

## **Minutes of the Council (Council decisions shown in bold text)**

**18 July 2024**

**-: Present :-**

**The Worshipful The Mayor of Torbay (Councillor Spacagna) (In the Chair)  
Deputy Civic Mayor of Torbay (Councillor Stevens)**

Councillors Amil, Atiya-Alla, Billings, Brook, Bryant, Bye, Carter, Cowell, George Darling, Mandy Darling, Douglas-Dunbar, Fellows, Foster, Fox, Harvey, Hutchings, Johns, Law, Barbara Lewis, Chris Lewis, Long, Nicolaou, Penny, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman

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### **28 Opening of meeting**

The meeting was opened with a prayer.

### **29 Apologies for absence**

Apologies for absence were received from Councillors Steve Darling, Fox, Maddison, Pentney and Virdee.

### **30 Minutes**

The Worshipful The Mayor of Torbay proposed and Councillor Long seconded a motion, which was agreed (unanimously) by the Council as set out below:

**that the Minutes of the Annual meeting of the Council, Adjourned Annual meeting of the Council and the Extraordinary meeting of the Council, held on 16 May 2024, 20 June 2024 and 3 July 2024 respectively, be confirmed as a correct record and signed by The Worshipful The Mayor of Torbay.**

### **31 Declarations of interests**

No interests were declared.

### **32 Communications**

The Leader of the Council:

- a) congratulated Steve Darling and Carol Voaden on their recent election as MPs for Torbay and South Devon respectively. He advised members that he

had written to both MPs inviting them to visit Levelling Up projects across Torbay and requested them to continue lobbying Government for their progression for the benefit of Torbay; and

- b) informed members of his communications with the Deputy Prime Minister, Angela Rayner, to continue devolution discussions with Torbay and Devon County Council and advised he would provide further updates as information became available to share.

### **33 Order of Business**

In accordance with Standing Order A2.2 in relation to Council meetings, the Worshipful the Mayor of Torbay varied the order of business to enable agenda Item 8 (Notice of Motion - Appointment of Overview and Scrutiny Co-ordinator) to be considered after Item 10 (Election of Deputy Civic Mayor).

### **34 Public question time**

In accordance with Standing Order A24, the Council heard from Mr Fraser who had submitted a statement and question in relation to the Pavilion, Torquay. The Cabinet Member for Place Development and Economic Growth responded to the statement and question that had been put forward, plus a supplementary question asked by Mr Fraser.

### **35 Members' questions**

Members received a paper detailing questions, notice of which had been given in accordance with Standing Order A12. The paper also contained the answers to the questions which had been prepared by Councillors Billings, Chris Lewis, David Thomas, Jackie Thomas and Tranter, and was circulated prior to the meeting.

The Worshipful the Mayor of Torbay advised that prior to the meeting, Question 7 had been withdrawn by Councillor George Darling.

Supplementary questions were put and answered by Councillors Billings, Chris Lewis, Tranter, David Thomas and Jackie Thomas, arising from their responses to the questions in respect of questions 1, 4, 6, 8, 9 and 11.

In the absence of Councillor Steve Darling, question 2 was withdrawn.

### **36 Election of The Worshipful The Mayor of Torbay**

Councillor Strang proposed and Councillor Bryant seconded a motion, which was agreed by the Council as follows:

**that Councillor Stevens be elected The Worshipful the Mayor of Torbay for the remainder of the Municipal Year 2024/2025.**

**(The Worshipful the Mayor of Torbay, Councillor Stevens, in the Chair)**

The Worshipful the Mayor of Torbay took the Declaration of Acceptance of Office and Oath of Allegiance and thanked the Council for the honour bestowed upon her.

The Worshipful the Mayor of Torbay announced that Mr Ian Stevens would be her Consort during her term of office and her charities would be Play Torbay and the Fisherman's Mission. The Worshipful the Mayor of Torbay advised that she had appointed Reverend Angela Sumner to be her Chaplain.

### 37 Retiring Civic Mayor

Councillor Bye proposed and Councillor Tyerman seconded a motion, which was agreed by the Council as set out below:

**that the Council express its sincere thanks and appreciation to Councillor Spacagna and Mr Christopher Ashfield for the manner in which they have carried out their duties during their term of office.**

### 38 Election of Deputy Civic Mayor

Councillor Tolchard proposed and Councillor Jackie Thomas seconded a motion, which was agreed by the Council as follows:

**that Councillor Barbara Lewis be elected The Deputy Civic Mayor for the remainder of the Municipal Year 2024/2025.**

The Deputy Civic Mayor of the Council took the Declaration of Acceptance of Office and thanked the Council for the honour bestowed upon her.

