

MINUTES OF A MEETING OF THE  
EXECUTIVE HELD IN THE COUNCIL  
CHAMBER, WALLFIELDS, HERTFORD  
ON WEDNESDAY 20 AUGUST 2008 AT  
7.00 PM

PRESENT: Councillor A P Jackson (Chairman/Leader).  
Councillors M R Alexander, M G Carver,  
L O Haysey, T Milner, R L Parker.

ALSO PRESENT:

Councillors D Clark, N Clark, R N Copping,  
J Demonti, R Gilbert, A M Graham, J Hedley,  
M P A McMullen, J O Ranger, P A Ruffles,  
J P Warren, M Wood.

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Committee Secretary
Mike Collier	- Interim Director of Internal Services
Tony Hall	- Interim Deputy Chief Finance Officer
Philip Hamberger	- Programme Director
Lorraine Kirk	- Senior Communications Officer
Will O'Neill	- Head of Community and Cultural Services
George A Robertson	- Director of Customer and Community Services

ALSO IN ATTENDANCE:

Gareth Edwards	- Broxbourne CVS (Credit Union)
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220 APOLOGY

An apology for absence was submitted on behalf of Councillor M J Tindale.

221 LEADER'S ANNOUNCEMENTS

The Leader welcomed Gareth Edwards from the Broxbourne CVS.

The Leader commented that he intended to change the order of the agenda and take item 6, (A Credit Union to serve the People of East Herts) as the first item.

The Leader explained that agenda item 5 (Award of the Leisure Contract), contained a number of exempt appendices. As such, he would welcome a full discussion covering any generalities of the report. However, if Members wished to raise specific issues of an exempt financial nature, he would seek to move a resolution that the press and public be excluded from the meeting. He would then invite them back into the meeting once issues of an exempt nature had been discussed.

222 EXCLUSION OF PRESS AND PUBLIC

The Executive passed a resolution pursuant to Section 100(A)(4) of the Local Government Act 1972 to exclude the press and public during consideration of some of the business referred to in Minute 225 below on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the said Act.

## RESOLVED ITEMS

### 223 MINUTES

### ACTION

RESOLVED - that the Minutes of the Executive meeting held on 5 August 2008 be confirmed as a correct record and signed by the Leader.

### 224 A CREDIT UNION TO SERVE THE PEOPLE OF EAST HERTS

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The Executive Member for Community Development, Leisure and Culture submitted a report seeking approval to the establishment of a Credit Union to serve the people of East Herts. Match funding up to a total of £20,000 over four years towards the start up costs was also being sought.

The Executive noted that Credit Unions were owned and controlled by its members and regulated by the Financial Services Authority. Rather than create a new Credit Union (CU) brand, it was proposed that the Hatfield Credit Union be extended and re-branded as a Hertfordshire-wide Credit Union. This supported national best practice of creating fewer and larger CUs which delivered substantial cost savings, more effective resources and created a common bond geographically amongst its Members.

The overall benefits of a Credit Union to East Herts residents was detailed in the report now submitted. Credit Unions had a proven track record of benefiting vulnerable disadvantaged groups, particularly those on low income. The Credit Union initiative was supported by Members of the Local Strategic Partnership (LSP) and a number of voluntary organisations.

The Executive noted that funding was not within existing spending plans and that the £5,000 revenue grant for 2008/09 would be made available from balances. The sum of £5,000 would also be marked as a special item for each of the years 2009/10, 2010/11 and 2011/12, as part of the Medium Term Financial Planning process. After that, there

would be no expectation of any further funding or ongoing financial support for the Credit Union from the Council.

The Executive noted the extensive match funding provided by other Authorities and Registered Social Landlords contained in Appendix 'A6' of the report now submitted.

The Leader commented that the initiative was a good example of the Council investing in the delivery of a service to those most vulnerable and in partnership with the voluntary sector who were well placed to serve the community.

Councillor J O Ranger congratulated all concerned for moving so quickly on the initiative. He was advised that it was hoped that the Credit Union could be up and running by the end of the year.

Councillor R Gilbert queried the make up of the Steering Group. Gareth Edwards explained the Membership and the remit of the Group. He explained that crossed cheques could be accepted into a Credit Union Account.

Councillor M Wood queried the location of the Credit Union given that the base was in Hatfield. Gareth Edwards explained that the intention was to establish a number of satellites at locations across the District which could be readily accessible.

The Executive Member for Housing and Health was provided with clarification concerning funding.

The Executive supported the recommendations as now detailed.

RESOLVED - that (A) the establishment of a Credit Union to serve the people of East Herts be supported; DCCS

(B) a pump priming revenue grant of £5,000 to “HertsSavers Credit Union” for 2008/09 be provided from available balances; DCCS

(C) the sum of £5,000 be proposed as a special item for each of the years 2009/10, 2010/11 and 2011/12 as part of the next round of the Medium Term Financial Planning (MTFP) process; and DCCS

(D) the extensive match funding being provided by other Authorities and Registered Social Landlords (as detailed at Appendix “A6” of the report submitted) be welcomed.

