



Minutes of the Council

12 July 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, Amil, Baldrey, Barnby, Bent, Brooksbank, Butt, Cowell, Davies, Darling, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hill, Hytche, James, Kingscote, Lewis, McPhail, Mills, Morey, Pentney, Pountney, Pritchard, Richards, Scouler, Stockman and Tyerman

30 Opening of meeting

The meeting was opened with a prayer.

31 Apologies for absence

Apologies for absence were received from Councillors Stocks, Thomas (D) and Thomas (J).

32 Minutes

The Minutes of the annual meeting of the Council held on 15 May 2012 and adjourned annual meeting of the Council held on 16 May 2012 were confirmed as a correct record and signed by the Chairman.

33 Declarations of interests

The Monitoring Officer advised members that, as from 1 July 2012, the Code of Conduct no longer applied and it was for each council to adopt its own code, which was to be considered later at this meeting. Although there were new statutory requirements, no code of conduct was in place until the new code was adopted. Therefore, the Monitoring Officer requested members to continue to declare personal and prejudicial interests for this meeting as though the old code continued to apply.

34 Communications

The Chairman:

- (a) updated members on the contributions made towards his charity, Anode, following his civic luncheon and thanked all those who attended. The current total was in excess of £1,600;
- (b) was pleased to announce that the Chief Executive had made arrangements for food collection boxes to be placed in the Town Hall, Roebuck House and Tor Hill House, Torquay. The collections would be passed to Anode for distribution to families in need. The Chairman encouraged members to make food contributions with a long shelf life; and
- (c) advised that he, together with his consort, were recently invited by Les Issacs' OBE, the founder of the Street Pastors in Great Britain, to the Street Pastor Great Britain Conference in Taunton. The Chairman made a speech at the conference promoting the Street Pastors work in Torbay and thanking them for the excellent service they provide. The Chairman also announced that he had invited Les Issacs to be his guest speaker at his annual civic dinner.

The Mayor:

- (a) advised members that this would be the Chief Executive's last Council meeting before her departure from the Council. The Mayor paid tribute to Elizabeth Raikes and the extensive experience she had brought to the role. He conveyed thanks on behalf of the members for the work and support she has given to the Council since her appointment in 2005 and wished her well for the future. The Chief Executive responded and stated that it was a privilege to work for the Council and serve members of community; and
- (b) reported that he had presented a replica of the 1948 Olympic torch to the Chairman of the Weymouth and Portland National Sailing Academy as part of the 1948 Sailing Relay and following its journey by sea from Torquay to the London 2012 sailing venue. The torch was celebrated by sailing clubs along the route from Brixham to Weymouth and Portland. A drawing of the original 1948 torch route was also presented.

35 Order of Business

In accordance with Standing Order A7.2, the order of business was varied to enable agenda item 10 (Anti-Social Behaviour and the Private Rented Housing Sector), to be considered before item 6 (Members' Questions).

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

The Chairman advised that, in response to the Overview and Scrutiny Board, the Mayor had made his decision on this matter outside of the meeting which was published on 11 July 2012.

In addition, the Chairman announced that the Overview and Scrutiny Board had considered the call-in for this item after the deadline for the receipt of public questions. Although the Mayor had made his decision on the matter prior to this meeting, the Chairman advised that he had already agreed (due to exceptional circumstances) he would accept public questions/statements on this matter. Therefore, in accordance with Standing Order A24, the Council heard from Susie Colley, Julie Brandon and Gordon Jennings who had submitted questions and statements in relation to this item. The Mayor responded to the questions and the statements that had been put forward, plus supplementary questions asked by Julie Brandon and Gordon Jennings.

37 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 on all the questions and answered by the Mayor and Councillor Excell. The Chairman advised that question 4 would be deferred to the next meeting of the Council in the absence of Councillor Thomas (D).

38 Notice of motion

Members considered a motion in relation to the building of the third harbour, notice of which was given in accordance with Standing Order A14.

Councillor Baldrey requested additional words be added to his motion which were accepted by Councillor Faulkner (J).

It was proposed by Councillor Baldrey and seconded by Councillor Faulkner (J):

that this Council notes that the proposed building of a 'Third Harbour' for Torquay would:

- have a likely cost exceeding £200m;
- have an anticipated annual shortfall in revenue of approximately £12.3m (based on £200m capital cost);
- likely provide 1% of jobs compared to ship repairing and yacht building (according to the Falmouth Port Masterplan); and
- provide only 7.0m of water at chart datum and would thereby exclude all vessels of greater than 6.0m draft;

and therefore this Council instructs officers to cease further activity and expenditure of harbour resources on this project with immediate effect.

