



Minutes of the Council

26 February 2015

-: Present :-

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

The Mayor of Torbay (Mayor Oliver)

Councillors Amil, Bent, Brooksbank, Cowell, Darling, Davies, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hytche, Kingscote, Lewis, McPhail, Mills, Morey, Parrott, Pentney, Pountney, Pritchard, Scouler, Stockman, Stocks, Thomas (D) and Tyerman

150 Opening of meeting

The Chairwoman gave apologies from her Chaplain and opened the meeting with a minute's silence for personal reflection.

151 Apologies for absence

Apologies for absence were received from Councillors Addis, Baldrey, Butt, James, Stringer, Thomas (J) and Councillors Bent and Kingscote would be joining the meeting after the adjournment.

152 Minutes

The Minutes of the meeting of the Council held on 5 February and the adjourned meeting held on 12 February 2015 were confirmed as a correct record and signed by the Chairwoman.

153 Declarations of interests

The following non-pecuniary interests were declared:

Councillor	Minute Number	Nature of interest
Doggett	166	Lay member of the Joined Up Medical Operational Group of the Clinical Commissioning Group

Excell	164	A member of the Windmill Board
Faulkner (J)	164	Chair of the Windmill Centre
Hill	168	Trustee of the Torbay Coast and Countryside Trust
McPhail	166	Husband is in receipt of healthcare
Tyerman	168	Trustee of the Torbay Coast and Countryside Trust
Scouler	166	Board Member and Governor of Torbay and South District Health Care Trust

The Monitoring Officer reported that senior officers had declared personal interests in respect of Minute 170. Caroline Taylor declared a personal interest in respect of Minute 166 as her mother is in receipt of care. Anne-Marie Bond declared a personal interest in respect of Minute 177 as she was being appointed as a Deputy Electoral Registration Officer.

154 Communications

The Chairwoman announced that she had been presented with a cheque for £1,709 from the Rotary Club of Babbacombe and St Marychurch for funding raised for her charities over the past year - Devon In Sight and Torbay Disability Support and thanked everyone for their kind donations.

The Mayor advised that there were over 40 successful recipients who would benefit from the Mayor's Fund this year, which would be announced to the public next week.

155 Members' questions

Members received a paper detailing the questions, attached to the agenda, notice of which had been given in accordance with Standing Order A13. The Chairwoman advised that Question 10 had been withdrawn.

Verbal responses were provided at the meeting. Supplementary questions were then asked and answered in respect of the questions.

156 Notice of Motion - Constitution Amendment - Civic and Ceremonial Precedence (Council Decision)

Members considered a motion on a proposed amendment to the Constitution in relation to Civic and Ceremonial Precedence, notice of which was given in accordance with Standing Order A14.

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

Under the Council's current governance arrangements, the Mayor is the First Citizen of the Borough and takes precedence as he/she deems appropriate to undertake such civic and ceremonial duties. The Chairwoman of the Council acts as the Council's second citizen (after the Mayor) and will undertake (or arrange for the Vice-Chairman to undertake) such civic and ceremonial functions as requested by the Mayor. In practice this has caused confusion as to which events the Mayor and/or Chairwoman will attend and the public/organisers of events as they expect to see the Council's 'civic mayor' at events.

In respect of civic and ceremonial functions it is for the Council to choose whether to apply the role of First Citizen of the Borough to the Mayor or Chairwoman and who takes precedence at civic and ceremonial functions.

To clarify the role of the Chairman/woman of the Council as First Citizen of the Borough and the role of the Mayor to promote business and economic regeneration of Torbay in respect of civic and ceremonial events, it is proposed:

That the Council's Constitution be amended as follows:

Article 4 – The Council

4.06 Role and function of the Chairman/woman of the Council

The Chairman/woman shall have precedence in the Borough as first citizen (but not so as to prejudicially affect Her Majesty's royal prerogative) and Section 3(4A) of the Local Government Act 1972 (as amended) shall apply. As first citizen of the borough, the Chairman/woman will perform the majority of civic and ceremonial duties for the borough. The Mayor will perform those functions as the Council's representative where they relate to the promotion of the business of the Council or Torbay. Any future change to these arrangements will be a matter for the Council to determine.

The Chairman/woman of the Council will be elected by the Council annually. The Mayor is not permitted to be the Chairman/woman of the Council.

The Chairman/woman of the Council shall not be a member of any committee, sub-committee or working party or attend any meeting as a substitute.

The Chairman/woman of the Council will carry out the roles laid down in the Chairman/woman's Job Description as set out in Part 6 of this Constitution.

