

**MINUTES OF A MEETING OF LYMPSTONE PARISH COUNCIL HELD AT 7.30PM ON MONDAY**  
**7<sup>th</sup> October 2019 IN THE VILLAGE HALL.**

PRESENT:	
<b>Councillors</b>	D Atkins, C Ducker, K Hill, K Rogers and D Young.
<b>Clerk</b>	Miss L Tyrrell
<b>County Councillors</b>	J Trail, R Scott
<b>District Councillors</b>	G Jung
<b>Public</b>	20 members

The Chairman welcomed all present and reminded the public they had three minutes to speak on any item on the agenda and invited members to participate.

**Public Session**

Mrs Lyons explained that the 'Living in Lymptone' event had been a huge success with 35 different village groups taking part including lots of children's activities. She added that the next village event would be the 75<sup>th</sup> VE Day Anniversary in May 2020. She requested the PCs permission to hold an event and use the village hall which was unanimously granted. Mrs Lyons also requested a new community hub liaison Councillor as Mrs Clark was no longer a Councillor. It was unanimously agreed that Cllr Hill would do this.

A resident queried the cars parked on the road for the football club on a Saturday morning. She added that there was solid traffic parked along the road with no space for other road users to pull over. She explained it was very dangerous. The Chairman suggested an email would be sent to Mr Webster of LFC to explain that this was unacceptable and to speak to their members about parking.

*RESOLVED that the Clerk write to Mr Webster and highlight LPCs concerns regarding cars parked along the road during football sessions.*

Another resident queried the money spent in 'Miscellaneous' and 'Gulliford Burial Ground' sections of the PCs budget. The Clerk explained the money spent under 'Miscellaneous' was the returned grant from the NP review which had been stopped the previous financial year and the money for Gulliford Burial Ground was spent on the rebuild of the fallen wall repair last November. WPC had also matched this spending on Gulliford to get the work completed this financial year. The Clerk reminded all members present that the finance was of the public interest and always readily available for anyone to request to view.

Another resident enquired about the changing of the wording in the 106 Agreement for the Nurseries development from 'Church Car Park' to 'Car Park'. The Chairman replied and explained that this would be discussed under the planning item on the agenda.

**19/62 Apologies:**

Cllr Eastley and District Cllr Ingham.

**19/63 Minutes**

Cllr Atkins proposed the minutes were accurate. Cllr Young seconded. Unanimous.

*RESOLVED that the PC minutes of the meetings held on 2<sup>nd</sup> September 2019 be confirmed as a correct record and signed by the Chairman.*

**19/64 To receive any Declarations of Interest**

None

**19/65 VHMC Proposal of becoming a CIO**

The Chairman read the following statement from the Lymptone Parish Council (LPC) to the Village Hall Management Committee (VHMC):

*Firstly, the LPC wish to praise the current VHMC for all their efforts in managing Lymptone Village Hall on behalf of the people of Lymptone.*

*We endorse their proposal to becoming a CIO as the Trustees of such a charity are not liable for their decisions or lack of oversight in the event of mismanagement, fraud or embezzlement. Note also that a CIO does not need to own the property they manage. Many CIOs are operating successfully without owning any property.*

*We also need to clear up some misunderstandings in documents recently produced by VHMC:*

- The VHMC does not, indeed cannot, own any assets and therefore does not own the Village Hall or the land.
- Indeed, it should not have been included in the VHMC accounts as an “asset”
- The Village Hall is owned by the people of Lympstone and Title is held by LPC as Permanent, not Custodian, Trustee, on the behalf of Parishioners of Lympstone not VHMC

The land was donated to the People of the Parish in 1930.

- From that day, title was held by NCSS as Permanent Trustee on behalf of the Parishioners of Lympstone.
- A Council made up of representatives of local groups was formed to manage the proposed Hall project.
- The original village hall was built and building donated to the Parishioners of Lympstone by Robert Garmondsway Wrightson in 1933.

