

**MINUTES OF THE SPECIAL MEETING OF THE SOUTH HAMS DISTRICT
COUNCIL HELD AT FOLLATON HOUSE, TOTNES ON THURSDAY 29
SEPTEMBER 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); Deputy Monitoring Officer; Section 151 Officer; and Senior Specialist – Democratic Services

37/16 FEDERATION OF SMALL BUSINESSES AWARD

The Chairman advised that the Council, as a partner authority in the Better Business for All scheme, had recently won an award from the Federation of Small Businesses.

The Chairman proceeded to invite the Deputy Leader of Council to step forward and formally present him with this Award.

38/16 APPOINTMENT OF VICE-CHAIRMAN

In light of the Vice-Chairman having sent her apologies to this meeting, nominations were invited to serve as Vice-Chairman for the duration of this meeting.

It was then:

RESOLVED

That Cllr B F Cane be appointed Vice-Chairman for the duration of this meeting.

39/16

MINUTES

The minutes of the meeting of Annual Council held on 19 May 2016 and the Special Council meetings held on 30 June 2016 and 28 July 2016 were each confirmed as a correct record and signed by the Chairman.

40/16

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 N A Hopwood and J M Hodgson both declared a personal interest in Item 9: 'Notices of Motion' (Minute 42/16 below refers) by virtue of being personally affected by the proposals outlined in the motion. Upon the advice of the Deputy Monitoring Officer, both Members remained in the meeting and took part in the debate and vote thereon; and

Cllrs P C Smerdon and R J Foss also both declared a personal interest in Item 9: 'Notices of Motion' (Minute 42/16 below refers) by virtue of their wives being affected by the proposals outlined in the motion. Both Members remained in the meeting and took part in the debate and vote thereon.

41/16

QUESTIONS

It was noted that thirteen questions had been received in accordance with Council Procedure Rule 8.

From Cllr Birch to Cllr Tucker, Leader of the Council

(a) *'Ref. the LACC proposal, has any other local authority established a similar operating model? If so, please provide its name.'*

In reply, Cllr Tucker advised that 2020 Vision, a company that was owned by West Oxon, Cotswolds and Forest of Dean was due to operate and deliver all of its services from April 2017. Furthermore, various other Councils had established Local Authority Controlled Companies (LACCs) for particular services (e.g. Cormac and Norse Group). Other Councils had joined with partner Councils for single services or groups of services (a local example being the Strata IT Company for East Devon, Exeter and Teignbridge Councils). Finally, Cllr Tucker informed that other joint ventures with non-local authority partners had also been established (e.g. Delt that was a joint venture between Plymouth City Council and a local Health provider).

In reply to a supplementary question, Cllr Tucker acknowledged that the comments in the PriceWaterhouseCoopers (PWC) business case into the LACC that highlighted that there was no 'precedent of other local authorities establishing a LACC for a similar operating model were incorrect. However, Cllr Tucker did also advise that this was a particularly fast moving area and some months had now elapsed since the business case had been produced.

From Cllr Birch to Cllr Tucker, Leader of the Council

(b) 'How will SHDC exercise control over the performance of the statutory services by the LACC?'

In reply, Cllr Tucker advised that control would be exercised through the contract between the Councils and the LACC and also through the LACC's constitutional documents such as the Articles of Association and shareholder agreement. In addition, the company would annually set out a plan for delivery of services that would need to be agreed by the Council and which would be monitored by the Overview and Scrutiny Panel.

Cllr Tucker responded to a supplementary question by stating that, since it was proposed for the LACC to be wholly owned by the Councils, the necessary control measures would still be in place and he did not foresee any differences to statutory services.

From Cllr Birch to Cllr Tucker, Leader of the Council

(c) 'Will the contract between SHDC and the LACC contain performance targets in respect of the services it provides? If so, what will be the sanctions in respect of non-performance?'

In response, Cllr Tucker stated that this would be the case, with performance targets being reviewed through management performance meetings and by the Overview and Scrutiny Panel (which was similar to present arrangements). Moreover, Cllr Tucker informed that there would be a requirement for improvement plans if the LACC was under performing and payments could also be withheld, deducted and penalties imposed. Finally, the ultimate sanction would be to end the contract for some or all services and either bring them back in-house or outsource.

In replying to a supplementary question, Cllr Tucker stated that the Head of Paid Service (as lead officer for the Strategy and Commissioning side of the Operating Model) would ultimately be the responsible officer for the performance monitoring aspect of the contract.

From Cllr Birch to Cllr Tucker, Leader of the Council

(d) 'As the LACC will require a Board of Directors, will selected members of both councils be appointed as directors? If so, will this not give rise to a conflict of interest?'