Article 6 – The Mayor and Executive

Paragraph 6.03 (d) The Mayor and Civic/Ceremonial Precedence
Paragraph 4.06 of Article 4 sets out the Council's arrangements for first citizen and civic and ceremonial precedence. ~~The Mayor shall have precedence in the Borough (but not so as to prejudicially affect Her Majesty's royal~~

~~prerogative) and Section 3(4A) of the Local Government Act 1972 (as amended) shall apply.~~

Members Job Descriptions

The Mayor:

8. To represent the Council at events which relate to the promotion of the business of the Council or Torbay. ~~To be the first citizen of the Borough and to take precedence as he/she deems appropriate and undertake such civic and ceremonial duties as he/she considers appropriate. (Note: the Chairman/woman of the Council or an appropriate ward or other Member shall act as the Mayor's deputy in relation to civic and ceremonial functions at the Mayor's request.)~~

The Chairman/woman of the Council:

5. Civic Role

To be the first citizen of the Borough and to take precedence as he/she deems appropriate and undertake such civic and ceremonial duties as he/she considers appropriate. (Note: the Vice-Chairman/woman of the Council or an appropriate ward or other Member shall act as the Chairman/woman's deputy in relation to civic and ceremonial functions at the Chairman/woman's request. The Mayor (where invited by the event organiser) will also attend those civic and ceremonial events which promote the business of the Council and the Bay.)

~~The Chairman/woman of the Council will act as the Council's second citizen (after the Mayor) and will undertake (or arrange for the Vice-Chairman to undertake) such civic and ceremonial functions as requested by the Mayor.~~

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

In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Barnby, Cowell, Darling, Davies, Doggett, Ellery, Faulkner (A), Faulkner (J), Hernandez, Lewis, Morey, Pentney, Pountney, Stockman, Stocks, Thomas (D) and Tyerman (17); Against: Councillors Amil, Excell, Hytche, McPhail, Mills, Parrott, Pritchard and Scouler (8); Abstain: Councillors Brooksbank and Hill and the Mayor (3); and Absent: Councillors Addis, Baldrey, Bent, Butt, James, Kingscote, Stringer and Thomas (J) (8). On being put to the vote, the motion was declared carried.

157 Notice of Motion - Children and Young People on Fluoxetine (Prozac) (Mayoral Decision)

Members considered a motion in relation to children and young people on Fluoxetine (Prozac), notice of which was given in accordance with Standing Order A14.

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

That this Council asks the Mayor to make use of the new close ties between the partners of the Health and Wellbeing Board, and the Director of Public Health and her access to both the Clinical Commissioning Group and GPs, to find out how many Bay children and young people (under the age of 18) are or have been prescribed the strong anti-depressant Fluoxetine (Prozac) and the quantities of the drug involved, and report back to Council on the following basis:

Total numbers of prescriptions (scripts) and or quantities of the drug, for each of the past three years (2011, 2012, 2013);

Numbers of children/young people prescribed Prozac by age groups (5-11 years, 12-16 years, 17-18 years);

Numbers of treatments by duration i.e. up to six months, up to two years, indefinitely; and

Numbers of diagnoses for each main category i.e. Obsessive Compulsive Disorders, Generalised Anxiety Disorder, Post Traumatic Stress Disorders.

And that the mayor calls for this information as a matter of urgency in view of the serious side effects of taking Prozac which can include:

- Suicidal thoughts
- Confusion
- Agitation
- Excessive sweating
- Seizures
- Arrhythmia
- Palpitations
- Insomnia
- Headaches
- Anxiety
- Stunted growth
- Crying

In accordance with Standing Order A14.3(a), the motion stood referred to the Mayor.

The Mayor advised that that he supported investigation of the use of anti-depressants to get a clear picture of the situation within Torbay and referred the matter to the Health and Wellbeing Board for their consideration.

158 Notice of Motion - Elected Members IT Offer 2015 (Council Decision)

Members considered a motion in relation to Elected Members IT offer for 2015, notice of which was given in accordance with Standing Order A14.

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

This Council notes:

- All local Authorities face very difficult financial decisions in the next few years. In 2016-17 Torbay will Face a £13.5M cut in government grant.
- That officers have developed new members IT offer, post local elections will be iPads. At a cost to the Council of £16,000.
- Elected Members being in receipt of iPads post elections will send a negative message to the public.

This Council instructs officers to:

- Develop a scheme where members would buy their iPads over the term of the Council by deductions from their allowances. Which result in a saving for the public purse.

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

In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Cowell, Darling, Davies, Doggett, Ellery, Faulkner (A), Faulkner (J), Hernandez, Morey, Pentney, Pountney, Stockman, Stocks, (13); Against: Councillors Amil, Barnby, Brooksbank, Excell, Hill, Hytche, Lewis, McPhail, Mills, Pritchard, Scouler, Thomas (D) and Tyerman (13); Abstain: Councillor Parrott and the Mayor (2); and Absent: Councillors Addis, Baldrey, Bent, Butt, James, Kingscote, Stringer and Thomas (J) (8). Therefore, in accordance with Standing Order A19.2, the Chairwoman used her casting vote, voted against the motion and declared the motion lost.