1977 title was passed from the NCSS to the LPC to hold as Permanent Trustee to hold on behalf of the people of Lympstone.

The Village Hall Council became the charity now known as the VHMC. The word “management” in their name gives a clue to their role.

Over the years the LPC and the VHMC have worked closely together, often with the same people involved in the management of both bodies where some of these misconceptions may have arisen.

LPC is a publicly elected body subject to statute. Any Parishioner can stand to be elected as a Councillor and as councillors we can be held accountable for our decisions and actions, especially the disposal of any title held by LPC as this requires the consent of a clear majority of those residents who are eligible to Vote.

The new CIO will be a Private body answerable only to the Charity Commission (who are still working out how this relationship should be managed) run by Qualifying, as defined by the CIO, Trustees and these Trustees have no liability for the actions. The People of Lympstone’s only right of control is the election of these qualifying Trustees. They have no rights or control and they cannot vote on any actions proposed or taken by the CIO.

CIO will have the right to retain or sell property, subject to the minimal control of the Charity Commission without reference to any other body or person. Indeed, this is Not Allowed by the Charity Commission who wanted to give CIO’s a totally free hand to operate how they wished.

The CIO’s proposed constitution allows it to:

- Borrow money and to charge the whole or any part of its property as security for the repayment of the money borrowed.
- The CIO can sell, lease or otherwise dispose of all or any part of the property belonging to the CIO just by giving notice of its intention to do so.

Therefore, LPC will retain Public title to the Village Hall and land on behalf of the people of Lympstone; a situation that has worked well for nearly 90 years.

If the VHMC persist in their demand, the LPC will hold a public meeting for the Parishioners to attend to vote on a proposal for a potential survey of all the electorate on a change in title.

However, to dispose of any Public Title, the LPC is required to receive signed affidavits or equivalent from more the 50% of the electoral population of Lympstone requesting the LPC to do so. A donation of title to a Council is meant to be in perpetuity.

We repeat, unless the LPC is in receipt of clear documented instructions from the people of Lympstone to do otherwise, your LPC will continue to retain public Title as your Councillors cannot just vote to pass Title into the Private Ownership of any organisation or charity however well meaning.

Cllr Hill outlined the conveyance document regarding the Village Hall. He stated the LPC position was based on the original 1930’s document where title had been conveyed to the NCSS as permanent trustee and in 1977 this was passed to the LPC.

Cllr Hill added that the LPC held the VH title on behalf of the people of Lympstone as a publicly elected body, subject to statute and could not dispose or mortgage the property without the people’s consent. Cllr Hill stated that title was only conveyed to the NCSS to hold permanently on behalf of the people of the Parish and was never intended to be given to the Village Hall “Council” and that the LPC hold title on behalf of the people of the Parish not the VHMC.

Mr Mildenhall and Mr Wilson represented the VHMC and conveyed that with the advent of the Charities Act 2011 and the proposal to become a CIO title could now be passed to the control of the trustees of this new organisation. They had sought legal advice and had spoken to a senior advisor of a leading solicitor in property and charity law.

Mr Wilson added that as there were two very opposing positions, a further meeting was necessary to discuss matters in more detail once the LPC had sought their own legal advice. A resident spoke and explained that when he was on the PC the VHMC could only run the Village Hall and could not own it. It is a hall belonging to the Village and the PC should hold the deeds to the land and property.

Another resident asked why the VHMC would want to change the current situation. Mr Mildenhall responded and explained that the VHMC wanted to encourage younger trustees to join and the unincorporated situation could hold people personally liable. The new structure limited the liability. It was VHMC expectation to protect current and future trustees. The language of constitution was outdated and did not reflect current legislation. The new documentation provided greater personal protection.

Another resident added that as a CIO you could choose to own or not own the property and land. Cllr Hill gave examples of how other CIOs had worked well without owning the land and property.

