



Minutes of the Harbour Committee

21 June 2010

-: Present :-

Councillor Addis, Carter (C), Morey, Horne, Faulkner (J), McPhail and Richards

117. Election of Chairperson

Councillor Horne was elected Chairman for the 2010/11 Municipal Year.

Councillor Horne in the Chair.

118. Apology

An apology for absence was received from Councillor Bent.

119. Committee Membership

It was reported that, in accordance with the wishes of the Independent Group, the membership of the Committee had been amended for this meeting by including Councillor Morey instead of Councillor Ellery.

120. Election of Vice-Chairperson

Councillor Addis was elected Vice-Chairman for the 2010/11 Municipal Year.

121. Minutes

The Minutes of the meeting of the Harbour Committee held on 15 March 2010 were confirmed as a correct record and signed by the Chairman.

122. Urgent Items

The Committee considered the items in Minutes 123, and not included on the agenda, the Chairman being of the opinion that they were urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

123. Princess Gardens, Promenade and Gardens

Members of the Committee received a presentation on future proposals for Princess Gardens, Promenade and Gardens and outlined areas which the Harbour Committee would be requested to advise on at a future meeting. It was noted that members of the public had received a similar presentation and the purpose was to bring members of the Harbour Committee up to date.

124. Harbour Committee Terms of Reference

The Committee noted the current Terms of Reference for the Harbour Committee, as set out in the Council's Constitution.

125. Appointment of Harbour Appointments Sub Committee

The Committee considered appointments to the Harbour Appointments Sub Committee. Members were advised that the Sub-Committee was formed in 2007 to consider applications for external advisors to the Harbour Committee and to make recommendations to the Harbour Committee on suitable appointments to those positions.

Resolved: that a Harbour Appointments Sub-Committee be re-appointed to comprise two members of the Conservative Group (Councillors Horne and Manning) and one member of the Liberal Democrat Group (Councillor Carter (C)).

126. Harbour Asset Review Working Party

The Executive Head for Marine and Harbour Services advised Members that the Harbour Committee's Terms of Reference required the Harbour Committee to provide strategic direction in relation to those assets within Tor Bay Harbour and the harbour estate that were managed by Marine Services.

Resolved: that a Harbour Asset Review Working Party, comprising two members of the Conservative Group (Councillors Horne and Richards) and one Liberal Democrat Member (Councillor Faulkner (J)) and two of the External Advisors to the Committee (Captain Bob Curtis and Mr Gordon Jennings), be appointed with the following terms of reference:

- a) to review all assets within Tor Bay Harbour and the Harbour Estate;
- b) to establish how each asset is performing; and
- c) to identify any assets that are surplus.

127. Harbour and Marine Services – Outturn 2009/10

Members received Report 168/2010 which set out details of the Harbour and Marine Services final expenditure and income figures against the budget targets for 2009/10.

The Committee noted the Executive Head for Harbour and Marine Services use of delegated powers to waive certain harbour charges, which at the end of the financial year amounted to £5,475.80 (excl VAT) spread across both Harbour Accounts. The Executive Head further explained this figure did not include £8,245.41 of uncollected harbour charges in respect of the abandoned vessel 'Grietje'.

128. Torquay/Paignton and Brixham Harbour Liaison Forums

The Committee noted the minutes of the Torquay and Paignton Harbour Liaison Forum held on 8 June 2010 and the Brixham Harbour Liaison Forum held on 9 June 2010.

129. Harbour and Marine Services Budget Monitoring 2010/11

The Committee received Report 169/2010 which provided members with projections of income and expenditure for the year 2010/11 compared with approved budgets.

The Report identified the overall budgetary position for Harbour and Marine Services as at end of April 2010 to enable appropriate action to contain expenditure and maintain reserves at appropriate levels. The Executive Head for Harbour and Marine Services explained that both Harbour accounts were currently expected to show a worse position to the approved budget due to reduced income from Torquay and Brixham marinas.

The Committee noted the Executive Head's use of delegated powers to waive certain harbour charges, which this financial year amounted to £52.11 (excl VAT) spread across both harbour accounts. The Committee was also provided with an update on the Brixham Breakwater Repairs and the involvement of the Environment Agency. It was noted that the capital work had therefore been postponed until further reports were available.

130. Harbour and Marine Services Performance

The Committee noted Report 170/2010 which detailed the 2009/10 Performance of Harbour and Marine Services.

131. Enforcement and Prosecution Policy

The Committee received Report 171/2010 setting out an Enforcement and Prosecution Policy which the Committee were requested to review and endorse.

Resolved: that the Enforcement and Prosecution Policy set out at Appendix 1 to Report 171/2010 be approved.

132. Harbour Committee Work Programme

The Committee noted Report 172/2010 setting out a revised Harbour Committee's work programme for the 2010/11 Municipal Year.