159 Notice of Motion - Change to the Constitution - Disposals (Council/Mayoral Decision)

Members considered a motion on a proposed change to the Constitution in relation to Disposals, notice of which was given in accordance with Standing Order A14.

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

That Schedule 6 - Officer Scheme of Delegation of the Constitution be amended as follows:

- 2.9 Property acquisitions and disposals may not be authorised where in the reasonable opinion of a fellow or member of the Royal Institute of Charter Surveyors (RICS) the estimated value of the land or property being acquired or disposed of exceeds £50,000 or (if a transaction is linked to another transaction) where the aggregate estimated value exceeds that amount **and such acquisitions and disposals between £50,000 and £250,000 shall be approved by the Mayor. Any disposals below 90% of the market value or over £250,000 shall be approved by the Council.** But this paragraph shall not prevent the Chief Operating Officer and Directors authorising land/property acquisitions and freehold disposals where they are in accordance with the Council's Capital Programme or an express Council decision.

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

In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Cowell, Darling, Davies, Doggett, Ellery, Faulkner (A), Faulkner (J), Morey, Parrott, Pentney, Pountney, Stockman, Stocks, Thomas (D) and Tyerman (15); Against: Councillors Amil, Excell, Hernandez, Hill, Hytche, Lewis, McPhail, Mills, Pritchard, Scouler and the Mayor (11); Abstain: Councillors Barnby and Brooksbank (2); and Absent: Councillors Addis, Baldrey, Bent, Butt, James, Kingscote, Stringer and Thomas (J) (8). On being put to the vote, the motion was declared carried.

The Monitoring Officer advised that, in accordance with Article 14 paragraph 14.02(c)(iii), the motion cannot be implemented without the written consent of the Mayor. The Mayor considered the motion on the proposed change to the Officer Scheme of Delegation in respect of disposals and rejected the motion. The reason for the decision was because it could cause a delay in the decision making process. The Mayor advised that he wants the process to be as flexible as possible to enable decisions to be made in a timely manner. The Council has disposed of 12 assets in 2014/15 bringing in £1.7m and disposed of 10 assets in 2013/14 bringing in £1.4m under the current arrangements and therefore the Mayor feels that the proposed change is not necessary.

160 Adjournment

At this juncture the meeting was adjourned to reconvene at 5.30 p.m. on Thursday, 26 February 2015.

161 Order of Business

At this juncture Councillor Hernandez left the meeting and Councillors Bent and Kingscote joined the meeting.

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable Items 8, 9, 10, 23 and 24 (Revenue Budget Monitoring 2014/15 Quarter 3, Capital Investment Plan Update – 2014/15 Quarter 3,

Council Tax 2015/2016, Senior Management Team Restructure and Principles of Overview and Scrutiny) to be considered after Item 18 (Strategic Agreement between Torbay and Southern Devon Health and Care NHS Trust and Torbay Council/Torbay and South Devon Clinical Commissioning Group) and Items 11 and 12 (Provisional Calendar of Meetings 2015/2016 and Statutory Officer Appointments – Deputy Electoral Registration Officer to be considered after Item 22 (Review of School Places in Torbay).

162 Petition for Debate - Covenant for Cary Green (Mayoral Decision)

In accordance with Standing Order A12, the Council received the petition (1336 signatures and 90 e-signatures), asking Torbay Council as freehold landowner, to covenant with the residents of Torquay, not to allow any development of Cary Green without first obtaining the agreement of the majority of the residents of Torquay at a referendum. At the invitation of the Chairwoman, Patricia Bishop addressed the Council.

The Chairwoman advised that, under the Council's Petition Scheme, as the petition had reached the 1,000 signature threshold it was subject to debate by the Council.

The Monitoring Officer outlined the options open to the Council.

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

That no action be taken in respect of the petition on a covenant for Cary Green.

In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Mills and Pritchard (2); Against: Councillors Cowell, Darling, Davies, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hytche, Morey, Parrott, Pentney, Pountney, Scouler and Stocks (15); Abstain: Councillors Amil, Barnby, Bent, Brooksbank, Hill, Kingscote, Lewis, McPhail, Stockman, Thomas (D) and Tyerman (11); and Absent: Councillors Addis, Baldrey, Butt, Hernandez, James, Stringer, Thomas (J) and the Mayor (8). On being put to the vote, the motion was declared lost.

In the absence of a recommendation from the Council, the Mayor considered the request of the petitioners at the meeting and the record of his decision, together with further information, is attached to these Minutes.

163 Public Question Time - The Pavilion

In accordance with Standing Order A24, the Council heard from Mrs Amanda Darling who had submitted a question in relation to the Pavilion. The Mayor responded to the question that had been put forward, plus a supplementary question asked by Mrs Darling.

