

**MINUTES OF INSTOW PARISH COUNCIL HELD AT THE PARISH HALL,
INSTOW ON
THURSDAY 18th JULY 2019 AT 7.30 pm**

Present: - Councillor Allen (Chairman)
Councillors Mrs Hackett, Harper, Mrs MacCall, Mrs Parkhouse and Mrs Scott.

NDC Councillor Saxby

Mr M Isaac (Clerk)

In Attendance: 12 Parishioner/members of the public.

43 OPENING OF THE MEETING

The meeting was declared open by the Clerk.

44 APOLOGIES

Apologies were received from Councillor Hellyer and DCC Councillor Biederman

The Clerk reported that Adam Yeo had tendered his resignation from the Parish Council due to unforeseen circumstance. The Clerk also advised that he had contacted NDC Elections and set the process to fill the vacancy in motion.

45 COUNCILLORS DECLARATION OF INTERESTS

There were no declarations of interest announced

46 PARISHIONERS QUESTIONS

The Clerk explained that there was 15 minutes set aside for this item with parishioners being given precedence over members of the public.

The following issues were raised by Parishioners:

Mr Moores stated that he wished to make a statement regarding a number of recent incidences as he believed that they were related directly to his previous role as Chairman of the Parish Council and District Councillor for Instow.

‘Following a small number of incidences of bags of dog waste being left on his property, a bin liner of dog waste had been left on the passenger seat of his car, that had been parked on his drive. He had photographic evidence of the perpetrator which was with the Police. Unfortunately a member of the Parish Council was potentially implicated, by association, with this investigation. He was unable to say anything further at this time due to the ongoing police investigation’

Parishioner Mr Taylor stated:

Made reference to paragraph 15 of the Instow Members Code of Conduct adopted on 18 October 2018.

He wished to ask the Chairman what he intended to do to protect the influx of holiday makers from the chaos, conflict and confusion that was being caused by Councillor Mrs Hackett, who was running a campaign of civil disobedience and clearly breaching paragraph 15 of the Code of Conduct. She had been witnessed on many occasions advising visitors with dogs to ignore the Council approved Beach Code of Conduct. This was leading to serious conflict on the beach and causing damage to the credibility of the Parish Council..

He further stated that Councillor Hackett was making her position on the Council untenable and therefore should either tow the 'party line' and abide by the Councillors Code of Conduct or consider her position as a Councillor.

He further added that the role of the Parish Council according to the Good Councillor Guide was 'To play a part in representing the interests of the Communities that they serve by improving the quality of life and the local environment' something that he and many others do not see from the Parish Council.

A Parishioner stated that they would like to have a bench on Marine Parade. The Clerk stated that he would e mail them the relevant information.

A Parishioner John Stenton thanked the previous Parish Council for all it had done in the community. He also thanked the retiring Parish Clerk, Martyn Isaac for his work over the past years and wished him well in the future.

A Parishioner stated that the Parish Council should re consider supporting s106 funding for the 2 private clubs in the Parish

A Parishioner stated that the article in the Parish News by Pam Cantele was not correct. The 7 previous Councillors did not resign but decided not to stand for re-election.

A Parishioner asked that the handyperson be asked to cut the brambles along the footpath from New Road to the electricity sub staion.

47 REPORT COUNTY COUNCILLOR F. BIEDERMAN

In the absence of Councillor Biederman there was no DCC report.

48 REPORT OF DISTRICT COUNCILLOR SAXBY

Councillor Saxby stated:

She was aware a concern was raised at the last meeting about councillors using mobile phones during meetings. She would just like to advise that North Devon District Council had gone completely paperless and everything to do with her role as councillor was on her Council issued iPad. She therefore may on occasions use it during meetings to access information and take notes in the absence of paper copies.

Sandhills Car Park

She was very pleased to report that following much work in the background with North Devon Hospice, Christies, the car park operator and the campaign group. As well as liaising with the police and traffic enforcement that Floating Bye went off smoothly on Sunday and to date she had not been alerted to issues with the car park.

