



JOINT WASTE AND RECYCLING COMMITTEE MEETING

Friday 29 September 2017 – 3:00pm

Council Chamber, Muriel Matters House, Hastings

Minutes of the Joint Waste and Recycling Committee meeting held in the Council Chamber at Muriel Matters House, Hastings on Friday 29 September 2017 at 3:00pm.

Joint Waste and Recycling Committee Members present: Councillors C. Fitzgerald (HBC), R. Galley (WDC), M. Kenward (RDC) and R. Standley (WDC).

Advisory Officers present:

East Sussex County Council: Assistant Director Operations and Contract Management and Waste Team Manager.

Hastings Borough Council: Director of Operational Services, Head of Environmental Services and Head of Communications and Marketing.

Rother District Council: Executive Director of Business Operations (Lead Director), Executive Director of Resources (Secretary), Service Manager – Finance and Welfare, Service Manager – Community and Economy, Neighbourhood Services Manager and Democratic Services Officer.

Wealden District Council: Director of Environment and Community Services, Lead Head of Service and Waste Management Officer.

Central Client Team: Joint Waste Partnership Manager.

Others present: 4 members of the public.

Publication Date: 10 October 2017

The decisions made under PART II will come into force on 18 October 2017 unless they have been subject to the call-in procedure.

JWRC17/01. ELECTION OF CHAIR

RESOLVED: That Councillor C. Fitzgerald be elected Chair of the Joint Waste and Recycling Committee for the ensuing municipal year.

JWRC17/02. ELECTION OF VICE-CHAIR

RESOLVED: That Councillor A. Ganly or M. Kenward be elected Vice-Chair of the Joint Waste and Recycling Committee for the ensuing municipal year. In Councillor Ganly's absence, it was agreed that the appointment of the Vice-Chair would be confirmed and advised to all parties after the meeting.

JWRC17/03. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors N. Bennett (ESCC), P. Chowney (HBC), D. Elkin (ESCC), A. Ganly (RDC), and Carl Valentine – Head of Transport and Operational Services (ESCC).

PART II – EXECUTIVE DECISIONS – subject to call-in procedure under Item 10 of the Joint Waste and Recycling Committee Constitution by no later than 4:00pm on 17 October 2017.

JWRC17/04. INTER-AUTHORITY AGREEMENT AND PROCUREMENT OF JOINT WASTE SERVICES **(8.1)**

At the Joint Waste Committee (JWC) meeting on 16 June 2017, it was resolved that each Council formally sign the Inter-Authority Agreement (IAA) no later than 18 July 2017 in order to proceed with the joint procurement of Waste, Recycling and/or Street Cleansing Services. It was also resolved that the JWC comply with EU Public Procurement rules to procure a Joint Waste, Recycling and Street Cleansing Contract but that the procurement method to be used be determined at a future meeting.

After each Council had considered the IAA, it was noted that both Rother and Wealden District Councils (RDC/WDC) had formally agreed to sign the document indicating no fundamental changes to the current specification. Hastings Borough Council (HBC) had agreed to formally sign the IAA with the option to co-opt out of street cleansing (including bulky waste and fly-tipping). Eastbourne Borough Council (EBC) would be withdrawing from the contract. Both EBC and Lewes District Council (LDC) had requested being named on the Official Journal of the European Union (OJEU) notice for potential future access to the contract by variation. It was noted that both EBC and LDC had not formally agreed their decisions.

The Joint Waste Partnership's appointed legal and technical waste consultants, together with EBC/LDC's lawyer considered each councils' position, through various scenarios to ensure how each authorities' requirements could be met, as well as identifying potential risks and associated cost increments. Consensus was not reached as significant risks could be realised by all parties, therefore it was recommended that both EBC and LDC would not be named on the OJEU notice. HBC, RDC and WDC had signed the IAA together with sufficient budget approvals to proceed with the procurement project. It was noted that the IAA remained unchanged, as previously reported, except

that the agreement omitted EBC and LDC and amended references to the JWC.

From now on, the primary function of the JWC was to consider performance and development of the current contract with Kier until 28 June 2019 and thereafter the JWC would cease to exist and its constitution would be terminated. The procurement considerations for the new contract starting on 29 June 2019 would be handled by a new committee known as the Joint Waste and Recycling Committee (JWRC). Each committed Council had formally approved the establishment of the JWRC and constitution.

The primary function of the JWRC would be operational delivery of the collection and cleansing services, the chosen mix and disposal of dry recycling materials, as well as potential consideration of EBC and LDC future inclusion. Data from Waste Resource Action Programme's (WRAPs) analysis would be used to inform the contract specification for the new service. Disposal arrangements for all materials were yet to be finalised therefore, opportunity to work with EBC/LDC on their requirements would be investigated.

RESOLVED: It be noted that:

- 1) the Joint Waste Committee would remain until 28 June 2019 to conduct business in relation to and provide oversight of the existing joint contract; and
- 2) Hastings Borough Council, Rother District Council and Wealden District Council had signed the Inter-Authority Agreement and a new Joint Waste and Recycling Committee had been constituted to advance the procurement of a new joint contract for the three councils.

