

**Minutes of a meeting of Landulph Parish Council Virtual Meeting held on  
Monday 21st December 2020 at 7.30pm**

**PRESENT:** Councillors M. Worth (Chairman), A. Butcher, P. Braund, G. Braund, R. Cradick, M. Dennis, M. Holmes.

Also present: Clerk to the Council, Cllr Jesse Foot and Cllr Derek Holley.

**Public Forum**

**97-20 TO RECEIVE APOLOGIES FOR ABSENCE** – none.

**98-20 DECLARATIONS OF INTEREST RELATING TO ITEMS ON THE AGENDA**

“To receive disclosures of personal and prejudicial interests from Councillors on matters to be considered at the meeting. The disclosure must include the nature of the interest. If you become aware, during the course of a meeting, of an interest that has not been disclosed under this item you must immediately disclose it. You may remain in the meeting and take part fully in discussion and voting unless the interest is prejudicial. A personal interest is prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest and it relates to a financial or regulatory matter.”

None declared.

**99-20 DISPENSATIONS RELATING TO ITEMS ON THE AGENDA**

In certain circumstances Councillors may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited because they have a Disclosable or Non Registerable Pecuniary Interest. Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct of the law.

Section 31(4) of the Localism Act 2011 states that dispensations may allow the Councillor:

- a. to participate, or participate further, in any discussion of the matter at the meeting(s); and/or
- b. to participate in any vote, or further vote, taken on the matter at the meeting(s).

If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held and if the dispensation allows may also vote.

No dispensations were received.

**100-20 TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING (19.10.2020)**

With reference to minute no. 86-20 Cllr Butcher requested an amendment to the minutes – he suggested that a lockable bollard (rather than a monolith) could be located on Slipway Quay, which is 1.5m in from one side, that is lockable for the owners’ own use. It was RESOLVED to agree with this amendment.

It was RESOLVED that the minutes of 16<sup>th</sup> November 2020 were agreed.

**101-20 MATTERS ARISING FROM THE MINUTES**

- a) With reference to minute no. 80-20a) Cllr Worth reported that a volunteer dog warden from the parish was required, but unfortunately as no one volunteered the parish is unable to proceed with this campaign.

- b) With reference to minute no. 81-20d), the Clerk reported that the planning application was circulated for delegated decision, and it was agreed that the Parish Council had no objection and would leave the decision for Cornwall Council's Tree Officer. However, the planning application was not on the planning portal for comments. Cllr P Braund advised that it had been withdrawn.
- c) With reference to minute no. 85-20a), the Clerk reported that contact has been made with the Census Engagement Manager – who is hopefully going to attend the January Parish Council meeting, and will also send posters for display in the parish. Cllr Worth reported that information has already been posted onto Landulph Innit.
- d) With reference to minute no. 86-20, the Clerk reported that the rotten stile near Penyoke footpath has been reported to Cornwall Council – who responded stating that this is not priority as it is not a Health and Safety matter. Cllr Holmes advised that he has not yet investigated the rotten stile near Penyoke footpath. **[ACTION: Cllr Holmes to investigate]**.
- e) With reference to minute no. 86-20, the Clerk reported that an email has been sent to Cornwall Council requesting improved signage at Sammy Sands and Slipway Quay – with a response stating that “unfortunately the replacement of broken or missing signs is not a priority for us to take action on at this time. We are currently only able to react to urgent health and safety issues. However, the locations you have identified have been added to our list of paths where we have missing signage and it is hoped that, if in the future we obtain additional investment, we will be able to arrange for replacements. We have however, been piloting a scheme with a number of Town and Parish Councils whereby we have been able to provide signs and posts and the Parish Councils have kindly arranged for their contractors to erect these on our behalf. If you think this is something your Parish may be interested in, then please do let me know and we can discuss further”. The Clerk has responded asking them to provide further details – currently awaiting a further response.
- f) With reference to minute no. 86-20 Cllr Butcher requested an amendment to the minutes – he suggested that a lockable bollard (rather than a monolith) could be located on Slipway Quay, which is 1.5m in from one side, that is lockable for the owners' own use.
- g) With reference to minute no. 87-20 the Clerk reported that the revised Climate Change Statement was uploaded to the website.
- h) With reference to minute no. 89-20 the Clerk reported that the cheque had been sent to the Landulph Under Fives organisation.
- i) With reference to minute no. 92-20b) Cllr Dennis reported that she has requested and is waiting for a quote to replace the noticeboard Perspex.
- j) With reference to minute no. 92-20d) Cllr Worth reported that the sign at the entrance to The Coombe stating 'no access for long vehicles' is in the correct place, so nothing different is to be done.

