



## Minutes of the Council

28 February 2013

-: Present :-

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

The Mayor of Torbay (Mayor Oliver)

Councillors 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, Stocks, Thomas (D), Thomas (J) and Tyerman

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### 112 Opening of meeting

Chris Boyce, Chairman of the Board of the Riviera International Conference Centre welcomed the Mayor, Chairman and members of the Council to the Centre and conveyed the Board's pleasure in hosting future meetings of the Council.

The meeting was then opened with a prayer.

### 113 Apologies for absence

An apology for absence was received from Councillor Addis.

### 114 Minutes

The Minutes of the meetings of the Council held on 6 and 13 February 2013 were confirmed as correct records and signed by the Chairman.

### 115 Declarations of interests

The following non pecuniary interest was declared:

<b>Councillor</b>	<b>Minute Number</b>	<b>Nature of interest</b>
Councillor Doggett	127	Lay member of the Medicine Management Committee, Clinical Commissioning Group.

**116 Communications**

- (i) The Mayor thanked Mr Boyce for his warm words; and
- (ii) congratulated Councillors Hernandez and Thomas (D) on being shortlisted for the Local Government Information Unit awards for Online Councillor of the Year and Community Champion respectively.

**117 Petitions**

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

- (i) petition requesting the installation of a dog receptacle for Lower Fowey Avenue and Huntacott Way, Shiphay (approximately 29 signatures); and
- (ii) petition to halt the planned closure of the Chestnut Nursery in 2013 (approximately 358 signatures).

It was noted that both the petitioners had requested their petitions be submitted direct to the decision-maker. The petition in (i) above would be referred to the Highways Service Manager, Patrick Carney in consultation with the Executive Lead for Strategic Planning, Housing and Energy, Councillor Thomas (D). The petition in (ii) above would be referred to the Director of Children's Services, Richard Williams, for consideration in consultation with the Executive Lead for Children, Schools and Families, Councillor Lewis.

**118 Public question time**

In accordance with Standing Order A24, the Council heard from Ros Ede who had submitted a statement and question in relation to the opening times of the Pavilion toilets on the harbour side Torquay on Friday and Saturday nights. The Executive Lead for Planning, Housing and Energy responded to the statement and question that had been put forward and advised that further to negotiations with TOR2, this request could be acceded.

**119 Members' questions**

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

A verbal response was provided at the meeting. A supplementary question was asked by Councillor Cowell and answered by the Mayor.

**120 Notice of motion - Capital Receipts**

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

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

This Council notes recommendation 6.2 of the Resources and Priorities Review Panel in relation to point (f) in section 2.5 (prioritisation) of the Corporate Capital Strategy which is recommended to read as follows:

‘In the interests of transparency, openness and accountability, proposed specific capital schemes within the approved Capital Plan in (e) above should be submitted to the Chief Operating Officer for consideration in consultation with the Mayor, Executive Lead for Finance and Chief Finance Officer. If the proposed scheme is supported, it will be considered by the Council with a recommendation of approval.’

This Council resolves to adopt the recommendation of the Resources and Priority Review Panel as set out above.

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

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

## **121 Council Tax for 2013/2014**

Members considered the submitted report on the setting of the Council Tax for 2013/14.

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

That the Council note:

- (i) that on 6 December 2012 the Council calculated the Council Tax Base for 2013/14:-
  - a) For the whole Council area as 41,586.58, [Item T in the formula in Section 31B of the Local Government Finance Act 1992, as amended (the "Act")]; and
  - b) For dwellings in the Brixham Town Council area as 5,597.39 to which a Parish precept relates;
- (ii) that the Police and Crime Commissioner for Devon and Cornwall and the Devon and Somerset Fire and Rescue Authority have issued precepts to the Council in accordance with Section 40 of the Local Government Finance Act 1992 for each category of dwellings in the Council's area as indicated in the table in paragraph (v) below.

