

City Council

Monday 30 November 2009

PRESENT:

Councillor K Foster, in the Chair.

Councillor Drean, Vice Chair.

Councillors Mrs Aspinall, Ball, Mrs Beer, Berrow, Bowie, Bowyer, Mrs Bowyer, Mrs Bragg, Brookshaw, Browne, Coker, Dann, Delbridge, Mrs Dolan, Evans, M Foster, Mrs Foster, Fox, Fry, Gordon, James, Jordan, Kerswell, Martin Leaves, Michael Leaves, Sam Leaves, Lock, Lowry, McDonald, Miller MBE, Monahan, Mrs Pengelly, Purnell, Rennie, Reynolds, Ricketts, Roberts, Dr. Salter, Smith, Stark, Mrs Stephens, Stevens, Thompson, Tuohy, Vincent, Viney, Mrs Watkins, Wheeler, Wiggins and Wildy.

Apologies for absence: Councillors Dr. Mahony, Mrs Nelder, Nicholson and Mrs Nicholson

The meeting started at 2.00 pm and finished at 7.00 pm.

Note: At a future meeting, the Council will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

62. DECLARATIONS OF INTEREST

The following declarations of interest were made by Members in accordance with the Code of Conduct in relation to Minute 67, Plymouth CityBus Limited Shareholding, Minute 68 Plymouth Children and Young People's Plan 2008-2011 (Refresh 2009), and Minute 70, Business Improvement District (BID) Veto, under consideration at this meeting –

Name	Declaration	Reason
Councillor Mrs Dolan	Personal and prejudicial	Director of Plymouth CityBus Limited
Councillor Drean	Personal and prejudicial	Director of Plymouth CityBus Limited
Councillor M Foster	Personal and prejudicial	Director of Plymouth CityBus Limited
Councillor Jordan	Personal	Director of Routeways
Councillor Martin Leaves	Personal and prejudicial	Relative employed by Plymouth CityBus
Councillor Mike Leaves	Personal and prejudicial	Relative employed by Plymouth CityBus
Councillor Samantha Leaves	Personal and prejudicial	Relative employed by Plymouth CityBus and she holds a Private Hire Taxi Operator's licence
Councillor Mrs Pengelly	Personal and prejudicial	Director of the City Centre Company
Councillor Stark	Personal and prejudicial	Director of Plymouth CityBus Limited
Councillor Vincent	Personal and prejudicial	Employee of Plymouth CityBus
Councillor Viney	Personal and prejudicial	Director and Chair of the Board of Plymouth CityBus Limited

63. MINUTES

The minutes of the meetings held on 26 October 2009, 23 November 2009 (12.00pm) and 23 November 2009 (2.30pm) were signed as a correct record.

Resolved that the minutes of the meeting held on 12 October 2009 be submitted to the next meeting further to a members query as to the accuracy of the minutes.

64. **ANNOUNCEMENTS**

The Leader thanked everyone involved in the Housing Stock Transfer process and confirmed that the process was signed off on 20 November 2009. Members of the Project Board were also thanked for their hard work regarding the CityBus Limited Shareholding project.

Councillor Monahan confirmed the successful bid for 'Building Schools for the Future'.

65. **QUESTIONS BY THE PUBLIC**

There were no questions from the public for this meeting.

66. **TO DEAL WITH ANY BUSINESS FROM THE LAST COUNCIL MEETING, IF ANY**

There were no items of business outstanding for this meeting.

TO DETERMINE RECOMMENDATIONS ON ITEMS ON CABINET, OVERVIEW AND SCRUTINY MANAGEMENT BOARD OR OTHER COMMITTEES

67. **PLYMOUTH CITYBUS LIMITED SHAREHOLDING**

Councillor Mrs Pengelly submitted the recommendations of Cabinet minute 92 for approval and the proposal was seconded by Councillor Fry.

