

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **COUNCIL** held on 26 October 2022 at 6.00 pm

Present

Councillors

R F Radford (Chairman)
G Barnell, J Bartlett, E J Berry, J Buczkowski, W Burke,
J Cairney, S J Clist, Mrs C Collis, D R Coren, L J Cruwys,
N V Davey, Mrs C P Daw, R M Deed, R J Dolley (Vice
Chairman), J M Downes, C J Eginton, R Evans, Mrs S Griggs,
P J Heal, B Holdman, D J Knowles, F W Letch, Mrs E J Lloyd,
Miss J Norton, S Pugh, D F Pugsley, Mrs E J Slade, C R Slade,
Mrs M E Squires, L D Taylor, B G J Warren, A White, A Wilce,
Mrs N Woollatt and A Wyer

Apologies

Councillors

R J Chesterton, Mrs F J Colthorpe, B A Moore, S J Penny,
R L Stanley and J Wright

Present

Officers:

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy
Chief Executive (S151)) and Maria De Leiburne (District Solicitor
and Monitoring Officer)

61 **APOLOGIES**

Apologies were received from Councillors: R J Chesterton, J Wright, D J Knowles, R L Stanley, B A Moore and S J Penny.

62 **PUBLIC QUESTION TIME**

A Question was received from Nick Quinn (a local resident):

My question is on agenda item 9 (reports) – specifically the cabinet meeting of 22 September and 4 October. At the September Cabinet meeting, a vote was taken to reject the call-in recommendation of the scrutiny committee. The resolution now shown in the minutes as “proposed by the Leader” is not what was voted on. 111 Words had been added to the 9 words that were actually put to the vote. The recording of that meeting provides proof of this. At the October Cabinet meeting, I asked for the minutes to be corrected. But, Cabinet agreed the minutes without correction and they were signed as being a true record.

At the end of the meeting, the Monitoring Officer spoke to advise that the rule for accuracy in the Council minutes did not apply to Cabinet. Adding words, after a vote has been taken should not happen. Honesty and integrity are basic principles in your code of conduct. When Cabinet Members passed these minutes as a true record of that meeting, it could be viewed as a breach of this code. This and the public admission that a rule on accuracy does not apply across the board, will affect public trust in this council.

So I ask: Chairman, will this Council please take action to ban the alteration of words after any vote has been taken?

The Chairman thanked them for their question and mentioned that this would be dealt with.

63 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**

Members were reminded of the need to declare any interests when appropriate.

64 **MINUTES**

The minutes of the Full Council meeting held on 31 August 2022 were agreed as a correct record and signed by the Chairman.

65 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had the following announcements to make:

- That for Armistice Day, the Chairman would officiate in Tiverton, the Leader would officiate in Crediton and the Vice Chairman would lay a wreath in Cullompton.
- An Honorary Alderman ceremony had been planned for Monday 5 December at 6pm.
- The Chairman had attended the West Devon Borough Council Civic Service on Sunday 16th October and represented the Council.

66 **PETITIONS**

There were no petitions presented.

67 **APPOINTMENT OF THE COUNCIL'S MONITORING OFFICER**

At the meeting of Council in August 2022, an interim Monitoring Officer was agreed in order to ensure the Council had a duly appointed Monitoring Officer in place. Following a recruitment process, it was recommended that Council appointed Maria De Leburne as its Monitoring Officer on a permanent basis.

Members had discussed the following:

- That there was a need for a discussion to take place prior to a decision being made. The Chief Executive explained that the council were asked to designate the function of Monitoring Officer to a particular officer as a legal requirement.
- Clarification was sought over the recruitment process, to which the Chief Executive explained that following a job advertisement, an interview and appointment process was conducted.
- Concern was raised over whether the council were asked to rubberstamp or consider this decision. The Chief Executive explained that Members were asked to consider the designation of the Council's Monitoring Officer.

