

**Peter Tavy Parish Council  
(Draft awaiting approval)  
Minutes of the meeting  
held on Wednesday 12<sup>th</sup> July 2023, 7:30pm at the Chapel**

**Present:** Cllr. W. Lane, Cllr. A. Barton, Cllr. E. Dodd, Cllr. K. Ball, Cllr. J. Jeffery, Cllr. R. Myott & Cllr. D. Chanter

**Others Present:** The Clerk, Cllr. R. Oxborough, Mr. J. Hunt

Meeting declared open by Chairman Cllr. D. Chanter at 7:30pm

**TIME ALLOWED FOR MEMBERS OF THE PUBLIC TO SPEAK 15 MINUTES: -**

Mr. Joe Hunt read out the following statement: -

I am attending this meeting to make a statement regarding the draft minutes of the Council's meeting on 14<sup>th</sup> June 2023. Specifically, I am alarmed by comments under item 5C. The context for the Council's discussion is the attempt by two parishioners to effect adverse possession of unregistered land adjacent to their property.

It appears that the Council objects to the parishioners' attempts to effect adverse possession but it is unclear from the minutes the reason or reasons for this. I say "the Council's objection" deliberately because I cannot determine from the minutes whether all Councillors are as one in objecting or whether there is any difference of opinion on the matter.

However, the minutes do make clear that the Council views the matter as "contentious" with "no more room for negotiation and debate".

The concluding sentences in this minute suggest that the Council is contemplating seeking legal advice on the matter and that contact would be made with West Devon Borough Council regarding "interest rates to Parish Councils should legal fees be incurred". This is the text that causes me alarm.

As a parishioner reading these minutes I am left with the firm impression that the Parish Council is contemplating pursuing its objections through the courts.

My view is that the Council has no reason to object because, as an entity, it cannot derive a benefit from the land. To be clear, in cases of adverse possession "use" means "benefit".

In forming the suggestion I will make at the conclusion of this address, I make these observations:

- The Council does not appear to have previously expressed any desire to possess the land in question itself.
- The Council should have no interest in matters of access. That is a matter between the neighbours concerned.
- I am forced to conclude, therefore, that the only reason the Council has for objecting is to delay, or try to stop, the application.

I am alarmed not only that the Council is contemplating entering into litigation but also, and more importantly, contemplating funding this, in part or in whole, via a loan.

May I remind the Council that any loan would ultimately fall to parishioners to repay. Given the current cost of living crisis, energy costs and ongoing inflationary pressures, Councillors would be passing on a considerable bill when parishioners face more pressing financial matters in their lives.

When contemplating spending other people's money, the Council must be absolutely clear with its parishioners what it hopes to gain in entering into litigation and to ensure that it has their support in so doing. The Council has not been clear about what it hopes to gain and it has certainly not engaged with parishioners on the matter.

Entering into litigation is an open ended commitment. The Council has been here before and has previously passed on the cost to parishioners.

May I respectfully suggest the Councillors reflect on the merits of pursuing this case. I have no doubt that views are firmly held, but it is the responsibility of a mature and sensible body, and a measure of the integrity of the individuals which shape it, to ensure that common sense prevails for the common good.

The Council can demonstrate this by withdrawing its objection to the adverse possession application in the interests of its parishioners' pockets and leave any litigation to individuals to pursue.

Joe and Gill Hunt  
12<sup>th</sup> July 2023

**Response to the statement above:-**

The Chairman thanked Mr. Hunt for his statement.

Mr. Hunt asked that his Statement be minuted in full and the Clerk assured him that it would be, Mr. Hunt gave the Clerk a copy of his Statement so it could be shown in the minutes.

Cllr. Dodd asked Mr. Hunt if his statement was from a bigger group of parishioners or just from his own household. Mr. Hunt confirmed it was signed off as J. & G. Hunt and was not from other members of the Parish.