An amendment was subsequently moved by Councillor Coker and seconded by Councillor Wheeler as set out below –

“Sale procedure of CityBus noting that -

(i) as pointed out in the report to Council (paragraph 20, Corporate Plan 2009-2012, Legal Implications), Section 75 (2) of the Transport Act 1985 states that any authority owning shares in a public transport company has the power to dispose of shares in such manner as they think fit

and

(ii) the procedure adopted involved expenditure of some £900,000 upon consultants and predictably invited competitive action which can only have reduced the receipt to the council

the Council resolves to submit the process followed to scrutiny to learn lessons and to dispel any exaggerated estimates of the cost to the Council of following this procedure.”

Following a request by 10 Members for a recorded vote on the amendment, there voted –

For the motion (17)

Councillors Mrs Aspinall, Bowie, Coker, Dann, Evans, Gordon, Kerswell, Lowry, McDonald, Miller, Purnell, Rennie, Smith, Stevens, Tuohy, Wheeler and Wildy.

Against the motion (25)

Councillors Ball, Mrs Beer, Berrow, Bowyer, Mrs Bowyer, Mrs Bragg, Brookshaw, Browne, Delbridge, Mrs Foster, Fox, Fry, James, Jordan, Lock, Monahan, Mrs Pengelly, Reynolds, Ricketts, Roberts, Dr Salter, Mrs Stephens, Thompson, Mrs Watkins and Wiggins.

Abstentions (0)

Not Voting (1)

The Lord Mayor.

The Lord Mayor declared the amendment lost.

A further amendment was subsequently moved by Councillor Wheeler and seconded by Councillor Smith as set out below –

“Pension liability -

The Council regrets the proposal to treat the pension contribution as a capital receipt, with the repayments to be made over a period of time from revenue income but with no identified income stream to cover them.

This treatment represents un-prudential borrowing, using the contribution for current spending purposes but requiring future Councils to meet the payments for a large number of years from current budgets.

The Council resolves that an escrow account be set up to cover anticipated Local Government pension scheme costs for an appropriate period of time. The account is to hold an appropriate sum from the capital receipt to cover the transferred deficit and a best guess of actuarial increases. The account is only to be used to make payments in respect of these costs.”

Following a request by 10 Members for a recorded vote on the amendment, there voted –

For the motion (17)

Councillors Mrs Aspinall, Bowie, Coker, Dann, Evans, Gordon, Kerswell, Lowry, McDonald, Miller, Purnell, Rennie, Smith, Stevens, Tuohy, Wheeler and Wildy.

Against the motion (25)

Councillors Ball, Mrs Beer, Berrow, Bowyer, Mrs Bowyer, Mrs Bragg, Brookshaw, Browne, Delbridge, Mrs Foster, Fox, Fry, James, Jordan, Lock, Monahan, Mrs Pengelly, Reynolds, Ricketts, Roberts, Dr Salter, Mrs Stephens, Thompson, Mrs Watkins and Wigens.

Abstentions (0)

Not Voting (1)

The Lord Mayor.

The Lord Mayor declared the amendment lost.

A further amendment was subsequently moved by Councillor Evans and seconded by Councillor Wildy as set out below –

“This council notes –

That the details of the deal to sell the Council’s shareholding in CityBus, contained in the part 2 report published on Friday 20 November 2009 has not been scrutinised by any O&S panel, nor the management board;

That the details of the deal were presented to the council’s cabinet immediately before the commencement of the meeting, allowing little opportunity to consider or evaluate alternatives to the proposals in the document;

That there has been no evidence produced to justify why 100% of the shares should be sold at this time;

That there has been no discussion in the paper of the current position of land and shares in the market, nor any speculation as their future worth;

That the evaluation of the depot at £3m represents poor value for the taxpayer on an asset that was valued between £15-20m;

That this valuation, of the depot site, has been deliberately concealed from councillors during this exercise, and that the paper it was contained in has been omitted from any list of background papers;

That the deal will result in an adverse revenue position for the council of at least £475,000 a year for the foreseeable future, without the effect of any fare rises on the concessionary fares budget that the new owners may wish to impose;

That although the part 2 report pointed to awards the new owners had won, there was no mention of the court cases that had been brought against them for service failure and poor performance;

That the Council's auditor has not stated that this deal achieves Best Value for the Council;

In the light of these reservations, the decision is delayed by one month to allow proper scrutiny of the deal and to establish if it represents Best Value for the taxpayer."