That the Council approve:

- (iii) that the Council Tax requirement for the Council's own purposes for 2013/14 (excluding Brixham Town Council) of £52,447,747;
- (iv) that the following amounts be calculated for the year 2013/14 in accordance with Chapter Three of the Act:
  - a) £291,512,044 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account the precept issued to it by Brixham Town Council.
  - b) (£238,909,000) being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
  - c) £52,603,044 being the amount by which the aggregate at ((iv)(a) above exceeds the aggregate at ((iv)(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax Requirement for the year (item R in the formula in Section 31B of the Act).
  - d) £1264.90 being the amount at (iv)(c) above (Item R), all divided by Item T ((i)(a) above), calculated by the Council, in accordance with Section 31B of the Act, as the basic amount of its Council Tax for the year (including Parish precepts).
  - e) £155,297 being the aggregate amount of all special items (Brixham Town Council) referred to in Section 34(1) of the Act.
  - f) £1,261.17 being the amount at ((iv)(d) above less the result given by dividing the amount at ((iv)(e) above by Item T ((i)(a) above), calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates.
- (v) that the Council, in accordance with Chapter Three of the Local Government Finance Act 1992, hereby sets the aggregate amounts shown in the tables below as the amounts of Council Tax for 2013/14 for each part of its area and for each of the categories of dwellings.

	Valuation Band							
	A	B	C	D	E	F	G	H
Ratio of each band to Band D	6/9	7/9	8/9	9/9	11/9	13/9	15/9	18/9
	£	£	£	£	£	£	£	£
Torbay Council	840.78	980.91	1,121.04	<u>1,261.17</u>	1,541.43	1,821.69	2,101.95	2,522.34
Police and Crime Commissioner	108.61	126.72	144.82	162.92	199.12	235.33	271.53	325.84
Devon and Somerset Fire and Rescue Authority	50.26	58.64	67.01	75.39	92.14	108.90	125.65	150.78
Aggregate of Council Tax Requirements excluding Brixham Town Council	999.65	1,166.27	1,332.87	1,499.48	1,832.69	2,165.92	2,499.13	2,998.96
Brixham Town Council	18.49	21.57	24.66	27.74	33.91	40.07	46.23	55.48
Aggregate of Council Tax Requirements including Brixham Town Council	1,018.14	1,187.84	1,357.53	<u>1,527.22</u>	1,866.60	2,205.99	2,545.36	3,054.44

- (vi) that the Council's basic amount of Council Tax for 2013/14 is not excessive in accordance with principles approved under Section 52ZB Local Government Finance Act 1992.

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

## 122 Transfer of Public Health Functions to Torbay Council

The Council considered the submitted report which summarised the transfer arrangements from the NHS and recorded the staff, contracts and assets that the Council needed to formally accept.

The Chairman advised that the public health function was an executive decision and required a decision from the Mayor. However, as authority was required for the

Constitution to be changed and budget considerations a decision was also required from Council.

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

- (i) That the Council and the Mayor accept and acknowledge the responsibilities, staff, assets and liabilities transferring from April 2013 and notes, in accordance with national guidance, that:
  - (a) The Director of Public Health (DPH) was a statutory chief officer with direct accountability to the Chief Operating Officer and access to members.
  - (b) The DPH would be responsible for the statutory duties of the Council with regards to public health.
  - (c) Expenditure commitments for staff and contracts transferring to the Council, as set out in appendices to the submitted report.
  - (d) The DPH for Plymouth is the lead DPH for health protection in LRF area.
- (ii) that the Council and the Mayor delegate (in respect of the functions listed that are their respective responsibilities) to the Chief Operating Officer in consultation with the Mayor and group leaders the following matters:-
  - (e) Agreement on the Clinical governance to be provided to the Council by the Clinical Commissioning Group.
  - (f) The establishment of a Council Health Protection Forum.
  - (g) The finalisation and agreement of the Core Offer to the Clinical Commissioning Group.
  - (h) Any additional authorisation or agreement that may be needed prior to the next scheduled ordinary council meeting of the Council in respect of the public health transition.
- (iii) that the Council authorise the Monitoring Officer to make any necessary amendments to the Constitution following the transfer of Public Health responsibilities to the Local Authority.

On being put to the vote, the motion was declared carried (unanimously). The Mayor considered the recommendation of the Council as set out above at the meeting and a record of his decision, together with further information, is attached to these minutes.

## **123 Proposals for the Chief Executive Functions**

The Council considered the submitted report on the establishment of a long term appointment for the Chief Executive functions following the departure of the Chief Executive.

