

Unconfirmed



Minutes of a Meeting of the **Simultaneous East Suffolk Council Cabinet and Southwold Town Council** held via Zoom, on **Tuesday, 2 March 2021 at 5.00pm**

Members of the East Suffolk Cabinet and Southwold Town Council present:

Councillor David Beavan, Councillor Ian Bradbury, Councillor Norman Brooks, Councillor Stephen Burroughes, Councillor Simon Flunder, Councillor Steve Gallant, Councillor Jessica Jeans, Councillor Richard Kerry, Councillor Michael Ladd, Councillor James Mallinder, Councillor David Ritchie, Councillor Craig Rivett, Councillor Michael Rowan-Robinson, Councillor Mary Rudd, Councillor Letitia Smith, Councillor Will Windell

Other Members present:

Councillor Peter Byatt, Councillor Alison Cackett, Councillor Judy Cloke, Councillor Tony Cooper, Councillor Linda Coulam, Councillor Louise Gooch, Councillor Mark Jepson, Councillor Steve Wiles

Officers present: Kerry Blair (Head of Operations), Andrew Jarvis (Strategic Director), Matt Makin (Democratic Services Officer), Agnes Ogundiran (Conservative Political Group Support Officer), Hilary Slater (Head of Legal and Democratic Services), Nicola Wotton (Deputy Democratic Services Manager)

Others present: Lesley Beevor (Clerk to Southwold Town Council), Lara Moore (Solicitor, Ashfords), Bill Steele (Public Speaker)

1 Election of Chairman

Hilary Slater, Monitoring Officer and Head of Legal and Democratic Services, welcomed everyone to the meeting and advised that she had been given delegated authority from Stephen Baker, Chief Executive, to open the meeting.

Mrs Slater reported that the first item of business for this meeting would be the Election of Chairman. A Chairman was required to lead on the common debate for the items of business. At the conclusion of the debate and questions on the reports on the Agenda, the Chairman would ask if the recommendations within the report were proposed and seconded by each authority; the Chairman would lead on this for East Suffolk Council's (ESC) Cabinet and Councillor Bradbury, the Mayor, would lead on this for Southwold Town Council (STC). Subject to the recommendations being proposed and seconded, each Councillor would be invited to indicate how they wished to vote on the recommendations within the report. Each authority would vote separately. The Chairman of the meeting would not have a casting vote.

Mrs Slater called for nominations for the Chairman of the Simultaneous meeting. On behalf of ESC, Councillor Rivett nominated Councillor Gallant and this was seconded by Councillor Brooks. On behalf of STC, Councillor Bradbury nominated Councillor Gallant and this was seconded by Councillor Windell.

There being no further nominations it was

RESOLVED

That Councillor Gallant be elected Chairman of this Simultaneous East Suffolk Council Cabinet and Southwold Town Council meeting.

Councillor Gallant then presided over the rest of the meeting as Chairman and he thanked Members present for their support.

2 Apologies for Absence

An apology for absence was received from Councillor Cook, ESC's Cabinet Member with responsibility for Resources.

Mr Makin then read through the list of those Councillors present, for the benefit of any members of the public who might be watching the meeting on YouTube.

3 Declarations of Interest

Councillor Beavan, an ESC Councillor and STC Councillor, declared a Local Non-Pecuniary Interest as he was a Member of both Councils. He stated that he was in attendance at the meeting as a STC Councillor.

Councillor Flunder, a STC Councillor, declared a Local Non-Pecuniary Interest as he had ownership of a stage and a shed on the Black Shore at Southwold Harbour.

4 Protocol for the Simultaneous Meeting

The Chairman introduced the Protocol to be used for this Simultaneous meeting. It was noted that at the last Simultaneous meeting, held on 15 March 2019, the Protocol had been agreed and adopted for use at that meeting and all future Simultaneous meetings.

The Chairman confirmed that, as Mrs Slater had reported earlier in the meeting, each Council would have a separate vote. The Chairman invited questions on the Protocol and there were none received.

5 Public Forum

The Chairman reported that, in accordance with the Protocol for Public Speaking at Southwold Town Council meetings, there would be a Public Forum, for 10 minutes. During the Public Forum, electors could put questions to the Chairman, regarding any items of business on the agenda. It was noted that an elector must not speak for more than 3 minutes and, where possible, a response to the question would be given.

The Chairman reported that one member of the public had registered to speak and he invited Mr Steele to ask his question.

