

**Minutes of a meeting of Landulph Parish Council Virtual Meeting held on
Monday 18th January 2021 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, Amanda Pugh (Landulph Parish Tree Warden), and Cllr Jesse Foot.

Public Forum

118-20 TO RECEIVE APOLOGIES FOR ABSENCE – none.

119-20 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.”

Councillors G Braund, P Braund and R Cradick declared an interest in item 10a) Clerk’s Report – relating to the Memorial Hall.

120-20 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.

121-20 TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING (21.12.2020)

It was RESOLVED that the minutes of 21st December 2020 were agreed.

122-20 MATTERS ARISING FROM THE MINUTES

- a) With reference to minute no. 101-20d) Cllr Holmes reported that the broken stile near Penyoke footpath has been removed. It was also reported that the other stile near Grove was reported to Cornwall Council who advised this is not a priority as it is not a health and safety matter. There is a two-barred fence that has been put in place which is not easy to climb over. The Parish Council discussed this, and it was RESOLVED that the Clerk would write to Cornwall Council stating the Council believes it is a health and safety issue and should be actioned upon, as the stile has been removed and replaced with a two-bar fence that is not accessible, pointing out that a stile used to be

there. **[ACTION: Cllr Butcher to provide a photo, Clerk to write to Cornwall Council, to cc Cllr Foot].**

- b) With reference to minute no. 104-20, Cllr Worth reported that he's spoken with Mac Armstrong and with Toby Redfoot, both have agreed to a meeting, and Toby does want to have a discussion with Amanda Pugh re the tree planting proposals on the site. Cllr G Braund reported that she emailed the Landulph School Headteacher who responded to say they would be keen to get the children involved when the school returns out of lockdown.
- c) With reference to minute no. 109-20, the Clerk reported that she contacted Ray Hall, who confirmed that he's happy to undertake the public right of way maintenance contract again for 2021.
- d) With reference to minute no. 110-20, Cllr Dennis reported that the next Climate Change meeting had been arranged, Morton has been invited, and the next newsletter article has been submitted.
- e) With reference to minute no. 112-20, Cllr Worth confirmed that a grit bin and grit had been ordered and is now in situation.
- f) With reference to minute no. 116-20b), Cllr Worth reported that he is waiting for BT to respond with further details about funding for the Rural Community Broadband Scheme.
- g) With reference to minute no. 116-20d), Cllr Dennis reported that she has yet to research the relevant Planning Act for further guidance relating to the horsebox on the quay. **[ACTION: Cllr Dennis].**

122-20 PLANNING – TO CONSIDER PLANNING APPLICATIONS: none to discuss.

123-20 PENYOKE RECREATION GROUND REFURBISHMENT, ANNUAL INSPECTION REPORT, ROLLING PROGRAMME / GRASS BANK (STANDING ITEM)

Cllr Dennis reported that 10 posts of the perimeter fence has been replaced, metal feet replaced, the equipment repair work has been completed and a good job done.

Previously the Parish Council had discussed concerns about the Ash Tree at Penyoke, Ray has inspected it again recently and advised that he thinks it is fine.

Play Inspection Company **[ACTION: Clerk to contact them and check that they are still working and if so, let the Landrake Parish Clerk know the contact details of company that we use].**

124-20 TREES (STANDING ITEM)

Amanda stated that she was delighted to hear that the Cricket Club would be willing to plant trees. These are free from the Woodland Trust, but the Parish Council would need to apply. 2 sizes available: 1. Copse – 30 trees (tennis court size); 2. Wildlife Pack – 105 trees (4 tennis courts). The site is the size of approximately 3 tennis courts, so there would be some trees left over. Will need the landowner's permission (which is the Parish Council), the grid reference, and a decision on how many trees to plant on the site (after discussions with Callington Cricket Club), a copse of 30 trees may be more in keeping, could then be involved with Forest of Cornwall.

Cllr Worth commented that St Mellion Parish Council is asking for private landowners – this could be discussed at the Climate Group as an idea for Landulph.

Amanda Pugh stated that there is a unique habitat in Tamar Valley, small areas of rainforest, very rare lichens – looking for these lichens to be surveyed and documented. The survey is called a rapid woodland assessment. The woodland to be surveyed is near Neal Point (under electricity pylons)

owned by the Duchy of Cornwall. **[ACTION: Amanda Pugh to contact the Duchy for permission].**

Cllr Butcher: Climate Change Group asked a question on whether the tree planting been done at the Solar Farm, North Wayton; and also at the Landulph Switching Station (tree screening as part of the planning application). If not, these would both be areas available to plant more trees. **[ACTION: Ask Planners via the Clerk].**

125-20 HOUSING (STANDING ITEM – INCLUDING LNPD AND AFFORDABLE HOUSING UPDATES) - none

126-20 CLERK'S REPORT (STANDING ITEM):

- a) Councillors G Braund, P Braund and R Cradick left the meeting at this point, as they had declared an interest for this item. However it was pointed out that Cllr R Cradick should not have declared an interest in this item as, whilst she is on the Hall Committee, she is acting as a Parish Council representative.

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 the Parish Council would not pay for any purchases or the VAT for the Landulph Memorial Hall.

Councillors G Braund, P Braund and R Cradick rejoined the meeting after this item.

