



Minutes of the Council

24 March 2011

-: Present :-

Chairman of the Council (Councillor Phillips) (In the Chair)
Vice-Chairman of the Council (Councillor Manning)

The Mayor of Torbay (Nick Bye)

Councillors Amil, Baldrey, Bent, Butt, Carter (C), Carter (R), Charlwood, Darling, Doggett, Ellery, Excell, Faulkner (J), Hodge, Horne, Hytche, Lewis, McPhail, Mills, Morey, Oliver, Parrott, Pentney, Richards, Scouler, Stocks, Stringer, Thomas (D) and Thomas (J)

643. Opening of meeting

Members observed a minute's silence as a mark of respect in memory of the late Councillor Kevin Carroll who passed away recently after losing his battle with cancer and who will be greatly missed. The Chairman's Chaplain then opened the meeting with a prayer.

644. Apologies for absence

Apologies for absence were received from Councillors Addis, Faulkner (A) and Tolchard.

645. Minutes

The Minutes of the meeting of the Council held on 24 February 2011 were confirmed as a correct record and signed by the Chairman.

646. Declarations of interests

The following personal interests were declared:

Councillor	Minute Number	Nature of interest
Doggett	649	Member of Y2KS Quiz Team based at Churston Golf Club
Stocks	649	Member of Churston Golf Club WY2K's Quiz Team

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Amil	654	Council nominated NED on TCT
Stocks	654	Council nominated NED on TCT

647. Communications

The Mayor:

- (a) announced that the Council had received £1.75 million in Performance Reward Grant from the Government. Torbay had a high success with the reward due to its partnership working on projects such as Paignton Library, litter campaigns, crime reduction initiatives, working with Health to reduce smoking, Closing the Gap project and Business Incubator Units. The Mayor congratulated the Council and partners on this achievement;
- (b) provided an update on the South Devon link road. The project was listed in the national final development pool and a final decision was expected from the Government in the near future; and
- (c) advised that this would be his last Council meeting as the first elected Mayor of Torbay and expressed thanks to colleagues, fellow members and those who had worked with him during this time.

648. 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 (Churston Golf Club Proposals – Notice of Call-in) to be considered before item 6 (Members' Questions).

649. Churston Golf Club Proposals - Notice of Call-in

At its meeting on 17 February 2011, the Overview and Scrutiny Board considered the Notice of Call-in of the decision of the Mayor (taken at the Cabinet meeting on 2 February 2011) to grant a variation to the lease of Churston Golf Club. The Board resolved that the decision of the Mayor be referred to Council for consideration. The Council considered Report OSB/4/11 which set out details of the Notice of Call-in and advice from the Monitoring Officer.

It was proposed by Councillor Thomas (J) and seconded by Councillor Oliver:

that the Mayor be requested to consider making a decision on the points outlined in Report 34/2011. The Council also recommend that all parties concerned are contacted to reach a compromise decision.

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 Amil, Baldrey, Carter (C), Carter (R), Charwood, Darling, Doggett, Ellery, Excell, Faulkner (J), Hodge, Horne, Hytche, Lewis, Manning, McPhail, Mills, Morey, Oliver,

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Pentney, Phillips, Richards, Scouler, Stocks, Stringer, Thomas (D) and Thomas (J) (27); **Against:** The Mayor, Councillors Aiton, Bent, Butt and Parrott (5); and **Absent:** Councillors Addis, Faulkner (A) and Tolchard (3). Therefore, the motion was declared **carried**.

(**Note:** During consideration of Minute 649, Councillor Stocks declared her personal interest.)

650. **Princess Parade, Princess Gardens, Marina Car Park, Pavilion and Theatre - Notice of Call-in**

At its meeting on 16 March 2011, the Overview and Scrutiny Board considered the Notice of Call-in of the decision of the Mayor (taken at the Cabinet meeting on 3 March 2011) to authorise the Chief Executive of Torbay Development Agency to investigate and deliver a solution to the repairing liabilities at Princess Gardens, Princess Parade, the Pavilion and Princess Pier. The Board resolved that the decision of the Mayor be referred to Council for consideration. The Council considered Report OSB/6/11 which set out details of the Notice of Call-in and advice from the Monitoring Officer.