The Chairman **MOVED** that: Maria de Leburne be appointed as the Monitoring Officer on a permanent basis. Upon a vote being taken, the motion was declared to have been **CARRIED**.

Note: Cllr A Wilce requested that his vote against the decision be recorded

68 NOTICES OF MOTIONS

(1) MOTION 580 – (COUNCILLOR B WARREN – 9 OCTOBER 2022)

The Council had before it a **MOTION** submitted for the first time.

To ensure that motions are recorded in the minutes of meetings in the exact form they are voted upon across all Committees of the Council, the relevant procedure rules shall be revised to extend this specific requirement to Cabinet, Committees and Sub-Committees. This would ensure that the permanent recordings of all meetings comprehensively record the items being voted upon and would strengthen the integrity of the public record, thus being in accordance with the Nolan Principles of Public Life.

Therefore: This Council RESOLVES that the Constitution Part 4 Section 1 Rule 26 (Application to Committees and Sub-Committees) of the Council Rules of Procedure is amended forthwith so as to apply rules 20.1 and 20.2 to meetings of the Cabinet, Committees and Sub-Committees

It was added that the motion included that proposals be recorded as well as motions.

The **MOTION** was **MOVED** by Councillor B Warren and seconded by Councillor A Wilce.

In accordance with Procedure Rule 14.4, the Chairman of the Council had ruled that the matter be discussed at this meeting. Discussion took place regarding:

- The importance of accuracy was expressed.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

(2) MOTION 582 – (COUNCILLOR A WILCE – 10 OCTOBER 2022)

The Council had before it a **MOTION** submitted for the first time.

The High Court has found that meetings held under the Local Government Act 1972:

“involves participants gathering to meet face-to-face at a designated physical location and “attending” a meeting involves physically going to that location, a requirement that this meeting is to be “open to the public” or “held in public” means that members of public must be admitted in person to the place where the meeting is being held...”

“As we have said, requirements that meetings be “open to the public” or “held in public” are imposed by several different statutory provisions, but they all deal with the same subject matter and may therefore be described as in pari materia. They are therefore “to be taken together as forming one system, and as interpreting and enforcing each other”...”

“But such broadcasting or live-streaming does not, on its own, satisfy the requirement for the meeting to be “open to the public” or “held in public” ...”

[2021] EWHC 1145 (Admin) This approach was supported by the Lawyers in Local Government, Local Government Association and Association of Democratic Services Officers. In addition, the Secretary of State for HC&LG stated that he considers that:

“The legislative scheme should be interpreted consistently”, and that:

“references to a meeting being "open to the public" or "held in public" should equally be interpreted as referring to physical attendance by the public.”

This Council RESOLVES that the Standards Committee is tasked to

- i. Review the Remote Meetings Protocol, and also consider whether or not it should form part of the Constitution; and
- ii. Consider whether any formal proceedings of the Council should be held online:
 - that are required to be ‘open to the public’ or ‘held in public’; or, • where members are required to ‘attend’ or be ‘present’; or,
 - where any notice that is required to be given that must specify the ‘place’ where those proceedings are to be conducted;
 - and to make recommendations to Council, accordingly

The **MOTION** was **MOVED** by Councillor A Wilce and seconded by Councillor Mrs N Woollatt.

In accordance with Procedure Rule 14.4, the Chairman of the Council had ruled that the matter be discussed at this meeting. Discussion took place regarding:

- That this protocol was introduced at the start of the pandemic and that remote meetings still had a place and that this motion enabled Councillors to review the protocol to ensure it remained fit for purpose.
- The District Solicitor and Monitoring Officer advised that the remote meetings protocol had not been used since May 2021 when the coronavirus regulations were lifted and that licensing meetings used the hybrid meeting protocol as these meetings fell under a separate piece of legislation. Therefore, it was advised that this motion should not go ahead as it would be illegal for remote meetings to be held with the exception of licencing as explained.
- It was expressed that there was a need for in person meetings in an effort for normality to be restored.
- That this motion was for the protocol to be reviewed by the Standards Committee.

