



Notice of meeting of

Shadow Executive

To: Councillors Scott (Chair), Crisp, Douglas, Gunnell, King, Potter and Simpson-Laing

Date: Wednesday, 2 September 2009

Time: 5.30 pm

Venue: The Guildhall, York

AGENDA

1. **Declarations of Interest**

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. **Exclusion of Press and Public**

To consider excluding the press and public from the meeting during consideration of any exempt information relating to briefings on Executive business, as detailed on the agenda for the Executive meeting to be held on Tuesday 8 September 2009, under Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

3. **Minutes** (Pages 1 - 4)

To approve and sign the minutes of the Shadow Executive meeting held on 1 July 2009.

4. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Shadow Executive's remit can do so. The deadline for registering is Tuesday 1 September 2009, at 5.00 pm.

5. Briefings on Executive Business

To receive any briefings requested on Executive business for 8 September 2009.

[Please note that the reports relating to these items will be published on the Council's website on Friday 28 August 2009. The website address is **www.york.gov.uk**. Copies of the Executive agenda and reports can also be obtained by telephoning Democracy Support Group on York (01904) 551088.]

6. Waste Briefing Report (Pages 5 - 10)

To receive an update report on the Council's waste strategy, including a summary of progress towards a waste PFI solution, current performance, implications for transportation of waste, financial issues and identification of risks.

7. Any Other Matters which the Chair decides are urgent under the Local Government Act 1972.

Democracy Officer:

Name: Jill Pickering

Contact details:

- Telephone – (01904) 552061
- E-mail – jill.pickering@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

About City of York Council Meetings

Would you like to speak at this meeting?

If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than 5.00 pm** on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

A leaflet on public participation is available on the Council's website or from Democratic Services by telephoning York (01904) 551088

Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

Access Arrangements

We will make every effort to make the meeting accessible to you. The meeting will usually be held in a wheelchair accessible venue with an induction hearing loop. We can provide the agenda or reports in large print, electronically (computer disk or by email), in Braille or on audio tape. Some formats will take longer than others so please give as much notice as possible (at least 48 hours for Braille or audio tape).

If you have any further access requirements such as parking close-by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

Every effort will also be made to make information available in another language, either by providing translated information or an interpreter providing sufficient advance notice is given. Telephone York (01904) 551550 for this service.

যদি যথেষ্ট আগে থেকে জানানো হয় তাহলে অন্য কোন অর্ধাতে তথ্য জানানোর জন্য সব ধরনের চেষ্টা করা হবে, এর জন্য দরকার হলে তথ্য অনুবাদ করে দেয়া হবে অথবা একজন দোঅবী সরবরাহ করা হবে। টেলিফোন নম্বর (01904) 551 550।

Yeteri kadar önceden haber verilmesi koşuluyla, bilgilerin terümesini hazırlamak ya da bir tercüman bulmak için mümkün olan herşey yapılacaktır. Tel: (01904) 551 550

我們竭力使提供的資訊備有不同語言版本，在有充足時間提前通知的情況下會安排筆譯或口譯服務。電話 (01904) 551 550。

اگر مناسب وقت سے اطلاع دی جاتی ہے تو ہم معلومات کا ترجمہ مہیا کرنے کی پوری کوشش کریں گے۔ ٹیلی فون (01904) 551 550

Informacja może być dostępna w tłumaczeniu, jeśli dostaniemy zapotrzebowanie z wystarczającym wyprzedzeniem. Tel: (01904) 551 550

Holding the Executive to Account

The majority of councillors are not appointed to the Executive (40 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Decision Session) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

Who Gets Agenda and Reports for our Meetings?

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to;
- Public libraries get copies of **all** public agenda/reports.

City of York Council

Committee Minutes

MEETING	SHADOW EXECUTIVE
DATE	1 JULY 2009
PRESENT	COUNCILLORS SCOTT (CHAIR), CRISP, GUNNELL, KING, POTTER AND SIMPSON-LAING
APOLOGIES	COUNCILLORS DOUGLAS
IN ATTENDANCE	COUNCILLORS D'AGORNE AND MERRETT

6. DECLARATIONS OF INTEREST

Councillor Scott declared a personal non-prejudicial interest in Executive Item 6 (Effective Organisation Programme – Efficiency Review) as his wife was a member of Unison and employed by the Authority.