Following a request by 10 Members for a recorded vote on the amendment, there voted –

For the motion (17)

Councillors Mrs Aspinall, Bowie, Coker, Dann, Evans, Gordon, Kerswell, Lowry, McDonald, Miller, Purnell, Rennie, Smith, Stevens, Tuohy, Wheeler and Wildy.

Against the motion (25)

Councillors Ball, Mrs Beer, Berrow, Bowyer, Mrs Bowyer, Mrs Bragg, Brookshaw, Browne, Delbridge, Mrs Foster, Fox, Fry, James, Jordan, Lock, Monahan, Mrs Pengelly, Reynolds, Ricketts, Roberts, Dr Salter, Mrs Stephens, Thompson, Mrs Watkins and Wiggins.

Abstentions (0)

Not Voting (1)

The Lord Mayor.

The Lord Mayor declared the amendment lost.

Following a request by 10 Members for a recorded vote on the substantive motion, there voted –

For the motion (24)

Councillors Ball, Mrs Beer, Bowyer, Mrs Bowyer, Mrs Bragg, Brookshaw, Browne, Delbridge, Mrs Foster, Fox, Fry, James, Jordan, Lock, Monahan, Mrs Pengelly, Reynolds, Ricketts, Roberts, Dr Salter, Mrs Stephens, Thompson, Mrs Watkins and Wiggins.

Against the motion (17)

Councillors Mrs Aspinall, Bowie, Coker, Dann, Evans, Gordon, Kerswell, Lowry, McDonald, Miller, Purnell, Rennie, Smith, Stevens, Tuohy, Wheeler and Wildy.

Abstentions (0)

Not Voting (1)

The Lord Mayor.

The Lord Mayor declared the substantive motion carried and it was Resolved that the recommendations were approved as follows –

The Council –

- 1a) approves the sale of 100% of the shares in Plymouth CityBus Limited held by Plymouth City Council and Barry Keel on Trust for the Council to Go-Ahead Holdings Ltd on the terms set out in the Conditional Sale and Purchase Agreement (the SPA) entered into between (1) the Council and (2) the Preferred Bidder (the recommended terms of sale) subject to the satisfaction of the condition in the SPA;
- 1b) authorises the Director for Corporate Support (or any other officer authorised by him) to make any drafting or other amendments required to the recommended terms of sale to address any issues arising prior to completion, provided that such amendments do not affect the core terms of sale and provided that such amendments are made following consultation with the Project Board;
- 1c) authorises the Director for Corporate Support (or any other officer authorised by him) to take all necessary steps for and on behalf of the Council that may be required in the SPA or in any of the documents referred to in the SPA or relate to the wider transaction contemplated by the SPA which shall include the documents listed in the Annex to this part I and part II report (transaction documents);
- 1d) authorises the Head of Legal Services (or any other officer authorised by him) to agree and execute all documents required to effect the sale;
- 1e) authorises the Director for Corporate Support (or any other officer authorised by him) to act as Authorised officer for the purposes of Article 7 of the Articles of Association of Plymouth CityBus Limited;
- 1f) instructs all Council-nominated Non Executive Directors of Plymouth CityBus Limited to resign at the next meeting of the Board of Plymouth CityBus Limited or at such time as required by the Director for Corporate Support and instructs Barry Keel to transfer the share held by him in Trust for the Council as directed by the Director of Corporate Support.

(Councillors Viney, Stark, Drean, Mrs Dolan, Michael leaves, Sam Leaves, Martin Leaves, M Foster and Vincent left the meeting during the consideration of the above item.)

68. **PLYMOUTH'S CHILDREN AND YOUNG PEOPLE'S PLAN 2008 - 2011 (REFRESH 2009)**

Councillor Monahan submitted the recommendation in Cabinet minute 85 for approval. The proposal was seconded by Councillor Fry.