Mr Wilson suggested the LPC take detailed legal advice.

A resident asked that the car park had just been retarmacked by the PC. What was to stop the VHMC from charging for use of the car park.

Cllr Atkins added that a lot of the documents had been mislaid due to the change of Clerk. He suggested the PC sought legal advice and hold a public meeting. He believed that at least 50% of the residents of the Parish needed to agree to this change. This was unanimously agreed by the PC.

*RESOLVED that the Clerk contact and receive appropriate legal advice from LPCs legal team on this matter.*

*RESOLVED that the Clerk add the questions previously asked to the VHMC to the minutes and include the VHMC responses. (see Appendix 1)*

Cllr Atkins added that the people of the parish would like a public meeting.

#### **19/66 Clerk's report:**

The Clerk welcomed back Mr Carter to the PC who wished to stand again as a Parish Councillor. She reminded all present that there were still four vacancies on the PC.

##### **19/66.1 External Audit Report**

The Clerk read the External Audit Report and gave the public notice received from LFK Littlejohn, external auditors and recommendations. She added that all documents were available to the public to view online and hard copies could be requested for £2 from the Clerk. Cllr Atkins proposed that this was accepted by the PC. Cllr Rogers seconded. Unan.

*RESOLVED that the External Audit report and recommendations were noted and agreed.*

##### **19/66.2 LFC Contract**

The Clerk asked the PC to agree the terms of the LFC contract for using the PCs fields from the last meetings amendments. Cllr Rogers proposed the terms of the contract were accepted. Cllr Young seconded. Unan.

*RESOLVED that the Clerk send the contract to LFC.*

##### **19/66.3 Grant of Permission for a temporary Right of Access**

The Clerk asked the PC to agree the terms set by LPC for a motorised vehicular access over the Green. Cllr Atkins queried the £1 peppercorn rent and believed it should be more. He added that he understood it should have been dealt with previously but felt £100 would be a more realistic charge. Cllr Hill explained that an annual parking permit in the public car park is approximately £40. He added that SWW maintain this area and felt £100 was excessive.

Cllr Young proposed to agree the terms written. KH seconded. Unan.

*RESOLVED that the Clerk send the contract to the owners of the vehicle using the access over the Green.*

#### **19/66.4 Correspondence Received**

The Clerk read the correspondence received:

Highstone Grove:

17<sup>th</sup> Sept 19

Dear all,

*This email is from the Scotts, Watchams and Pollintines, the three residents at Highstone Grove (in the case of the Pollintines, residents-to-be).*

*We want to inform the parish council of an issue that has emerged with the drainage from our site. We're aware that, well before we moved here, there was much debate about the drainage solution that ultimately was signed off. We also know that there has been lingering doubt that the solution is not working as designed. As residents we are determined that our drainage solution must be functioning correctly and causing no risk or inconvenience to any other residents in the village. We also want to be absolutely transparent with the parish council.*

*Our properties have an attenuation tank that limits the rate of flow of surface water from our properties into the combined sewer. We've discovered that, due to an error at the time of installation of the pipes upstream of the tank, the solution is not working as intended. We have reported the problem to KD Homes whose contractors carried out the installation. KD Homes has immediately put back onsite the contractors who carried out the installation, who are currently working to rectify the fault.*

*After the remedial work, we residents will ensure that the solution is tested to ensure it is working as intended, and that it secures the appropriate sign-offs.*

*We'd be very pleased to have a meeting with the relevant parties from the parish council to explain in detail the fault that has emerged, and the plan to rectify it. If so, please could you let me know, and we will arrange a time.*

*Many thanks,*

*Dougal Scott , 2 Highstone Grove*

Cllr Atkins updated all members that the attenuation tank had been pumped and flushed out, however, he did not accept that the attenuation tank would be completely clear of foul water. He had written to EDDC regarding this matter and was awaiting a response. He added that the residents were currently waiting to test the tank and he would continue to update the PC on their findings.

