



## **Minutes of the Adjourned Annual Council**

**16 May 2012**

**-: Present :-**

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

The Mayor of Torbay (Mayor Oliver)

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

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### **10 Apologies for absence**

Apologies for absence were received from Councillors Amil, Hytche and Scouler.

### **11 Communications**

The Chairman thanked all the guests who attended his civic luncheon held on 15 May 2012 and advised that £475 was raised for his charity Annode Connect at the event.

The Mayor:

- (a) provided an update on the South Devon Link Road. The contract had now been signed and the Mayor was pleased to report the work would be starting in September 2012 which was earlier than originally planned. It was anticipated the work would be completed by December 2013.
- (b) advised that the contracts had been exchanged for the new development at Palm Court, Torquay with contractors appointed to complete the demolition of the remaining building. The Mayor reported that this was welcome news as the new development included landscaping and would be an improvement for a major site of Torquay sea front; and
- (c) reported that a successful bid had been made for a music hub for Torbay which was part of 120 new music areas. This was a huge success for schools and colleges and included £400,000 being made available for schools and colleges for equipment, lessons and music education.

**12 Declarations of interests**

Councillors Faulkner (A), Thomas (D) and Tyerman declared personal interests as they were the Council's appointed directors on Torbay Economic Development Company.

**13 Petitions**

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

- (i) petition requesting the Council to investigate the current system of Town Centre Business Rates and look specifically at the cost of per square metre prime sales area in both town centre and out of town retail sites (approximately 84 signatures);
- (ii) petition objecting to the parking charges on Torbay Road next to Torre Abbey Meadows, Torquay (approximately 130 signatures);
- (iii) petition requesting installation of pavement bollards in Princes Road, Torquay (approximately 40 signatures); and
- (iv) petition requesting traffic calming at the top of Victoria Road, Torquay (approximately 76 signatures)

At the invitation of the Chairman, Mr Doherty addressed the Council in relation to the petition in (i) above. It was noted that the petition would also be referred to the Executive Lead for Finance and officers from the Revenue and Benefits Team.

It was noted that the petitions in (ii), (iii) and (iv) above had been referred direct to the Highways Services Manager for consideration in consultation with the Executive Lead for Safer Communities and Transport, at the request of the petitioners.

**14 Members' questions**

Members received a paper detailing the questions, as set out at Appendix 1 to these Minutes, notice of which had been given in accordance with Standing Order A13.

Verbal responses were provided at the meeting. Supplementary questions were then asked and answered by the Mayor (questions 1 and 5), Councillor Excell (question 4) and Councillor Tyerman (question 6). The Chairman advised that a written response would be provided in respect of question 3 in the absence of Councillor Scouler.

**15 Notice of motions**

Members considered a motion in relation to the Portas Report and car parking in town centres, notice of which was given in accordance with Standing Order A14.

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

this Council notes that the Portas Report amongst other recommendations highlights the need for inexpensive parking for shoppers to regenerate town centres. In light of this, this Council instructs officers to identify town centre on street parking, suitable for low cost high turnover parking at the charge of 20p per half hour, with no stays longer than one hour. These initiatives should be enacted in time for the 1 July 2012.

In accordance with Standing Order A14.4(a), the Monitoring Officer advised that the motion stood referred to the Mayor. The Mayor advised that he would refer the motion to the Executive Head Residents and Visitor Services to be considered as part of a review taking place in town centres.

**16 Composition and Constitution of the Executive and Record of Delegations of Executive Functions**

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

**17 Appointment of the Overview and Scrutiny Co-ordinator and Scrutiny Lead Members for 2012/13**

The Council was requested to consider the appointment of the Overview and Scrutiny Co-ordinator and the appointment of scrutiny lead members for 2012/2013.