She would continue to work with all parties involved to try and improve relations with the car park and to ensure that the public were aware of the parking regulations and to reduce down any parking fines. Most fines, from the data she had received, were from people waiting in the entrance.

Instow Primary School

She had met with the Head teacher at the primary school, who had a couple of projects which would benefit from 106 funding. This information had been sent to the clerk for consideration by the Parish Council, which she very much hoped would be supported as her grant funding could not be given to schools. She hoped that Councillor Hellyer would be as impressed by the school's as she was when he begins his role as governor.

The Marines

She had a most informative tour of Arromanches Barracks and we are very fortunate to have such a unique facility here in the village. There are pictures of her being submerged in a land rover discovery are on her Instow Facebook page.

The Beach

She had numerous meetings in the coming weeks and months regarding the beach in Instow having already had long discussions with Natural England and the Environment Agency. This week she had met with the Head of Environmental Health and Housing at North Devon District Council. This meeting was most productive and confirmed that the Council discretionary controls on street drinking and dog fouling which were introduced some time ago would expire shortly due to some recent Anti-Social Behaviour Legislation. As a result new PSPOs would be introduced across the whole district which would give the council the opportunity to refine its approach in dealing with street drinking and dog control.

This review of PSPOs was across the whole of North Devon, and would therefore include Instow. Prior to the implementation of any new PSPOs there would be an extensive consultation period across the whole of North Devon. There was no further information on this at this time.

She had spoken to the press who were informed by an unhelpful member of the public that she was supportive of the PSPO. However, until she had seen any proposals from the Environmental Health team, there was no PSPO proposal, so there was nothing for her to be in favour of or against. Her statement to the media clarified her position as currently researching this matter.

However, with the school holidays beginning next week she hoped that the parish council had plans to address the current unpleasantness on the beach and whilst the code of conduct remains in place, to encourage visitors and locals alike to follow the code of conduct to enable our visitors to enjoy the beach.

My surgery

As she had advised at the last meeting she would be holding a surgery this Saturday at 10.30am at All Saints Community Centre on Anstey Way for any matters that relate to the District Council that she may be able to assist with.

She would also like to say that given recent events, some detailed here tonight, along with a volume of emails that have circulated outside the public domain that she was concerned. She was concerned that some divisive issues in our village were becoming beyond toxic and could in fact become disputes where we see Police involvement and negative press coverage as a regular occurrence. She asked that the Parish Council commits to do everything it can to de-escalate tensions and work with, not against other Councils, institutions and community partners to find practical solutions in the interest of the people of Instow.

49 MINUTES

It was **RESOLVED** that the minutes of the meeting held on 20th June 2019 be approved as a correct record and signed by the Chairman.

50 MATTERS ARISING FROM THE MINUTES

a) Responses to Parishioners Questions.

In response to the concerns raised at the last Parish Council meeting re improvement of water quality

Councillor Mrs MacCall stated that the implication was that the pollution was mainly down to dogs mess. However, the Environment Agency had stated that it was not feasible to improve the Water Quality on Instow Beach and that cause of the pollution was 65% from agriculture (faecal contamination and livestock management) and 35% from sewage and urban run-off.

51 FINANCE

a) Payments/Receipts

The Council agreed/noted the following payments/receipts:

1. INCOME: -

Car Park takings	Period – 11 June 2019 to 20 June 2019	£ 1,019.90
Car Park takings	Period – 20 June 2019 to 29 June 2019	£ 1,487.35
Car Park takings	Period – 29 June 2019 to 2 July 2019	£ 593.90
Car Park takings	Period – 2 July 2019 to 9 July 2019	£ 1,388.20
Car Park Takings	Period – 9 July 2019 to 16 July 2019	£ 1,435.45

TOTAL :- £ 5,924.80

Car Park Income from 1 April Comparison with previous year:

