

**MINUTES OF THE SPECIAL MEETING OF THE SOUTH HAMS DISTRICT  
COUNCIL HELD AT FOLLATON HOUSE, TOTNES ON THURSDAY 28 JULY 2016**

**MEMBERS**

\* Cllr P C Smerdon – Chairman

\* Cllr P K Cuthbert – Vice-Chairman

* Cllr K J Baldry	* Cllr T R Holway
* Cllr H D Bastone	* Cllr N A Hopwood
* Cllr J P Birch	* Cllr D W May
* Cllr J I G Blackler	* Cllr J A Pearce
* Cllr I Bramble	* Cllr J T Pennington
* Cllr J Brazil	* Cllr K Pringle
* Cllr D Brown	* Cllr R Rowe
* Cllr B F Cane	* Cllr M F Saltern
* Cllr R J Foss	* Cllr R C Steer
* Cllr R D Gilbert	* Cllr R J Tucker
* Cllr J P Green	* Cllr R J Vint
∅ Cllr J D Hawkins	* Cllr L A H Ward
* Cllr M J Hicks	* Cllr K R H Wingate
* Cllr P W Hitchins	* Cllr S A E Wright
* Cllr J M Hodgson	

\* Denotes attendance

∅ Denotes apology for absence

Officers in attendance and participating:

For all items: Head of Paid Service; Executive Director (Service Delivery and Commercial Development); Monitoring Officer; Section 151 Officer; and Senior Specialist – Democratic Services

28/16      **MR JOHN SQUIRE**

Since this was the first Council meeting since Mr John Squire (Council Member from 1979 to 2015) sadly passed away, the Chairman paid tribute to him.

As a mark of respect, the Council then proceeded to stand and observe a moment's reflection.

29/16      **WELCOME**

On behalf of all Members, the Chairman welcomed Cllr J P Birch to his first Council meeting since recently being elected on to the Council.

**URGENT BUSINESS**

The Chairman informed that he had agreed for two items of urgent business to be raised at this meeting. Both of these items were considered to be urgent in light of the time constraints associated with them.

**(a) Visit South Devon – Member Representative**

In introducing this urgent matter, the Chairman advised that the Council had been made aware by Visit South Devon that it was necessary to appoint an elected Member representative as a Director of the company for a limited period.

In light of the preparations being made for a merger between Visit South Devon and the Heart of Devon Tourism Partnership, the Council noted that there was a legal requirement for a Council Member to be re-appointed on to the Board during the merger to ensure full compliance with the Articles Of Association (AOA). Once the new AOA were in place, the appointed Member would then be asked to resign (which was anticipated to be by 31 October 2016).

Prior to this meeting, Group Leaders had been invited to submit their nominations for this position and Cllr Bastone had been put forward to serve on this Outside Body.

With no other nominations being forthcoming, it was then:

**RESOLVED**

That Cllr H D Bastone be appointed as the Council's representative on the Visit South Devon Board until 31 October 2016.

**(b) Appointment to Council Bodies / Other Groups and Outside Bodies**

An urgent report was considered that sought to fill the vacancies arising from the recent resignation of Mr David Horsburgh from the Council.

Both Group Leaders had been invited to put forward their respective nominations for each of the three vacant positions. In so doing, it was noted that two nominations had been received for the HATOC vacancy. Since, one of the nominees was the Chairman, he deferred the chairmanship for this matter to the Vice-Chairman.

When put to the vote, it was declared **CARRIED** that: 'Cllr P C Smerdon be appointed to serve on the HATOC Committee for the remainder of the 2016/17 Municipal Year'.

It was then:

### **RESOLVED**

That, with immediate effect and for the remainder of the 2016/17 Municipal Year:

1. Cllr J P Birch be appointed to serve on the Overview and Scrutiny Panel;
2. Cllr T R Holway be appointed to serve on the Political Structures Working Group; and
3. Cllr P C Smerdon be appointed to serve on the HATOC Committee.

31/16

### **DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting. These were recorded as follows:

Cllrs P C Smerdon and R J Vint both declared a personal interest in Item 5: 'Health and Wellbeing Procurement Outcome' (Minute 33/16 below refers) by virtue of being the Council's representatives on the Totnes and District Swimming Pool Association and remained in the meeting and took part in the debate and vote on this matter.