Mr Steele thanked the Chairman for allowing him to speak and he reported that he was the Chairman of the Southwold Haven Port Stakeholders Group, which represented many stakeholders and groups who had an interest in the Southwold Harbour Lands.

Mr Steele asked his question, which was 'Will the Councillors consider deleting both references to ESC's claim to ownership of the camping site under meeting agenda item 6 Governance of the Southwold Harbour Lands - Next Steps, item 2.1 Background, page 6, and again at item 5.2.5 paragraph 4, page 9?'

Mr Steele clarified that the reason for his question was that the Southwold Harbour Order was the current statutory instrument which governed the extent of the Southwold Harbour Lands. In order to claim ownership of the camping ground, ESC would need to apply to the Department for Transport to seek a variation of the Southwold Harbour Order, as noted at item 3.1.6 in the skills audit on Page 7 of the report. If the 2 references to ownership of the camping ground were not deleted, then Members of the proposed Harbour Management Committee (HMC) would not be able to review and finalise the schedule of assets at item 3.1.1 on Page 7 of the report, until the variation of the Southwold Harbour Order was finalised and, he understood, this process might take some time.

Mr Steele concluded by saying that all prospective ESC Councillors who were willing to serve on the proposed Harbour Management Committee should be reminded of that fact.

The Chairman invited Kerry Blair, Head of Operations, to respond to the question.

Mr Blair stated that the site was called Southwold Caravan and Camping Site. He felt that where the site was named and referred to in the report, it was as a factual reference to its name. The references within the report were not addressing any of the land ownership issues.

With regard to the various issues regarding the Southwold Caravan and Camping Site, he reported that discussions were underway with STC, and these issues would be considered by the HMC in due course. The matters currently being discussed included the future of the caravan site, redevelopment, investment and the treatment of the third field and the camping field. In terms of the registration of the site with the Land Registry, a report on the title of the land would be brought to a future HMC meeting. Mr Blair suggested that the registration of the land should be one of the first items of business considered by the HMC, along with the other outstanding issues.

The Chairman thanked Mr Steele for his question and Mr Blair for his response.

6 Governance of the Southwold Harbour Lands - Next Steps

The Simultaneous ESC Cabinet and STC meeting received report **ES/0683** from Councillor Rivett, Deputy Leader and Cabinet Member with responsibility for Economic

Development. Councillor Rivett reported that he was pleased to present this report and it was noted that the progress regarding the governance of Southwold Harbour Lands (SHL) had been delayed due to the pandemic. He noted that the SHL was a complex issue, which had been given careful consideration over several years, by the Southwold Harbour Lands Joint Committee (SHLJC), which had been established in 2014. The last meeting of the SHLJC in February 2020 had been very constructive and at Appendices A and B, the Terms of Reference (TOR) and Memorandum of Understanding (MOU) which had been agreed at that meeting, were attached for reference. Since the SHLJC meeting in February 2020, extensive public consultation had been undertaken and Ashfords had been instructed to provide specialist legal advice regarding the future governance of SHL.

Councillor Rivett introduced Kerry Blair, Head of Operations, who would present the report and Lara Moore, from Ashfords Solicitors, who would assist with any queries, as required.

Mr Blair provided a summary of the key points within the report. Mr Blair stated that those present would be familiar with the history of the site, which went back to 1974 and the fundamental issues regarding the governance of the SHL. After a number of false starts, there had been considerable work and public consultation regarding the establishment of an HMC, which was the issue for discussion this evening. If approved, the creation of an HMC would lead to the SHLJC being dissolved. The HMC would be a Cabinet (Executive) Committee, and further details were contained in the report.

The HMC was set out in the 2018 Ports Good Governance Guide (PGGG), as the best way to manage and govern harbour operations, which would include executive powers and the voices of stakeholders. It was noted that the Council had worked closely with Ashfords, who provided specialist legal advice to a number of HMCs, or the local authorities with harbour responsibilities in the UK, regarding good governance.

Mr Blair drew Members' attention to the Terms of Reference (TOR) which had been agreed by the SHLJC at their meeting in February 2020 and began on page 16 of the report.

Section 1.4 of the TOR stated that: 'the Committee will manage the Harbour in accordance with the provisions of the Harbours Act 1964, the Southwold Harbour Order 1933 and the Harbour Docks and Piers Clauses Act 1847 (as incorporated), as amended from time to time (the 'Harbour Legislation').' This was important, as the Harbour Order made it clear what the harbour undertaking was and what the authority could do with any money raised in the harbour undertaking and what it could be spent on. The creation of the HMC did not affect the Harbour Legislation, as the Harbour Legislation would govern what the HMC could do. Reassurance was provided that all the protections within the Harbour Order would remain in place.

