



Minutes of the Extraordinary Meeting of Council

7 April 2016

-: Present :-

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

The Mayor of Torbay (Mayor Oliver)

Councillors Amil, Barnby, Bent, Cunningham, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, King, Kingscote, Lewis, Manning, Mills, Morey, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stubley, Thomas (D), Tolchard, Tyerman and Winfield

152 Opening of meeting

The meeting was opened with a prayer.

153 Apologies for absence

Apologies for absence were received from Councillors Bye, Carter, Morris, Stringer, Sykes and Thomas (J).

154 Minutes

The Minutes of the meeting of the Council held on 25 February 2016 were confirmed as a correct record and signed by the Chairman.

155 Communications

The Mayor:

- (a) advised members of the recent death of John Dunn, who was a former civic Mayor of the Council, and offered condolences to Mr Dunn's family on behalf of the Council. Members observed a moments silence in his memory; and
- (b) referred to the significant public interest in the future of donkey rides on Paignton sea front and advised that he had requested Councillor Amil to investigate this issue.

156 Order of Business

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable agenda Item 15 (Change of Job Title for Executive Director of Operations and Finance) to be considered before Item 14 (Environmental Enforcement Pilot).

157 Public question time

In accordance with Standing Order A24, the Council heard from Darren Cowell who had submitted a statement and question in relation to the suitability of the Parkfield site to be the location of Torbay School. The Mayor responded to the statement and question that had been put forward, plus a supplementary question.

158 Members' questions

Members received a paper detailing Members' questions, notice of which had been given in accordance with Standing Order A13.

Verbal responses were provided at the meeting. Councillor Haddock provided a response in respect of question 2 as it fell within his portfolio. Supplementary questions were then asked and answered in respect of the questions.

159 Notice of Motion - Town Councils for Torquay and Paignton

Under Standing Order A16.9, the Mayor, with the consent of his seconder (Councillor Mills) withdrew his motion in relation to the benefits of creating Town Councils for Torquay and Paignton, notice of which had been given in accordance with Standing Order A14.

160 Notice of Motion Constitution Amendment - A13 Questions by Members

Members considered a motion in relation to written answers to members' questions, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Sanders and seconded by Councillor Darling (S):

Council Standing Order A13 permits Members to submit questions for response at Council meetings. However, Council Standing Order A13.8 requires responses to take the form of a direct oral answer. In the interests of open government, transparency and public engagement answers to written questions should be recorded in the minutes.

Therefore, it is proposed that the Council's Constitution be amended as follows (changes shown in **bold**):

A13.8 Responses

An answer to a question ~~or a supplementary question may~~ **will** take the form of:

- (i) a ~~direct oral~~ written answer and attached to the minutes of the Council meeting; or
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication.

An answer to a supplementary question will take the form of a

- (i) a direct oral answer; or**
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication.**

Where the member to whom the question was asked is either absent and no other Member is able to respond, the question will be referred to the next meeting where the member is present. If the member asking the questions wishes a response prior to the next meeting, they may request a written answer from the member concerned.

~~Where a written response has been prepared by officers, the Governance Support Manager will make arrangements for these to be included on the Council's website as soon as practicable after the meeting at which the question was asked. (NB. Recordings of all Council meetings are available from the Governance Support Team on request.)~~

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

An amendment was proposed by Councillor Tyerman and seconded by Councillor King:

- (ii) that in addition to the Constitution amendments set out in the Notice of Motion, the Monitoring Officer be authorised to further amend the Constitution in respect of Members' Question to:
 - (a) limit the number of questions to three per member for each Council meeting. At the Council meeting each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn;
 - (b) that the time for members' questions at Council meetings be limited to a total of 30 minutes to reflect the practice for public questions. On expiry of 30 minutes if a response is being provided to a question, the member who asked the question shall have the right to ask his or her supplementary question and on the response that supplementary question being provided. Any questions not dealt with after 30 minutes to be

deemed as withdrawn and the member may resubmit as one of their three questions to the next Council meeting; and

- (c) require written answers to be circulated at the start of the meeting and read out at the meeting.

