

**MINUTES OF THE SPECIAL MEETING OF THE SOUTH HAMS DISTRICT  
COUNCIL HELD AT FOLLATON HOUSE, TOTNES ON TUESDAY 31 OCTOBER  
2017**

**MEMBERS**

\* Cllr P K Cuthbert – Chairman

\* Cllr M J Hicks – Vice-Chairman

* Cllr K J Baldry	* Cllr T R Holway
* Cllr H D Bastone	* Cllr E D Huntley
* 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 P C Smerdon
* Cllr R D Gilbert	* Cllr R C Steer
* Cllr J P Green	* Cllr R J Tucker
* Cllr J D Hawkins	* Cllr R J Vint
∅ Cllr P W Hitchins	* Cllr K R H Wingate
* Cllr N A Hopwood	* Cllr S A E Wright
* Cllr J M Hodgson	

\* Denotes attendance

∅ Denotes apology for absence

Officers in attendance and participating:

For all items: Executive Director (Service Delivery and Commercial Development),  
Section 151 Officer, Deputy Monitoring Officers and Senior Specialist – Democratic  
Services

**40/17 URGENT BUSINESS**

The Chairman informed that she had no items of urgent business for consideration at this meeting.

**41/17 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, but there were none made.

**42/17 PROPOSAL FOR A SINGLE COUNCIL FOR SOUTH HAMS AND WEST DEVON**

The Council considered a report that sought approval to submit a proposal to the Secretary of State to form a single second-tier Council for South Hams and West Devon from 1 April 2020.

The Leader introduced the item and emphasised the significance of the matter being considered. In his introduction, the Leader informed that it was his duty to ensure that the Council continued to remain viable. In his opinion, the Leader felt that this proposal presented a real opportunity to prevent service cuts whilst maintaining the future viability of the Council.

At this point, the Chairman invited any questions from Members and, in so doing, reference was made to:-

- (a) the Council Tax differentials between those other second-tier councils who were pursuing the option to establish a combined authority;
- (b) confirmation that the affordable housing schemes and community grants referred to in the presented agenda report would be ringfenced for the South Hams community. The Leader also confirmed that this requirement would be part of any submission to the Secretary of State;
- (c) surprise that the published report did not include mention of the consultation responses received from local town and parish councils.

At the conclusion of Member questions, Part 1 of the recommendation contained within the published agenda papers was **PROPOSED** and **SECONDED**.

In the ensuing debate on Part 1, particular reference was made to:-

- (a) an amendment. The following amendment was **PROPOSED** and **SECONDED**:-

*'That Council be RECOMMENDED to submit a proposal to the Secretary of State no later than 30 November 2017 to form a single second-tier Council for South Hams and West Devon from 1 April 2020 (as set out in Section 3 of the presented agenda report), subject to the outcome of a public referendum in South Hams during this Council year that presents three options for Council Tax:*

**Option 1:** *to raise Council Tax by 40% to enable the proposed merger with West Devon Borough Council to go ahead;*

**Option 2:** *to raise Council Tax by 15% to provide adequate revenue to ensure current services can continue to be provided by SHDC and to provide for investment in affordable housing in the South Hams; and*

**Option 3:** *to keep Council Tax within a £5 (2%) annual rise and trim SHDC services to remain within current and anticipated budget restraints;*

In accordance with Council Procedure Rule 14.2 (Motion Similar to One Previously Rejected), some Members queried the legality of this amendment given that the below amendment was rejected at the Special Council meeting on 27 July 2017 (Minute 22/17 refers):

*“That the Council agree to holding a referendum in South Hams with a view to raising Council Tax to meet our current financial challenges to 2024.”*

Having considered this matter, the Deputy Monitoring Officer ruled that, since the new amendment presented three alternative options and was until 2020 (and not 2024), it was sufficiently different to enable it to be considered at this meeting.

In support of the amendment, some Members felt that, given the size of the decision, it would be appropriate (and democratic) to enable for a local referendum on the proposal. Whilst having sympathy with the amendment, some other Members felt that a referendum would not be a good use of public monies, particularly given what they considered to be an inevitable outcome.

In addition, other Members felt that the percentage figures stated in the amendment were incorrect and misleading and reference to wording such as ‘*trim services*’ was too vague and lacking in detail to warrant their support of this amendment.