Advertising posters:

17<sup>th</sup> Sept 2019

Dear Lucy,

*I have been asked by our committee to write to update you. There are still issues with current posters being taken down by outside organisations (such as the Blackmore Theatre) and their own posters put up in their place.*

*Even on our own noticeboard under the railway arch, which clearly states that it is not for outside organisations, an Exeter business recently put their poster there.*

*Does the Parish Council have any suggestions for dealing with this problem?*

*Kind regards, Mary*

Cllr Ducker felt that outside organisations needed to be made aware that they were not able to advertise in the Parish. She believed the posters should be removed and return to the original owner.

A resident suggested that they got mailed back and the owner was informed of advertising in the Herald instead.

Another resident added that perhaps the PC 'fly posting' notice should be updated.

Cllr Ducker proposed that the posters were returned with a note to advertise in the Herald instead. Unan.

**RESOLVED** that the Clerk remove and return posters that did not advertise events/activities held in the Parish.

#### **19/66.5 Locality Budget Application**

The Clerk explained that she would be applying for a locality grant from DCC of £900 for remedial works in Candy's Field and a new bench.

*RESOLVED that the Clerk include the 3-seater bench (at £315.00 plus VAT) in the application and purchase once approved.*

**19/66.6 Able Community Care**

The Clerk explained that 'Able Community Care' door stickers and information regarding support for the elderly had been received. She added that if anyone in the community would like some of this information for a group or individual who may benefit, then to contact her directly.

**19/66.7 Finance - Payments / Financial summary / Budget report**

Cllr Rogers proposed and approved the financial summary and budget report was a true and accurate account. Cllr Young seconded. Unan.

*RESOLVED that the following payments be approved:*

**Payments (September 2019):**

02/09/19	2613	Zurich Insurance				£1,543.68
02/09/19	2614	South West Water Business REF: 2151970901				£121.49
02/09/19	2615	Eric's Knob and lock shop - Ladies toilet door				£120.00
02/09/19	2616	EDDC - Litter bin and dog bin emptying				£525.00
02/09/19	2617	Mrs C Edworthy - Wages August 2019				£242.73
02/09/19	2618	Miss L Tyrrell - wages August 2019				£873.07
02/09/19	2619	Miss L Tyrrell - expenses August 2019				£89.39
02/09/19	2620	HMRC - NI August 19				£21.01
02/09/19	2621	Lympstone Methodist Church Hall Room Hire (LFRG)				£25.00
02/09/19	2622	Trinity Plant Hire				£300.00
02/09/19	DD	PLUSNET ref: 3453454-1				£39.98
04/09/19	DD	EDF - Lights in toilets REF: 671024465401				£16.00
11/09/19	2623	A Western				£487.50
11/09/19	2624	FOGBG prints				£35.00
11/09/19	2625	Community Hub - VH room hire				£162.00
16/09/19	DD	EDF ENERGY CUST PLC REFERENCE: 9208111111				£69.68
16/09/19	DD	EDF ENERGY REFERENCE: 671079829135				£34.00
16/09/19	DD	EDF ENERGY REFERENCE: 671079829166				£56.00
30/09/19	DD	PLUSNET ref: 3453454-1				£39.98

**Receipts (September 2019):**

02/09/2019	FPI	EDDC - Precept				23,396.00
03/09/2019	FPI	Herald Advert - Baker Zoe				6.00
04/09/2019	FPI	Herald Advert - Burman Judith				15.00
06/09/2019	FPI	Herald Advert - Acca				135.00
11/09/2019	500402	Herald Advert - Morgan				45.00
17/09/2019	FPI	D Young - Reimbursement of Bespoke Web				114.50
20/09/2019	FPI	ORCHARD MEMORIALS - SMITH				140.00
29/09/2019	FPI	Herald Advert - Walters Adrian				250.00

