

**MINUTES OF THE MEETING OF THE SOUTH HAMS DISTRICT COUNCIL  
HELD AT FOLLATON HOUSE, TOTNES ON THURSDAY, 19 DECEMBER 2002**

**MEMBERS**

\* Cllr G Rothwell - Chairman

\* Cllr P W Hitchins - Vice-Chairman

* Cllr L P Austen	* Cllr I Longrigg
* Cllr N A Barnes	* Cllr O G F Masters
* Cllr J S Beer	* Cllr E T Mitchell
* Cllr M T Bonney	* Cllr A J Nash
∅ Cllr J P Bradley	* Cllr J O'Connell
* Cllr B E Carson	* Cllr C M Pannell
* Cllr P H Cook	* Cllr J T Pennington
* Cllr R F Croad	* Cllr P J Prudden
* Cllr G Date	* Cllr R Rowe
* Cllr R M Eaton	* Cllr J W Squire
* Cllr B C Evans	* Cllr C A Steen
* Cllr S M Fairman	* Cllr I P Steer
* Cllr G J Fielden	* Cllr M Stone
* Cllr G M Guthrie	∅ Cllr R J Tucker
* Cllr R W Hallett	∅ Cllr A R Vale
* Cllr V A Harvey	* Cllr A Ward
* Cllr J D Hawkins	* Cllr J B Washington
* Cllr E A Jarrold	* Cllr J A Westacott
* Cllr J D Kelly	* Cllr R O Yonge

\* Denotes attendance

∅ Denotes apology for absence

63/02

**MINUTES**

A Member contested the accuracy of minute 62/02, specifically the recorded resolution, which contained the following wording:

“...whilst Council does not regard the Flavel Project Business Plan to be satisfactory...”

During discussion, Members were advised by the Chief of Legal and Property Services that it was the facts of what actually happened at the last meeting that were paramount rather than any subsequent interpretation of what might have been intended.

It was then **PROPOSED** and **SECONDED** and on being put to the vote was declared **CARRIED** that:-

The unaltered draft minutes of the meeting of Council held on 31 October 2002, be confirmed as a correct record and signed by the Chairman.

64/02            **CHAIRMAN’S ANNOUNCEMENTS**

The Council noted a list of recent civic engagements.

65/02            **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting, which were recorded as follows:-

Cllr Date declared a personal and prejudicial interest in Item 15 Hackney Carriage Table of Fares (minute 74/02 refers) and left the Chamber during consideration of this item.

66/02            **QUESTIONS**

It was noted that no questions had been received in accordance with Procedure Rule 8.

67/02            **NOTICES OF MOTION**

It was noted that four notices of motion had been received in accordance with Council Procedure Rule 10.1 as follows: -

(a)            **By Cllrs Yonge and Pennington**

*“That this Council opposes the Government proposals to amalgamate the European and Local Government Elections in 2004.*

*That the proposer and seconder of this resolution should agree a response to the consultation paper in conjunction with the Chief of Legal and Property Services.”*

During discussion, some Members’ expressed support for the concern that the proposed amalgamation would adversely effect the conduct of local elections, although other Members took the view that it was no more likely to detract from local elections than the national elections had done in 2001.

**RESOLVED**

1.        That this Council opposes the Government proposals to amalgamate the European and Local Government Elections in 2004.
2.        That the proposer and seconder of this resolution should agree a response to the consultation paper in conjunction with the Chief of Legal and Property Services.

**(b) By Cllrs Beer and Yonge**

*“That this Council condemns the discriminatory manner used by the Government in unfairly distributing revenue support grant in favour of urban areas in North and Midlands at the expense of competent and cost effective rural local authorities, such as South Hams District Council, which we believe to be gerrymandering.”*

During discussion, it was evident that all Members who spoke were very concerned about the discriminatory impact of the new formula for the allocation of revenue support grants. One Member, however, expressed support for the principle behind the new approach in terms of diverting resources to deprived areas but added that it was apparent that the Government had failed to recognise that rural areas, such as the South Hams, also had significant pockets of deprivation.

**RESOLVED**

That this Council condemns the discriminatory manner used by the Government in unfairly distributing revenue support grant in favour of urban areas in North and Midlands at the expense of competent and cost effective rural local authorities, such as South Hams District Council, which we believe to be gerrymandering.

