



Minutes of the Council
(Council decisions shown in bold text)

22 September 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, Bye, Carter, Cunningham, Darling (M), Darling (S), Doggett, Excell, Haddock, King, Kingscote, Lewis, Manning, Mills, Morey, Parrott, Robson, Pentney, Stockman, Sanders, Stocks, Stubbley, Sykes, Thomas (D), Thomas (J), Tolchard and Tyerman

56 Opening of meeting

The meeting was opened with a prayer.

57 Apologies for absence

Apologies for absence were received from Councillors Ellery, Morris, O'Dwyer, Stringer and Winfield.

58 Minutes

The Minutes of the meeting of the Council held on 21 July 2016 were confirmed as a correct record and signed by the Chairman.

59 Declarations of interests

Councillors Brooks, Darling and Hill declared non-pecuniary interests in respect of Minute 65 as they were members of the Babbacombe Corinthian Sailing Club.

Councillor Hill declared a pecuniary interest in respect of Minute 70.

60 Communications

Following consideration of a complaint against Councillor Haddock by the Standards Hearing Sub-Committee, the Chairman referred to the Sub-Committee's request that Councillor Haddock apologise at a Council Meeting for the comments made by him and invited Councillor Haddock to respond. Councillor Haddock

responded to the Sub-Committee's request and apologised to the Council and its officers.

The Overview and Scrutiny Co-ordinator provided members with an update on the meetings of the Priority and Resources 2016/2017 Review Panel which had considered the Efficiency Plan and thanked members and officers for their work on this.

61 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 8 (a), (b) and (d) (Notice of Motions) on the agenda to be considered after Item 21 (Capital Investment Plan Update 2016/2017 Quarter 1).

62 Public question time - Transfer of Attendance Allowance Administration to Local Councils

In accordance with Standing Order A24, the Council heard from Mr Long who had submitted a question in relation to the transfer of the administration of Attendance Allowance to local councils. The Mayor responded to the question that had been put forward, plus a supplementary question asked by Mr Long.

63 Members' questions

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

Written responses were circulated prior to the meeting. Supplementary questions were then asked and answered in respect of questions 1, 2, 6, 8, 9, 10 and 11.

64 Notice of Motion - Pension Changes (Mayoral Decision)

Members considered a motion in relation to transitional arrangements for women following changes to the pension system, notice of which was given in accordance with Standing Order A14.

Councillor Sanders and Councillor Doggett seconded the motion as set out below:

This Council notes that the Pensions Minister at the time claims the Government did not know the full implications of changes to the pension system made in the last Parliament. This Council requests the Mayor and Executive Lead for Finance and Regeneration to write to Torbay's Members of Parliament requesting them to ask the Government to reconsider the transitional arrangements for women born on or after 6 April 1951, so that women do not live in hardship due to pension changes they were not told about until it was too late to make alternative arrangements.

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

The Mayor responded to the motion at the meeting. The Mayor advised that, whilst he did not accept the part of motion referring to the Pensions Minister not being aware of the full implications of the changes, the Mayor supported the proposal of writing to Torbay's Members of Parliament as outlined in the motion.

65 Amendments to the Corporate Asset Management Plan - Mayor's Response to Council Recommendations

Further to the Council meeting held on 21 July 2016, members considered the submitted report on the Mayor's response to the objections raised by the Council on the amendments to the Corporate Asset Management Plan.

The Mayor proposed and Councillor Excell seconded a motion as set out below:

- (i) that, a new Appendix AM-G ~ 'Procedure for determining applications for grants to offset market rent (grants in lieu of rent)', be added to the existing Corporate Asset Management Plan 2015 ~ 2019 (as set out in Appendix 2 to the submitted report);**
- (ii) that, Appendix AM-H ~ 'Granting of sports leases – An overarching strategy', be added to the existing Corporate Asset Management Plan 2015 ~ 2019 (as set out in Appendix 3 to the submitted report);**
- (iii) that, the existing Corporate Asset Management Plan 2015 ~ 2019 be amended to ensure that any grant from the Council to assist with a tenant's rent will be time bound and will not extend beyond the next scheduled rent review unless there is specific approval at Full Council to the contrary; and**
- (iv) that the following wording be added to the Corporate Asset Management Plan to clarify the approach to be taken respect of sports leases:**

"The estimated market rent assesses the lease value against other similar leases (i.e. sports leases) across the South Devon area. An estimated market rent will take into account whether the landlord or tenant has the liability for the cost of maintenance and what income generating facilities are at the disposal of the tenant i.e. a club house & bar, private car parking, etc. The estimated market rent would also reflect the restrictive nature (sports use only user clause) of the lease and the level of the security of tenure.