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

The substantive motion (the original motion with the addition of the amendment) was then before members for consideration.

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

161 Notice of Motion - Appointment of Overview and Scrutiny Lead Members

Members considered a motion in relation to the principles of overview and scrutiny and a subsequent review by the Overview and Scrutiny Board on its operation, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Lewis and seconded by Councillor Darling (S):

Taking account of the principles of overview and scrutiny which were adopted by this Council in April 2015, the Overview and Scrutiny Board has reviewed how it operates to ensure that “holding to account” and “policy development” have equal importance. The Forward Plan will be used to manage the decision making process and there will be more informal discussions about forthcoming decisions. The Overview and Scrutiny Board will seek to complement the work of the Executive and will aim to help shape policy decisions at an early stage.

Given the breadth of service areas across the Council and the need to focus on the issues which really matter, this Council resolves:

- (i) that four Overview and Scrutiny Leads be appointed to support the Overview and Scrutiny Co-ordinator as follows:
 - Joint Commissioning – Children’s and Adults
 - Joint Commissioning – Health, Wellbeing and Public Health
 - Joint Operations – Corporate and Business Services
 - Joint Operations – Community and Customer Services;
- (ii) that these positions replace the current Overview and Scrutiny Lead posts and come into force at Annual Council on 11 May 2016; and
- (iii) that Group Leaders submit nominations to the Governance Support Manager by 30 April 2016.

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

162 Appropriation of Land adjacent to South Devon College

The Council considered the submitted report on the appropriation of land (known as Syntech) adjacent to the South Devon College campus, Paignton to enable it to be redeveloped for education and ancillary use for the College's extension plans. It was noted that for the Council to appropriate the land it would override the easements and restrictive covenants to allow the College to develop the site to improve education, skills and training for the local community and wider area. A revised officer recommendation was tabled at the meeting.

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

that, subject to the Assistant Director of Corporate and Business Services being satisfied as to the adequacy of the consultation and negotiations carried out by South Devon College with Devonshire Park, Torbay Council appropriate the land known as the Syntech site, Long Road, Paignton under Section 237 of the Town and Country Planning Act 1990 to override the easements and restrictive covenants, to allow the South Devon College development plans to proceed. The Assistant Director of Corporate and Business Services be authorised to give effect to this decision.

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

163 New Primary School in Paignton

Further to the Council meeting on 25 February 2016, members received details of the requirements for a new primary school in Paignton (as set out in the submitted report). A revised officer recommendation was circulated prior to the meeting.

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

- (i) that the identified need for a new school in Paignton as outlined in the submitted report be noted; and
- (ii) that, subject to consultation, the proposal to open a new primary school on the Torbay School Site at Torquay Road from September 2018 be approved and the Executive Director of Operations and Finance and the Director of Children's Services, in consultation with the Executive Lead for Adults and Children, the Mayor and Group Leaders, be given delegated authority to make the final decision on the new primary school following consideration of the consultation responses.

An amendment was proposed by Councillor Lewis and seconded by Councillor Barnby:

that consideration of the report be deferred to the Council meeting in July 2016.

In accordance with Standing Order A19.4, a recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: Councillors Barnby, Bent, Brooks, Cunningham, Ellery, Hill, Kingscote, Lewis, Morey, O'Dwyer, Robson, Stockman, Thomas (D), Tolchard, Tyerman and Winfield (16); Against: the Mayor, Councillors Amil, Darling (M), Darling (S), Doggett, Excell, Haddock, King, Manning, Mills, Parrott, Sanders, Stocks and Stubley (14); and Absent: Councillors Bye, Carter, Morris, Stringer, Sykes and Thomas (J) (6). Therefore, the amendment was declared carried.

The substantive motion (the amendment replacing the original motion) was then before members for consideration.

