

# SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE

Thursday, 17 February 2011

<u>Present:</u>	Councillor	J Hale (Chair)	
	Councillors	G Ellis (In place of T Anderson) J Crabtree (In place of H Smith) M Johnston (In place of D Mitchell) A Brighthouse D McCubbin	AR McLachlan R Wilkins KJ Williams S Williams
<u>Deputies:</u>	Councillors	G Ellis (In place of T Anderson) J Crabtree (In place of H Smith) M Johnston (In place of D Mitchell)	
<u>Apologies</u>	Councillors	T Anderson D Mitchell H Smith	

## 116 CHAIR'S OPENING REMARKS

(A) The Chair referred to the special meeting of the committee on 15 February which was adjourned until 8 March.

The Chair proposed that the adjourned meeting should be brought forward to Tuesday 22 February to allow any budget proposals to be presented to Budget Council on 1 March

**Resolved – That the special meeting of the Committee to consider Budget Proposals be held on Tuesday 22 February at 6 pm.**

(B) The Chair welcomed members of the public to the meeting. He outlined the call-in procedure and introduced Councillor Phil Davies, lead signatory to the call-in notice, and Councillor David Elderton, Cabinet Member.

## 117 DECLARATIONS OF INTEREST/PARTY WHIP

Members were asked to consider whether they had personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

Members are reminded that they should also declare, pursuant to paragraph 18 of the Overview and Scrutiny Procedure Rules, whether they are subject to a party whip

in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement. No such declarations were made.

## 118 EXPLANATION OF CALL-IN BY THE LEAD SIGNATORY

Councillor Phil Davies, Deputy Leader of the Labour Group, summarised the reasons for the call-in, as detailed in the agenda item 2, and in the light of substantial changes to the PACSPE contract since the report to Cabinet on 22 July, 2010 (minute 84) when Option3 was approved. He was concerned that the latest report to Cabinet on 13 January did not include information concerning the following key issues:

- Some services had been removed from the tender specification and clarification was needed as to which services would be included in the contract.
- There was no financial information on the value of the revised contract.
- There was very little information on the impact on staff.
- To what extent have the public been consulted on the revised specification?
- The absence of information on the total value of the contract and the projected savings.
- The refusal to entertain an in-house bid and denying staff the opportunity to demonstrate that they could match the saving targets.
- The radical change to the original proposal which would effectively reduce the value of the tender by 50% was a major change which should be reviewed before going out to tender.

## 119 EVIDENCE FROM CALL-IN WITNESSES

### **Mr Geoff Bradfield, Branch Officer, Wirral Unison.**

Mr Bradfield referred to the Audit Commission's complimentary report on the performance of the Council's Parks and Countryside Service and reported that staff were prepared to play their part in making savings. An alternative plan would be to bring the Highway Verges Contract which was due to end in December 2011 into the Parks Division and to do the work at no extra cost, saving the Council up to £1m per year. There would also be spare capacity to carry out winter gritting for Parks and Countryside areas within existing resources.

Mr Bradfield referred to problems associated with privatisation e.g. the Council was tied into a long term contract for the bins service and could not vary it to allow weekly collections. There were costs associated with privatisation in terms of set up costs, consultancy fees, and client monitoring costs. He suggested that there was scope to work with the existing staff to achieve the same level of savings projected in Option3.

Mr Bradfield responded positively to questions from Councillor Davies regarding the possibility of the Parks and Countryside Service ("the Service") achieving target savings in line with the revised specification, and emphasised the importance of retaining the commitment, experience, and flexibility of the existing staff. He

commented that the Council could save more by not privatising and still get all of the benefits (through a variation of Option1).

He responded to questions from members regarding consultations with the staff and trade unions. He acknowledged that meetings had been held with the Director of Technical Services regarding progress in the procurement exercise for Option 3, but this precluded discussion of alternative savings proposals because he believed the Director was acting on the Cabinet's instructions (minute 84 – 22/7/2010).

Councillor Elderton, Cabinet Member, briefly outlined the history of the PACSPE procurement project and referred to the decision of the previous Administration to endorse the recommendation of the consultants, Capita Symonds, that Option 3 was the best way forward. He commented that the current Administration was trying to extend what they considered to be a good idea and this was a logical progression to its conclusion.