17 July 2018 - £14,574.45

16 July 2019 - £17,776.35

2. EXPENDITURE: -

North Devon Council Clerk Salary Recharge + Admin (including VAT £1.29)	£	768.39
North Devon Council Printing (Apr – Jun)	£	36.61
J. Braddick Toilet Cleaning - (S. Order £300)	£	300.00
M. Isaac Parish Clerk Expenses	£	53.07
Mrs Mills Handy person – (S. Order £672)	£	672.00
P.Hosegood Beach Clean/Rubbish Collection	£	964.97
Archant P. Clerk Advert (ND Gazette) (including VAT £17.20)	£	103.20
D. Budd Grass Cutting	£	340.00
MJ Gas Services Toilet Repairs	£	81.11
South West Water Toilet Water Bill	£	368.30
OJ Williams Tractor Derv (including VAT £21.67)	£	455.02
C. Waldron Web Site	£	67.50
Murch Bros Repairs to Tractor (including VAT £72.92)	£	437.52
Mrs Scott Repair to toilets	£	24.00
<u>TOTAL: -</u>	£	<u>4,671.69</u>

3. BANK – STATEMENT OF ACCOUNTS: -

Lloyds Bank Treasurers a/c no. 02348842 as @ 8.7.19 (Statement) = £1,330.52
Lloyds Bank Business a/c no. 02350065 as @ 11.7.19 (Statement = £113,934.67 (includes
£59,592.00 for Car Park/Toilets) and £12,000 Earmarked for future Car Park Repairs Fund
(including 2019/20)
Outstanding cheque payments None

4. RESOLUTION REQUIRED: -

RESOLVED, that £5,000 be transferred from Lloyds Bank Business account number 02350065 to Lloyds Bank Treasurers account number 02348842 to cover cheques for the above invoices.

b) VAT

Councillor Mrs Scott reported:

That it had recently been discovered that due to the level of the car park income the Parish Council should have been charging VAT.

This follows the final decision in a court case which has been ongoing since 2006 (R & C Commrs v Isle of Wight Council (Case C-288/07) [2008] BVC 799) which was finally resolved in 2015.

In the Isle of Wight case the CJEU said that ‘the question of whether competition is distorted should be decided by reference to the activity as carried on within the member state as a whole and not on a local market basis’. How HMRC interpret this is explained in their VAT manuals as follows:

‘The CJEU ruled that competition between public bodies and private operators must be considered in terms of the activity that is taking place and that this must be evaluated in national terms rather than in relation to any local market.’ (VATGPB3330)

Following the Court of Appeal judgment in Isle of Wight Council and Others (2014) UKUT 446 (TCC), off-street parking is standard rated, even if supplied by a local authority (VATGPB8640).

This matter was raised by the Clerk in September 2006, and updates were received (via the clerk from the DALC). It was minuted in 2006 that if the car park takings were subject to VAT, then at that time (2006) they would have to pay VAT on 3 years. The potential liability was noted, but no fund was set up in case the VAT was payable, as at that time the amounts were small as the car parking takings were low.

The Devon Association of Local Councils (DALC) had been approached to find out more. They have on our behalf consulted with a specialist VAT accountancy firm whom they retain, who advised that we might have to pay back all the VAT since we should have been registered, plus interest and that there was a possible 30% of tax penalty.

In the year to 31 March 2019 the Council earned over £40,000 from the car park, which represented £6,500 of VAT which would have to be paid back. If all the years to 2009 are included the amount to be paid including all VAT, interest and penalty could be over £70,000 in total.

At present we do not know how many years will have to be repaid, we cannot speculate on the exact amount to be paid.

Permission is sought from the Council to engage the services of the specialist accountant who is retained by the DALC, to represent us with HM Revenue & Customs, who can try and get HM Revenue & Customs to at least waive the 30% penalty and limit the time they go back. This 30% penalty alone could be over £15,000.