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

- (i) That the post of Executive Head of Spatial Planning be deleted and the resources role of Director of Place and Resources be removed to be replaced with the duties of the Executive Head of Spatial Planning so that the post becomes the Director of Place and Planning but with no change to the contractual hours of the post (equivalent to four days per week);
- (ii) that the resources role of the Director of Adults and Resources be removed but with no change to the contractual hours of the post (equivalent to four days per week) and the job description of the Director of Adults and Resources be amended to require the postholder to secure closer linkages between Children's and Adults Services;
- (ii) that the job description for a part time (equivalent to four days per week) Executive Director of Finance and Operations as set out at Appendix 1 to this report, which includes the role of Head of Paid Service, be approved as the long term solution for the replacement of the Chief Executive;
- (iii) that the Human Resources Advisor, in consultation with the Mayor and Chairman of the Employment Committee, be requested to determine an appropriate title for the post;
- (iv) that the Human Resources Advisor, in consultation with the Mayor and Chairman of the Employment Committee, be authorised to determine the recruitment exercise for the post of Executive Director of Finance and Operations and the Employment Committee be requested to undertake such recruitment exercise in time for it to provide a report to the Council meeting on 18 July 2013 recommending an appointment to the post; and
- (v) that the Interim Chief Operating Officer's contract be extended until 18 July 2013.

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

#### **124 Clennon Valley Cycling Facilities**

Members considered the submitted report on the proposed development of a 1.5km closed road circuit and an outdoor velodrome at Clennon Valley, Paignton.

At the invitation of the Chairman, Mr Andrew Perkins the Chairman of Mid Devon Cycling Club addressed the Council in support of the proposals.

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

- (i) That this Council supports, in principle, the development of a velodrome and a Closed Road Cycling Circuit at Clennon Valley

subject to satisfactory resolution of the means of funding the capital costs and the future revenue costs of the project;

- (ii) that the Chief Executive of the Torbay Development Agency be requested to seek proposals from prospective developers or investors for the cycling facilities referred to in the submitted report who will provide funding to match the British Cycling grant contribution to the facilities; and
- (iii) that no capital monies are committed to the project at this time and until discussions with developers/investors have reached a satisfactory conclusion.

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

**125 Strategic Agreement between Torbay and Southern Devon Health and Care NHS Trust**

The Council considered the submitted report setting out the Annual Agreement between Torbay Council who commissions services for Adult Care from the NHS.

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

That the Strategic Agreement between Torbay and Southern Health and Care NHS Trust and Torbay Council set out at Appendix 1 to the submitted report be approved.

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

**126 Corporate Plan 2012 - 2015**

Members considered the submitted report setting out a Plan identifying the priorities the Council intended to deliver from now to 2015.

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

- (i) that the Corporate Plan 2013 – 2015, as set out in Appendix 1 to the submitted report be approved;
- (ii) that the Interim Chief Operating Officer, in consultation with the Mayor, be authorised to agree the final version of the Corporate Plan should it be appropriate to make any minor amendments to the current version; and
- (iii) that the Plan be published on the Council's internet site and be forwarded electronically to partner organisations.

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



**127 Joint Health and Wellbeing Strategy**

The Council considered the submitted report setting out the draft Joint Health and Wellbeing Strategy which was agreed by the Shadow Health and Wellbeing Board at its meeting on 22 November 2012.

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

That the Joint Health and Wellbeing Strategy be endorsed.

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

(Note: During consideration of this item, Councillor Doggett declared a non pecuniary interest as a lay member of the Medicine Management Committee, Clinical Commissioning Group.)

**128 Torbay Growth Fund**

Members considered the submitted report detailing how a Torbay Growth Fund would create jobs and improve the productivity of the Torbay economy.

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

- (i) That the investment of £1,000,000 into a growth fund which would generate employment opportunities through business growth in Torbay be approved;
- (ii) a selection panel comprising of the Mayor, Deputy Mayor and Executive Lead for Finance alongside the Director of Economic Strategy and Performance (TDA) and Executive Head of Finance to determine applications to the fund be established. Performance would be reported through SPAR and annually to Council; and
- (iii) the Chief Operating Officer in consultation with the Mayor and selection panel set out above be authorised to finalise the criteria on which funding will be awarded.

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

That (ii) above be amended as follows with the inclusion of an additional recommendation:

- (ii) a selection panel comprising the Mayor, Deputy Mayor, Executive Lead for Finance and **a representative from the Liberal Democrat and Non-Coalition Groups** alongside the Director of Economic Strategy and Performance (TDA) and Executive Head of Finance be established to determine applications to the fund. Performance would be reported through SPAR and annually to Council; and

- (iii) in the interests of openness and transparency, the selection panel meetings be open to members of the public. If exempt or confidential information is to be discussed at these meetings, these items should be considered in the absence of the press and public.