The Motion was amended so that it read ‘hybrid meeting protocol’ in place of ‘remote meeting protocol’.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

(3) MOTION 583 – (COUNCILLOR E Lloyd – 13 OCTOBER 2022)

The Council had before it a **MOTION** submitted for the first time.

1. Recognise this Council's obligation to protect its rivers and seas, including from the cumulative impacts of pollution, in line with its local strategy and the National Planning Policy Framework and working with other agencies to do so.
2. Recognise that deterioration of water quality occurs due to cumulative impact of multiple sewage discharge events, or "sewage overload".
3. Compile an evidence base that assesses the cumulative impact of wastewater / sewage discharge on local rivers, wildlife and the health of residents, and factor this into decisions made in new iterations of the local plan, including the overall level of future development.
4. Ask the Scrutiny committee, or other appropriate committee, to invite a senior representative of South West Water, the Environment Agency and Natural England, to attend a meeting to answer questions on the current levels of sewage discharge.
5. If it does not already do so, ask South West Water in its planning consultation responses for major development, to clarify which treatment works will be managing the sewage and whether they have capacity to do so; and whether it has the information available to assess the impact on the number or duration of sewage discharges into local rivers or seas. If it does have this information, make a request to share it.
6. Request that officers update members with a report on: a) what they do to maintain flood defences and channels that fall under the responsibility of MDDC, b) what they do to protect main rivers and private water courses (and how often inspection/enforcement is undertaken by MDDC or the Environment Agency), c) the information currently required in reports relating to the impact of large developments on local watercourses (e.g. the impact of sewage outflow into watercourses), d) whether any large developments have been recently approved (or are under consideration) without suitable sustainable drainage systems in place and reasons why, e) the tools currently available to MDDC to protect local rivers, and what other tools, policy or resources they'd like to see that would help MDDC fulfil its obligation to protect rivers and seas

The **MOTION** was **MOVED** by Councillor Mrs E Lloyd and seconded by Councillor L Taylor.

In accordance with Procedure Rule 14.4, the Chairman of the Council had ruled that the matter be discussed at this meeting. Discussion took place regarding:

- This motion had been prompted after talks with residents as well as national issues and for the issue to be better understood at a local level.
- There was a need for rivers in our local area to be better protected.
- That the motion was not specific to Mid Devon and that there was a plan with South West Water. In addition, the Scrutiny Committee had the ability to invite key officers from organisations to speak without the need of a motion.

- There was concern over increased officer workload.
- The council had a duty to do what they could on this matter and asking for a report to be compiled would allow for information to be in one place and support informed decisions.
- It was raised that the agricultural industry had to meet regulations on water pollution and that a lot had been done for this to be improved.
- That this was a relevant issue and Mid Devon was affected.
- That South West Water charged the highest for bills in the country and yet their environmental rating was only rated with 1 star. South West Water needed to improve their performance in this area. In addition, soil erosion as well as farming were also key polluters to rivers.
- That the motion had not specified a deadline for the requested report to be produced.
- It was raised that Mid Devon District Council did not own any rivers or seas but instead should support their improvement.
- There was concern over future housing developments and the increased sewage from these.
- South West Water and other organisations needed to do better and there was a need for the council to show they care.
- It was felt that the work asked of officers was achievable and would allow a dialogue to be opened between the Council and South West Water.
- The past year there had not been as much rain and more pollution in our rivers and that South West Water should be invited to speak at Scrutiny Committee

It was amended that the motion be changed in point 1 so that 'its rivers and seas' changed to 'the rivers and seas'.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

69 **CABINET - REPORT OF THE MEETING HELD ON 6 SEPTEMBER 2022**

The Leader presented the report of the meeting of the Cabinet held on 6 September 2022.

