

**MINUTES OF THE EXTRA ORDINARY ST SAMPSON PARISH COUNCIL
MEETING HELD ON TUESDAY 16TH NOVEMBER 2021 AT 7:15PM IN ST
SAMPSON PARISH CHURCH, GOLANT**

Present: Councillors D Jenkinson (Chairman), D Pugh-Jones, D Johns, S Harper and A Van den Broek.

Sue Blaxley (Parish Clerk)
Fayre Hardy

The Chairman opened the meeting at 7:15pm.

Public Participation

Fayre Hardy commented that she hoped that she had assisted the parish council to move forward in respect of VAT and in limiting its liability in this respect. She offered her help to put processes in place to ensure that similar issues do not arise in the future.

1. Apologies

Apologies were received and accepted from Councillors M Whell and S Phillis

2. Declaration of interest in items on the agenda

None

3. VAT and Car Parking Income

To receive and consider a report on the parish council's position in respect of VAT on car parking income and to agree a way forward

The Chairman reminded councillors that at the end of the financial year, the Clerk prepares the accounts and these are agreed and signed by the Chairman on behalf of the parish council. He reminded councillors that the liability for parish council funds is shared by all councillors and that they must satisfy themselves at the end of each financial year that they are in agreement with the Chairman signing the accounts on their behalf.

The Chairman said that under VAT Notice 749, Section 3, if parish councils have a taxable supply, they should be VAT registered. The trigger point of £85,000 turnover for registration does not apply to parish councils. Where taxable supplies are continuous, irrespective of the amount of turnover, parish councils should register for VAT and are liable to pay VAT on every pound of the taxable supply. He said that a taxable supply includes income received from off street parking – a car park – but not from on street parking. This was clarified in the Isle

of Wight case regarding this matter in December 2015. He said that “on street parking” can only be governed by local authorities, not parish councils.

In this case, the taxable supply is generated from a car park, leased from Cornwall Council in which that lease clearly states that all income made by the parish council from the ‘Off-Street Parking Places Order’ shall be retained by the parish council. The lease refers to a space hatched in red which is shown on a plan and marked “car park”. The Chairman said that the Asset Holder is in no doubt that the area is a car park as opposed to highway. He has said that the car park is in the process of being devolved to the parish council and Cornwall Council would not be engaged in that process if it were a highway, which could not be devolved.

The Chairman detailed other advice that had been sought in respect of the parish council’s VAT liability: the Clerks of three other parish councils who have car parks, the VAT expert for CALC, the VAT office and two accountants. Their advice and view was consistent with VAT notice 749. The parish council should be registered for VAT as it is making a taxable supply.

He said that in the initial years of the car park, the minutes of the parish council at the time, refer to the District Auditor questioning what the parish council was doing about VAT on the car parking income. The Clerk was asked to obtain a ruling on this from HMRC. HMRC referred the parish council to VAT Notice 749. The minutes of the parish council record that it was agreed that as the turnover was less than £4,000, VAT was not payable and therefore registration for VAT was not necessary. At this meeting it was ventured that this was likely to have been a simple misinterpretation of Section 749, along with many other Councils at the time. Subsequently, successive Councils have had no reason to question VAT registration and all following audits have found no fault in annual Parish returns.

The Chairman said that the parish council’s VAT liability is not known. He explained that when registration takes place, it can be backdated up to 4 years from the date of registration. The total taxable supply for the four years prior to today is £40,525.60 so the VAT liability on this is £6,754.26. He said that if HMRC suspect fraud, they could reclaim the VAT that should have been paid up to 20 years in arrears and/or they could charge a penalty for non-payment of VAT in previous years.

The Clerk outlined the registration process. It was proposed by Councillor D Jenkinson and seconded by Councillor S Harper that the parish council registers for VAT backdating that registration for the maximum time provided for, in the registration process which is 4 years. All Councillors voted in favour of this proposal. The proposal was therefore carried.

It was noted that there will be some additional costs: the parish council will have to register for Making Tax Digital which will necessitate using a software

package, like Quick Books, for its accounts at a cost of approximately £20/month and the car parking machine will probably need to be re-calibrated with a VAT number put on the parking tickets, if this is found to be necessary.

4. Date of next meeting

To confirm the date and venue of the next meeting on Tuesday 30th November 2021

The date of the next meeting will be on Tuesday 30th November 2021, commencing at 7:15pm in Golant Village Hall.

There was no further business and the meeting was closed at 8pm.