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

For the motion (6): Cllrs Birch, Green, Hodgson, Huntley, Pennington and Vint

Against the motion (24): Cllrs Baldry, Bastone, Blackler, Bramble, Brazil, Brown, Cane, Cuthbert, Foss, Gilbert, Hawkins, Hicks, Holway, Hopwood, May, Pearce, Pringle, Rowe, Saltern, Smerdon, Steer, Tucker, Wingate and Wright

Abstentions (0):

Absent (1): Cllr Hitchins

(b) a further amendment. A further amendment was then **PROPOSED** and **SECONDED** as follows:-

*‘That Council be RECOMMENDED to submit a proposal to the Secretary of State no later than 30 November 2017 to form a single second-tier Council for South Hams and West Devon from 1 April 2020, as set out in Section 3 of the presented agenda report, subject to the proposal initially being considered by the Council’s Audit Committee.’*

During the debate on this amendment, it was apparent that there were conflicting views over the terms of reference for the Audit Committee. In particular, there were different interpretations expressed over the following constitutional reference:

*'The Audit Committee will provide independent assurance of the adequacy of the risk management framework.'*

In support of the amendment, some Members felt that the SH/WD Joint Steering Group had not been presented with an adequate risk assessment before making its recommendations. Furthermore, some disappointment was expressed that the wider membership had not been given the opportunity to view the risk scoring matrix for this project.

Other Members highlighted that the most recent version of the Strategic Risk Assessment was considered at the last Audit Committee meeting (that was held on 21 September 2017). In addition, the attention of the wider membership was also drawn to the detailed risk implications that were outlined in the published agenda report.

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

For the motion (7): Cllrs Baldry, Birch, Brazil, Green, Huntley, Pennington and Vint

Against the motion (21): Cllrs Bastone, Blackler, Brown, Cane, Cuthbert, Foss, Gilbert, Hawkins, Hicks, Hodgson, Holway, Hopwood, May, Pringle, Rowe, Saltern, Smerdon, Steer, Tucker, Wingate and Wright

Abstentions (2): Cllrs Bramble and Pearce

Absent (1): Cllr Hitchins

- (c) the consultation responses. In opposition to the proposal, some Members emphasised that the views of residents and local town and parish councils should not be overlooked or ignored. Indeed, these Members questioned the purpose of undertaking such an extensive public consultation exercise should the majority of Members still then vote to approve this proposal.

In response, other Members countered by highlighting that 96.67% of residents did not wish to take part in the consultation exercise. As a consequence, these Members stated that this had provided them with a real dilemma over how much weight they should apply to such a low response rate;

- (d) the budget gaps. A Member was of the view that both councils could close their respective budget gaps without the need to pursue this proposal;

- (e) the next steps in the process. In the event of the proposal being approved at this meeting, a Member warned that this would merely be the start of the process and that, such was the extent of the local opposition, steps would be taken to make it as hard as possible for the Secretary of State to ultimately approve the proposal;
- (f) the shared services agenda. Such was the extent of the shared working agenda with West Devon Borough Council (WDBC) that this proposal was felt to be the natural conclusion of the partnership working agenda. A Member emphasised that any breakdown of the existing shared services agenda would be absolutely disastrous;
- (g) the Commercial Property Acquisition Strategy. Although WDBC had approved its Strategy, it was confirmed to Members that no projects had yet come forward and no monies had therefore been spent. Nonetheless, a Member was adamant that, such was the close linkages between the strategy and the Single Council proposal, clarity should be sought from WDBC over its commitment to this Strategy prior to any decision being taken on this proposal;
- (h) the wider strategic responsibilities of Members. In support of the recommendation, a number of Members were of the view that, on balance, the long-term future of the authority would be best served through this proposal. Whilst these Members accepted that the increases in Council Tax would be regrettable, service cuts would be even more unpalatable;
- (i) the unfortunate timing for this decision. When considering that it was less than a month away, a Member was of the view that there may be some details in the Autumn Statement that could have an impact on the financial position of both authorities. Whilst acknowledging that this had been the timetable effectively set by the Department for Communities and Local Government, the Member nonetheless felt it to be unfortunate;
- (j) the political campaign surrounding this proposal. A Member expressed her disappointment that the consultation exercise had proven to be so political and was also aware that some misinformation had been circulated during this period;
- (k) the differences between the two local authorities. Such was the differences in financial position and asset ownership between the two authorities, that a Member expressed his strong objections to the proposal. Furthermore, in light of the consultation results, the Member queried what mandate any of his colleagues had to vote in favour of the proposal.