The Chairman advised that the call-in was considered by the Overview and Scrutiny Board after the agenda for this meeting had been published and after the 10 clear working day deadline for public questions had expired. Requests for a public question time session on the call-in had been received and as it was not possible for members of the public to submit questions or statements by the deadline, the Chairman had accepted three questions/statements on this item (copies of which were circulated prior to the meeting).

Therefore, in accordance with Standing Order A24, the Council heard from Julie Brandon, Alan Griffey and Len Short who had submitted questions and statements in relation to the proposed development at Princess Gardens. The Mayor responded to the questions and statements that had been put forward.

It was then proposed by Councillor Thomas (J) and seconded by Councillor Oliver:

that the Mayor be requested to reconsider his decision in light of the following:

- (i) whilst the Council acknowledge the need for redevelopment in the Princess Gardens area, it would wish to safeguard what makes Torbay special; and
- (ii) the Council shares the concerns listed on the call-in notice namely:
 - (a) the Mayor's decision authorises the Chief Executive of the Torbay Development Agency to "investigate and deliver a solution to the repairing liabilities" in consultation with the Mayor, Portfolio Holder for Regeneration, the Environment Commissioner and the Executive Head of the Torbay Harbour Authority. What input will

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there be into this project from the Harbour Committee, Harbour users, the wider community and elected representatives?;

- (b) the Chief Executive of the Torbay Development Agency is being asked to “revisit the principle” of a Torquay Inner Harbour Pontoon Berthing Project. How will the Council ensure that residents can secure affordable berths in the inner harbour? What consultation has the Mayor undertaken on this? How will the Executive Head of the Tor Bay Harbour Authority be involved?; and
- (c) the Mayor has failed to give any clear guidance as to what would or would not be acceptable in terms of development.

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 Amil, Baldrey, Butt, Carter (C), Carter (R), Charlwood, Darling, Doggett, Ellery, Excell, Faulkner (J), Hodge, Horne, Hytche, Manning, McPhail, Mills, Morey, Oliver, Pentney, Phillips, Richards, Scouler, Stocks, Stringer, Thomas (D) and Thomas (J) (27); **Against:** The Mayor, Councillors Aiton, Bent, Lewis and Parrott (5); and **Absent:** Councillors Addis, Faulkner (A) and Tolchard (3). Therefore, the motion was declared **carried**.

651. Members' questions and answers

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

Supplementary questions were asked and answered by Councillor Butt (question 3) and the Mayor (urgent question).

652. Notice of Motion - Elected Mayor System

Members considered a motion in relation to the elected mayor system, notice of which was given in accordance with Standing Order A14.

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

- (i) that this Council urges the Secretary of State, Mr. Eric Pickles, to scrap the elected mayor system at the expiration of the next four year term and allow the people of Torbay to choose a more democratic and transparent form of local government; and
- (ii) that all the mayoral candidates be invited to sign a letter to Mr Eric Pickles stating their objection to the mayoral system.

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

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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 Amil, Baldrey, Carter (C), Carter (R), Darling, Doggett, Ellery, Excell, Faulkner (J), Hodge, Hytche, Lewis, Manning, McPhail, Mills, Morey, Oliver, Pentney, Phillips, Richards, Scouler, Stocks, Stringer, Thomas (D) and Thomas (J) (25); **Against:** The Mayor, Councillors Aiton, Bent, Butt, Charlwood, Horne and Parrott (7); and **Absent:** Councillors Addis, Faulkner (A) and Tolchard (3). Therefore, the motion was declared **carried**.

(**Note:** Prior to the meeting Councillor Morey suggested the addition of paragraph (ii) to the motion which was accepted by Councillor Oliver.)

653. Notice of Motion - Swim Torquay

Members considered a motion in relation to Swim Torquay, notice of which was given in accordance with Standing Order A14.