In accordance with Standing Order A14.3(b), the Monitoring Officer advised that the motion would be dealt with by this meeting.

An amendment was proposed by the Mayor and seconded by Councillor Mills:

that this Council supports the principle of a third harbour in Torquay recognising that the project could deliver significant economic benefit to Torbay. The Council supports in principle the proposals for carrying out a series of investigations, as put forward by the Harbour Committee, to test out the feasibility for constructing a third harbour in Torquay and exploring the costs and economic benefits which would be associated with the project.

However, in recognition of the wide range of demands on Council funds, this Council requests the Mayor to instruct officers to delay committing funds to carry out investigations into the Third Harbour and, given the magnitude and scale of this project, plus considering the high public interest in this issue, bring this back to full Council for further consideration before committing any funds.

That this Council requests that the Mayor and Executive Lead for Regeneration, supported by officers and the Torbay Development Agency continue to develop plans within existing resources for bringing forward this project and continues to explore options for funding this investigation, and any resulting construction of the Third Harbour. Options to be explored will include obtaining funds from Government or European grants and seeking a partnership arrangement with private developers.

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: The Mayor, Councillors Addis, Amil, Barnby, Bent, Brooksbank, Butt, Excell, Hernandez, Hill, Hytche, Kingscote, Lewis, McPhail, Mills, Pritchard, Richards, Scouler and Tyerman (19); Against: Baldrey, Cowell, Darling, Davies, Doggett, Faulkner (A), Faulkner (J), James, Morey, Parrott, Pentney, Pountney and Stockman (13); Abstain: Councillor Ellery and Stringer (2); and Absent: Councillors Stocks, Thomas (D) and Thomas (J) (3). Therefore, the amendment was declared carried.

The substantive motion (the replacement of the original motion with the wording above) was then before Members for consideration.

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

39 Princess Promenade Refurbishment (Phase 2) - proposed removal of Upper Banjo and cathodic protection of extended Lower Banjo deck, and original Eastern Promenade structures - Mayoral Decision

The Council made the following recommendation to the Mayor:

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

that the Mayor be recommended to instruct the Executive Head of Resident and Visitor Services to invite tenders and let a contract to demolish the upper deck and widen the lower deck of the banjo together with providing cathodic protection to the structural elements of the banjo and eastern promenade. The contract to commence in October 2012 to allow the banjo to be open for summer 2013.

An amendment was proposed by Councillor Darling and seconded by Councillor Pentney:

that consideration of this item be deferred to an adjourned Council meeting to enable members to be briefed on what opportunities exist for the private sector to assist in the regeneration of the banjo and eastern promenade, in line with the decision of the Council taken on 31 October 2011.

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: Baldrey, Cowell, Darling, Davies, Doggett, Ellery, Faulkner (A), Faulkner (J), Morey, Pentney, Pountney and Stockman (12); Against: The Mayor, Councillors Addis, Amil, Barnby, Bent, Brooksbank, Butt, Excell, Hernandez, Hill, Hytche, Kingscote, Lewis, McPhail, Mills, Pritchard, Richards, Scouler and Tyerman (19); Abstain: Councillor James, Parrott and Stringer (3); and Absent: Councillors Stocks, Thomas (D) and Thomas (J) (3). Therefore, the amendment was declared lost.

The original motion was then before members for consideration and 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.

40 Torbay's Story 2011- 2020 Child Poverty Strategy - A Call for Action - Mayoral Decision

The Council made the following recommendation to the Mayor:

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

that Torbay's Story 2011 – 2020 Child Poverty strategy – A Call for Action (as set out in Appendix 1 to the submitted report) be supported.

An amendment was proposed by Councillor Faulkner (A) and seconded by Councillor Faulkner (J):

- (ii) that the elected member representatives on the Child Poverty Commission be drawn from those wards identified within the submitted report that have high levels of child poverty (namely Tormohun, Ellacombe, Roundham and Hyde and Watcombe); and
- (iii) that once the Child Poverty Commission is established, initially the frequency of meetings be increased to ensure the action plan is expedited as quickly as possible.

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

The original motion was then before members for consideration and 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.

41 Revenue Budget Outturn 2011/2012

The Council considered the submitted report on the final revenue outturn position for the Council for the financial year 2011/12 and the recommendations with respect to the use of the declared surplus. The Overview and Scrutiny Board had reviewed the report on 20 June 2012 and made no recommendations.