164 Windmill Hill Covenant (Mayoral Decision)

The Council made the following recommendation to the Mayor:

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

That the Council enters into a deed covenanting with the residents around the Windmill Hill playing fields as follows:-

“Torbay Council covenants with all inhabitants of the ward of Tormohun that for a period of 100 years beginning on the date of this deed it will not on the land shown edged red on the plan attached erect or permit the erection of any permanent structure or permit the sale and/or consumption of alcohol without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of councillors for Tormohun Ward and are registered as local government electors at an address within this Ward. For the purpose of this covenant ‘permanent structure’ shall mean any structure intended to remain on the land for a period greater than 3 months. This covenant shall not apply to the installation, construction or renewal (whether by statutory undertakers or otherwise) of any media for the supply or removal, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media/or to the installation of street furniture and sports equipment. Nothing contained or implied in this deed shall prejudice or affect the exercise by the Council of its regulatory functions under the Town and Country Planning Act 1990 or any other statute or statutory instrument.”

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

- (i) That Council notes paragraph 6.2 of the submitted report where Legal Services and Senior Managers recommend that the land is adequately protected and that the site is currently designated as an Urban Protected Landscape Area and that policy C2 of the Local Plan also applies:

“There will be a presumption against loss of existing recreational and leisure facilities, unless:

- (i) There is clear evidence that they are surplus to requirements, and alternative recreational / leisure uses have been sought as replacement or improved facilities in lieu of existing provision which are able to address any new deficiencies that arise, and
 - (ii) A compelling case is made for wider social and economic benefits arising from such a proposal.”;
- (ii) that Council also notes the wider Community Partnership (Hele’s Angels) has identified the site as a Local Greenspace for inclusion in

the Neighbourhood Plan. This designation has the affect of ruling out development in all but very exceptional circumstances, giving it equivalent policy status to that of greenbelt protection; and

- (iii) that given the high level of protection, the Council recommends that the Mayor takes no further action in respect of a covenant on Windmill Hill.

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

The substantive motion was then before Members for consideration.

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

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

(Note: Prior to consideration of the item in Minute 164, Councillors Excell and Faulkner (J) declared their non-pecuniary interests.)

165 Registration of Land within Maidencombe as a Village Green

At this juncture Councillor Faulkner (A) left the meeting.

Further to Minute 72 (9/13) the Council considered the submitted report on a proposal to amend the previous decision made by the Council on 26 September 2013 by removing the requirement for the land to be transferred (for no consideration) to a company set up by the residents of Maidencombe before registration takes place following discussions with resident groups within the village.

It was proposed by Councillor Thomas D and seconded by Councillor Bent:

That Torbay Council, as Common Registration Authority, register the land shown edged red on Plan EM2295 set out at Appendix 2 to the submitted report and the land be entered in the Council's Register of Town or Village Greens by the Council's Land Charges Manager.

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

166 Strategic Agreement between Torbay and Southern Devon Health and Care NHS Trust and Torbay Council/Torbay and South Devon Clinical Commissioning Group

The Council considered the submitted report on the Annual Strategic Agreement which sets out the way in which Torbay Council and South Devon and Torbay Clinical Commissioning Group (the CCG) will commission services from Torbay and Southern Devon Health and Care NHS Trust and South Devon Healthcare NHS Foundation Trust on the basis that in 2015 both Trusts will be in the form of an integrated care organisation.

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

- (i) that the Annual Strategic Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and Southern Health and Care NHS Trust set out at Appendix 1 to the submitted report be approved; and
- (ii) that the Policy for the Provision Short Breaks set out at Appendix 10 to the submitted report be approved.

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

(Note: Prior to consideration of the item in Minute 166, Councillors McPhail and Scouler declared their non-pecuniary interests. During consideration of the item in Minute 166, Councillor Doggett declared his non-pecuniary interest and Caroline Taylor declared her personal interest.)

167 Revenue Budget Monitoring 2014/15 Quarter 3

At this juncture Councillor Scouler left the meeting.

The Council noted the current projected outturn for the Revenue Budget for 2014/2015 based on quarter three information, as set out in the submitted report.

The Chairman advised that the views of the Overview and Scrutiny Board had been circulated on 25 February 2015.

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

The Overview and Scrutiny Board is concerned about the possible calls on the General Fund balance of £4.4 million given the high probability that the Comprehensive Spending Review reserve will be depleted due to the estimated level of redundancy costs, the current projected overspend at year end and the possible outcome of the current Judicial Review.

Therefore the Council requests the Executive Director of Operations and Finance to undertake a further Review of Reserves to identify whether there is

spare capacity within the Reserves to replenish the Comprehensive Spending Review reserve.