A combination of the above factors can either increase or lower the valuation and so it must not be assumed that a 'market rent'

is necessarily a high rent. In the case of sports clubs the 'market rent' should not be compared with the commercial rent a business might pay in the high street."

During the debate Councillor Pentney proposed and Councillor Darling (S) seconded an amendment to the motion as follows:

- (i) that, a new Appendix AM-G ~ 'Procedure for determining applications for grants to offset market rent (grants in lieu of rent)', not be approved ~~be added to the existing Corporate Asset Management Plan 2015 – 2019~~ (as set out in Appendix 2 to the submitted report), and the Executive Head for Business Services be instructed to prepare a new procedure for rents whereby upon expiration of current sports leases or where new leases are granted (to include Torre Valley North, Cricketfield Recreation Ground, Windmill Hill Playing Field, Barton Downs Playing Fields, Armada Park Football Pitch, Walls Hill Cricket Ground, Oddicombe Beach Club House and Foreshore Compound and Steps Oxen Cove) to 'not for profit organisations' they will have a peppercorn rent of £500 a year and in addition there will be a surplus share rent approach with the Council receiving 40% of surplus (after deducting any running costs and any costs identified within the club's development plan) which are made by the club, this scheme will not apply to organisations that have a turnover of £100,000 or more;

- ~~(iv) that the following wording be added to the Corporate Asset Management Plan to clarify the approach to be taken respect of sports leases:~~

~~"The estimated market rent assesses the lease value against other similar leases (i.e. sports leases) across the South Devon area. An estimated market rent will take into account whether the landlord or tenant has the liability for the cost of maintenance and what income generating facilities are at the disposal of the tenant i.e. a club house & bar, private car parking, etc. The estimated market rent would also reflect the restrictive nature (sports use only user clause) of the lease and the level of the security of tenure.~~

~~A combination of the above factors can either increase or lower the valuation and so it must not be assumed that a 'market rent' is necessarily a high rent. In the case of sports clubs the 'market rent' should not be compared with the commercial rent a business might pay in the high street."~~

The amendment was put to the vote. Less than two-thirds of members present and voting cast their vote in support of the amendment and it was declared lost.

In light of no amendments being approved and in accordance with the Council's Standing Orders in relation to the Budget and Policy Framework, the Chairman

declared that the Mayor's proposals (as outlined in the original motion (i) to (iv) above) would stand.

(Note: During consideration of Minute 65, Councillor Darling declared his non-pecuniary interest as he was a member of Babbacombe Corinthian Sailing Club and added that he was a committee member of Acorn Youth and Community Centre.)

66 Efficiency Plan

The Council considered the submitted report setting out a proposed Efficiency Plan for submission to the Government. It was noted the Government had provided an offer of a four year financial settlement provided councils submitted an Efficiency Plan. The Efficiency Plan set out how the Council would achieve a sustainable financial position over the next four years.

The Mayor proposed and Councillor Excell seconded a motion, which was agreed by the Council as set out below:

- (i) that the Council accept the offer of a four-year settlement and the Efficiency Plan (attached at Appendix 1 to the submitted report) be approved for submission to the Secretary of State for Communities and Local Government;**
- (ii) that, should the Government's requirements and/or offer change ahead of the submission deadline, the Chief Financial Officer be authorised to amend the Efficiency Plan, in consultation with the Mayor and Group Leaders, and to determine whether or not to accept the offer and submit the amended Efficiency Plan to the Secretary of State; and**
- (iii) that the Director of Transformation be requested to progress each of the projects within the Transformation Programme and that, where appropriate, entries be included within the Forward Plan to enable engagement and consultation to take place as part of the decision making process.**

67 Capital Investment Fund

Further to the decision of the Council on 25 February 2016, members considered the submitted report on a proposal to expand the investment fund, introduce criteria for the investments made by the fund and detailed the proposed governance arrangements around its management (including a supplementary report setting out the Overview and Scrutiny Board's recommendations for the creation of an Investment Fund Committee). The report also proposed investment to increase future National Non Domestic Rate revenues within Torbay.

The Mayor proposed and Councillor Mills seconded a motion as set out below:

that the Council be recommended:

- (i) that the Investment Fund be increased by £40 million to a total of £50 million to be initially funded by prudential borrowing, with the revenue costs associated with that borrowing (MRP and interest costs) to be funded from the investment returns or higher NNDR income;
- (ii) that the Investment Strategy for the fund as detailed within Appendix 1 of the submitted report be approved;
- (iii) that, subject to the deletion of 7.4(a) so as to require all decisions on allocations from the Investment Fund to be approved by the Council, the governance of fund as detailed within paragraph 7.4 be approved; and
- (iv) that the Chief Executive be delegated authority to set up a delivery team including sourcing external support if required, to be funded from the investment returns.