**Financial summary (September 2019):**

Opening balance 1/4/19:	<b>59,756.00</b>
Total receipts as of 30th September 19:	<b>109,887.04</b>
Total Payments as of 30th September 19:	<b>41,910.54</b>
Running balance as of 30th September 19:	<b>67,976.50</b>

**Budget Monitoring (September 2019):**

Expenditure				
Code	Item	Budget	Spent	Balance
10	VAT	£5,000.00	£1,030.60	3,969.40
100	S137 *	£500.00	£0.00	500.00
101	Other Grants	£1,000.00	£531.94	468.06
201	Clerk's Salary	£10,000.00	£5,211.54	4,788.46
202	Clerks Expenses	£800.00	£457.58	342.42
203	Office expenses	£1,200.00	£397.11	802.89
208	Village Hall Hire	£0.00	£0.00	0.00
209	Miscellaneous	£500.00	£0.00	500.00
301	Chairman's Allowance	£150.00	£0.00	150.00
302	Subs	£600.00	£452.78	147.22
307	Courses, Travel etc	£500.00	£250.00	250.00
308	Insurance, Audit, Elections	£3,500.00	£2,043.68	1,456.32
313	Miscellaneous inc Beacon bonfire	£500.00	£6,995.47	-6,495.47
400	Herald Printing	£4,500.00	£2,457.00	2,043.00
602	Grass Cut	£4,000.00	£2,762.50	1,237.50
605	Other Maintenance	£1,000.00	£1,328.00	-328.00
608	General tree work inc Candys Field	£500.00	£230.00	270.00
612	Bin emptying	£500.00	£686.67	-186.67
616	Handyman	£4,000.00	£492.50	3,507.50
618	Notice Boards - Maintenance	£100.00	£0.00	100.00
633	Play Equipment Mtce	£1,000.00	£89.50	910.50
640	Lighting in Candy's field	£600.00	£394.27	205.73
701	Toilets inc: wages, consumables, rates, etc, utilities, repairs	£5,600.00	£2,393.80	3,206.20
702	Flood equipment and Maintenance	£500.00	£13.98	486.02
703	LFRG expenses	£500.00	£121.44	378.56
706	Gulliford Cemetery	£800.00	£9,260.00	-8,460.00
800	Burial Ground	£500.00	£125.00	375.00
1101	Youth Club Building Maintenance	£1,000.00	£283.03	716.97
1102	YC Utilities	£2,000.00	£747.18	1,252.82
1300	Website etc	£400.00	£538.00	-138.00
1400	Adverse weather	£200.00	£30.00	170.00
1500	Gully cleaning and jetting	£2,000.00	£0.00	2,000.00
2100	Parishes Together	£1,500.00	£1,575.00	-75.00
2300	Community Hub Projects	£0.00	£1,303.01	-1,303.01
2400	Cont to repairs to VH Car Park	£500.00	£0.00	500.00
2500	DCC Funding	£0.00	£0.00	0.00
2600	YC Recharge	£0.00	£0.00	0.00
	Total	£50,950.00	£41,170.98	£9,779.02
	Add VAT		<u>£1,030.60</u>	
	Total		£42,201.58	

**19/66.8 Clerk's Action List**

*RESOLVED that the Council received and noted the Clerk's action list.*

**19/67 Reports from the Chairman, East Devon District Councillors and Devon County Councillors**

The Chairman reported that the missing Exeter road sign on Burgmanns Hill would be reinstated. The Chairman sadly added that the Village had been subjected to much vandalism, the Clerk had reported it to police and had requested a heightened police presence in the Parish. The Chair reminded all present to be extra vigilant, keep yourself safe and report any vandalism immediately to 101. She added that due to vandalism the Gents public toilet had been closed and the Ladies was currently being used as a unisex facility in the interim. Quotes were currently being received to modernise the entire toilet block. The Chairman proposed that a wreath was ordered in readiness for Remembrance Sunday. Unan agreed.

