



BOB COOMBER
Interim Chief Executive
Floor 1 - Civic Centre
Plymouth
PL1 2AA

www.plymouth.gov.uk/democracy
www.swdwp.co.uk

Date 17/07/12 Telephone Enquiries 01752 304951

Fax 01752 304819

Please ask for: Ross Johnston, Democratic Support
Officer

e-mail ross.johnston@plymouth.gov.uk

SOUTH WEST DEVON WASTE PARTNERSHIP

DATE: THURSDAY 26 JULY 2012

TIME: 9 AM

**PLACE: WARSPITE ROOM, COUNCIL HOUSE,
PLYMOUTH (NEXT TO CIVIC CENTRE)**

Members –

Councillors Coker, Croad, Hart, Thomas, Tyerman and Vincent

Observers members –

Councillors Black, Doggett and Leaves

Members are invited to attend the above meeting to consider the items of business overleaf.

BOB COOMBER
INTERIM CHIEF EXECUTIVE

SOUTH WEST DEVON WASTE PARTNERSHIP

1. APPOINTMENT OF CHAIR AND VICE-CHAIR

The Secretary of the Joint Committee (Rachel Galbraith) will invite nominations for a new Committee Chair in accordance with the Joint Working Agreement and a new Chair will be elected from Devon County Council's Committee Members. The new Chair will invite nominations for a new Committee Vice-Chair in accordance with the Joint Working Agreement and a new Vice-Chair will be elected from Torbay Council's Committee Members.

2. INTRODUCTIONS AND APOLOGIES

To introduce attendees and receive apologies for non-attendance submitted by Members.

3. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on this agenda.

4. MINUTES

(Pages 1 - 6)

To sign and confirm as a correct record the minutes of the meeting held on 26 April 2012.

5. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

6. PROJECT UPDATE

Members will receive an update on the project from Mark Turner, Project Director.

7. OVERVIEW OF PROJECT COMMUNICATIONS

(Pages 7 - 8)

Members to receive a report from Liz Waugh on communication activity from May 2012 to July 2012.

8. MVV'S COMMUNITY ENGAGEMENT AND COMMUNICATION ACTIVITIES

Following a request at the last Joint Committee meeting Members will receive a presentation from Jane Ford MVV's Community Liaison Manager on her role and community engagement activity and feedback to date.

9. PROJECT PROGRAMME AND NEXT STEPS

(Pages 9 - 10)

Members will receive a verbal update of MVV's programme and site activities and the latest overall project programme from Mark Turner.

10. DATE AND LOCATION OF NEXT MEETING

The next meeting is scheduled for 25 October 2012 at Devon County Council at 10am at a venue to be confirmed.

11. EXEMPT BUSINESS

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve the likely disclosure of exempt information as defined in paragraph 3 of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE MEETING)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the committee is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

NIL.

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South West Devon Waste Partnership

Thursday 26 April 2012

PRESENT:

Councillor Michael Leaves, in the Chair.
Councillor Croad, Vice Chair.
Councillors Ball and Thomas.

Observer members: Councillor Doggett

Apologies for absence: Councillors Black, Hart, Tyerman and Vincent.

Also in attendance: Barry Keel – Chair of Project Executive, Mark Turner – Project Director, Martin Pollard – Project Manager, Sally Farley – Service Manager (Torbay Council), Wendy Barratt – County Waste Manager (Devon County Council), Jacqueline Houslander, Planning Adviser to the Partnership, Rachel Galbraith – PFI Co-ordinator and Ross Johnston – Democratic Support Officer.

The meeting started at 10.00 am and finished at 11.05 am.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

31. **DECLARATIONS OF INTEREST**

There were no declarations of interest made by councillors in accordance with the code of conduct.

32. **MINUTES**

Agreed that the minutes of the meeting held on Thursday 26 January 2011 are confirmed as a correct record.

33. **CHAIR'S URGENT BUSINESS**

Retirement of Barry Keel, Chief Executive of Plymouth City Council

With the permission of the Chair, Barry Keel, Chair of the SWDWP Project Executive informed members that he would be retiring as Chief Executive of Plymouth City Council and consequently as Chair of the Project Executive.

Mr Keel stated that “for the committee’s information and noting, I (Barry Keel) will be retiring as Plymouth City Council’s Chief Executive on the 19 May 2012. Therefore the scheme of delegation made on the 7 August 2008 by the Joint Committee to me (in accordance with clause 8.2.6 of Schedule C of the Joint Working Agreement) will automatically pass delegated authority to Plymouth City Council’s acting Chief Executive on the 19 May 2012 until a new Chief Executive is

formally appointed. However, in the interest of continuity at this still sensitive stage, I will ask the acting Plymouth City Council Chief Executive when in place to further delegate authority to Charles Uzzell of Torbay Council who will act as the Chair of the Project Executive until such time as a new Chief Executive is appointed.”

