

**Minutes of the Meeting of St Mawgan-in-Pydar Parish Council held in St  
Mawgan Village Hall**

On

**Wednesday the 13th day of July, 2016 at 7.30pm**

Present: Cllrs L McKenzie (Chairman), R Cawley, B Cawley, W Corbett, S Gardner, M Raby, S Tavener, G Jennings, S Jennings, S Jones and D Carter

In attendance: Mrs Angela Hayne (Parish Clerk), Cllr J Fitter (CC), 13 members of the public

136/2016     Apologies – received from Cllrs K Atkinson

137/2016     Police Report – Received from PCSO Malcom Burgess.

Apologies received from PC Lenton and PCSO Parry

PCSO Burgess advised that there had been 2 crimes reported in the last month: 1 – rape which is an ongoing investigation 2 – Assault which occurred at a holiday camp. This was compared to 6 crimes at the same time last year.

In addition, PCSO Burgess advised that there will be a police presence at the Feast Sports Day.

In addition, officers continue to visit the Airport to assist with security at the busiest times, and as the Summer holiday season approaches, patrols will take place of the camp sites, holiday parks, and Mawgan Porth Beach to provide reassurance for visitors and staff alike.

138/2016     Member's interests

a) Declarations of interest from members relating to items on the agenda:

7a (ii) Cllr L McKenzie – regarding Planning Application:  
PA16/03104

20 Cllrs R Cawley – regarding item 20: Accounts

b) Written requests for dispensations or interests – none received.

c) Written statements from members expressing interests in an agenda item – none received.

139/2016     Public Participation

Mr Bob Griffin spoke on behalf of a number of residents with their concerns regarding parking at Carloggas, he made it known to the PC that there was not a general consensus for parking restrictions around the Carloggas area. Cllr McKenzie stated that presently views are being sought and a consultation process led by the County Council is being undertaken to identify problems and offer solutions if any. Cllr

Fitter offered to speak to residents about their concerns regarding the parking bays at the Ocean Housing properties.

- 140/2016 Minutes of the last meeting – Proposed by Cllr S Jennings and seconded by Cllr D Carter and **resolved** to accept the minutes of the meeting as a true record and were duly signed by the Cllr R Cawley who acted as Chairman on this occasion.
- 141/2016 Clerk's report – The report had been circulated prior to the meeting.  
Cllr Gardner requested that all members received a copy of the Asset Register to check.
- 142/2016 Planning – New applications – to discuss and decide on response to Cornwall Council.
- 7a (i) PA16/04160 - Applicant: Mr George Watson. Demolition of existing dwelling. Cllr S Tavener proposed and Cllr W Corbett seconded and it was **resolved** to **object** to this application on the grounds that no planning permission exists for a dwelling on the site. Cllr S Gardner abstained.
- Cllr E McKenzie left the room.
- 7a (ii) PA16/03104 – Applicant: Mr J Barlow. Application for reserved matters (appearance landscaping and layout). Cllr W Corbett proposed and Cllr S Tavener seconded and the PC **resolved** to request an extension of time to explore the possibility of some additions to the landscaping scheme. Cllr S Gardner abstained.
- Cllr E McKenzie returned to the room.
- 7a (iii) PA16/05931 – Applicant Mr and Mrs Griffiths. Outline application for proposed construction of Dwelling. Cllr W Corbett and Cllr S Jennings seconded and the PC **resolved** to **object** to this application pending better particulars of the means of access to the proposed plot. Safe access to and egress from the site appears to be a fundamental difficulty with the application and the PC feels that this should be considered at the outline stage for obvious reasons. The PC reserves its position on other planning considerations at this stage. Cllr Gardner abstained.
- 7a (iv) PA16/04893 – Application: Mrs Lucy Petersen. Certificate of lawfulness of existing use. The PC has certain difficulties with this CLUED application. Cllr W Corbett proposed and Cllr S Jennings seconded and it was resolved that Cllr Corbett brings these to the attention of the case officer.
- 143/2016 Advices and decisions by Cornwall Council – circulated prior to meeting

**PA16/04428 - APPROVED** Applicant: Mr Simon Cathcart. Location: Trecenan, Trenance Mawgan Porth Newquay Cornwall Proposal: Upgrading of existing building. Doors on both floors enlarged, window positions and sizes changed. Exterior to east elevation above balcony clad in wood and upgrading of the existing balcony with the addition of an external staircase.

**PA16/01713/PREAPP** – Applicant: M P and Z Developments (Hornsey) Ltd - Cornish Fresh Ltd. Location: Mawgan Porth Stores, Mawgan Porth Hill. Mawgan Porth, Newquay. Cornwall Planning performance agreement (PPA) for regeneration phase 1 development.

