

## **EAST DEVON DISTRICT COUNCIL**

### **Minutes of the meeting of Cabinet held at Knowle, Sidmouth on 15 July 2015**

#### **Attendance list at end of document**

The meeting started at 6.30pm and ended at 9.14pm

#### **\*28 Public Speaking**

Jeremy Woodward questioned the Council on its stated presumption of releasing information through Freedom of Information (FOI) although in certain cases withholding information for legitimate reasons. He asked how this would be determined. If the Council was confident in its decisions, why were reports made confidential. The report on the agenda dealt with future FOI requests but did not address how the numbers of these requests would be reduced. Mr Woodward asked how the Council would make good its promise of greater transparency.

Paul Freeman asked the Chief Executive why he thought there was no conflict of interest in the writer of the FOI report being the Head of Legal Services as well as the Monitoring Officer. The two recent appeals criticised the Council's conduct to FOI requests yet the report explained these as a misunderstanding. Would the Council take a broader review of its FOI processes and commission an independent review of these processes. Mr Freeman asked when would all reports on the Office relocation be available on the website. He asked the Monitoring Officer how many other complaints were currently with the ICO and why were these not mentioned in this report.

Jackie Green referred to transparency and would Cabinet now release Part B reports. She questioned why the two reports on FOI were low down on the Cabinet agenda.

Four members of the public who expressed a wish to speak, asked do so when the particular items on the agenda were introduced (items 11, 20 and 23).

In response to questions, the Chief Executive stated there was a minimum resource officer-wise to deal with the increased level of complaints over the last 2 years. He confirmed that there was no conflict of interest for the Monitoring Officer to do this role competently and that his report was fair and thorough. He stated that occasionally there would be a difference of opinion as to when would be the right time to release sensitive information to the public. The Chief Executive said he would have to read the minutes of the meeting to respond to other detailed questions asked.

#### **\*29 Minutes**

The minutes of the Cabinet meeting held on 17 June 2015 were confirmed and signed as a true record.

#### **\*30 Declarations**

Cllr Phil Twiss – Min no. 20  
Type of interest - Personal  
Reason: Client

Cllr Peter Burrows – Min no. 23  
Type of interest - Personal  
Reason: Seaton Town Councillor

Cllr Marcus Hartnell – Min no. 23  
Type of interest - Personal  
Reason: Seaton Town Councillor

Cllr Steve Hall – Min no. 30  
Type of interest - Pecuniary  
Reason: EDDC Private Hire License Holder

Cllr Bill Bailey – Min no. 30  
Type of interest - Pecuniary  
Reason: EDDC Private Hire License Holder

**\*31 Exclusion of the public**

There were no confidential items which officers recommend should be dealt with in this way.

**\*32 Matters of Urgency**

One item was dealt with in this way. The Leader was delighted to report that after detailed negotiation, contracts had been exchanged with Pegasus Life for the sale of the Knowle site. This was an important milestone in the Council's plans to move HQ to new sites in Honiton and Exmouth. There was still a long way to go as we move through future work such as planning, design, construction and the move itself, which was planned for October 2017.

Pegasus would provide, on part of the Knowle site, a high quality retirement and assisted living community including restaurant, spa and other facilities that would also be available for use by the public. Furthermore, the facility would create jobs and generate new spend in Sidmouth. Also this important step forward would happen alongside the Council's continued commitment to hand over the remaining parkland to the ownership of Sidmouth Town Council.

**\*33 Matters referred to the Cabinet**

There were no matters referred to the Cabinet by the Overview and Scrutiny Committees.

**\*34 Forward Plan**

Members noted the contents of the forward plan for key decisions for the period 1 July to 31 October 2015.

**\*35 Audit and Governance Committee minutes of a meeting held on 25 June 2015**

Members received and noted the minutes of the meeting of the Audit and Governance Committee held on 25 June 2015. Cllr Mark Williamson stated he would do his best to continue to keep up the high profile of this committee driven by the previous chairman Ken Potter.

**RESOLVED (1) that the following decision be noted:**

**Minute 5 - Audit and Governance - Terms of Reference**

That the key functions of Audit and Governance were highlighted. These would be referred for financial and other matters affecting the residents of East Devon.

### **Minute 6 - Audit Plan/Audit Committee update**

Members considered the report of Grant Thornton who provided the Council with a report on progress in delivering responsibilities as their external auditor. The key challenges and opportunities facing the Council were:

- Shared Services
- Non-Domestic rates (NDR) accounting and appeals
- Office relocation
- Local Government Finance Settlement

The audit was designed around specific risks and 2 had been identified:

1. The revenue cycle includes fraudulent transactions
2. Management over-ride of controls.

Other risks identified were:

1. Operating expenses
2. Staff remuneration

### **Minute 7 - Annual Audit Plan**

Members considered the report of Jo George, Assistant Director, SWAP. As a key element of its Governance arrangements the Council had a partnership arrangement with South West Audit Partnership (SWAP) to deliver an annual internal audit plan. The revisions to the 2015/16 Audit Plan had now been made and were re-presented to the Committee for approval. These included the addition of the following audits:

- Use of Consultants
- Committee Decisions.

These audits replaced the audit on Regeneration, which had been removed from the Audit Plan as risks were now lower but would be reconsidered over the coming year if this changed.

### **Minute 8 - Internal Audit Charter**

The internal audit service, provided by the South West Audit Partnership Ltd (SWAP), worked to a charter that defined its roles and responsibilities and the roles and responsibilities of the District Council's managers to show transparency and delivery. The report aims were to obtain endorsement from Members for the revised Internal Audit Charter for this current year.

### **Minute 9 - Annual Opinion report**

This report provided the outturn position for the Internal Audit Plan at the end of 2014/15 and also the Internal Audits overall opinion on the systems of internal control at East Devon District Council.