Councillor King declared a personal non-prejudicial interest in Executive Item 6 (Effective Organisation Programme – Efficiency Review), as his daughter was a Union member and employed by the Authority.

Councillor Gunnell declared a personal non-prejudicial interest in Executive Item 6 (Effective Organisation Programme – Efficiency Review) as her sister was a Union member and was employed by the Authority.

Councillor Crisp declared a personal non-prejudicial interest in Executive Item 6 (Effective Organisation Programme – Efficiency Review) as a retired Unison member.

Councillor Simpson-Laing declared a personal non-prejudicial interest in Executive Item 6 (Effective Organisation Programme – Efficiency Review) as a Unison member and in Agenda item 6 (Air Quality Update) as a resident in an AQMA.

7. EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That the press and public not be excluded from the meeting as there was no exempt information relating to briefings on Executive business, as detailed on the agenda for the Executive meeting to be held on 7 July 2009, under Section 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

8. MINUTES

RESOLVED: That the minutes of the meeting of the Shadow Executive held on 17 June 2009 be approved and signed by the Chair as a correct record.

9. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

10. BRIEFINGS ON EXECUTIVE BUSINESS

The Shadow Executive received briefings on the following items of business on the agenda for the Executive meeting on 7 July 2009:

- Effective Organisation Programme – Efficiency Review (Agenda item 6)
- Street Level Services and Area Based Working (Agenda item 9)
- Castle Piccadilly Regeneration Project (Agenda item 10)

11. AIR QUALITY UPDATE

Members received a briefing report, which responded to their query regarding air quality problems in the city, and plans the council had in place to meet its 2011 target.

The briefing report confirmed that in April 2009 the Authority had submitted a 'Update and Screening' report to DEFRA which provided an update on new air quality monitoring results collected during 2008. This report had concluded that there were still a number of locations within the Air Quality Management Area (AQMA) where the local and national objective levels were still being exceeded.

Officers confirmed that although the long term aim of the council remained to meet the annual average nitrogen dioxide objective in all areas of the city, modelling and monitoring of air quality indicated that this may not be possible within the financial constraints of the second Local Transport Plan (LTP2). It was confirmed that in setting the target emphasis had been placed on the need to demonstrate an ongoing year on year improvement across the AQMA.

Officers went on to point out that the Council had already achieved a lot in terms of modal shift to walking, cycling and public transport but that the levels of NO₂ still appeared to be deteriorating. It was pointed out that only a step change in transport policy was likely to deliver any measurable and sustainable improvement.

The Chair thanked Officers for their informative briefing report, which he stated, showed a mixed picture in relation to air quality targets. He also

thanked Officers for the work they were undertaking to improve air quality in the city.

RESOLVED: That the briefing be noted.

REASON: To inform and update the Shadow Executive and help shape the effectiveness of future action.

CLLR D SCOTT, Chair

[The meeting started at 5.30 pm and finished at 7.55 pm].

This page is intentionally left blank

	
Shadow Executive	2 nd September 2009
Report of the Director of City Strategy and the Director of Neighbourhood Services	

WASTE STRATEGY PROCUREMENT UPDATE

Summary

1. This report gives a summary of the progress made towards procuring a long term waste management treatment contract for the City and for North Yorkshire County Council. The procurement process is still ongoing so it is very much a work in progress report bearing in mind the technical solutions have not yet been decided upon and therefore the financial consequences established. The terms of reference for the report are:
 - A brief summary of the progression towards a waste PFI solution and latest update.
 - How the York and North Yorkshire area is currently performing after being one of the largest waste producers in the country in 2006? Has it met the 2008 target, adopted in 2006, to be below the national average in terms of waste production.
 - Will waste PFI plans look at a single solution or a combination of types of plant? What are the implications for transportation of waste.
 - Does the finance stack up for the PFI deal.
 - Does the council have a contingency in place if it is unable to meet the PFI deadline.
 - Identification of the major risks of the current strategy

Background

2. The Council has previously received various reports on the procurement of a waste treatment facility as summarised below.
3. The Executive at its meeting on 26th June 2007 gave approval for the procurement of a long term waste management service contract. The Executive authorised the Director of City Strategy to:
 - a) Commence the formal procurement of residual waste treatment facilities, in line with the Private Finance Initiative (PFI), following successful approval of the Outline Business Case by the Treasury Project Review Group.
 - b) Utilise the proposed evaluation methodology (most economically advantageous tender) identified in the report;

