

**MINUTES OF A MEETING OF KINVER PARISH COUNCIL HELD ON WEDNESDAY 1<sup>ST</sup> SEPTEMBER 2021 AT THE 95 HIGH STREET, KINVER**

PRESENT: Councillors JK Hall (Chairman), Miss V Webb, IG Sadler, G Sisley, H Williams, S Anderson, Ms E Lord, D Light, P Wooddisse, Mrs S Harris

A minute's silence was held in memory of Councillor Brian Edwards, who sadly passed away last month.

152/21. Apologies for Absence.

Councillors Mrs C Allen (Vice Chairman), M Smith, P Wooddisse, E Simons sent their apologies.

County Councillor Mrs V Wilson and T Talbot Webb were not in attendance.

153/21. Declarations of Councillors' Interest.

None were declared.

154/21. To receive for confirmation and adoption, the Minutes of the Parish Council meeting held on 7<sup>th</sup> July 2021 (copy to be circulated).

The Minutes of the above meetings, having been circulated in advance of the current meeting, were approved and signed as a true record of the proceedings at that meeting with the exception that

155/21. Public Participation – 15 minutes for members of the Parish to raise matters with members of the Council

There were no members of the public present.

156/21. To receive an update for the KSCA re change of status to a CIO

The Clerk reported that she had forwarded the resolution passed at the previous Parish Council meeting to the solicitor to ensure that the decision was legal.

The response from the solicitor is below:-

You have asked for confirmation of advice in respect of the proposal from the KSCA Trustees to convert to a CIO.

My advice to the Parish Council remains as previously advised.

The Parish Council (KPC) is a custodian trustee for the land of the KSCA Trust. A custodian trustee is someone (in this case a body corporate – KPC) that holds the title deeds on behalf of a charity. The land in question is registered with the Land Registry making the holding of the physical deeds of less importance. However, KPC do not own the land. The land is owned by the charity and is subject to the restrictions on use and disposal set out in charity law. As custodian trustee KPC has no rights over the land and no power to deal with the land, other than under the instructions of the charity. I cannot comment on why the charitable status of the land was not noted on the Land Registry title but in my experience when custodian trustees were appointed a number of years ago, it is not unusual for the charitable status to be missing from the title. To be clear, this does not effect the status of the land – it is charity land regardless of the omission on title.

A way of looking at the role of KPC may be to think of depositing your house deeds with your solicitor. You may do so, but that would not give the solicitor the right to deal with your land and sell your house. It is the same with the role of KPC as custodian trustee – they hold the deeds but they cannot deal with the land.

I set out below an extract from the Charity Commission website guidance in respect of their role as Official Custodian of land:

[The Official Custodian cannot take part in managing land vested in him/her. The charity trustees keep all the powers and duties of management. They will still, for example, have to:](#)

- [decide how the land should be let \(if the governing document of the charity states that the land may or must be let\)](#)
- [arrange for rents to be collected](#)

- ensure that where the land is held on trust for a particular purpose, it is used for that purpose and no other
- protect the land, for instance by ensuring its boundaries are clearly defined and by periodically inspecting the condition of the land to make sure that it is not being misused
- arrange for its upkeep, maintenance and, if necessary, improvements

Vesting charity land in the Official Custodian does not change any of the powers of the charity trustees to dispose of it. There may be restrictions on disposing of the land but they will usually arise from:

- the terms of the charity's governing document
- the Charities Act
- the Housing Associations Act 1985 in the case of a charity which is registered as a housing association

These restrictions apply whether or not the land is vested in the Official Custodian.

The same principles apply to the role of custodian trustee held by KPC. All powers and duties rest with the charity trustees (KSCA) not with the custodian trustee.

The question was raised as to whether KPC could agree to the CIO being established but retain ownership of the land. To be clear, KPC do not own the land; the land is owned by the charity. The only way that KPC could keep the land nominally in their name is with the agreement of the KSCA trustees; this would be as custodian trustee only. As the trustees are seeking to establish a CIO, at least in part so that they can hold the land in their name, that would seem highly unlikely.

I note that the KSCA are in agreement to placing a restriction on the title of the land against disposal without the consent of the Parish Council. This would seem a good way forward along with the proposed places on the board of the new CIO for the parish and the district councils. I think the key thing for your members to bear in mind is that the land is protected by its charitable status regardless of who is listed as custodian trustee. The current trustees could seek to pass a resolution to appoint a new custodian trustee (prior to any establishment of a CIO) and KPC as current custodian trustee would not be able to prevent this. Similarly, if the CIO is established, KPC as custodian trustee would not be able to prevent transfer of the land to the new CIO.