### **Minute 10 - Year end full Risk Review 2014/15**

Members considered the report of the Management Information Officer; the Committee monitored high strategic and operational risks outside the bi-annual reporting (March/September). Members were told that risk owners were expected to review high risks on a monthly basis.

### **Minute 11 - Draft Annual Governance Statement – year ended 31 March 2015**

The Council had a duty to comply with its Code of Corporate Governance to which there were 6 key principals:

1. Focus on purpose of the Council, vision for local area and outcomes for the community.

2. Members and officers working together to achieve a common purpose with clearly defined functions and roles.
3. Promoting values and upholding high standards of conduct and behaviour.
4. Taking informed and transparent decisions scrutinised and risk managed.
5. Developing capacity of Members and Officers to be effective.
6. Engaging with local people to ensure public accountability.

A final governance statement would be reported back to the committee in September once members had made comments to the draft statement.

**RESOLVED:**

1. that the draft statement be noted
2. that a final governance statement would be reported back to the committee in September
3. that the Planning Policy Manager update the committee on the position of the 5 Year Land Supply and its monitoring for the September meeting.
4. that the Chief Executive urgently addresses how the 5 Year Land Supply is monitored and which committee bears that responsibility.

**Minute 12 - Annual Revenue and Capital Outturn report 2014/15**

This final outturn report had been discussed recently at Cabinet; the Audit and Governance Committee would finally agree these accounts in September 2015. Cabinet had agreed various recommendations and it was hoped that this committee would do the same.

**RESOLVED:**

1. that the outturn 2014/15 position be noted and that the Cabinet decision be endorsed.
2. that the level of Reserves detailed in the report and the transfers recommended be agreed; namely;
  - a) The transfer of £0.941m from the General Fund into the Capital Reserve
  - b) The transfer of £0.619m into the NNDR Volatility Fund
  - c) The Transfer of £0.500m from the Housing Revenue Account into the HRA Business Plan Volatility Reserve.
  - d) The Transfers to other earmarked reserves for specific projects where funding contributions have been made in advance of spend and monies are held at year end to fund this work in future years. The Outturn Book contains full details of these transfers in 2014/15.

**Minute 13 - Audit and Governance Forward Plan**

Members noted the contents of the Committee Forward Plan for 2015/16, which was updated during the meeting. The Planning Policy Manager's 5 Year land supply update would be added to the Committee Forward Plan for September 2015. The risk review for the office relocation would be added for November 2015 as well as a quarterly review.

**Minute 14 - Annual audit fee letter 2015/16**

The Strategic Lead, Finance reported a reduction in fees over the last four years and the change of auditors later in the year was because of a government initiative. It was good practice to swap external auditors; Grant Thornton had been the auditors for over five years. The length of KPMG's contract was to be confirmed.

### 36 **Independent Remuneration Panel minutes of a meeting held on 16 June 2015**

Members received and noted the minutes of the meeting of the Independent Remuneration Panel held on 16 June 2015.

#### **RECOMMENDED:**

1. that that no change be made to Member Basic Allowance for 2015/16;
2. that the Overview Committee Chairman be granted an SRA of £2,010 (in line with audit & Governance Committee) and the Scrutiny Committee Chairman be granted an SRA of £3,098 (in line with Housing Review Board Chairman);
3. that all other Allowances to remain the same;
4. that the S151 Officer be given authority to backdate as appropriate, any allowance.
5. that the time limit on Members travel claims should be the same as those for officers, namely that claims should be normally submitted for a calendar month, any claims over 3 months old should be referred to the Section 151 Officer for decision and approval to pay.

#### Note in respect of recommendation 5:

Group Leaders should be notified of this recommendation and in addition monthly reminders should be sent to Members to remind them to submit their travel expenses claims.

### \*37 **Scrutiny Committee minutes of a meeting held on 25 June 2015**

Members received and noted the minutes of the meeting Scrutiny Committee minutes of a meeting held on 25 June 2015.

#### **RESOLVED (1) that the following decision be noted:**

##### **Minute 5 – Final report of the Tree Task and Finish Forum**

That assuming agreement of the recommendations of the TaFF by Cabinet, the Scrutiny Committee receive regular updates on the implementation of the TaFF recommendations listed in the final report.

##### **Minute 6 – Performance and monitoring report for quarter four of 2014/15**

1. That comments be requested from the Portfolio Holder for Corporate Services on the Council Promise “continue to work in partnership with Devon County Council on the roll-out of super-fast broadband internet connections so that East Devon gets the benefit”;
2. That further clarification be obtained from officers on specific indicators identified;
3. That clarification on promises and indicators be sought in terms of future work on making them more meaningful and measurable targets

##### **Minute 7 – Forward plan for Scrutiny Committee**

That the forward plan be updated to include beach huts and scoping undertaken on the 7 May 2015 election and the process of the decision on the sustainability of Chardstock and Dunkeswell

#### **RESOLVED (2) that the following recommendations be agreed:**

##### **Minute 5 – Final report of the Tree Task and Finish Forum**

1. That Tree officers be involved in pre planning application meetings as standard; greater involvement at an early stage would benefit the process and enable any issues to be addressed in a timely way;

