



Minutes of the Council

15 May 2013

-: Present :-

Chairman of the Council (Councillor Parrott) (In the Chair)
Vice-Chairman of the Council (Councillor Barnby)

The Mayor of Torbay (Mayor Oliver)

Councillors Addis, Amil, Baldrey, Bent, Brooksbank, Butt, Cowell, Davies, Darling, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hill, Hytche, James, Kingscote, Lewis, Mills, Morey, Pentney, Pountney, Pritchard, Richards, Scouler, Stockman, Stocks, Stringer, Thomas (D) and Thomas (J)

10 Apologies for absence

Apologies for absence were received from Councillors McPhail and Tyerman.

11 Declarations of interests

The following personal/non-pecuniary interests were declared:

Councillor	Minute Number	Nature of interest
Councillor Doggett	18	Long term member of the RSPB
Councillor Doggett	25	Lay member of the Clinical Commissioning Group – Medicines Management Committee
Councillor James	18	Member of the RSPB

12 Communications

The Chairman extended his thanks to all those who attended the civic luncheon, announced that approximately £800 had been raised for the Chairman's charity and thanked everybody for their support.

The Mayor:

- (a) on behalf of all members, thanked all those involved in the emergency response to the breach of the sea wall at Livermead beach. He referred to the excellent working relationships which were established between the Council and all the agencies involved to seal the breach; and
- (b) informed members that, the Council had formed a new partnership with the Welsh National Opera to visit Torbay over the next three years and thanked the Arts Council for a funding grant to support the partnership. The Mayor welcomed the Opera to Torbay and advised that a number of events would be held and one of the first performances would take place on 4 July 2013 at the Spanish Barn, Torquay.

13 Order of Business

In accordance with Standing Order A7.2, the order of business was varied to enable agenda item 9 (Clennon Valley Cycling Facilities) to be considered after item 4 (Public Question Time).

14 Public question time

In accordance with Standing Order A24, the Council heard from Mr Swithin Long who had submitted a statement and question in relation to the failure of Tor2 to collect rubbish and recycling from Pendennis Road and Lichfield Avenue, Torquay (a copy of which was circulated with the agenda). The Executive Lead for Highways, Transport and Environment, Councillor Hill, responded to the statement and question that had been put forward, plus a supplementary question asked by Mr Long.

15 Clennon Valley Cycling Facilities

Following the decision of the Council at its meeting on 28 February 2013, the Council received a further report on the funding proposals for cycling development at Clennon Valley. A revised officer recommendation was circulated at the meeting.

The Chairman invited Mr Andrew Perkins, the Chairman of the Mid Devon Cycling Club, to speak in support of the proposals.

It was proposed by Councillor Excell and seconded by Councillor Cowell:

- (i) that the Council make available up to £780,000 of prudential borrowing subject to a level of funding being provided by British Cycling to enable a closed road circuit and outdoor velodrome to be constructed at Clennon Valley;
- (ii) if approved the costs for prudential borrowing will be £57,000 per annum and added to the council's base budget in future years (paragraph 6.2 of the submitted report refers) should income not cover this expenditure;

- (iii) in addition the Council agrees to make provision within the base budget a sum up to £27,200 for future format maintenance costs and accept responsibility for any liabilities as set out in paragraph 5.3 of the submitted report, should income not cover this expenditure; and
- (iv) that the Chief Executive of Torbay Development Agency be instructed to provide the project management for the development on behalf of the Council and in consultation with British Cycling in respect of the design, funding and specification.

In accordance with Standing Order A19.4 and at the request of Councillor Excell, a recorded vote was taken on the motion. The voting was taken by roll call as follows: For: The Mayor, Councillors Amil, Baldrey, Barnby, Brooksbank, Butt, Cowell, Darling, Davies, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hill, James, Kingscote, Lewis, Mills, Morey, Pentney, Pountney, Pritchard, Richards, Scouler, Stocks, Stockman, Stringer, Thomas (D) and Thomas (J) (31); Abstain: Councillor Addis, Bent, Hytche and Parrott (4); and Absent: Councillors McPhail and Tyerman (2). Therefore, the motion was declared carried.