### **102-20 PLANNING – TO CONSIDER PLANNING APPLICATIONS:**

- a) [PA20/08579](#) | Application to modify/discharge a planning obligation in respect of 93/0431/O dated 13/04/94. | The White House Landulph Saltash Cornwall PL12 6PA.  
At the November Landulph Parish Council meeting, 1 Councillor agreed; 6 Councillors objected to this application and it was RESOLVED to respond that Landulph Parish Council objects to this application, as it feels it is important to maintain local houses for local need. A subsequent email was received from Cornwall Planning asking the Parish Council to consider the following options as set out within the Protocol for Local Councils.
  1. Agree with my recommendation
  2. Agree to disagree
  3. Having made strong planning reasons to maintain your original position on the proposal against my recommendation, it is requested that the application is determined by the Planning Committee

4 Parish Councillors agreed with number 2 (agree to disagree); 3 Parish Councillors agreed with number 3 (to be determined by the Planning Committee). It was RESOLVED that Landulph Parish Council would opt for number 2: agree to disagree.

- b) [PA20/10167](#) | Reduction of 1.5 metres to Cherry tree | 1 Hodders Way Cargreen PL12 6NY  
It was unanimously agreed and RESOLVED to respond that Landulph Parish Council has no objection.

### **103-20 CORNWALL HIGHWAYS SCHEME – CORNWALL COUNCILLOR DEREK HOLLEY**

Cllr Holley commented that Cllr Worth put up a good case, and out of the two schemes submitted, the extension of the 30mph zone with a cost of c£5k has a good chance of being included.

Cllr Holley commented on the Highdown passing place proposal, advising that the 2 Cornwall officers had to make a recommendation on the information received at the time, which was made on Cornwall Council still having to buy the land at a cost of c£25k. Due to the cost, it was agreed this would go forward for next year's scheme. It is essential to get commitment from the landowner – and to notify Catherine Thompson (Network Panel) once the landowner's approval has been granted.

The other scheme requesting road safety signs has been approved, and can be used around the Parish.

Cllr Worth commented that Paul Allen is retiring and has done a superb job, and the contact in future will be Will Glassup.

Cllr Holley stated he is happy to attend future Parish Council meetings relating to the CNA.

### **104-20 CRICKET GROUND / RENT DISCUSSION**

Toby Redfoot was invited to speak for this agenda item, and reported that Saltash Cricket Club is struggling for numbers and looking at folding, and is to be replaced by Callington CC – this has been agreed by Cornwall Cricket League. They are keen to establish the youth section, and to link with schools, Cargreen Yacht Club, and to provide lessons and coaching, to encourage local groups to also use the space. They would also be keen to create a woodland on the wasteland area at the bottom of the field – to fit in with the Parish Climate Change Statement.

They have a crowdfunding campaign and grant applications submitted to raise funds for improvements to the clubhouse such as shower cubicles, scoreboard, etc, otherwise the Club will be relegated if these improvements are not made.

They will pay for any legal fees to draw up or change any legal documentation required.

Landulph Parish Council unanimously agreed and it was RESOVLED to accept these proposals.

**[ACTION: Clerk to investigate the current legal documents, and a Working Party to be set up consisting of Toby Redfoot, Cllr G Braund (for school links), Cllr Worth, Mac Armstrong (Yacht Club Commodore), and Amanda Pugh (Tree Warden)].**

## **105-20 PENYOKE RECREATION GROUND REFURBISHMENT, ANNUAL INSPECTION REPORT, ROLLING PROGRAMME / GRASS BANK (STANDING ITEM)**

Cllr G Braund reported that with the recent torrential rain, the playing field was flooded near the bank as it was too much water for the toe drain to cope with, although it has now drained away. Cllr P Braund commented that he thought the toe drain is working well, but this was an unprecedented volume of rain.