1. Mid Devon as a Trauma Informed Council (Minute 50)

The Leader **MOVED**, seconded by Councillor C Slade:

THAT the recommendations of the Cabinet as set out in Minute 50 be **ADOPTED**

Following discussion and upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

Reason for the Decision – There would be a risk that if this approach was not approved that MDDC services would not suitably and satisfactorily accommodate the needs of our service users. In addition, adoption of a TI approach supported the Council's desire to be progressive and committed to providing a high quality and sustainable service. This modification to a TI service delivery linked closely with the promise for local engagement and participation, supported good health (because of improved understanding of barriers), promoted equality of service, and supported the values that are important to the Council.

70 **CABINET - REPORT OF THE MEETING HELD ON 22 SEPTEMBER 2022**

The Leader presented the report of the meeting of the Special Cabinet held on 22 September 2022.

On minute 61, Councillor A Wilce asked who spoke the additional wording and if not, how they became to be contained in the minutes. To which the Leader would respond to in writing.

71 **CABINET - REPORT OF THE MEETING HELD ON 4 OCTOBER 2022**

The Leader presented the report of the meeting of the Cabinet held on 4 October 2022.

Consideration was given to:

- The report had been added as a supplement to the Council summons as it had not been available on the day the summons was published and that this was permitted under Local Government Act (access to information) 1985 s100b part 3.
- The minutes of the Cabinet held on 4th October 2022 were yet to be agreed as a true record and would be considered by Cabinet at its next meeting

1. Crediton Neighbourhood Plan (Minute 73)

The Leader **MOVED**, seconded by Councillor J Downes:

THAT the recommendations of the Cabinet as set out in Minute 73 be **ADOPTED**

Following discussion and upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

Reason for the Decision – To make (adopt) the Crediton Neighbourhood Plan in order to meet the requirements of the relevant Acts and Regulations.

72 **SCRUTINY COMMITTEE - REPORT OF THE MEETING HELD ON 21 SEPTEMBER 2022**

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 21 September 2022.

73 **SCRUTINY COMMITTEE - REPORT OF THE MEETING HELD ON 17 OCTOBER 2022**

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 17 October 2022.

Consideration was given to:

- The report had been added as a supplement to the Council summons as it had not been available on the day the summons was published and that this was permitted under Local Government Act (access to information) 1985 s100b part 3.

The Chairman of Scrutiny took a moment to thank the Policy and Research officer for her invaluable work.

74 AUDIT COMMITTEE - REPORT OF THE MEETING HELD ON 27 SEPTEMBER 2022

The Chairman of the Audit Committee presented the report of the meeting of the Committee held on 27 September 2022.

75 ENVIRONMENT POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 11 OCTOBER 2022

The Chairman of the Environment Policy Development Group presented the report of the meeting of the Committee held on 11 October 2022.

76 HOMES POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 28 SEPTEMBER 2022

The Chairman of the Homes Policy Development Group presented the report of the meeting of the Committee held on 28 September 2022.

77 COMMUNITY POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 27 SEPTEMBER 2022

The Chairman of the Community Policy Development Group presented the report of the meeting of the Committee held on 27 September 2022.

78 ECONOMY POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 29 SEPTEMBER 2022

The Chairman of the Economy Policy Development Group presented the report of the meeting of the Committee held on 29 September 2022.

79 PLANNING COMMITTEE - REPORT OF THE MEETING HELD ON 7 SEPTEMBER 2022

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 7 September 2022.

80 PLANNING COMMITTEE - REPORT OF THE MEETING HELD ON 5 OCTOBER 2022

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 5 October 2022.

81 STANDARDS COMMITTEE - REPORT OF THE MEETING HELD ON 19 OCTOBER 2022

The Chairman of the Standards Committee presented the report of the meeting of the Committee held on 19 October 2022.

Consideration was given to:

- The report had been added as a supplement to the Council summons as it had not been available on the day the summons was published and that this was permitted under Local Government Act (access to information) 1985 s100b part 3.