16 Petitions

In accordance with Standing Order A12, the Council received the following petitions:-

- (i) Petition concerning an uncontrolled pedestrian crossing on Dartmouth Road/Fisher Street, Paignton (approximately 39 signatures); and
- (ii) Petition received to reverse the decision to allow passenger coaches to park adjacent residential properties on St Annes Road, Torquay (approximately 304 signatures).

The Chairman advised that both petitions had been referred direct to the decision-maker (the Highways Service Manager, in consultation with the Executive Lead for Highways, Transport and Environment, Councillor Hill) at the request of the petitioners.

17 Members' questions

Members received the questions, as attached to the agenda, notice of which had been given in accordance with Standing Order A13.

Verbal responses were provided at the meeting. A joint response was given to question 5 by Councillors Scouler and Thomas (D) as the question covered several Executive Leads' portfolios. Supplementary questions were then asked and answered in respect of questions 1, 3, 4, 6, 8, 9, 10, 12 and 13.

18 Notice of Motion - Save Our Seabirds

Members considered a motion, as attached to the agenda, in relation to saving seabirds from pollution incidents, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Darling and seconded by Councillor Doggett:

Torbay Council notes that over 400 birds have been rescued during two separate pollution incidents in the past two months on the south coast of the UK, and that over 2000 more have died.

This Council further notes that the birds (including Guillemots, razorbills and puffins) have been found covered in polyisobutylene (PIB), a synthetic clear lubricating oil. This substance clings to the feathers of seabirds, preventing them from flying and destroying the waterproofing of their plumage.

According to the Devon Wildlife Trust, it is legal for this substance to be deposited in the sea just 12 miles off shore.

Torbay Council calls on Richard Benyon MP, the Minister for the Environment, the Members of Parliament for Torbay and the Members of the European Parliament in the South West Region to bring about changes in legislation to prevent such pollution incidents from happening again.

This Council asks the Chief Operating Officer to write to Richard Benyon MP, the two Members of Parliament for Torbay and the South West Region's Members of the European Parliament to advise them of this Council's views.

In accordance with Standing Order A14.4(a), the motion stood referred to the Mayor. The Mayor advised he would accept the motion and the record of his decision is attached to these Minutes.

(Note: During consideration of minute 18, Councillor Doggett declared his personal interest as a member of the RSPB.)

19 Notice of Motion - Fire Safety

Members considered a motion, as attached to the agenda, in relation to fire safety in Torbay, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Cowell and seconded by Councillor Stockman:

Torbay Council has major concerns about fire safety in Torbay if the Draft Plan presented by the Devon Fire Rescue and Service is accepted.

Therefore this Council, in opposing Proposal 10 of the draft plan which reduces full time fire cover at Torquay, mandates our representatives to oppose this option and calls upon the Fire Authority to look at alternative ways of finding the £5.5m cuts required by government.

Council further raises it's concerns that the lack of detailed engagement with it's staff has led to a flawed set of options and the Authority should instruct officers to fully engage with it's staff and produce a new set of proposals.

In accordance with Standing Order A14.4(a), the motion stood referred to the Mayor. The Mayor advised he would accept the motion, subject to the word 'mandates' being replaced with 'strongly advises' and the record of his decision is attached to these Minutes.

20 A Landscape for Success - the new Local Plan for Torbay

The Council considered the submitted report on the development of the new Local Plan for Torbay (entitled 'A Landscape for Success') and proposals for the direction and headline policies for the new Plan including a framework for growth and change. A revised officer recommendation was circulated at the meeting.