2. That, as part of the Systems Thinking review of the tree service at East Devon, to look at national guidance and best practice and where appropriate to look to adopt this within new work flow systems;
3. That a review be undertaken of information provided on the Council's website relating to arboriculture, and produce new web guidance on the main work areas to reduce service demand;
4. That the decision on the choice of which TPO system is to be adopted be made by the Arboricultural Service, but for weight to be given to the importance of providing guidance notes with the TPO form to reduce 'preventable demand'
5. That the Council develops a Tree Enforcement Policy;
6. That guidance be given to community groups working on Neighbourhood Plans to encourage particular consideration to be given to addressing issues in respect of trees and how their value within the community and landscape can be recorded and protected – the guidance to be drawn up by the Arboricultural Service in consultation with the planning policy team;
7. That the Development Management and Planning Enforcement team (with technical support from the Arboricultural Service) look for effective ways to monitor the future protection of trees following development of a site – this to include criteria for monitoring and how to involve local councils and ward members in this process so that information is fed back to the Council as quickly and effectively as possible;
8. That the benefits of remote data capture be supported and the Arboricultural Service be encouraged to undertake trials of the system so that it can be used to develop a district-wide on-line database of trees. In addition, to investigate the feasibility and cost of open mapping to plot the district's trees and calculate their ecosystem service benefits in monetary terms. (There is potential for this system, if effective, to be extended for use by community groups and tree wardens to help with logging tree information across the district – this information could also be used to populate Neighbourhood Plans);
9. That the current arrangement of local councils with Quality Status and dealing with applications for work to trees be reviewed. Although local determination of applications adds value to the customer experience, local councils seek advice from the arboricultural service and so none of the work burden was taken from the arboricultural team. In addition, not all of the decisions taken by the local councils follow advice given by officers; there have been appeals against decisions where a tree of poor quality had been approved for protection, contrary to advice from officers. This has resulted in delays in issuing a decision notice;
10. That following adoption of the Local Plan, the Planning Team, in round table consultation with the Arboricultural Service and all other services that have tree assets (including Streetscene, Housing and Countryside), develop a Tree Strategy to fit with other guidance, support and policy documents, to be taken into account during development and other related decision making. The Strategy to include:
  - a. the Council's aims in respect of urban and rural planting and the green infrastructure, trees and development, to incorporate a replacement tree strategy
  - b. subsidence
  - c. public liability, health and safety, duty of care, determination of tree works applications, the recognition and analysis of the benefits or urban and rural forests and tree canopies to the environmental, aesthetic, economic and social well being of the area and how these could be maintained and enhanced
  - d. the authority's perception and value of trees within the district
  - e. the importance of succession planting
  - f. tree protection including TPOs , reviewing TPOs, enforcement and supplementary guidance
  - g. the effective capture and monitoring of data relating to canopy cover

- h. efficient management of all trees including council owned trees
- i. sustainability
- j. climate change
- k. guidance on species choice and planting
- l. how to achieve effective partnership working with the district's communities, agencies and organisations
- m. examples of best practice
- n. education

11. That the Arboricultural Service work with other relevant EDDC services and its partners to develop a programme of education to widen the public's knowledge of trees and their value within the environment.

**\*38 Overview Committee minutes of a meeting held on 30 June 2015**

Members received and noted the minutes of the meeting Overview Committee minutes of a meeting held on 30 June 2015.

**RESOLVED (1) that the following decision be noted:**

**Minute 5 Overview Forward Plan**

That the forward plan include:

11 August 2015 - Joint meeting with Scrutiny Committee on Moving and Improving.

22 September 2015 – Presentation from Economic Development Manager – focus on the Economy Plan and the Rural Economy.

17 November 2015 – Council Plan

13 January 2016 – Draft service plans and budget 2016/17 jointly with Scrutiny Committee.

26 January 2016 – Discussion on planning policy and how this should be dealt with within the Council, possibly through a separate planning policy committee. Also Coastal Flooding and the Shoreline Management Plan.

22 March 2016 – Sustainability.

**RESOLVED (2) that the following recommendations be agreed**

**Minute 4 – Street Trading – Designation of streets under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1983)**

That Town and Parish Councils be consulted on the following:

- a. Rescinding the Council's past resolutions to designate streets as "Prohibited Streets";
- b. To replace all previous resolutions designating 'Consent Street' with a new resolution to designate all 'streets' in East Devon as 'Consent Streets' as defined in schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Meaning all roads, footways, service areas (as defined by section 329 of the Highways Act 1980), beaches or other areas to which the public have access without payment in East Devon would be designated as 'Consent Streets' for the purposes of Street Trading;

Before any formal consultation on the process is initiated to introduce designate all 'streets' in East Devon as 'Consent Streets' as defined in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1983.

The Deputy Leader asked on behalf of Cllr Ian Hall that a trial be carried out in one of the district's towns before Town and Parish councils were consulted. Cllr Steve Hall stated it should be down to the Licensing Manager to decide.

The Chairman of Overview brought to attention the committee's Forward Plan to members, which stated its ambitions for the future.

Jo Firth stated that the Overview committee had a remit to look at council initiatives before final decisions were made and if necessary to test public opinion. She had asked the Overview committee to look into the collection of Absorbent Hygiene Products (AHP) within the scope of the Recycling and Refuse trial being undertaken in Feniton and Exmouth. She asked that Cabinet direct Overview to review the Recycling and Refuse contract to accommodate this additional waste collection. Cllr Iain Chubb responded that at that day's Recycling and Refuse Partnership Board's meeting, proposals for a fortnightly collection of AHP had been discussed to be part of the upcoming trial.

39 **Housing Review Board minutes of a meeting held on 18 June 2015**

Members received and noted the minutes of the meeting Housing Review Board minutes of a meeting held on 18 June 2015.

**RESOLVED (1) that the following decision be noted:**

**Minute 2 – Appointment of Vice Chairman**

that tenant representative Pat Rous be appointed Vice Chairman of the Board for the ensuing year.

**Minute 3 – Minutes**

that an interview panel consisting of the Chairman, Vice Chairman, Councillor Douglas Hull and tenant Mike Berridge be set up to interview applicants to the two vacant independent community representative positions on the Board. Any appointments would need to be reported to Council for approval.