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

The original motion was then before members for consideration and on being put to the vote, the motion was declared carried.

### **129 Local Validation List for Planning Applications**

Members considered the submitted report recommending that the Council adopt the appended Local List for Validating Planning Applications.

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

That the Council adopt the Local List appended to the submitted report and this list be used to test the validity of submitted planning applications. In accordance with the Local List, applications would remain invalid until information necessary for determination is submitted.

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

### **130 Revenue Budget Monitoring Quarter 3**

The Council noted the current projected outturn for the Revenue Budget 2012/2013 based on quarter 3 information, as set out in the submitted report.

### **131 Provisional Calendar of Meetings for 2013/14**

The Council received the submitted report which set out the provisional calendar of meetings for 2013/2014.

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

- (i) That the provisional calendar of meetings for 2013/2014, set out in Appendix 1 to the submitted report, be approved for final ratification at the Annual Council Meeting subject to the Health Scrutiny Board meetings being held at 4.00 p.m. and the Audit Committees in June and September being held one week later; 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 moved by Councillor Faulkner (A) and seconded by Councillor Baldrey:

That the Policy Development Group meetings should be included in the Council's calendar of meetings to allow members of the public to attend where appropriate, and that the Monitoring Officer be requested to make any necessary amendments to the Constitution in consultation with Group Leaders. If exempt or confidential information is to be discussed at these meetings, these items should be considered in the absence of the press and public.

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

The original motion was then before members for consideration and on being put to the vote, the motion was declared carried.

**132 Chairman/woman and Vice-Chairman/woman select**

In accordance with the Council's Standing Orders (A9.1), the Council was required to select, by elimination ballot, the Chairman/woman-Elect and Vice-Chairman/woman-Elect for the next Municipal Year 2013/14.

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

That Councillor Parrott be selected as Chairman (Elect) for the 2013/14 Municipal Year.

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

That Councillor Barnby be selected as Vice-Chairwoman (Elect) for the 2013/14 Municipal Year.

**133 Composition and Scheme of Delegation of Executive Functions**

Members noted the submitted report which provided details of changes made by the Mayor to his Executive.

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Chairman

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## Record of Decisions

### Transfer of Public Health Functions to Torbay Council

#### Decision Taker

Mayor on 28 February 2013

#### Decision

Following Council's decision on the transfer of public health functions to Torbay Council, the Mayor:

- (i) accepted and acknowledged the responsibilities, staff, assets and liabilities transferring from April 2013 and noted, in accordance with national guidance, that:
  - (a) The Director of Public Health (DPH) was a statutory chief officer with direct accountability to the Chief Operating Officer and access to members.
  - (b) The DPH would be responsible for the statutory duties of the Council with regards to public health.
  - (c) Expenditure commitments for staff and contracts transferring to the Council, as set out in appendices to the submitted report.
  - (d) The DPH for Plymouth was the lead DPH for health protection in LRF area.
- (ii) delegated (in respect of the functions listed that are their respective responsibilities) to the Chief Operating Officer in consultation with the Mayor and group leaders the following matters:-
  - (e) Agreement on the Clinical governance to be provided to the Council by the Clinical Commissioning Group.
  - (f) The establishment of a Council Health Protection Forum.
  - (g) The finalisation and agreement of the Core Offer to the Clinical Commissioning Group.
  - (h) Any additional authorisation or agreement that may be needed prior to the next scheduled ordinary council meeting of the Council in respect of the public health transition.
- (iii) noted that the Council authorised the Monitoring Officer to make any necessary amendments to the Constitution following the transfer of Public Health responsibilities to the Local Authority.

## **Reason for the Decision**

The decision is required as the formal acceptance of duties, assets and liabilities in relation to the new Public Health responsibilities.

## **Implementation**

This decision will come into force and may be implemented on 12 March 2013 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

## **Information**

The Council assumes new responsibilities for Public Health from April 2013. The report considered at the Council meeting on 28 February 2013 summarised the transfer arrangements from the NHS and recorded the staff, contracts and assets that the Council needed to formally accept.

## **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**

5 March 2013