During the debate Councillor Lewis proposed and Councillor Tyerman seconded an amendment to the motion as follows:

- (ii) that the Investment Strategy for the fund as detailed within Appendix 1 of the submitted report be approved and be included as part of the Council's Policy Framework.
- (iii) that the governance arrangements of fund are the Overview and Scrutiny Board's proposal as set out at Appendix 3 (of the submitted report), namely:
 - a) That the Council appoints an Investment Committee, comprising of 6 members (politically balanced and to receive mandatory training, including any substitutes) and with terms of reference as follows:
 1. To review the Strategy and make recommendations to the Council for revision of the same.
 2. To determine any investment or purchase using the Investment Fund up to the value of £5 million, in accordance with the Investment Strategy. All investments or purchases to be subject to a (documented) review by the s151 Officer, Monitoring Officer, Fund Manager and Executive Head of Business Services.
 3. To receive performance reports on the Investment Fund on a quarterly basis.
 - b) Where two or more members of the Committee vote against decisions of the Committee the matter shall stand referred to

the Council for decision. The quorum of the Committee will also be a minimum of four members in attendance (rather than three) to ensure the voting procedures meet the intended requirements. The Monitoring Officer be requested to update the Standing Orders within the Constitution to reflect the voting provision and a quorum of four for this Committee. This approach will provide the Council with confidence in respect of the Committee's decision-making on major financial issues.

- c) Any investment decisions in excess of £5 million to be approved by the Council.

The amendment was put to the vote and declared carried.

During the debate Councillor Darling (S) proposed and Councillor Sanders seconded a further amendment to the motion as follows:

- (ii) that the Investment Strategy for the fund as detailed within Appendix 1 of the submitted report be approved, subject to Strategy being amended to reflect that 100% of the investments from the Fund will remain within the Torbay travel to work area and be included as part of the Council's Policy Framework.

The amendment was put to the vote and declared lost.

During the debate Councillor Parrott proposed and Councillor King seconded a further amendment to the motion as follows:

- (iii) a) That the Council appoints an Investment Committee, comprising the Mayor and/or the Executive Lead for Finance and of 6 members (politically balanced and to receive mandatory training, including any substitutes) and with terms of reference as follows:

The amendment was put to the vote and declared lost.

The amended (substantive) motion was then considered by members, which was agreed by the Council as follows:

- (i) **that the Investment Fund be increased by £40 million to a total of £50 million to be initially funded by prudential borrowing, with the revenue costs associated with that borrowing (MRP and interest costs) to be funded from the investment returns or higher NNDR income;**
- (ii) **that the Investment Strategy for the fund as detailed within Appendix 1 of the submitted report be approved and be included as part of the Council's Policy Framework.**

- (iii) that the governance arrangements of fund are the Overview and Scrutiny Board's proposal as set out at Appendix 3 (of the submitted report), namely:
- a) That the Council appoints an Investment Committee, comprising of 6 members (politically balanced and to receive mandatory training, including any substitutes) and with terms of reference as follows:
 - 1. To review the Strategy and make recommendations to the Council for revision of the same.
 - 2. To determine any investment or purchase using the Investment Fund up to the value of £5 million, in accordance with the Investment Strategy. All investments or purchases to be subject to a (documented) review by the s151 Officer, Monitoring Officer, Fund Manager and Executive Head of Business Services.
 - 3. To receive performance reports on the Investment Fund on a quarterly basis.
 - b) Where two or more members of the Committee vote against decisions of the Committee the matter shall stand referred to the Council for decision. The quorum of the Committee will also be a minimum of four members in attendance (rather than three) to ensure the voting procedures meet the intended requirements. The Monitoring Officer be requested to update the Standing Orders within the Constitution to reflect the voting provision and a quorum of four for this Committee. This approach will provide the Council with confidence in respect of the Committee's decision-making on major financial issues.
 - c) Any investment decisions in excess of £5 million to be approved by the Council.
- (iv) that the Chief Executive be delegated authority to set up a delivery team including sourcing external support if required, to be funded from the investment returns.

