



## SPECIAL COUNCIL

### MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON 26TH FEBRUARY 2013 AT 5.00PM

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#### PRESENT:

Councillor Mrs. G. Oliver - Mayor  
Councillor D.M. Gray - Deputy Mayor

#### Councillors:

M. Adams, Mrs. E.M. Aldworth, H.A. Andrews, A.P. Angel, Mrs. G. Bevan J. Bevan, L. Binding, Mrs. A. Blackman, D. Bolter, D.G. Carter, Mrs. P. Cook, C.J. Cuss, H.W. David, W. David, H.R. Davies, D.T. Davies, R.T. Davies, C. Durham, C. Elsbury, Mrs. C. Forehead, Ms E. E. Forehead, J.E. Fussell, Mrs. J. Gale. L. Gardiner, N. George, C.J. Gordon, R.W. Gough, Mrs. P. Griffiths, D.T. Hardacre, D. Havard, C, Hawker, A.G. Higgs, K. James, M.P. James, G. Johnston, Mrs. B.A. Jones, G. Jones, Ms. J.G. Jones, S. Kent, G. Kirby, K. Lloyd, C.P. Mann, S. Morgan, D.V. Poole, D.W.R. Preece, M.J. Prew, Mrs. D. Price, J. Pritchard, J.A. Pritchard, D. Rees, K.V. Reynolds, J.E. Roberts, R. Saralis, Mrs. M.E. Sargent, Mrs J. Summers, J. Taylor, L.G. Whittle, T.J. Williams, R. Woodyatt

#### Together with:-

A. O'Sullivan (Chief Executive), N. Barnett (Deputy Chief Executive), S. Aspinall (Corporate Director - Education and Lifelong Learning), D. Perkins (Head of Legal and Governance), G. Williams (Principal Solicitor), M. Williams (Head of Community and Leisure Services), N. Scammell (Head of Corporate Finance), L. Lucas (Head of Procurement), I. Evans (Contracts Manager), M. Eedy (Finance Manager - Environmental Services), H.C. Morgan (Senior Committee Services Officer)

#### Representing Prosiect Gwyrdd

Mark Falconer (Finance Manager) and Andrew Williamson (Technical Manager).

#### 1. APOLOGIES

Apologies for absence were received from Councillors Miss. L. Ackerman, Mrs. K.R. Baker, P.J. Bevan, Mrs. A. Collins, K. Dawson, N. Dix, Mrs. D. Ellis, G.J. Hughes, A. Lewis, Mrs. R. Passmore and Mrs. E. Stenner.

#### 2. DECLARATIONS OF INTEREST

There were no declarations of interest received at the commencement or during the course of the meeting.

**3. CONSIDERATION AND DETERMINATION OF THE PUBLIC INTEREST TEST EXEMPTION FROM DISCLOSURE OF DOCUMENTS**

Mr. Perkins gave detailed advice on the Public Interest Test and explained the reasons why it is recommended that Appendices A, B, C and E referred to in the report entitled Prosiect Gwyrdd - Appointment of Preferred Bidder - Full Business Case and Joint Working Agreement should be considered in an exempt session of Council. He drew Members attention to the grounds for exemption set out in the Public Interest Test and referred to the commercially confidential, legally privileged nature and volume of the exempt information which had been made available for Members to view prior to the meeting both in DVD and as a hard copy.

A query was raised with regards to access to the exempt information and Mr. Perkins explained that it had been determined by the five constituent authorities that this was the most appropriate way to disseminate such exempt information to Members. He advised that there was a significant amount of evidence provided within the open report to enable Members to make an informed decision.

Following the advice given Members concluded that on balance the public interest in maintaining the exemption outweighed the public interest in disclosing the information and it was:

RESOLVED that in accordance with Section 100A(4) of the Local Government Act 1972 the public be excluded from the part of the meeting where discussions take place on the contents of the exempt Appendices A, B, C and E. This is because of the likely disclosure to the public of exempt information as identified in the Public Interest Test.