In respect of the above resolution, and in accordance with Procedure Rule 15.5, a Recorded Vote having been requested, the voting was recorded as follows:-

For the motion (35) Cllrs Austen, Barnes, Beer, Bonney, Carson, Cook, Croad, Date, Eaton, Fairman, Fielden, Guthrie, Hallett, Hawkins, Hitchins, Jarrold, Kelly, Longrigg, Masters, Mitchell, Nash, O’Connell, Pannell, Pennington, Prudden, Rothwell, Rowe, Squire, Steen, Steer, Stone, Ward, Washington, Westacott and Yonge.

Against the motion (0)

Abstentions (2) Cllrs Evans and Harvey.

Absent (3) Cllrs Bradley, Tucker and Vale.

**(c) By Cllrs Ward and Bonney**

*“That this Council calls upon the U.K. Government to unify the permission process for mobile phone and TETRA installations in order that there is clarity and transparency within the decision making process, in order that: -*

*(i) Local communities demonstrate through their representations to the Planning Authority that they have concerns related to real and perceived health risks relating to telecommunications installations. Guidance is confusing on this issue, leading to conflicts with the decisions of the courts, human rights and guidance itself. In order that clarity and a uniform approach to health within telecommunication and other development procedures, this authority*

*call on the Government to give clarity and guidance in order that the concerns of local communities on health are fully taken into account within each stage of the decision making process;*

- (ii) That clarity be given to the question of Human Rights of those effected by telecommunication installations in order that local planning authorities are able to make decisions that will produce a fair and balanced decision after taking into account all information put before it on a case by case basis;*
- (iii) That the Government introduce a single process for deciding all installations which allows the full participation of local communities affected by the procedure, in particular the procedure known as “Licence Notification” and other processes that require no decision by local planning authority be revoked;*
- (iv) That greater flexibility be allowed to local planning authorities when formulating policies and making decisions on telecommunication applications in order to allow better control over developments;*
- (v) That guidance is given enabling greater use of the existing process under Section 97 and Section 102 of the Town and Country Planning Act 1990, for the revocation of permission, or the discontinuance of the use of a site for telecommunication purposes, in order to enable the removal of those installations in sensitive locations.”*

In the discussion, Members were advised that the purpose of the motion was to seek to persuade the Government to issue consistent and transparent guidance on the processing of telecommunication installation applications, particularly in relation to local concerns about health issues. Members agreed that clarity on the application process and health matters would be welcomed to assist planning authorities in the execution of their functions. Some Members, however, expressed deep reservations about the clarity of the motion itself and the likelihood of it achieving its objective.

Following further discussion, and in accordance with Procedure Rule 12.10(a), a Member **PROPOSED** that the motion be withdrawn pending Council’s receipt of more detailed information. This motion was itself subsequently withdrawn, at which time the following amendment was **PROPOSED** and **SECONDED** and on being put to the vote declared **CARRIED**:-

1. That this Council calls on the Government to undertake further research into the health issues associated with telecommunication and TETRA installations in view of the current difficulties facing local planning authorities;
2. That the Government introduce a single process for deciding all installations which allows the full participation of local communities affected by the procedure, in particular the procedure known as “Licence Notification” and other processes that require no decision by local planning authority be revoked.

In accordance with Procedure Rule 12.10 (d), it was then **PROPOSED** and **SECONDED** that the question be now put. However, the Chairman ruled that, as the meeting was ready, in his opinion, to vote on the motion there was no necessity to vote on the procedural motion.

### **RESOLVED**

1. That this Council calls on the Government to undertake further research into the health issues associated with telecommunication and TETRA installations in view of the current difficulties facing local planning authorities;
2. That the Government introduce a single process for deciding all installations which allows the full participation of local communities affected by the procedure, in particular the procedure known as "Licence Notification" and other processes that require no decision by local planning authority be revoked.

#### (d) **By Cllrs Guthrie and Date**

- (i) *"That, in accordance with Article 16 of the Constitution and Procedure Rule 22, Council agrees to the suspension of Procedure Rule 14.1;*
- (ii) *That Council agrees to amend the conditions upon which the grant of £100,000 to the Flavel Centre Project is dependent by substituting the reference to 31 December 2002 in condition (i) with 31 March 2003 in order to afford the Flavel Centre Project more time to comply with the remaining conditions."*

The Chairman advised Members that the two parts of the motion were to be considered separately

Part 1 of the motion was duly **PROPOSED** and **SECONDED**.

