

LYME REGIS TOWN COUNCIL

MINUTES OF THE EXTRAORDINARY FULL COUNCIL MEETING HELD ON WEDNESDAY 4 SEPTEMBER 2019

Present

Chairman: The Mayor, Cllr B. Larcombe

Councillors: Cllr Ms B. Bawden, Cllr J. Broom, Cllr Miss K. Ellis, Cllr Mrs M. Ellis, Cllr D. Ruffle, Cllr D. Sarson, Cllr J. Scowen, Cllr R. Smith, Cllr Ms G. Stammers, Cllr G. Turner, Cllr S. Williams

Officers: Mr M. Green (deputy town clerk), Mrs A. Mullins (administrative officer), Mr M. Stainer (temporary finance officer), Mr J. Wright (town clerk)

Absent: Cllr L. Howe

19/62/C Declaration of Acceptance of Office

The town clerk confirmed Cllr R. Smith had signed his declaration of acceptance of office.

19/63/C Public Forum

Mr G. Symonds

As leaseholder of the amusement arcade, Mr G. Symonds spoke in relation to agenda item 10, Option to tax (for VAT) SWiM, the Antiques Centre and the Amusement Arcade. He said this matter was appalling and had been dealt with in an underhanded way, as no one from the council office had contacted him or any of the other leaseholders. He said the council was trying to push something through without any feedback from someone like himself about the impact it would have. He said he felt this was very poor where business was concerned and he wouldn't act in this way if he was in the same position. Mr G. Symonds said the council was trying to charge VAT at 20%, which would increase his rent by over £9,000. He said he was sure the report on the agenda explained in detail about Machine Games Duty (MGD) and how complex the law was. He said he couldn't claim VAT back on his rent; although he was VAT registered, one stipulation of MGD was he couldn't claim VAT on rent. Mr G. Symonds said this would cost him £9,000 more over the next 20 years and it was not acceptable to add this to his rent straight away. He asked why after all these years the council was deciding to charge the tenants VAT? He said he was aware the antique and craft centre was not VAT registered and therefore could not claim back. He said he was sure the report on the agenda explained why the council was considering charging VAT now and he believed it was because the council was carrying out work on the area above the shelters and wanted to claim the VAT back from the tenants. Mr G. Symonds said this was on the borderline of tax avoidance by the town council. He said the council had not

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charged VAT for 20 years but now it was doing the works, with little money having been spent on the area over that time, it was trying to charge tenants who had been loyal to the council. He said he was sure the report on the agenda outlined the legal position; he said he had a lease and he had a legal position on that lease. Mr G. Symonds said he would fight this matter and he didn't believe it was the way to treat leaseholders; if the council was trying to work with the business community, it was setting a very low bar to start with, as no one from the office had contacted him. He said if he wasn't at the meeting, it was possible no one would have been aware of this. Mr G. Symonds said if the council wanted to save money, it needed to look at its own office, look at where industrial tribunal cases were coming from and the £100,000 it had apparently cost so far, including any potential pay-outs to third parties. He said perhaps the council needed to look at people working in the office, rather than people working and employing people in the town, who had been doing so for a long time. He said he would like a reply in writing, copying in the press, or he would be happy to have a verbal response. He said the council should respond to correspondence in a certain amount of time but he hadn't received responses in the past. He asked the mayor if he was aware no one had spoken to him or any of the tenants about this issue.

The mayor, Cllr B. Larcombe said he wasn't aware of the level of correspondence between tenants and officers. He said the councillors were lay members when it came to understanding tax, so they were trying to take a careful approach. He said a previously-planned meeting had been postponed to allow members to gain a better understanding of the key issues in preparation for this meeting.

The town clerk said as the council had not yet made a decision on the option to tax, there had not been any information for him to communicate as yet. He said the council needed to make a decision before a dialogue took place with the tenants and he would be in communication with them once that decision was made.

Mr G. Symonds said he understood the policy but he believed it was good manners for the council to tell the tenants of its intentions. He added that he hoped the report on the agenda included in detail about MGD; if it didn't, he believed the report was fraudulent.

19/64/C Apologies for Absence

Cllr R. Doney

19/65/C Disclosable Pecuniary Interests

There were none.

19/66/C Dispensations

There were no dispensations.

19/67/C Appointments to Committees

Proposed by Cllr J. Broom and seconded by Cllr S. Williams, members **RESOLVED** to appoint Cllr Ms B. Bawden to the Planning Committee, and Cllr Ms G. Stammers to the Town Management and Highways Committee.