Councillor Darling advised that he wished to withdraw the first two paragraphs of the Notice of Motion as submitted. It was then proposed by Councillor Darling and seconded by Councillor Stocks:

- (i) this Council resolves to fund the pool for the 2011/12 financial year with a one off £15,000 (on top of the £5,000 already given) from the Comprehensive Spending Review Reserve. During the next 12 months the Council will work with interested parties on a strategy to provide a 21st century swimming facility for local residents and visitors alike; and
- (ii) this Council asks the Environment Commissioner to bring a report to the meeting of the full Council on 30 June outlining what action has been taken.

In accordance with Standing Order A14.4(a), the Deputy Chief Executive advised that the motion stood referred to the Mayor.

654. Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust

The Council considered Report 76/2011 and the recommendations of the Mayor on the Annual Strategic Agreement (ASA) for 2011/12 between the Council and Torbay NHS Care Trust for the delivery of Adult Social Care. A revised Appendix 1 to Report 76/2011 was circulated prior to the meeting.

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

- (i) that the Council be recommended to approve the Annual Strategic Agreement for 2011/12 as set out in Revised Appendix 1 to Report 76/2011 circulated prior to the Council meeting on 24 March 2011; and

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- (ii) that the remaining risk related to the delivery of the required performance outlined and the ability to deliver a balanced budget, given the level of resources allocated for the delivery of Adult Social Care, be deemed acceptable.

An amendment was proposed by Councillor Thomas (J) and seconded by Councillor Oliver:

that the Council refers the Annual Strategic Agreement for 2011/12 back to the Mayor to allow full consideration of the revised agreement (revised Appendix 1 to Report 76/2011) circulated on 24 March 2011.

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

The substantive motion (to refer back to the Mayor) was then before Members for consideration.

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

(Note 1: Councillors Amil and Stocks required their abstention from voting on the decision in Minute 654 to be recorded.)

(Note 2: During consideration of Minute 654, Councillors Amil and Stocks declared their personal interests.)

655. Corporate Plan 2011+

Further to the meeting of the Cabinet held on 22 March 2011, Members received the recommendations of the Mayor and Report 77/2011 on the annual refresh of the Council's Corporate Plan 2011+. It was noted that the refresh of the Corporate Plan identified both the achievements of the previous year and the priorities for the year ahead.

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

that the Council be recommended to:

- (i) approve the format and general content of the Corporate Plan 2011+ as set out in Appendix 1 to Report 77/2011; and
- (ii) authorise the Mayor and Chief Executive (or Deputy Chief Executive) to agree the final version of the Plan should it be appropriate to make any minor amendments to the current version.

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

- (ii) authorise the Chief Executive (or Deputy Chief Executive) in consultation with the Group Leaders, the Mayor and the Overview and

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Scrutiny Co-ordinator to agree the final version of the Plan should it be appropriate to make any amendments to the current version.

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

The substantive motion (the original motion with the amendment to (ii)) was then before Members for consideration.

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

At the invitation of the Chairman, the Mayor advised that he accepted the original motion with the amendment. Therefore, as the Mayor had accepted the amendment the matter would not be referred back to the Cabinet for consideration as required under Standing Order F4.8(iii).

656. Planning Contributions and Affordable Housing Supplementary Planning Document: Threshold for Contributions

The Council considered the recommendations of the Mayor on the above (as set out in Reports 78/2011 and 39/2011), which he had put forward following consideration of the amendment that was made at the meeting of the Council held on 24 February 2011.