During discussion, some Members expressed dismay that they were being asked to re-visit a decision made at the last Council meeting. A Member queried whether there had been any material change since that meeting to justify the reconsideration of Council's decision. In response, a local Member reported on the recent indications from the Government Office for the South West (GOSW) that funding was to be made available. Other Members, therefore, expressed their belief that, whilst they considered that the suspension of any of the Council's Procedure Rules should not be undertaken lightly, it appeared that, in the present circumstances, this constituted an appropriate course of action

### **RESOLVED**

That, in accordance with Article 16 of the Constitution and Procedure Rule 22, suspension of Procedure Rule 14.1 be approved.

Part 2 of the motion was subsequently **PROPOSED** and **SECONDED**, to which the following amendment was then **PROPOSED** and **SECONDED**:-

That reference to 31 March 2003 be replaced with 30 April 2003.

During discussion, a Member reported on the decision of Dartmouth Town Council to extend the deadline for the Flavel Centre Project to secure funding to 30 April 2003. He argued that this development, allied to the apparent support of the GOSW for the Project, provided sufficient justification for Council to re-consider its decision on a deadline.

As the proposer and seconder of the motion consented to the proposed revision of their motion, the Chairman ruled that the wording of the motion could be revised accordingly without the necessity of voting on the amendment.

### **RESOLVED**

That the conditions upon which the grant of £100,000 to the Flavel Centre Project is dependent be amended by the substitution of the reference to 31 December 2002 in condition (i) with 30 April 2003, in order to afford the Flavel Centre Project more time to comply with the remaining conditions.

In respect of the above resolution, and in accordance with Procedure Rule 15.5, a Recorded Vote having been requested, the voting was recorded as follows:-

For the motion (30) Cllrs Austen, Barnes, Beer, Bonney, Carson, Cook, Croad, Date, Eaton, Fairman, Guthrie, Hallett, Hawkins, Jarrold, Kelly, Longrigg, Masters, Nash, O'Connell, Pannell, Pennington, Prudden, Rothwell, Rowe, Squire, Steen, Steer, Stone, Washington and Westacott.

Against the motion (5) Cllrs Evans, Fielden, Harvey, Mitchell and Ward.

Abstentions (2) Cllrs Hitchins and Yonge.

Absent (3) Cllrs Bradley, Tucker and Vale.

68/02

### **RE-STATEMENT OF PROCEDURAL RULE**

#### **RESOLVED**

That Procedural Rule 14.1 be re-instated

69/02

### **REPORT OF THE INDEPENDENT PANEL ON MEMBERS' ALLOWANCES**

Consideration was given to a report of the Independent Panel on Members' Allowances, which detailed the outcome of the annual review of the South Hams Scheme of Members' Allowances. The report reminded Members that, in accordance with Members' Allowances Regulations 2000, it was a requirement for any changes to a scheme to be considered by an Independent Panel, which would then make recommendations to Council. The Panel met on the 14 November 2002, at which it received representations from and asked questions of the Chief Executive, Leader of the Council, Leader of the Independent Group and Cllr Bonney (on behalf of the Leader of the Liberal Democrat Group). It also received written representations from two other Members.

The report highlighted changes recommended by the Panel in relation to the following components of the scheme:-

- The Basic Allowance;
- The electronic allowance;
- Special Responsibility Allowances;
- Travelling allowances;
- Carers' allowance.

In the conclusion, the report highlighted the Panel's awareness of the difficult financial situation currently facing the Council and its hope, therefore, that the Council would agree that the proposed increases detailed in the report before Council were of a modest amount which would, in practice, bring about a decrease in the overall budgetary requirement of £3,400 on a budget in excess of £212,000 (this represented a 1.6% decrease overall).

During discussion, a Member reported that his request to attend the meeting of the Independent Panel had been denied, which he believed contravened his right as an elected Member to attend any meeting of a Council body. He added that the report did not explain the reasoning upon which the Panel had based its conclusions.