## 225 AWARD OF LEISURE CONTRACT

The Leader encouraged general questions from Members, as much as possible in the public part of the meeting. He reiterated that if Members required clarification on the appendices containing exempt information, he would move a motion to exclude the press and public.

The Executive Member for Community Development, Leisure and Culture submitted a report seeking endorsement of a preferred bidder and the award of a ten year contract for the management of the five pools and gym based facilities and that the management of Castle Hall be retained in house at this time.

The Executive noted that tenders for the management of its three facilities had been divided into three lots: Lot 1 – the two Council owned pool, gym and outdoor facilities at Grange Paddocks and Hartham, Lot 2 – the three joint-use school facilities; and Lot 3 – Castle Hall, arts, entertainment and community facility.

The Executive noted that the tendering procedure had been

undertaken in line with European Union (EU) Procurement Legislation. Of the six expressions of interest, tenders were received from three organisations:

The Borough of Broxbourne (Lot 3)

Sports and Leisure Management Limited (Lots 1 and 2)

Stevenage Leisure Limited (Lots 1 and 2).

In relation to the bid for Lot 3 (Castle Hall), the Procurement Team was of the view that the bid did not demonstrate sufficient qualitative or financial benefit to the Council to warrant recommendation. A new Castle Hall Way Forward Group had been established to ensure that the facility continued to develop. For this reason, it was recommended that the management of the Council's arts, entertainment and community facility at Castle Hall be retained in house at this time.

In relation to a query concerning Castle Hall, the Executive Member for Planning Policy and Transport was advised that the Way Forward Group was working with a number of individuals to explore what could be achieved for Castle Hall. There was a need to be innovative and to develop Castle Hall in partnership with other cultural providers.

The Executive noted the tender evaluation and submission process. Details of the tenders and the overall assessment analysis were attached at Appendices A, Ai and B to the report. The report provided clarification as an aid to understanding the choices made or recommended on a number of issues. These related to:

- Current arrangements
- Challenging and comparing the bids
- Joint use facilities

- Potential capital investment
- Utilities
- Pensions

The Executive noted that in analysing the current arrangements, comparing the bids and the issues surrounding the joint use facilities, the recommended bid significantly reduced the contract revenue cost of the facilities to the Council.

The Executive noted that, given the fact that utilities' costs had risen dramatically over recent years, the tender had been modelled so that the contractor would bear the risk of utilities usage whilst the risk relating to tariff would be borne by the Council.

The Executive noted that as part of the bidding process, tenderers were required to provide variant bids as to how the revenue position could be improved, including how the Council's £3.8m earmarked capital investment might be used to improve facilities. Following an analysis of the bids, there was a good case for investing the resources with the Contractor once appointed, to work up detailed business cases for investments for submission to the Executive at the earliest opportunity.

The Executive considered the potential Local Government Pension Scheme (LGPS) pension liabilities attached to this contract. It agreed that transferring the risk relating to the market value of the pension fund at the end of a 10 year contract (the current industry standard), was not considered good value. The Executive therefore, felt that this element of risk should stay with the Council.

In response to a query by Councillor A M Graham on the scoring process, the Director of Customer and Community Services explained how this process worked.

Councillor J O Ranger queried the joint use pools and the

60 year contract and of the need for the winning bidder to be flexible. He commented that clarity was needed in terms of how many hours the public and schools had access to the pools. In response, the Executive Member for Community Development, Leisure and Culture explained that Bidder A was aware of the difficulties in relation to the joint use of pools and had experience of working with many joint use pools across the country. The Director of Customer and Community Services suggested that closer relationships needed to be developed with schools and their boards to see how better use might be made of the facilities.

The Leader commented that the tenderers were aware that it was the wish of the Council that the joint use pools should be cost neutral.

Councillor N P Clark asked whether the papers now before the Executive had been scrutinised before being submitted to the Executive. He asked what risk was being transferred from the Council to the Contractor. He commented that he could see no benefits to residents by transferring out. He asked why the Council was giving up the management of the pools and what benefit would accrue. He queried the scores and asked why they differed from the previous tendering exercise in 2005.

In response, the Executive Member commented that the Council was not going to “micro manage” the contract. The tenderers were aware of the parameters set. The Director of Customer and Community Services explained that the scoring criteria, the make up of the total score and the individuals undertaking the marking and moderation were all different from the first exercise. It would be expected that the scores would differ from a previous exercise.

The Director of Customer of Community Services said that an important benefit to residents was that risks relating to income generation and control of expenditure would be transferred to the contractor. Councillor N P Clark asked whether the Council would benefit if utilities went down in cost. The Leader explained that there was a provision, in



the contract, for profit share.

