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MEETING	EXECUTIVE
DATE	21 SEPTEMBER 2010
PRESENT	COUNCILLORS WALLER (CHAIR), AYRE, STEVE GALLOWAY, MOORE AND REID
APOLOGIES	COUNCILLORS MORLEY AND RUNCIMAN

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## **PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS**

### **62. DECLARATIONS OF INTEREST**

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda. No interests were declared.

### **63. EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That the press and public be excluded from the meeting during consideration of the following, on the grounds that they contain information classed as exempt under Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006), as indicated below:

- Annexes 2, 3, 4a and 4b to agenda item 6 (The Barbican Auditorium) – information relating to the financial or business affairs of particular persons, exempt under paragraph 3 of Schedule 12A
- Agenda item 14 (Equal Pay Update) – information relating to negotiations in connection with a labour relations matter arising between the authority and employees of the authority, and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings – exempt under paragraphs 4 and 5 of Schedule 12A.

### **64. MINUTES**

RESOLVED: That the minutes of the Executive meeting held on 7 September 2010 be approved and signed by the Chair as a correct record.

## **65. PUBLIC PARTICIPATION / OTHER SPEAKERS**

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme, and one request to speak at the discretion of the Chair.

Owen Clayton, of *York Residents Against Incineration*, spoke in relation to an item within the Executive's remit; namely, the proposed award of the PFI contract for waste management. He queried the economic basis for the incineration of waste and recommended the adoption of an alternative 'zero waste' strategy, with the Allerton site being used as a Resource Recovery Park.

With the consent of the Chair, Heather Mackenzie, of UNISON, spoke in relation to agenda item 12 (Exit Provisions and Pension Discretions). She objected to the recommendations in the report and urged Members to adopt the proposals put forward by UNISON, as detailed in the consultation section of the report, which would be cost neutral, provide a clear and transparent process and encourage more voluntary redundancies.

## **66. EXECUTIVE FORWARD PLAN**

Members received and noted details of those items included on the Forward Plan for the next two Executive meetings at the time the agenda was published.

## **67. THE BARBICAN AUDITORIUM**

*[See also under Part B Minutes]*

Members considered a report which provided an update on progress with the formal procurement competition designed to bring the Barbican Auditorium back into public use.

Details of the procurement process were set out in paragraphs 9 to 13 of the report. Of the four bidders shortlisted, two had subsequently withdrawn, and formal tenders had been submitted by:

- Bidder A - a property developer with a proposal for a comprehensive redevelopment of the area, including the Kent Street site
- Bidder B - SMG Europe (Holdings) Ltd., an entertainments operator with a plan to refurbish and lease the Barbican and provide a programme of entertainments and conferencing.

Following an evaluation exercise carried out in accordance with the agreed criteria, SMG had been identified as the preferred bidder. Details of the funding and revenue implications of the bid were set out in exempt Annex 4 of the report. Approval was now sought to proceed to an award of the contract and to carry out works to resolve an associated issue raised by the Highways section regarding the pedestrian refuge on Kent Street.

Officers at the meeting provided an update on the potential economic impact of the preferred bidder's proposal, which early calculations estimated could benefit the local economy by between £9m and £12m.

Having noted the comments of the Labour Group Spokespersons on this item, it was

RESOLVED: (i) That the selection of SMG Europe (Holdings) Limited, or an appropriate nominated subsidiary, as the preferred bidder, be acknowledged.

(ii) That authority be delegated to the Director of Adults, Children and Education, in consultation with the Head of Legal Services, to complete a conditional development agreement and lease ('Award of Contract').<sup>1</sup>

(iii) That any necessary works be undertaken to the Kent Street pedestrian refuge to ensure that show vehicles can service the Barbican.<sup>2</sup>

REASON: To enable the Barbican Auditorium to be re-opened for public use.

#### Action Required

1. Complete conditional development agreement and lease PD
2. Arrange with Highways for works to be carried out to Kent St pedestrian refuge PD

## **68. CYCLING CITY PROGRAMME - PROGRESS REPORT 4**

Members considered a report which provided the fourth update on the progress of the Cycling City York Programme, highlighting works carried out over the past six months and successes achieved to date.

The programme was now in its final stage, with delivery continuing to be implemented around infrastructure, including the orbital route, and revenue schemes aimed at encouraging more people to cycle. It continued to be viewed positively by Cycling England, who were recommending other Cycling City and Town authorities to contact York for advice. Monitoring and evaluation work was also ongoing, including a recent audit of schools and workplace projects and the railway station access schemes. A background note on this work was attached as Annex A to the report. Initial summary evaluation results from all cycling cities and towns had been provided in Annex B, which was available to view on the internet.