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

- (i) that Councillor Thomas (J) be appointed as the Overview and Scrutiny Co-ordinator for 2011/2012 municipal year; and
- (ii) that the following Councillors be appointed as the Scrutiny Leads as indicated:

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

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

**18 Appointments to Committees for 2012/13 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 Councillor Excell and seconded by Councillor Morey:

- (i) that the committees be appointed with the terms of reference set out in Appendix 2 of the submitted report in accordance with the political balance requirements;

- (ii) that nominations be received to fill the seats on the committees;
- (iii) that the Mayor be reappointed as the Council's nominated representative on the Devon and Cornwall Policy Authority; and
- (iv) that the Mayor be recommended to appoint the Shadow Health and Wellbeing Board with membership and terms of reference as set out in Appendix 3 of 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 the Appendix 2 of the submitted report, Councillor Hill would be replacing Councillor Butt as a member of the Overview and Scrutiny Board.

The Mayor considered the recommendation of the Council in respect of (iv) above at the meeting and the record of his decision is attached to these minutes.

## **19 Calendar of Meetings for 2012/2013**

The Council considered the submitted report setting out the proposed calendar of meetings for 2012/2013.

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

- (i) that the calendar of meetings for 2012/2013, set out in Appendix 1 to the submitted report, be approved; 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.

An amendment was proposed by Councillor Cowell and seconded by Councillor Ellery:

- (i) that, subject to meetings of Council commencing at 5.30 pm and the Chairs of Committees and Sub-Committees (with the exception of the Development Management Committee and Licensing Sub-Committee), Policy Development Groups and Scrutiny Boards be requested to consider meetings being held at 5.30 pm, the calendar of meetings for 2012/2013, set out in Appendix 1 to the submitted report, be approved.

On being put to the vote, the amendment was declared lost.

A further amendment was proposed by Councillor Morey and seconded by Councillor Darling:

(iii) that Group Leaders give further consideration to the timing of council meetings and their deliberations be reported to a future meeting.

On being put to the vote, the amendment was declared carried.

The substantive motion (the same wording as the original motion with the addition of paragraph (iii) above) was then before Members for consideration.

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

## **20 Scheme of Delegation for Council Functions**

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

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).

## **21 Member Development Policy - Mayoral Decision**

The Council made the following recommendation to the Mayor:

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

that the Mayor be recommended to approve the Torbay Member Development Policy (as set out at Appendix 1 of the submitted Report).

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

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 Anti-Social Behaviour and the Private Rented Housing Sector - Mayoral Decision**

The Scrutiny Lead for People presented the results of a scrutiny review into anti-social behaviour and the private rented housing sector. The Council also received the recommendations of the Overview and Scrutiny Board arising from the review and a response prepared by the Executive Head Community Safety.

The Chairman invited the Mayor to respond to the recommendations of the Overview and Scrutiny Board. The Mayor advised that he wished to defer consideration of the recommendations to enable his Executive to review the recommendations.

**23 Article 4 Direction restricting permitted development rights to change from Use Class C3 Dwelling to C4 Small Houses in Multiple Occupation (HMO)**

The Council considered the submitted report which set out proposals to introduce proper control and management in planning terms for the change of use of C3 dwelling houses to C4 small houses in multiple occupation (HMO). It was noted that there were increasing concerns about the impact concentrations of HMOs had on communities and the effects poor quality accommodation could have on health, employment and academic attainment.

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

- (i) that the Executive Head of Spatial Planning prepare an Article 4 Direction removing permitted development rights to change dwellings to small houses in multiple occupation (Class C3 Dwellings to C4 Small Houses of Multiple Occupation), without the need for express planning permission; and
- (ii) that 12 months notice be given prior to the Article 4 Direction taking effect, and that the Direction only be confirmed by the Council if sufficient resources are available to provide enforcement.

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

**24 Sports Provision in Brixham and Churston**

The Chairman reported that this item had been deferred to a future meeting.

**25 Innovation Centre 3rd Phase**

The Council considered a report on phase three of the Innovation Centre project which sought to promote sympathetic economic regeneration for Torbay by building a new innovation centre at Whiterock Business Park, Paignton. It was noted phase three would create 30,000 square feet of new workspace for businesses and would sustain an estimated 220 jobs with £2 million per year economic benefits to Torbay. A revised officer recommendation was circulated at the meeting.