Councillor D Clark queried the “robustness” of the market research and commented that the Council could not challenge this if no market research had been undertaken. In response, the Leader explained that the Council had had the benefit of the assistance of external consultants who were experts in this field. The Director explained that the tenderers had carried out their own market research. The tenderers then made a series of assumptions which informed their calculation of their respective bids. Their assumptions and their figures were rigorously challenged by Officers, assisted by the external specialist procurement consultant. Bidders had been given ample time and opportunity to consider and reflect upon those challenges prior to submitting their best and final offers.

The Leader commented that the tender process had been rigorous and had been through scrutiny. He commented that the Council did not have a “crystal ball” and had to make judgements. He commented that the Executive Member had worked closely with Officers and other professionals to ensure that the process was rigorous.

The Executive Member commented that she had spent a lot of time with Officers, questioning and probing why and what they felt it possible to achieve in contract terms. She was happy that the Officers had conducted themselves professionally and had undertaken a thorough and robust tender process.

Councillor D Clark was provided with further clarification on the quality scoring.

At this point, the press and public were excluded from the meeting in order that Members could discuss matters that had been defined as exempt.

Councillor R Gilbert referred to the exempt Appendix and questioned how Bidder A could provide the service at a lower cost. He queried whether new people would be included in the Local Government Pension Scheme. The

Executive Member commented that there were no additional costs to the Council unless the pension scheme was re-valued. Similarly, if the tenderer asked a Member of staff to take early retirement, these costs would be borne by the Contractor. New staff could join a pension scheme established by the Contractor.

Councillor R Gilbert queried how much cheaper the service would run. The Executive Member explained what the first year savings would be.

Councillor N P Clark referred to the Appendix containing exempt information and queried the costs for January, February and March 2009. He commented that based on those figures, Bidder B looked cheaper for Lot 1 when utility fees were excluded. He queried the robustness of the figures presented in relation to running costs of Fanshawe and Leventhorpe pools.

In response, the Director provided a summary of Bidder A's background. The bidder was confident that they could deliver the programme as set out in the Appendix now submitted. He commented on their successful marketing programmes elsewhere and opportunities they had had to reconsider the figures presented. During tender discussions they had been encouraged to check and recheck their assumptions and figures with colleagues. The Director was aware of Members' experience with a former Contractor and believed that the Council had taken all appropriate steps to manage the risks which were inherent in any procurement process.

The Director commented that Bidder A had been in existence as a leisure contractor for over 20 years and operated 13 joint use facilities around the country. They were a large organisation, successfully managing over 50 facilities for a number of other Authorities and were well regarded by the external consultants. Both formal checking of references and informal enquiries with other users indicated that Bidder A had a good track record, delivering the services they said they would for the price they had agreed.

Councillor N P Clark queried how they could deliver running Leventhorpe pool for the sum set out in the exempt Appendix.

Councillor J O Ranger questioned whether due diligence had been carried out in relation to staffing costs and referred to issues with the former contractor on salary costs. The Director explained that Bidder A had stated in their bid that new staff would be paid the same scales as existing staff.

Councillor M Wood commented on Unison's wish to be involved in discussions with the tender negotiations. In response the Director said that he had passed on a number of written questions from Unison to the bidders. The bidders both had advised in their bids that they would comply with TUPE requirements.

Councillor N P Clark queried whether there were any additional costs which might be incurred in closing the current contract. In response, the Director commented that no transfer costs were expected, but that costs might accrue should the Council wish to transfer the contract ahead of schedule. Any payment that might then be negotiated could well be offset by savings.

The Executive noted the role played by Community Scrutiny Committee in providing a useful challenge to the Leisure Contract procedure and asked that their thanks be sent to Members of that Committee.

At this point, the press and public were invited back into the meeting. The Executive supported the recommendations as now detailed.

RESOLVED - that (A) one ten year contract for the management of both the Council owned pool, gym and outdoor facilities at Grange Paddocks and Hartham (Lot 1) and the three joint-use school facilities at Fanshawe, Leventhorpe and Ward Freman (Lot 2) be awarded to Bidder A - Sports and Leisure Management Limited;

DCCS

(B) the management of the Council’s arts, entertainment and community facility at Castle Hall, be retained in-house for the present time, for the reasons outlined in the report now detailed; DCCS

(C) the retention by the Council of the risks relating to utilities and pensions as set out in paragraphs 4.9 and 4.10 of the report now detailed be endorsed; DCCS

(D) Officers be requested to submit to the Executive, worked up business case proposals for capital investment in the Council owned facilities at the earliest opportunity, such proposals to show clearly how the investment could further improve the Council’s net revenue position; and DCCS

(E) Community Scrutiny Committee be thanked for the most useful challenge it has been able to provide to the process. DCCS

The meeting closed at 8.10 pm

Chairman	.....
Date	.....