In accordance with Council Procedure Rule 15.5, a recorded vote was then undertaken on Part 1 of the motion. The voting on this part of the motion was recorded as follows:-

For the motion (19):                      Cllrs Bastone, Blackler, Brown, Cane,  
Cuthbert, Foss, Gilbert, Hawkins, Hicks,  
Hopwood, May, Pringle, Rowe, Saltern,  
Smerdon, Steer, Tucker, Wingate and Wright.

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

Abstentions (3): Cllrs Bramble, Holway and Pearce

Absent (1): Cllr Hitchins

Upon the declaration of the result, Part 2 of the recommendation contained within the published agenda papers was then **PROPOSED** and **SECONDED**.

In the ensuing debate on Part 2, some Members emphasised that, for them to be able to advocate approval of the Strategy, the Council Tax Equalisation must take place over the full ten year period.

In accordance with Council Procedure Rule 15.5, a recorded vote was then undertaken on Part 2 of the motion. The voting on this part of the motion was recorded as follows:-

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

Against the motion (0):

Abstentions (10): Cllrs Baldry, Birch, Bramble, Brazil, Green, Hodgson, Huntley, Pearce, Pennington and Vint.

Absent (1): Cllr Hitchins

Upon the declaration of the result, Part 3 of the recommendation contained within the published agenda papers was then **PROPOSED** and **SECONDED**.

In the ensuing debate on Part 3, a Member suggested that the final wording of the proposal should be presented back to the Council for approval. Alternatively, another Member felt that the consultation should be extended to include the Chairman of the Audit Committee within the delegated authority requirements. In contrast, the majority of Members believed that the proposed delegated authority arrangements were appropriate in this instance.

In accordance with Council Procedure Rule 15.5, a recorded vote was then undertaken on Part 3 of the motion. The voting on this part of the motion was recorded as follows:-

For the motion (19): Cllrs Bastone, Blackler, Brown, Cane, Cuthbert, Foss, Gilbert, Hawkins, Hicks, Hopwood, May, Pringle, Rowe, Saltern, Smerdon, Steer, Tucker, Wingate and Wright.

Against the motion (4): Cllrs Green, Hodgson, Pennington and Vint.

Abstentions (7): Cllrs Baldry, Birch, Bramble, Brazil, Holway, Huntley and Pearce.

Absent (1): Cllr Hitchins

It was then:

### **RESOLVED**

1. That the Council submits a proposal to the Secretary of State, no later than 30 November 2017, to form a single second-tier Council for South Hams and West Devon from 1 April 2020 (as set out in Section 3 of the presented agenda report);
2. That the Council Tax Equalisation Strategy (as set out in Section 5 of the presented agenda report) be approved; and
3. That approval of the final wording of the proposal to the Secretary of State be delegated to the Head of Paid Service, in consultation with the Leader, Deputy Leader and the Chairman of the Overview and Scrutiny Panel.

43/17

### **EXCLUSION OF PUBLIC AND PRESS**

Having been **PROPOSED** and **SECONDED**, some Members could see no reason for the next agenda item to be considered as exempt information. In reply, it was noted that the legal advice obtained had recommended that, until the procurement process had commenced in the upcoming days, then this item should be classified as being exempt.

Moreover, assurances were given to the meeting that Members would be notified as soon as it was deemed appropriate for the agenda report to be disclosed to the public and press.

It was then:

### **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.

44/17

### **WASTE AND CLEANSING COMMISSIONING – SERVICE SCOPE**

An exempt report was presented that sought endorsement of the service scope principles that had been proposed by the Project Board for consideration during the commissioning process for waste collection, recycling and cleansing services.

Following a brief debate, it was then:

**RESOLVED**

That the service scope principles proposed by the Project Board for consideration during the commissioning process for waste collection, recycling and cleansing services be endorsed.

(Meeting commenced at 4.30 pm and concluded at 7.00 pm)

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Chairman