

**MINUTES OF THE MEETING OF THE SOUTH HAMS DISTRICT COUNCIL HELD IN
THE COUNCIL CHAMBER, FOLLATON HOUSE, TOTNES ON THURSDAY 14
JULY 2022**

MEMBERS

* Cllr L Austen – Chairman

* Cllr B Taylor – Vice-Chairman

* Cllr V Abbott	* Cllr M Long
* Cllr K J Baldry	* Cllr J McKay
* Cllr H D Bastone	∅ Cllr D M O'Callaghan
* Cllr J P Birch	* Cllr G Pannell
* Cllr J Brazil	* Cllr J A Pearce
* Cllr D Brown	* Cllr J T Pennington
* Cllr M Chown	* Cllr K Pringle
* Cllr R Foss	* Cllr H Reeve
* Cllr J D Hawkins	∅ Cllr J Rose**
* Cllr J M Hodgson	* Cllr R Rowe
* Cllr T R Holway	* Cllr P C Smerdon
* Cllr N A Hopwood	* Cllr B Spencer
* Cllr S Jackson	* Cllr J Sweett
* Cllr L Jones	* Cllr D Thomas
∅ Cllr K Kemp	

* Denotes attendance

∅ Denotes apology for absence

** Denotes in attendance via Teams (in a non-voting capacity)

Officers in attendance and participating:

For all items: Senior Leadership Team; Monitoring Officer; Democratic Services Manager; Head of Waste and Environmental Services; Head of Strategy and Projects (via Teams)

21/22 MINUTES

The minutes of the Annual Council meeting held on 19 May 2022 and the Special Council meeting held on 8 June 2022 were both confirmed as a true and correct record.

22/22 URGENT BUSINESS

The Chairman informed that he had agreed that one item of urgent business would be considered at this meeting that related to the Waste and Recycling Services Contract. This item had been deemed urgent in light of the associated time constraints and an exempt report had been circulated to Members in advance of this meeting.

The Chairman proceeded to advise that it was his intention for this matter to be considered at agenda item 5: 'Business Brought Forward by the Chairman' (Minute 24/22 below refers).

23/22

DECLARATIONS OF INTEREST

Members 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.

24/22

BUSINESS BROUGHT FORWARD BY THE CHAIRMAN

As highlighted above (Minute 22/22 refers), the Chairman reminded those in attendance that he had agreed for an urgent item to be raised at this meeting titled: 'Waste and Recycling Services Contract Update'.

In light of the item being considered to be exempt, it was then **PROPOSED** and **SECONDED** and when put to the vote declared **CARRIED** that:

RESOLVED

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.

Consideration was then given to an exempt report that provided an update on the status of the Waste and Recycling Services Contract. It was noted that a version of this report had also been considered by the Executive at its special meeting held on 12 July 2022 (Minute E.27/22 refers). At this meeting, the Executive had unanimously recommended approval of each of the report recommendations.

In the ensuing discussion, an amendment was **PROPOSED** and **SECONDED** as follows:

1. That Council be **RECOMMENDED** that, *subject to the agreement of Full Council at its meeting held on 22 September 2022:*
 - (a) *It terminates the contract with FCC by mutual agreement, resulting in the transfer of all services currently provided under the contract back to the Council with effect from 3 October 2022.*
3. *That the Section 151 Officer be requested to bring a report to Council in September 2022 on the ongoing revenue costs of delivering the service in-house (after the transitional period and the impact on the Council's Medium Term Financial Strategy (MTFS));*
4. *That Leading Counsel's advice be obtained on the merits of reaching a mutual agreement with FCC as opposed to terminating the contract together with all its consequences.*

During debate on the amendment, it was confirmed that, irrespective of the vote, the Section 151 Officer would still be providing a report to the Council meeting to be held on 22 September 2022.

Following a lengthy debate, in accordance with Council Procedure Rule 17.5, a recorded vote was then called for on the amendment. The voting on the amendment was recorded as follows:

For the motion (4): Cllrs Abbott, Birch, McKay and Pannell

Against the motion (18): Cllrs Austen, Baldry, Bastone, Brown, Chown, Foss, Hawkins, Holway, Hopwood, Jones, Pearce, Pennington, Pringle, Reeve, Rowe, Smerdon, Spencer and Taylor

Abstentions (6): Cllrs Brazil, Hodgson, Jackson, Long, Sweett and Thomas

Absent (3): Cllrs Kemp, O'Callaghan and Rose

and the vote on the amendment was therefore declared **LOST**.

Upon the conclusion of the extensive debate, Members expressed a wish to re-admit the public and press to the meeting in advance of the vote on the motion being taken.

