

# STOKE GABRIEL PARISH COUNCIL

Minutes from the Finance Committee meeting held on 14th March 2019 at 5.00pm at the Village Hall, Stoke Gabriel

Present; Cllrs Fenwick( Chair) , Tully , Jones and Avery ( arrived 5.10pm )  
3 members of Public & Clerk - Karen Gilbert

**19/03/01f - Apologies** \_ Cllr Harris (other commitment) . Cllrs Hunt & Bridge( non committee members)

**19/03/02f - Declaration of Interests** \_ - None

**19/03/03f - Public participation** - None

## **19/03/04f. To Note External Auditor's reports 2010 - 2017 incl and decide action/s required**

During an assessment of the Parish Council records upon changeover of Clerks , it was **NOTED** that the reports/ recommendations from the External auditors ( from 2010 - 2017 ) had not been brought to the attention of the Parish Council by the then acting Clerk . This was later confirmed by individual emails from each Councillor

### **Year ended 31st March 2010**

It was noted by Grant Thornton that the Parish Council ( and the Acting Clerk ) were operating without any Standing Orders or Financial Regulations . It was also mentioned that an accurate Fixed asset register needed to be prepared

#### **NOTED BY COMMITTEE**

The Clerk commented that the Financial Regulations were **first** adopted in January 2019 and that revised standing orders were adopted in February 2019

### **Year ended 31st March 2012**

Insufficient Variances explanation  
Incorrect bank balance stated  
Slight inconsistency in Internal auditor's report

#### **NOTED BY COMMITTEE**

### **Year ended 31st March 2013**

Incorrectly stated figures - to be restated in 2014  
Bank reconciliation agreed to 10/4/13 rather than 30/3/13

#### **NOTED BY COMMITTEE**

### **Year ended 31st March 2014**

Recommendation to use corrected 2013 c/f figures ignored in 2014 return  
Incorrectly shown income figures  
Failure to confirm level of borrowings

#### **NOTED BY COMMITTEE**

### **Year ended 31st March 2015 - INTERMEDIATE AUDIT**

The Clerk explained that the External Auditor selects randomly 5% of returns on which to request further information

#### Additional information requested

Copy of Council's risk assessment report/Policy - NOT SENT  
Minutes where above was discussed by Full Council - NOT SENT  
Detailed Internal control policy - NOT SENT  
Insurance Policy/schedules - SENT TO AUDITOR  
Copy of the Financial Regulations - NOT SENT

#### A covering letter was sent by the then Acting Clerk explaining

The Council only had one asset - the Play area in the Orchard - which was regularly inspected by South Hams DC - **NB other assets not declared**

No specific discussions had taken place - so not minuted  
No Policy - explanation of how acting Clerk perceived internal controls to be sufficient  
Acting Clerk confirmed that no Financial Regulations in force - explained his perceived method of internal Financial control

Grant Thornton reported that

2014 recommendations regarding incorrect figures had not been corrected and C/f correctly  
The Parish Council had failed to document its internal controls  
The Parish Council had failed to undertake risk assessments - NB to be done annually or before specific events

Return not been fully completed  
Financial Regulations to be adopted

**NOTED BY COMMITTEE**

**Year ended 31st March 2016**

Grant Thornton noted that the sequence and order of approvals of the f sections of the return were incorrect and not in the correct sequence which would give authorisation and effect to the documents

**NOTED BY COMMITTEE**

**Year ended 31st March 2017**

The meeting was shown extracts from the report by Grant Thornton which showed the following:  
The Auditors noted that the Parish Council had not employed a Clerk but that a Councillor had undertaken the duties of the Clerk and was paid an expense allowance of £250 per month totalling £3,000 annually. This had not been included in Box 4 of the Accounting Statements for the year under "Staff Costs". The Auditor also stated that they have not gained sufficient assurances that payments to the Councillor had been appropriately approved and that the relevant PAYE taxes and National Insurance contributions had been calculated and recorded. The Auditors required that the Parish Council should restate the 2017 figures on the next Annual Return (for year ending March 2018)

In addition , they had not been provided with evidence that the Parish Council were registered with the HMRC and, that Guidance issued by HMRC stated that all Parish Councils must operate a PAYE system for both tax and NIC purposes on income they pay to their Clerks and RFO's  
In respect of whether the Acting Clerk was an employee or was being paid expenses the report went on to advise that "HMRC guidance setting out the correct income tax and NIC treatment of parish clerks is set out in the HMRC Employment Income manual. This guidance confirms that a parish clerk is an office holder and that all office holders are subject to PAYE. This means that the parish clerks: can never be considered as self-employed for tax or NIC purposes; cannot be paid "gross"; and fall to be taxed under PAYE"

The Committee confirmed that it had not been shown nor had seen the report from Grant Thornton advising that the Acting Clerk was in effect an employee. The Clerk confirmed that the Councillors not present, had also confirmed this to be the case . It was also noted that the Councillors had not received any acceptable receipts from the Acting Clerk for the £250 per month paid to him.

