

Minutes of the Southwold Harbour Lands Joint Committee Meeting held at
The Stella Peskett Millennium Hall, Might's Road, Southwold, IP18 6BE
on **Tuesday, 18 December 2018 at 11.15 a.m.**

5

Members present:

Councillors W Windell (Chairman), M Bee, I Bradbury, J Jeans, D Palmer, B Provan, D Ritchie and M Rudd

Also in attendance

Councillors D Beavan, P Byatt, G Catchpole (Substitute Member), S Doy, S Flunder and M Ladd

Officers present

S Baker (Chief Executive), L Beevor (Southwold Town Council Clerk), K Blair (Head of Operations), A Gallant (Southwold Harbour Lands Project Manager), P Harris (Communications Manager), A Jarvis (Strategic Director), H Slater (Monitoring Officer and Head of Legal & Democratic Services), N Wotton (Democratic Services Manager) and D Wyatt (Commercial Lawyer)

The Monitoring Officer and Head of Legal & Democratic Services welcomed everyone to the meeting and read out the fire evacuation procedures.

1 APOLOGIES / SUBSTITUTES

There were no apologies received on this occasion.

2 APPOINTMENT OF CHAIRMAN FOR THIS MEETING

Mrs Slater, the Monitoring Officer and Head of Legal & Democratic Services, called for nominations for Chairman of the meeting. It was duly proposed, seconded and following a collective vote it was

RESOLVED

That Councillor W Windell be appointed Chairman for this meeting of the Southwold Harbour Lands Joint Committee.

NOTE: Councillor Windell presided over the rest of the meeting.

In response to a query from a Southwold Town Councillor, the Monitoring Officer and Head of Legal & Democratic Services provided clarification that it was a legal requirement for all of Waveney District Council's formal meetings to have a Vice Chairman appointed. This was a formal requirement of the Council's Constitution, as it covered all eventualities such as the Chairman being taken ill or having a Disclosable Pecuniary Interest in an item of business on the agenda. It was therefore appropriate for the position of Vice Chairman to be appointed to at this meeting.

3 APPOINTMENT OF VICE CHAIRMAN FOR THIS MEETING

The Chairman called for nominations for Vice Chairman of the meeting. It was duly proposed, seconded and following a collective vote it was

RESOLVED

That Councillor M Bee be appointed Vice Chairman for this meeting of the Southwold Harbour Lands Joint Committee.

4 DECLARATIONS OF INTEREST

Councillor I Bradbury declared a Local Non Pecuniary Interest that he was the Southwold Town Council representative on the Southwold Harbour and River Blyth Users Association.

5 SOUTHWOLD HARBOUR LANDS JOINT COMMITTEE – TERMS OF REFERENCE

The Chairman presented the proposed Terms of Reference for the Joint Committee, which would be used for this and any future meetings.

RESOLVED

That the Terms of Reference to be used for this and any subsequent meetings of the Southwold Harbour Lands Joint Committee be noted.

6 MINUTES

A Councillor raised concerns about granting approval for the last set of minutes, as it was over three years since the last meeting had taken place. He also felt that the minutes were imprecise, poorly written and did not reflect what took place at the meeting. A further Councillor disagreed and stated that the minutes were well written and comprehensively covered the key issues which were discussed.

RESOLVED

That the Minutes of the Southwold Harbour Lands Joint Committee Meeting held on 26 October 2015 be approved as a correct record and signed by the Chairman.

A Point of Order was raised at this point during the meeting. The Monitoring Officer and Head of Legal & Democratic Services provided clarification that Councillors were able to vote on the accuracy of a set of minutes, even if they were not present when the original meeting took place.

7 REPORT ON THE FUTURE OF THE SOUTHWOLD HARBOUR LANDS

The Head of Operations introduced a report, which sought to provide an overview of the recent history and management of the Southwold Harbour Lands, which included the harbour and neighbouring lands, the stretch of the River Blyth, Buss Creek, Salt Creek, the caravan and camping site and commercial properties leased to independent operators to generate rental income for the harbour.

It was noted that in 2013 a Working Group was convened to consider the governance issues associated with the Harbour Lands, which over time, led to the creation of the Southwold Harbour Lands Joint Committee. A public consultation was undertaken and the findings were used to establish a number of principles for the discharge of the Council's statutory obligations in relation to the Harbour Lands.