Resolved that the Cabinet minute 85 is approved as follows –

the 2009 refresh of the Children and Young People's Plan is endorsed.

69. **GAMBLING ACT 2005 - 3 YEAR REVIEW OF THE STATEMENT OF PRINCIPLES**

Councillor Brookshaw submitted the recommendation in Cabinet minute 87 for approval. The proposal was seconded by Councillor Jordan.

Resolved that the recommendation in Cabinet minute 87 is approved as follows –

approval and adoption of the Gambling Act Statement of Licensing Policy contained in Appendix B (of the report) is confirmed and Officers are authorised to take the necessary steps to publish the new Policy, to be implemented on 31 January 2010.

70. **BUSINESS IMPROVEMENT DISTRICT (BID) VETO**

Councillor James submitted the recommendation (3) of the Overview and Scrutiny Management Board minute 46 for approval. The proposal was seconded by Councillor Viney.

Resolved that with regard to Growth and Prosperity Overview and Scrutiny Panel minute 25, 'Business Improvement District (BID) Veto' the resolution is agreed to be amended as follows –

'in view of the excellent results achieved by the BID to date, the City Council be recommended not to exercise the power of veto with regard to the renewed BID.'

71. **AMENDMENT TO OVERVIEW AND SCRUTINY PANELS' TERMS OF REFERENCE**

Councillor James submitted resolution (4) of the Overview and Scrutiny Management Board minute 46 for approval. The proposal was seconded by Councillor Mrs Watkins.

Resolved that it is agreed that with regard to Safer and Stronger Overview and Scrutiny Panel minute 5, 'terms of reference', resolution (2), which required that the Overview and Scrutiny Panels' terms of reference are amended to read:

'to monitor the budget and performance of the Cabinet Members, Department(s) and partners to oversee delivery of the priorities of the area and with regard to better value for money'.

72. **MOTIONS ON NOTICE**

There were no motions on notice.

73. **TO CONSIDER ANY OTHER BUSINESS SPECIFIED IN THE SUMMONS TO THE MEETING, OR MATTERS TAKEN AS A MATTER OF URGENCY BY THE PERSON PRESIDING INCLUDING CONSIDERATION OF PROPOSALS FROM THE CABINET IN RELATION TO THE COUNCIL'S BUDGET AND POLICY FRAMEWORK AND REPORTS OF THE SCRUTINY COMMITTEES FOR DEBATE**

There were no items to consider.

74. **General Questions**

In accordance with paragraph 12 of the Constitution, the following questions were asked of the Leader, Cabinet Members and Committee Chairs covering aspects of their areas of responsibility –

	<i>From</i>	<i>To</i>	<i>Subject</i>
1	Councillor Gordon	Councillor Pengelly	Retention and maintenance of the sports pitches at the former Civil Service Club
2	Councillor Bowie	Councillor Monahan	Restatement of the Early Intervention development of Integrated services in St Budeaux
3	Councillor Rennie	Councillor Brookshaw	Appointment of an evening and night time economy manager

4	Councillor McDonald	Councillor Slater	Availability of funding within the Disabled Facilities Grant Discretion for hardship (Civil Service Club) Progress with the reinstatement of the Early Years (under 5s) services in Barn Barton Vetting procedure for determining how many Democratic Support staff were trusted to administer Part II items
5	Councillor Evans	Councillor Jordan	
6	Councillor Wheeler	Councillor Monahan	
7	Councillor Stevens	Councillor Pengelly	

75. **Forward Plan**

Following the introduction of the Forward Plan by the Leaders, questions were asked of the Leader and Cabinet Members as follows –

	From	To	Subject
1	Councillor Aspinall	Councillor Jordan	PCC's Aquatic Strategy inclusion on consultee list of Health partners
2	Councillor Wildy	Councillor Jordan	PCC's Facilities and Sports Strategy assurance that the document had been changed in line with the recommendations from the Customers and Communities OSP

76. **Thank You**

The Lord Mayor wished to thank the Head of Legal Services for his support to City Council as this would be his last meeting.

77. **EXEMPT BUSINESS**

There were no items of exempt.