In summary, KPC as custodian trustee hold the land but have no power over the land.

#### Lease for Park/Play area

I understand that KPC has for a number of years maintained an area of land within the charitable land as a park/play area. There is no formal agreement in place setting out responsibilities and liabilities in respect of this land. KPC should seek to put in place something to formalise the position. If KPC maintain the play area and insure it then it would seem reasonable that a lease at a peppercorn rent is sought.

I would suggest that this stage going back to KSCA along the following lines:

The Parish Council has maintained and insured the play area on the charitable land for a number of years. Given the proposed change in status to the trust it seems an appropriate time to formalise that arrangement to protect both parties. Could I ask for the Trustees views on this matter and the proposals for any lease that may be needed. Clearly, the Parish Council is incurring significant costs in maintaining the land and therefore would be looking for a peppercorn lease with suitable clauses to clarify responsibilities.

If you or your members have any queries, please let me know.

Regards

Lorraine  
Lorraine Fowkes

**Director Legal and Governance - Solicitor**

It was proposed by Councillor S Anderson and seconded by Councillor Miss V Webb that the CIO process is supported by the Parish Council subject to the land having an additional clause in the new status to protect the land from being sold or disposed of, to keep the land for the future for the people of Kinver and subject to the KSCA taking on the Field in Trust obligations.

On a vote the motion failed with 3 votes for, 5 against and 1 abstention.

It was proposed by Councillor J K Hall and seconded by Councillor S Anderson to send a letter to the KSCA asking for clarification on the issuing of new leases for Bowling Club, Model Engineers, and Kinver Action Group if the KSCA moves to a CIO. A new lease is required to regularise the Play Area and gym equipment area also, the lease for the carpark also needs to be confirmed as it is at the present time, due to the change of status. Including the Fields in Trust obligations to ensure the liability is transferred to the new CIO.

In addition a separate letter be sent to the Field in trust to ask for the process to change the legal responsibility to the new CIO status for the KSCA from the Parish Council.

On a vote there were 6 votes for, 2 against and 1 abstention.

157/21. To receive a report from PCSO's re incidents and statistics for Kinver

No report was received for the meeting.

158/21, Reopening public toilets update

The toilets on Kinver Edge remain closed at the present time, and they will be reviewed at a future date.

159/21. To discuss the funding of the solar lighting for the Holloway

Extract from Finance meeting

To allocate £4000 of the Community fund for the purchase of Solar Lighting for the Holloway.

It was proposed by Councillor Mrs C Allen and seconded by Councillor P Wooddise to Recommend to the Parish Council that funding can be found for this project. Community Projects budget line 120. On a vote this was carried with 2 for and 2 against. Therefore, the Chairman used his casting vote for the proposal and it was therefore carried.

The Chairman, Councillors Ms E Lord, Mrs V Wilson and the County Highways Officer met on site. The County have stated they can look at repairing some of the larger potholes on the road surface, but they could not fund the smaller potholes, this could be funded from the County Councillors fund.

Concern was expressed that doing the lighting may encourage people to walk on a dangerous road surface, or it could improve the visibility so you can see the potholes.

The above proposal from the Finance and Genral Purposes Committee was put forward by Councillor S Anderson and seconded by Councillor V Webb with the amendment that the funding is taken from the grants budget head line 117/3 and funding is capped at a maximum of £4000. On a vote this was carried with 5 votes for, 4 against. Therefore the motion was carried.

Councillor Miss V Webb left the meeting at 8.35pm.

160/21. To agree on the funding route and type of vehicle for the Parish Council

The detailed papers relating to this item were circulated to all members with the agenda.

It was proposed by Councillor J Hall and seconded by Councillor S Anderson that the Parish Council seek approval from the PWLB to have a HP agreement / loan for the purchase of a new vehicle with a £10,000 deposit, with an estimated cost of £22,000 +VAT to be financed. The existing van lease continues until a new vehicle can be purchased. On a vote this was carried with 7 votes for.

161/21. To review the Farmers Market event and the High Street fund grant

Farmers market took place on the 26<sup>th</sup> August. It was a very successful day and there are already many stall holders returning and new stall holders for the 25<sup>th</sup> September. The High Street Grant spent to date on the first market was

circa £600 for running this first event. The October market date is to be set, the Parish are looking at doing a Christmas Market in late November following the Christmas light switch on evening. This is to support the existing traders not create competition for them. Thanks were given to Councillor S Anderson, G Sisley and Ms Eunice Lord (and the Parish Staff) for their hard work for making this event so successful.