Cllr Tucker responded by advising that Members had previously been briefed on the role of Directors, namely to act in the best interests of the company. Members who served on the Board of Directors would have to balance this duty against their duty as Members. However, this particular matter was still to be determined by the Joint Steering Group (JSG) and it was a possibility to have a mix of Executive and Non-Executive Directors, with an independent chair. Therefore, Cllr Tucker emphasised that whilst there could be some elected Members on the Board as 'Non-Executive Directors', they would need to be very clear that they were acting in the interests of the company and declare any conflicts of interest that could arise. In the event that the Council opted to have Members on the board, training would be provided in order that those Members were clear about their roles both as Members and Directors.

Cllr Birch proceeded to ask a supplementary question in relation to the position of any Member Directors should a dispute result between the Council and the LACC. In reply, Cllr Tucker confirmed that it was his personal view that, if a Member was acting on behalf of the LACC, then (s)he would be in dispute with the Council.

From Cllr Birch to Cllr Tucker, Leader of the Council

(e) *“Ref. the LACC proposal, when will advice be obtained in respect of a possible liability for Corporation Tax?”*

Cllr Tucker replied that this was part of the work currently being undertaken and reviewed by the JSG and a report would be made by the JSG to Members in due course.

In response to a supplementary question, Cllr Tucker advised that Corporation Tax was one of three key 'red line' (i.e. potential project ending) issues that were currently being reviewed by the JSG. For clarity, the other two key red line issues identified at this time were VAT and pension liability.

From Cllr Birch to Cllr Tucker, Leader of the Council

(f) *‘When will a confirmation/guarantee be obtained from LGPS in respect of the current pension deficit and how it should be treated in the event of the formation of the LACC?’*

In response, Cllr Tucker confirmed that this was also part of the work currently being undertaken and reviewed by the JSG and a report would again be produced by the JSG on review options.

In asking a supplementary question, Cllr Birch queried why this had not been investigated earlier. Cllr Tucker replied that a formal Member steer had been required before this piece of work had been progressed.

From Cllr Birch to Cllr Tucker, Leader of the Council

- (g) *'Will there be provision within the agreement between SHDC and the LACC that provides for the disclosure of documents and information relevant to the provision and performance of the statutory services?'*

Cllr Tucker confirmed that this would be the case and provision could also be set out in the contract between the Council and the LACC.

In reply to a supplementary question, Cllr Tucker also stated that he could see no reason why the Council would not have full access to all relevant documents held by the LACC in the event of it wishing to carry out an investigation.

From Cllr Birch to Cllr Tucker, Leader of the Council

- (h) *'Has there been any assessment carried out in respect of the current skills and capacity of the proposed management team or their ability to deliver a successful LACC? What steps will be taken if, in carrying out the assessment, it is shown there is a need for additional skills and capacity?'*

Cllr Tucker replied stating that all of the current Senior Leadership Team had been appointed with commercial skill and experience/knowledge of alternative service delivery vehicles in mind. Furthermore, the appointment of Non-Executive Directors to the Board would take into account any skills gaps and desired capabilities.

Cllr Tucker responded to a supplementary question by confirming that, if necessary, capability and suitability assessments would include the involvement of external advisors and that this was a long established and accepted practice for the Council.

From Cllr Birch to Cllr Tucker, Leader of the Council

- (i) *'Will the Members be shown and given the opportunity to comment on any proposed contract to be entered into between SHDC and the LACC before its formation?'*

In response, Cllr Tucker confirmed that Members views would feed into the proposed contract.

In addition, Cllr Tucker gave an assurance in his response to a supplementary question whereby the proposals would be accompanied with a legal advisory note that would outline the key strengths and weaknesses.

From Cllr Birch to Cllr Tucker, Leader of the Council

- (j) *'What steps will be taken to consult with the Town and Parish Councils on the proposed transfer of services to the LACC?'*

Cllr Tucker responded that town and parish councils would be briefed on proposals and would be kept updated as, when and if the project progressed. Regular updates had been given to Town Clerks and Mayors throughout 2016 and meetings were scheduled with all town and parish council clerks during week commencing Monday, 3 October 2016, with the LACC proposals being an agenda item for these sessions.

In reply to a supplementary question, Cllr Tucker gave an assurance that regular updates on the LACC proposals would be given to town and parish councils.

From Cllr Baldry to Cllr Tucker, Leader of the Council

(k) 'We have been given the names of the eight project team members with responsibility for the LACC. Some are full time on the project. Others do it in addition to their other duties. Will the Leader tell us how much time each of the non-full time members are spending on the Project?'

In reply, Cllr Tucker advised that the percentages for the eight project team members were as follows:

Neil Hawke (Project Manager): 40%;
Dai Antill (Project Support Specialist): 100%;
Catherine Bowen (Legal): 5%;
Andrew Ogalo (Legal): 40%;
Andy Wilson (HR): 5%;
John Bougeard (Business Plan): 10%;
Lesley Crocker (Communication): 5%; and
Lisa Buckle (Finance): 10%.