- b) Localism Strategy Launch meeting on 25th January – the Clerk has registered and will circulate the recording of the meeting when received. **[ACTION: Clerk]**.
- c) Clerk's training on 24th March, cost £45, key issues: election legal requirements, VAT, virtual meetings, planning reforms. It was RESOLVED that this payment is authorised.
- d) Code of Conduct review consultation – Cornwall Council, by 18th February. It was RESOLVED to note this item.

127-20 CLIMATE CHANGE STATEMENT OF INTENT REVIEW (STANDING ITEM) / WEBSITE PAGE

The name has been agreed - Landulph Parish Climate Action Group.

Constitution – proposals that this is a sub-committee of the parish council, but the management of the sub-committee is yet to be agreed. Any finance or larger projects would need to be approved at the full Parish Council meeting. Discussion on climate change page on the website.

128-20 SUGGESTION OF A SUMMER EVENT IN THE PARISH

Cllr Worth reported that he had been contacted by a parishioner about holding a parish summer event. It was discussed that other parish events had been planned, and would need to ensure activities don't clash, however most events have not confirmed dates yet.

Festival Committee – funday and evening event at Penyoke.
 Yacht Club event in May dependent on the pandemic lockdown situation.
 Hall Anniversary – 17th or 18th September.
 Landulph Under 5’s fundraising events.
 Cancer Research cream tea event.

129-20 COVID VACCINATION PROGRAMME IN SOUTH EAST CORNWALL UPDATE

Cllr Worth reported that a Covid vaccination centre would be set up at the China Fleet Club from 25th January. Community Volunteers can be on hand to help with transport if required, and other organisations such as Volunteer Cornwall can also help.

There are anti-vaccine posters and messages sprayed in other parishes.

When the information comes through it’s not easy for some people to download the link if they don’t have a smartphone, but individuals can phone their GP surgery to make the appointment.

Police reports on scam emails about appointments, so all to be aware.

130-20 ACCOUNTS FOR PAYMENT

The Under 5’s had an issue with paying in the cheque to their bank account, the original cheque has been destroyed, and the amount has been split into 3 smaller cheques. The Clerk reported that a cheque had been arranged for Ray Hall, as he has sent in an invoice for £2,125 for the repairs that he’s undertaken at Penyoke and this would be added to the February agenda. It was RESOLVED to agree the payments:

PAYEE	CHQ	REASON	NET	VAT	GROSS
M Worth	101311	Reimbursement to M. Worth for payment to Glasdon UK Limited - grit bin and grit	322.27	64.46	386.73
Landulph Under Fives	101312	Grant funding (under S137)	800.00	0.00	800.00
Landulph Under Fives	101313	Grant funding (under S137)	800.00	0.00	800.00
Landulph Under Fives	101314	Grant funding (under S137)	600.00	0.00	600.00
HMRC	101315	Jan income tax	72.60	0.00	72.60
K J Williams	101316	Jan salary	290.84	0.00	290.84
K J Williams	101317	Post, print, expenses and Zoom - Jan	45.53	0.00	45.53
Google Ireland Ltd	DD	Direct debit for Google Cloud & G Suite 1.12-31.12.20	73.60	0.00	73.60
Incoming payments		Bank interest (7.9-6.12.20)	1.00	-	1.00

131-20CHAIRMAN’S URGENT BUSINESS / ANY OTHER BUSINESS

a) Cllr Worth reported on an issue with loan sharks charging inflated interest rates, and using violence on those unable to pay, and how to spot this.

<https://www.stoploansharks.co.uk/>

Stop Loan Sharks - Presentation by Dave Monk, Illegal Money Lending Team LIAISE Officer for Devon and Cornwall Police

- The Illegal Money Lending Team (IMLT) was set up in 2004 and is a government funded law enforcement team covering the whole of England.
- The team investigates and prosecutes illegal money lenders and supports victims as well as raising public awareness.
- 310,000 households in England are in debt to illegal money lenders. This is expected to significantly increase following the impact of Covid-19.

- In 2018, Devon and Cornwall had the 2nd highest number of loan sharks but no conviction has ever been secured in Cornwall. Active investigations are still ongoing in the county.
- Stop Loan Sharks has a Community Fund made up of money seized from convicted loan sharks. Any organisations can apply for funding of up to £5k for a project provided it can help raise awareness of Loan Sharks.
- The team has a wide range of resources to help get messages out to communities including posters, flyers, newsletter articles, webinars etc. The Team are also happy to give talks to local groups to help highlight issues.

b) Cllr P Braund reported that on a recent foreshore walk between Penyoke and Landulph at very low tide, he was able to walk all the way around and noticed rows of sharp plastic posts (cut up plastic guttering) pushed into the mud, at Neal Point and Wearde Point. He asked why are they there? A discussion took place – the Duchy are the owners. At this point a member of the public reported that they have previously enquired about this – and was advised these are crab traps, and someone has a legal contract for it. Cllr Butcher questioned whether this was to catch peeler crabs for bait, rowing a rubber dinghy ashore it’s sometimes difficult to avoid the sharp plastic pipes sticking out, and stated it would be interesting to know the legality of this.

Cllr Butcher also mentioned the harvesting of sea weed, which can only be done in conjunction with Natural England and Cornwall Council, however it appears that people have been harvesting seaweed at Slipway Quay, which doesn’t seem right.

It was RESOLVED that Cllr P Braund would gather evidence and images, and that an email/letter would be sent to Natural England.

132-20 Date of Next Meeting: Monday 15th February 2021 at 7.30pm.

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

Meeting closed at 21.07.....Chairman