As a result, it was then:

RESOLVED

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

It was then:

RESOLVED

1. That it be agreed that:

- a. with effect from 3 October 2022, the Waste and Recycling Services Contract be terminated by mutual agreement, resulting in the transfer of all services currently provided under the contract back to the Council;
- b. authority be delegated to the Head of Paid Service (Chief Executive) and Director of Customer Services Delivery, in consultation with the Leader of the Council and lead Executive Member for Waste and Recycling Services, to:
 - (i) conclude the negotiations based on the outline of draft settlement terms (as set out in Appendix A of the published exempt agenda report) and to finalise the settlement agreement and any other necessary arrangements;
 - (ii) formulate and implement a mobilisation plan for the Council's delivery of the service; and
 - (iii) keep the Waste Working Group informed on progress;

- c. the value of the 2021/22 deductions be transferred to the Sustainable Waste Management Earmarked Reserve, as part of the closure of the 2021/22 accounts, in order to contribute to anticipated set up costs of bringing the service back in house (as outlined in section 4 of the report presented to the Executive meeting held on 12 July 2022);
 - d. all additional payments from the waste contractor in 2022/23 be allocated to contributing to the anticipated set up costs of bringing the service back in house (as outlined in section 4 of the report presented to the Executive meeting held on 12 July 2022);
 - e. the use of the Business Rate Retention Reserve be approved to fund the anticipated revenue costs during the transition period (as outlined in section 4 of the report presented to the Executive meeting held on 12 July 2022);
 - f. a budget for one-off set up costs be allocated (as outlined in Section 4 of the report presented to the Executive meeting held on 12 July 2022);
2. That authority be delegated to the Director of Customer Service Delivery, in consultation with the Leader, Lead Executive Member for Waste and Recycling Services and the S151 Officer to grant an exemption from the Council's Contract Procedure Rules (procurement rules) for:
- i) technical and professional services; and
 - ii) plant and equipment (such as extra vehicles);

(NB. This was due to the critically short timescales for bringing the service back in-house and the need for continuity with the Council's existing suppliers in these service areas.

Resolution 2 is conditional upon these goods and services not having already been procured under the terms of a framework agreement and being below the UK threshold for the purposes of the Public Contracts Regulations 2015).

25/22

COUNCIL CONSTITUTION

The Council considered a report that concluded the full revision of the Council Constitution (Minutes 36/21 and 8/22 also refer) and provided the proposed changes to the content and format of the final four chapters of the Constitution document.

Included in this report were updated drafts of the following parts of the Council Constitution:

- Chapter 4 (Access to Information Procedure Rules);

- Chapter 5 (Other Procedure Rules); and
- Chapter 6 (Codes and Protocols).
- Chapter 7 (Scheme of Members' Allowances – subject to separate review)

The Leader proceeded to outline the proposed changes that were contained within the document and advised that this marked the conclusion of the review that had begun a year ago.

In the ensuing debate, an amendment to the recommendation was **PROPOSED** and **SECONDED** as follows:

*That Council adopts Chapters 4, 5, 6 and 7 as set out in Appendix A to this report as part of the Council Constitution with the current equivalent provisions being replaced **subject to a meeting being held between the Monitoring Officer and Leaders of the Political Groups to further consider and report back to the Council meeting of September 2022 on:***

- *Removal of the provision for a joint O&S/DM Committee meeting to discuss the draft budget setting process*
- *Reference to the West Devon Hub Committee and Overview & Scrutiny Committee and*
- *The proposed increases contained within the revised Financial Procedure Rules.*

In support of his amendment, the proposer felt that it was detrimental for all non-Executive Members to lose the opportunity to discuss fully the draft annual Budget Proposals. In addition, the Member also expressed concern at references to West Devon Borough Council appearing in the draft South Hams District Council Constitution and the proposed substantial increases in the financial thresholds that could be delegated to officers. Such were the extent of these concerns, that the Member felt that a further meeting with Group Leaders was necessary prior to further consideration at the next Council meeting to be held on 22 September 2022.

In discussion, the following points were raised:

- i) It was felt that Members had numerous opportunities to engage with the annual budget setting process, particularly since the rules had changed in May 2022 (Minute 08/22 refers) regarding Members being able to sit on either of the Executive, Development Management or Overview and Scrutiny Committees. Furthermore, there was now the ability for Substitute Members to be appointed to serve on both the Development Management and Overview and Scrutiny Committees;
- ii) The Monitoring Officer advised that although South Hams District and West Devon Borough Councils were entirely separate local authorities, a Shared Service Agreement supported them both and many of the respective procedures were therefore the same. However, it was confirmed that, before publication, an explanatory paragraph would be inserted at the beginning of any Chapter of the Constitution which contained reference to West Devon so as to avoid confusion;

- iii) Some Members echoed the concerns raised by the proposer of the amendment in respect of the proposed increases in thresholds for officer delegations that would be in place should the revised Financial Procedure Rules be adopted.