**4. PROSIECT GWYRDD - APPOINTMENT OF PREFERRED BIDDER, FINAL BUSINESS CASE AND JOINT WORKING AGREEMENT (2)**

At this point the meeting continued in open session and Mr. Williams gave a slide presentation, which complemented the content of the report that sought to appoint Viridor as the preferred bidder and approve both the final business case and the Joint Working Agreement 2. It was noted that the full Council of each of the constituent authorities must now make a decision and, as such, the common report and associated documents will be considered accordingly over the next few weeks.

Mr. Williams gave a brief history of the project and the procurement process to date and highlighted details of the preferred bidder and the solution it offers, the financial implications, partnership saving and financial benefits, the final business case and the Joint Working Agreement 2 which will deal with the process post contract award and the resultant governance arrangements. He advised that the Prosiect Gwyrdd procurement process has been a highly competitive and robustly dialogued and negotiated process, which has resulted in an affordable, environmentally and financially sustainable solution.

It was noted that once the common report has been considered by all of the five constituent authorities there is a standstill (alcatel) period after which the preferred bidder award letter is issued. The document will be fine-tuned but there is no further negotiation. It is anticipated that the signing of the contract award will take place in the summer 2013, and, following a transition period after the signing it is anticipated that the plant will be commissioned in 2015 with full service commencement in April 2016.

The Cabinet Member for Community and Leisure Services, Councillor D.V. Poole, then outlined the history of the project and the journey that it had followed to reach this stage. He referred to the role of the Prosiect Gwyrdd Joint Committee and the signing of Joint Working Agreement 1 by the five constituent authorities, which had enabled the project to move forward. He commended the role played by all of the Officers who had been involved in the project.

During the course of the ensuing debate queries were raised in relation to the financial business case, penalties for withdrawing, the affordability levels, the potential savings identified, the length of the contract and the maximum and minimum tonnage. Both Mr. Williams and Councillor D.V. Poole responded to the queries raised.

In order to discuss the contents of the exempt appendices A, B, C and E and following the decision to approve the Public Interest Test for those appendices the meeting then moved into exempt session. Members of the public present were excluded.

Mark Falconer (Finance Manager - Prosiect Gwyrdd) responded to a number of queries raised on the exempt information.

The meeting then moved back into open session.

Members wished to place on record their appreciation to all those that had been involved in the Project.

RESOLVED that for the reason contained in the report:-

- (i) Viridor be appointed as the preferred Bidder;
- (ii) authority be delegated to the Senior Responsible Officer of the Project Board (in consultation with the Project Board) for finalisation of the procurement to successful contractual close (including any refinement of documentation as referred to in the report);
- (iii) the Final Business Case be approved, including the improved affordability position for this Council in terms of both:-
  - (a) the Net Present Value (NPV) of the Viridor solution, including costs directly incurred by this Council, of £43 million which represents a reduction of £46 million compared to the original Outline Business Case Upper Affordability Threshold of £89 million approved by this Council in 2009.
  - (b) The projected cost to this Council of the Viridor solution including directly incurred costs, of £86 million to the expiry of the contract in 2040/41 which represents a saving of £97 million for this Council compared with the projected costs of continuing to landfill residual waste.
- (iv) subject to Cardiff Council agreeing, Cardiff Council acts as Host Authority (as defined in the Joint Working Agreement 2);
- (v) the Joint Working Agreement 2 be approved (on the understanding that it is subject to any refinement and finalisation as per recommendation (vi));
- (vi) authority be delegated to Caerphilly County Borough Council's Senior Responsible Officer on the Project Board to finalise and conclude the Joint Working Agreement 2 (including any refinements pursuant to recommendation (ii) on behalf of the respective Authorities);
- (vii) subject to Welsh Government approving the Final Business Case and confirming subsequent funding, conclusion of the Joint Working Agreement 2 and Cardiff Council agreeing to act as Host Authority, a relevant authorised Officer of Cardiff Council on behalf of the Partnership sign the project Agreement with Viridor;

- (viii) subject to (i-vii) above, following consultation with the Section 151 Officers from each Partner Authority the Section 151 Officer from Cardiff Council sign the certificate pursuant to the Local Government (Contracts) Act 1997 on behalf of the other partner authorities.

In accordance with Rule of Procedure 15.5 Councillors Mrs A. Blackman and M. James wished it recorded that they had voted against the motion.

The meeting closed at 6.10pm

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 12th March 2013 on they were signed by the Mayor.

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MAYOR