In response, the Member and Administrative Support Manager reminded Members of the statutory requirement for any changes to the Members' Scheme of Allowances to be considered by an independent panel. He referred to the report before Council, which detailed the review process and the consultation undertaken with Members and confirmed that, as the panel was independent and not a Council body, the Member had no entitlement to attend the meeting. Members were also reminded of the importance of settling the issue of allowances for the coming year in order that the outcome could be incorporated into the budget setting process currently underway.

In accordance with Procedure Rule 12.6 (a) (i), a motion to refer the Panel's recommendations to Scrutiny was **PROPOSED** and **SECONDED**. However, following the advice of the Chief of Legal and Property Services that this course of action would involve recommendations to Council from a body that did not fall within the statutory mechanism for determining Members' Allowances, Members accepted that the motion would place Council at odds with the law.

In accordance with Procedure Rule 12.11 (a) (iii), a motion to defer consideration of the item was **PROPOSED** and **SECONDED** and on being put to the vote was declared **LOST**.

### **RESOLVED**

That the recommendations of the Independent Panel on Members' Allowances for 2003/2004 be approved as set out below:-

1. The Basic Allowance for all Members be set at £3,540 per annum;
2. The electronic allowance for all Members be set at £310 per annum;
3. The Special Responsibility Allowances payable to the Chairman and Vice Chairman of Council be set as detailed in the report before Council;

4. The mileage rate for travel claims made by Members be set at 40 pence per mile irrespective of engine size;
5. The Carers' allowance be set at £5 per hour.

70/02

## **HOUSING ALLOCATION AND POINTS SCHEME**

A report was considered detailing proposed revisions to the Council's Housing Allocation Policy and Points Scheme, following changes introduced under the Homelessness Act 2002. Under the Housing Act 1996 the Council already had a legal responsibility to publish a scheme which explained the Council's policies in terms of the allocation of housing through nominations to Housing Associations. The new Act required the weighting of these allocation policies towards assisting homeless people and all local authorities were required to revise their allocation policy by the end of January 2003 to reflect this priority.

In the report, particular reference was made to:-

- The Council's statutory duty towards the homeless and its right to nominate local people to housing association vacancies;
- The Government's eagerness to move away from points scheme allocation policies to a more "choice based" system;
- The work undertaken by Officers in consultation with other stake holders to try and establish a simpler and more accessible allocation policy;
- Details of the proposed changes to the policy, incorporating comments made by the Community Policy Development Group at its meeting on 19 December 2002 (the minutes of which were presented to Council).

The Chairman of the Community Policy Development Group(CPDG) introduced the item and informed Members that, at a meeting of the Group earlier that day, the Group agreed to amend the points scheme that was to be recommended to Council. Members were referred to paragraph 7 of Appendix A to the report before them, and advised that the Group proposed that the points for 'Local Connection' be amended to read 7 (b) i = 50 points; 7 (b) ii, iii, iv, v = 100 points.

The motion, incorporating the CPDG amendment, was **PROPOSED** and **SECONDED**.

During discussion, Members welcomed the intention to strengthen the 'Local Connection' element of the scheme. A Member highlighted the plight of people currently referred to as the 'homeless at home' and her concern that those people willing to help themselves by securing accommodation with friends and family should not be penalised. In commending the scheme, therefore, the Member requested that it be regularly reviewed to ensure it was operating effectively and equitably.

### **RESOLVED**

That the proposed changes to the Housing Allocation Policy, as outlined in the report and its Appendix, including the suggested amendments of the Community Policy Development Group meeting of 19 December 2002, be approved with the new policy coming into effect on Friday 31 January 2003.

71/02

**DECLARATION OF THE COUNCIL TAX BASE  
AND INDIVIDUAL TAX BASES FOR TOWN AND PARISHES: 2003/2004**

Members were invited to consider a report, which set out the basis of the approach culminating in the calculation of the Council Tax Base itself. Under the provisions of the Local Government Finance Act 1992, Council was required to set a Tax Base for its area by the 31 January each year. The purpose of the report, therefore, was to appraise Members of the proposed approach to the calculation of the Council Tax Base.