In his supplementary question, Cllr Baldry queried whether the Leader agreed that the public would be benefiting more if each of these officers were working on their 'normal duties'. In response, Cllr Tucker advised that he did not agree and stated that the work of the project team members on the LACC may ultimately be to the benefit of the public in the future.

From Cllr Steer to Cllr Ward, Deputy Leader of Council

(l) 'With the 'Stay Connected' initiative currently being rolled out on our website, could Cllr Ward inform Members of how this has been received, how it will operate in the future and indicate the number of residents now registered?'

In reply, Cllr Ward made reference to:

- the Council signing up to the initiative for a year;
- the initiative being a key part of the Council's drive to increase digital engagement across the South Hams;

- 4,500 email addresses already being signed up for the initiative, with the most popular topics being the Joint Local Plan (for which 1,609 registered users had opened this email) and the Business Support Update (for which 878 users had opened this update). In addition, Cllr Ward informed that these figures had been collated before the most recent press release in this respect was published;
- the initiative creating the ability to produce newsletters from a template. As a consequence, it was noted that this reduced the work burden on the Council's Design Team and could lead to newsletters being produced in a couple of hours;
- the future. Moving forward, Cllr Ward stated that officers would be considering methods of refining and monitoring its newsletters and putting in place closer links with Facebook and Twitter to ensure that the number of registered residents continued to increase.

From Cllr Hodgson to Cllr Tucker, Leader of Council

(m) 'What is this Local Authority doing to meet its obligations regarding addressing Climate Change?'

Cllr Tucker replied that he felt that the Council had made good progress in respect of the climate change agenda and cited some examples as being the: excellent recycling rates; agile working agenda; and promoting car sharing initiatives. Having said that, Cllr Tucker was of the view that the Council still had more to do in respect of addressing climate change.

In response to a supplementary question, Cllr Tucker confirmed that he had sympathy for a number of points raised by Cllr Hodgson. Whilst studies had indicated that the installation of solar panels on Council Car Parks was not viable, Cllr Tucker felt that there was a golden opportunity for the Council to more greatly exploit solar and wind energy. In addition, Cllr Tucker advised that it was his personal opinion that all new build housing should have solar panels installed, but that this would obviously require a change in national legislation.

42/16

NOTICES OF MOTION

It was noted that one motion had been received in accordance with Council Procedure Rule 10.1.

(a) By Cllrs Hopwood and Foss

"There are 49 female members of staff at South Hams District Council born between 1950 and 1969 which will be adversely affected by the government changes made to the Pensions Act. With this in mind and the wider South Hams female population the Council calls upon the Government to make fair transitional state pension arrangements for all women born on or after 6th April 1951, who have unfairly borne the burden of the increase to the State Pension Age (SPA) with lack of appropriate notification.

Hundreds of thousands of women had significant pension changes imposed on them by the Pensions Acts of 1995 and 2011 with little/no/personal notification of the changes. Some women had only two years notice of a six-year increase to their state pension age.

Many women born in the 1950's are living in hardship. Retirement plans have been shattered with devastating consequences. Many of these women are already out of the labour market, caring for elderly relatives, providing childcare for grandchildren, or suffer discrimination in the workplace so struggle to find employment. Women born in this decade are suffering financially. These women have worked hard, raised families and paid their tax and national insurance with the expectation that they would be financially secure when reaching 60. It is not the pension age itself that is in dispute - it is widely accepted that women and men should retire at the same time. The issue is that the rise in the women's state pension age has been too rapid and has happened without sufficient notice being given to the women affected, leaving women with no time to make alternative arrangements.

The Council calls upon the Government to reconsider transitional arrangements for women born on or after 6th April 1951, so that women do not live in hardship due to pension changes they were not told about until it was too late to make alternative arrangements."

In introducing the motion, the proposer made reference to:-

- the motion highlighting an important issue that affected Council employees and the wider South Hams population;
- her wish to applaud the efforts of the WASPI (Women Against State Pension Inequality) Devon campaign group;
- a particular case that she was aware of in her constituency that underlined just how severe the financial implications of the pension changes would be to women;
- the reforms potentially affecting 2.6 million women in the UK, who had received just two years notice of a six year increase in their state pension age;
- over 193,000 people having signed an e-petition calling for more fairer transitional arrangements to be put into place;
- the knock-on effect to both the local economy and health and wellbeing agenda.

In the general debate, the following points were raised:-

- (a) An amendment that was **PROPOSED** and **SECONDED** was subsequently accepted by the proposer and seconder of the original motion and was therefore incorporated into the substantive motion. The amendment read as follows:

'And that the support of the local MPs be sought and that their responses be reported back to the Council.'