19/68/C Appointments to External Bodies 2019/20

Proposed by Cllr B. Larcombe and seconded by Cllr J. Scowen, members **RESOLVED** to appoint Cllr R. Smith and Cllr Ms G. Stammers as the council's representatives to Plastic Free Lyme Regis.

Proposed by Cllr B. Larcombe and seconded by Cllr Ms G. Stammers, members **RESOLVED** to appoint Cllr D. Ruffle as the council's representative to the Lyme Regis Society.

19/69/C Objectives 2020-2025

Several members felt this item should have gone through the committee cycle before coming to Full Council to allow further discussion of the objectives. There was also concern about the dates identified for delivering them.

The town clerk said it had been brought to this meeting to get an early start on the process of agreeing the objectives and to allow public consultation to take place. He said the list on the agenda represented what was discussed at the members' away day.

Proposed by Cllr J. Scowen and seconded by Cllr J. Broom, members **RESOLVED** to refer the report on Objectives 2020-2025 to the Strategy and Finance Committee.

Cllr Ms B. Bawden said a discussion on values and purpose also took place at the away day which hadn't been concluded, but she hoped this would be progressed.

19/70/C Shelters' Roof Works

The deputy town clerk said there was no cheap option to do this work. However, he believed it was right to invest a reasonable amount of money in the roof as the buildings were the council's third most valuable asset, and very little had been invested in them in the last 55 years.

The deputy town clerk said it had been confirmed the works fell within the Party Wall Act and the council would be complying with the requirements of the act to serve the requisite notices. He added that a Party Wall Act surveyor had been appointed for that purpose.

The mayor, Cllr B. Larcombe said members needed to know the details of the reduced scope of works, which was now the subject of tender, and this should be re-visited by the Town Management and Highways Committee.

The deputy town clerk said the reduced specification would not include the proposed stainless-steel railings and glass balustrade and the existing railings

would remain, which would reduce the cost by more than £200,000. He said the reduced specification also including scaffolding, some excavation along the rear retaining wall, preliminary works and contractor profit. He added that all other work, such as lighting and power points, would be on a 'menu' basis to allow the council to decide which elements to include in addition to the basic roofing.

Cllr R. Smith asked what warranty the works would come with.

The deputy town clerk said this would depend on whether the railings were replaced or not, but the fine detail would be known when the tenders were returned.

It was proposed by Cllr B. Larcombe to go out to tender for works to the roof of the shelters building in an itemised way.

This motion was not seconded.

Cllr Ms B. Bawden asked if the council had asked external organisations for their suggestions on what they wanted from the facility.

The mayor, Cllr B. Larcombe said the council couldn't tailor the facility to every possible demand for it and the council needed to decide what was affordable and sensible.

There was discussion about the timing of considering the tenders and awarding the contract to ensure the work could start on 11 November 2019 as planned, so the work could be done during the winter to minimise disruption to the businesses.

As the tender deadline was 4 October 2019, it was acknowledged that if the tenders were considered at the Town Management and Highways Committee meeting on 23 October 2019 and subsequent Full Council meeting on 20 November 2019, the contract start date of 11 November 2019 would have to be put back.

Proposed by Cllr B. Larcombe and seconded by Cllr Mrs M. Ellis, members **RESOLVED** to amend the calendar of meetings to swap the Human Resources Committee meeting on 16 October 2019 with the Town Management and Highways Committee meeting on 23 October 2019, and the re-arranged Town Management and Highways Committee on 16 October 2019 would be immediately followed by an extraordinary Full Council meeting.

19/71/C Option to tax (for VAT) SWiM, the Antiques Centre and the Amusement Arcade

Proposed by Cllr Mrs M. Ellis and seconded by Cllr B. Larcombe, members **RESOLVED** that under Section 1, Paragraph 2 of The Public Bodies (Admission to Meetings) Act 1960, the press and public be excluded from the meeting for this item of business as it included confidential information relating to the financial or business affairs of a particular person within the meaning of paragraphs 1 and 8 of schedule 12A to the Local Government Act 1972 (see Section 1 and Part 1 of Schedule 1 to the Local Government (Access to Information) Act 1985), as amended by the Local Government (Access to Information) (Variation) Order 2006.

19/72/C Finance Manager Appointment

Proposed by Cllr Mrs M. Ellis and seconded by Cllr J. Scowen, members **RESOLVED** that under Section 1, Paragraph 2 of The Public Bodies (Admission to Meetings) Act 1960, the press and public be excluded from the meeting for this item of business as it included confidential information relating to the financial or business affairs of a particular person within the meaning of paragraphs 1 and 8 of schedule 12A to the Local Government Act 1972 (see Section 1 and Part 1 of Schedule 1 to the Local Government (Access to Information) Act 1985), as amended by the Local Government (Access to Information) (Variation) Order 2006.