162/21. To receive the minutes and any recommendations from the following Committee meetings:-

Leisure and amenities Committee 14<sup>th</sup> July 2021

There were no recommendations to the Council.

Finance and General Purposes Committee 28<sup>th</sup> July 2021

The following recommendations were made to the Council and agreed:-

- The accounts up to the 30<sup>th</sup> June 21 as set as Appendix 2 to these minutes be accepted.
- The expenditure of £150 for the purchase of bat / bird boxes for Parish buildings from budget line 117/3.

Planning and Development Committee 7<sup>th</sup> and 29<sup>th</sup> July and 18<sup>th</sup> August 2021  
(including update on NPlan if applicable)

There were no recommendations to the Council.

163/21. County / District Councillor to address the Council on any matters relevant to the Parish

There were no matters reported due to August having minimal meetings.

164/21. Report of the Chairman

The Chairman reported his thanks to all involved in the Farmers Market and it was such a very enjoyable day. With the uptake on the stalls the Council may need to expand to the area by the clock shelter for further stalls.

165/21. To receive and note the report from the Clerk including Burial Ground Superintendents report.

Correspondence received:-

Communication relating to travellers trying to make camp on a site of the Hyde.

Update on 20's plenty campaign

Correspondence re pass wide and slow for horses

Gulley lids reported missing around the Parish on 17<sup>th</sup> August 2021

Gym equipment at the park, base is loose – MT's to repair

Kinver Civic Society – they do not require a nominated member from the Parish Council, but would welcome anyone to join their group as a full member.

Email from Bowling Club re grant

Training courses available SPCA details distributed.

Correspondence on car parks.

### **Superintendents Report**

There have been 2 funerals, a new burial plot / reopening and 2 headstone applications.

Correspondence received over what type of grave marking can be put on a grave.

166/21. Reports from Members sitting on Outside Bodies for the Parish Council.

It was proposed by Councillor Mrs S Harris and seconded by Councillor S Anderson that Councillor M Smith as per his request stands as the Parish Council representative on the KSCA management Committee. On a vote this was agreed.

167/21. To receive the accounts for payment since the last meeting.

The accounts as set out as appendix 1 to these minutes were agreed and noted.

168/21. To discuss having specific Parish Council email addresses for each member

This item was deferred until the next meeting.

169/21. Items for future Meetings

Items for the agenda to be with the Clerk on Monday 28<sup>th</sup> September.

170/21. Dates of Next Meetings –

Leisure and amenities Committee  
Finance and General Purposes Committee  
Planning and Development Committee  
Parish Council meeting

29<sup>th</sup> September 2021  
22<sup>nd</sup> September 2021  
9<sup>th</sup> and 30<sup>th</sup> September 2021  
6<sup>th</sup> October 2021

draft

**Accounts for payment for September Parish Council meeting 2021**

<b>Accounts for payment</b>	Description	Total
Amazon	Wooden stakes	7.29
Barclays Bank	Charges	6.00
Chairman's Allowance		500.00
Inland Revenue	August	1608.68
Inland Revenue	September	1494.43
J R K	Supplies	83.94
Med UK	Defib pads	8.79
Midshires	Copier rental	72.00
OCL	Supplies	17.00
Petty Cash	Retrospective expenditure	50.00
PHS	Toilet facilities	172.16
Screwfix	Supplies	218.83
S J Payne	Service boiler	65.00
Staffordshire County Council	Pensions August	2315.23
Staffordshire County Council	Pensions September	2233.62
SPCA	Course marita and Jenny	60.00
SWOPS	Fuel	115.00
Turnocks	New bulbs	242.76
Tygar Surfacing	Repair to play area	600.00
Viking Direct	Supplies	150.75
		<b>10014.19</b>
<b>List of Monthly Direct Debits</b>		
Utility Warehouse	Garage electricity July	11.21
Utility Warehouse	95 High Street Gas and electricity and mobile phone July	68.88
Utility Warehouse	Kinver Edge Toilets July	9.36
Utility Warehouse	High Street Toilets July	31.76
Salaries	August	5854.82
Salaries	September	5692.55
Utility Warehouse	Garage electricity August	10.54
Utility Warehouse	95 High Street Gas and electricity and mobile phone August	79.49
Utility Warehouse	Kinver Edge Toilets August	9.58
Utility Warehouse	High Street Toilets August	558.00
	<b>Total</b>	<b>11668.58</b>
	<b>Total Expenditure</b>	<b>21682.77</b>
<b>Receipts</b>		
Burial Fees		1465.00
Vend electric	August income	85.54
Vend electric	July income	99.42
Toilet income		50.00
Police Office rent		1000.00
	<b>Total Income</b>	<b>2699.96</b>