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

- (i) that the revenue outturn position for 2011/12 be noted;
- (ii) that a sum of £0.305m be transferred to an Employment Fund Reserve (paragraph A3.8 of the submitted report);
- (iii) that the transfer of £0.136m of the revenue underspend to the Comprehensive Spending Review Reserve (paragraph 3.9 of the submitted report) be approved;
- (iv) that it be noted that the transfers in (ii) and (iii) above are subject to the final audit of the Council's accounts; and
- (v) that the reserves proposed in paragraph 3.8 of the submitted report be amalgamated.

An amendment was proposed by Councillor Darling and seconded by Councillor Pentney:

- (iii) that the transfer of:

- (a) £0.056m of the revenue underspend to the Comprehensive Spending Review Reserve be approved;
- (b) £0.040m of the revenue underspend to support the new Poverty Strategy be approved; and
- (c) £0.040m of the revenue underspend to help fund road safety improvements.

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

The original motion was then before Members for consideration.

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

42 Capital Investment Plan - Budget Monitoring 2011/12 - Quarter Four (Outturn)

The Council considered the submitted report on the final Capital Monitoring report for 2011/12 and outturn position in respect of capital expenditure and income for 2011/2012. The Overview and Scrutiny Board had reviewed the report on 20 June 2012 and made no recommendations.

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

- (i) that the outturn position for the Council's Capital expenditure and income for 2011/12 be noted;
- (ii) that the action taken by the Chief Finance Officer, under the Officer Scheme of Delegation, to carry forward the unspent budgets for expenditure or work in progress (together with their funding) from 2011/12 to 2012/13 be noted; and
- (iii) that the funding of the capital investment plan for 2011/12 as outlined in paragraph C1.1 of the submitted report be approved.

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

43 Treasury Management Outturn 2011/12

Members considered the submitted report on the performance of the Treasury Management Function in 2011/12 as recommended by the Audit Committee.

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

- (i) that the Treasury Management decisions made during 2011/12 as detailed in the submitted report be endorsed; and

- (ii) that the Prudential and Treasury Indicators as set out at Annex 1 of the submitted report be approved.

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

44 Health and Safety Service Plan 2012/13

The Council considered the submitted report on the draft Health and Safety Enforcement Service Plan for 2012/13.

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

That the Health and Safety Service Plan 2012/13 set out at Appendix 1 to the submitted report be approved.

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

45 Food Safety Service Plan 2012/13

Members considered the draft Food Safety Service Plan for 2012/13 as set out in the submitted report.

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

that the Food Safety Service Plan 2012/13 set out at Appendix 1 to the submitted report be approved.

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

46 Interim arrangements for the replacement of the role of Chief Executive

The Council considered the submitted report setting out the Employment Committee and Group Leaders' Task Group's work on the interim arrangements for the future officer leadership and governance of the Council following the departure of the Chief Executive.

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

- (i) that the Employment Committee be requested to undertake the recruitment of an internal interim Chief Operating Officer to include the role of Head of Paid Service, for a period ending no earlier than 31 March 2013 and on a part time basis (equivalent of 2 days per week spread over a full week). The terms and conditions of employment for the post to be in line with the Joint Negotiating Committee for Chief Executives of Local Authorities with the job description as set out at Appendix 2 of the submitted report. (Note: The Employment Committee recommendations will be presented to the September 2012 Council meeting);

- (ii) that the Executive Head Business Services be instructed to undertake a Hay Evaluation of the agreed Job Description, and in doing so, produce a Hay Know How score which will in turn determine the spot salary for this post in accordance with our Pay and grading scheme;
- (iii) that the Council notes the Mayor will continue to exercise executive functions in accordance with the Mayoral system of governance and that the Mayor will (in consultation with the Employment Committee and Group Leaders' Task Group) review the existing Officer Scheme of Delegation in relation to the Chief Executive to ensure clarity of roles and responsibilities. The results of this exercise to be reported to members in September 2012; and
- (iv) that the Employment Committee and Group Leaders' Task Group make a recommendation to the Council at a forthcoming meeting on the long term proposals for the replacement of the Chief Executive functions.

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

47 New Code of Conduct for Members

The Council received a report by the Monitoring Officer on a new Code of Conduct for Members and associated matters as a result of the Localism Act 2011. It was noted the Localism Act 2011 abolished the Standards Board regime and replaced it with a requirement that authorities promote and maintain high standards of conduct by members.