It was now clear that Instow Parish Council has been overspending by the amount of the VAT it should have paid over to HM Revenue & Customs each year for several years. If the level of the car parking revenues remains the same we will be looking at paying over approximately £6,500 VAT this year and in future years as well.

As the previous council was not aware of the size of the potential liability, they did not budget for this. The entire budget will have to be looked at and tough decisions on all areas of spending will have to be made, often unpopular with the residents of Instow.

So that there was no idle speculation, council’s permission is sought to place an article in the parish news so that the residents are fully informed of what is going on. This article would be clear, precise, but at the same time as factual as we can make it. Trying to attach blame to any individuals will not help matters.

In view of the seriousness of the matter, we hope that the residents of Instow Parish can come together and help us with constructive suggestions as to how to deal with the budget deficits, working with the parish council rather than against it.

It was agreed:

- a) That the Council engage the services of the specialist accountant who is retained by the DALC, to represent the Parish Council with HM Revenue & Customs, to try and get HM Revenue & Customs to at least waive the 30% penalty and limit the time they go back.
- b) That an article be placed in the Parish News so that the residents are fully informed of what is going on.

52 TRACKER

The Council considered and noted the Tracker.

Car Park – The Clerk reported that he had spoken to Mark Roberts, NDC who had agreed to meet Members on site if requested.

It was agreed:

- a) That a Mr Roberts be requested to meet Members on site
- b) That a maximum of £60,000 be allocated towards the re-surfacing of the car park
- c) That the proposal to narrow the 'in' access be no longer pursued and the entrance remain unchanged.
- d) That NDC be requested to contact the tenants of the adjoining garages informing them of the proposed re-surfacing works

53 ARMED FORCES FLAG RAISING DAY

The Chairman reported that a representative of Instow Parish Council had been invited to attend the Armed Forces Flag Raising Day at Victoria Park, Bideford to celebrate the 75th anniversary of D Day. He and his wife had attended. It was an impressive ceremony with several bands playing on the march to Victoria Park. There was a connection between Arromanche and D Day and Instow should be represented.

54 APPOINTMENT OF NEW PARISH CLERK

Councillor Scott reported that several applications had been received. One applicant had some experience and one was a current Parish Clerk to 13 Parish Councils who it was felt might not be able to give the time required.

As a new Parish Council it was considered that someone with experience was required.

A late application was received from Mr Harris, who had been the Parish Clerk at Westleigh. It was considered that due to his knowledge and experience that he be appointed

RESOLVED, that Mr Malcolm Harris be appointed Parish Clerk as from 1st August 2019.

55 BEACH MANAGEMENT WORKING PARTY REPORT

a) Beach Management Working Party

Councillor Mrs MacCall reported that the Beach Management Working Party had discussed/proposed the following at a meeting on 16 July 2019

- i) The Contract with Crown Commissioners was discussed re our management which appeared to be the collection of mooring fees. It was suggested that a letter sent to the Crown Estate to discuss the present contract with them, perhaps with a view to terminating the contract
- ii) It was proposed to arrange a meeting about handyperson's contract as it appeared no present contract had been agreed by full council. The old contract ended March 2019.
- iii) It was proposed that the clerk write to NDC (responsible officer Andy Bell?) re the removal of rubbish collection on the coastal path. (This collection costs £25 a time). If this was stopped, should a notice be posted informing the dog walkers to please take the litter, they have kindly removed from the beach, home?
- iv) Beach cleaner – The feasibility of the old tractor removing sand? Change in his working methods if tractor becomes redundant/money is tight?
- v) It was proposed that the Clerk enquires about the five missing green signs relating to dogs on beach. Who removed them, to where?
- vi) Sand on the road – It was noted that Councillors Allen and Harper had been invited to attend a meeting with all stakeholders in September.
- vii) Controversial Code of Conduct signs. It was proposed to consider whether to keep them or not. They indicated that IPC managed large areas of beach which in fact it does not. The map deliberately shows the area of beach north of the cricket club, not under our management, in order to make the area allocated to dog walking more generous.