68 Order of Business

At this juncture and in accordance with Standing Order A7.2 in relation to Council meetings, the Chairman varied the order of business to enable Items 12 (Parking Strategy 2016-2021), 13 (Transformation Project – Generating income through housing), 18 (Establishment of a Children's Services Monitoring Working Party), 19 (Establishment of an Oldway Mansion and Estate Working Party), 20 (Treasury

Management mid-year review 2016/17 and revised Minimum Revenue Provision Policy 2016/17), 22 (Revenue Budget Monitoring 2016/17 – Quarter 1), 23 (Composition and Constitution of Executive and Delegation of Executive Functions) and 24 (Urgent decisions taken by the Chief Executive) to be considered before the other remaining items on the agenda.

69 Parking Strategy 2016-2021

The Council considered a review of the Council's Parking Strategy (as set out in the submitted report). The review updated the strategy taking into account the Corporate Plan and Local Transport Plan and provided a consistent approach to the parking management and provision in Torbay.

Councillor Excell proposed and Councillor King seconded a motion as set out below:

- (i) that the Torbay Council Parking Strategy 2016-2021, as set out in Appendix 2 to the submitted report, be adopted; and
- (ii) that the Parking Operations Panel and Members involvement in the decision making process be reviewed after one year.

During the debate Councillor Thomas (D) proposed and Councillor Lewis seconded an objection to the motion as follows:

that the Council formally objects to the Parking Strategy 2016-2021 on the basis that:

- i) the Council is concerned that public safety, in particular road safety risks to children outside school entrances, has not been given sufficient priority. Therefore, the Mayor reconsiders the Officer recommendation as set out below:**
 - (i) That the Torbay Council Parking Strategy 2016-2021, as set out in Appendix 2 to the submitted report, be adopted, except that the phrase "However, this Strategy does not support the use of mobile enforcement cameras" should be deleted on page 15, under the section marked 'Fair Enforcement', and replaced with the following statement:-**

"In particular the use of mobile enforcement cameras can improve road safety for children outside school entrances and reduce the road safety risks presented to public transport users. Strict operating procedures should be applied to the use of any mobile technology to ensure that fair enforcement is undertaken and the law abiding motorist is not penalised."

- (ii) That the Parking Operations Panel and Members involvement in the decision making process be reviewed after one year.**

In accordance with the Constitution at F4.9, the Council therefore requires the Mayor to consider this objection by 14 October 2016 either:

- a) submit a revision of the Parking Strategy 2016-2021 with the reasons for any amendments to the Council for its consideration; or**
- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.**

A recorded vote was taken on the objection. The voting was taken by roll call as follows: For: Councillors Barnby, Bent, Brooks, Bye, Carter, Cunningham, Darling (M), Darling (S), Doggett, Haddock, Hill, Kingscote, Lewis, Mills, Morey, Pentney, Robson, Sanders, Stockman, Stocks, Sykes, Thomas (D), Thomas (J), Tolchard and Tyerman (25); Abstain: Mayor Oliver and Councillors Amil, Excell, King, Manning, Parrott and Stubbley (7); and Absent: Councillors Ellery, Morris, O'Dwyer, Stringer and Winfield (5). Therefore the objection was carried, the Mayor was required to consider the objection and publish his response by 14 October 2016 for consideration at the Council meeting on 27 October 2016.

70 Transformation project - Generating income through Housing

Prior to consideration of Minute 70, the Chairman declared his pecuniary interest and withdrew from the meeting. The Vice-Chairwoman chaired the meeting for this item.

Councillor Brooks in the Chair

The Council considered a business case (as set out in the submitted report) for the principle of setting up a new wholly owned development company to develop and own homes with the overarching aim of maximising income back to the Council. It was noted the creation a housing development and housing management company would allow the Council to acquire, build, rent and sell housing to create both capital and revenue receipts for the authority.

Councillor King proposed and Councillor Parrott seconded a motion, which was agreed by the Council as set out below:

- (i) that Council agree the principle of setting up a new wholly owned development company to develop and own homes with the overarching aim of maximising income back to the Council; and**

- (ii) that up to £75,000 be authorised from the Transformation Fund to undertake the necessary due diligence, explore the objectives listed in paragraph 2.5 to the submitted report and to carry out:
- The appropriate company structure;
 - Governance arrangements;
 - Financial modelling and stress tests;
 - Taxation;
 - Financial flows between the two entities; and
 - Analysis of the benefits and risks.

71 Establishment of a Children's Services Monitoring Working Party

Councillor Hill in the Chair

The Council considered the submitted report on establishing a Children's Services Monitoring Working Party in order to formalise current informal arrangements and strengthen the governance of Children's Services monitoring arrangements by elected members. A revised officer recommendation was circulated at the meeting.