32/16

### **LOCAL AUTHORITY CONTROLLED COMPANY BUSINESS CASE**

A report was considered that set out and commented on the findings of a detailed business case that had been prepared by PriceWaterhouseCoopers (PWC) at the request of Members on the merits of establishing a Local Authority Controlled Company (LACC).

In introducing this agenda item, the Leader advised that it was his intention to propose a revised set of recommendations in light of a number of discussions that had taken place since the agenda report had been published. It was hoped that these revised recommendations would satisfy a number of Member concerns that had been recently raised.

The Leader proceeded to make reference to the letter that Members had received from Unison. As a consequence of its content, the Leader had asked the Executive Directors to discuss this matter with each of the unions and report back to Members in due course.

In discussion, reference was made to:-

- (a) the composition of the proposed Joint Steering Group (JSG). The Leader gave an assurance that it was intended that the minority group would be represented on the JSG;

- (b) an amendment being tabled to the meeting. The following amendment was **PROPOSED** and **SECONDED**:

*‘That in view of the many financial risks to be considered on the possible establishment of a LACC, the financial risks should receive independent consideration by the Council’s Audit Committee for an opinion prior to further consideration by any other Council body or the full Council.’*

The proposer expressed a number of concerns over the principle of establishing a LACC and felt it was therefore appropriate for the Audit Committee to undertake an independent detailed review before any further resources were invested in this proposal.

During the debate on this amendment, some Members expressed their sympathy with its intention. However, these Members were also comforted that the Leader’s revised recommendations would ensure that the Audit Committee was sufficiently involved in this process.

When put to the vote, the amendment was declared **LOST**.

- (c) staff morale. In light of concerns raised, a Member advised that he was intending to submit a Scrutiny Proposal Form which would ask that the Overview and Scrutiny Panel received, at a future Panel meeting, an update on staff morale;
- (d) general support for the revised recommendations. A number of Members were of the view that the Leader’s revised recommendations would ensure that matters relating to key issues (including pension, legal and taxation advice) could be clarified before a final (and more informed) decision was then made by the Council. As a general point, the Leader confirmed that, if it became apparent that any of these identified key issues could not be satisfactorily addressed, then the work on this project would be stopped immediately.

Furthermore, Members made the point that these recommendations would also enable the Senior Leadership Team to focus at this time on the current performance issues arising from the Transformation Programme;

- (e) a number of concerns expressed by Members. In their respective addresses, some Members highlighted their concerns that could be summarised as follows:
- Disappointment that the outstanding matters (e.g. pension advice) had not yet been addressed;
  - The loss of democratic process that would arise from a LACC;
  - There being no support amongst the electorate for establishing a LACC;
  - A fully tested business case was still awaited;
  - There was considered to be alternative methods of income generation (e.g. by investing in the Council’s own assets);
  - The PWC Business Case document was not of a sufficient quality or standard to enable Members to make a decision;

- The proposal for the Council and West Devon Borough Council to be equal partners in a LACC;
- Council services were currently not at a performance level whereby they could be sold to other parties; and
- The outcome of the Leisure procurement exercise reducing the budget gap in future years.

In response, a number of Members emphasised the significant future budget gap facing the Council and there being no indications that the reductions in grant funding from central government were to be reversed. In addition, it was reiterated that the recommendations, if approved, only sought to progress this initiative to the next stage and no final decisions on establishing a LACC were to be made at this meeting;

- (f) recommendation 5. Some Members questioned the need for this part of the recommendation and stated that they were fundamentally opposed to more public money being spent on this project at this time. In reply, the Leader gave an assurance that the drawdown of any of the £126,750 would require the agreement of the JSG.

In accordance with Council Procedure Rule 15.5, a recorded vote was then undertaken on parts 1, 2, 3 and 4 of the motion. The voting on these parts was recorded as follows:-

For the motion (22): Cllrs Bastone, Blackler, Brown, Cane, Cuthbert, Foss, Gilbert, Hicks, Hitchins, Holway, Hopwood, May, Pearce, Pringle, Rowe, Saltern, Smerdon, Steer, Tucker, Ward, Wingate and Wright.