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

168 Capital Investment Plan Update - 2014/15 Quarter 3

Members noted the submitted report which provided information on capital expenditure and income from the year, compared with the latest budget position as at quarter three reported in February 2015. The Overview and Scrutiny Board considered the submitted report at its meetings on 18 and 24 February 2015 and put forward a number of recommendations.

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

The Overview and Scrutiny Board is concerned that it is recommended that the term of the Prudential Borrowing associated with Meadfoot Beach Chalets be extended from 25 to 35 years. It is also concerned about the lack of detail which was available to it with regard to the business case for the reinstatement and enhancement of the beach chalets at Oddicombe Beach.

The Council re-confirms its position that any Prudential Borrowing must be agreed by the Council and be backed by a clear Business Case and that, at this time, the Council has not seen a full Business Case for Oddicombe beach huts.

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

- (i) that, in light of the issues raised at the Overview and Scrutiny Board meetings on 18 and 24 February regarding the governance of the decision making in connection with Oddicombe and Meadfoot beaches, the Executive Director of Operations and Finance be requested to complete a thorough investigation into this matter and report back to the Council at the earliest opportunity.

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

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

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

The Council then considered the submitted officer report. It was proposed by the Mayor and seconded by Councillor Mills:

- (i) that the latest position for the Council's Capital expenditure and funding for 2014/15 be noted;

- (ii) that prudential borrowing of £0.134 million for works to reinstate and enhance Beach Chalets at Oddicombe Beach to be funded from future rental income and the resort services budget be approved;
- (iii) that additional prudential borrowing of £0.6 million for works on the Meadfoot Beach Chalets replacements to be funded from future rental income and the resort services budget be approved;
- (iv) that a loan for a capital purpose to the Torbay Development Agency (TDA) for £1.4 million to enable the TDA's acquisition and related works on sites at Kings Ash House be approved;
- (v) that prudential borrowing of £2.0 million and £0.350m from New Growth Points Grant towards the £6.5m Electronics and Photonics Innovation Centre at White Rock to be funded from future rental income be approved;
- (vi) that Department of Transport Structural Maintenance and Integrated Transport grant allocations announced for future years (2015/16 to 2020/21) be earmarked for Highways;
- (vii) that £0.254m from New Growth Points Grant be allocated for the replacement of decking and joists on Princess Pier;
- (viii) that £0.100m from New Growth Points Grant be allocated for remedial works to the Cliff face at Oddicombe and Goodrington beaches; and
- (ix) that a loan of £50,000 to Torbay Coast and Countryside Trust to support the Green Heart appeal be approved.

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

- (iii) that the Executive Director of Operations and Finance be given delegated authority, in consultation with the Group Leaders and following receipt of a satisfactory full business plan to approve prudential borrowing of up to £193,000 for works to reinstate and enhance Beach Chalets at Oddicombe Beach. The Council believes that the Insurance Claim receipts should be treated as compensation for the loss of income of the former beach huts and must therefore be used to partially offset such losses. The business case, therefore, must show a satisfactory return to Torbay taxpayers based on the full investment cost of the project.

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

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

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

- (iv) that the Executive Director of Operations and Finance, in consultation with Group Leaders, be given delegated authority to determine a satisfactory funding solution for the additional borrowing requirement of £0.6 million for works on the Meadfoot Beach Chalets. The Council does not accept that an extension of the prudential payback period to 35 years is prudent or that the Resort Service revenue budget should show a deficit and requests that the Director of Operations and Finance determines that any resulting funding shortfall should be met from savings from other capital projects or from any unallocated budgets or from receipts from future assets sales or any other method he feels is financially viable.

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

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

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

(Note: Prior to consideration of the item in Minute 168, Councillors Hill and Tyerman declared their non-pecuniary interests.)

169 Council Tax 2015/2016

Members considered the submitted report on the setting of the Council Tax for 2015/16. In accordance with legislation the Chairwoman advised that a recorded vote would be taken on the motion.

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

That the Council notes:

- (i) that in December 2014 the Council calculated the Council Tax Base for 2015/16:-
 - a) For the whole Council area as 42,370.75, [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 5,719.39 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 2.5 below:

That the Council approves:

- (iii) the Council Tax requirement for the Council's own purposes for 2015/16 (excluding Brixham Town Council) of £53,436,718;
- (iv) that the following amounts be calculated for the year 2015/16 in accordance with Chapter Three of the Act:
 - a) £273,945,955 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) (£220,286,209) being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act;
 - c) £53,659,746 being the amount by which the aggregate at 2.4(a) above exceeds the aggregate at 2.4(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) £1266.43 being the amount at 2.4(c) above (Item R), all divided by Item T (2.1(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) £223,028 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 2.4(d) above less the result given by dividing the amount at 2.4(e) above by Item T (2.1(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 2015/16 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	112.98	131.81	150.64	169.47	207.13	244.79	282.45	338.94
Devon and Somerset Fire and Rescue Authority	52.28	60.99	69.71	78.42	95.85	113.27	130.70	156.84
Aggregate of Council Tax Requirements ex. Town Council	1,006.04	1,173.71	1,341.39	1,509.06	1,844.41	2,179.75	2,515.10	3,018.12
Brixham Town Council	26.00	30.33	34.67	39.00	47.67	56.33	65.00	78.00
Aggregate of Council Tax Requirements including Brixham Town Council	1,032.04	1,204.04	1,376.06	<u>1,548.06</u>	1,892.08	2,236.08	2,580.10	3,096.12

- (vi) that the Council's basic amount of Council Tax for 2015/16 is not excessive in accordance with principles approved under Section 52ZB Local Government Finance Act 1992. (see paragraph 5.3)

A recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Councillors Amil, Barnby, Bent, Brooksbank, Cowell, Darling, Davies, Doggett, Ellery, Excell, Faulkner (J), Hill, Hytche, Kingscote, Lewis, McPhail, Mills, Morey, Parrott, Pentney, Pountney, Pritchard, Stocks, Thomas (D) and Tyerman and the Mayor (26); Against: Councillor Stockman (1); and Absent: Councillors Addis, Baldrey, Butt, Faulkner (A), Hernandez, James, Scouler, Stringer and Thomas (J) (9). On being put to the vote, the motion was declared carried.

170 Senior Management Team Restructure

The Monitoring Officer addressed Members on research undertaken by the Executive Head of Finance as to the role of the Section 151 Officer in Senior Leadership Teams.

Members considered the submitted report which set out proposals for the restructure of the Senior Leadership Team, in order to reduce the size of the Team to make budgetary savings and re-align services within the organisation to meet future demands.

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

- (i) that the proposal to introduce a new Senior Leadership structure focussed on two teams, namely a Joint Commissioning Team and Joint Operations Team, reducing the number of Executive Heads and re-aligning services be noted;
- (ii) that the Executive Director of Operations and Finance be authorised to progress the proposed deletion of the post of Director of Place and Planning from the structure, subject to the outcome of further consultation; and
- (iii) That in reducing the number of Executive Heads, the Executive Director of Operations and Finance be authorised to progress the proposed deletion of the post of Executive Head of Finance, a post that currently fulfils the role of Section 151 Officer, subject to the outcome of further consultation.

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

(Note: Prior to consideration of the item in Minute 170, Anne-Marie Bond, Caroline Dimond, Kevin Mowat, Caroline Taylor, Charles Uzzell and Richard Williams declared a personal interest as part of the Senior Leadership Team.)

171 Principles of Overview and Scrutiny

The Council considered the submitted report, which was published with the Revised Council agenda on 20 February 2015, setting out the findings from the work undertaken by the Council as a Scrutiny Development Area with assistance from the Centre for Public Scrutiny.

It was proposed by Councillor Darling and seconded by Councillor Thomas D:

- (i) that the principles of overview and scrutiny set out in section 5 of Appendix 1 of the submitted report be adopted and included within the Constitution of Torbay Council; and
- (ii) that the principles be used to provide a framework for a wider review of the governance structure which will inform the induction process following the elections in May 2015 and that the Executive Director of Operations and Finance and the Monitoring Officer use the proposals set out in section 6 of Appendix 1 of the submitted report as the basis for discussions with the incoming Mayor and Council on the future governance arrangements for Torbay Council.

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

172 Torbay Youth Services - The Way Forward

Further to Minute 71/9/13, the Council considered the submitted report and business plan on the creation of Torbay Youth Trust.

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

- (i) that the creation of a Torbay Youth Trust and TUPE of existing youth service staff to the Trust from 1 June 2015 be approved;
- (ii) that the Executive Head of Commercial Services be given delegated authority to agree the terms of the lease and/or procurement arrangements for the transfer of the Parkfield site (the new build), BMX and Skateboard Park to the Torbay Youth Trust; and
- (iii) that up to £70,000 be allocated from the Comprehensive Spending Review Reserve to support the set up costs of the Torbay Youth Trust.

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

173 Children's Social Care - The Way Forward

The Council considered the submitted report on the proposed creation of a Public Service Trust (LIST) for delivery of children's social care across all agencies using funding of £1.25m from the Social Work Innovation Fund awarded to the Council by the Department for Education.

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

- (i) that the grant funding from the Department for Education of £1.25m, the new approach for the governance and delivery of Children's Social Care through the creation of a Public Service Trust (LIST), as outlined in the submitted report, be supported in principle;
- (ii) that the Executive Director of Operations and Finance be given delegated authority, in consultation with the Section 151 Officer, having considered the detailed business case, TUPE and financial details, to approve the creation of the Public Service Trust (List) for delivery of Children's Social Care; and
- (iii) that, subject to (ii) above, the Executive Head of Commercial Services be given delegated authority to agree the terms of the lease or contracts for the Public Service Trust (LIST) for delivery of Children's Social Care.