The Chair thanked Barry Keel for all the hard work he had given to the Partnership.

34. **PROJECT UPDATE**

The Partnership received a verbal project update from Mark Turner, Project Director. Members were informed that since the last Committee –

- (a) the Planning Authority issued its formal planning conditions and planning decision in February 2012;
- (b) the Environment Agency issued MVV with an Environmental permit in March 2012;
- (c) following the planning decision and permit approval MVV began preliminary works on site in late March 2012;
- (d) on 19 March 2012 notice was received of a Judicial Review challenge being lodged against the planning decision; permission to proceed with this challenge was currently awaiting judgement by an Administrative Court Judge;
- (e) in addition to Judicial Review challenge an injunction application was lodged in March to stop MVV from carrying out any construction works on site; this application was refused by the Courts;
- (f) on 25 April 2012 the Devon Planning Authority refused to grant the planning application for MVV’s Incineration Bottom Ash (IBA) facility at Buckfastleigh;
- (g) the partnership and project had been nominated for three separate awards hosted by the Public Private Partnership AWARDS 2012. The awards would be judged in May 2012 with the partnership’s nominations coming in the following categories –
 - Best Waste/Energy/Water project;
 - Best Sustainability in a Project;
 - Best Local Government Project Team.

35. **UPDATE ON MVV CONSTRUCTION PROGRAMME AND SITE ACTIVITIES**

Martin Pollard, Project Manager, gave a presentation providing an update on MVV’s construction programme and site activities. Members were informed that –

- (a) MVV started preliminary works on site on 26 March 2012 and these were scheduled to finish in June 2012;
- (b) the preliminary work activities included –
 - erecting a new high-security boundary fence;
 - a new substation and power supply to the site;
 - Highway junction improvements;
 - setting up pre-construction site and facilities;
 - formation and modifications to MOD access roads around the site;
- (c) all preliminary works planning conditions had been completed and to date no complaints regarding these works had been received by Plymouth City Council's Planning Department, MVV or the SWDWP;
- (d) MVV were also working on discharging the planning conditions for the main construction phase, these included –
 - Community Trust Scheme plan;
 - local employment scheme;
 - odour, litter and dust management plan;
 - improvement scheme for the junction at Wolseley Road and Weston Mill Drive;
- (e) the main construction works would begin onsite in mid-late June 2012 subject to completion of the preliminary works, the discharging of remaining planning conditions and the outcome of the Judicial Review;
- (f) the Partnership and MVV maintained a strong working relationship and continued to drive improvements from lessons learned.

36. **OVERVIEW OF PROJECT COMMUNICATIONS**

Mark Turner, Project Director presented a report on recent and upcoming communication activity. Members were informed that since the last meeting –

- (a) a new opposition group had formed; PlymWin, an offshoot of IIW. They lodged an application for an injunction to stop MVV beginning their preliminary works on site, which was rejected by the Courts. They also requested for a Judicial Review, challenging the planning permission granted by the Planning Authority;

- (b) MVV's application for the Incinerator Bottom Ash processing facility at Buckfastleigh had attracted extensive local media coverage with the majority of recent opposition activity being directed toward this application;
- (c) the Incinerator Liaison Committee (ILC) had continued to meet, although recently several of the original ILC membership who were opposed to the incinerator had resigned and new members of the public were being sought ;
- (d) the ILC were aiming to engage more fully with the local community and were inputting to the development of the North Yard Community Trust Scheme which would manage the allocated Section 106 monies;
- (e) the Environment Agency had attended a recent ILC meeting to provide information on MVV's environment permit which had recently been approved;
- (f) MVV had distributed a newsletter in February to make the local community aware of the preliminary works that were being carried out on site and had recently appointed a Community Liaison Manager;
- (g) the Partnership had only received four written queries since the last meeting with the main concerns relating to emissions, traffic, cost of the solution, ash produced and the visual impact.

Agreed that the recently appointed MVV Community Liaison Manager is invited to a future SWDWP meeting to provide an update on her role within the local community.

37. **PROJECT PROGRAMME AND NEXT STEPS**

Mark Turner, Project Director presented the latest project programme and informed members that MVV's preliminary works on site were ongoing and on schedule for main construction works to commence on 25 June 2012.

Members noted the project programme.

38. **DATE AND LOCATION OF NEXT MEETING**

Agreed that the next meeting will be held on Thursday 26 July 2012 at 10am at the Council House, Plymouth.