**Minute 7 – Forward Plan**

that the forward plan be noted and updated.

**Minute 12 – Housing Service complaints April 2014 – March 2015 review**

that the number and type of complaints received during 2014/15 be noted, along with the learning points arising that would be used to improve the Housing Service.

**Minute 13 – Membership of Advantage South West – procurement consortium**

that savings achieved during 2014/15 be noted and the continued membership of the consortium during 2015/16 be supported.

**Minute 14 – HRA outturn report 2014/15**

1. that the HRA outturn position for 2014/15 be agreed.
2. that the transfer of £0.500m into the HRA Business Plan Volatility Reserve be agreed.

**RESOLVED (2) that the following recommendations be agreed:**

**Minute 8 – Revisions to the introductory, secure and flexible tenancy agreements**

1. that the revised amalgamated tenancy agreement be agreed
2. that the Strategic Lead - Housing, Health and Environment and Portfolio Holder for Sustainable Homes and Communities be given delegated authority to act on the outcome of feedback from the consultation process.

**Minute 11 – Tenant inspectors**

that the proposal of a pilot scheme commencing in July 2015 to introduce tenant inspectors to the Housing Service be agreed.

**Minute 16 – proposed purchase of properties at Mudbank Lane, Exmouth**

1. that it be agreed that the proposed affordable rent dwellings were a desirable addition to the Council's housing stock.
2. that the proposed purchase be supported and delegated authority be given to the Portfolio Holder for Homes and Communities along with the Strategic Lead for Housing, Health and Environment to negotiate an appropriate level of offer to secure the dwellings.
3. that funding from the Housing Revenue Account, Commuted Sum monies and maximising the use of Right to Buy receipts be used to fund the proposed purchase.

**RECOMMENDED (1) that the following recommendations be referred to Council for consideration:**

**Minute 9 – Tenancy anti-fraud policy and tenancy anti-fraud strategy**

that the tenancy anti-fraud policy and the tenancy anti-fraud strategy be approved.

**Minute 10 – Safeguarding vulnerable adults**

that the changes set out in annex 1 to the Housing Review Board report – safeguarding vulnerable adults policy - be approved.

The Chairman of Housing Review Board Cllr Pauline Stott, informed Cabinet that the Council was number one in the county in producing affordable housing. The Portfolio Holder, Sustainable Homes and Communities said there was meeting arranged in September with the District's two MPs to discuss the outcome of the 8 July Budget, in particular to the Housing Revenue Account.

- \*40 **Seaton Regeneration action points of a meeting held on 11 June 2015**  
Members noted the Seaton Regeneration action points of a meeting held on 11 June 2015.

- \*41 **Leader's Annual Report - Local Authorities (Executive Arrangements)**  
**RESOLVED:**  
that the Leader's annual report containing details of each executive decision which was agreed as urgent under Regulation 11 (Cases of Special Urgency) - where less than 5 days' notice could be given – was noted.

**REASON:**

To comply with legislation.

- \*42 **West Hill – Community Governance Review**  
The Chief Executive requested the authorisation of Council to carry out the review as a request had been received from the 'West Hill Parish Council Campaign' requesting that the

Council undertake a community governance review under section 80 of the Local Government and Public Involvement in Health Act 2007. The purpose of the review was to assess whether the area of West Hill should be constituted as a separate parish and consequently no longer be part of the area of Ottery St Mary Town Council. Cllr Twiss stated that any split had to be fair and equitable.

**RESOLVED:**

1. that the Council undertake a Community Governance Review of Parish arrangements within the parish area of Ottery St Mary Town Council with a view to establishing a new parish of 'West Hill' for the area shown on Appendix 1 of the report and considering any consequential changes for the Ottery St Mary Town Council.
2. that the Terms of Reference be agreed, including the timetable and arrangements for public consultation.
3. that further reports would be brought to Cabinet in order that decisions may be made in respect of draft proposals and final recommendations of the Review.

**REASON:**

In accordance with the provisions of Part 4 of the Local Government and Public Involvement in Health Act 2007; the principal legal framework within which councils must undertake these reviews.

\*43 **Moving and Improving Consultation**

The Strategic Lead, Organisational Development and Transformation explained that this consultation had been designed to help inform decisions regarding how the Council organises its services in the future from offices in Honiton and Exmouth. The Council wished to consult with a broad range of stakeholders and customers to meet its equalities and best value duties, these included:

1. Customers (service users) and council tax payers (3000)
2. Stakeholder Group which included Towns and Parishes, Chambers of Commerce, Federation of Small Businesses, members of the Business Forum
3. Tenants Panel
4. Voluntary and Community Groups
5. Equalities Partners

Customer and service users would be consulted using a specific questionnaire that would be randomly sent to 3,000 households across East Devon. The questionnaire would also be available online via the Council website for all interested people to complete, including those that do not receive a postal copy. This approach would enable the Council to statistically extrapolated results to the wider population. Anything over 400 responses to questions was considered to be statistically reliable.

**RESOLVED:**

that members of Cabinet be aware that this report will be discussed at the Scrutiny meeting of 30 July.

**REASON:**

The consultation asked residents, stakeholders and equality partners to outline how and where they would like to access services in the context of two office locations, services delivered through surgeries, an improved website capability and more mobile working. This

consultation would assist the council in meeting its legal duties in terms of equality and best value.

**\*44 Financial Plan and Draft Transformation Strategy (2015 – 2021)**

The Strategic Lead, Finance presented this report to members. Financial pressures continued resulting in the need to respond in even more profound ways through transforming services and the way the Council worked. East Devon District Council's purpose was to be a successful district council delivering or commissioning the services council tax payers expect despite the huge reductions in grants. The Transformation Strategy sits alongside the Council Plan and outlined how transformation would deliver services despite the £2.6m budget gap.