The Clerk confirmed that it was her understanding that ,in the first instance , the Council , as employer , might be considered liable for the unpaid tax - and that the Council would then have to request reimbursement from the then Acting Clerk

However , The Clerk suggested that further advice be sought on this matter and that any such advice be brought before the Full Council in order to decide what action be taken

**ACTION ; CLERK TO OBTAIN ADVICE AND REPORT BACK**

It was agreed that the Clerk would produce a summary of all of the recommendations and instructions by Grant Thornton over the years examined. - **ACTION : CLERK**

It was noted that the Internal Auditor had not been shown the external auditors reports.

### **19/03/05f To consider and review the 2018 Audit exemption report and Accounting statement / Annual Governance statement**

The Clerk advised that , despite numerous requests to the previous acting Clerk , she had not been supplied with any Financial information / bank reconciliations to explain the 2018 Annual return

However , she confirmed that she had , the week before , received copies of the Accounts and Bank reconciliation for y/e 3/18 from a Councillor

From this information and to the best of her knowledge , it appeared to the Clerk that the Annual return did not include certain items of income and expenditure rendering the figures potentially inaccurate . In addition the bank rec had been agreed to a date after the year end . The omissions in question were in respect of the Church wall repair and the first payment for the playground

If this were to be confirmed , it would indicate that the Council would not have been in a position to certify an exemption from External Audit

The Clerk stressed that due to the lack of communication , documents and explanation from the previous Clerk , she was unable to categorically state the the return was inaccurate but wished to bring her interpretation to the attention of the Council

The Committee suggested that independent advice be sought and asked the Clerk to find a suitable source / costs

**ACTION ; CLERK TO SEEK AN INDEPENDENT AUDITOR/CONSULTANT**

### **10/03/06f To review and consider the VAT reclaims made in 2018**

The Clerk had reviewed the 2018 VAT returns and raised concerns as to whether one claim was lawful . It appeared that the Parish Council had paid for the repairs to the wall between the Church and the Orchard in order to reclaim the VAT

The Church had then paid in the sum of £6873 to the Council which meant that after the reclaim of VAT , the Parish Council had paid the sum of £4000 towards this cost . This had been minuted

The Clerk advised that it was inappropriate for the Parish Council to seek to reclaim VAT for work done to a property which it did not own. In any event , for the VAT to be reclaimed the Parish Council would need to place the order for the work, pay for the work from the Parish Council's own funds. That not having occurred in this case, it was a possibility that the Parish Council may have to refund HMRC the VAT claimed back. The Clerk advised that in such circumstances where VAT claimed and paid was to be handed back, the Revenue could impose penalty of up to 100%.

It was **NOTED** that the Parish Council did not have the power to pay monies towards the repair of Church or the Churchyard

it was **NOTED** that these transactions appear to have been "netted ' off in the PC accounts - the only transactions visible being a donation of £4000 to the Church

The Committee commented this may have been partly the cause of the incorrect return referred to above 19/03/05f

Mention was then made of the actual ownership and that it could be a party wall

It was **AGREED** that , in the first instance , the Deeds of the orchard be removed from safe custody and closely examined to determine

**ACTION ; CLLR FENWICK TO OBTAIN DEEDS FOR ORCHARD**

**19/03/07f To Note cheques not previously minuted**

**A copy of the list of cheques is attached to these minutes for ease of reference**

The Clerk wished to bring to the attention of the Council a list of Cheques drawn in 2017/18 which did not appear in the minutes and where authorisation did not appear to have taken place correctly / if at all

It was **AGREED** that as the necessary procedures had now been adopted , this should not happen .

**19/03/08f To review the NS & I account and consider the opening / transfer of funds to a Lloyds Deposit account**

It was **AGREED** that this account should be closed and the balance transferred to Lloyds - to facilitate the smooth transfer of funds if and when required

**19/03/09f To consider opening an additional account to house any future bequest monies**

This was **AGREED** by the Committee

**19/03/10f To sign a further Lloyds bank mandate for re Change of address - original rejected in 12/18**

The Clerk explained that the forms submitted to Lloyds to change the statement address from the previous Clerk had been rejected on 5/12/18 - an advice letter having been sent to the previous Clerk at that time . She commented that despite numerous references to the Bank statements and to the delay , the previous Acting Clerk had failed to advise her or the Council that the delay was not due to the assumed tardiness by the Bank  
The Clerk presented new forms for signature and onward transmission to the Bank

**19/03/11f and 19/03/12f**

**To review the asset register and To consider any potential amendments to the Parish Council Insurance Policy**

It was **AGREED** that a draft Asset register be made available for the March 2019 Full Council meeting for amendment / agreement as required

There being no further business , the meeting closed at 6.30pm

Signed..... Dated .....