39. **EXEMPT BUSINESS**

Agreed that, under Section 100(A)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in

paragraph 3 of Part 1 of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

40. **SUMMARY OF JUDICIAL REVIEW CHALLENGE TO PLANNING DECISION**

Jacqueline Houslander, Planning Adviser to the Partnership introduced the report on the summary of Judicial Review challenge to the planning decision. In addition to the detail contained in the report the partnership was informed that –

- (a) the judicial review challenge, submitted by PlymWin in March 2012, was submitted on two separate grounds, these were firstly, that Plymouth City Council planners had breached the EU Habitats Directive by failing to undertake the appropriate environmental assessment and secondly, that a condition requiring 95% of Incinerator Bottom Ash be recycled mislead the Committee, therefore Plymouth City Council acted unlawfully in granting planning permission for the incinerator;
- (b) it was believed that the Environment Agency would also receive a Judicial Review challenge on its decision to grant an environmental permit;
- (c) if the Judicial Review challenge permission was agreed by a High Court judge and taken through the courts then Plymouth City Council planning department may incur significant costs in defending a decision that was key to the Partnership. In order to promote equality and fairness it was proposed that these costs, if proved to be significant to PCC, be divided proportionately amongst the three partnership authorities.

Agreed that –

- (1) the South West Devon Waste Partnership Joint Committee confirm its opposition to the legal challenge of the planning permission and confirm its authorisation for the Chair of the Project Executive to take such steps as considered necessary in consultation with the legal adviser to the Partnership to protect the Partnership's interests;
- (2) the SWDWP endorse the idea that costs be divided proportionately between the three partnership authorities if the planning decision is subjected to a full Judicial Review process.

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South West Devon Waste Partnership

Communications and Community Engagement Report **May 2012 – July 2012**

This report provides a summary of project related communication activities and written queries made between May 2012 and July 2012.

The opposition group PlymWin applied for a Judicial Review of Plymouth City Council's planning application approval in late March 2012 and this application has since been considered by the High Court and the Court of Appeal where the application has been refused. On the 11th July, PlymWIN announced they had abandoned this application but were considering other avenues.

Opposition activity seems to have been focused on PlymWin's legal proceedings over the last quarter and one complaint has been received relating to MVV's site construction activity and site clearance, which was resolved.

1. Communication activities

- The Incinerator Liaison Committee (ILC) meetings have continued 6 weekly although public membership has declined and recent meetings have not been quorate – new public members are being sought. Meetings are attended by representatives from SWDWP, MVV and the Ministry of Defence and continue to provide a liaison and communication forum now that construction has started on site.
- MVV's appointed Community Liaison Manager, Jane Ford has been interviewed by the Plymouth Herald on her role as Community Liaison Manager and how she intends to keep the local community informed and involved in aspects of the project including the Community Trust.
- The Partnership attended a round table discussion meeting organised by the Weston Morning News in June and have contributed a short editorial article about the project for a Green Guide focusing on waste/environmental/sustainability issues. This Green Guide should be published in August.

2 Summary of written queries received

One written enquiry has been received and responded to by the partnership. This was regarding the solution and environmental, visual, safety, traffic and economic issues.

The Partnership has received and responded to one Freedom of Information request relating to the Contract between MVV and the SWDWP Councils.

3. Media Enquiries and Liaison

Media liaison has been relatively quiet of late, with enquiries directed mostly at MVV and the judicial process. Activity has therefore been limited to the occasional reactive response.

A feature has been drafted for the Western Morning News Green Guide.

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South West Devon Waste Partnership
Outline Project Programme (post procurement) – 26th July 2012

Milestone	FBC Programme @ Feb 2011	Current agreed/ anticipated programme	Status	Comments
Finalise Contract	Mar 2011	Mar 2011	Completed Mar 11	Finalise Contract for award
Defra Approve FBC	Feb 2011	Mar 2011	Completed 25 Mar 2011	Defra FBC process & approval
Contract Award and Final Close	Mar 2011	Mar 2011	Completed 25 Mar 2011	25 th March 2011
MVV Submit Planning application	Mar 2011	15th April 2011	Completed May 10 2011	Slight delay due to MVV finalisation of planning application
MVV Submit Environmental Permit application	Mar 2011	20th April 2011	Completed June 6 2011	Slight delay due to MVV finalisation of permit application
Planning Application Approval	Jan 2012	Jan 2012	Completed 3rd February 2012	The application was approved by Planning Committee on 22 nd December 2011 - decision document issued 3 rd Feb 2012
Planning Judicial Review (JR) period	N/A	3rd May 2012	A JR challenge application was received on 19 th March 2012 and was dismissed on 29 th June 2012	JR period expires 3 months after formal planning decision issued.
Main Construction Start on Site	Apr 2012	8th August 2012	Pre-commencement site preparation works underway having commenced on 26 th March 2012	Subject to discharging of necessary planning conditions and completion of pre-commencement works – currently slightly behind programme.
Environmental Permit Application Approval	Mar 2012	Mid 2012	Complete Permit issued 6th March 2012	Permit not required until plant becomes operational hence not on critical path
Start of Hot Commissioning	Aug 2014	15th Sept 2014		Date subject to completion of construction on site. MVV are anticipating receiving 100% of SWDWP waste soon after hot commissioning date
Operational Service	Nov 2014	25th Nov 2014		Operational date subject to completion of construction on site and hot commissioning.

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