**PA16/04000 - REFUSED** Applicant: Ms Anne Barrett. Location: Land South of Westward Trevarrian Newquay Cornwall TR8 4AQ Proposal: Proposed Self-Build Dwelling

PA15/10895 - **WITHDRAWN** Applicant: Trine Developments Ltd. Location: Riviera Lodge Inn, Mawgan Porth Hill, Mawgan Porth, Newquay TR8 4BA. Proposal: Removal of condition 6 (holiday occupancy) of decision no. PA12/02093 dated 10/07/2013 to allow for the development of the 8 dwellings without restriction on their occupation

144/2016 To consider planning applications received before meeting - None

145/2016 Working groups

Notification of burial – The late John Chadwick on 14<sup>th</sup> June 2016.

(a) Amenities – received report. Corrosion to toddler swing fittings in the play area has been reported to Sovereign, currently awaiting their response.

(b) Transport and rights of way – to receive report if any.

Footpaths: Cllr R Cawley expressed that a shortage of time this month has prevented a list of footpaths with missing footpath signs being compiled, but will be addressed.

(c) Beach and Environment - Cllr S Tavener informed the PC that a picnic table from Sunhaven Valley Country Holiday Park is in situ and repairs have been completed to replace the damaged table located at Mawgan Porth Beach. Cllr W Corbett gave a vote of thanks on behalf of the Parish Council for the works undertaken by Cllr S Tavener.

146/2016 Churchyard wall – Cllr Corbett advised that the repairs will be undertaken by M Farmer after the St Mawgan Flower Festival.

- 147/2016 Parking at Carloggas – suitably addressed in Public Participation 139/2016
- 148/2016 Defibrillators (Situated at the Merrymoor Inn, Mawgan Porth, and the Falcon Inn, St Mawgan). Following communication from Steve Buckingham which Cllr E McKenzie stated was a clearly expressed summary. Cllr S Tavener proposed and Cllr R Cawley seconded, and it was **resolved** that the PC accept ownership of the defibrillators above, with the Merrymoor Inn and Falcon Inn St Mawgan committed to continue with their fundraising activities in order to support the payment of the annual maintenance costs through fundraising activities, supported by SMEGMA.
- Councillor S Gardner abstained.
- 149/2016 General Risk Assessment review
- Cllr S Tavener proposed and Cllr S Jennings seconded it was **resolved** to purchase updated software.
- 150/2016 Financial Risk Assessment – it was **resolved** to defer to September meeting
- 151/2016 Internal Audit Report 2015-2016 – to note contents as circulated.
- Contents noted as circulated
- 152/2016 Standing Orders
- It was **resolved** to continue with the present arrangements whereby all councillors are circulated with 48hours to respond. but re-visit at a future meeting.
- 153/2016 To receive reports from meetings – Cornwall Airport Newquay Consultative Forum circulated by Cllr G Jennings prior to meeting.
- 154/2016 Code of conduct judgement Reference: CCN045/16 – To receive the recommendation from the Monitoring Officer. Formal Censure of Cllr Steve Gardner.
- The complaint concerns a series of emails sent to an officer dealing with street lighting (the ‘Officer’) by the Subject Member which concerned street lighting on his land, the Subject Member let it be known he was a Parish Councillor but did not make it clear he was acting in his private capacity in the correspondence. Additionally, it is stated that the Subject Member did not bring to the attention of the Parish Council the correspondence with the Officer.

### **Decision and Sanction:**

The Subject Member has breached the Code of Conduct for St Mawgan in Pydar Parish Council and it is considered that a suitable action to remedy the breach is that the Parish Council Censure the Subject Member.

### **Breaches of the Code Found:**

1.4 (b) – act, hold yourself out as acting or conduct yourself in such a way a third party could reasonably conclude that you are acting as a representative of the Council

2.5 – you must not conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members

2.10 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute

2.11 – You must not use or attempt to use your position as a Member of the Council improperly to confer on or to secure for yourself or any other person an advantage or disadvantage

The decision notice refers to the emails to noting that:

*Paragraph 1.4(b) of the Code of Conduct is clear in its wording as to when the Code applies, in particular the following part of 1.4(b) (in italics) the Code applies when you;*

*b) act, hold yourself out as acting or conduct yourself in such a way that a third party could reasonably conclude that you are acting as a representative of the Council*

and concludes that:

*The Subject Member had ample opportunity to ensure that the third party, in this case the Officer, did not reasonably conclude that he was acting as a representative of the Council, but failed to take it.*

Furthermore, it states:

*It is clear from the correspondence that has been received that the Subject Member held himself out as acting as a Councillor when he would have had to declare a Disclosable Pecuniary Interest, should the matter have been discussed at Committee/Council. Whilst there was no ability for the Subject Member to declare an interest in the correspondence what the member cannot do is hold himself out as acting in his official capacity, and the matter relating to the lights is something that should have been managed by the Subject Member in his private capacity.*

*The Subject Member had ample opportunity to advise the Officer he was the landowner, but chose not to do so, as a result the correspondence continued and this resulted in the situation becoming muddled and some two years later remains unresolved. As well as this, the matter relating to the lights would have been handled differently had the Officer known the Subject Member was the landowner.*