Section 2.2 of the TOR stated that: 'the discharge of these functions within any policy and budget approved by Council to be delegated as set out in the Memorandum of Understanding between the Committee and the Council'. Mr Blair stated that the HMC would be required to set and manage a budget, which would be done in an open and transparent manner, in accordance with the procurement rules and financial regulations that governed ESC.

It was noted that Section 3 of the TOR, contained details on the composition of the HMC, which would comprise of 5 nominees from ESC Cabinet and 4 co-opted Members. Ordinarily, the Members would be appointed for a 3 year term, however, the first appointment terms would be phased, to ensure that all Members would not need to be recruited at the same time in the future. The HMC would meet 6 times a year and it would be governed by the Cabinet's procedure rules, as set out in Part 3 of the Council's Constitution. All HMC Members would be bound by the Council's Code of Conduct.

Mr Blair reported that the MOU began on page 22. The MOU was based on the PGGG and followed the recommended structure of the HMC. The purpose of the MOU was to provide a clear framework for decision making, accountability and the financial management of the Harbour. In Section 7 of the MOU, paragraph 7c stated that: 'the HMC shall, subject to Clause 7(d) and (e) only make decisions regarding the management, acquisition and disposal of assets in accordance with the Council's acquisitions and disposals policy, financial procedure rules and contracts procedure rules.' Mr Blair clarified that the HMC's budget would need to be set by the HMC, aligned with the Council's budget cycle and comply with any ESC regulations relating to spending and procurement. The HMC would review and recommend an annual budget and fees and charges for the Harbour, which would need to be approved by the Council.

It was noted that the HMC would be required to produce and publish a Business Plan on an annual basis. The HMC would need to monitor performance against approved budgets and take appropriate action, where required. The HMC would also need to make a six monthly report to the ESC Cabinet, reporting on financial matters, and it would need to discharge all of its duties in accordance with the TOR.

Mr Blair stated that the report contained the HMC Constitution, its responsibilities and how it would operate. It was acknowledged that the Southwold Harbour Order 1933 included protective provisions regarding the sale of the Harbour Lands and Harbour Revenue. Mr Blair confirmed that it might be necessary to make a revision to that Order, at some point in the future, in order to undertake additional projects, such as flood protection works further up-stream and any such revision would be undertaken by the HMC.

Mr Blair then referred to the HMC Guidance Notes which started on Page 32 and, in particular, Section C on Page 33. This section referred to the appointments to the HMC and the skills and experience needed by those members, which would ensure that the HMC was fit for purpose. Should the creation of the HMC be approved, there would be a recruitment process, to fill the 9 vacancies on the HMC. It was estimated that the recruitment process would take 6 - 8 weeks to complete.

Mr Blair then referred to the TOR for the Stakeholder Advisory Group (SAG), which started on Page 38. It was noted that this group would provide any interested parties with a voice to help inform the decision making of the HMC. The Membership of the SAG could include commercial fishermen, the Environment Agency, the RNLI, Charter Boats Associations and local residents.

Mr Blair had summarised and clarified the key points within the report and he reported that Ms Moore was available to answer any queries that were raised this evening.

The Chairman thanked Mr Blair for his update and noted that this was a momentous day for the SHL and that this was the end of a very long process. He then invited Members to raise any questions they may have.

Councillor Rowan-Robinson reported that he was very concerned that there was no mention of STC in this process of creating the HMC, until Part C, Section 8 of Page 34 of the HMC Guidance Notes, where it stated that a member of STC would be on the Appointments Panel. He felt that there was insufficient involvement by STC in the whole process. He did not feel that this reflected the discussions which had taken place previously and was not in the spirit of the previous meetings of the SHLJC. He felt that there should be a partnership between ESC and STC in order to run the Harbour. He understood that ESC had to be the lead authority, due to the financial implications of the HMC, however he was very concerned that STC had little input into the creation of the HMC. He noted that on Page 33 in section C5, the wording had been altered to remove the original text which stated that 1 co-opted member would be appointed by STC. He asked if there could be an explanation regarding this matter.