133. Harbour and Marine Services Commissioning

The Chairman reported in light of budget implications facing local authorities, the Commissioning proposals set out in Report 173/2010 may need further development.

Resolved: that Report 173/2010 be deferred to a future meeting of the Harbour Committee.

134. Harbour and Marine Services – Annual Tor Bay Harbour User Survey 2010

The Committee noted Report 174/2010 which provided members with the detailed results of the Tor Bay Harbour Users Survey 2010. The Executive Head for Marine and Harbour Services explained that the user's survey, coupled with the complaints and compliments feedback system, set out an indication of whether or not the harbour and marine services were meeting the expectations of customers. The Executive Head outlined the significant results from the 2010 survey.

135. Paignton Harbour Estate - Decriminalised Parking

The Committee received Report 175/2010 on the above. The Executive Head for Harbour and Marine Services explained that the harbour estates in Brixham, Torquay and Paignton had suffered from unregulated parking problems for many years and this had been compounded by the difficulty in enforcing the relevant harbour byelaws. In 2007 the Harbour Committee endorsed the use of decriminalised parking enforcement to regulate vehicles using the harbour estates. The Executive Head explained that introducing decriminalised parking on the harbour estate would ensure that the harbour estate would be a safer and tidier place.

The Committee noted that the relevant advertisements had been undertaken in line with legislation and the objection received, as set out in Appendix 3 to Report 175/2010. The Executive further explained that the proposed Order would not prevent for up to 20 minutes the loading or unloading in the adjacent South Quay harbour road of vehicles delivering or collecting goods from the objector's business.

Resolved: that, notwithstanding the public objection attached at Appendix 3 to Report 175/2010, the Environment Commissioner be authorised to undertake the Borough of Torbay (Paignton Harbour Estate Zone) (Control of Waiting, Loading and Unloading and Prohibition of Driving) Order 2010 as advertised.

136. Old Market House, Brixham

The Committee received Exempt Report 176/2010 which sought the Committee's view on granting a 125 year lease for the Old Market House, Brixham to Nirvana Properties Limited (NPL) for a premium rate, subject to NPL carrying out extensive works to the property and thereafter operating a licensed restaurant from the premises.

Resolved: that the Mayor be recommended:

- (i) that Nirvana Properties Limited (NPL) be informed that, in principle, the Council, as landlord, continues to be supportive of the development plans to convert the Old Market House into licensed restaurant premises;
- (ii) that a grant of a 125 year lease of the Old Market House, Brixham, to NPL be authorised;
- (iii) that the Executive Head of Harbour and Marine Services, the Chief Executive of the Torbay Development Agency and the Executive Head of Visitor and Resident Services, in consultation with the Head of Legal, the Estates Manager and Chief Finance Officer, be authorised to agree the final terms of a 125 year lease with NPL in accordance with the draft Heads of Terms detailed in Appendix 4 to Exempt Report 176/2010;
- (iv) that, NPL be informed that they would be responsible for reaching an agreement with the fisherman regarding his vacating the last occupied store within the Old Market House;
- (vi) that the Council will not terminate the remaining fisherman's tenancy using its powers as landlord if NPL are unable to come to an agreement with him about vacating his store;

(vii) that, if NPL can reach an agreement with the fisherman and he agrees to vacate the Old Market House then the Council would assist by offering alternative storage premises for the fisherman at The Hard, Brixham. The lease of these premises would be on normal market terms;

(viii) that, subject to satisfactory lease negotiations the Executive Head of Visitor and Resident Services be asked to secure vacant possession of the Brixham TIC by the 1st October 2010;

(ix) that if the fisherman does not vacate his store and/or the Executive Head of Visitor and Resident Services wishes to retain a manned TIC within the premises after they have been refurbished, then subject to plans being re-submitted to Officers and the Executive Head of Visitor and Resident Services which include the Tourist Information Centre and/or the fisherman's store within the building, the Executive Head of Harbour and Marine Services, in consultation with the Head of Legal, the Estates Manager and Chief Finance Officer, be authorised to accept surrenders of Nirvana Properties Limited's existing leasehold interests within the building and grant a new lease of up to 125 years for the building (reserving rights for the TIC and/or fisherman's store) and such additional rights necessary for the use of the Old Market House as a licensed premises and restaurant on acceptable terms;

(x) that, subject to (iii) or (viii) above being complied with, the Estates Manager be authorised to advertise the disposal of public open space around the Old Market House in accordance with the Local Government Act 1972 to allow the creation of the outside seating area (or such agreed area deemed necessary if the plans are subsequently amended);

(xi) that, to reduce the risk of the harbour being unable to generate sufficient revenue funds, the Council be recommended to direct all capital receipts from this development to be credited to the Brixham harbour ring-fenced account.

(Note 1: Prior to consideration of the item in Minute 136 the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).)

(Note 2: In accordance with Standing Order A19.5 Councillor Morey requested his vote against the proposal be recorded.)

Chairman