In response, Mr Bradfield said that Unison would object to any savings proposals that would have a detrimental effect on its members and lobby the Administration strongly if they considered that it was making a mistake. However, Unison was prepared to play its part in service reorganisations when it could be proved that they were necessary and beneficial  
e.g. the transfer of the Council's housing stock to Wirral Partnership Homes.

#### **David Green, Director of Technical Services**

The Director responded to questions from Councillor Davies regarding the reasons for the exclusion of services from the procurement exercise (paragraph 3.3) and the reduced value of the contract. He reported that the gross budgets for all parks and countryside services was in excess of £14m but his report to the July Cabinet indicated (section 9) that there were still areas to be addressed and it had never been explicitly stated that the contract total would be £12/14m. He also referred to an earlier Cabinet report (September 2009) indicating that the value of this service contract would be in the order of £7.9m.

The Director outlined the governance arrangements for the Project, and reported that a series of scoping papers covering each specific service area had provided the basis for detailed analysis and discussions on the most effective arrangements for their future management. A number of options papers were presented to the Project Board and officers' recommendations on the best forward were elevated to the Members' Steering Group, summarised and presented to Cabinet on 13 January. The procurement process was also subject to a Gateway Review and an Internal Audit Review.

The Director gave a brief explanation as to the reasons why some services had been excluded e.g. risk management and financial probity.

Councillor Davies reported that the best case scenario for Option 3 was £7.8m projected savings over the 10 year period (£780,000 per annum), depending on the tender total. The Change Management Programme included estimated savings of only £200,000 for PACSPE none of which were EVR related, and the EVR savings would be achieved anyway as part of the Council's overall target savings.

The Director explained that 34 staff were taking EVR and there was no way that the Service could continue at its current level with that level of reduction in staff. This situation was compounded by the lack of investment in the Service over the years.

Councillor Davies commented that it was a retrograde step not to allow staff to come up with alternative savings proposals and present a bid to compete with the private sector.

In relation to an in-house tender, the Director referred to the bidding process which involved making detailed forward financial projections for the period of the contract, and explained that the Service had no infrastructure in place for this difficult task. It would cost at least an extra £200,000 to put together a reasonable comparable bid, for which there were no available resources within the revenue budget. There was a risk in producing tender documentation without specialist advice because if the prices were wrong, then the contract could not be delivered on those terms. Financial investment was also needed to improve the infrastructure and provide new machinery and therefore his recommendation was not to support an in-house bid.

Councillor Davies referred to the costs associated with Option 3 in the sum of £370,000 (paragraph 7.2 of the July Cabinet report). It was suggested that the workforce should also have access to the consultants to allow them to prepare an in-house bid. However, widening the consultants' brief to advise on an in-house bid would increase their costs.

The Director reported that the consultants had produced an outline business case which had informed the Cabinet's decision to approve Option 3. He acknowledged that there were risks associated with Option 3 and that the timescales were tight. However, the same governance arrangements had worked well with the Biffa and Highway Maintenance contracts and every effort was being made to keep the momentum going on this project.

Councillor Davies suggested that this matter be referred back to Cabinet for further information as to what externalisation of the Parks and Countryside Service would achieve; steps to ensure the transfer of existing staff on the same terms and conditions, including clarification of prospective contractors' future pensions proposals and whether this would allow continuation of membership of the Merseyside Pension Fund (TUPE plus), and; reconsider the workforce's position and allow them to submit an in-house bid.

#### **Councillor David Elderton, Cabinet Member**

He referred to his experience in the construction industry and highlighted the onerous responsibilities in producing a competitive in-house bid. He commented that Cabinet had approved Option 3 based on advice received from the consultants, and it was rigorously taking forward the process that had been started by the previous Labour Administration.

## **120 EVIDENCE FROM CABINET MEMBER'S WITNESSES**

### **David Green, Director of Technical Services**

The Director outlined the aims and objectives of the procurement process, to maximise market potential and bring in innovation, the need for a contract with penalties and a specification to judge performance, and benefits derived from similar large scale contracts. The proposed exclusions (paragraph 3.3) and modern partnering contract (paragraph 4) would be used to inform the OJEU advertisement seeking expressions of interest from companies with experience in the parks and countryside sector.