In 2015, the Southwold Harbour Lands Joint Committee had agreed that a Charitable Trust was the preferred option for the future governance structure for the Harbour Lands. Since that time, further work and investigations had been undertaken and it was now felt that the Charitable Trust model of governance was not the most appropriate or effective model, for the Harbour Lands. It was stated that the model would not produce sufficient financial resilience which was required to pay for the significant costs of investing and transforming the Harbour Lands. In addition, Waveney District Council would retain the overall liability for the Harbour Lands and would be required to contribute financially should the Charitable Trust get into financial difficulty. However, Waveney District Council would not have any strategic control or oversight over the Charitable Trust, therefore this position was, understandably, not acceptable to Waveney District Council and an impasse had therefore been reached.

This was due, in part, to the likely costs of the future repairs and developments which were required by the Harbour Lands and would cost an estimated £12 – 20 million over the next 20 years.

Representatives from Waveney District Council had met with the Department for Transport to seek their views on the background of the Southwold Harbour Lands and to find a way forward to resolve the ongoing governance issues.

A Councillor started by expressing her gratitude to officers for the clear and detailed report. She stated that there were a number of persistent conflicting views in Southwold about the ownership of the Harbour Lands. However, it was clear that in paragraph 3.3 of the report that the Harbour Lands had been transferred over to Waveney District Council in 1973 and that if Southwold Town Council had wished to change this, then they should have applied for an exemption from the 1973 order. No such exemption or order was sought. Therefore, the Harbour Lands had been transferred, in accordance with the required legislation, which had been confirmed by the Department for the Environment. Consequently, she stated that Southwold Town Council had no legal claim over the Harbour Lands and she queried whether Waveney District Council still had any further legal documentation which supported this view. The Commercial Lawyer confirmed that there were 2 letters which were contained within the deeds for Southwold Harbour Lands and that these could be scanned and included within the documentation for the public consultation, for completeness.

A Councillor commented that his only interest was to ensure that the best possible individual would manage the Harbour Lands in future, as the Harbour was for the enjoyment of everyone, not just the residents of Southwold. He was also concerned about the threats to the Harbour Lands, which included the dilapidation and deterioration of the flood protection banks up stream, which were vulnerable due to rising sea levels. Overall, he wanted the best person to be responsible for the Harbour Lands, who had the knowledge and expertise in finance, administration and other technical matters relating to this unique site.

A Councillor reported that they were very pleased to hear that the 2 letters from the deeds were available and that it was important for them to be made available, in the interests of transparency and openness. He stated that he had been involved with the Harbour Lands for many years and whilst the District Council may not have always done the best thing, it had tried to do the right thing in a variety of ways. It was not clear whether the issues surrounding the Harbour Lands were able to be concluded prior to 31 March 2019, when Waveney District Council would cease to exist, however it would be a fitting legacy to sort out the ongoing difficulties with the Harbour Lands, prior to this date. Reassurance was provided that Waveney District Council did not wish to 'steal' the Harbour Lands, it merely wanted to fulfil its responsibilities and duties. The creation of a new governance model would ensure local control, whilst providing reassurance for the District Council and ensuring there were sufficient funds available to develop and maintain the lands, as appropriate.

It was also confirmed by another Councillor that they shared the frustration that was felt by many, that this matter had taken so long to resolve, however it was hoped that the end was in sight, which would provide much needed security, resilience and sustainability for the Harbour Lands.

A Councillor stated that they had strong reservations that the 2 letters contained within the deeds would provide sufficient evidence of the transfer of the Harbour Lands to Waveney District Council. He felt that Waveney District Council had not managed the Harbour correctly and at times had been acting illegally. After concerns were raised, there had been some changes and the financial situation had improved. The Councillor then raised further concerns about Southwold Harbour, the caravan site and harbour lands being incorporated together into one entity. He felt that Southwold Harbour should be kept and managed separately from the other sites, so that they were separate entities. He also felt very strongly that Southwold Harbour was not a Municipal Port and should remain as a Haven Port, which could also be run as a Trust. He stated that the

Good Port Governance Guide appeared to support his assertions. The Head of Operations confirmed that Waveney District Council had sought advice from a number of sources, including the Department for Transport, and they had all agreed that Southwold Harbour was a Municipal Port. A further Councillor stated that the legal documents, which were contained as appendices to the report, clearly supported the view that the Harbour was a Municipal Port. She suggested that it was time to move on and accept the legal facts as they were presented.