The Deputy Civic Mayor also announced that Councillor Chris Lewis would be her Escort during her term of office.

### 39 Notice of Motion - Appointment of Overview and Scrutiny Co-ordinator

Members considered a motion in relation to the appointment of Overview and Scrutiny Co-ordinator, notice of which was given in accordance with Standing Order A13.

Councillor David Thomas proposed and Councillor Chris Lewis seconded a motion, which was agreed by the Council as set out below:

**that the decision of the Council to appoint Councillor Twelves as Overview and Scrutiny Co-ordinator be rescinded (Minute 22(no1)/6/24 refers) and that Councillor Mark Spacagna be appointed as Overview and Scrutiny Co-ordinator and Chairman of the Overview and Scrutiny Board (in accordance with Article 5.04) for the remainder of the Municipal Year 2024/25.**

**40 Brokenbury Solar Farm**

The Council considered the Cabinet's recommendations and the submitted report on proposals for prudential borrowing to progress the Brokenbury Farm Solar Farm project since the Cabinet's original decision in May 2020.

Councillor Chris Lewis proposed and Councillor Tyerman seconded a motion as set out below:

1. that subject to 2 below the Director of Pride in Place be authorised to proceed with the project to deliver a solar farm at Brokenbury;
2. that Cabinet recommends to Council that up to £2,750,000 of prudential borrowing be approved subject to securing a unit rate per MWh that exceeds the loan repayments, covers projected maintenance and other operational and equipment replacement costs and provides an appropriate surplus per annum over the life of the scheme commensurate with level of risk; and
3. that the Chief Executive in consultation with the Leader of the Council, Finance Director and Cabinet Member for Finance should review and agree the final business plan after the EPC tender and Power Purchase Agreement (PPA) stage are complete and subject to that agreement is then authorised to agree and finalise the detailed terms and enter into contract with South West Water (SWW) or another purchaser of the electricity.

During the debate Councillor Long proposed and Councillor Cowell seconded an amendment to the motion as follows:

1. that subject to 2 below the Director of Pride in Place be authorised to proceed with the project to deliver a solar farm at Brokenbury;
2. that Cabinet recommends to Council that up to £2,750,000 of prudential borrowing be approved subject to securing a unit rate per MWh that exceeds the loan repayments, covers projected maintenance and other operational and equipment replacement costs and provides an appropriate surplus per annum over the life of the scheme commensurate with level of risk; and
3. that the Chief Executive in consultation with the Leader of the Council, Finance Director and Cabinet Member for Finance should review and agree the final business plan after the EPC tender and Power Purchase Agreement (PPA) stage are complete and subject to that agreement is then authorised to agree and finalise the detailed terms and enter into contract with South West Water (SWW) or another purchaser of the electricity.

4. that a report be presented to a future Cabinet Meeting after completion of the scheme, as to the potential use of up to 10% of the actual surplus generated to be made available for community use within 1 mile straight line distance of Brokenbury Solar Farm, and any decisions on the application of the community funds to be made in consultation with the Ward Councillors.

The amendment was put to the vote and declared lost.

Councillor Chris Lewis' and Councillor Tyerman's original motion was then considered by the Council which was agreed (unanimously), as set out below:

1. **that subject to 2 below the Director of Pride in Place be authorised to proceed with the project to deliver a solar farm at Brokenbury;**
2. **that Cabinet recommends to Council that up to £2,750,000 of prudential borrowing be approved subject to securing a unit rate per MWh that exceeds the loan repayments, covers projected maintenance and other operational and equipment replacement costs and provides an appropriate surplus per annum over the life of the scheme commensurate with level of risk; and**
3. **that the Chief Executive in consultation with the Leader of the Council, Finance Director and Cabinet Member for Finance should review and agree the final business plan after the EPC tender and Power Purchase Agreement (PPA) stage are complete and subject to that agreement is then authorised to agree and finalise the detailed terms and enter into contract with South West Water (SWW) or another purchaser of the electricity.**

#### 41 **Nightingale Solar Farm**

The Council considered the Cabinet's recommendations and the submitted report on proposals for additional funding to progress the Nightingale Solar Farm project.