Against the motion (7): Cllrs Baldry, Birch, Brazil, Green, Hodgson, Pennington and Vint.

Abstentions (1): Cllr Bramble.

Absent (1): Cllr Hawkins.

In accordance with Council Procedure Rule 15.5, a recorded vote was then undertaken on part 5 of the motion. The voting on this part was recorded as follows:-

For the motion (20): Cllrs Bastone, Blackler, Brown, Cane, Cuthbert, Foss, Gilbert, Hicks, Hitchins, Holway, Hopwood, May, Pringle, Rowe, Smerdon, Steer, Tucker, Ward, Wingate and Wright.

Against the motion (8): Cllrs Baldry, Birch, Brazil, Green, Hodgson, Pearce, Pennington and Vint.

Abstentions (2): Cllrs Bramble and Saltern.

Absent (1): Cllr Hawkins.

It was then:

### **RESOLVED**

1. That the Council proceed with the work which enables a more considered decision to be made with regard to the implementation of a Local Authority Controlled Company (LACC) jointly owned with West Devon Borough Council, subject to there being a satisfactory outcome to the outstanding pension, tax and governance questions and actions as set out in paragraph 5.4 of the presented agenda report;
2. That a Joint Steering Group (JSG) with West Devon Borough Council be established to deal with matters concerning the implementation of the LACC (as detailed in paragraph 5.5 of the presented agenda report) and the draft terms of reference (at Appendix B of the presented agenda report). Such terms of reference to be finalised by the Executive Director (Strategy and Commissioning), in consultation with the Leader of the Council, with the JSG reporting its recommendations to the first Council meetings of both local authorities in 2017;
3. That the Audit Committee be tasked to consider the Joint Steering Group's recommendations regarding risk and governance;
4. That the date of transfer of staff to the Company and the Commencement of the contract between the Council and the LACC is to be decided by the Council on the recommendation of the Joint Steering Group; and
5. That the Council approves the use of up to £126,750 of the 2016/17 Budget Surplus Contingency earmarked Reserve for the set-up costs of the LACC (as detailed in paragraph 5.8 of the presented agenda report) specifically drawn down with the agreement of the Joint Steering Group.

33/16

### **HEALTH AND WELLBEING PROCUREMENT OUTCOME**

Members considered a report that informed of the outcome of the leisure procurement exercise for a new leisure contract for the next 25 years.

In discussion, the following points were raised:-

- (a) A number of Members congratulated the lead officers and Board Members for their involvement in what had proven to be such a successful procurement exercise;
- (b) Having sought clarification, it was noted that the risk of overspends on refurbishment costs would sit with the contractor;

- (c) Being of the view that local authorities should not support leisure centres, a Member confirmed that it was his intention to abstain during the vote on this matter;
- (d) Some Members commented that these sites presented a real opportunity for renewable energy provision. As a result, these Members requested that consideration be given to, as part of the investment and asset transfer, it being a requirement for 10% of the energy on site to be provided by means of renewable energy. In reply, the lead Executive Member confirmed that this would be discussed in detail with the preferred bidder.

It was then:

### **RESOLVED**

1. That approval be given to award the Leisure Design, Build, Operate and Maintain contract, to the preferred bidder, Fusion Lifestyle;
2. That prudential borrowing of £6.337 million be undertaken as set out in Appendix 2 of the presented agenda report;
3. That an asset transfer of the Totnes Pavilion to Tadpool (by way of a 25 year, full repairing and insuring lease) be approved; and
4. That a loan facility to Tadpool of up to £1.5 million (to be funded by prudential borrowing) be approved, subject to a business case to be approved by the COP Lead for Assets and the COP Lead for Finance (Section 151 Officer), in consultation with the Monitoring Officer, the Leader of Council and the lead Executive Member, to be paid back over the lease period.

34/16

### **HEART OF THE SOUTH WEST FORMAL DEVOLUTION BID – COMBINED AUTHORITY PRINCIPLE**

A report was considered that sought approval to sign up 'in principle' to the pursuit of a Devolution Deal and the creation of a Combined Authority for the Heart of the South West sub-region to administer the powers and funding devolved through the Deal.