It was proposed by Councillor Thomas (D) and seconded by Councillor Morey:

- (i) it is recommended that the Council agrees the following high level growth figures and headline policies for housing and jobs, and related monitoring and review mechanisms, to be included in the Proposed Submission version of the new Torbay Local Plan:
 - a) The Bay's important environmental assets are so crucial to Torbay's future (economically, socially and environmentally) that the Plan establishes a maximum capacity, based on clear evidence, for new development;
 - b) Delivery of between 5,000 – 6,000 net new FTE jobs over the Plan period and beyond. This figure should not be fixed as a maximum/ceiling;
 - c) Delivery of 8,000 – 10,000 new homes over the Plan period and beyond, with 400 new homes per annum (+/- 25%) over first 5 years of the Plan to meet demand, including the provision of affordable housing to meet local needs;
 - d) A major and positive review of the Plan every 5 years, in partnership with Teignbridge District Council and South Hams/West Devon District Council to ensure a sub-regional approach to new development; and
 - e) Provision of new jobs, homes and infrastructure will be monitored and reported, against clear criteria, on an annual basis and will inform major reviews every 5 years. If growth in new jobs and homes exceeds levels in the Plan (and associated criteria) this will trigger a strategic review of land/sites across South Devon, jointly with adjoining Local Authorities, to identify land/sites that could best meet additional demand;

- (ii) that a further Report be presented to the Place Policy Development Group, which includes:
 - a. the Proposals Maps currently in the course of preparation (consistent with the requirement in the National Planning Policy Framework that they be included in the Submission version of the Local Plan); and
 - b. the proposed revisions to policies, other than those dealing directly with growth levels; and
- (iii) that the Executive Head of Spatial Planning, in consultation with members of the Place Policy Development Group, determine the need for further consultation and decision by the Council prior to formal Submission, having considered the Proposals Maps and revisions to policies.

On being put to the vote the motion was declared carried.

21 Brixham Town Centre Car Park Redevelopment - Mayoral Decision

The Council made the following recommendation to the Mayor:

It was proposed by Councillor Thomas (D) and seconded by Councillor Hytche:

that the purchase price payable pursuant to the Contract be reduced by the same amount as that to be paid directly by the Developer to the Council in Section 106 contributions.

On being put to the vote the motion was declared carried.

The Mayor considered the recommendation of the Council as set out above at the meeting and the record of his decision, together with further information, is attached to these Minutes.

22 Disposal of Council Assets - Mayoral Decision

The Council made the following recommendation to the Mayor:

It was proposed by Councillor Thomas (D) and seconded by Councillor Morey:

- (i) that the Mayor considers any feedback received before the 15 May 2013 from Ward Members, the Local Access Forum (where appropriate) and the relevant Community Partnerships to the disposal of the 6 Assets listed in Appendix 1 to the submitted report;
- (ii) that the 6 Assets listed in Appendix 1 to the submitted report be declared no longer required for service delivery and that the Head of Commercial Services be requested to advertise their intended

individual disposal in accordance with both the Council's Community Asset Transfer Policy 2008 and where appropriate Section 123(2A) of the Local Government Act 1972;

- (iii) that, subject to any expressions of interest received from the Community and any objections received to any disposal advertised pursuant to s123 of the Local Government Act 1972 and subject to paragraph 2.3, the Assets listed in Appendix 1 to the submitted report be individually disposed on such terms as are acceptable to the Executive Head Commercial Services in consultation with the Head of Asset Management of the Torbay Development Agency;
- (iv) that the disposal of asset reference T200 (Land adj to 7 Rock Road, Torquay) be conditional upon planning permission be obtained within an acceptable timeframe and that if possible, without significantly impacting the capital receipt, an obligation be included in the disposal documentation that the development of the asset in accordance with such planning permission be completed by a fixed date; and
- (v) that the Executive Head Commercial Services in consultation with the Head of Asset Management of the Torbay Development Agency be delegated authority to consider any objections received on the advertisement of any of the proposed disposals pursuant to s123 of the Local Government Act 1972.