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

It was then:

RESOLVED

That Chapters 4, 5, 6 and 7 (as set out in Appendix A of the presented report) be adopted as part of the Council Constitution with the current equivalent provisions being replaced with immediate effect.

26/22

FUSION SOLAR INVESTMENT PROPOSAL

Consideration was given to a report that sought approval for a change to the funding proposals to facilitate the investment in and installation of solar panels on the Council's four leisure centres

In discussion, there was widespread support for the proposals although one Member voiced her disappointment that the local not for profit supplier 'TRESOC' had not been selected to undertake the installation. In response, the reasons for the chosen way forward were explained. Nonetheless, the Member still remained unhappy and felt that greater weighting in the procurement approach to decision-making should have been applied to the use of a local organisation.

It was then:

RESOLVED

- 1) That a change be approved to the funding proposals to facilitate the investment in and installation of solar panels on the Council's four leisure centres such that:
 - i) The Council funds the acquisition of the solar panels direct as part of its Capital Programme for 2022/23 (instead of making a loan to Fusion to do the same) and approves a capital budget of £500,000 for solar panel investment on the Council's leisure centres, funded by either Public Works Loan Board borrowing or internal borrowing depending on prevailing interest rates.
 - ii) A separate management agreement is drawn up between the Council and Fusion, to the benefit of the Council, so that the Council annually receives an income payment from Fusion of the same amount of the repayments that the Council would have received from Fusion from the loan repayment.

- 2) That an exemption to the Council Procurement Rules be granted such that it can rely upon the procurement that Fusion have undertaken to get a contractor ready to install the panels for the price agreed; and
- 3) That approval be delegated to the Section 151 Officer, in consultation with the Leader, the lead Executive Member for Climate Change and the Director of Place and Enterprise, to agree any necessary contract amendments, the management agreement between Fusion and the Council referred to in resolution part 1ii) above and the structure of the borrowing referred to in resolution part 1i) above as part of the Council's overall Capital Programme.

27/22

APPOINTMENTS: LICENSING COMMITTEE SUBSTITUTE MEMBERS AND THE SIX-MONTH MEMBER MEETING ATTENDANCE RULE

The Council considered a report that sought approval for the appointment of Substitute Members to the Licensing Committee and the waiver of the six-month attendance rule for a Member on grounds of ill health.

In discussion, it was acknowledged that there had been recent difficulties in ensuring a quorum for Licensing Committee meetings that were called at short notice and the appointment of appropriately trained Substitute Members was welcomed in an attempt to offset these difficulties.

It was then:

RESOLVED

1. That, subject to being in receipt of the required training, Cllrs V Abbott, K Baldry, J Birch, J Brazil, R Foss, S Jackson, J McKay and B Taylor be appointed as Licensing Committee Substitute Members for the remainder of the 2022/23 Municipal Year;
2. That the six-month attendance rule provided for within Section 85(1) of the Local Government Act 1972 for Councillor Kate Kemp due to ill health be waived; and
3. That the permitted non-attendance time period for Councillor Kate Kemp be extended up to and including Thursday, 22 September 2022.

28/22

REPORTS OF BODIES

That the minutes and recommendations of the undermentioned bodies be received and approved subject to any amendments listed below:-

(a) Development Management Committee - 25 May 2022

(b) Executive - 26 May 2022

E.06/22 Housing Crisis Update – Strengthening Housing Delivery

RESOLVED

That an annual revenue cost pressure of £44,700 (SHDC share) be built into the budget process for 2023/24 onwards, and a one-off expenditure of £150,780 be funded from the 2021/22 Government Homeless Prevention grant. (NB. This funding will double the resource in the housing delivery team and drive forward the ambitions of the Council in tackling the Housing Crisis).

(c) Development Management Committee - 1 June 2022

(d) Licensing Committee - 8 June 2022

(e) Executive - 7 July 2022

E.20/22 Totnes Leisure Centre – Grant Of Reversionary Lease

RESOLVED

That a reversionary lease be granted to Tadpool for a period from March 2029 to March 2043.

E.24/22 Urgent Business – Freeport: Land Assembly At Langage

RESOLVED

That the principle of the use of a Compulsory Purchase Order process be approved in accordance with the details set out within the published exempt agenda report;

29/22

PUBLIC QUESTIONS

The Chairman informed the Meeting that no Public Questions had been received for consideration at this Meeting.

