

MENDIP DISTRICT COUNCIL

Minutes of the meeting of Full Council held on Friday, 30 April 2021 by Live Stream, commencing at 5.00pm.

COUNCILLORS PRESENT:

Councillor Nick Cottle (Chair)

Councillors Alison Barkshire, Eve Berry, Adam Boyden, Shannon Brooke, Josh Burr, Simon Carswell, John Clarke, Shane Collins, Jon Cousins, Michael Dunk, Michael Gay, Peter Goater, John Greenhalgh, Philip Ham, Francis Hayden, Steve Henderson, Nigel Hewitt-Cooper, Edric Hobbs, Damon Hooton, Chris Inchley, Helen Kay, Garfield Kennedy, Tom Killen, Liz Leyshon, Barbi Lund, Lindsay MacDougall, Matt Martin, Terry Napper, Barry O'Leary, Sam Phripp, Richard Pinnock, Mike Pullin, Tom Ronan, Heather Shearer, Lucie Taylor-Hood, Alan Townsend, Nigel Woolcombe-Adams and Ros Wyke

OFFICERS PRESENT:

Tracy Aarons	Deputy Chief Executive
Richard Bates	Section 151 Officer
Helen Bowen	Democratic Services and Member Support Officer
Stuart Brown	Chief Executive
Dave Burn	Interim Democratic Services Manager
Elizabeth Dawson	Head of Service, Strategic & Special Projects (Programme Lead, Stronger Somerset)
Lesley Dolan	Principal Lawyer & Practice Manager SHAPE Legal Partnership
Ben Sugg	Democratic Services Officer
Jai Vick	Head of Service, Housing Services
Haylee Wilkins	Assistant CEO and Group Manager for Neighbourhood Services

ALSO IN ATTENDANCE:

Manni Musa	Business Development Manager, CIVICA
Melanie Wellman	Corporate Governance Solicitor, Sedgemoor District Council
Max Wide	Transformation Adviser and Critical Friend, Havant Borough Council

Agenda Item	Subject	Actioned by
1	<p>Chair's Announcements</p> <p>The Chair welcomed those present to the meeting highlighting the established rules for virtual meetings. His thought for the day was as follows:</p> <p>Today has seen a terrible tragedy in Israel, with forty-four people being trampled or crushed to death at a religious festival. I ask that we all spare a thought for those who sadly lost their lives and their families at this very sad time.</p>	
2	<p>Apologies for Absence</p> <p>Apologies for absence were from Councillors Rob Ayres, Drew Gardner, Janine Nash, Lois Rogers, Helen Sprawson-White and Laura Waters.</p>	
3	<p>Declarations of Interest</p> <p>Councillors Ham, Hewitt-Cooper, Leyshon and Napper declared that they were Somerset County Councillors.</p>	
4	<p>Public Participation</p> <p>a) Items on the agenda:</p> <p>Mr Andrew Pope and Mr Fletcher requested to speak on item 5, Local Referendum on the Future of Local Government in Somerset. Mr Finch, who had also registered to speak, withdrew his request prior to the commencement of the meeting.</p> <p>Mr Andrew Pope</p> <p>Mr Pope stated that having initially raised this matter in 2020, it was good that the Council was finally agreeing to campaign. However, he felt the two options were terrible and suggested the inclusion of a no change option with the introduction of a modern committee system [of Governance] as opposed to the Strong Leader model.</p> <p>He questioned the sudden change of approach and added that a number of eminent experts in this field were opposed to the Unitary model [of Governance], despite suggestions to the contrary.</p> <p>Mr Mick Fletcher</p>	

	<p>Mr Fletcher supported the proposal put forward by the four districts [Stronger Somerset]. He congratulated the approach given against, what he considered to be, bullying from Whitehall. He felt the suggested approach would be the only way of getting a clear view from the public.</p> <p>He was shocked by the Secretary of State's comments that the outcome of the poll would not be used to determine the future Local Government structure for Somerset, which he felt showed a disregard for local people.</p> <p>He urged the Council to hold firm and allow the poll to proceed.</p> <p>b) Items not on the agenda:</p> <p>Mr Caspar Searle</p> <p>Mr Searle requested to speak on the topic of Selwood Garden Community.</p> <p>Mr Searle stated that the future of the area was being led by financiers with little interest in the locality. He felt the apparent solution to the housing problem in Mendip would be nothing of the sort. He urged the Council to look beyond the glossy presentations and to consider the facts. He felt there was no master plan which he stated was evidenced by the fact there would be over development.</p> <p>He added that the scheme would cover 200 acres of countryside and that the scale of design would make meaningful mitigation impossible. Residents would lose a key recreational amenity area enjoyed by many generations. As a result, he felt Frome would become clogged with traffic and pollution. He felt the infrastructure would be unable to cope as the Town increased in population size by 25% or 7,000 people. He urged the Council to say no to SGC.</p> <p>The Chair thanked all those who attended for their contributions.</p>	
5	<p>Local Poll (Referendum) on the Future of Local Government in Somerset</p> <p>The Chair of Council invited the Leader to introduce the report.</p>	<p>Stuart Brown</p>

The Leader informed Council that the Secretary of State conducted a consultation on the options for the future of Local Government in Somerset, which closed on 19 April. She added that as Council was aware, there were two alternative proposals. The Government had outlined that a factor in its considerations would be the degree to which a proposal had local support.

