 2018;
- (b) agree to delegate the development and endorsement of the HotSW Local Industrial Strategy (LIS) to the HotSW Joint Committee (noting that final approval of the HotSW LIS rests with the HotSW Local Enterprise Partnership (LEP) and the Government);
- (c) note the Heart of the South West Joint Committee Budget statement for 2018/19 (as set out in Appendix B of the presented agenda report) and that, in accordance with the decisions taken at the time the Committee was established, the Council will be asked to make an annual budgetary provision (£1,400 for South Hams District Council) to meet the support costs of the Joint Committee in line with the 2018/19 contribution. Final clarification on any additional 2019/20 Heart of the South West Joint Committee budget requirement will be provided following the completion of the review of the Joint Committee's role, function and management support arrangements and development of its work programme for 2019/20; and
- (d) agree the Budget and Cost-sharing Agreement (as set out in Appendix B of the presented agenda report).

E.43/18

### **SUPPORTING THE FORMATION OF THE SOUTH WEST MUTUAL**

The Executive considered a report that sought a recommendation to full Council to support the formation of the South West Mutual.

In his introduction, the lead Executive Member warned that this proposal was not without risk and, whilst acknowledging the potential share offer implications, he **PROPOSED** an alternative part 1 recommendation as follows:

'That Council be **RECOMMENDED** to approve, *if 50% of the other Devon local authorities give a commitment to support*, the granting of £49,995 from the predicted 2018/19 business rate pilot gain in order to support the formation of South West Mutual as detailed in section 3 and Appendix 2 of the presented agenda report.'

This alternative was subsequently **SECONDED**.

During the ensuing discussion, the following points were raised:-

- (a) In support of the formation of South West Mutual, some Members felt it deeply regrettable that the likes of Salcombe and Dartmouth residents did not have access to a high street banking facility. Other Members also expressed their support and felt the Business Plan to be credible in its own right with the proposals constituting a far more palatable venture than the recent commercial property acquisition proposals;
- (b) Other Members urged caution over the proposal, but did acknowledge that the revised recommendation helped to minimise the risk implications. Before the Council meeting on 6 December 2018, the Leader committed to contacting his counterparts across Devon in order to establish their Councils' respective position on the proposal;
- (c) A Member was of the view that a Working Group should be formed to carry out a detailed review of the proposals. In response, the majority of Members felt that the time to establish a Working Group would be at the point when the Mutual had been granted a licence;
- (d) With regard to a specific query over the proposed salary levels, a Member sought assurances that these would not be comparable with those being paid in the City;
- (e) Reference was made to the Member Treasury Management Training session on Monday, 26 November 2018 and it was felt that a number of the issues raised in this debate would also be relevant to this session.

It was then:

### **RECOMMENDED**

That the Executive **RECOMMEND** to Council to:

1. approve, *if 50% of the other Devon local authorities give a commitment to support*, the granting of £49,995 from the predicted 2018/19 business rate pilot gain in order to support the formation of South West Mutual as detailed in section 3 and Appendix 2 of the presented agenda report;

2. delegate authority to the Group Manager, Business Development, to conclude the ordinary share acquisition; and
3. agree that, where possible, officers support the formation of the Mutual by promoting it to local authorities within the South West.

#### E.44/18 **ANNUAL REVIEW OF HEALTH AND SAFETY POLICY STATEMENT**

Members considered a report that sought recommendation to full Council of the adoption of the revised Health and Safety Policy Statement.

The report noted that the Council was required to prepare a written health and safety policy statement by the Health and Safety at Work Act 1974. Once agreed, it was a requirement for the Policy to be signed off by the Head of Paid Service and Leader of Council.

In discussion, officers agreed to update the draft Policy Statement to include greater reference to Members prior to its consideration by full Council.

It was then:

#### **RECOMMENDED**

That the Executive **RECOMMEND** to Council that the revised Policy be adopted and signed by the Head of Paid Service and Leader of Council.

#### E.45/18 **REPORTS OF OTHER BODIES**

##### **a) Overview and Scrutiny Panel – 4 October 2018**

##### **O&S.51/18 TASK AND FINISH GROUP UPDATES**

##### **1. Drug and Alcohol Abuse – Outcome Report**

#### **RECOMMENDED**

That the Executive **RECOMMEND** to Council that it support and participate (wherever possible) in Police and Public Health England campaigns around drug reporting, harm minimisation and education.

**b) Overview and Scrutiny Panel – 1 November 2018**

**1. O&S.59/18 CUSTOMER SATISFACTION ACTION PLAN**

**RESOLVED**

1. That the proposed Customer Satisfaction Action Plan (as detailed in Section 5 of the presented agenda report) be endorsed;
2. That the proposed Customer Service Standards (as detailed in Appendix B of the presented agenda report) be supported; and
3. That the direction of travel in relation to the Housing Benefits / Contact Centre pilot be endorsed.