- c) Develop and implement evaluation criteria subject to a further report setting out the evaluation process and resource input required;
 - d) That a further report be brought by the Director of City Strategy to the Executive identifying sites suitable for residual waste treatment facilities.
4. At its meeting on 23rd October 2007 the Executive subsequently received a report which approved the implementation and evaluation criteria referred to above and resolved:
- a) That the award of £65m PFI credits towards the costs of this project be noted;
 - b) That the Executive's belief that Landfill Tax generated from York residents should be returned to recycling services in York, in line with the campaign by the Local Government Association, be re-affirmed;
 - c) That an Inter-Authority agreement under seal be entered into with North Yorkshire County Council on the basis of the issues set out in the report and that the Director of City Strategy and the Head of Civic, Legal and Democratic Services, in consultation with the appropriate Executive and Shadow Executive Members, be given delegated authority to agree the detail of the agreement in order to give effect to those terms.
 - d) That the Director of City Strategy be authorised to utilise the proposed evaluation methodology, in consultation with the appropriate Executive and Shadow Executive Members.

Progress to date

5. A notice was published in the Official Journal of the European Union on 1 September 2007. Pre-qualification Questionnaires were received from 12 companies or consortia, and 10 were invited to submit 'outline solutions' (one withdrew and two others combined). A total of 17 solutions were submitted in December 2007.
6. In February 2008, a shortlist of four consortia were invited to submit detailed solutions. In September 2008 the final two bidders were invited into further dialogue to develop their solutions towards final tenders in accordance with the competitive dialogue procedure. The final two consortia are Amey/Cespa and Earthtech/Skanska
7. It was originally intended to close the dialogue stage and invite final tenders in December 2008. The complexity of the dialogue process and consequential impacts of the withdrawal by NYCC of the Minerals and Waste Core Strategy, and the economic down turn, have prolonged this current stage of the procurement so that the revised date for final tenders will now be in September 2009.
8. It is now expected that the preferred bidder will be confirmed towards the end of 2009 and a contract for the procurement of a waste treatment facility be signed by Spring 2010.

Next Steps

9. The dialogue with the final two bidders will continue until both councils are confident that the solutions on offer represent robust options. The final stage of the process is now focussed on a final assessment of the solutions to determine:
 - sufficiency of information and detail of solution
 - risk profile
 - affordability and value for money
 - deliverability including approach to planning and finance.
10. The competitive dialogue process, once closed, only allows for clarification and fine tuning and therefore it is vital that any uncertainties or ambiguities are resolved before final tenders are invited.
11. Final tenders will then be assessed against the same evaluation criteria used throughout the procurement process, and the preferred bidder identified.
12. The final business case will need to be signed off by Treasury before the preferred bidder can be confirmed. This is expected to be towards the end of 2009.
13. The cost to the councils of delivering the final proposed solution are currently being assessed to ensure that they fall within the previously approved affordability envelope for the project although this can only be fully assessed when the dialogue process is concluded. Early indications are that both proposed solutions are likely to be within the original business case.

Procurement Governance

14. The inter-authority agreement between the county council and City of York council as currently drafted identifies the role of the Project Board in the appointment of the Preferred Bidder. The Project Board is made up of officers from each authority, and is chaired by the county council's Corporate Director, Business and Environmental Services and also includes the city's Director of City Strategy. Other Members of the Project Board also include the Head of Finance from City Strategy and the Assistant Director of Finance from NYCC and a representative of the councils' external advisors. The Project Board meets at least on a monthly basis.
15. The Project Board has overseen the procurement to date and has involvement in the following:
 - Approval and publication of the OJEU notice
 - Selection and evaluation of bidders at all stages of the procurement
 - Issue of all tender documents
 - Management of all stages of the procurement
 - Appointment of the preferred partner and issue of the preferred partner letter.

- Subject to approval by Members a contract would then be drawn up with a completion date for signature being spring 2010.
16. The project board have been examining options within the current procurement process for types of solution and location and also a “do nothing” option which will provide a comparison in terms of cost with the PFI solution. As yet other further alternatives have not been explored because the picture regarding alternative sites for disposal are far from clear. However the target date of 2014 for the PFI proposal to come on stream leaves scope, should the councils decide there is a need, to investigate further alternatives.