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

- (i) that the Code of Conduct at Appendix A of the submitted report be adopted by the Council;
- (ii) that the existing Standards Committee be disbanded and a new Standards Committee be established to comprise of seven members (the political composition of the Committee to be determined in line with the overall review of the political balance of the Council – see separate agenda item) with terms of reference as set out at Appendix B of the submitted report. Group Leaders to notify the Governance Support Manager of their nominations for membership as soon as possible;
- (iii) that the Monitoring Officer, in consultation with the new Standards Committee develop a protocol as to how complaints will be dealt with under the new code of conduct and be requested to make the necessary amendments to the Council's Constitution;
- (iv) that the existing independent members of the original Standards Committee be asked to continue to act as Independent Persons under the new arrangements until the recruitment of new Independent Persons has been completed; and

- (v) that the Monitoring Officer in consultation with the Group Leaders be requested to carry out a review of the new code of conduct and protocol (to be adopted pursuant to (iii) above) after 6 months and if necessary provide a further report to Council should it be considered substantial amendment is required.

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

48 Review of Political Balance

The Council considered the review of the overall political balance of the committees as set out in the submitted report, following the resignation by Councillor James from the Conservative Group and his wish to join the Non-Coalition Group.

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

that the overall political balance of the committees as set out at paragraph A1.3 of the submitted report be approved.

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

49 Summary of decision taken by the Mayor in accordance with Standing Order D11 (call-in and urgency) and Standing Order E15 (Special Urgency)

Members noted the submitted report on an executive decision (Innovation Centre Phase 3) which had not been included in the Forward Plan and had not been subject to call-in.

Chairman

Minute Item 37

Meeting of the Council

Thursday, 12 July 2012

Questions Under Standing Order A13

Question (1) by Councillor Darling to the Mayor and Executive Lead for Employment and Regeneration – Mayor Oliver	<p>Figures compiled by credit-rating company Experian and published in the online Guardian show that around 22,000 households in Torbay were at risk of poverty if the economy takes a turn for the worse.</p> <p>In light of these findings what assurances can you give this Council that you are ensuring that the administration is placing the right emphasis to diversify our economy to guarantee the we move away from being too dependent on Tourism and the Public Sector and towards better paid jobs?</p>
Question (2) by Councillor Pountney to the Executive Lead for Safer Communities and Transport – Councillor Excell	<p>I am pleased to read recent reports that Torbay Council has awarded almost 200 Torbay businesses full marks as part of the national Food Hygiene Rating Scheme. However, I am also aware that Teignbridge Council completed their inspection of over 1,200 local businesses in the district some time ago. When will Torbay complete this inspection, so that residents can be fully informed about the hygiene of businesses serving them?</p>
Question (3) by Councillor Darling to the Executive Lead for Safer Communities and Transport – Councillor Excell	<p>Why does this Council allow a badly behaved minority dictate to the majority of respectable law abiding citizens and close a perfectly good pathway below Babbacombe Downs due to anti social behaviour.</p>
Question (4) by Councillor Faulkner (A) to the Executive Lead for Strategic Planning, Housing and Energy – Councillor Thomas (D)	<p>The number of households accepted as homeless between January and March went up by 2% on the previous quarter and up 16% on the same quarter as last year, according to the new government statistics, whilst I realise that this is not appertaining to Torbay we are finding the increase is affecting us. Please could the Portfolio Member reassure me that all steps are being taken to alleviate this problem that we face, such as bringing pressure to bear on the government to help relieve our particular state of affairs in Torbay, and discussing with the housing associations if they are relocating residents from larger properties who have found that they are too big to cope thereby relinquishing them to larger families who require them?</p>
Question (5) by Councillor Darling to the Mayor and Executive Lead for Employment and Regeneration – Mayor Oliver	<p>At the adjourned meeting of the Council on 30 September 2011 it was decided to defer consideration of the above to the Council meeting on 31 October 2011. A new report was submitted setting out proposals to repair the defective structure of the 'banjo' and the eastern section of Princess Parade, Torquay, to enable the closed sections to be reopened as soon as possible.</p> <p>It was proposed by Mayor Oliver and seconded by Councillor Excell:</p>