30/22

QUESTIONS ON NOTICE

It was noted that two Questions on Notice had been received in accordance with Council Procedure Rule 8.

a) From Cllr Birch to Cllr Pearce, Leader of the Council

‘The Executive report of 2 December 2021 on the formation of the Waste Working Group stated at 3.5 that the WWG “will consider options and formulate its recommendations which will be reported back to the Executive”.

Why has this not occurred?

b) From Cllr Birch to Cllr Pearce, Leader of the Council

At the recent Full Council meeting FCC stated on several occasions that it was unable to answer questions as it was “in discussions with the Council”.

- 1. What is the purpose of the discussions?*
- 2. When will there be a report to Members on the discussions?’*

In light of the decisions taken by the Council earlier in the meeting regarding the Waste and Recycling Services Contract (Minute 24/22 above refers) Cllr Birch formally withdrew both questions at this point.

31/22

MOTIONS ON NOTICE

It was noted that two Motions on Notice had been received in accordance with Council Procedure Rule 10.1:

a) From Cllr Bastone and Cllr Foss

‘Those of us concerned about the A379 at the Slapton Line, and with that we refer to the parishes between Dartmouth in the east and Kingsbridge in the west, have grave concerns regarding the Slapton Line Partnership, the lack of progress towards an alternative route and the complete lack of action of those authorities responsible for making the required progress.

However, many residents feel that a fundamental aim should be the retention of the A379 at Slapton Line for as long as is possible. At least until a suitable alternative road route is found for the affected communities.

We therefore move that the Council uses its voice and power to include the following in the aims of the Slapton Line Partnership:

Work to be undertaken to maximise the protection and retention of the A379 across the Slapton line at least until a suitable alternative road route is built to connect the affected communities and maintain the flow of vehicular traffic.

And that;

This Council supports the social and economic needs of the local communities affected by the maintenance of the Slapton Line, between Dartmouth in the east and Kingsbridge in the west and insist that they must be balanced against and given equal weight to the environmental outcome stipulated, without any real public consultation, by the AONB and the unelected quangos such the Environment Agency and Natural England, unless and until a suitable road route behind the Ley between Strete and Torcross or Stokenham is properly sorted out by Devon County Council to allow the flow of vehicular traffic to continue if the vehicular route in front of the Ley is lost’.

In introducing the Motion, the proposer and seconder both stated their dismay at the decisions being taken in respect of the potential loss of both a key transport link but also the Ley and associated unique ecology.

In discussion, there was widespread support expressed for the Motion with particular reference being made to the history of the area, the memorial relating to World War Two, it being a Site of Special Scientific Interest and the impact upon tourism, finance and commerce along with the difficulties for residents if and when the main A379 route were to be lost.

It was then:

RESOLVED

Those of us concerned about the A379 at the Slapton Line, and with that we refer to the parishes between Dartmouth in the east and Kingsbridge in the west, have grave concerns regarding the Slapton Line Partnership, the lack of progress towards an alternative route and the complete lack of action of those authorities responsible for making the required progress.

However, many residents feel that a fundamental aim should be the retention of the A379 at Slapton Line for as long as is possible. At least until a suitable alternative road route is found for the affected communities.

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b) From Cllr Brazil and Cllr Baldry

'This Council supports a pay increase of at least £2,000 for all our key workers. This includes staff here at South Hams.

We call on the Local Government Association to make urgent representations to central government to fund the pay claims and write to the Chancellor and Secretary of State to call for a pay increase for public sector workers to be funded with new money from Central Government.'

In introducing the Motion, the proposer and seconder both informed that, following informal discussions since the agenda had been published, they had accepted an amendment and their substantive Motion now read as follows:

'This Council supports a pay increase for all our keyworkers. This includes staff here at South Hams.

*We call on the Local Government Association to make urgent representations to central government to fund the **negotiated** pay claims and write to the Chancellor and Secretary of State to call for a **realistic** pay increase for public sector workers to be funded with new money from Central Government.'*

In the ensuing debate, support was expressed for the Motion, citing support for all key workers and, more specifically in terms of Council staff, the response displayed to the Covid pandemic and, more recently, the assistance that had been given to our Ukrainian guests.

It was then:

RESOLVED

This Council supports a pay increase for all our keyworkers. This includes staff here at South Hams.

We call on the Local Government Association to make urgent representations to central government to fund the negotiated pay claims and write to the Chancellor and Secretary of State to call for a realistic pay increase for public sector workers to be funded with new money from Central Government.'

(Meeting commenced at 2.00 pm and concluded at 5.10 pm)

Chairman