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

- (i) that subject to a business case being submitted by the Torbay Economic Development Company (TEDC) that is satisfactory to the Chief Executive of Torbay Council acting in consultation with the Mayor, Executive Lead for Finance and Audit and Executive Head for Finance (such business case to be approved by the Board of the TEDC in writing), the Council approves prudential borrowing of up to £2,000,000, plus up to £500,000 of New Growth Points grant, to enable delivery of the third site of the Innovation Centre Programme with any initial funding met from internal funds in line with the Council's Treasury Management Strategy. The business case to include the TEDC to pay an annual charge to cover the Council's interest and repayment costs of borrowing; and

The Mayor be recommended:

- (ii) that the Council submits an application to the EU Competiveness programme for a £2.5million grant for match funding; and
- (iii) that subject to the business case referred to in (i) above being approved:
  - (a) the Council enters into the proposed land swap with Deeley Freed with regard to the Council's site at Whiterock, currently used by PLUSS Ltd. The agreement of terms to be delegated to the Chief Executive in consultation with the Mayor, the Executive Lead for Finance and the Chief Executive of the Torbay Economic Development Company; and
  - (b) the Council leases the proposed innovation centre site to the Torbay Economic Development Company Limited. The agreement of lease terms to be delegated to the Chief Executive in consultation with the Mayor, the Executive Lead for Finance and the Chief Executive of the Torbay Economic Development Company.

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

The Mayor considered the recommendation of the Council in (ii) and (iii) above at the meeting and the record of his decision is attached to these minutes.

## **26 Chief Executive - Voluntary Redundancy Request**

In light of the reductions in public spending, the Council considered a request from the Chief Executive for voluntary redundancy and proposals for considering future options for changes to the senior management structure, (as set out in the submitted report).

It was proposed by Councillor Pritchard and seconded by Councillor Tyerman:

- (i) that the voluntary redundancy request of the Chief Executive be approved and the significant changes to the current structure (tiers 1 & 2) and Functions of the Chief Executive which will need to be made as a result be accepted;
- (ii) that the Employment Committee work as a task force with Group Leaders and the Executive Head Business Services to develop options for consideration at the Council meeting on 12 July 2012, to ensure that there is fair inclusion and representation of Members in the development of these options; and
- (iii) to ask the Monitoring Officer to make such amendments to the constitution as maybe necessary following the decision above as required.

An amendment was proposed by Councillor Cowell and seconded by Councillor Ellery:

- (i) that the decision on the request for voluntary redundancy by the Chief Executive be deferred until the Council meeting scheduled for July 2012 to enable options to be developed as outlined in (ii).

In accordance with Standing Order A19.4 and at the request of 10 or more councillors, a recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: Councillors Cowell, Darling, Doggett, Ellery, Morey, Parrott, Pountney, Stocks and Stockman (9); Against: The Mayor, Councillors Addis, Baldrey, Barnby, Bent, Brooksbank, Butt, Davies, Excell, Faulkner (A), Faulkner (J), Hernandez, Hill, James, Kingscote, Lewis, McPhail, Mills, Pentney, Pritchard, Richards, Thomas (D), Thomas (J) and Tyerman (24); Abstain: Councillor Stringer (1); and Absent: Councillors Amil, Hytche and Scouler (3). Therefore, the amendment was declared lost.

The original motion was then before members for consideration.

In accordance with Standing Order A19.4 and at the request of 10 or more councillors, a recorded vote was taken on the original motion. The voting was taken by roll call as follows: For: The Mayor, Councillors Addis, Barnby, Bent, Brooksbank, Butt, Excell, Faulkner (J), Hernandez, Hill, James, Kingscote, Lewis, McPhail, Mills, Pritchard, Richards, Stringer, Thomas (D), Thomas (J) and Tyerman (21); Against: Councillors Cowell, Ellery, Morey, Parrott, Stocks and Stockman (6); Abstain: Councillors Baldrey, Darling, Davies, Doggett, Faulkner (A), Pentney and Pountney (7); and Absent: Councillors Amil, Hytche and Scouler (3). Therefore, the motion was declared carried.