The Strategic Lead, Organisational Development and Transformation informed members that this strategy was going to both Overview and Scrutiny Committees.

It was intended that this was a dynamic (rather than static) 5-year strategy and would require review and update on at least an annual basis, so progress and savings made could be tracked.

The following 'strategic themes' made up the Transformation Strategy.

- 1) Deliver the Worksmart Strategy and transform culture through new ways of working, underpinned by the right technology when the time was right.
- 2) Deliver improved online services through the Open for Business project.
- 3) Implement systems thinking reviews across all services.
- 4) Maximise the value of assets through commercial thinking with a focus on income generation, sustainability and developing local economies.
- 5) Actively pursue alternative service delivery methods and models

Discussions included:

- how the Council would explore opportunities to reduce numbers of members on committees and how this would be decided. The Chief Executive said this was part of the electoral review to be undertaken
- reviewing the benefits of Parks and Gardens
- commitment to regeneration projects in Axminster and Honiton
- it needed to be made clearer to the public the difference between discretionary and mandatory services to make for better understanding
- local services should be in the hands of local people
- Britain in Bloom was a prime example of community involvement
- people would pay more in their precepts to cover costs of local services

**RESOLVED:**

1. that the financial position of the council and the draft Transformation Strategy which would be debated and informed by Members at Scrutiny be noted.
2. that 'and Community Benefit' was added to item 4 in the Transformation Strategy.

**REASON:**

It was good practice in managing the finances of the Council to produce a Financial Plan looking at the future direction of the Council's budgets.

**\*45 Cliff Inspections - Exemption to Contract Standing Orders**

Cliff inspections were carried out annually by a specialist geotechnical consultancy (currently David Roche). Cliff inspections were carried out at Budleigh Salterton east cliff, Sidmouth Connaught Gardens, Beer east cliff and Seaton West Walk.

It was important that the inspections take place before Easter so that any risks to the public using our beaches and foreshore facilities could be identified. Works needed to be carried out and any debris cleared prior to beach huts being erected for the season. Inspections and any remedial works also decrease the risk of damage to EDDC assets, as well as ensuring that beaches and foreshores can remain open to the public.

The inspections and associated works were due to go to tender in 2015, but due to staff sickness this did not happen. To wait to tender the works would have put bank holiday and summer visitors at increased risk of injury from cliff falls. To enable the inspections to go ahead prior to Easter 2015 an exemption to contract standing orders was requested. The request was approved by the relevant officers, enabling the inspections to go ahead in time for the holiday season.

**RESOLVED:**

that the exemption to standing orders be noted.

**REASON:**

Cliff inspections for 2015 had now been completed following previous approval of exemption to Contract Standing Orders. Future annual cliff inspections would be put out to tender.

**46 Car Parking Strategy – Younghayes Place**

At its meeting of 9 January 2013, Cabinet resolved to approve the transfer of the Younghayes Centre, Cranbrook to the Council. The transfer subsequently took place on 7 October 2013. It was also resolved that the verification of the parking arrangements for the adjacent Younghayes Place should be subject to the separate approval of Cabinet.

The New Community Projects Officer updated members that the Neighbourhood Centre, including 7 retail units, was under construction with completion expected by mid July 2015. Allowing time for fitting out, it was anticipated that the first retailers would be operating by the end of the summer/early autumn 2015. The units would include a Southern Co-op convenience store, pharmacy, estate agent, fish and chip shop, Chinese takeaway/restaurant, cafe and Barnado's charity shop.

The Car Parking Strategy had been drafted in accordance with the Section 106 Legal Agreement and Transfer Agreement and sets out the following key principles:

- Younghayes Place was provided for the shared benefit of the Younghayes Centre and Neighbourhood Centre.
- From the date of practical completion of the Neighbourhood Centre responsibility for the management of the Car Park would pass to its owners - Devonfields and CJL Rogers Properties Limited.
- The Council would pay 25% of the total costs incurred by the owners in respect of the management and maintenance of the Car Park.
- No spaces should be specifically allocated to either users of the Younghayes Centre or Neighbourhood Centre.
- The Car Park would be managed as a short-stay, free car park with a maximum stay of 2 hours and no return within 1 hour.

- If deemed appropriate the managing agents may engage specialist car park managers to control the use of the car park.
- With one month's notice, the Car Park may be used for community uses for up to 28 days per year.

Details of the service charge budget (covering repairs and maintenance) and the Council's level of responsibility for this were included in the report together with a set of standard terms and conditions to accompany the Car Parking Strategy

At its meeting of 9 January 2013, Cabinet noted the intention to transfer the Younghayes Centre and potentially Younghayes Place to the Town Council. The New Community Projects Officer would work with the Town Council to explore the potential for this and report this to Cabinet.

Discussions included:

- There was no signage to the car park and it was not big enough
- Could the New Community Projects Officer and his team develop a 'walking and cycling' policy to alleviate the pressure of lack of parking?
- Use the larger car park opposite the Younghayes Centre as an overspill car park
- Devise a protocol on how the car park is used

#### **RECOMMENDED :**

that members:

1. Endorse the draft Car Parking Strategy.
2. Delegate approval of the final Service Charge Budget and Agreement Terms and Conditions to the Deputy Chief Executive.
3. Delegate approval of any replacement car parking agreement for Younghayes Place to the Deputy Chief Executive.

#### **REASON:**

To ensure that the requirements of the S106 Legal Agreement for the Council to approve a Car Parking Strategy for the Younghayes Place were met.