**106-20 TREES (STANDING ITEM)** – none.

**107-20 HOUSING (STANDING ITEM – INCLUDING LNDP AND AFFORDABLE HOUSING UPDATES)** – none.

### **108-20 CLERK'S REPORT (STANDING ITEM):**

- a) Suggestion from a parishioner to provide a Parish Council email newsletter. It was RESOLVED to not proceed with this suggestion at this time.
- b) Street Trading Licence Application – Helluva Pasties – update on the Parish Council's response which was to agree with the application, sent to Cornwall Council 28.11.20. Noted for the purpose of the minutes.
- c) Email from Cllr P Braund requesting that the Parish Council recovers the VAT for the Memorial Hall building works. The Clerk reported that four documents were circulated to Parish Councillors:
  1. A copy of an email confirming that the Parish Council is the Custodian Trustee of the Memorial Hall, as the Hall Committee/Charity is unincorporated (it doesn't have a legal identity in its own name and therefore cannot itself hold the title to any freehold or leasehold property). It must 'borrow' the legal identity of the Custodian Trustee, which in this case is Landulph Parish Council. The Parish Council has no powers of management, nor any authority over the management committee. The Charity (Managing) Trustees are wholly responsible for all activities and decisions regarding the hall charity.
  2. NALC Legal Topic note on Basic Charity Law, which states: A local Council can act as a Custodian Trustee – the Council holds the property but takes no decisions on its use. Paragraph 10 states: "the role of a custodian trustee is very limited. The legal title to the charity's property is vested in the local council and it has custody of all documents relating to the property. The managing trustees must have free access to the title deeds. The charity property should be listed in the council's assets register but with nil value. Responsibility for insurance of the charity property falls on the managing trustees. The custodian trustee has no power to manage the property and no role in the administration of the charity. The custodian trustee duty is to perform all lawful act necessary to enable the managing trustees to administer the charity efficiently. The custodian trustee should not act if the matter is a breach of trust or involves liability for the custodian trustee". Paragraph 11 states: "Many charities find it convenient to appoint the local council as custodian trustee because the council has a perpetual legal status and identity and thus is capable of holding charity property forever".
  3. NALC Legal Topic note on 'Local Councils and VAT' which states "As a general rule, a local council cannot use its right to a refund of VAT to benefit other bodies by acting as their agent. It is thus an unlawful evasion of VAT for a council to purchase something on behalf of

a charitable village hall committee, claim the VAT and obtain reimbursement from the committee (whether before or after the purchase). It is worth noting that a charity has no general power to make a gift of money to a local authority; the cash paid over is consideration for the supply of goods. There are two exceptions to the rule:-

- i. Where a council is given funds for specified purposes (for example where a grant has been claimed by the council from a third party) it may reclaim VAT on purchases provided that:
  - It makes the purchase itself and
  - It retains ownership of the purchase and uses it for own non-business purpose; and
  - It keeps sufficient records of the purchase and the purpose for which it is made, to be easily identified.
- ii. A council may purchase goods or services and donate them to a voluntary body, but without receiving any reimbursement. The donation is a non-business activity and is therefore eligible for a refund of VAT.

4. Email from CALC stating: I am writing to confirm that the parish council cannot be used to reclaim VAT by a 3rd party so as to avoid VAT. This is evasion of tax and unlawful. The critical question is always 'who will own the item once the payment has been made'. If it is anyone other than the parish council, then the council is unable to claim back the VAT and the group contribute the nett amount. It is possible for the parish council to gift the purchased item across to an outside organisation at future date, or to buy equipment held in its name and left for public use in the village hall etc – but this is because the parish council retains ownership, liability and responsibility for the item". "Members should be careful not to confuse the fact that the same individuals are local councillors and also trustees. There are two organisations where the governing body is made up of the same people, in fact membership of the council is a requirement of being a trustee".

It was RESOLVED that all Parish Councillors would re-read these documents, for discussion at the next meeting. **[ACTION: All Parish Councillors to read, for the January agenda].**

#### **109-20 FOOTPATHS (STANDING ITEM), PLUS 2021 LOCAL MAINTENANCE PARTNERSHIP WITH CORNWALL COUNCIL GRANT OF £566.48.**

It was RESOLVED that the Parish Council are very happy with the work that the contractor Ray Hall has undertaken on the footpaths this year and approved the cheque to be sent to him. It was RESOLVED that Ray Hall would be asked to undertake this specialised work next year. **[ACTION: Clerk to make contact].**

Parishioners are asked to report any problems that are spotted on the footpaths directly to Cornwall Council – the link to the reporting page can be found via Landulph Parish Council's website.

#### **110-20 CLIMATE CHANGE STATEMENT OF INTENT REVIEW (STANDING ITEM) / WEBSITE PAGE**

It was RESOLVED to agree to the request received from Morton McCloud to join the working group. **[ACTION: Cllr Dennis to set up the next meeting and invite Morton; Cllr Dennis to write the next newsletter article].**

The Clerk reported that it would cost approximately £75 to set up a new website page, and it was RESOLVED to agree with these costs.

### 111-20 LIGHTING PROPOSALS AT LANDULPH CROSS

Cllr Worth confirmed that lighting has been purchased for the tree, which can also be used in future years.