Type of solution

17. As referred to earlier in the report the competition is now between two parties:
- Amey/Cespa
 - Earthtech/Skanska
18. The technology proposed both parties is not yet confirmed although options considered include the possibilities of an Anaerobic Digestion System, a Mechanical/Biological Treatment plant (MBT) and the possibility an energy from waste system that will provide electricity to the National Grid. Full details of the tonnage to be treated within whichever system is preferred is still subject to the procurement process.
19. The question of whether the solution will be a single solution or a combination of different types of plant will only be established at the conclusion of the procurement process. However it is very likely that some combination of the above options will be proposed. The implications for transportation will also only be fully understood when the process is concluded and a site established for locating the treatment plant. In York’s case the question will be whether or not we will need a transfer station or whether the waste can be delivered directly to the facility.

Financial

20. The original financial model for the proposed PFI was approved by Members for submission to government as part of the business case for the PFI bid. At this stage of the procurement process the financial outcome is not yet known although indications are that it will be within the parameters of the original business case referred to above.
21. The council’s Director of Resources together with the Director of Finance from NYCC are currently involved in assessing possible outcomes from the procurement and a report will be brought to the Executive when this work is completed which will be after the conclusion of the procurement process.

Current position on waste production

22. The table below sets out the performance of York's waste management strategy for the last six years.

Year	Waste Arising	Recycled	Composted	Landfilled
2003/04	118,310	10,550	4,660	95,820
2004/05	123,510	12,970	5,400	97,050
2005/06	120,870	16,100	7,830	88,910
2006/07	122,380	23,400	16,890	74,210
2007/08	118,600	25,530	17,250	68,040
2008/09	113,765	25,940	17,930	63,225

23. The waste arisings peaked in 2004/05 at 123,510, since then there has been a gradual reduction in the amount of waste collected in York. In 2008/09 the total was 8% down on the peak, despite a large number of additional properties being built.
24. Recycling is 250% up in the six years and composting up by almost 400%. The results of this success has seen the tonnages going into landfill falling from its peak by 33,825. A 25% total reduction of waste being disposed of in this way.
25. Similar improvement have been achieved in the North Yorkshire Districts, and the treatment solution has been sized on these figures.
26. Based on the historical method of measurement, this performance moved both York and North Yorkshire into the 3rd quartile performance. The green waste for composting being the single largest reason why waste arisings in the region are higher than some other areas.
27. The historical measures are based on the tonnages per head of population. Cities and Regions who attracted high levels of visitors and successful universities found that they were in the lowest quartiles for performance on these measures. The new National Indicators, introduced last year, has changed the method of measure, so waste statistics are now measured against the number of households (properties). Early indications is that this method put York to a high point within the second quartile on performance of waste management.

Risk Analysis

28. There is a comprehensive risk register for the project which includes a total of 117 identified risks. The register is broken down into a number of sections:
- Planning
 - Design
 - Construction and property
 - Operational
 - Demand

- Performance
 - Taxation
 - Financial
 - Technology and obsolescence
 - Regulatory
 - Residual value
29. Each of the risks is further broken down into where responsibility lies – public, private, shared.
30. The main risks for the two councils are in:
- Planning – that is gaining planning permission for any proposed facility.
 - Design – The need to avoid changes to the specification after any contract is awarded either for council requirements or as a result of external influences.
 - Operational – production of more waste than estimated or change in composition.
 - Financial – Inflation prior to financial close
 - Regulatory – Changes in regulations
 - Residual value – cost of decommissioning

Financial Implications

31. There are no financial implications from this report report which aims to update members on the progress of the project.

Legal Implications

32. There are no legal implications arising directly from this report.

Recommendations

33. Members of the Shadow Executive are asked to note the contents of this report.

Reason: To inform and update the Shadow Executive and help shape the effectiveness of future action.

Contact Details

Author:	Chief Officer Responsible for the report:			
Author's name: Bill Woolley, Acting Chief Executive	Bill Woolley, Acting Chief Executive			
Co-Author's Name: John Goodyear, Assistant Director Neighbourhood Services	Sally Burns, Director of Neighbourhood Services			
	Report Approved	✓	Date	26 August 2009