In accordance with Standing Order A19.4, a recorded vote was then taken on the substantive motion. The voting was taken by roll call as follows: For: Councillors Barnby, Bent, Brooks, Cunningham, Ellery, Hill, Kingscote, Lewis, Morey, O'Dwyer, Robson, Stockman, Thomas (D), Tolchard, Tyerman and Winfield (16); Against: the Mayor, Councillors Amil, Darling (M), Darling (S), Doggett, Excell, Haddock, King, Manning, Mills, Parrott, Sanders, Stocks and Stubley (14); and Absent: Councillors Bye, Carter, Morris, Stringer, Sykes and Thomas (J) (6). Therefore, the substantive motion was declared carried.

164 Local Government Association (LGA) Corporate Peer Challenge 2015 Action Plan

Further to the meeting of the Council on 3 February 2016, members received the submitted report on a detailed action plan in response to the recommendations identified by the Local Government Association (LGA) Corporate Peer Challenge.

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

- (i) that the LGA Corporate Peer Challenge Feedback Action Plan (as set out at Appendix 1 to the submitted report) be approved; and
- (ii) that a Strategic Partnership Forum Working Party comprising 5 members (politically balanced) be established to take forward the detailed actions outlined under No 1 of the Action Plan.

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

165 Capital Plan 2016/17 - 2019/20 Prioritisation Matrix

On 25 February 2016, the Council resolved to introduce a capital projects scoring matrix to assist with the prioritisation of capital projects. Members received details of a proposed capital projects scoring matrix, which were set out in the submitted report.

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

that consideration of the Capital Projects scoring matrix be deferred to the Annual Council meeting on 11 May 2016 to enable further work to be

undertaken on the matrix, with any resulting amendments to the Capital Plan, following adoption of the matrix, to be reported to the Council meeting on 21 July 2016.

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

166 Review of Members' Allowances Report of the Independent Remuneration Panel

The Council considered the submitted report which set out the recommendations of the Independent Remuneration Panel on its review of Members' Allowances.

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

- (i) that the Torbay Independent Remuneration Panel be thanked for their seventh report on the review of the Council's Members' Allowance Scheme;
- (ii) that all proposed increases or decreases set out in the Independent Remuneration Panel's Report be rejected;
- (iii) that the following recommendations of the Torbay Independent Remuneration Panel be adopted:
 - (a) that the Basic Allowance for all Members should remain unchanged at £8,167 (this is set at a level to include covering costs such as telephone charges, broadband, stationery, postage and travel on non-approved duties etc.);
 - (b) that the rates for travel be the same as those set in the Torbay Council Expenses Policy and be paid for all approved duties (e.g. 40p for car, electric car, motorbike or bicycle per mile);
 - (c) that subsistence is only paid for the approved duties listed in (d) and the following must apply:
 - breakfast – depart from home before 8.00 a.m. £6.22;
 - lunch – absent from normal place of work between 12.00 noon and 2.00 p.m. £7.35; and
 - evening meal – not home before 6.00 p.m. £10.17;
 - (d) that the following are identified as approved duties for the purpose of travel, subsistence and childcare/dependent carers' allowances:
 - (i) attendance at meetings as a duly appointed member of:
 - (a) the Council and any committee of the Council;
 - (b) any sub-committee appointed by a committee;