On being put to the vote the motion was declared carried.

The Mayor considered the recommendation of the Council as set out above at the meeting and the record of his decision, together with further information, is attached to these Minutes.

23 Supporting the development of a Community Development Trust for Torbay

Members considered the submitted report which set out details of a new sustainable approach for supporting the voluntary, community and social enterprise sector in Torbay and the creation of a Community Development Trust. It was noted that working with the community and voluntary sector enabled the exploration of creative and innovative ways to deliver services which provide social value to communities.

It was proposed by Councillor Excell and seconded by Councillor Darling:

- (i) that the Council renews its support to the community and voluntary sector and endorses the new direction of travel and the creation of a new Community Development Trust ("CDT") in Torbay subject to the Executive Head Community Safety being satisfied with the business case once fully developed;

- (ii) that the Council ring fences funding to support the new direction of travel by making £100,000 per year available for a maximum of three years to support the development of the CDT business plan via a service level agreement (or similar) ("SLA") and delegates to the Executive Head Community Safety in consultation with Executive Lead Community Safety and Communities the amount of funding to be made available to support the development of the CDT business plan and the content of the SLA;
- (iii) that the Council provides such support in kind as it is able whilst the CDT is developing, with the expectation that the Council will contract with the CDT to deliver its existing community capacity building activities from April 2014 subject to the Executive Head Community Safety being satisfied that the CDT can deliver the same;
- (iv) that the Council continues to work with the Voluntary and Community Sector ("VCS") to review each parties assets and potential future opportunities for collaboration around these assets; and
- (v) that the Council agrees in principle to be party to ongoing discussions about supporting a collaborative approach for securing long term investment into the CDT. These discussions may include the opportunity for the Council to become an investor, but that prior to any agreement being reached a further report comes back to Council for agreement on the approach.

On being put to the vote the motion was declared carried (unanimous).

(Note: During consideration of minute 23, Councillor Stringer declared a personal interest as his wife was a street pastor and his daughter a youth worker.)

24 Overview and Scrutiny Annual Report

The Council received and noted the Overview and Scrutiny Annual Report for 2012/2013.

25 Establishment of the Torbay Health and Wellbeing Board

The Council considered the establishment of the Torbay Health and Wellbeing Board as a Committee of the Council (as set out in the submitted report). A revised officer recommendation was circulated at the meeting.

It was proposed by Councillor Lewis and seconded by Councillor Davies:

- (i) that the Torbay Health and Wellbeing Board be established to comprise:
 - Up to five members of the Council (to be appointed by the Mayor)
 - Director of Adults Social Services
 - Director of Children's Services
 - Director of Public Health

A representative of Healthwatch Torbay
A representative of South Devon and Torbay Clinical
Commissioning Group

- (ii) that the Article and Standing Orders in relation to the Health and Wellbeing Board (as set out in Appendices 1 and 2 to this report) be approved and included in the Constitution of Torbay Council, subject to the original paragraph (h) in Article (x).04, as set out in Appendix 1, becoming paragraph (i) and the following addition be added:
 - '(h) In accordance with Section 10 of the Children Act 2004, to exercise the statutory duty to promote co-operation between Torbay Council, its relevant partners and other partners or bodies as the Council considers appropriate, to improve the well-being of children in the area'.
- (iii) that, where the Chairman of the Board is an elected member of Torbay Council, the position attracts a special responsibility allowance of £3,265 and the Members Allowances Scheme be amended accordingly. (Note: The Independent Remuneration Panel have been consulted and support this recommendation.)

On being put to the vote the motion was declared carried.

26 Shared Arrangement for Director of Public Health

The Council considered a proposal for a shared appointment of the Council's Director of Public Health with Plymouth City Council for an interim period.