Councillor Chris Lewis proposed and Councillor Tyerman seconded the motion, as set out below:

that Cabinet recommends that Council approves:

1. that the Director of Pride of Place be authorised to proceed with the next stage of the Nightingale Solar Farm project that is to conduct the EPC tender process and negotiation of the Power Purchase Agreement and to then develop a final business case based on revised income and costs;
2. that up to £4,151,000 of prudential borrowing subject to the securing a unit rate per M/Wh that exceeds the loan repayments, covers projected maintenance and other operational costs including anticipated equipment

replacement costs and produces an appropriate surplus per annum over the life of the scheme commensurate with levels of risk, be approved;

3. that the Chief Executive, in consultation with the Leader of the Council, Director of Finance and Cabinet Member for Housing and Finance, be given delegated authority to review and agree that the final business case meets the conditions in 2. above, and subject to that agreement is then authorised to agree and finalise the detailed terms and enter into contract with The Health Trust or another user of the electricity;
4. that, subject to the Council entering into contract as per 3. above, the Director of Pride of Place in consultation with the Cabinet Member for Place, Development and Economic Growth be authorised to proceed with the project to deliver a solar farm on Nightingale Park;
5. that, in the event that the Chief Executive should determine that the final business case does not meet the criteria in 2. above, a paper should be brought back to Cabinet and Council to determine the future of the project; and
6. that a report be presented to a future Cabinet Meeting after completion of the scheme, as to the potential use of up to 10% of the actual surplus generated to be made available for community use within 1 mile straight line distance of Nightingale Park.

An amendment by Councillor Long and seconded by Councillor Cowell was circulated prior to the meeting. During the debate, Councillor Chris Lewis and Councillor Tyerman accepted the amendment, which was then incorporated in the original motion and was agreed by the Council (unanimously) as set out below:

**that Cabinet recommends that Council approves:**

1. **that the Director of Pride of Place be authorised to proceed with the next stage of the Nightingale Solar Farm project that is to conduct the EPC tender process and negotiation of the Power Purchase Agreement and to then develop a final business case based on revised income and costs;**
2. **that up to £4,151,000 of prudential borrowing subject to the securing a unit rate per M/Wh that exceeds the loan repayments, covers projected maintenance and other operational costs including anticipated equipment replacement costs and produces an appropriate surplus per annum over the life of the scheme commensurate with levels of risk, be approved;**
3. **that the Chief Executive, in consultation with the Leader of the Council, Director of Finance and Cabinet Member for Housing and Finance, be given delegated authority to review and agree that the final business case meets the conditions in 2. above, and subject to that agreement is**

then authorised to agree and finalise the detailed terms and enter into contract with The Health Trust or another user of the electricity;

4. that, subject to the Council entering into contract as per 3. above, the Director of Pride of Place in consultation with the Cabinet Member for Place, Development and Economic Growth be authorised to proceed with the project to deliver a solar farm on Nightingale Park;
5. that, in the event that the Chief Executive should determine that the final business case does not meet the criteria in 2. above, a paper should be brought back to Cabinet and Council to determine the future of the project; and
6. that a report be presented to a future Cabinet Meeting after completion of the scheme, as to the potential use of up to 10% of the actual surplus generated to be made available for community use within 1 mile straight line distance of Nightingale Park , and any decisions on the application of the community funds to be made in consultation with the Ward Councillors.

#### 42 Budget Monitoring - Outturn 2023/24

The Council received the submitted report setting out a high-level budget summary of the Council's revenue and capital position for the financial year 2023/24 and final outturn position for the year ending 31 March 2024. The report also set out recommendations for the inclusion of the Paignton and Preston coastal defence project into the Capital Investment Plan and allocation of funding for the Brixham Port Infrastructure project and Paignton tec park project. The Council considered the recommendations of the Cabinet.

Councillor Tyerman proposed and Councillor David Thomas seconded a motion as set out below:

that Cabinet recommends to Council:

1. that Council notes the revenue outturn position and approves the transfer of the £0.678m end of year surplus as follows:
  - £400,000 transferred to an earmarked capital reserve to assist with delivery of the Capital Investment Programme; and
  - the balance transferred to the Comprehensive Spending Review (CSR) reserve and used to fund one off activities to accelerate the delivery of Operation Brighter Bay;
2. that Council approve the addition of the Paignton and Preston coastal defence project, into the Capital Investment Plan at a value of £17.515m, subject to:

- a) securing the required funding from the Environmental Agency (£9.441m); and
  - b) production of a compliant Full Business Case being discussed and supported at Capital Growth Board and approval from Cabinet (Outline Business Case attached as Appendix 4 to the submitted report);
3. that delegated authority be given to the Divisional Director of Economy, Environment and Infrastructure in consultation with the Section 151 officer and Portfolio Holder for Finance and Housing to award the contract of works for the delivery of the Paignton and Preston coastal defence project; and
  4. following receipt of £20m grant funding from the round 3 of Levelling Up Funds (LUF3) approval is given for feasibility funding to progress the following projects to the next stage:
    - 4.1 Brixham port infrastructure project. Initial allocation of £75k to be drawn down for feasibility works; and
    - 4.2 Paignton tec park project - Initial allocation of £85k to be drawn down for feasibility works.

