

# 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.