**27 Statutory Officer Appointment**

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

that the appointment of Caroline Taylor as the Council's statutory Returning Officer and Electoral Registration Officer be confirmed.

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

**28 Overview and Scrutiny Annual Report 2011/2012**

The Council received and noted the Overview and Scrutiny Annual Report for 2011/2012.

**29 Report on an Investigation into Complaint No 10 002 564 Against Torbay Council**

The Council considered the submitted report setting out details of maladministration against the Council following a complaint to the Local Government Ombudsman. It was noted that the original report by the Ombudsman was presented to the Council on 13 July 2011 and that the Chief Executive had responded with the decision not to pay compensation recommended by the Ombudsman, but an offer of £1,000 was made to the complainant in recognition of the Council's failure to keep full records. A further report by the Ombudsman on the complaint (dated 28 March 2012) upholding the original decision had been received asking the Council to reconsider its decision not to pay the compensation as recommended in the original report.



It was proposed by Councillor Butt and seconded by Councillor Addis:

that the contents of the submitted report and its appendix be noted and that the Local Government Ombudsman's recommendations be approved.

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

Chairman

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# Minute Item 14

## Adjourned Meeting of the Council

Wednesday, 16 May 2012

### Questions Under Standing Order A13

<b>Question (1) by Councillor Darling to the Council's representative on Devon and Cornwall Police Authority – Mayor Oliver</b>	In September 2012 the police advised community representatives that a Neighbourhood Beat Manager would shortly be recruited for Watcombe. To date this post remains vacant. I and the community in Watcombe would welcome an explanation?
<b>Question (2) by Councillor Davies to the Mayor and Executive Lead for Employment and Regeneration – Mayor Oliver</b>	In the interest of transparency and in the light of the recent communication and press release concerning LABV, how much has this venture with both companies (McAlpine and Hawkestone) cost Torbay Council and TDA (including Officer time) and thus our ratepayers.
<b>Question (3) by Councillor Davies to the Executive Lead for Adult Social Care and Older People – Councillor Scouler</b>	In the interest of transparency and in the light of Torbay Care Trust's overspend on Adult and Social Care and the most recent closure of a small care home for the elderly on my Ward: a) How much did the Adult Safeguarding Team cost during the last financial year and in particular. b) How much did its contracted Crisis Team cost during the last financial year in respect of monitoring and observing staff in residential care homes including those that have failed any of the CQC Standards.
<b>Question (4) by Councillor Stocks to the Executive Lead for Safer Communities and Transport – Councillor Excell</b>	Despite a referral to the previous Mayor at the Council meeting on 24 March 2011 that:  <i>"During the next 12 months the Council will work with interested parties on a strategy to provide a 21<sup>st</sup> century swimming facility for local residents and visitors alike;"</i>  No strategy has come back to the Council for approval.  Will Councillor Excell explain when a Swimming Strategy for Torbay, including the future use of Swim Torquay and the Brixham Pool will be completed?

<p><b>Question (5) by Councillor Cowell to the Mayor and Executive Lead for Employment and Regeneration – Mayor Oliver</b></p>	<p>Following the revelations that there has been an ongoing legal dispute for the past three years with the operators of the Hi-Flyer balloon and the subsequent withholding of rent, does the Mayor agree with me that a full inquiry in to the events that led to this dispute and subsequent reasons for withholding the information from the public and councillors, should be held upon the settlement of the legal proceedings.</p> <p>Assuming that the Mayor does agree, will he instigate such an inquiry to ensure the facts are heard and any lessons can be learnt.</p> <p>This action would be a clear demonstration of his determination to lead an open and transparent administration and help to restore public confidence in the council.</p>
<p><b>Question (6) by Councillor Pentney to the Executive Lead for Finance and Audit – Councillor Tyerman</b></p>	<p>I understand from the Herald Express that the Conservative councillors are intending to use consultants to explore building a third harbour in Torquay. Please can he tell me where in the budget that money was allocated?</p>