\*47 **Addressing Anti-social Behaviour linked with Personal Water Craft**  
John Adams spoke of community concerns of PWCs. The closure of Mamhead Slipway had exacerbated the problem and there should be a third slipway in a safe area for PWCs (mostly jet skis). The present slipway was not near the area that the PWCs were allowed to use. There were a large number of vehicles and trailers parked near the beach.

Ian Cudd said he was a keen and considerate jet skier and was well aware of the problems caused by inconsiderate users. He agreed with Mr Adams that the problem was down to the closure of the Mamhead Slipway. He was a member of a PWC club whose members were well aware of the issues and were actively looking for solutions to the launching problem.

The report sought Cabinet approval to undertake a period of consultation on issues of nuisance and annoyance at Belshers Slipway and Shelly Beach, Exmouth. The consultation would take place from 1 - 31 August 2015 and would include residents in the vicinity, users of the beach and slipway and those with local interest including user groups, the police, town and district councillors and Devon County Council.

There was an issue on the Exe Estuary with speeding boats and Personal Water Craft (PWC). This problem had existed since the removal of the Exeter City Harbour Patrol in 2001 but the anti-social behaviour was made worse by problems with launch areas off

Exmouth and their close proximity to residential areas. Control or careful management and education at launch points would go a considerable way in educating and changing a culture that had developed over many years.

Discussions included:

- The Exmouth masterplan should supply these facilities and the need to look at the wider area for access to the sea for PWCs
- Amend the bylaws to include Shelly beach
- The need for a patrol boat to police the water

**RESOLVED:**

that a consultation be carried out to gain useful information and an understanding of the issues of uses of the beach and slipway at Belshers Slipway and Shelly Beach. This is so the Council could consider whether making a Public Spaces Protection Order to deal with alleged issues of nuisance and annoyance from the residents at Exmouth Quay was reasonable, proportionate and justified as required under the legislation.

**REASON:**

There was a statutory requirement to carry out consultation before imposing a PSPO on an area to which the public have access.

**\*48 Monthly Performance reports - May 2015**

The Cabinet considered the report of the Strategic Lead - Organisational Development and Transformation setting out performance information for the May 2015. This allowed Cabinet to monitor progress with selected performance measures and identify any service areas where improvement was necessary.

Two indicators showed excellent performance, namely:

- Percentage of planning appeal decisions where the planning inspector has disagreed with the Council's decision
- Percentage of non-domestic rates collected

One indicator showed concern:

Working days lost due to sickness absence – The sickness absence was considered by June Cabinet, outlining the current issues that had caused the increase in absences. Further work would be undertaken if this trend continues.

**RESOLVED:**

that the progress and proposed improvement action for performance measures for the May 2015 be noted.

**REASON:**

The performance reports highlighted progress using a monthly snapshot report; SPAR report on monthly performance indicators and system thinking measures in key service areas including Development Control, Housing and Revenues and Benefits.

**\*49 Environmental Protection Team reorganisation**

The Strategic Lead – Housing, Health and Environment highlighted the changing priorities that were emerging through the work of the Environmental Protection team and proposed; as part of the Council's transformation agenda, a new team structure to ensure that the best possible use of resources in dealing with antisocial behaviour could be made.

**RESOLVED:**

that the following new Environmental Protection team structure be approved:

1. Establish an additional Technical Officer post to act as the team's lead officer in Anti-Social behaviour, supporting housing officers and the Police on request. Cost: £31,200.
2. Utilise recent efficiency savings arising from the voluntarily reduced working hours of the Community Safety and Antisocial Behaviour Coordinator, one Technical Officer and one Environmental Health Officer. Saving: £18,800.
3. Enhance the use of the clause in the kennelling contract, which required the collection of found dogs during the working day on request. We predict that the net additional cost would be in the region of £3,000.
4. Extend dog control duties so that more of staff were empowered to deal with dog-related anti-social behaviour and, where necessary, to serve fixed penalty notices, delete the dog warden post and return/reallocate the lease van. Saving: £29,597
5. Provide training and management support for other field-based council officers to provide advice, education and evidence gathering for dog-related anti-social behaviour. Net saving: £14,200

In the first year, there would be redundancy costs associated with the deletion of the dog warden post. This cost would be around £6,000 reducing the first year saving to £8,200.

**REASON:**

To make the best use of enforcement resources to protect the wellbeing of residents affected by anti-social behaviour.

**\*50 Seaton Town Hall**

Carol Manley spoke on issues not included in the report such as the Town Hall's justifiable debt; it had no other debts or loans, the £80,000 spend on equipment, the creation of jobs and the £200,000 spent in the local economy from visitors to the Town Hall events. She spoke of the value to Seaton and the civic pride of its Town Hall. There was a need for a phased withdrawal and the need for the Council to support them through this.

Cllr Knight thanked Seaton Voice and asked if the eight car parking spaces were included in the transfer. These were part of the overall car parking review in Seaton so the Town Hall did not know whether these spaces would be included. Cllr Hartnell said this was a positive transfer not just for Seaton but all of East Devon, as visitors would stay locally. The Portfolio Holder, Sustainable Homes and Communities formally thanked Seaton Voice for all their hard efforts to transform this asset. The question of an overage clause was raised with assurance given that there was in place that would taper downwards over the years.

The Principal Estates Surveyor's report requested consideration of the possible transfer of Seaton Town Hall, Seaton to Seaton Town Council. The community group, Seaton's Voice currently leased and managed those parts of Seaton Town Hall that were not let to the Town Council or Museum. During their tenure, Seaton's Voice had greatly increased their use of the premises and it was now a vibrant entertainment and community hub. It had also reduced the Council's burden of subsidy significantly. By way of example, the total net cost of the Hall 2009/10 was £122,159. The net cost 2014/15 was £14,798.