**2. O&S.62/18 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

**RECOMMENDED**

That the Executive **RECOMMEND** to Council that the updated RIPA Policy (as attached at Appendix B of the presented agenda report to the Panel) be approved;

**3. O&S.63/18 GENERAL DATA PROTECTION REGULATION (GDPR) AND DATA PROTECTION POLICY UPDATE**

**RECOMMENDED**

That the Executive **RECOMMEND** that Council:

1. approve the updated Data Protection Policy as detailed in Appendix A of the presented agenda report to the Panel;
2. delegate approval of the related Codes of Practice and Protocol Documents (as summarised in Section 3 of the agenda report presented to the Panel) to the Council's Data Protection Officer; and
3. note and support the approach and progress made towards GDPR readiness by the Information Governance Group.

E.46/18

**PUBLIC TOILET REVIEW**

The Portfolio Holder for Commercial Services introduced a report that set out a range of recommendations for specific public conveniences in the district and sought approval to proceed in order to deliver agreed Budget savings.



In light of the outcome of a recent Salcombe Harbour Board Workshop, a revised recommendation was **PROPOSED** and **SECONDED**.

The Chairman informed that, during the debate, he would invite comments on each site listed and, at that time, would welcome the views of the local Ward Member(s) in attendance.

In the ensuing debate, reference was made to:-

(a) concerns over the process undertaken during the Review. The following particular concerns were raised:

- Specifically with regard to the Pay on Entry proposals for Steamer Quay, Totnes, a local Member referred to correspondence that had led him and the town council to assume that this site had not been included as part of these proposals. As a result, the Member asked that the Executive consider deferring a final decision on this site until its meeting on 7 February 2019 to enable time for the town council (and local stakeholders) to consider this proposal. In response, other Members felt this statement to be inaccurate and were supportive of the original recommendation.

Nonetheless, an amendment was **PROPOSED** and **SECONDED** to defer a final decision on the Steamer Quay, Totnes Pay on Entry proposals until the Executive meeting on 7 February 2019.

When put to the vote, this amendment was declared (by virtue of a Chairman's Casting Vote) **LOST**;

- Some Members felt that there had been a lack of clear messaging during the consultation process with town and parish councils. For example, instances were cited where some councils had been encouraged to open negotiations with the Council whereas others were told that this was not possible. These Members felt that such an inconsistent approach was both inappropriate and unfair;
- A Member highlighted the published minutes arising from a recent Kingsbridge Town Council meeting and queried the significant discrepancy between the projected and actual income figures for the facility at Fore Street, Kingsbridge. In response, assurances were given this was the only facility that had seen such a difference between the projected and actual figures and it was confirmed that the Town Council would now be asked to pay the revised actual sum, which was higher;
- The published agenda report had omitted any reference to the payment of on-costs that had been previously included;

- Some inaccuracies were cited in the published agenda report that included: the lack of recognition to Newton Ferrers being a tourism area and the facilities at Thurlestone being much further away from the Hotel and Public House than the three minutes indicated;
- (b) the principle of installing Pay on Entry. Some Members took issue with the comments raised that implementing Pay on Entry charges in some public toilets would have a significant impact to the local economy and tourism industry. In contrast, when considering the likely installation costs, risks of vandalism and the length of payback period, another Member felt that the Business Case underpinning the principle of Pay on Entry was flawed;
- (c) the public health implications. A Member reiterated his concerns over the public health implications of any public toilets being closed;
- (d) recommendation 3. The lead Member emphasised that, in the event of those sites listed in recommendation 3 not being transferred, they would be closed in September 2019. As a result, the Member encouraged the local town and parish councils (and local stakeholders) who had sites included in this list to be proactive and fully engage with the Council before next summer or they would close in September 2019.

To reinforce this point, an amendment was **PROPOSED** and **SECONDED** and, on being put to the vote was declared **CARRIED**, whereby officers be instructed to write to the Clerks of Holbeton, Newton & Noss, Staverton and Ugborough Parish Councils to encourage them to re-open dialogue with the Council.

For clarity, the lead Member also confirmed that, in the event of any interested party having concerns that they would be liable for business rates on the facility for part of the 2019/20 financial year, this would not be the case as the District Council would pay for the entire twelve month period;

- (e) the Shipley Bridge – South Brent facility. A local Member emphasised the importance of this site and he hoped that South West Water and the Dartmoor National Park Authority could work together to find a solution to ensure that this facility was retained;
- (f) additional recommendation 5. A number of Members welcomed the inclusion of this addition and, with the involvement of the Harbour Board, it was hoped that a satisfactory solution could be found in time for the Executive meeting on 7 February 2019. Specifically regarding the inclusion of Bowcombe, it was confirmed that this facility was not at risk of closure at this time.