JWRC17/05. **JOINT WASTE AND RECYCLING COMMITTEE CONSTITUTION
(8.2) AND CO-OPTED MEMBERSHIP**

Hastings Borough Council, Rother and Wealden District Councils and East Sussex County Council established the Joint Waste and Recycling Committee (JWRC) to facilitate the procurement, management and overseeing of the new Joint Waste Recycling, Beach and Street Cleansing Contract. Attached at Appendix A, to the report was the finalised version of the JWRC's Constitution which had been formally approved by each authority. Members noted that the Secretary of the JWRC had authority to make minor amendments to the Constitution, as and when required. It was requested and agreed that paragraph 12 (g) of Appendix 3 be amended as follows: *if a Committee member arrives during the debate on a particular item but before the casting of votes has commenced, the Chairman will have discretion on whether the Committee Member can vote on this matter.*

Membership was considered, in particular, whether Members of Eastbourne Borough Council (EBC) and Lewes District Council (LDC) should be co-opted onto the JWRC despite non-commitment to the new contract.

Following discussion and noting the tight timescales involved, it was agreed that Members of EBC and LDC not be co-opted/appointed to the Joint Waste and Recycling Committee at this moment in time.

RESOLVED: That:

- 1) the new Joint Waste and Recycling Committee Constitution be approved, as amended, and noted; and
- 2) Members of Eastbourne Borough Council and Lewes District Council not be co-opted/appointed to the Joint Waste and Recycling Committee at this moment in time.

JWRC17/06. PROCUREMENT PROJECT UPDATE

(8.3)

The report of the Lead Director updated Members on procurement progress of the new Joint Waste Recycling, Beach and Street Cleansing Contract due to commence on 29 June 2019. Hastings Borough Council and Rother and Wealden District Councils had formally approved commitment and signed the Inter-Authority Agreement (IAA).

Attached at Appendix 1, to the report was the updated Project Plan which included Work Streams and Milestone Tasks. The intended procurement procedure, Competitive Procedure with Negotiation (CPN) required all documents to be completed and ready for tender prior to placing the Official Journal of the European Union (OJEU) notice. This would enable the contractor to assess the full scope and service requirements of the contract. Members noted that the planned date for the OJEU notice was December 2017. Service requirements for each authority would need to be finalised before publication. Therefore some of the Phase (ii) planned work had been brought forward to ensure this was completed on time. Detailed planning for Phase (ii) and (iii) would be undertaken once the Notice was published. The Plan would be updated regularly, as required.

Pre-market engagement including Waste Resource Action Programme's (WRAPs) findings would be considered and used to form a draft contract specification including the Partnership's requirements for residual, dry recycling, garden, bulky and clinical waste prior to mobilisation and contract award. Members were advised that six contractors had responded to pre-market engagement. Two of the contractors had recommended that a nine instead of six month mobilisation period be adopted. Effective mobilisation was primarily dependent on the lead time for vehicle purchases. It was noted that none of the contractors were prepared to take on all future associated financial risks. A significant risk identified by contractors was accurate street measurement for cleansing activities. The project team would seek to ensure that accurate data was available for the tender. WRAP's findings were currently being analysed.

Contract award was currently planned for December 2018 and officers would be liaising with partners with regards to key decisions, Cabinet

forward plans and to ensure smooth progression and implementation of the project.

Ricardo-AEA was providing waste consultancy and procurement support and had delivered six officer workshops on street cleansing, health and safety, performance management and monitoring, client management structure, payment mechanisms and cost-sharing, as well as waste collection options. Further workshops would be held and would form the basis of the Partnership's specification; any significant revisions would be reported to the Committee.

Legal support for the project was provided by Bevan Brittan LLP (BB). BB would be reviewing the current contractual conditions including TUPE (Transfer of Undertakings [Protection of Employment]), Mutual Exit Agreement and OJEU notice implications.

Financial support would be provided by East Sussex County Council (ESCC) finance officers who would be assisting with financial models used to evaluate tenders, review content design, format pricing documents and provide input on how tender prices should be presented. Officers had attended some of the appropriate Ricardo-AEA workshops.

Procurement costs were estimated to be £300,000 based on a CPN model however, the extent of consultancy support would be dependent on the specific procurement procedure adopted. Signing of the IAA committed the Councils to share costs equally with part of the costs being off-set by Kier's contribution.

A procurement risk register had been developed which would be maintained and updated regularly; any high risks would be reported to the Committee.

Partnership and financial opportunities regarding disposal methods would also be explored with ESCC, as well as Eastbourne Borough Council and Lewes District Council.

The Joint Waste Partnership Manager advised that due to the complexities of developing the service specification/requirements, it was recommended that informal briefings be held, as and when required, in order to ensure that tight deadlines were adhered too. The Committee was supportive of this approach.

RESOLVED: That:

- 1) progress, updated work streams and critical path of the project be noted; and
- 2) informal briefings to be held, as and when required.

(When it first became apparent, Councillor Standley declared a personal interest in this matter in so far as he is an Executive Member at East Sussex County Council and in accordance with the Members' Code of Conduct remained in the room during consideration thereof).

JWRC17/07. DATE OF NEXT MEETING

(9)

The next meeting was scheduled to be held on Friday 10 November 2017 at 3:00pm or at the conclusion of the Joint Waste Committee meeting, whichever was the later in the Council Chamber, County Hall, Lewes.

CHAIR

The meeting closed at 3:35pm

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