Work carried out over the previous six months was detailed in paragraphs 7 to 27 of the report and projects planned for the next six months were highlighted in paragraphs 28 to 41. Officers provided further statistical information at the meeting concerning levels of cycling, which were likely to increase by nearly 50%; well above the 25% target.

Having noted the comments of the Labour Group Spokespersons on this item, it was

RESOLVED: (i) That the progress made on the Cycling City York programme be noted and that the aims and achievements of the programme continue to be supported.

(ii) That a further and final update report be received in March 2011.<sup>1</sup>

REASON: To enable Members to continue to monitor the success of the programme.

Action Required

1. Schedule final update report on Executive Forward Plan GT  
for March 2011

**69. PUBLIC REPORTING OF ENQUIRIES AND REPLIES MADE UNDER THE FREEDOM OF INFORMATION ACT 2000**

Members considered a report which examined how best to provide public access to requests for information made under the Freedom of Information (Fol) Act and related replies. Consideration of this matter had been deferred from the Executive meeting on 30 March 2010, to enable Officers to bring forward alternative proposals to publishing the information on the Council's website.

Four options were presented, as follows:

**Option 1** – use the Documentum records storage and management system as a publicly accessible information resource.

**Option 2** – publish a monthly web page listing all Fol questions answered that month, each with a pdf link to the response.

**Option 3** – publish the Fol questions only, with an offer to provide the reply on request.

**Option 4** (not recommended) – do nothing.

The options were examined in paragraphs 10 to 18 of the report. It was recommended that a combination of Options 1 and 2 be adopted, with Option 1 as the longer term solution from 2011 and Option 2 being used in the interim. This would be consistent with the Council's strategy of using Documentum as its principal store of electronic records, whilst allowing time to develop the special configuration required, as part of the More for York Programme plan.

Having noted the comments of the Labour Group Spokespersons on this item, it was

RESOLVED: That a combination of Options 1 and 2, as detailed in paragraphs 6 and 7 of the report be approved, as part of the

improvements to transparency and to Fol processes contained in the More for York Programme, involving: <sup>1</sup>

- The adoption of Option 1, use of the Documentum system (which should be available from 2011) as the longer term solution and
- The implementation of Option 2 in the interim; this being the periodic publication of a web page carrying links to PDF versions of the enquiry and response, with a minimum period of two weeks between a response being sent to the enquirer and its publication on the website.

REASON: To ensure that the Council acts with maximum openness and transparency and provides as much information as possible within the resources available.

Action Required

1. Put arrangements in place to implement Option 2, PS  
pending availability of Documentum, as part of More for York

**70. TARGET HARDENING FUNDING ALLOCATIONS 2010/2011**

Members considered a report which sought approval for the proposed allocation of the 2010/11 Target Hardening fund.

The Target Hardening Fund was a pool of funding, amounting to £40k per annum, held by the Neighbourhood Management Unit and used to support physical improvements to reduce crime at ward level. In previous years there had been sufficient budget to support all eligible applications, but applications in 2010/11 had exceeded the available funding. It was therefore recommended that some eligible schemes be placed on a 'reserve' list for further investigation and should additional funding become available.

Details of all applications received were annexed to the report. Annex 1 showed schemes that did not meet the required criteria and should therefore be rejected. Annex 2 showed schemes recommended for approval. Annex 3 showed schemes recommended for inclusion on the reserve list. Members were invited to agree or amend the recommended allocations.

Having noted the comments of the Labour Group Spokespersons on this item, it was

RESOLVED: (i) That the recommendations for allocation of the 2010/11 Target Hardening fund, as detailed in Annexes 1, 2 and 3 to the report, be approved. <sup>1</sup>

(ii) That Officers be asked to develop cases for alternative sources of funding to ensure delivery of the reserve schemes, including any carry forward from the 2009/10

Target Hardening fund if the Monkton Road CCTV scheme is rejected by the Heworth Ward Members.<sup>2</sup>

REASON: To ensure that the budget is effectively utilised to fund community safety projects in the wards, with a view to reducing or minimising the risk of crime or tackling the fear of crime.

(iii) That the applications for Secure Cycle storage be referred to the Cycle City Team.<sup>3</sup>

REASON: To enable these applications to be dealt with appropriately.