### 112-20 GRITTING THE ROADS NEAR LANDULPH SCHOOL

Cllr Worth was advised by Cornwall Council that this is not a priority route. Landulph Parish Council would encourage parents to phone or contact Cornwall Council to report any issues [**ACTION: Add the contact details to the website**].

It was suggested that the Parish Council provides a grit bin at Stockadon). [**ACTION: Cllr Worth to investigate the cost of the purchase of the bin, plus the grit**].

### 113-20 CARGREEN YACHT CLUB CAUSEWAY RENOVATION

Libby Gawith was present for this agenda item, and reported that there is a proposal to renovate the causeway, but they are not sure whether planning permission is required. The dates are to be confirmed, but anticipated in March/April 2021, the work will require 20x10ton lorries. The machinery and resources will be stored at The Coombe (the land owner has agreed). It was RESOLVED to note this.

### 114-20 PRECEPT PROPOSALS FOR 2021/22

The Clerk presented options for the precept for 2021/22, and it was unanimously agreed and RESOLVED to set the precept at £24,857.

### 115-20 ACCOUNTS FOR PAYMENT – it was RESOLVED to agree the payments:

PAYEE	CHQ	REASON	NET	VAT	GROSS
M. Worth	101299	Reimburse for tree lights	69.98	0.00	69.98
Landulph Under Fives	101300	Grant funding (under S137)	2,200.00	0.00	2200.00
M. Dennis	101301	Christmas tree reimburse	45.00	0.00	45.00
HMRC	101302	Dec income tax	89.60	0.00	89.60
K J Williams	101303	Dec salary (incl extra 6.5 hours for audit)	358.21	0.00	358.21
K J Williams	101304	Post, print, expenses and Zoom - Nov, plus ICO payment of £40	75.44	0.00	75.44
Ray Hall	101305	Footpaths Maintenance 2020	555.38	0.00	555.38
Ray Hall	101306	Ellbridge bus shelter cuts 2020	216.00	0.00	216.00
Ray Hall	101307	Penyoke grass cuts 2020	1354.00	0.00	1354.00
Ray Hall	101308	Penyoke embankment cut	320.00	0.00	320.00
WesternWeb Ltd	101309	Annual renewal of web space (with SSL Certificate)	80.00	16.00	96.00
Landulph Memorial Hall	101310	Broadband April 2019 - March 2020	516.29	138.57	654.86
<b>Incoming payments</b>		-	-	-	-

### 116-20 CHAIRMAN'S URGENT BUSINESS / ANY OTHER BUSINESS

- Cllr Worth advised that a parishioner (Niamh O'Neal) has offered to cook Christmas lunches for anyone who is in need. [**ACTION: All to recommend parishioners to Cllr Worth**].
- Community Broadband update. Cllr Worth reported that the BT Openreach Rural Community Broadband scheme will cost c£209k, however grants and vouchers are available, which could be offset against to make the costs more feasible. [**ACTION: Cllr Worth will investigate further and update at a future Parish Council meeting**].

- c) Cllr Worth stated that he will be standing as a Cornwall Councillor on 6<sup>th</sup> May. The Clerk advised that she sought advice from CALC - anyone acting as a Cornwall Councillor can also remain as a Parish Councillor.
- d) Cllr Dennis commented on the horsebox on the Quay which is in disrepair and looks dangerous, and questioned whether there's anything the Parish Council can do. Cllr Worth advised that he has previously asked the owners – but it's a problem to move it as it doesn't start, but it is not an abandoned vehicle. Cllr Butcher commented that the horsebox is obstructing the public footpath. **[ACTION: Cllr Dennis to research the relevant Planning Act for further guidance; Cllr Worth to discuss with the owners].**
- e) Cllr P Braund encouraged the public to report any potholes – the link is available on the Parish Council website.
- f) Cllr Butcher reported that he wrote to the Jermain family to ask if the Council could put up a sign on their wall directing people to the public slipway at Sammy sands, there is already a footpath sign on their wall. The Clerk wrote to Cornwall Council requesting they put up a sign, but advised that Cornwall has no funding for this, but could offer costings to the Parish Council – but they have not yet responded with these quotes.
- g) Cllr Worth thanked the Clerk for her work, advice and guidance, thanked the public for attending, and thanked the Parish Councillors for embracing the technology and moving the Parish Council forward throughout the pandemic, and wished everyone a Merry Christmas.

**117-20 Date of Next Meeting: Monday 18<sup>th</sup> January 2021 at 7.30pm.**

**Dates for 2021:** 15th February, 15th March, 19th April, 17th May, 21st June, 19th July, 20th September, 18th October, 15th November, 20th December

Meeting closed at 22.07.....Chairman