*RESOLVED that the Clerk order a wreath on behalf of the PC from the British Legion.*

The Chairman also announced the PC dinner was booked at the Redwing on 15<sup>th</sup> November. She invited all members of the Council and Public to attend. She explained if anyone was interested in attending then to contact Cllr Atkins directly who would be organising it. The menu choices and cost would be found at [www.lympstone.org](http://www.lympstone.org). Finally, the Chairman thanked all the Councillors for their constant hard work over the last couple of months. There had been a lot of meetings and decisions made for different causes. She also thanked the Clerk, who the Chair felt, not only served the PC but the Parish as a whole. The Chair proposed a shredder was purchased for the Clerk to use for work. Cllr Hill added that he would be able to provide one at no cost to the public. Unan.

District Cllr Jung reported that he had spent a lot of time looking into the planning applications in the Parish and wanted all members to know he would support the PC in their recommendations. Cllr Jung wanted to work more closely with LPC on planning applications received and support their points of views. He was happy to discuss planning applications further with LPC. He explained that the planning application for Chatterpark was ongoing with Heritage at EDDC involved. Heritage had suggested the property was worth keeping but not listed. He added that individuals could write to planning with their concerns of keeping a property with historical assets and they would be considered. He added that Tadpoles was also taking time to consider as, although you could object to developments blocking light, you could not object to sun blocking solar panels. However, he believed this could be an area of contention considering future climate change. Cllr Atkins referred to East Devon's own householder planning document where he pointed out it clearly stated that a semi detached bungalow should not be built up. He believed if the application was approved it would become a two-storey building and block light to the adjoining property.

County Cllr Trail explained that the proposed road sign for Gulliford burial ground had been cleared by Highways and now needed to be applied for. He asked that the sign dimensions were submitted to DCC signage department. Cllr Trail explained that DCC with the Armed Forces had unanimously agreed to the Veterans Pledge. Plymouth MP Johnny Mercer was the representative. Cllr Trail informed all that the Devon Safer Together proposals were now closed, and future meetings had been put back. Nothing would be implemented until April 2020 at the earliest. Cllr Trail was pleased to report that the organised Exe Estuary clean-up had seen 120 people turn up and get involved. There would be another clean up organised along the Exe Estuary Trail, between Exmouth and Exton, in due course.

Cllr Atkins asked County Cllr Scott why the streetlight poles were being replaced as he felt it was a waste of money. County Cllr Scott explained that the new poles were necessary because they contained the updated electrical system required. He also added that the streetlights outside of pre-school were not DCC property.

Before the next item began, the Chairman interjected and requested permission to continue the meeting for an additional half hour. Unan.

**19/68 Planning Applications**

**19/1974/FUL** - Proposed extension and external decking area and internal alterations at the Saddlers Arms.

Cllr Young proposed that the application was supported subject to the culvert work completed. Cllr Atkind seconded. Unan.

*RESOLVED that the Clerk submit the recommendation from LPC to EDDC.*

**19/2006/VAR** - Variation of condition 4 (staircase to be built in timber) of application 17/2198/FUL to allow a metal staircase at 8 Birch Road.

Cllr Rogers proposed to support the application. Cllr Atkins seconded. Unan.

*RESOLVED that the Clerk submit the recommendation from LPC to EDDC.*

**19/2050/FUL** - Construction of single storey rear and side extensions with 1st floor balcony and a roof terrace at 42 Jackson Meadow.

Cllr Rogers proposed a site meeting. Cllr Ducker seconded. Unan.

*RESOLVED that the Clerk arrange a site meeting before submitting a response from the PC to EDDC.*

**19/2012/FUL** – Construction of garage at Candys.

Cllr Young proposed to support the application. Cllr Atkins seconded. Unan.

*RESOLVED that the Clerk submit the recommendation from LPC to EDDC.*

**19/1801/FUL** – Amended plan for Demolition of Highcliffe Bungalow and Highcliffe Mews, and construction of one replacement dwelling at Highcliffe.