- (b) Every Member who took part in the debate expressed their support for the motion and echoed their gratitude for the work being undertaken by WASPI Devon;
- (c) In terms of the job market, a Member highlighted that there would a consequent impact by virtue of those women who would be affected having to work for more years and therefore reducing the job opportunities for the younger generation.

It was then:

RESOLVED

There are 49 female members of staff at South Hams District Council born between 1950 and 1969 which will be adversely affected by the government changes made to the Pensions Act. With this in mind and the wider South Hams female population the Council calls upon the Government to make fair transitional state pension arrangements for all women born on or after 6th April 1951, who have unfairly borne the burden of the increase to the State Pension Age (SPA) with lack of appropriate notification.

Hundreds of thousands of women had significant pension changes imposed on them by the Pensions Acts of 1995 and 2011 with little/no/personal notification of the changes. Some women had only two years notice of a six-year increase to their state pension age.

Many women born in the 1950's are living in hardship. Retirement plans have been shattered with devastating consequences. Many of these women are already out of the labour market, caring for elderly relatives, providing childcare for grandchildren, or suffer discrimination in the workplace so struggle to find employment. Women born in this decade are suffering financially. These women have worked hard, raised families and paid their tax and national insurance with the expectation that they would be financially secure when reaching 60. It is not the pension age itself that is in dispute - it is widely accepted that women and men should retire at the same time. The issue is that the rise in the women's state pension age has been too rapid and has happened without sufficient notice being given to the women affected, leaving women with no time to make alternative arrangements.

The Council calls upon the Government to reconsider transitional arrangements for women born on or after 6th April 1951, so that women do not live in hardship due to pension changes they were not told about until it was too late to make alternative arrangements.

And that the support of the local MPs be sought and that their responses be reported back to the Council.

43/16

EXCLUSION OF PUBLIC AND PRESS

The following resolution was **PROPOSED, SECONDED** and on being put to the vote declared **CARRIED**:

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 item of business as the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act is involved.

44/16

FUTURE OF DEVON BUILDING CONTROL PARTNERSHIP

Members considered an exempt report that advised of a series of recommendations that had been made by the Devon Building Control Partnership at its most recent meeting on 13 September 2016.

In discussion, the following points were raised:

- (a) A number of Members expressed their support for the proposals contained within the presented agenda report and felt that the end result would be a more resilient building control service. Furthermore, it was noted that the Member representatives on the Building Control Partnership Committee were unanimously supportive of the proposals;
- (b) Some Members expressed their previously raised concerns in respect of the quality of the business case that had been produced by PWC into the merits of the Council establishing a Local Authority Controlled Company.

It was then:

RESOLVED

1. That the Devon Building Control Partnership move to an operating model fully hosted by Teignbridge District Council;
2. That South Hams District Council staff that are currently seconded to Teignbridge District Council, be transferred to the host Council (Teignbridge District Council);
3. That the necessary amendments be made to the Devon Building Control Partnership agreement to reflect the changes as outlined in section 3.2 of the presented agenda report;
4. That the Partnership reserves be transferred to the host authority (as per the current agreement); and

5. That detailed discussions be entered into with a further local authority about the possibility of providing services via a Service Level Agreement.

45/16

RE-ADMITTANCE OF PUBLIC AND PRESS

It was then:

RESOLVED

That the public and press be re-admitted to the meeting.

46/16

REPORTS OF BODIES

(a) Audit Committee – 28 July 2016

(b) Development Management Committee – 3 August 2016

DM.15/16: Urgent Business

With regard to the recent Judgement and Order that had been handed down on the Brimhay Bungalows Judicial Review, officers confirmed that they would forward to Members the amount that the Council had paid by virtue of the claimants' legal costs.

DM.21/16: Planning Peer Challenge Action Plan 2016/17

RESOLVED

That the Committee terms of reference be amended to ensure that key performance data relevant to the Action Plan can be considered by the Committee.

(c) Overview & Scrutiny Panel – 4 August 2016

(d) Development Management Committee – 7 September 2016

(e) Executive – 15 September 2016

E.24/16: Medium Term Financial Strategy for the Five Year Period 2017/18 to 2021/22

RESOLVED

1. That the four year financial settlement being offered by the Government be accepted (as set out in Section 2 of the agenda report presented to the Executive);
2. That the approval of the Efficiency Statement (for the four year funding settlement) be delegated to the Head of Paid Service in consultation with the Leader, Executive Portfolio Holder for Support Services and the Section151 Officer (COP Lead Finance); and

3. That Town and Parish Councils be informed of an annual grant reduction of 9.85% for the next three years in the Local Council Tax Support Grant, as set out in Appendix E of the presented report to the Executive meeting.

(Meeting commenced at 2.00 pm and concluded at 3.20 pm)

Chairman