Ms Moore responded that the structure for the HMC had been agreed at the last meeting of the SHLJC, which took place in February 2020, by both ESC and STC Councillors. The TOR and MOU were based upon the PGGG and it was not appropriate, under that guidance, to have places held for certain members. The HMC vacancies would be advertised and STC could apply for the co-opted vacancies. She confirmed that the aim was to have partnership working and that was why an STC representative was going to be on the Appointments Panel. Ms Moore confirmed that STC's input into the recruitment process was considered to be very important. The Panel would make recommendations to ESC regarding the co-opted appointments and when ESC looked at the Cabinet appointments to the HMC, they would have regard to the skills required by the HMC, and they would endeavour to fill any skills gaps, where possible. Ms Moore stated that the amendments to the HMC guidance notes had been made with the agreement of all Members of the SHLJC at their last meeting.

Councillor Windell stated that STC felt that it needed to represent the town and should therefore be part of the HMC. He stated that STC had reluctantly followed Ms Moore's advice but his concern was more to do with the spirit of previous discussions, not just the law. Councillor Windell stated that there needed to be more than 1 STC Councillor on the HMC. He felt very strongly that STC needed additional representation, as it would not be well received by Southwold residents if the Town Council did not have enough input on the HMC. He sought reassurance that there would be representation from STC, either in STC Councillors or nominees from STC, on the HMC.

The Chairman provided reassurance that there would be an open and transparent appointments process and that those with the most relevant experience for SHL would be appointed to the HMC. He invited Ms Moore to respond to Cllr Windell's concerns.

Ms Moore advised that it was important that both the appointments process and the way that the HMC would be operated were in accordance with the PGGG. She felt it would not be appropriate to give assurances as to who would have places on the HMC

at this stage, as it would undermine the whole appointments process and STC needed to trust that this method of making the appointments would work. Ms Moore acknowledged that STC was involved in the long history of the Harbour Lands and had significant knowledge of the Port, however she felt that it was important to give this process a chance and to follow the PGGG. Once the HMC had been given an opportunity to operate for a period of time, any comments on the process could then be taken forward and considered, prior to any Harbour Order application, which would finalise and place the HMC arrangements on a statutory footing.

Councillor Jeans commented that STC would need to trust in the good judgement of ESC's Cabinet when making the appointments. She hoped that the Cabinet would recognise that there needed to be representation from STC on the HMC and that any appointees were qualified to be effective members on the HMC. She felt that everyone wanted the HMC to work and so hopefully the process would be used correctly for the HMC appointments.

Councillor Rivett read through the recommendations, which were on Page 14 of the report.

ESC Councillor Rivett moved the recommendations and they were seconded by the Chairman.

STC Councillor Bradbury moved the recommendations and they were seconded by Councillor Beavan.

A separate vote for ESC's Cabinet and STC was undertaken, by Mrs Slater, and it was unanimously

RESOLVED

- a) That the outcome of the further consultation is considered and the East Suffolk responses to the points raised from it be noted.
- b) That the proposed Terms of Reference for the Advisory Group, at Appendix C to this report, be approved.
- c) That the establishment of an Harbour Management Committee for the Southwold Harbour Lands, based on the revised Terms of Reference and the revised Memorandum of Understanding agreed and initialled at the meeting of the Southwold Harbour Lands Joint Committee held on 3 February 2020, be confirmed.
- d) That on the establishment and first meeting of the Harbour Management Committee for the Southwold Harbour Lands, the dissolution of the Southwold Harbour Lands Joint Committee be confirmed.
- e) That delegated authority be given by the East Suffolk Council's Cabinet to the Strategic Director, to run the recruitment processes outlined in paragraph 6 of this report, and in consultation with the Head of Legal and Democratic Services, to establish the Harbour Management Committee, the Appointments Panel, the Advisory Group and the Membership Committee.

The Chairman thanked Members for their attendance at the meeting, the officers involved in writing the report and all those people involved in the long process to get to this momentous decision this afternoon. He also thanked Ms Moore for her detailed and specialist advice. The Chairman provided reassurance that ESC wanted this to work and had a vested interest in making Southwold Harbour into a fantastic asset for Southwold residents and the District.

The Chairman invited Councillor Bradbury, the Mayor of Southwold, to speak.

Councillor Bradbury thanked everyone for their hard work on this long journey. He confirmed that STC would be carefully watching to ensure that everything took place as agreed and described and he thanked everyone for attending the meeting this afternoon.

The Chairman thanked Councillor Bradbury and he hoped that STC would be joining and supporting ESC on the journey of creating the HMC.

The meeting concluded at 5.45pm.

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Chairman