It was proposed by Councillor Lewis and seconded by Councillor Scouler:

- (i) that the Council permits its Director of Public Health to be appointed on an interim basis as a shared Director of Public Health with Plymouth City Council; and
- (ii) that the Interim Chief Operating Officer be authorised to progress this arrangement.

On being put to the vote the motion was declared carried (unanimous).

27 Appointment of Independent Persons to Assist the Council Standards Committee

The Council considered the submitted report setting out the proposed appointment of two new independent persons to assist in the consideration of complaints against members under the Council Code of Conduct for Members. It was noted the independent persons would also assist the Council in promoting and maintaining the high standards of conduct by members.

It was proposed by Councillor Morey and seconded by Councillor Doggett:

- (i) that the Council appoints Peter Styler and Christine Payne as its independent persons for a period commencing on 15 May 2013 and expiring on 17 May 2017; and
- (ii) that the Council notes the valuable contribution by the outgoing Independent Persons appointed under the previous standards regime towards the promotion of high standards throughout the authority and thanks them for this.

On being put to the vote the motion was declared carried (unanimous).

28 Composition and Constitution of the Executive and Delegations of Functions

The Mayor presented his report as submitted with the agenda, on the above, which was noted.

29 Appointment of Overview and Scrutiny Co-ordinator and Scrutiny Leads

The Council was requested to consider the appointment of the Overview and Scrutiny Co-ordinator and the appointment of scrutiny lead members for 2013/2014. An updated Appendix 2 was circulated prior to the meeting.

It was proposed by the Mayor and seconded by Councillor Darling:

- (i) that Councillor Thomas (J) be appointed as the Overview and Scrutiny Co-ordinator for the 2013/2014 municipal year; and
- (ii) that the following Councillors be appointed as the Scrutiny Leads as indicated for the 2013/14 municipal year:

People – Councillor Bent
Place – Councillor Kingscote
Business – Councillor Pentney
Health – Councillor Davies

On being put to the vote, the motion was declared carried (unanimous).

30 Appointments to Committees and other Bodies

The Council considered the submitted report on the appointment of committees and other bodies in light of the political balance of the Council.

It was proposed by the Mayor and seconded by Councillor Morey:

- (i) that the committees be appointed with the terms of reference set out in appendix 2 to the submitted report in accordance with the political balance requirements;
- (ii) that nominations be received to fill the seats on the Committees;

- (iii) that Councillor Excell be appointed as the Council's nominated representative on the Devon and Cornwall Police and Crime Panel;
- (iv) that Councillor Brooksbank and Councillor Ellery be appointed as the Council's nominated representatives on the Devon and Somerset Fire and Rescue Authority; and
- (v) that the Overview and Scrutiny Board continue to exercise (via its sub-committee, the Health Scrutiny Board) the Council's health scrutiny powers and that its terms of reference be amended as set out in the appendix 2 to the submitted report.

On being put to the vote, the motion was declared carried (unanimous).

Following the vote, the members to serve on each committee and other bodies were nominated by the Group Leaders. The Mayor advised that, following circulation of Appendix 2 (revised) of the submitted report, Councillor Bent would also be a member of the Health Scrutiny Board.

31 Calendar of Meetings 2013 - 2014

The Council considered the submitted report setting out the proposed calendar of meetings for 2013/2014.

It was proposed by Councillor Mills and seconded by Councillor Scouler:

- (i) that the provisional calendar of meetings for 2013/2014, set out in Appendix 1 to this report, be approved for final ratification at the Annual Council Meeting; and
- (ii) that meetings of the Employment Committee and Civic Committee be held on an ad-hoc basis, to be determined by the Governance Support Manager in consultation with the relevant Chairman.

On being put to the vote the motion was declared carried (unanimous).

32 Scheme of Delegation for Council Functions

It was proposed by Councillor Mills and seconded by Councillor Bent:

that the Scheme of Delegation of Functions set out in part 3 of the Constitution in so far as they relate to Council functions, be confirmed.

On being put to the vote, the motion was declared carried (unanimous).