

THE OVERVIEW AND SCRUTINY COMMITTEE17 February 2014RIVER PARK LEISURE CENTRE: PUBLIC REQUEST FOR AN INVESTIGATION INTO CONTRACTUAL MATTERSREPORT OF CHIEF EXECUTIVEContact Officer: Simon Eden Tel No: seden@winchester.gov.uk 01962 848313RECENT REFERENCES:

CAB 2553 – River Park Leisure Replacement Options – 12 February 2014

Minutes of The Overview & Scrutiny Committee – 20 January 2014

EXECUTIVE SUMMARY:

At the previous meeting of the Committee a member of the public, Mr Martin Wilson, spoke to request the Committee conduct an investigation into various matters concerning the contract between the City Council and DC Leisure for the operation of River Park Leisure Centre.

This report is not intended to be the investigation Mr Wilson seeks. Rather, it summarises the relevant reports which relate to the matters raised and suggests next steps.

RECOMMENDATIONS:

That the Committee:

- 1 Note Mr Wilson's representation and the background reports which deal with decisions on the matters raised, and
- 2 Agree that a full review of the matters raised be deferred until the Council has been informed of the outcome of Mr Wilson's representations to the Council's Auditors.

THE OVERVIEW AND SCRUTINY COMMITTEE

17 February 2014

RIVER PARK LEISURE CENTRE: PUBLIC REQUEST FOR AN INVESTIGATION INTO CONTRACTUAL MATTERS

REPORT OF CHIEF EXECUTIVE

DETAIL:

1 Introduction

- 1.1 At the last meeting of the Committee a member of the public, Mr Martin Wilson, spoke to request the Committee conduct an investigation into various matters concerning the contract between the City Council and DC Leisure for the operation of River Park Leisure Centre. The Minutes of that meeting, elsewhere on today's agenda, record his appearance, and the text of his representation is attached at Appendix A.
- 1.2 Some of the matters raised by Mr Wilson relate to the decision taken in 2009 to extend the contract the City Council hold with DC Leisure for the management of the River Park Leisure Centre, and Members will note that section 3 of CAB 2553 River Park Leisure Centre Replacement Options, elsewhere on today's agenda, also refers to that matter.
- 1.3 Members will also wish to note that a number of Freedom of Information requests which relate to correspondence and exempt appendices of Cabinet reports on the matters raised have been received. These have either been responded to or are under consideration.

2 The Matters Raised

- 2.1 As Members will see, Mr Wilson's presentation raised a number of matters to do with Council decisions stretching back to 2005. As a first step, this report draws attention to the Cabinet reports which relate to those decisions, although it is likely that an investigation would not limit itself to consideration of those reports.
- 2.2 Members will note that what follows is not meant to be a full summary of the matters raised, rather it is intended to provide references for decisions pertinent to those matters. Any summary of Mr Wilson's position is my summary, and aims simply to give an indication of concerns. Any future investigation would of course consider the full detail of matters raised.
- 2.3 The first matter is the decision taken in 2005 to refurbish River Park, and to compensate DC Leisure for income lost during that closure. Those decisions were taken by Cabinet in October and December 2005, CAB 1004 and CAB 1112 refer. These reports are available on the website or, with exempt

appendices, through the intranet. Democratic Services can provide hard copies to Members if required. In summary, Mr Wilson has asked whether the arrangements made were consistent with the contract the Council held with DC Leisure and whether they offered value for money.

- 2.4 The second matter concerns the decision taken by Cabinet in 2009 to extend the contract with DC Leisure to March 2023. In this case CAB 1801 and CAB 1861 were before Cabinet to inform that decision. Again in summary Mr Wilson is asking why no formal procurement process was undertaken and whether the arrangement offered value for money, both matters addressed in those reports. He has also asked that the correspondence between the Council and DC Leisure which led to that decision be considered.
- 2.5 Also relevant are later reports to Cabinet concerning the refurbishment process (CAB 1965 and CAB 1999, both from 2010) and CAB 2047 (September 2010) on the terms of the contract with DC Leisure.