19/73/C Pay Review, South West Councils Options and Costs

There was some concern about the budget implications and consequences of the pay review.

The mayor, Cllr B. Larcombe said South West Councils would need to be provided with a remit for the work, and members needed to understand the consequences of going into a full job evaluation process. He added that if the council went ahead with this, the review of the staffing structure – which was the subject of a separate report on the agenda – would have to be done as part of this exercise.

The town clerk said there was no agreed budget to appoint South West Councils, but any agreed outcomes would not take place until April 2020 and would therefore be incorporated into the budget-setting process. However, he said if members did not want to go ahead with the pay review, they should say so at this point rather than getting to the end of the process and raising expectations among staff.

Cllr Ms B. Bawden asked if the council would be tied into accepting the recommendations from the review.

The town clerk said South West Councils would produce a report for the council to consider. The council would need to consider whether South West Councils' recommendations were affordable.

Some members were concerned the review would create stress and upheaval for staff. Cllr R. Smith said the council should be committed to the outcome or the review would lack integrity.

Cllr Ms B. Bawden asked when the last pay review was done and whether any attention was paid to it.

The town clerk said the last review was done in 2013, which involved market testing across town councils in Dorset. He said the review showed this council was paying less than the going rate and pay scales were increased as a result. He added the Human Resources Committee had already agreed it was a good time to carry out another review, but by a more objective method than market testing.

Proposed by Cllr Mrs M. Ellis and seconded by Cllr J. Scowen, members **RESOLVED** not to pursue a review of the staffing structure and pay by South West Councils.

19/74/C Staffing Structure Review

Proposed by Cllr Mrs M. Ellis and seconded by Cllr J. Scowen, members **RESOLVED** that under Section 1, Paragraph 2 of The Public Bodies (Admission to Meetings) Act 1960, the press and public be excluded from the meeting for this item of business as it included confidential information relating to the financial or business affairs of a particular person within the meaning of paragraphs 1 and 8 of schedule 12A to the Local Government Act 1972 (see Section 1 and Part 1 of Schedule 1 to the Local Government (Access to Information) Act 1985), as amended by the Local Government (Access to Information) (Variation) Order 2006.

19/75/C Beach Hut Booking Structure

The administrative officer said the bespoke online booking system was already under construction and members were asked to approve moving from weekly hire to daily hire, for which the rates had already been set.

Cllr Mrs M. Ellis asked how far in advance people would be able to book a hut to avoid the possibility of someone booking the same hut for a prolonged period.

The administrative officer said people would only be able to book for the following year, in line with the existing system. She added that people would be able to book and use a hut on the same day, including at weekends.

Proposed by Cllr J. Scowen and seconded by Cllr J. Broom, members **RESOLVED** to amend the beach hut booking structure, to be introduced in line with the launch of the online booking system, but to maintain the following:

- Annual, summer and winter packages
- Minimum weekly booking for popular weeks
- Residents' priority booking day
- 10% discount to Gateway Card holders

19/76/C Lyme Regis Football Club, Amendments to 2020/21 Works' Programme

The mayor, Cllr B. Larcombe said the football club should be congratulated on the successful completion of previous projects and for doing its own fundraising.

Proposed by Cllr B. Larcombe and seconded by Cllr J. Broom, members **RESOLVED** to approve Lyme Regis Football Club's proposal to amend its 2020-21 works' programme from drainage works, only, to a reduced specification of drainage works, new fencing and car park tarmacking.

19/77/C Grant Donation to One Planet Working Group

Cllr Mrs M. Ellis said the council had a grants' procedure for awarding funding to local groups and approving this request outside the formal process might set a precedent for other groups. She added that the One Planet Working Group (OPWG) could try and raise the funds itself until it could apply for a grant at the usual time.

The town clerk said the council would normally consider grant requests at the end of March each year, but it had agreed to undertake a thorough review of the grants' budget before March 2020.

Cllr Ms B. Bawden said the OPWG only existed as a result of the council declaring a climate and environmental emergency, so the modest amount requested would enable OPWG to support the council in its aims.

Cllr J. Broom suggested the council gave match funding of £100, in line with OPWG's original request, and the group could come back to the council for further funding at grants' time.

Cllr R. Smith said OPWG was feeding recommendations into the council, so it needed to facilitate the group to do its job by providing the funding.