The Director reported that a market sounding exercise had been undertaken within a strictly controlled environment to ensure that companies were comfortable with the proposed timescales for the procurement exercise, particularly in terms of the proposed tendering and contract mobilisation periods. At the same time, public meetings had been held with key stakeholders and comments gathered from these meetings would be used to develop the invitation to tender and specification. The Director had also met with all Parks staff to discuss progress and regular meetings had been held with trade union representatives.

The gross budgets for these services for 2010/11 was in excess of £14m and based on the proposed exclusions, outlined in his report, there would be a further report reviewing the structure of the budgets and confirming the value of the contract taking into account issues such as the recent EVR exercise. This was confirmed in the 13 January Cabinet report.

### **Councillor Bob Moon**

A letter from Councillor Moon was circulated indicating that although he was unable to attend tonight's meeting, he wished to confirm his support for the project and the governance process.

“Until May 2010 I was chair of the Member's Steering Group and continue to be a member of the group. Following previous procurement exercises for significant, long term contracts, the Council embarked on the Gateway Procurement Model, which had been developed by public organisations, including local authorities, and endorsed by the then Government. The model schedules a series of actions and decision points over a period of time to ensure the most appropriate methods of service delivery and procurement.

There has been independent validation of the process at critical stages and these will continue according to the schedule. Comments and recommendations have been taken on board and considered at each of these “gateways”.

Discussion at the members group has always been open and transparent, and reported to Cabinet as appropriate.

I believe the project has been undertaken with great thoroughness and members, users and staff have had the opportunity to comment at every stage.”

Councillor Davies said that he was not convinced that there was sufficient information to allow members to make an informed decision that the proposed tender was value for money and that it would generate the projected savings bearing in mind that some savings would be made from EVRs anyway. He emphasised that this was not just about cost savings and that the workforce should be given the opportunity to put in a reasonable bid for these services. There was clear evidence that the projected savings from the workforce were sustainable and the experience of users indicated that the services were well received and represented good value for money. He also referred to the risks associated Option 3.

He asked the Cabinet to reconsider its decision and allow the workforce to bid for this contract. He also reiterated the need for the Council to do all that it could to ensure the transfer of existing staff on the same terms and conditions and protect their current pension entitlement with the Merseyside Pension Fund.

## 122 **SUMMING UP BY CABINET MEMBER**

Councillor Elderton asked the Committee to endorse the Cabinet's proposal that the procurement process be continued, as outlined in the Director's report

## 123 **COMMITTEE DECISION**

It was moved by Councillor McLachlan and seconded by Councillor Williams that:

(1) This Committee is not satisfied that adequate information has been presented which demonstrates that the revised tender for parks and green spaces will generate substantial savings or achieve significant improvements in value for money for Wirral taxpayers.

(2) Committee also remains unconvinced that there is wide support from the public of Wirral for the privatisation of our parks and green spaces.

(3) Committee remains concerned at the continuing refusal of the Conservative – Liberal Democrat Cabinet to allow an in-house bid to be considered.

(4) Given that the tender has radically changed from the original proposal Committee agrees to refer this matter back to Cabinet and requests that a proper review is carried out of the procurement exercise to demonstrate that value for money will be achieved by out-sourcing together with significant savings and to give staff the opportunity to match any savings in-house and to re-consider the refusal to allow an in-house bid to be tabled.

(5) The Committee asks that the new Contractor is asked to give an assurance that employees transferring can retain their membership of Merseyside Pension Fund.

The motion was **put and lost** (3:7)

It was moved by Councillor Hale and seconded by Councillor McCubbin that:

That the recommendations contained in Cabinet minute 287 of 13 January 2011 be endorsed by this committee.

The motion was put and carried (7:3)

It was moved by Councillor Hale and seconded by Councillor McCubbin that:

The Director of Technical Services make every endeavour in his negotiations with the successful tenderer to try and ensure that staff transferred under the TUPE arrangements are admitted to the Merseyside Pension Fund.

The motion was put and carried (10:0).

**Resolved –**

**(1) (7:3) That the recommendations contained in Cabinet minute 287 of 13 January 2011 be endorsed by this committee.**

**(2) (10:0) That the Director of Technical Services make every endeavour in his negotiations with the successful tenderer to try and ensure that existing staff transferred under the TUPE arrangements are admitted to the Merseyside Pension Fund.**