During the debate Councillor Long proposed and Councillor Penney seconded an amendment to the motion as follows:

that Cabinet recommends to Council:

1. that Council notes the revenue outturn position and approves the transfer of the £0.678m end of year surplus as follows:
  - £400,000 transferred to an earmarked capital reserve to assist with delivery of the Capital Investment Programme; and
  - the balance transferred to the Comprehensive Spending Review (CSR) reserve and used to fund one off activities to accelerate the delivery of Operation Brighter Bay;
2. that Council approve the addition of the Paignton and Preston coastal defence project, into the Capital Investment Plan at a value of £17.515m, subject to:
  - a) securing the required funding from the Environmental Agency (£9.441m); and
  - b) production of a compliant Full Business Case being discussed and supported at Capital Growth Board and approval from Cabinet (Outline Business Case attached as Appendix 4 to the submitted report);

3. that delegated authority be given to the Divisional Director of Economy, Environment and Infrastructure in consultation with the Section 151 officer and Portfolio Holder for Finance and Housing to award the contract of works for the delivery of the Paignton and Preston coastal defence project; and
4. following receipt of £20m grant funding from the round 3 of Levelling Up Funds (LUF3) approval is given for feasibility funding to progress the following projects to the next stage:
  - 4.1 Brixham port infrastructure project. Initial allocation of £75k to be drawn down for feasibility works; and
  - 4.2 Paignton tec park project - Initial allocation of £85k to be drawn down for feasibility works; and
5. That future reports on Capital projects are presented to the Council as separate and standalone reports from budget monitoring reports, in order to provide more detail.

The amendment was put to the vote and declared lost.

Councillor Tyerman's and Councillor David Thomas' original motion was then considered by the Council which was agreed, as set out below:

1. **that Council notes the revenue outturn position and approves the transfer of the £0.678m end of year surplus as follows:**
  - **£400,000 transferred to an earmarked capital reserve to assist with delivery of the Capital Investment Programme; and**
  - **the balance transferred to the Comprehensive Spending Review (CSR) reserve and used to fund one off activities to accelerate the delivery of Operation Brighter Bay;**
2. **that Council approve the addition of the Paignton and Preston coastal defence project, into the Capital Investment Plan at a value of £17.515m, subject to:**
  - a) **securing the required funding from the Environmental Agency (£9.441m); and**
  - b) **production of a compliant Full Business Case being discussed and supported at Capital Growth Board and approval from Cabinet (Outline Business Case attached as Appendix 4 to the submitted report);**
3. **that delegated authority be given to the Divisional Director of Economy, Environment and Infrastructure in consultation with the**

**Section 151 officer and Portfolio Holder for Finance and Housing to award the contract of works for the delivery of the Paignton and Preston coastal defence project; and**

- 4. following receipt of £20m grant funding from the round 3 of Levelling Up Funds (LUF3) approval is given for feasibility funding to progress the following projects to the next stage:**

**4.1 Brixham port infrastructure project. Initial allocation of £75k to be drawn down for feasibility works;**

**4.2 Paignton tec park project - Initial allocation of £85k to be drawn down for feasibility works.**

#### **43 Constitution Amendment - Officer Scheme of Delegation**

The Council considered the submitted report on changes to the Council's Constitution in respect of the Officer Scheme of Delegation to align delegation levels with the revised Contract Procedures (as approved by Council in February 2024) and the Procurement Act 2023 which was due to come into force on 28 October 2024. The report also proposed the adoption of a specific Procurement Approval Report for tender processes requiring Cabinet or Council approval. It was noted the proposed changes would enable external contracts to be procured in a more timely and efficient manner.

The Worshipful the Mayor of Torbay reported that a revised Appendix 1 to the submitted report had been circulated ahead of the meeting.

Councillor Tyerman proposed and Councillor Jackie Thomas seconded a motion, which was agreed (unanimously) by the Council as set out below:

**that the amended delegation levels for officers to award contracts (as set out at revised Appendix 1 to the submitted report) be approved, alongside the introduction a specific Procurement Approval Report for Cabinet and Council decisions.**

#### **44 Urgent Council Decisions taken by the Chief Executive**

Members noted the submitted report which provided details of urgent decisions taken by the Chief Executive in appointment of interim Statutory Licensing Sub-Committee, Overview & Scrutiny Board and Planning Committee to enable them to meet to deal with urgent business prior to their appointment by the adjourned Annual Council meeting on 20 June 2024.