Members were asked to consider a proposal to transfer Seaton Town Hall to Seaton Town Council at nil consideration. The transfer would be supported by EDDC with a phased withdrawal over a two year period, with financial support provided in year one and

professional property support remaining in place in year two. Seaton's Voice and the Museum would become the tenants of the Town Council: negotiations between the two parties were already underway.

**RESOLVED:**

that Seaton Town Hall be transferred to Seaton Town Council subject to the terms set out in the main body of the report.

**REASON:**

This would be an opportunity to place this public building in the hands of the local community. This would ensure its future as a public building was protected to provide for the needs of the town council, local residents and visitors.

**\*51 Electoral Review Programme 2015 – 2019 and EDDC Polling Districts**

The Chief Executive informed Cabinet of a proposed Electoral Review to be conducted by the Local Government Boundary Committee for England commencing in September 2016 and to consider what advance activities could be carried out. The review of polling districts and polling places would be undertaken pursuant to the Electoral Administration Act 2013.

The Local Government Boundary Commission for England (LGBCE) periodically carried out electoral reviews of Council areas in England, either on request, or where it had identified levels of electoral imbalance that were unlikely to be rectified through foreseeable changes to the electorate. There was nothing unusual in this: more often than not, it was a consequence of communities growing over the years in response to development pressure. The new town of Cranbrook was a case in point. Cabinet had been advised at its June meeting that the Council had been consulted on the electoral review that the LGBCE has been undertaking in respect of Devon County Council.

The Chief Executive informed Cabinet that the Overview Committee would now undertake the scoping work as it needed a wider ownership.

**RESOLVED:**

1. that the Overview Committee undertake the initial investigation and scoping work to ensure the Council had assessed possible options prior to the LGBCE electoral review commencing in September 2016.
2. that a review of polling districts and polling places be undertaken.

**REASON:**

To ensure the Council is well prepared in advance of the LGBCE Electoral Review and that the Council complies with statutory requirements.

**\*52 Monitoring of formal complaints 2014/15**

The Information and Complaints Officer considered the Council's responses to complaints which reach stage 2 of the formal complaints procedure, and prepared responses for consideration by the Monitoring Officer so that a response could be given. In most cases, a complaint which reached stage 2 indicated that the complainant had already received a response from the service manager and remained dissatisfied.

If a complainant was still dissatisfied after the stage 2 consideration, they could refer their complaint to the Local Government Ombudsman.

Complaints about Housing matters (excluding complaints about the housing register and allocations) are referred to the Designated Tenant Complaint Panel and then to the Housing Ombudsman if a complainant remained dissatisfied.

Complaints and compliments were regularly considered by Cabinet and appropriate action taken, including learning from mistakes.

**RESOLVED:**

that Cabinet considered the nature of complaints dealt with and learning points arising.

**REASON:**

To continue to improve the way the Council handles, and learns from, complaints.

**\*53 Local Government Ombudsman complaints 2014/15**

The Information and Complaints Officer provided information on complaints referred to the Local Government Ombudsman during 2014/15.

The Council had received the annual summary of statistics on the complaints made to the Local Government Ombudsman during the year 2014/15. 41 complaints were received by the Ombudsman during the year of which 34 were decided (closed) by the Ombudsman. Three complaints were upheld during the year. In each case, the Ombudsman found no fault in process but upheld the complaints on the basis of delays in responding to correspondence in each case.

The Ombudsman had provided a link to a useful training resource for Members in complaint handling. Members were encouraged to read this information and to contact the Information and Complaints Officer if they had any queries.

**RESOLVED:**

1. that Cabinet noted the number of complaints dealt with and their outcomes
2. that Members take advantage of the training resource provided by the Local Government Ombudsman.

**REASON:**

To continue to improve and learn from the way complaints are handled.

**\* 54 Freedom of Information Act requests 2014/15**

The report of the Information and Complaints Officer provided information on requests received under the Freedom of Information Act (and Environmental Information Regulations) between 1 April 2014 and 31 March 2015. It also considers the subject matter and origin of requests.

486 requests have been dealt with under the Freedom of Information Act (Environmental Information Regulations) during the year 2014/15.  
This figure has fallen slightly from 563 in 2013/14.

There continued to be a trend for requests originating from commercial organisations asking questions relating to Council contracts. There also continued to be a steady rise in the numbers of local search companies requesting data in connection with house-sales through the Environmental Information Regulations. If a person making a request felt dissatisfied with the way the Council had responded to a request for information, they had the right to complain to the Information Commissioner (ICO). Two decision notices were issued in

respect of complaints to the ICO during 2014/15. One was not upheld and the other was upheld in part.

Although the volume of requests had decreased this year, the complexity of some of the requests received continued to be an issue in terms of pressure on resources. The Council remained committed to publishing as much information as possible on the website, particularly in relation to key major projects.

To this end, a number of key documents had already been published in an online project archive dedicated to the office re-location project. Continued work to get through these historic documents with a view to publishing all information up to December 2014 was underway. The aim was to publish documents in full where practical to do so.

**RESOLVED:**

that Cabinet noted the number and type of requests received under the Freedom of Information Act during 2014/15.

**REASON:**

To continue to improve the way requests for information were dealt with.

\*55 **Review of FOI decisions**

The Strategic Lead - Legal, Licensing and Democratic Services highlighted the purpose of the report was to review two recent requests for information (the Freeman and Woodward cases), one that had resulted in findings of breach for not complying with the statutory timeframes and both of which had contained adverse comments about the conduct of the Council. The report considered whether there were lessons to be learnt or changes to procedures that were required to prevent the same from happening again. He emphasised the need for the Council to demonstrate presumption in favour of releasing information.