**RESOLVED**

That:-

1. The Council Tax Base for the year 2003/2004 as being £34,579.70 be approved;
2. The Tax Base calculated for each of the parishes and towns for the year 2003/2004 as detailed in Appendix D to the report be approved;
3. Authority be delegated to a Council Tax Setting Panel (the Panel to comprise the Chairman of Council, the Leader of Council, the Chairman of Scrutiny and a Member nominated by the opposition Groups) to set the level of Council Tax in accordance with Councils agreed budget following notification from Devon County Council, Devon and Cornwall Police Authority, Dartmoor National Park Authority and each parish/town council of their individual precepting requirements.

72/02

**ESTABLISHMENT OF A LICENSING COMMITTEE**

A report was considered which proposed that it was now appropriate for the Council to establish a Licensing Committee. It was noted that the Local Government Act 2000 stated that both Planning and Licensing were not to fall within the remit of Council's Executive function. Under the Council's Constitution, therefore, it was agreed that the Council would appoint the following bodies:-

- A Development Control Committee;
- A Licensing Committee.

A Development Control Committee was subsequently established, but a Licensing Committee had yet to be appointed. The report made it clear that, whilst there was no pressing need for the Committee to be established at this stage, as most routine licensing decisions and functions were delegated to the Chief Environment and Development Officer, it was now considered prudent to establish a Licensing Committee to fulfil the following functions:-

- To determine licensing policy and strategy;
- To receive representations from persons who had been refused licences or registrations or had had them revoked or varied;
- To deal with miscellaneous issues such as objections to licenses for public entertainment.

In addition, it was felt that a decision to establish a Licensing Committee would enable the Council to respond promptly to any issues that may arise in the future.

In discussion, a Member highlighted the Government's proposals to transfer responsibility for the determination of liquor licences eventually to district councils. The Member spoke of the need to be mindful of the significant resource implications of this development for the Council if, as was anticipated, no additional resources were to be made available by central government.

### **RESOLVED**

That a Licensing Committee with membership not exceeding five in number, the members of which will be nominated by the political group leaders and drawn in accordance with the need to maintain proportional representation, be established.

73/02

### **FREEDOM OF INFORMATION ACT 2000: SUBMISSION OF DRAFT PUBLICATION SCHEME**

A report was considered which set out a proposed response to the requirement for the Council to produce a Schedule of Publications under the provisions of the Freedom of Information Act 2000. It was noted that, although the Freedom of Information Act did not come fully into effect until the 1 January 2005, it placed a duty on every local authority to adopt and maintain a publication scheme that had to be submitted to the Information Commission before the 31 December 2002. It was then necessary to secure the Information Commissioner's approval of the scheme by the 28 February 2003.

The draft publication scheme, as set out in Appendix 2 to the report before Council, involved the completion of spreadsheets listing what information was held by each service, which were subsequently sifted by the Council's lawyers and a specialist advisor to group the information into classes to form the basis of the publication scheme. The report highlighted that further work was still required in respect of the charges and exemptions categories of the publication scheme. The draft scheme was, therefore, to be reviewed in the New Year.

The report made it clear that the compilation and maintenance of the publication scheme should be regarded as a long-term commitment, involving regular reviews, in addition to the provision of training for staff and Members in preparation for the full implementation of the Act. Members supported the proposal to delegate authority to the Chief of Legal and Property Services to make minor amendments to the scheme and to take account of any alterations required by the Information Commissioner.

During discussion, it was noted that the rolling programme for the implementation of the Act, was expected to involve significant resource implications for the Council. For one Member, the inclusion within the realm of the Act's application of parish and town councils was an unnecessary burden. In response to an enquiry regarding the level of support that the Council was able to offer the parish and town councils, the Chief of Legal and Property Services informed Members that it was likely to be limited. He also reminded Members that the Council's resources were already stretched because of the assistance it was providing to parish and town councils in order to comply with the Local Government Act 2000.

**RESOLVED**

That the Draft Publication Scheme be approved for submission to the Information Commissioner before the 31 December 2002, with authority delegated to the Chief of Legal and Property Services to implement minor amendments to the Scheme and to respond to any alterations required by the Information Commissioner, and that key dates for future action be noted.

74/02

**HACKNEY CARRIAGES: TABLE OF FARES 2003/2004**

Consideration was given to a report, which sought Council's approval to amend the Table of Fares for Hackney Carriages for 2003/2004. It was noted that the Hackney Carriage trade had been consulted on the proposals for increasing fares and only one objection had been received.