Council was informed that Mendip had expressed concerns with the consultation process and the lack of prominence given to the voice of the most important stakeholders, the actual residents of Somerset, within that consultation. Furthermore, there had been calls from Somerset residents for the Councils to take steps to ensure residents' views on the potential changes and their preference for the future of local government can be expressed in a clear and open manner.

As a result, the report recommended the holding of a local poll (referendum) to give residents a voice in the debate and help the Secretary of State in understanding and determining the level of support amongst residents for each of the options. Council was advised that if a local poll (referendum) was to be held to inform the Secretary of State's considerations, it would need to be held in advance of the Secretary of State's decision, which was anticipated before Parliament's summer recess.

The Leader reminded Members that the report was originally scheduled to be discussed at the Extraordinary meeting of Full Council on 15 April 2021. However, in light of the Secretary of State's letter of 12 April, it was decided to withdraw the report and obtain further legal advice. Following the receipt of legal advice from Bevan Brittan and James Goudie QC, a response was sent to the Secretary of State. All of the documents referred to above were appended to the report circulated to Council for consideration.

The Leader then drew Council's attention to the statements from the Council's Monitoring Officer and Section 151 Officer, which were also appended to the report circulated to Council for consideration. She added these statements provided further assurance to Members on lawfulness, fairness in value for money and the administration of the Council's financial affairs.

The Leader made reference to information that had been circulated to Members at 4 pm and suggested a brief five-minute adjournment to enable Members to locate it.

At 5.25 pm Councillor Ros Wyke moved for a 5 minute adjournment and the Chair of Council seconded the proposal. The motion was out to the vote and declared to be carried unanimously.

RESOLVED:

That the meeting be adjourned for five minutes.

The meeting reconvened at 5.30 pm.

The Chair then invited comments and contributions from members on the report.

A number of Councillors expressed concern and were disappointed that a 'no change' option would not be included as part of the poll.

The Leader of the Council advised that the Secretary of State had made it clear that he would only consider two bids, and the Council therefore needed to operate within the constraints placed by the Government. She reminded Council that this was a cross-party exercise given the four District Council's behind the Stronger Somerset proposal.

Like many, she would like to hold a poll with a full range of options, but that was not possible for the reasons stated.

Additionally, the Leader found it difficult to comprehend why the Secretary of State would consider Local Government reform during a pandemic and holding consultation during the pre-election period.

A number of Members questioned the approach. Some felt the funds allocated for the poll would be better spent elsewhere, particularly as the result of the poll would only be advisory. Others felt a no change option should be included.

Councillor Killen whilst supporting the approach in principle, went further and challenged the suggestion that the Secretary of State had ruled out further options. He based this on the comment made by the Secretary of State on page 18 of the Secretary of State's letter, where it is indicated that neither option may be accepted. He also questioned the motives behind the poll and felt its purpose was to galvanise support for Stronger Somerset.

The Leader was of the view that the initial consultation was flawed given there was no restriction on the location of respondents. She advised that it was in a meeting with the Secretary of State where it was stated that other options were ruled out. She stated that if there was now a suggestion the Secretary of State had changed his mind then maybe the matter could be reconsidered.

A number of Members highlighted concerns at the risk of challenge and highlighted the conflicting legal advice. Some members felt the risks outweighed the benefit and highlighted concerns on that fact. Others sought clarification regarding the advice on the risk of challenge.

The Corporate Governance Solicitor, Sedgemoor District Council (the lead Legal Officer for Stronger Somerset) advised that there was a risk of Judicial Review. She advised that Local Authorities were obliged to make reasonable decisions. She advised that the Council has the power to make this decision and in so doing it needs to take account of all relevant considerations and disregard irrelevant ones.

Council was informed that a lot of information had been provided on the risks as officers wanted to make sure Members could make an informed decision. Members were advised they were being asked to weigh up the cost of the poll against the appropriateness of the electorate being given a say.

She added that whilst there was a risk of Judicial Review, it was felt the success of any challenge would be low. This was based on the opinion of the eminent Local Government QC, as contained within the papers submitted to Council at Appendix C.

During the remainder of the debate the following points were raised.