82 **APPOINTMENT OF COMMITTEES, SUB-COMMITTEES, WORKING GROUPS AND OTHER INTERNAL BODIES**

Arising thereon:-

Appointment of Committees, Policy Development Groups, certain Working Groups and other Council Bodies

The following recommendation had been put before the council

- a) that the Council approve the allocation of seats on Committees and other Council Bodies as shown on the schedule;
- b) that Members be appointed to Committees and Policy Development Groups, in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- c) that Members also be appointed to Working Groups and other Internal Bodies in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- d) that the Chief Executive be authorised to make changes to membership of Committees, Policy Development Groups, Working Groups and other Internal Bodies as may be notified to him from time to time by the relevant Political Group to which those seats have been allocated by the Council;
- e) that the appointments to seats remaining to be filled by ungrouped Members shall be made at this meeting

Councillor B Warren **MOVED** an **AMENDMENT**, seconded by Councillor Mrs N Woollatt:

That subject to amending the allocation of seats for Non-Aligned Group on Standards Committee from 1 to 2 and amending the allocation of seats on Economy PDG from 2 to 1. This would result in the surplus seat from Economy PDG to be left for ungrouped members to be appointed to instead of Standards.

Upon a vote being taken the **AMENDMENT** was declared to have been **CARRIED** and the following **APPROVED**:

- a) that the Council approve the allocation of seats on Committees and other Council Bodies as shown on the schedule; **subject to amending the allocation of seats for Non-Aligned Group on Standards Committee from 1 to 2 and amending the allocation of seats on Economy PDG from 2 to 1 This will result in the surplus seat from Economy PDG to be left for ungrouped members to be appointed to instead of Standards.**
- b) that Members be appointed to Committees in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;

- c) that Members also be appointed to Working Groups and other Internal Bodies in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- d) that the Chief Executive be authorised to make changes to membership of Committees, Working Groups and other Internal Bodies as may be notified to him from time to time by the relevant Political Group to which those seats have been allocated by the Council;
- e) that the appointments to seats remaining to be filled by ungrouped Members shall be made at this meeting

Councillor Mrs E Lloyd **MOVED** an **AMENDMENT**, seconded by Councillor L Taylor:

That the Planning Committee seat allocation be reduced for the Green group by 1 and increased for the Liberal Democrat group allocation by 1 and Environment PDG be increased for the Green group allocation by 1 and decreased the Liberal Democrat group allocation by 1.

Upon a vote being taken the AMENDMENT was declared to have been CARRIED and the following APPROVED:

- a) that the Council approve the allocation of seats on Committees and other Council Bodies as shown on the schedule; subject to amending the allocation of seats for Non-Aligned Group on Standards Committee from 1 to 2 and amending the allocation of seats on Economy PDG from 2 to 1 This will result in the surplus seat from Economy PDG to be left for ungrouped members to be appointed to instead of Standards. **As well as subject to amending the allocation of seats on: Planning Committee by reducing the Green group allocation by 1 and increasing the Liberal Democrat group allocation by 1 and Environment PDG by increasing the Green group allocation by 1 and decreasing the Liberal Democrat group allocation by 1.**
- b) that Members be appointed to Committees in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- c) that Members also be appointed to Working Groups and other Internal Bodies in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- d) that the Chief Executive be authorised to make changes to membership of Committees, Working Groups and other Internal Bodies as may be notified to him from time to time by the relevant Political Group to which those seats have been allocated by the Council;
- e) that the appointments to seats remaining to be filled by ungrouped Members shall be made at this meeting

The District Solicitor and Monitoring Officer asked the ungrouped Members who would sit on the seats that remained.

After Members discussed the remaining seat allocation for the ungrouped Members, Councillor N Davey **MOVED**, seconded by Councillor J Downes that:

- Councillor Evans would sit on Audit Committee, Homes, Economy PDG and the Electoral Review Committee.
- Councillor Pugsley would sit on the Licensing Committee, Regulatory Committee and Community PDG.
- Councillor Moore would sit on the Planning Committee.

Upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

83 **QUESTIONS IN ACCORDANCE WITH PROCEDURE RULE 13**

There were no questions submitted under Procedure Rule 13.2.

84 **SPECIAL URGENCY DECISIONS**

With regard to any decisions taken under Rule 16 (of the Constitution) Special Urgency taken since the last meeting. The Chairman informed the meeting that no such decisions had been taken in that period.

85 **QUESTIONS TO CABINET MEMBERS**

Councillor B Holdman asked the Cabinet Member for the Working Environment and Support Services If the opening hours for Phoenix House could be reviewed, to which the Cabinet Member noted this and asked if specific requests could be sent to him.

Councillor G Barnell asked the Leader if the 3 Rivers Developments Ltd item would be on the upcoming Cabinet agenda on 1 November 2022. The Leader explained that that this report had been delayed and was due to go to Cabinet on 29 November 2022.

It was then asked if this report would be presented to Scrutiny and Audit Committee, to which the Leader explained that this would be the case.

Councillor Wilce asked the Leader if he accepted that words not spoken should not be minuted as part of the minutes of the Cabinet meeting that had taken place on 22 September 2022. In addition, it was asked if he would refer himself to the Standards Committee for breaching the Nolan Principles or would he resign. To which the Leader explained he would not resign, nor refer himself to the Standards Committee and that those minutes would be looked into.

Councillor Wilce suggested that there was a history of denying the truth with this administration and that this was not the first time incorrect minutes had been agreed and becoming less transparent. He also challenged that officers not had followed the constitution and that copies of agendas had not been available. He claimed that the £2m loaned to 3 Rivers Development Ltd went against the constitution as well as documents added to agendas with less than 5 clear days notice. It was asked if this administration was corrupt or badly managed, led and advised.

The Leader recommended that he attended a meeting a meeting on 14 November where his concerns could be discussed.

86 MEMBERS BUSINESS

Councillor Dolley thanked officers for their work on the new refuse schedule.

Councillor Deed raised that work was being done by Network Rail at both the Cullompton and Wellington station, with both stations to be opened in 2025. He had informed that it was unlikely that planning permission was required for the Cullompton Station.

Councillor Deed also raised that the rise in inflation had put pressure on Councils, which had meant that Councils had been charged to prioritise public expenditure. It was unclear how public services would be financed over the longer term. Multiple financial pressures had resulted in pressures on service provision, in addition, costs had risen dramatically. So much so that £1m of unforeseen costs had been added to this financial year (2022/23) which had meant that financial planning was underway for the forthcoming years.

The Leader encouraged Members to partake in PDG meetings so that the Council could collaboratively find solutions. In addition, the LGA had offered a facilitated training session on 14 November and asked Members if they could attend.

Finally, the Leader mentioned that for the last 3 years he had been the local authority Governor for the South West Ambulance Service NHS Foundation Trust, which ended recently. They were looking for a new Governor to represent them for the next 3 years.

Councillor Eginton welcomed back Councillor Colthorpe who had attended a meeting last week.

Councillor Warren raised that the change over to the waste collection schedule was working and praised the waste operatives.

Cllr Wilce raised that the minutes of the Regulatory Sub Committee A were not discussed, however, the Monitoring Officer explained that this had been added in error and that sub-committee minutes were not brought to Full Council.

Councillor Slade thanked staff and reminded Members there were FAQs on the Council's website and that residents should be referred to these. It was also raised if Members should stand or sit when Members addressed the Chairman, although this had stopped during the pandemic it was felt that this should be reintroduced.

Councillor Dolley agreed and asked the chairman to remind everyone at the next meeting.

Councillor Burke raised that Tiverton Town Council had entered the In Bloom competition, which resulted in the community orchard being awarded a level 5 and maintained its gold standard for the fifth time.

(The meeting ended at 20:11)

CHAIRMAN