	<p>(i) that the capital programme for 2011/12 be amended to provide £800,000 to carry out the first phase of repairs to the promenade and upper level of the Banjo to be opened for the Summer of 2012;</p> <p>(ii) that the capital programme for 2012/13 be amended to provide £2.15 million to fund the second phase of the repairs to the structure to secure its long term future;</p> <p>(iii) that tenders be invited and a contract let to carry out repairs to the Eastern Promenade and minimal repairs to the banjo. The contract is to commence in early 2012 to allow the promenade and banjo to be open for the summer 2012;</p> <p>(iv) that the second phase of the works to provide long term repairs to the banjo and eastern promenade be progressed and a contract let in July 2012 unless alternative proposals to redevelop the area have been approved by the Council; and</p> <p>(v) that, subject to alternative capital resources being identified, the project is funded from prudential borrowing to be financed from the Council's revenue budget. The financial implications to be reflected in future year revenue budgets.</p> <p>In light of section (iv) can you explain why no alternative solutions have been brought to members and a planning application progressed, for the banjo, when there is a private sector solution that could save tax payers in Torbay hundreds of thousands of pounds?</p>
<p>Question (6) by Councillor Cowell to the Mayor and Executive Lead for Employment and Regeneration – Mayor Oliver</p>	<p>Is the Mayor aware of the public feeling towards a Third Harbour and can he assure us that if the conclusion of any environmental impact study states the extension would be detrimental to the environment then he will scupper his idea before any more public money is wasted?</p> <p>What resource implications have there already been and will be in the future for officers and is this scheme a distraction from other more immediate projects for regeneration?</p> <p>What mandate does the Mayor have to pursue his project considering the widespread opposition to it and financial implications on a hard pressed authority?</p>

Minute Item 39

Record of Decisions

Princess Promenade Refurbishment (Phase 2) - proposed removal of Upper Banjo and cathodic protection of extended Lower Banjo deck, and original Eastern Promenade structures

Decision Taker

Mayor on 12 July 2012

Decision

That the Executive Head Resident and Visitor Services be instructed to invite tenders and let a contract to demolish the upper deck and widen the lower deck of the banjo together with providing cathodic protection to the structural elements of the banjo and eastern promenade. The contract to commence in October 2012 to allow the bango to be open for summer 2013.

Reason for the Decision

The optimum cost and environmental solution to the defective condition of the upper banjo structure is its complete removal, since such demolition is financially efficient and the loss of the upper tier is considered to return uniformity to the waterfront outlook of Torquay Outer Harbour.

The extension of the lower deck completes the walking surface to link more harmoniously with the sunken garden grounds and removes a sometimes unsightly view for users.

The specification for the cathodic protection system is that it should be fit for purpose for a defined 50 year design life, within principle elements of maintenance at 25 years.

Implementation

This decision will come into force and may be implemented on 25 July 2012 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

The first phase of repairs to the eastern promenade and banjo were completed in June 2012. Following the decision of the Council on 31 October 2011 to provide capital funding for phase two to include repairs to the banjo as a whole, a revised design for the repair works had been proposed. The proposed works include the removal of the upper deck of the banjo, together with its supporting columns and the widening of the lower deck, which would improve the environment of Princess Promenade, Torquay.

The exposure of the lower deck is anticipated to bring about a reduction in anti-social behaviour which might otherwise prevail were the lower deck to continue to be enclosed by the upper deck structure.

The Mayor supported the recommendations of the Council made on 12 July 2012, as set out in his decision above.

Alternative Options considered and rejected at the time of the decision

Alternative options were set out in the submitted report.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None.

Published

17 July 2012

Signed: _____
Mayor of Torbay

Date: 17 July 2012

Minute Item 40

Record of Decisions

Torbay's Story 2011-2020 Child Poverty Strategy - A Call for Action

Decision Taker

Mayor on 12 July 2012

Decision

That Torbay's Story 2011-2020 Child Poverty Strategy – A Call for Action (as set out in Appendix 1 to the submitted report) be supported.

Reason for the Decision

The Child Poverty Strategy will underpin the approach of the Council and its partners in the long term improvement of outcomes for children, young people and families. Breaking the cycle of poverty will be fundamental to creating positive outcomes and will provide a major contribution to the long term regeneration of Torbay.

Implementation

This decision will come into force and may be implemented on 25 July 2012 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

The Child Poverty Act 2010 places a statutory duty on partners to develop a joint strategy to reflect the Government's commitment to eradicate child poverty by 2020. The Child Poverty Strategy and action plan ensures that Council services, communities and local partners take responsibility and contribute to eradicating child poverty in Torbay. The plan will specifically tackle hot spots identified in the needs assessment to ensure that the cycle is broken and today's children do not become the parents of poor children tomorrow.

The Mayor supported the recommendations of the Council made on 12 July 2012, as set out in his decision above.

Alternative Options considered and rejected at the time of the decision

None.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None.

Published

17 July 2012

Signed: _____
Mayor of Torbay

Date: 17 July 2012