**The meeting of the Parish Council now continued as follows: -**

**Before the meeting started the Chairman expressed his full support for the Clerk and said that Councillors were not to harass or condescend the Clerk during a very busy time for her. She is already doing well over her paid hours for the role.**

**1: Apologies for absence**

None

**2: Declarations of interest**

Cllr. J. Jeffery item 11 & item 13. Cllr. R. Myott item 6.

**3: Approval of previous Minutes & matters arising**

The Minutes of the Parish Council meeting held on Wednesday June 2023 were deemed to be a true and accurate record. Proposed by Cllr. A. Barton, seconded by Cllr. K. Ball, all in favour & signed as a true record by the Chairman Cllr. D. Chanter.

**Matters arising:**

Cllr. W. Lane quoted from the previous minutes Item 5C. "In addition to the official meeting referred to above Cllr.W.Lane had met with Mr. and Mrs. Nail at Lower Mill regarding the application for adverse possession and this was not done with the knowledge or on behalf of the Parish Council but as a private individual acting under his own authority. The Clerk was not informed the meeting had taken place until after the event. Chairman Cllr. D. Chanter said anybody on official Council business must arrange meetings through the Clerk and to do so without prior arrangement or agreement of the Parish Council merely serves to undermine the hard work of the Parish Council."

Cllr. W. Lane stated that he wished to dispute that statement and confirmed that he went to Mr. and Mrs. Nail as a Parish Councillor and was not acting independently. He said that a Chairman could not direct who a Parish Councillor can and can not speak to on Parish business. A Parish Councillor can speak to whoever they choose on Parish Business even if other Councillors had been tasked to do so. Cllr. Lane said that to do so would put the Chairman in breach of the Standing Orders of the Parish Council. Cllr. Lane said he was aware of the formal mediation meeting between Parish Councillors and the Nails but that he had not seen any minutes or notes from this meeting.

Cllr. E. Dodd replied that the meeting at Lower Mill was not a formal meeting but merely an appointment to have a conversation to see if any solution could be worked out. The notes from that conversation had been given to the Clerk so that she could write

to the Nails with the Parish Council's proposals for a solution. (A copy of this letter had been forwarded to all councillors prior to tonight's meeting).

The Chairman and Cllr. W. Lane had corresponded via email following Cllr. Lane's visit to Lower Mill.

Cllr. W. Lane reiterated that he did go on his own but was acting as he is entitled to do as a Parish Councillor when he visited Mr. and Mrs. Nail at Lower Mill and he considered it to be on Parish business.

The Chairman asked if the meeting could now move on.

Cllr. E. Dodd asked if the boundary stone at Wapsworthy had been found. The Clerk and Cllr. A. Barton said no and that the DNP stonemason did not have it. A piece will be put in the forthcoming Peter Tavy Piper magazine to ask regarding it's whereabouts.

#### **4: Reports from outside bodies**

Cllrs. W. Lane and A. Barton attended a Dartmoor National Park forum meeting recently and reported that it was mostly attended by Borough and County Councillors with very few Parish Councillors in attendance. The forum was mostly about the last financial year and a presentation was given on the progress of multi-use access paths the closest ones to our Parish being at Burrator and Foggintor.

Cllr. W. Lane asked the question "Which of the many schemes being undertaken at the moment is most likely to reduce the coverage of bracken, western gorse and molinia grass to restore the grazing areas for cattle and sheep to the level of stocking seen 30 years ago in view of the Government requirement for the farming community to increase food production". To which the Head of DNP replied that the question had been passed onto Natural England for a response but that the DNP had not to date had a reply.

#### **5: Correspondence**

- A. Letter from Mr. D. Martin regarding a dangerous Ash Tree on the Green at Cudliptown. The Clerk was asked to write back and to report the tree to D.C.C Highways department in the first instance to see what can be done. If necessary, the concerns can be forwarded to the Tree Officer for the DNP. The reply to Mr. Martin should also be copied to the Peter Tavy Commoners Association because the tree is on common land (privately owned).
- B. A request for the Parish Council to fund the next edition of the Peter Tavy Piper has been received from Mr. S. Carreck. Proposed that it is funded by Cllr. E. Dodd, seconded by Cllr. A. Barton all in favour.