A Member commented that the issues surrounding the Harbour Lands were complex and needed to be handled carefully. The Charitable Trust model had been proposed as it was the best model available at the time, however things had moved on since that time and the Harbour Lands needed to have the best governance model possible. It was noted that there had been an unfortunate loss of trust between Southwold Town Council and Waveney District Council during this time, which had been regrettable, however it was hoped that this could be rebuilt over time. The most important matter was to ensure that there were a vibrant and sustainable Southwold Harbour Lands for future generations to enjoy.

A Councillor raised their concerns about the proposed public consultation and suggested that the 2 clauses in relation to the public consultation should be removed, in order to allow a full and transparent consultation to take place. He then raised concerns that there was a distinct lack of public trust in Waveney District Council, in relation to the Southwold Harbour Lands, as it had been stated at an earlier meeting that there would be quarterly meetings and these had not taken place. He felt that there had been unnecessary secrecy involving informal meetings and that money had been lost by the Council from their accounts, which should have been sent to the Department for Transport and the accounts were approximately £200,000 less than anticipated.

He reported that the Charitable Trust model was the most appropriate governance model, as it would prevent valuable assets from being sold off in the future. He was also concerned about the level of future investment which was required by the Harbour, as in the report the amounts quoted were £12-20 million, which was a significant variation between the lower and higher amounts. He also felt that if the 2 letters and various deeds were available, they could be presented at Court, for a final legal judgement to be made. He concluded by stating that he believed that the lands were owned by Southwold Town Council in perpetuity.

The Strategic Director advised that the unfortunate use of language during the meeting had misrepresented the situation. Reassurance was provided that all of the accounts had been audited on an annual basis and had passed those audits without any difficulty. He explained that several years ago, the District Council had purchased a new accounting system, which was not compatible with many of the old records, and therefore, some of the older records could no longer be accessed, which was very unfortunate.

In terms of the predicted future costs of maintaining and repairing the Southwold Harbour Lands, this matter could be debated at length, however the estimated costs gave a best and worse case scenario of the predicted future costs. However, the required works had been scoped by fully qualified and experienced coastal engineers and experts in partnership with other agencies. A study had recently been commissioned at a cost of £8,000, the results of which would be shared and made public in due course.

The Strategic Director went on to say that the issue of ownership and responsibility for the Harbour Lands had been discussed and debated for many, many years. Today, Councillors were presented with detailed evidence, advice had been sought from many sources, including the Department for Transport, and Councillors were able to make informed decisions which would help to resolve this issue once and for all, with the reassurance that the Harbour Lands would be looked after, safely and securely, for future generations to enjoy.

A Member commented that the Southwold Harbour Lands Joint Committee had not been mothballed and that it had met on a quarterly basis, having informal meetings, where ideas and discussions could take place on the future of the lands. However, there had

been no point in having public meetings, if there were no decisions to be made or progress to report, and that was the reason why no public meetings had been held for the last 3 years.

A Member commented on the positive work that had been undertaken to date. He noted that there needed to be a legal decision taken regarding the ownership of the lands and that if the evidence presented was not acceptable, then things could be taken further, as appropriate. Although he endorsed most of the recommendations, he had concerns about part C in respect of external advice. It was important to make progress swiftly, to enable work at the Harbour to take place and it was positive that the public would have the opportunity to have their say as part of the public consultation. The Head of Operations confirmed that the Department for Transport Guidance set out the different models that could be adopted and that the process for the future public consultation would be open and transparent.

Another Member commented on the importance of the local fishing fleet, both in Southwold and in Lowestoft and noted that the fleets could well increase over time as a direct result of Brexit, which could have a significant impacts upon the port. The Harbour was also an important tourist attraction, which was in need of ongoing investment. He then queried what the next steps would be to progress the work for the Harbour Lands. A Member reported that it was hoped to conclude the matter before Waveney District Council ceased to exist on 31 March 2019.

Another Member stated that they felt that the Harbour and caravan site could not be separated and should remain as one entity. He suggested that this could be made clearer in future reports. The Strategic Director advised that the Harbour and caravan site would not be separated and that the Council intended to deliver on both issues.