- Concern regarding the cost of the ballot
- Concerns with the impact of a low turnout and lack of understanding between the options
- Clarity on postal ballot arrangements as well as online voting

The Section 151 officer advised Council that £12k had been incurred by Mendip earlier in the year to cover Mendip's share of the work undertaken by IPSOS MORI.

In terms of the concerns raised on the potential for bias, the Leader advised that the poll would be administered by third parties, including the provision of any supporting documentation. In terms of the suggestion that the title of this Unitary Bid expressed bias, she informed Council that this had been checked at the time and conformed with the legal advice received at that time.

The Leader informed Council that all parties involved in submitting Unitary proposals had been advised to be careful once proposals had been formally submitted to avoid bias. This was the case and legal advice had been sought to ensure compliance.

The Leader confirmed that as well as the provision online voting postal votes would be included in the voting process. This would be supported by the provision of pre-paid envelopes.

The Leader stated that Somerset County Council had been provided with the opportunity to take part in the poll but had recently refused the request.

It was moved by Councillor Wyke and seconded by Councillor Burr that the recommendations in the report be accepted. The recommendations were put to the vote and declared to be carried.

In accordance with Section 4, paragraph 15.5 of the Constitution, prior to the vote, Councillors Hooton and O'Leary requested a recorded vote for this decision.

RESOLVED:

1. Endorse the holding of a local authority poll (referendum) of all residents of Mendip District Council on the Electoral Register at 6th May 2021 who are eligible to vote in local elections, on the two options for the future of local government in Somerset i.e. 'One Somerset' and 'Stronger Somerset'.
2. To note the proposed funding of up to £65,000 to meet the costs associated with Mendip's share of the local authority poll (referendum), is to be met from the Medium-Term Financial Plan reserve.

3. To note the use of the exemption under Section 21 of the Council's Constitution – Contract Procedure Rules relating to Collaborative/Joint Purchasing (paragraph 12.1.e.). to appoint Civica Electoral Services (formerly Electoral Reform Services) to conduct the poll.

4. Note that the decision to hold the local poll (referendum) requires an executive decision to be made before proceeding with the poll. It is proposed that following Full Council's endorsement of the holding of the local authority poll (referendum), the Leader of the Council will make the following executive decision: -

(a) To hold a local authority poll (referendum) of all residents of Mendip District Council on the Electoral Register as at 6th May 2021 who are eligible to vote in local elections, on the two options for the future of local government in Somerset poll i.e. 'One Somerset' and 'Stronger Somerset' including: -

i. The conducting of the local authority poll as a postal and online referendum utilising Civica Electoral Services (formerly the 'Electoral Reform Services') with the poll commencing on Tuesday 18th May 2021 and closing at 5.00PM on Friday 4th June 2021.

ii. The holding of the local authority poll will be done jointly with such other Somerset Councils that agree and that the costs of the poll will be shared with those Councils.

(b) The poll will follow the single non-transferable vote system and the question to be asked will be:

"Which of the two options for change in local government in Somerset to replace the existing five Councils do you support (select one only):

	<p>i. One council for Somerset (“One Somerset” - the plan for a single Council proposed by Somerset County Council)</p> <p>ii. Two Councils for Somerset: Eastern Somerset and Western Somerset (“Stronger Somerset” the plan for two Councils for Somerset – an Eastern and a Western Somerset Council – proposed by South Somerset District Council, Mendip District Council, Sedgemoor District Council, Somerset West and Taunton Council</p> <p>(c) That the Executive delegate the role of ‘Counting Officer’ to Civica Electoral Services.</p> <p>(d) That the Executive make such resources, including staff resources, as necessary available to the ‘Counting Officer’ to enable the local poll (referendum) to be conducted;</p> <p>(e) To delegate to the Chief Executive, the authority to take any further action necessary in relation to this matter</p> <p>(f) To write to the Secretary of State to inform him of the local poll (referendum) and its dates and ask that the result of the local poll (referendum) be properly considered as part of the decision-making process on the future of local government in Somerset.</p> <p>FOR: (28) Councillors Barkshire, Boyden, Burr, Carswell, Clarke, Collins, Cottle, Cousins, Dunk, Gay, Goater, Henderson, Hobbs, Hooton, Inchley, Kay, Kennedy, Leyshon, Lund, MacDougall, Martin, O’Leary, Phripp, Pinnock, Ronan, Shearer, Lucie Taylor-Hood and Wyke</p> <p>AGAINST: (10) Councillors Berry, Brooke, Greenhalgh, Ham, Height, Killen, Napper, Pullin, Townsend and Woolcombe-Adams</p> <p>UNABLE TO VOTE AS NOT PRESENT FOR THE FULL DEBATE: (1) Councillor Hayden</p>	
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6	Urgent Business None	
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The meeting closed at approximately 7.21 pm

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