**DRAFT**

**MINUTES OF MARLDON PARISH COUNCIL**

**VIRTUAL MEETING**

**THURSDAY 29th OCTOBER 2020 @7.30pm**

The Chairman read out the procedure for Marldon Parish Council’s Virtual Meetings and welcomed new Cllrs. Sharland and Hart to the Parish Council and indeed, their first meeting.

**PRESENT:** Via video link: Cllr. Page, Cllr. Ward, Thorp. Cllr. Hart, Cllr. Sharland.

The Parish Clerk/RFO – Susie Watt

Marldon Parish Council’s Solicitor. Judith Thompson via video link.

Members of the public attended via video link for Part II of the meeting.

**1.510.20**  **APOLOGIES:** Cllr. Park. Cllr. Oliphant

**2. 510.20** **DECLARATIONS OF INTEREST:** None

**3. 510.20** **CONFIDENTIAL MATTERS:** The Council did not ask to Resolve to exclude the press and public ‘by reason of the confidential nature of the business’ to be discussed and in accordance with the Public Bodies (Admission to Meetings) Act 1960.

Confidential Matters were discussed and it was resolved to continue with the legal advice and support. It was agreed for further investigations to be carried out on behalf of the Parish Council.

CONFIDENTIAL MATTERS WERE CLOSED and the waiting public admitted. There was no public forum.

**4. 510.20 .** **To consider and discuss the s106 application status regarding the cliff face repairs at Torfield.** The Chairman requested the Clerk give a brief history for the benefit of those present and the new Cllrs. The Clerk gave a brief chronology and the reason the Marldon Parish Council had had to apply for s106 funds for this critical repair, the cliff face was part of Torfield and if this repair had not happened not only would the Village Hall be closed but also Torfield.

It had been explained that the Parish Council did not have the funds, could not apply to their Insurers retrospectively and neither could they gain grant funding retrospectively. Furthermore, they could not apply to the Public Works Loan Scheme retrospectively, but the Secretary of State’s Office stated that MPC could apply for a loan for enhancement of sport, leisure or recreation facilities, and this was seen as a good option to replace any funds MPC would need to take from the s106 funds.

However, a member of the public made a complaint to South Hams District Council (SHDC) regarding the use of s106 funds and had accused the Clerk and the Council of Ultra Vires, basically meaning the use of illegal funds. SHDC has categorically stated that the Clerk and Marldon Parish Council had not acted unlawfully and that Specialists at SHDC had been aware of the Parish Council’s Application for at 2 months prior to the Complaint. Unfortunately, SHDC then agreed they should have made options for use wider and had to produce a legal document, a Deed of Variation. This had to be signed off by the Developer and the Landowner. Marldon Parish Council (MPC) were made aware of this but then SHDC requested that MPC pay the Developers and the Landowners legal fees of £1000 +VAT. The Clerk negotiated this down to £500 + VAT, however, then SHDC stated that others had to be party to this Deed of Variation, and further work was required on the document, the Developers Solicitors then stated that the further work involved would increase the legal fees.

The Clerk spoke to SHDC who said that it had to be paid for MPC to obtain the funds required to pay for the repairs.

Some 10 months later, the document had still not been signed off, there had been continual emails to SHDC legal department and the Developers Solicitors, a further delay then came to light, SHDC stated that Devon County Council (DCC) needed to be involved in the final draft. After some weeks, there was still no movement, the Developers Solicitors were contacted again for an update, it was then discovered the document was being held until DCC legal fees were paid. SHDC then wrote to MPC to say MPC would need to pay DCC legal fees. A letter of complaint was sent to SHDC and to MPCs County Councillor stating that at no stage had any legal fees been discussed or agreed before the commence of this Deed, and that the Parish Council were put into an impossible situation, if they did not pay the legal fees they would not get the s106 funds, furthermore, it is highlight by SHDC that ALL s106 funds awarded to MPC had been frozen so no other projects within the Parish which required s106 funding, could go ahead, including funds for the Play Park.

Basically, the Parish Council needed to vote on whether to pay Devon County Councils Legal Fees of £290 + VAT. It was proposed by Cllr. Page and seconded by Cllr. Ward and it was **RESOLVED to** pay DCC their legal fees in the sum of £290.00 + vat. All voted in favour.

Therefore, the actions of the member of public had cost the Parish Council (using public funds) over £1500 to recover money donated to the Parish for the whole of the Community.

**5. 510.20 To consider re-instating the Public Forum** The Chairman informed those present that this section of the Parish Council’s meeting should be re-instated under a strict protocol. He read out the basics of the new protocol which included, a strict 3 minutes one question per person only, no discussions would be held, options would be provided by the Chairman for resolution or action, and only questions pertaining to the Agenda would be accepted; this should be applied at the next Parish Council meeting on Monday 9th November 2020. It was therefore, **RESOLVED** that the Virtual Meeting & Public Forum Protocol was adopted and that the Public Forum would be re-instated at the next meeting. This was proposed by Cllr. Ward and Seconded by Cllr. Sharland. All voted in favour.

The Clerk stated that the Protocol would be put on the Council’s website.

The Meeting Closed at approx. 21:56hrs

Signed.................................................................................Date: 9.11.2020

The Chairman, Cllr. G Page