#### **6. Application for Adverse Possession – Land adjacent to Lower Mill**

The Parish Council are still waiting for confirmation from Highways regarding a meeting to define exactly where the highways ends on the lane leading to Lower Mill. Mr. Nail has expressed that he would like to attend any such meeting but this was deemed unnecessary now that Lawyers were writing to the Parish Council on behalf of Mr. and Mrs. Nail.

Cllr. W. Lane expressed his opinion that boundaries are a matter between Highways and the owners of Lower Mill. Cllr. J. Jeffery said that it is an issue for the Parish Council on anything that happens which might potentially effect Parishioners, and that any issue affecting Highways is an issue for the Parish Council.

Cllr. A. Barton stated that the Solicitors letter received from Mr. and Mrs. Nails Solicitor was a polite one. Cllr. D. Chanter said that some elements of the letter could be disputed.

There is no definitive line on any of the maps provided to show the actual boundary of the private property and it is up to the Parish Council to dispute what effect this might have on the Parish.

Cllr. E. Dodd said he was reluctant to bring up previously but he had knowledge of a person in a wheelchair who could not gain access to public highway because of the gravel that had been put there by the owners of Lower Mill. So for future reference the Parish Council need to know definitively who the future custodians of the Highway are.

Cllr. J. Jeffery stated that the Parish Council were now at the stage where they needed to obtain the correct legal advice. That they needed to find out exactly where the boundary lies and where the highway actually ended. It was important to find out if Highways would adopt the piece of unregistered land and that would then in turn not affect the sale of the property at Lower Mill in the future.

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Cllr. E. Dodd said to explain why the Parish Council are getting involved at all is because in the past the unregistered land had been used with full and open access and was always a benefit to the Parish. Examples of historic use were given. He said he used the term open access not as the actual definition of open access land but as a term used to describe the land as open and accessible to all, and that maybe it should never have been gravelled in the first place by the owners of Lower Mill. In Cllr. Dodd's opinion the piece of land in question should remain open and be accessible for members of the public to enjoy. Cllr. W. Lane said he should forget how things used to be because things change over time. Cllr. Dodd said that the gate was put up at the bridge to Lower Mill to keep the public out so that this piece of land could be claimed and that if Mr. and Mrs. Nail were successful in their claim for adverse possession of the unregistered piece of land that Parishioners would no longer have access to it and that the Parish Council should be defending the right to go onto a piece of land not currently owned by Mr. and Mrs. Nail. Cllr. W. Lane replied that taking control of the land was not ownership.

The Chairman said that the Parish Council now in receipt of a letter from Mr. and Mrs. Nail's Solicitor must make their own case, starting with the meeting with Highways and then taken forward by Cllr. Jeffery and Cllr. Dodd for legal advice. There is a time limit for the mediation and that time was running out.

Cllr. W. Lane said that if the Parish Council continue with their objection to Mr. and Mrs. Nail's application for adverse possession and were to lose at the 1<sup>st</sup> tier of a tribunal hearing then costs for both sides could be awarded against the Parish Council. These costs Cllr. Lane estimated could be in the region of £60,000.00 to £100,000.00.

Cllr. Lane was reminded that the last time he as a Councillor and the Parish Council were in court (a tribunal for wrongful dismissal) then the other Parish Councillors fully got behind him and the Parish Council as a collective and that ended up costing the Parish an out of court settlement for a considerable sum of public money.

Chairman Cllr. D. Chanter said it was speculation to assume that the Parish Council would lose its case again this time. Until Solicitors advice has been received no firm decision can be made.