**RESOLVED**

1. That, in respect of Hackney Carriages operating within the South Hams District Council, the maximum fares which maybe charged should be set in accordance with the Table of Fares attached as the Appendix to the report before Council;
2. That the Table of Fares be advertised and come into effect in accordance with the provisions of Section 65 of the Local Government (Miscellaneous Provisions) Act 1976.

75/02

**REPORTS OF BODIES****RESOLVED**

That the minutes and recommendations of the undermentioned bodies be received and approved subject to any amendments listed below:-

- |     |   |                  |
|-----|---|------------------|
| (a) | <b>Business Board</b><br>(Leisure, Car Parks & Markets) | 7 November 2002  |
| (b) | <b>Business Board</b><br>(Operations Team)              | 14 November 2002 |

In response to a request from a Member for clarification, it was confirmed that it was proposed to increase the foot passenger rate for a crossing on the Dartmouth Lower Ferry from 65 pence to £1 during the peak season (minute BBD.09/02 refers).

- |     |   |                  |
|-----|---|------------------|
| (c) | <b>Coast &amp; Countryside Steering Group</b>   | 8 November 2002  |
| (d) | <b>Environment Policy<br/>Development Group</b> | 28 November 2002 |

(e) **Prosperity Policy Development Group** 12 December 2002

The Chairman of the Prosperity Policy Development Group (PPDG) highlighted minute PPDG.13/02 point K. on Budget Reductions, and asked Members to note that, in addition to that which was recorded, the PPDG had expressed concern that the proposed reduction in relation to tourism would result in the Tourism Service no longer being able to participate in, and benefit from, Devon-wide tourism networks.

(f) **Standards Committee** 21 November 2002

A Member asked for clarification about the complaints against councillors received by the Standards Board and with regard to the 'significant resource implications' mentioned in relation to Section 66 of the Local Government Act 2000 (minute S.6/02 refers).

In response, it was confirmed that the reference to complaints received by the Standards Board did not refer to any Members of this Council. With regard to the 'significant resources implications' of the implementation of Section 66, Members were advised that, whilst it was known that it would create additional pressure on resources, this could not at present be quantified.

In relation to minute S.8/02, Members were advised that the three Members whose attendance had fallen below the required 50% had been individually contacted and informed of position. It was understood that the Members concerned were addressing the matter.

(g) **Scrutiny** 7 November 2002(h) **Development Control** 30 October 2002  
27 November 2002

With the agreement of the Chairman, the Leader issued a statement of support for the Chairman of the Development Control Committee and his actions during the Public Participation section of the Committee meeting in respect of the Wash Barn application.

(i) **Salcombe Harbour Board** 3 December 2002(j) **Executive** 5 December 2002

In presenting the minutes, the Leader invited the Member of the Executive with special responsibility for issues relating to car parks to update Members on the proposed charging regime for Bigbury car park (minute E.100/02 refers).

The Member's statement is set out below:-

“I am pleased to report that Officers have had a meeting with the local Member for Bigbury and agreement has been reached on the way forward. Firstly, the new machines will only issue a ticket for dog walkers (at 70 pence per hour) up to 10.00am. The peak summer and winter charges will not be changed as part of the revised car parking charges. During the shoulder season, which will run from 1 April to 30 June and 1 to 31 October, we are proposing to introduce after 10.00am a £1 per hour charge for parking at Bigbury or £4.50 all day. This new initiative has been introduced for the benefit of the many visitors and residents who visit Bigbury for shorter or longer visits depending on the weather. We are sure this initiative will be welcomed. This is the only car park where a shoulder season will operate (Coastal Premium car park).

At the Executive meeting, it was proposed that generally the summer period should be extended from 30 September to 31 October. It was considered that many visitors come down to the South Hams for short breaks up to the end of October and this period also includes the autumn half term holiday. Members may recall that this autumn, September and October were very warm, sunny and dry and many visitors came on short stay holidays. On the basis of this year’s figures, it is estimated that up to £60,000 additional income could be earned by extending the summer season to the end of October.”

(k) **Community Policy Development Group** 19 December 2002

See also minute 70/02 above.

76/02

#### **CHAIRMAN’S ANNOUNCEMENT**

The Chairman thanked Members for their attendance and wished them and the officers a happy Christmas.

(Meeting commenced at 2.00 pm and concluded at 5.15 pm)

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Chairman