Action Required

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|---|----------|
| 1. Make the funding allocations as agreed                         | MS       |
| 2. Examine alternative funding sources for the reserve schemes    | MS<br>MS |
| 3. Refer Secure Cycle storage applications to the Cycle City team |          |

## 71. JOINT STRATEGIC NEEDS ASSESSMENT FOR YORK

Members considered a report which introduced the Joint Strategic Needs Assessment (JSNA) for York and sought approval for the findings of the JNSA and recommendations for future inclusion.

All upper tier authorities and PCTs had a statutory duty to undertake a JSNA, identifying the current and future health and well-being needs of the local population and aimed at improving outcomes and reducing health inequalities. The JSNA for York, available on the Council's website as Annex 1 to the report, had been developed under the remit of the Healthy City Board, which included key City of York Council Members, staff and partners. Key messages from the JNSA were highlighted in paragraph 7 of the report.

It was noted that, in view of current pressures on resources and national government proposals for the NHS, working more closely with partners was likely to be vital to achieving outcomes more efficiently and effectively. Members were invited to accept the findings of the JNSA and to support its implementation via the Council's Corporate Strategy and Directorate plans and the Healthy City Board.

Having noted the comments of the Labour Group Spokespersons on this item, it was

RESOLVED: (i) That the findings of the 2010 Joint Strategic Needs Assessment be accepted.

(ii) That the implementation of the JSNA be supported by:

- a) ensuring that the data and analysis contained within it are used to influence the next Corporate Strategy and relevant Directorate Plans;<sup>1</sup>
- b) asking the Healthy City Board, as a sub-board of the Without Walls Local Strategic Partnership, to ensure that the partnership recommendations are fully implemented; and<sup>2</sup>
- c) referring the report to the Scrutiny Management Committee, with the suggestion that they may wish to arrange for the content of the report to be considered by the relevant scrutiny committees.<sup>3</sup>

REASON: In order to comply with statutory requirements and support proposals to improve the future health and well-being of the local population.

Action Required

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|---|----|
| 1. Take steps to ensure that data and analysis in the JSNA influence the Corporate Strategy and Directorate Plans | KE |
| 2. Ask Healthy City Board to ensure implementation of partnership recommendations in the JSNA                     | PD |
| 3. Take report to the SMC   | PD |

**72. EXIT PROVISIONS AND PENSION DISCRETIONS**

Members considered a report which asked them to propose to the Staffing Matters and Urgency Committee some amendments to the way in which the Council exercised its exit and pension discretions, to ensure that these were fit for purpose and to enable exit costs to be managed proactively.

The Council's current policy, as summarised in Annex 1 to the report, was to exercise its discretions to enhance statutory redundancy and early retirement provisions only in unusual or exceptional circumstances. This had resulted in a rigid system, under which applications were considered on an individual basis rather than in the wider business context. Retaining the current process (Option 1) was therefore not recommended.

An proposed alternative approach (Option 2), to allow flexible application of the provisions within an overarching governance framework, was outlined in paragraphs 18 to 24 of the report. It included, among other things:

- Use of continuous, rather than aggregate, local government service in calculating redundancy pay, and an additional discretionary element
- More use of efficiency retirements in order to facilitate change
- A revised appeals panel, chaired by the Chief Executive

The revised process, if adopted, would not apply to chief officers. Consultation on the changes had taken place with UNISON and the GMB, whose views were presented in paragraphs 30 to 44 of the report.

In response to the comments made on this item by the UNISON representative under Public Participation / Other Speakers, Officers expressed doubt that UNISON's proposals would be cost neutral, or that there would be any benefit to having one union observer on the appeals panel instead of two. Having noted the comments of the Labour Group Spokespersons, it was

**RESOLVED:** That Option 2 – to amend the existing approach to exit provisions and pension discretions, allowing flexible application within an overarching governance framework - be proposed to the Staffing Matters and Urgency Committee.

**REASON:** So that the Council's redundancy policy and pension discretions can be exercised in a flexible way to achieve its organisational change objectives.

Action Required

1. Take report to Staffing & Urgency Committee, incorporating views of Executive

CT

**73. WEEKLY TO MONTHLY PAY**

Members considered a report which provided an update on progress with the proposal to move from weekly to monthly pay and sought approval to offer an inconvenience payment to affected staff.