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

174 School Improvement - The Way Forward

The Council considered the submitted report on the proposed transfer of the existing school improvement service to the Torbay Teaching School Alliance.

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

- (i) that the transfer of the existing school improvement resource (staff and budget) on a reducing basis to the Torbay Teaching School Alliance be approved in principle initially for a three year basis subject to the continuation of the Torbay Teaching School Alliance;
- (ii) that the Executive Director of Operations and Finance be given delegated authority, in consultation with the Section 151 Officer, having considered the detailed business case and financial details, to approve the final transfer of the existing school improvement resource to the Torbay Teaching School Alliance; and
- (iii) that, subject to (ii) above, the Executive Head of Commercial Services be given delegated authority to agree the terms of the lease or contracts for the school improvement service.

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

175 Review of School Places in Torbay

The Council considered the submitted report which provides an update on pupil forecasts and proposes changes to capital funding priorities for Children's Services in respect of primary school provision. A revised officer recommendation was circulated at the meeting.

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

- (i) that £750,000 identified from savings within the Children's Services Capital Programme be allocated to the Brookfield House acquisition and associated development;
- (ii) that the proposed capital projects at St Margaret's Academy and Roselands Primary be cancelled;
- (iii) that the £3m already allocated to Children's Services for primary provision be allocated to the relocation of Torbay School;
- (iv) that the Schools Capital & Planning Manager commence discussions and consultation with providers, stakeholders and the Department for

Education regarding the competition for a new primary school in Paignton;

- (v) that the Council notes that future Basic Need funding will be needed for the new primary school in Paignton and for any additional secondary provision required. A further report to Council will follow once funding allocations are known and there is feedback from the consultation process;
- (vi) that an additional £400,000 from the 2015/16 Local Authority Capital Maintenance Fund be allocated to a third phase of improvements at Furzeham Primary School;
- (vii) that, subject to (i) above, the Mayor be recommended to acquire Brookfield House to improve the facilities at Torbay School; and
- (viii) that the Mayor be recommended to rescind the decision in Minute 18(ii)/5/14 to dispose of Hillside former children's home and land adjoining South Parks Road, Torquay (Plan Ref EM2390) to enable that land be utilised for the relocation of Torbay School.

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

The Mayor considered the recommendations of the Council set out in (vii) and (viii) above at the meeting and the record of his decision together with further information is attached to these Minutes.

176 Provisional Calendar of Meetings for 2015/2016

The Council received the submitted report which set out the provisional calendar of meetings for the 2015/2016 Municipal Year which had been prepared based on the Council's decision-making structure and in accordance with the Council's Standing Orders.

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

- (i) that the provisional calendar of meetings for 2015/2016, set out in Appendix 1 to the submitted report, be approved for final ratification at the Annual Council Meeting;
- (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/woman; and

- (iii) that the Priorities and Resources meetings be determined by the Governance Support Manager in consultation with the relevant Chairman/woman, after the Elections in May 2015.

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

177 Statutory Officer Appointments - Deputy Electoral Registration Officer

The Council considered the Statutory Officer Appointments for Deputy Electoral Registration Officers.

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

that the appointments of Anne-Marie Bond, June Gurry and Catherine Hayden as the Council's Statutory Deputy Electoral Registration Officers be confirmed.

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

(Note: Prior to consideration of the item in Minute 177, Anne-Marie Bond declared her personal interest.)

Chairwoman

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Record of Decisions

Petition Requesting a Covenant for Cary Green

Decision Taker

Mayor on 26 February 2015

Decision

That no action be taken in respect of the petition on a covenant for Cary Green.

Reason for the Decision

Members voted unanimously to approve a lease of the Marina Car Park, the Pavilion and Cary Green, to enable a major regeneration project to be delivered which capitalizes on the prime waterside location of the existing Marina Car Park, which safeguards the long term viability of The Pavilion, allows appropriate development of Cary Green and preserves the level of car parking and revenue to the Council and Harbour Authority, at the Council meeting held on 1 February 2012 and the issues raised in the petition impact upon that previous decision (Minute 524/2/12 refers).

Implementation

This decision will come into force and may be implemented on 11 March 2015 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

A Petition containing 1336 paper signatures and 90 e-petition signatures was presented to Council asking Torbay Council as freehold landowner, to covenant with the residents of Torquay not to allow any development of Cary Green without first obtaining the agreement of the majority of the residents of Torquay at a referendum.