A Member reported that the original principles for the public consultation were still powerful and relevant and could be used as a basis for the future public consultation. However she urged caution that, whatever governance model was put in place, it should have the sufficient power and ability to discharge all of its duties and liabilities.

The Chairman reported that the recommendations could be voted for separately, rather than en bloc, if that would be helpful. There followed some discussion in this respect and it was agreed that the first recommendation would be voted for separately and then recommendations 2 – 5 would be undertaken en bloc.

The Joint Committee therefore moved, seconded and

RESOLVED

1. that it is minded to revisit the resolutions it made on 18 March 2015 (the “Resolutions”), including those that the legal model for the new governance arrangements for the Southwold harbour lands should be a charitable company with a trading subsidiary and that the statutory function of harbour authority should be transferred to that company (as recited in paragraph 4.7 of the report to the Joint Committee dated 4 December 2018 (“Report”); relevant minute copied at Appendix H to the Report) because, having considered the circumstances which have emerged and developed since those Resolutions were made, as summarised in the Report, it considers that those Resolutions are no longer appropriate.

A Councillor then took the opportunity to propose some minor amendments to the rest of the recommendations. In recommendation 2, he wished to removed parts i) and ii) as he felt that they predisposed future decisions. They also wished to ensure that all future meetings of the Joint Committee and those related to the Harbour Lands should be held in the evening. These amendments were proposed but not seconded, and therefore could not be voted upon, so the minor amendments **FELL**.

There followed some discussion and it was suggested that any future meetings of the Southwold Harbour Lands Joint Committee or the Simultaneous WDC Cabinet and Southwold Town Council meetings to be held in 2019 would take place in the evening, whenever practicable, to help facilitate the attendance of interested members of the public. It was also noted that the future meetings would be open to the public but would not be public meetings. The public would have the opportunity to express their views at the various public consultation events which would take place next year and provide a meaningful opportunity for everyone involved to have their say.

The Joint Committee therefore moved, seconded and

RESOLVED

2. to note the recommendation in the Report that the Joint Committee:
 - a. rescinds the Resolutions; and
 - b. recommends to a simultaneous meeting of Waveney District Council and Southwold Town Council that they modify the resolutions made by them on 28 July 2014 to withdraw the delegation to the Joint Committee to act as an “*Initial Strategic Board*” and direct the Joint Committee to, in line with its terms of reference, arrange to consult professional advisers and stakeholders and advise WDC and STC on proposals for a Harbour Management Committee to succeed the Joint Committee and:
 - i. *enable short term governance improvements (including more local involvement and engagement in management and delivery) in line with the key principles in the June 2014 consultation document and the Ports Good Governance Guidance issued by the Department for Transport in March 2018; and*
 - ii. *design proposals to deliver medium term improvements (which are likely to be made by application to the Marine Management Organisation for a Harbour Revision Order), addressing future ownership and long term sustainability, responsibility, liability and delivery.*
 - c. *arranges to instruct professional advisers to advise on the appropriate constitution for a Harbour Management Committee as outlined above; and*
 - d. *makes stakeholder engagement arrangements to consult community stakeholders and all other relevant stakeholders on the improvements outlined above.*
3. to note that the Joint Committee keeps an open mind, that all potential outcomes (as to the Resolutions, the future of the governance arrangements for the Southwold harbour lands and the future role of the Joint Committee) remain open and the Joint Committee intends fully to take into account the results of the consultation exercise to be arranged as set out below before it makes its decision.
4. to carry out an exercise to consult potentially interested persons (Stakeholders) by:
 - a. arranging an event or events in Southwold to consult Stakeholders in person; and
 - b. using reasonable endeavours to notify Stakeholders, at such events and by advertisement in a local newspaper and/or publication on the WDC and/or STC websites, of these resolutions and that they must deliver any representations they may wish to make to

kerry.blair@eastsoffolk.gov.uk and/or townclerk@southwoldtowncouncil.com in writing by midnight on 1 March 2019.

5. to arrange a further meeting to decide how to proceed once the results of the consultation exercise have been obtained and considered. Note – such further meeting of the Southwold Harbour Lands Joint Committee would take place in the evening, to help facilitate the attendance of the public.

The meeting concluded at 12.30 pm

Chairman