Whilst appreciating the time of the next Harbour Board meeting (28 January 2019), the Leader hoped that an informed update could still be given to the joint Overview & Scrutiny Panel / Development Management Committee Budget meeting on 24 January 2019.

It was then:

**RESOLVED**

That:

1. Pay on Entry (PoE) be installed at:
  - (a) Dittisham – The Ham;
  - (b) Ivybridge – Glanville’s Mill;
  - (c) South Huish – Hope Cove; and
  - (d) Totnes – Civic Hall, Coronation Road and Steamer Quay (with code or card access permitted for staff from the nearby Riverside Café and Ferry Office).
  
2. Income be generated in lieu of PoE through alternative charges at:
  - (a) Bigbury – toilet service charges to be supported through a review of Pay & Display Charges;
  - (b) Kingsbridge: Fore Street – Town Council to make payment in lieu of PoE;
  - (c) Stokenham: Torcross – toilet service charges to be supported through a review of Pay & Display Charges; and
  - (d) Strete Gate – toilet service charges to be supported through a review of Pay & Display Charges.
  
3. Asset transfers take place (or facility to close in September 2019) at:
  - (a) Holbeton;
  - (b) Kingswear – Lower Ferry;
  - (c) Malborough (asset transfer agreed);
  - (d) Newton & Noss – Newton Ferrers.
  - (e) Salcombe – Cliff House Gardens (to not be re-opened in Spring 2019 following winter closure);
  - (f) South Brent (asset transfer agreed);
  - (g) Staverton;
  - (h) Stoke Fleming (Parish Council have confirmed that an asset transfer is not required);
  - (i) Thurlestone (asset transfer agreed in principle); and
  - (j) Ugborough – Bittaford and Ugborough;

In respect of those sites listed at (a), (d), (g) and (j) above, officers be instructed to write to the local parish clerks (copying in the local ward Member(s)) to encourage them to re-open dialogue with the Council.

4. Other alternative arrangements be approved at:
  - (a) Dartmouth – Manor Gardens – to close in September 2019 with no asset transfer to the Town Council;
  - (b) East Portlemouth – Mill Bay – to close in September 2019 unless a 75% contribution from a stakeholder is achieved next financial year, with an asset transfer to be completed by financial year 2020/ 21 (\*\*see recommendation 5 below\*\*);
  - (c) Kingswear – Higher Ferry – to close with no asset transfer to the Parish Council;
  - (d) South Brent – Shipley Bridge – withdraw cleaning service;
  - (e) South Milton – to close in September 2019 unless a 75% contribution from a stakeholder is achieved next financial year, with an asset transfer to be completed by financial year 2020/21; and
  - (f) Wembury – to allow the current lease with the National Trust to expire in June 2020.
  
5. the proposals for Batson Creek, North Sands, South Sands, Whitestrand, Ferry Steps, Bowcombe and Mill Bay toilets are finally considered following receipt of a Salcombe Harbour Board proposal being provided no later than 29 January 2019 and then to be considered by the Executive at its meeting on 7 February 2019.

**E.47/18 EXCLUSION OF PUBLIC AND PRESS**

**RESOLVED**

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following items of business as the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act is involved.

**E.48/18 REQUEST FOR LONG LEASE RENEWAL**

Members were presented with an exempt report that sought approval to grant a long lease of more than 15 years.

During the debate, Members requested that reference to '*cost of living increase*' be replaced with the term '*Retail Price Index increase*'.

It was then:

**RESOLVED**

That the request for the long lease renewal (as set out in the presented agenda report) be approved, with authority to conclude the negotiations being delegated to COP Lead Assets, in consultation with the Section 151 Officer and Leader of Council.

E.49/18 **FRONTLINE SERVICES (WASTE & CLEANSING PROCUREMENT)**

Members were presented with an exempt report that detailed the Final Tender Stage of the Waste Procurement Process

During discussion, reference was made to:-

- (a) the intention to convene a Member Question and Answer session before the Council meeting on 6 December 2018;
- (b) confirmation that any revisions to the Board Terms of Reference would require the approval of the Council.

It was then:

**RECOMMENDED**

That the Executive **RECOMMEND** to Council to approve the proposed way forward (as outlined at paragraphs 8.2 to 8.7 of the presented agenda report).

***(NOTE: THESE DECISIONS, WITH THE EXCEPTION OF E.42/18, E.43/18, E.44/18, E.45/18 a), b)2, b)3, and E.49/18 WHICH WERE RECOMMENDATIONS TO THE COUNCIL MEETING TO BE HELD ON 6 DECEMBER 2018, WILL BECOME EFFECTIVE FROM 5.00PM ON MONDAY 3 DECEMBER 2018 UNLESS CALLED IN, IN ACCORDANCE WITH SCRUTINY PROCEDURE RULE 18).***

(Meeting commenced at 10.00 am and concluded at 12.55 pm)

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Chairman