Cllr. W. Lane proposed and Cllr. A. Barton seconded that the Parish Council withdraws its objection to the application for adverse possession and Cllr. Lane asked that the vote be minuted by name. For Cllrs. Lane and Barton (2) Against Cllrs. Jeffery, Dodd, Ball, Chanter (4) the motion was therefore not carried Cllr. R. Myott declared an interest and did not vote.

Cllr. J. Jeffery counter-proposed and Cllr. E. Dodd seconded that the Parish Council now seeks written legal advice as to proceeding with their objection. For Cllrs Chanter, Dodd, Jeffery, Ball (4) Against Cllr. W. Lane (1) Abstention Cllr. A. Barton (1) the motion was carried Cllr. R. Myott declared an interest and did not vote.

Cllr. A. Barton put forward a third proposal with no seconder that a referendum of the Parishioners take place before any court proceedings end up costing the Parish a potentially large sum of money. The vote could not take place without a seconder.

Cllr. R. Oxborough (WDBC) suggested that a solution could be that a Covenant be used relating to the unregistered land meaning everybody could have a solution with public access and other neighbouring access unhindered thus meaning that Mr. and Mrs. Nail could then sell their property without having to go through the indemnity insurance route. But he did reiterate that all parties had to agree to this as an option.

The Chairman Cllr. D. Chanter asked that the meeting could now move on to the next item for discussion.

### **7: Mill Pond**

The seeded area was now looking nice, and the pathways improved. While Cllrs. were up there they checked the safety equipment and reported that it was in good order. Lots of walkers and people had been seen to be using the area lately which made all the renovations and work to the area worthwhile.

### **8: Playing Field**

The Clerk reported that grant funding had been approved from the National Lottery of £10,000.00 and that grant funding for the project had been approved from WDBC for a further £5,000.00. The Clerk will email Councillors with details of further funding required to finish the project. The contractors are due to start works in late August and a working party will dismantle the old play equipment soon.

**9: Highways**

There are concerning cracks appearing at the sides of Langsford Bridge – The Clerk will seek details and photographs from the Lengthsman and then report to Highways who are responsible for maintaining the bridge.

**10: Planning.**

The application at Midhurst has been withdrawn.

**11: Church Cottages.**

The annual inspection of the Cottages had taken place immediately prior to this meeting and both Cottages were said to be looked after by both Tenants and in good order.

A written request for an outside tap had been received by the tenant of No.2 and it was discussed that one tap to be shared by both cottages could be an option. The Clerk was asked to get quotes for this Proposed Cllr. E. Dodd, seconded Cllr. K. Ball all in favour.

The extractor fan above the cooker in No.1 was no longer working, this should be investigated. The tenant was asked to put any concerns in writing to the Clerk.

The Clerk was asked to chase up the fencing contractor as this should have commenced already.

Messrs. Worths will be chased again for the quote for windows and maintenance, together with the roof investigation at No.1.

The Clerk was asked to book the contractor for the septic tank in August.

**12: Approval of Agar figures 2022/2023**

The Clerk read out confirmation of the dates of the period for the exercise of public rights and a statement as to why the deadline for these being extended.

The Clerk read out the Annual Governance Statement and Statement of reason for answering no to items 1 and 4 of this statement.

The Clerk read out the Accounting Statement for the 2022/23 year.

The Clerk stated that these would now be published on the Parish Council website.

It was agreed that these should now be signed proposed Cllr. A. Barton, seconded Cllr. W. Lane all in favour. The Annual Governance and Accountability Return was duly signed by the Chairman Cllr. D. Chanter.

**13: Finance**

**The outgoings from the Precept Account to be approved are: -**

The Clerk Salary May	345.00
Use of Home Office	26.00
Minues PAYE	- 12.00
	<u>£359.00</u>
HMRC PAYE	£12.00
Lengthsman invoice for works to Millpond area	£48.60
Lengthsman invoice for ditches & weed clear	£338.40
Mr. P. Randall Coronation Tree	£20.00
Dennathorne Accountancy Audit	£360.00
Mr. D. Vigers works to Millpond area	£540.00