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

that the Council be recommended:

- (i) that paragraph 6.5 of the Planning Contributions and Affordable Housing Update and Mitigation Paper 2010 be revised to read:

“Smaller developments must also contribute towards mitigating any adverse impacts they may have, individually and collectively, on Torbay. Consequently there is no minimum threshold for contributions. This approach also avoids creating perverse incentives, or unintended consequences (such as artificial division of planning units), which could result in no contributions towards mitigation of adverse impacts. Due to the cost of drafting and monitoring S106 Agreements, applicants for smaller schemes, specifically those where the contribution would be less than about £5,000 will be encouraged to pay the contribution before grant of permission in exchange for an agreement by the Council to return these sums in the event that development does not proceed. In seeking financial contributions from smaller schemes, regard will be had to the need for them to be reasonable (as per Circular 5/2005), and the need to avoid imposing undue costs on businesses. In addition, regard will be had to whether the application is a standalone scheme or affects part of a larger planning unit (e.g. a block of holiday apartments)”;

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- (ii) that the first sentence of Paragraph 4.19 of the Interim Guidance on Principal Holiday Accommodation Areas (March 2010) be deleted, as will any other reference to the £5,000 threshold;
- (iii) that the principle of charging smaller developments for a fair proportion of the infrastructure for which they create a need, be incorporated into the emerging Community Infrastructure Levy; and
- (iv) that all references to “overage” of “clawback” be changed to read “deferred contribution”.

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

657. Composition and Constitution of the Cabinet and Record of Delegations of Executive Functions

Members noted Report 79/2011 which provided details of changes made by the Mayor to his Cabinet.

Minute Item 651

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Questions Under Standing Order A13

Question (1) by Councillor Darling to the Cabinet Member for Community Services	<p>Torbay Council has received a substantial 106 agreement payment which was going to increase the frequency of the 64 and 65 bus route from 2 hourly to hourly.</p> <p>Can you confirm when the money was received by the Council, and when it is going to be used to increase the frequency of the 64/65 bus service?</p>
Councillor Butt	The operator has been contacted and will be arranging to meet officers at the beginning of April 2011 when a commencement date and service schedule can be agreed.
Question (2) by Councillor Carter (C) to the Cabinet Member for Community Services	<p>Quaywest Car Park is closed during the winter season.</p> <p>Youngs Park Car Park is closed at night time.</p> <p>Why are they both flood lit during the night when they are closed, and what does this cost in financial terms and in carbon emissions?</p>
Councillor Butt	<p>Quay West Car Park was requested to be lit by the Police in the past to reduce anti social behaviour however the lights have now been turned off for some weeks on a permanent basis to save energy and anti social behaviour is no longer an issue in this location.</p> <p>All the remaining surface level car park lighting will be reduced as part of the overall budget cuts in relation to street lighting planned in the next financial year. We are currently installing time clocks where appropriate to ensure all surface level car park lights can be controlled effectively.</p> <p>Over the past few years the 'Parking Team' have worked closely with Frances Bullock, The Councils Carbon Reduction Officer in reducing emissions from car parks and in particular have installed energy saving devices in the multi storey car parks and more projects are planned for the coming year.</p>
Question (3) by Councillor Darling to the Cabinet Member for Community Services	<p>Why did it not come to light during the budget process that the funding of the adhoc grant to Swim Torquay in Plainmoor was coming to an end?</p>

Councillor Butt	<p>Swim Torquay has received three ad hoc contributions over the past three years, and it was because these were ad hoc contributions they would not come to light in the budget process.</p> <p>Immediate steps have been taken to assist Swim Torquay with further finance, we have also undertaken steps to improve communication and understanding. An officer from Residents' and Visitor Services will also be attending future Management Committee meetings.</p>
Question (4) by Councillor Darling to the Cabinet Member for Community Services	Please could you provide a breakdown of how many permanent Full Time Equivalent Staff and agency staff Tor 2 employed for the last calendar month that figures are available?
Councillor Butt	<p>The data for March 2011 shows that there are 365 full time equivalent staff employed by TOR2, consisting of:</p> <ul style="list-style-type: none"> · Permanent 258 FTE · Temporary 92 FTE · Temporary to permanent 15 FTE (due to be permanently recruited this month)
Urgent Question, allowed by the Chairman in accordance with Standing Order A13.2 (ii), by Councillor Darling to the Mayor.	How much has it cost to book rooms for meetings, training or any other events at the Riviera Centre for the 2010/11 financial year, and for the current financial year to date.
Mayor	There has been a substantial reduction in the amount paid for room hire to the Riviera Centre in 2010/2011 compared with 2009/10.