The Council currently paid about 960 of its staff on a weekly basis. Moving these staff to monthly pay would be consistent with the HR Blueprint agreed by the Executive in October 2009 and would save the Council £60k per year. Following negotiations at the Joint Pay Board, the trades unions had confirmed that they would be willing to recommend to their members a move to monthly pay in return for a hardship payment of £100 per person.

Three options were presented:

**Option 1** – continue to pay staff on a weekly basis (not recommended as it would not address existing inefficiencies)

**Option 2** – move to monthly pay for all staff by implementing the necessary amendments to terms and conditions (this could risk conflict with staff and unions)

**Option 3** – move to monthly pay for all staff via a collective agreement, facilitated by making an inconvenience payment of £100 per person.

Having noted the comments of the Labour Group Spokespersons on this item, it was

**RESOLVED:** That Option 3 be agreed and that approval be given to move to monthly pay for all staff via a collective agreement, facilitated by making a bridging payment of £100 per person.



REASON: In order to achieve the associated efficiency savings in the least disruptive manner possible.

Action Required

1 Make arrangements to move to monthly pay, on the terms CT agreed

**74. EQUAL PAY UPDATE**

Members considered a report which sought a mandate from the Executive to deal with a small number of equal pay issues that had recently arisen.

Having noted the comments of the Labour Group Spokespersons on this item, it was

RESOLVED: That the Chief Executive be authorised to deal with these issues in accordance with the recommendation set out in paragraph 12 of the report.<sup>1</sup>

REASON: In order to continue to manage this matter in the most effective way possible.

Action Required

1. Take any action necessary to facilitate the agreed system CT

**PART B - MATTERS REFERRED TO COUNCIL**

**75. THE BARBICAN AUDITORIUM**

*[See also under Part A Minutes]*

Members considered a report which provided an update on progress with the formal procurement competition designed to bring the Barbican Auditorium back into public use.

Details of the procurement process were set out in paragraphs 9 to 13 of the report. Of the four bidders shortlisted, two had subsequently withdrawn, and formal tenders had been submitted by:

- Bidder A - a property developer with a proposal for a comprehensive redevelopment of the area, including the Kent Street site
- Bidder B - SMG Europe (Holdings) Ltd., an entertainments operator with a plan to refurbish and lease the Barbican and provide a programme of entertainments and conferencing.

Following an evaluation exercise carried out in accordance with the agreed criteria, SMG (Bidder B) had been identified as the preferred bidder. Details of the funding and revenue implications of the bid were set out in exempt Annex 4 of the report. Approval was now sought to proceed to an

award of the contract and to carry out works to resolve an associated issue raised by the Highways section regarding the pedestrian refuge on Kent Street.

Officers at the meeting provided an update on the potential economic impact of the preferred bidder's proposal, which early calculations estimated could benefit the local economy by between £9m and £12m.

Having noted the comments of the Labour Group Spokespersons on this item, it was

**RECOMMENDED:** That Council approve the financial implications relating to the capital programme contained in exempt Annex 4 to the report.

**REASON:** To enable the Barbican Auditorium to be re-opened for public use.

## **76. CHANGING EXECUTIVE ARRANGEMENTS**

Members considered a report which presented the results of public consultation on changes to the Council's executive arrangements and sought a recommendation to full Council in respect of the new arrangements.

Details of the requirement to consult under the Local Government and Public Involvement in Health Act had been reported to the Executive meeting on 6 July 2010. The consultation, carried out between 16 July and 1 September, had resulted in 52 on-line responses and one letter. 33 people had responded in support of a Leader and Cabinet Executive and 18 in support of an elected Mayor and Cabinet. Two had not formally expressed a preference. Details of the responses were provided in Annex 1 to the report.

The next stage was for Council to agree and publish its draft proposals. It must then formally resolve, at a special meeting, to change its governance arrangements. Draft proposals were presented in Annex 2, together with a timetable for implementation and transitional arrangements to cover the period between the local elections in May 2011 and the Annual Council meeting. It was noted that these arrangements must proceed, in accordance with existing legislation, despite the fact that the law was about to change.

Having noted the comments of the Labour Group Spokespersons on this item, it was

**RECOMMENDED:** (i) That Council propose to adopt the Leader and Cabinet model.

(ii) That the timetable should be as set out in Annex 2 to the report.

(iii) That Council not instigate a referendum.

(iv) That Council make provision in the Constitution for removal of the Leader during his or her term of office and adopt the transitional arrangements set out in Annex 2.

REASON: In accordance with legal obligations.

A Waller, Chair

[The meeting started at 2.00 pm and finished at 3.10 pm].