3 Next Steps

- 3.1 As Mr Wilson noted in his representation, he has also approached the City Council's Auditors, Ernst & Young. The Auditors are aware of the matter, and Officers recommend that the Committee should not itself review the matter more fully or consider instigating an investigation until we have heard their response. Officers will update the meeting, having discussed with our Auditors, to see if more clarity can be offered on their position.
- 3.2 In the meantime, this report does not include full copies of the reports listed above. Instead, those immediately relevant to the decisions in question have been highlighted so that Members may, if they wish, review them. The Committee should note that a number include exempt appendices, and the status of those appendices will need to be reviewed as an investigation proceeds.

OTHER CONSIDERATIONS:

4 SUSTAINABLE COMMUNITY STRATEGY AND PORTFOLIO PLANS (RELEVANCE TO):

- 4.1 The Council seeks to be efficient and effective in the conduct of business, and aims to work to the highest standards of integrity. Given that, Mr Wilson's representations merit a response.

5 RESOURCE IMPLICATIONS:

- 5.1 An investigation will require staff time. Any work undertaken by our Auditors is likely to incur a fee payable by the Council.

6 RISK MANAGEMENT ISSUES

- 6.1 The City Council seeks to ensure all decisions take full account of value for money and reflect legal advice, and that we conduct ourselves with full regard to the need for transparency. In the light of Mr Wilson's comments, and taking account of any comments the Auditor may make, the Committee may consider further review appropriate.

BACKGROUND DOCUMENTS:

Open reports referred to in this report are available on the Council's website.

APPENDICES:

Appendix 1 – copy of Mr Martin Wilson's representations to The Overview & Scrutiny Committee (20 January 2014)

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Appendix 1

Presentation to Overview & Scrutiny Committee: Monday 20th January 2014

Martin Wilson

Cllr Pines, Chair, and committee members

My name is Martin Wilson, I am a resident of Winchester and member of the electorate.

I would like to report what may amount to potential maladministration at Winchester City Council in relation to River Park Leisure Centre.

In making this report I would like to request that the Overview and Scrutiny Committee undertakes a full investigation of the issues raised, as is the duty provided by your mandate.

I first wrote to Cllr Pines to report serious concerns relating specifically to River Park Leisure Centre on 21 October 2013. His response was to ask for "chapter and verse".

The seriousness and significance of the matters that we have uncovered, and continue to uncover, I believe have the potential to warrant specific investigation under the considerations of regularity, propriety and use of resources.

As I have suggested, there are real concerns of serious maladministration.

The activities complained of are highly irregular and could be considered negligent. In relation to River Park Leisure Centre, these concerns go back to at least 2005 and possibly earlier. For instance:

- Why was a 12 year contract with significant penal clauses entered into when it was general knowledge that the building was falling down?
- Why was there inappropriate correspondence between DC Leisure and Council Officers prior to the award of the contract, suggesting how to avoid a tender?
- Why was that contract not put out for tender when the terms are materially different to anything that existed before?
- Why was an additional 3.25 year extension agreed in 2005 to compensate for 3 months of building disruption when the council was not obliged to provide any compensation?

It appears that a number of officers may have materially failed in their duties and that they may have acted in a way that falls short of their positions as directors. The arrangements that been put in place are believed to have: potentially defrauded the Winchester City Council and therefore Winchester taxpayers of significant amounts of money - running into several millions of pounds; or knowingly committed WCC to a position that is to the benefit of individual organisations but to the detriment of the taxpayer in that it severely impacts on the Council's ability to use resources effectively in the future. This would likely make them contrary to law.

As I am sure that you will understand there is a significant wider public interest in this matter. I therefore believe that it is firmly in the public interest to have this matter investigated under your specific powers as is required under the terms of your mandate.

Such is the potential seriousness that this matter has also been referred to the District Auditor for review.

My question in making this report of maladministration is therefore: **is this Committee prepared to act in accordance with the duty imposed on it by its mandate by undertaking a full investigation of the issues raised?**

- END -