Cllr Atkins proposed to support the amended plans. Cllr Young seconded. Unan.

*Recommendation:* Support the amended plans. LPC have major concerns of the dangerously leaning wall out towards the highway at the boundary of the property.

*RESOLVED that the Clerk submit the recommendation from LPC to EDDC.*

#### **106 Agreement at Lymstone Nurseries regarding Open Spaces**

The Chairman explained that a meeting had been called by the developer and landowner regarding the open spaces at the Nurseries Site. She added that the PC would receive all the open space land then immediately transfer the car park and access road to the car park to the Church of Lymstone. The PC would only be responsible for maintaining the Green area.

A resident asked about the routing of the traffic to and from the development and whether consideration had been thought about regarding the traffic entering the village. He suggested possibly re-routing the traffic involved with the development down Strawberry Hill.

District Cllr Jung added to be aware of passing land to the Church. He had known of another Parish who had done this, and the Church changed the use of the land and built on it. The Chairman explained that the PC would ensure this was not permitted and clearly written in the agreement between the PC and Church.

Another resident asked if the car park would be of use by anyone and the Chairman reiterated it was just for the church.

Another resident asked for the cost of the access road and car park. Mr Salter (Developer) explained that the church would contribute towards the cost of it. He added that all the land that came to the PC would be at no cost. Cllr Hill added that the land that was passed to the PC was then leased to the Church, but the solicitors would advise best.

A resident added that the PC leased the pre-school to the LLA with a clause that if there was a change of use then the PC had the right to claim it back. He suggested that it could also be applied to the church as a safeguard.

Another resident asked that if the Church contributed towards the parking and road then they would have ownership over the land.

Mr Russell (Landowner) explained that the village green was for the PC and the car park was for the church. Mrs Russell (Landowner) reiterated that the car park and road stayed with Lymstone Church and if the Church closed then it would be returned to the PC.

The Chairman proposed the PC moved forward and sought legal advice. Cllr Young seconded. Unan

*RESOLVED that the Clerk arrange legal advice with PC solicitors.*

#### **19/69 EDDC Planning decisions**

*RESOLVED that the EDDC decisions were noted.*

#### **19/70 Toddler Play Area and Activity Trail**



The Chairman explained that the areas needed modernising and made more interactive. She added that the youth of the village would be asked to contribute their ideas. She thanked Mrs Moffett for her ideas regarding ways forward and funding possibilities.

A resident asked if the new play areas could be moved as currently, they were in quite a boggy part of the field.

Cllr Atkins felt the treed did hinder the play areas, but they were due work at the end of October. The Chairman proposed that we get the school involved and ask for their designs and ideas of both areas in their entirety. Unan.

*RESOLVED that the Clerk to contact J. Buckley at EDDC to arrange a meeting with the school to design the children's play area and activity trail.*

#### **19/71 Matters raised by Councillors**

**Facilities and Estates** – Cllr Atkins requested that his report was moved to an earlier item to be discussed at the next PC meeting. He was especially concerned with overgrown and overhanging hedges in the Parish. He was also very concerned with leaning boundary walls towards the roadside. The example he gave was the property 'Sowden House'. Cllr Atkins proposed that enforcement letters should be sent to owners of offending properties and land. Unan.

*RESOLVED that the Clerk send enforcement letters.*

*RESOLVED that the Clerk add Cllr Atkins paper report as a separate item to next month's agenda.*

#### **Communications**

**Transport, Parking and Planning** – Cllr Hill reported that he had attended the Exe Estuary Forum at Powderham Castle and had been asked to inform and update any misuse of the estuary and its effect on preserving the nature e.g. abandoned boats, speeding water users, offensive Exe Estuary Trail users. He added that it had been a most interesting and useful forum.