In the absence of a recommendation from the Council at the meeting held on 26 February 2015 the Mayor considered the motion submitted by Councillors Mills and Pritchard and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

- (i) take the action requested by the petition;
- (ii) make recommendations to the decision maker; or
- (iii) request further investigation into the matter, for example by a relevant committee.

Is this a Key Decision?

No – Reference Number: I019506

Does the call-in procedure apply?

Yes

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

None.

Published

3 March 2015

Signed: _____
Mayor of Torbay

Date: 3 March 2015

Record of Decisions

Windmill Hill Covenant (Mayoral Decision)

Decision Taker

Mayor on 26 February 2015

Decision

That the Council enters into a deed covenanting with the residents around the Windmill Hill playing fields as follows:-

“Torbay Council covenants with all inhabitants of the ward of Tormohun that for a period of 100 years beginning on the date of this deed it will not on the land shown edged red on the plan attached erect or permit the erection of any permanent structure or permit the sale and/or consumption of alcohol without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of councillors for Tormohun Ward and are registered as local government electors at an address within this Ward. For the purpose of this covenant ‘permanent structure’ shall mean any structure intended to remain on the land for a period greater than 3 months. This covenant shall not apply to the installation, construction or renewal (whether by statutory undertakers or otherwise) of any media for the supply or removal, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media/or to the installation of street furniture and sports equipment. Nothing contained or implied in this deed shall prejudice or affect the exercise by the Council of its regulatory functions under the Town and Country Planning Act 1990 or any other statute or statutory instrument.”

Reason for the Decision

To respond to a request made from representatives of the community for a covenant on Windmill Hill and to support the protection of this public open space for use for sport and recreation. The placing of a covenant on Windmill Hill will help to reduce anti-social behaviour in the area and prevent substantial permanent development on the site without first obtaining the consent of the majority of residents in the Ward.

Implementation

This decision will come into force and may be implemented on 11 March 2015 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report set out options to protect the area of Windmill Hill shown edged red on the attached plans by way of a covenant and to allow the present uses of Windmill Hill to continue as well as new uses, provided that they are supported by the community.

At the Council meeting the following recommendation to the Mayor was approved:

- (i) That Council notes paragraph 6.2 of the submitted report where Legal Services and Senior Managers recommend that the land is adequately protected and that the site is currently designated as an Urban Protected Landscape Area and that policy C2 of the Local Plan also applies:

“There will be a presumption against loss of existing recreational and leisure facilities, unless:

- (i) There is clear evidence that they are surplus to requirements, and alternative recreational / leisure uses have been sought as replacement or improved facilities in lieu of existing provision which are able to address any new deficiencies that arise, and
- (ii) A compelling case is made for wider social and economic benefits arising from such a proposal.”;
- (ii) that Council also notes the wider Community Partnership (Hele’s Angels) has identified the site as a Local Greenspace for inclusion in the Neighbourhood Plan. This designation has the affect of ruling out development in all but very exceptional circumstances, giving it equivalent policy status to that of greenbelt protection; and
- (iii) that given the high level of protection, the Council recommends that the Mayor takes no further action in respect of a covenant on Windmill Hill.

The Mayor considered the recommendation of the Council made on 26 February 2015 and the original proposal put forward by Councillors Excell and Amil and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options are set out in the submitted report.

Is this a Key Decision?

Yes – Reference Number: I019066

Does the call-in procedure apply?

Yes

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

Councillor Excell declared a non-pecuniary interest as a member of the Windmill Board and Councillor Faulkner (J) declared a non-pecuniary interest as Chair of the Windmill Centre.

Published

3 March 2015

Signed: _____
Mayor of Torbay

Date: 3 March 2015

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Record of Decisions

Review of School Places in Torbay

Decision Taker

Mayor on 26 February 2015

Decision

- (i) that Brookfield House be acquired to improve the facilities at Torbay School; and
- (ii) that the decision in Minute 18(ii)/5/14 to dispose of Hillside former children's home and land adjoining South Parks Road, Torquay (Plan Ref EM2390) be rescinded to enable that land be utilised for the relocation of Torbay School.

Reason for the Decision

To acquire Brookfield House and utilise the Hillside former children's home and land adjoining South Parks Road, Torquay to improve the facilities and enable the relocation of Torbay School.

Implementation

This decision will come into force and may be implemented on 11 March 2015 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report set out options in respect of a review of school places in Torbay and proposed changes to the children's capital funding priorities. The report proposed the acquisition of Brookfield House and relocation of Torbay School which would benefit children and families attending the school as well as offering good quality school places for future generations.

The Mayor considered the recommendations of the Council made on 26 February 2015 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options are set out in the submitted report.

Is this a Key Decision?

Yes – Reference Number: I019072

Does the call-in procedure apply?

Yes

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

None.

Published

3 March 2015

Signed: _____

Date: 3 March 2015

Mayor of Torbay