In discussion, reference was made to:-

- (a) the newly appointed Secretary of State. When questioned, the Leader advised that it was too early to know whether the new appointment may have an impact upon the Devolution deal;
- (b) mayoral arrangement. The Council noted that there was very little appetite amongst the partner authorities to pursue a mayoral arrangement at this time;

- (c) the lack of consultation. In particular highlighting the potential impact on town and parish councils, a Member expressed her disquiet at the general lack of consultation on the Devolution agenda. In response, other Members made the point that it was an integral role of being a local Ward Member to communicate the workings of the council to the local town and parish councils;
- (d) the Combined Authority. Having sought assurances, the Leader confirmed that any decision to formally establish a Combined Authority would be taken in the future.

It was then:

### **RESOLVED**

1. That the Leader's current approach to Devolution be endorsed and agreement be given to sign up to the principle of creating a Combined Authority for the Heart of the South West, as set out in the Prospectus for Productivity, as the basis for negotiation with Government towards a Devolution Deal for the area; and
2. That it be noted that giving endorsement does not commit the Council to entering into a Devolution Deal or becoming a member of a Heart of the South West Combined Authority. This would be subject to future debate and agreement by the Council and subject to negotiations with Government.

35/16

### **ANNUAL REPORT**

A report was considered that presented the Council's draft Annual Report for approval.

In discussion, the following points were raised:-

- (a) In the future, it was confirmed that the Annual Report would be presented to the Annual Council meeting each May;
- (b) It was felt that the report was not wholly reflective of the difficult year that the Council had endured. As a consequence, it was felt that the emphasis of the report should be more conciliatory and less focused on obtaining awards. In acknowledging the point, the Leader confirmed that he was happy to include a supplementary note along these lines at the time that the Annual Report was formally published;
- (c) The drive to grow small starter businesses was welcomed by a number of Members.

It was then:



**RESOLVED**

That the Annual Report (as outlined at Appendix A of the presented agenda report) be adopted.

36/16

**REPORTS OF BODIES****(a) Audit Committee – 30 June 2016****A.7/16: Update on Anti-Fraud, Corruption and Bribery Policy and Strategy, Anti-Money Laundering Policy and Confidential Reporting Policy****RESOLVED**

That the following reviewed policies and documents be adopted:

1. the Anti-Fraud, Corruption and Bribery Policy (as outlined at Appendix A of the presented agenda report);
2. the Anti-Fraud, Corruption and Bribery Response Plan (as outlined at Appendix B of the presented agenda report);
3. the Anti-Money Laundering Policy Procedures and Guidance for Staff (as outlined at Appendix C of the presented agenda report);
4. the Anti-Money Laundering Policy (as outlined at Appendix D of the presented agenda report);
5. the Confidential Reporting Policy (as outlined at Appendix E of the presented agenda report); and
6. the Confidential Reporting Policy Frequently Asked Questions (as outlined at Appendix F of the presented agenda report).

**(b) Development Management Committee – 6 July 2016****DM.12/16: Planning Applications**

In respect of application number 1527/16/FUL: Land adjacent to Whitestrand Car Park, Fore Street, Salcombe, a local Ward Member asked that the following sentence be deleted before the Committee minutes were agreed and signed as a true and correct record:

*'Use of new decking for A1 (retail), A3 (restaurants and cafes) and A5 (hot food takeaway) uses.'*

**(c) Salcombe Harbour Board – 11 July 2016****(d) Executive – 21 July 2016****E.17/16: Operational Amendments to the South Hams Off-Street Parking Places Order**

**RESOLVED**

1. That permit parking on the South Embankment in Dartmouth be limited to a maximum waiting time of four hours;
2. That the Council owned land on the North Embankment in Dartmouth be added to the South Hams Off-Street Parking Places Order and that loading only be permitted in this area; and
3. That the Council owned land at the Rotherfold in Totnes be added to the South Hams Off-Street Parking Places Order and that parking be permitted only with the express permission of the District Council.

(Meeting commenced at 10.00 am and concluded at 12.35 pm)

---

Chairman