Councillor Parrott proposed and Councillor Barnby seconded a motion, which was agreed by the Council as set out below:

that a Children's Services Monitoring Working Party be established comprising 5 members (to be politically balanced), with the Executive Lead for Adults and Children and the Director of Children being invited to attend meetings, with terms of reference as follows:

- (a) to provide strategic political interface between elected members and the Executive Lead for Adults and Children and the Director of Children's Services;
- (b) to understand the key priorities for Children's Services;
- (c) to be fully briefed on progress of improvements within Children's Services; and
- (d) to understand the financial situation and plans for recovery of Children's Services.

72 Establishment of an Oldway Mansion and Estate Working Party

The Council considered a proposal to establish an Oldway Mansion and Estate Working Party to assist the Council in developing an alternative solution to ensure the long term protection of Oldway Mansion and the Estate (as set out in the submitted report).

The Mayor proposed and Councillor Mills seconded a motion as set out below:

- (i) that an Oldway Mansion and Estate Working Party be established comprising 5 members, to be politically balanced and include the Executive Lead for Finance and Regeneration with terms of reference as follows:
 - 1. to review any condition surveys for buildings on the site;
 - 2. to review proposals for use of buildings and grounds;
 - 3. to ascertain community views in respect of these matters; and
 - 4. to make recommendations about how future use of building should be taken forward.

During the debate Councillor Doggett proposed and Councillor Carter seconded an amendment to the motion as follows:

- (ii) that the Working Party identifies relevant members from the local community and relevant representatives from the business, public and voluntary sectors to be invited to meetings as advisors to assist with the work of the Working Party.

The amendment was put to the vote and declared carried (unanimously).

The amended (substantive) motion was then considered by members, which was agreed (unanimously) by the Council as follows:

- (i) that an Oldway Mansion and Estate Working Party be established comprising 5 members, to be politically balanced and include the Executive Lead for Finance and Regeneration with terms of reference as follows:**
 - 1. to review any condition surveys for buildings on the site;**
 - 2. to review proposals for use of buildings and grounds;**
 - 3. to ascertain community views in respect of these matters; and**
 - 4. to make recommendations about how future use of building should be taken forward; and**
- (ii) that the Working Party identifies relevant members from the local community and relevant representatives from the business, public and voluntary sectors to be invited to meetings as advisors to assist with the work of the Working Party.**

73 Treasury Management Mid-Year Review 2016/17 and Revised Minimum Revenue Provision Policy 2016/17

The Council considered the submitted report on a review of Treasury Management activities during the first part of 2016/17. The report also provided details of changes in policy for future decisions arising from the referendum vote for the UK to leave the European Union.

It was noted the Treasury function aimed to support the provision of all Council services through management of the Council's cash flow and debt and investment operations.

The Mayor proposed and Councillor Tyerman seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the Treasury Management decisions made during the first part of 2016/17 as detailed in the submitted report be noted;**
- (ii) that an increase to the maximum exposure to Peer to Peer Lending from £200,000 to £500,000 as set out within section 7 of the submitted report be approved;**
- (iii) that the performance of Prudential and Treasury Indicators as set out in Appendix 4 of the submitted report be noted; and**
- (iv) that the revised Minimum Revenue Provision Policy Statement for 2016/17 as shown in Appendix 2 to the submitted report be approved.**

74 Revenue Budget Monitoring 2016/2017 - Quarter 1

Members noted the submitted report (including a supplementary appendix on actions to minimise overall budget spend) in respect of Revenue Budget monitoring 2016/2017 for quarter 1.

75 Composition and Constitution of Executive and Delegation of Executive Functions

The Council received and noted the submitted report in respect of changes made by the Mayor to his Executive.

76 Urgent Decisions taken by the Chief Executive

Members noted the details of decisions taken (Capital Plan 2016/17 – 2019/20 Prioritisation Matrix decision timescales and Bolton Cross, Brixham) by the Chief Executive on the grounds of urgency, as set out in the submitted report.

77 Duration of meeting

In accordance with Standing Order A11.1, the Chairman invited members to vote for the meeting to continue as the meeting had exceeded four hours duration. On being put to the vote, it was resolved to not continue the meeting.

The Chairman advised that the remaining business on the agenda would be considered at the next meeting of the Council on 27 October 2016, namely:

- 8(a). Notice of Motion – Protecting Torbay’s Position following the EU Referendum;
- 8(b). Notice of Motion – Policy Framework: Torbay Development Agency Business Plan;
- 8(d). Notice of Motion – Opposing Badger Culls;
- 14. Town Councils;
- 15. Delivery of Town Centre Masterplans;
- 16. Local Government Association Corporate Peer Challenge 6 Monthly Progress Report;
- 17. Outside Bodies Protocol; and
- 21. Capital Plan Update 2016/2017 Quarter 1

Chairman