- (c) the Executive or committee of the Executive (if appointed);
 - (d) working parties;
 - (e) scrutiny review panels;
 - (f) policy development groups;
 - (g) any outside organisation and their sub-groups appointed by the Council or the Mayor, provided that the organisation does not pay any such expenses (these are listed on each Councillor's details page on the Council's website at www.torbay.gov.uk/DemocraticServices/mgMemberIndex)
 - (ii) attendance at site visits for planning or licensing purposes or as part of overview and scrutiny;
 - (iii) attendance at member development sessions;
 - (iv) attendance at seminars and all member briefings organised by Torbay Council, except for those held immediately prior to a meeting of Council;
- (e) that the co-optees allowance is frozen at £114 and that this will include expenses for travel and subsistence;
- (f) that the SRA for the Leaders of Political Groups remains unchanged as £327 per member of the group(excluding the Group Leader in the calculations);
- (g) that the Basic Allowances, Special Responsibility Allowances and Co-optees Allowances be indexed from 1 April 2016 to the annual local government pay percentage increase as agreed by the National Joint Committee for Local Government Services. The travel and subsistence allowances will be up-rated as and when the Council's Expenses Policy is adjusted and the whole allowances Scheme will be reviewed by no later than 2019;
- (h) that the Council is recommended to consider introducing performance management arrangements for the Group Leaders/Mayor to assess the performance of all Members and in particular those in receipt of an SRA, except political group leaders who will be held to account by their group;
- (i) that the rates for childcare and dependent carers' allowances remains the same, namely equal to the cost incurred when a carer has been engaged to enable a Member or Co-opted Member to carry out an approved duty; and
- (j) that the Mayor is not part of the Council's pension scheme;

- (iv) that the Governance Support Manager be requested to update Members' Allowances Scheme with the changes outlined in (i) to (iii) above; and
- (v) that the changes to the Members' Allowances Scheme as a result of (i) to (iii) above be implemented from 1 April 2016.

An amendment was proposed by Councillor Darling (S) and seconded by Councillor Darling (M):

- (i) that the Special Responsibility Allowance for the Mayor be reduced by 20% (£10,889.20) to £43,556.80; and
- (ii) that there be no Special Responsibility Allowance for a Deputy Mayor without a Portfolio.

During the debate and in accordance with Standing Order A16.9, Councillor Darling (S), with the consent of his seconder (Councillor Darling (M)), withdrew his amendment.

The original motion was then before members for consideration.

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

167 Change of Job Title for Executive Director of Operations and Finance

Members considered the submitted report on a proposal to change the job title of the Executive Director of Operations and Finance to provide clarity of the role.

It was moved by Councillor Mills and seconded by Councillor Stocks:

that the Executive Director of Operations and Finance's job title be changed to Chief Executive with immediate effect.

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

168 Environmental Enforcement Pilot - Mayoral Decision

The Council considered the following recommendation to the Mayor.

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

that a 2 year extension be granted to the scheme with the current provider.

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

The Mayor considered the matter at the meeting and the record of his decision, together with further information, is attached to these Minutes.

169 Urgent Decision taken by the Executive Director of Operations and Finance and Assistant Director of Corporate and Business Services

Members noted the submitted report setting out details of the following urgent decisions taken by the Executive Director of Operations and Finance or the Assistant Director of Corporate and Business Services:

- (i) Provisional Calendar of Meetings 2016/2017;
- (ii) Corporate Plan Delivery Plans 2015-2019 – extension of decision timescales by Council;
- (iii) Local Government Association (LGA) Corporate Peer Challenge 2015 – extension of decision timescales by Council; and
- (iv) Connections Office Rationalisation – extension of decision timescales by Council.

Chairman

Record of Decision

Environmental Enforcement Pilot

Decision Taker

Mayor on 07 April 2016

Decision

That a 2 year extension be granted to the environmental crime enforcement scheme with the current provider.

Reason for the Decision

To progress the current pilot which is due to end in September 2016.

Implementation

This decision will come into force and may be implemented on 20 April 2016 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

In July 2015, the Council commenced a 12 month environmental crime pilot project with 3GS. The project is due to be completed in September 2016. The current scheme provides a mechanism to tackle environmental issues such as litter and dog fouling through the issuing of Fixed Penalty Notices (FPNs). The intention of the programme is to encourage the public to become more compliant with fewer offences committed and any income generated used to offset costs associated with FPNs as well as increasing awareness and compliance. The submitted report set out an evaluation of the trial and a proposal to continue with the scheme.

The Mayor considered the recommendations of the Council made on 7 April 2016 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options explored are set out in the submitted report.

Is this a Key Decision?

Yes – Reference Number: I023147

Does the call-in procedure apply?

Yes

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

None

Published

12 April 2016

Signed: _____
Mayor of Torbay

Date: 12 April 2016