



Minutes of the Harbour Committee

23 January 2013

-: Present :-

Councillor Ellery (Chairman)

Councillors Amil, Baldrey, Hytche, McPhail, James and Richards
and Mayor Oliver

External Advisors: Capt. Curtis, Mr Jennings and Mr Stewart

49. Apologies

Apologies for absence were received from Councillors Faulkner (J) and Mr Buckpitt.

50. Blue Sea Food

The Chairman advised the Committee and public present that this Harbour Committee Meeting had been arranged to hear an agenda item relating to Blue Sea Food which had been deferred from the 17 December 2012 Harbour Committee.

This was due to the level of public interest in the item and the need for fairness and transparency to allow people the opportunity to speak and to have a balanced debate and for Members to make an educated decision.

The Chairman advised the Committee that he had decided to exercise his discretion for this item only, to permit all registered parties to have two minutes each to speak for and against the recommendation in the submitted report and then to allow a representative from the Blue Sea Food Company to receive the total time allotted to the other speakers, to state their case and incorporate anything that may have been raised by the speakers.

The Chairman requested that Members resolve to suspend Standing Order B4.1 so that Members registered to speak would also be restricted to two minutes instead of five minutes each for fairness with other speakers.

Resolved:

Not to suspend Standing Order B4.1.

The Chairman reminded Members that today's Harbour Committee had been asked to consider a recommendation in its capacity as a landlord, with due regard to its

responsibility for the safe management of the harbour estate and the overall business of the harbour authority.

The Chairman advised that the legal advice he had been given was that the Harbour Committee was totally separate to the Development Management Committee, which determines planning matters and as such, there was no conflict of interest for members who sat on both Committees as the consideration of the submitted report was in the capacity of the Council acting as the Harbour Authority and as the landlord and not a consideration of any past or future planning issues and asked speakers and members to refrain from referring to these issues.

At the meeting Mr Michael Smith, Managing Director of Doran Packing, Mr David Morgan and Mr Brian Pauley representing South Devon and Channel Shell Fisherman's Organisation, Mr Allan Brown, self appointed spokesman for Paignton Harbour User Group addressed the Committee against the recommendation in the submitted report.

Mr Frank Sobey, representing Harbour Sports, addressed the Committee in support of the recommendation in the submitted report.

Mr Gordon Cowell, representing 6th Torbay Sea Scouts who was registered to speak but unable to attend, asked Mr Allan Brown to read a statement which was against the recommendation in the submitted report but listed various issues causing problems for the children and harbour users.

In accordance with Standing Order B4.1 Councillor Thomas (D) addressed the Committee against the recommendation in the submitted report and Councillor Brooksbank addressed the Committee in support of the recommendation in the submitted report.

Mr David Markham, Sales Director of the Blue Sea Food Company addressed the Committee against the recommendation in the submitted report and responded to representations and answered Members questions. He advised that the Company had been remiss not meeting with other harbour users to sort out issues but was pleased to hear the support of some of the representations.

The Executive Head of Tor Bay Harbour Authority introduced the report to Members and outlined his recommendation and the implications of agreeing and disagreeing with the proposal and why the recommendation had been made. He reminded Members that that the Committee was considering the recommendation in its capacity as the Harbour Authority and as the landlord and in this respect they were required to act in the best interest of Tor Bay Harbour and he, in his role of Executive Head of Tor Bay Harbour Authority was required to look after the interest for the Council in this regard.

He advised that in 2010 a two year excluded lease was granted to the Blue Sea Food Company to enable to siting of a 40ft container and blast freezer. The lease contained a requirement for the tenant to comply with all relevant legislation including the need, if applicable, for Planning permission.

When the short term lease was due to expire in April 2012 the Executive Head of Tor Bay Harbour Authority agreed to renew it for a further 12 months. Planning consent was still in place at the date of the lease renewal. However, applications to renew this consent were refused in May and August 2012 and in October 2012 the Development Management Committee agreed to issue a deferred enforcement notice which would be effective from 31 December 2013.

He advised Members that the lease in question was excluded from the Security of Tenure provisions of the Landlord and Tenant Act 1954 and had no automatic right to be renewed.

The Legal Representative in attendance clarified the details of an excluded lease where the Authority was not bound automatically to renew the lease. He also clarified that the recommendation being considered by Members did not relate to the lease on Blue Sea Food's premises sited at Paignton Harbour.

The Chairman read out a statement from the Paignton Harbour Master outlining ongoing issues at the Harbour relating to traffic, obstruction, parking, odours and health and safety concerns.

Members were supportive of the Blue Sea Food Company and they were concerned about the impact of the recommendation on the company's future. They were also supportive of their aim to move operations from their premises at Paignton Harbour but were concerned over the indefinite timescale when this would occur.

Concerns were also raised over Health and Safety issues at Paignton Harbour with the movement of large vehicles, storage of waste and equipment and the conflict with use of the harbour by members of the public and other harbour users.

The Committee did not vote on the recommendation made by the Executive Head of Tor Bay Harbour Authority. Members considered an amendment to the recommendation which would allow Blue Sea Food Company to keep their 40 ft container on the harbour estate at Paignton until the end of 2013.

Resolved:

That the Executive Head of Tor Bay Harbour Authority be instructed to grant a new lease to the Blue Sea Food Company Ltd for the area of land in front of units 15 and 16 – 18, on the harbour estate at Paignton Harbour but only until 31 December 2013.

51. External Harbour Advisors

1. The Chairman welcomed Mr Michael Stewart on to the Harbour Committee as a new External Harbour Advisor and expressed his thanks for his acceptance of the position.

2. The Chairman advised the Committee that Ms. Elaine Hayes, External Harbour Advisor, had tendered her resignation on the Harbour Committee as she had been appointed Chair of Seafish and had a new role as AONB Manager for North Devon.

Resolved:

The Chairman send a letter to Ms. Hayes, on behalf of the Harbour Committee, to thank her for her dedication and support during her term on the Committee and wish her well in her future career.

Chairman