#### **19/72 Matters raised by Councillors**

None

Meeting closed **9.35pm**

Chairman:

Date:

## Appendix 1:

### Questions to Village Hall Management Committee from Parish Council September 2019

1. What documentation do VHMC have that states that the VHMC own the building and the land as the documentation the PC hold (1930 Conveyance and Title deeds) Permanent Title was given to the NCSS on behalf of the people of Lympstone?

*The 1930 Conveyance created the charity and appointed a 'Council of Management' to run it (Sch. 2, para 2). Under the Charities Acts, that Council became the 'charity trustees' for that charity as they are responsible for its 'control and management'. NCSS was merely a **holding** trustee, appointed to hold property on behalf of the true charity trustees. The Charity Commission Scheme dated 12.4.1977 appointed the Parish Council as 'custodian' (or holding) trustee in place of NCSS. The Council of Management remained the managing trustees. As such, they 'own' the property, and by law the custodian trustee can only act as directed by the managing trustees.*

2. Why are the VHMC claiming the property and land as an asset in their finances when the charity does not own and cannot hold assets such as property?

*Because the charity is the true owner under the Conveyance and Scheme.*

3. What would the Parishioners gain from changing the charity to a CIO?

*The assurance that (a) the village hall can thrive under a new modern constitution that is fit for purpose and preserves its charitable objects and (b) villagers might be willing to serve as members of the VHMC (and therefore as trustees of the charity) if they knew that they were protected from personal liability.*

4. As a CIO does not need to own the property or land, what is VHMC reason for demanding the ownership of it?

*VHMC is not demanding ownership as it already owns the land as charity trustees (the PC being merely custodian trustees in law, as explained above).*

5. What is VHMC reason for taking the assets from public property ownership to private property?

*It isn't. The status of the assets will remain unchanged.*

6. Why couldn't the VHMC change its status to a CIO without owning the property and land?

*These questions are based on a misunderstanding of the legal status of the charity and its trusteeship. Why should the charity give up what it has already got – other than to a new incorporated charity established for the same charitable purposes? The Council is not a charity.*

7. Could VHMC provide an example of a successful model of a CIO? Including clear evidence of a model where a CIO had been successful in another Parish for more than 10 years.

*Unlikely as CIOs only came into existence in 2013. But there are many examples to be found on the Charity Commission website: just enter 'Village Hall CIO'. One of the first was Broadhempston in 2013 – see <https://www.broadhempstonvillagehall.org.uk/>*

8. Can you detail what controls the charity commission have in place to protect the assets from being sold or borrowed against in the future?

*Charities Act 2011, sections 117 and 124. See link:  
<http://www.legislation.gov.uk/ukpga/2011/25/contents>*

9 Why has LPC been removed as a trustee when they are representing a group from the Parish?

*The Parish Council has had the right to appoint a trustee since the establishment of the village hall charity. It has never been taken away and the current situation is that it is not exercising it. David Atkins has an invitation to attend all the regular VHMC meetings; he receives papers and is a consistent attender; we have treated him as an observer (on the same footing as the village school).*

10 Who are the current trustees of the village hall?

*Don Mildenhall - co-opted (chairman)  
Steve Morgan - co-opted (treasurer)  
Clive Wilson - co-opted (secretary)  
Sally Harradine - co-opted (licensing officer)  
Vicki Drinkwater - co-opted  
Marjorie Brewer - appointed by the Film Society  
Bobby Brunt - appointed by The Women's institute  
Brian Cotton - appointed by the Lympstone History Society  
Anne Crisp - appointed by the Art Group  
Greg Crum - appointed by the Lympstone Players  
[Suki Commmin\*] - appointed by the Lympstone Garden Club  
Paul Harradine - appointed by the Lympstone Tennis Club  
Brian Mather - appointed by Lympstone Entertainments*

*They constitute the Village Hall Management Committee. Trustees are reported to the Charity Commission annually and are viewable online through their search system.*

*\*Suki resigned in September this year.*