**RESOLVED:**

that the content of the report be endorsed and the following accepted and agreed;

1. That the Legal Department ensure that the quality of bundles being provided for legal proceedings are thoroughly checked before issue.
2. That the tone / content of letters issued in context of legal proceedings be considered more carefully.
3. That there will be full engagement with any investigation of the ICO into an appeal they are considering.
4. That the Council seek to ensure that appropriate advice and assistance is given to FOI requesters where the scope of their request is unclear.
5. That the Council will seek to ensure that each request is considered on its own merits, and answered in accordance with the legislative requirements in terms of providing justified reasons for withholding information.
6. That there is a stated presumption in favour of releasing information (in support of the Council's transparency aims) although acknowledging that in appropriate cases withholding information for legitimate reasons is still acceptable.
7. That on contentious or sensitive matters the views of an officer peer are obtained before a final decision on withholding information is made.
8. That additional resource was agreed to ensure sufficient resourcing for dealing with complaints and FOI requests across the Council's functions.

**REASON:**

The recommendations were appropriate steps to take for the reasons set out in the report.

**\*56 Sustainable Communities Act**

The Council took advantage of the opportunity presented by the Sustainable Communities Act during 2009 to generate proposals from communities which contributed to the sustainability and wellbeing of local areas. Members decided to take part again in 2013. However, neither proposal was accepted by national government. For this and several other reasons outlined in the report, it was recommended that the Council did not take part in the Act again.

**RESOLVED:**

that the Council no longer gathers in proposals under the Sustainable Communities Act, but instead promotes the national government 'Barrier Busting' website.

**REASON:**

that the Council does not take part in the Act again for several reasons:

- Involvement was not essential. Communities had the opportunity to submit suggestions directly to government using the Barrier Busting website: <https://barrierbusting.communities.gov.uk/>
- The two proposals that were eligible in 2014 came from national organisations that then sought communities at the local level to champion them. Neither of the two eligible proposals actually came initially from East Devon communities.
- It was resource intensive in terms of officer time to gather in the proposals and then go through the lengthy approval process, both times without a positive outcome.
- It falsely raised the expectations of the community and community representatives. The Council had no control over whether national government decided to take action on suggestions put forward, but its reputation could be damaged.
- The parameters were clearly explained but the majority of proposals put forward by the community were not eligible. Taking part in the Act was optional. The vast majority of other district councils nationwide were no longer taking part in the Act for similar reasons.

**57 Hackney Carriage and Private Hire Licensing – Proposed Licensing Fee Increases 2015**

The Licensing Manager's report showed the current fee structure in respect of Private Hire and Hackney Carriage licensing fees charged by East Devon District Council and sought authority to increase those fees from 1 October 2015, in order to continue to recover the cost to the Council for carrying out its regulatory responsibilities.

**RECOMMENDED:**

that the proposed licensing fees set out in Appendix A of the report for Hackney Carriages and Private Hire Licences be recommended for approval by Full Council and

1. that the proposed scale of fees be introduced from the 1 October 2015 for both private hire and hackney carriage licences;
- 2a. that notice be given in accordance with Section 70(3) of the Local Government (Miscellaneous Provisions) Act 1976 of the proposed variation of licence fees determined by the Council for this year;
- 2b. that should objection be received resulting from the notice and not withdrawn, delegated authority be granted to the Chief Executive in consultation with the Leader of the Council

- i. to consider the objection(s) as provided by Section 70 and;
- ii. to set a further date not later than two months after the first specified date on which the variation should come into force with or without modification.

**REASON:**

To enable the District Council to continue to recover the cost of carrying out its responsibilities concerning the licensing of Hackney Carriage and Private Hire vehicles, drivers and operators.

**Attendance list**

**Present:**

Paul Diviani                      Leader/Chairman

**Portfolio Holders:**

Andrew Moulding	Deputy Leader/Strategic Development and Partnership
Tom Wright	Corporate Business
Iain Chubb	Environment
Ian Thomas	Finance
Jill Elson	Sustainable Homes and Communities
Phil Twiss	Corporate Services
Philip Skinner	Economy

**Cabinet Members without Portfolio**

Geoff Pook  
Eileen Wragg

**Cabinet apologies:**

None

**Also present:**

**Councillors:**

Mike Allen  
Megan Armstrong  
Brian Bailey  
David Barratt  
Dean Barrow  
Matt Booth  
Peter Bowden  
Colin Brown  
Peter Burrows  
Paul Carter  
Maddy Chapman  
Alan Dent  
Peter Faithfull  
Cathy Gardner  
Pat Graham  
Alison Greenhalgh  
Simon Grundy  
Maria Hale  
Steve Hall

Marcus Hartnell  
John Humphreys  
Ben Ingham  
Geoff Jung  
Jim Knight  
Dawn Manley  
Cherry Nicholas  
John O'Leary  
Helen Parr  
Val Ranger  
Marianne Rixson  
Pauline Stott  
Mark Williamson

**Also present:**

**Officers:**

Mark Williams, Chief Executive  
Richard Cohen, Deputy Chief Executive  
Simon Davey, Strategic Lead - Finance  
John Golding, Strategic Lead – Housing, Health and Environment  
Henry Gordon Lennox, Strategic Lead – Legal, Licensing and Democratic Services  
Karen Jenkins, Strategic Lead – Organisational Development and Transformation  
Darren Summerfield, New Community Projects Officer  
John Tippin, Licensing Manager  
Janet Wallace, Principal Environmental Health Officer  
Amanda Coombes, Democratic Services Officer

**Councillor apologies**

**Non Cabinet:**

David Chapman  
Alan Dent  
David Foster  
Steve Gazzard  
Roger Giles  
Ian Hall  
Mike Howe  
Brenda Taylor

**Officer apologies**

None

Chairman .....

Date.....