Cllr J. Scowen said the work of the OPWG created positive public relations for the town and the council should be supporting the group with funding.

Cllr B. Larcombe said the council would be required to put its resources into the consequences of declaring a climate emergency, and other organisations would see this as a signal that funding would be given outside of the grants' process.

It was proposed by Cllr J. Scowen and seconded by Cllr R. Smith to approve the request from the Lyme Regis One Planet Working Group for a donation of £250 to help establish the group.

This motion was not voted on as an alternative motion was put forward, as follows:

Proposed by Cllr J. Broom and seconded by Cllr D. Sarson, members **RESOLVED** to award £100 match funding to the Lyme Regis One Planet Working Group to help establish the group.

19/78/C Dorset Council's CCTV Project

Proposed by Cllr J. Broom and seconded by Cllr J. Scowen, members **RESOLVED** to refer the report on Dorset Council's CCTV Project to the Town Management and Highways Committee.

19/79/C Exempt Business

a) Option to tax (for VAT) SWIM, the Antiques Centre and the Amusement Arcade

The temporary finance officer said the council would have to opt to tax at some point and the time to do this was before major works. He said if the council decided not to opt to tax, it would have to give the electorate the chance to give their views because the bill would be theirs, or partly theirs.

The mayor, Cllr B. Larcombe asked why this issue had not been picked up previously.

The temporary finance officer said the council hadn't had the commercial imperative to do it until now, nor had it hit the de-minimus limit until the major works to the roof were required.

The town clerk said the council was legally within its rights to opt to tax and in doing so, would be doing what virtually every other organisation did. He said the council had to think about where its obligations lay; with taxpayers or three tenants who the council had a business relationship with. He added that the council had a fiduciary duty to the electorate to look after financial affairs to their benefit, not to the benefit of tenants.

The town clerk said one or more tenant could submit a legal challenge, but an elector could also make a challenge.

The mayor, Cllr B. Larcombe said members had to consider what they deemed to be reasonable, as opting to tax would mean a 20% increase on the tenants' outgoings mid-year. He asked if the increase could be accommodated during the rent reviews rather than mid-year.

It was proposed by Cllr D. Sarson to opt to tax the three properties but not until the terms of their leases had finished.

The temporary finance officer advised that if the council opted to tax, it would have to be in place before the works to the roof took place to enable it to reclaim the VAT.

Cllr D. Sarson withdrew his motion.

Cllr R. Smith asked what mitigation the council could give the tenants over a transitional period.

The temporary finance officer said there was the possibility of business interruption claims against the council so if it was minded to opt to tax, it could then consider what mitigation is given in rent.

Cllr Ms B. Bawden asked if there were any other tenants the council had not opted to tax.

The town clerk said the council needed a policy on VAT, now it was more conversant with the issue, but it didn't want to unnecessarily penalise people. He said if there were repairs and costs associated with a building, the council should put itself first and opt to tax, and this position should be communicated to all tenants.

Cllr Miss K. Ellis said the council should put the electorate first, not business owners who lived outside the town.

The town clerk reiterated if the council opted to tax, it would need to inform the tenants before the contract was awarded.

The mayor, Cllr B. Larcombe asked if the council could be legally challenged as being unreasonable to charge the businesses out of the blue.

The temporary finance officer said the legal advice was unequivocal in stating the council was legally within its right to opt to tax, and it was unusual to get such a one-sided opinion from counsel.

Proposed by Cllr J. Scowen and seconded by Cllr J. Broom, members **RESOLVED** the council opts to tax (for VAT purposes) each of the three properties: Amusement Arcade, Antique and Craft Centre, and the former By the Bay Restaurant (now known as SWiM).

The temporary finance officer clarified that the tenants would be informed of the council's decision before the contract was awarded and VAT would be chargeable from that point in time, not the whole year.

The temporary finance officer left the meeting at 9.26pm.

b) Finance Manager Appointment

The mayor, Cllr B. Larcombe said any requests for a departure from normal working conditions would have to be considered on a case-by-case basis and the proposal for a 37-hour week over four days wouldn't necessarily be suited to other roles.

Proposed by Cllr J. Scowen and seconded by Cllr R. Smith, members **RESOLVED** to approve setting aside the requirement in the council's recruitment and selection procedure for all vacancies to be advertised internally and externally and approve the permanent appointment of the temporary finance officer on a 37-hour, four-day week contract.

c) Staffing Structure Review

Proposed by Cllr J. Broom and seconded by Cllr J. Scowen, members **RESOLVED** to refer the report on Staffing Structure Review to the Human Resources Committee.

The meeting closed at 9.38pm.