The on-going problem with the sand is not IPCs, to sort out yet other authorities report our involvement as noted on these boards.

The voluntary code of conduct, leads to confrontation on all sides; verbal abuse; illegal flyposting and criminal damage.

It was agreed:

- A) That the Code of Conduct signs be amended as follows:
 - i) The addition of the word 'Voluntary'
 - ii) The painting out of the words management responsibility and the part of the plan showing the beach north of the cricket club
 - iii) The removal of the signs on the litter bins

- b) Letter from Christie Estate re Proposed Sand Management

It was agreed to defer consideration of the letter until after the all interested parties meeting on 10th September

56 TOILETS: UPDATE

Councillor Mrs Hackett reported the receipt of a quote from MJ Gas for a disabled toilet seat. She also reported that no quotes had been sought to replace the existing taps that tended to stick.

She stated that an e mail had been received from Mrs Moores stating that there were no hand towels/toilet rolls in the ladies on Tuesday. Hand towels and loo rolls tended to disappear but the toilets were fully stocked as of today

It was agreed to purchase a toilet seat for the disabled toilet.

57 SIGNAGE TARKA TRAIL

Councillor Mrs Maccall reported that the 9 small signs under the 'Share the Trail' board by the signal box were in a poor condition and either needed replacing or removing. It was also reported that the dog fouling sign by the chicane also required replacing.

It was agreed to report to Martin Caddy, DCC

58 s106 OPEN SPACE FUNDING. PRIORITY LIST

It was reported that Instow Primary School had some projects that may benefit from s106 Open Space funding.

It was agreed:

- a) To add the School to the priority list
b) To obtain a breakdown of the s106 monies allocated for Instow

59 CORRESPONDENCE

- a) The Council noted an E Mail from Mrs Maccall regarding the Housing Needs Survey
b) The Council noted a letter from the Defence Infrastructure Organisation regarding an increase in the licence fee payable for MOD training on the beach
c) The Council noted an E Mail from Mr Moores regarding the naming of the Marine Parade Development after David Shepherd.

60 PLANNING

- a) Application 66860 Demolition of four agricultural buildings & erection of one building to provide estate office together with associated car parking, groundworks & landscaping, South Yeo Farm, Instow

The Council noted and agreed the recommendation of the Planning Sub Committee – No Objections but stated that the new building is in a

depression so should not be obtrusive. Only reservation is the access road is very close to South View Farmhouse

- b) Application 66533: Retrospective application for formation of area to provide parking area for delivery vehicles & café customers together with erection of timber retaining walls & associated landscaping, Timber Hut, Instow sands, Instow

The Council noted and agreed the recommendation of the Planning Sub Committee – No Objections

- c) Application 66334: Replacement of 5 windows to the rear (amended plans), North Devon Cricket Club, Instow

No comments received from the Planning Sub Committee

- d) Application 66745: Erection of glass balcony, Southerly, New Road, Instow

No comments received from the Planning Sub Committee

- e) Application 66832: Erection of 1 Dwelling, Venn House, Insow

No comments received from the Planning Sub Committee

- f) Application 66775: Two storey rear extension together with demolition of garage & erection of new garage with ancillary room above, Sea Breeze, Kiln Close Lane, Instow

No comments received from the Planning Sub Committee

- g) Application 66825: Retrospective Application for extension & alteration to decking area & Balustrade (Amended Design to that approved by planning permission 65708), The Instow Arms, Instow

No comments received from the Planning Sub Committee

61 ITEMS TO BE CONSIDERED AT AFUTURE MEETING

There were no issues raised.

The Chairman stated that he would writing to Adam Yeo to wish him well

62 DATE OF NEXT MEETING

It was noted that the next Parish Council meeting would be on Thursday 17th September at 7.30 p.m.

The Chairman closed the meeting at 9.27 p.m.

Chairman

Dated: -