*By engaging with the Officer in the manner in which he did the Subject Member was able to gain access to the Officer on the basis that he was a Councillor.*

In addition, the decision notice states the situation was:

*compounded by the fact that the Parish Council were not aware of the correspondence with the Officer, yet the Officer was under the impression the Parish Council received it.*

In relation to **point 2.11** which states: *You must not use or attempt to use your position as a Member of the Council improperly to confer on or to secure for yourself or any other person an advantage or disadvantage*

the decision notice states:

*As a result, by holding himself out to the Officer as a member of the Parish Council when he had a clear interest in the matter under discussion it is considered that the Subject Member has breached the Code of Conduct by using his position to gain an advantage.*

*With regard to point 2.10 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute*

The decision notice states:

*With regards as to whether the Subject Member has breached the Code of Conduct by bringing his office or authority into disrepute; . . . .*

*. . . . the Subject Member did not, in any written correspondence supplied, set out that he was acting in his private capacity and the vague reply to the officer concerned that he could not speak on behalf of the Parish Council was not sufficient to alert the recipient to the fact the Subject Member was the landowner.*

The decision notice concludes, given the contents of the emails and other evidence, that:

*the later confusion this has caused to a matter that is of great concern to many residents and the Parish Council lead me to conclude that a reasonable person would consider the Subject Member by not being as frank as he should have been in his correspondence with the Officer has brought his office, but not his authority into disrepute.*

Finally, in relation to paragraph 2.5 of the code, which states: ‘*You must not conduct yourself in a manner which is contrary to the Council’s duty to promote and maintain high standards of conduct by Members.*’

The decision notice states that:

*This part of the Code places a positive obligation on Councillors to behave in a manner that maintains high standards of conduct. It is considered that the Subject Member, by not being fully open with the Officer about his status as the landowner, thereby using his position to gain an advantage and bringing his office into disrepute has also conducted himself in a manner that is contrary to the Council’s duty to promote and maintain high standards of conduct.*

Cllr McKenzie stated it was very disappointing that a member of our Parish Council has been found to have breached the Code of Conduct in these ways. It is very sad that Cllr Gardner has deceived the Parish Council by withholding information which is relevant to Council business. As we know the Code is there to ensure that councillors maintain the highest standards of behaviour and it is councillors’ responsibility to ensure that they are familiar with the Code and abide by it. As a Council most of us have recently attended Code of Conduct training, so I would recommend that those who were unable to attend ensure that they make the time to attend training.

The decision from the Monitoring Officer is that St Mawgan Parish Council should formally censure Cllr Gardner.

**Cllr E McKenzie proposed that, in light of the decision statement, the judgement of the Monitoring officer was accepted to formally censure Cllr Gardner for his behaviour, with the expectation that he will attend training and ensure he acts honourably in future and shares all information he has gained which is relevant to Council business. Cllr R Cawley seconded and it was resolved by the parish council.**

Councillor Gardner excused himself from the meeting at this juncture.

155/2016 Accounts - Cllr W Corbett proposed and Cllr R Cawley seconded, and it was **resolved** to approve payment of accounts as listed below:

A Hayne	Clerk’s Salary – June	£636.00	
	Home as office	15.00	
	Travelling expenses	<u>16.00</u>	667.00

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Missed Payments:

Jackie Buckingham (Hon. Treasurer St Mawgan Church)	Church Clock maintenance –2014/2015 - 2015/2016	150.00 <u>150.00</u>	300.00
Mrs Bruster	Fountain caretaker	2015/2016	50.00
St Mawgan Community Hall	Donation	2014/2015	500.00
Mawgan Porth Village Hall	Donation	2014/2015	500.00
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SW Internal Audit	Fees for Independent Internal Audit Service 2015-16		225.00
Mr P Roberts	Travel expenses & 4 hours with auditor (Totnes)		96.00
South West Water	Services at Tlts-Pumping Station		27.71
Bubb Maintenance	June: Maintenance	£980.00	
	June: Footpaths	<u>360.00</u>	1340.00
M Farmer	Beach Cleaning June		765.00
A Prowse	St Mawgan Toilet Clean June		210.00
Reef Water Solutions	Legionnaires test and service June		35.00
Vodafone	Mobile – June		17.85
<b>TOTAL</b>			<b>4733.56</b>

156/2016 To note and discuss if appropriate the correspondence received since the last meeting

Cllr B Cawley mentioned the compliments received and positive publicity regarding the maintenance, cleaning and landscaping around the toilets at St Mawgan. The clerk is to write a formal letter of thanks to Mr A Prowse for his efforts in this regard.

157/2016 Notice of items for the next meeting

1. To resolve to authorise the purchase the 10<sup>th</sup> edition of Arnold-Baker on Local Council Administration.
2. General Risk Assessment Review – to be checked with the revised Insurance Policy and looked for adoption in September.

Meeting closed at 9:15pm

Chairman's signature..... 10<sup>th</sup> August, 2016.