

CABINET

Wednesday, 22 July 2020

Attendance:

Councillor Thompson (Chairperson)	– Leader and Cabinet Member for Communications
Councillor Cutler (Vice-Chair)	– Deputy Leader and Cabinet Member for Finance and Risk
Councillor Ferguson	– Cabinet Member for Local Economy and Climate Emergency
Councillor Learney	– Cabinet Member for Housing and Asset Management
Councillor Porter	– Cabinet Member for Built Environment and Wellbeing
Councillor Prince	– Cabinet Member for Sport, Leisure and Communities
Councillor Tod	– Cabinet Member for Service Quality and Transformation

Others in attendance who addressed the meeting:

Councillors Gottlieb, Horrill, Lumby, Pearson and Read

Others in attendance who did not address the meeting:

Councillors Brook and Clear

Audio recording of the meeting

A full audio recording of this meeting is available via this link:

[Full audio recording](#)

1. **MEMBERSHIP OF CABINET BODIES ETC.**

There were no changes to memberships of Cabinet bodies to be made.

2. **DISCLOSURE OF INTERESTS**

Councillors Tod declared a personal (but not prejudicial) interest in respect of report CAB3251 due to his role as a County Councillor.

3. **MINUTES OF THE PREVIOUS MEETING HELD ON 24 JUNE 2020, LESS EXEMPT MINUTE.**

RESOLVED:

That the minutes of the previous meeting held on 24 June 2020, less exempt minute, be agreed as a correct record.

4. **PUBLIC PARTICIPATION**

Emma Back (Winchester Sport, Art & Leisure Trust) spoke during public participation regarding Report CAB3249 as summarised below.

In general, supported the proposed approach for the reopening of River Park Leisure Centre (RPLC) under the new operator Everyone Active (EA). Emphasised the importance of small clubs and groups in ensuring the future success of the leisure centre and offered to help EA identify such groups. Requested that the Council ensure Places for People were held to account for any outstanding maintenance charges for RPLC. Raised a number of specific questions regarding the financial information which she had submitted prior to the meeting for Officers' response, including a request that the contract specification for RPLC be made public as soon as possible.

Due to technical difficulties, Emma Street (Winchester Cycling) was unable to speak at the meeting but her statement was subsequently circulated to all cabinet members.

5. **LEADER AND CABINET MEMBERS' ANNOUNCEMENTS**

There were no announcements made.

6. **NITRATE NEUTRALITY - UPDATE** (CAB3250)

Councillor Porter introduced the report which provided an update on the Council's position regarding nitrate neutrality since the previous report in January 2020. The primary recommendation would enable off site financial contributions from developers to assist where it was not practical to provide on-site mitigation.

At the invitation of the Leader, Councillor Pearson addressed Cabinet as summarised briefly below:

Highlighted that it was a complicated issue with causes of nitrate pollution coming from many sources, both historic and ongoing. Emphasised that the costs of achieving nitrate neutrality could significantly impact on the viability of affordable housing. Believed that the Council should work together with a number of stakeholders, including Southern Water and the Partnership for South Hampshire (PfSH) to seek solutions to overcome the issue, including seeking the upgrade of sewage treatment.

Councillors Porter and Cutler responded to comments made, including emphasising that the Council were working with other organisations, such as Natural England and PfSH. The importance of lobbying to improve the levels of nitrates entering the sewage system was also highlighted. Councillor Learney noted comments regarding affordable housing and stated that mitigation proposals were already underway.

Cabinet agreed the following for the reasons set out above and outlined in the report.

RESOLVED:

1. That the current position in relation to nitrates be noted and the proposal to collect off-site financial contributions (by S106 obligation) towards mitigation solutions which will be delivered either by the City Council or in partnership with another agency (to start with immediate effect) be agreed.
2. That Cabinet confirms its support for proposals by the Partnership for South Hampshire to address nitrates issues (see paragraphs 11.11-11.12 of the report).
3. That a further report be brought to Cabinet in twelve months up-dating progress made on the nitrate neutrality issue.
4. That the Council pursues the issuing of Environment Agency permit limits on Southern Water Treatment sites in the district.

7. **WASTE CONTRACT EXTENSION** (CAB3251)

Councillor Tod introduced the report and explained that the extension to the contract was required due to the delay in delivery of new vehicles required under the contract which had been caused by the impact of COVID-19.

At the invitation of the Leader, Councillors Read, Pearson and Horrill addressed Cabinet as summarised briefly below.

Councillor Read

Highlighted that the Cabinet had considered a report regarding charging for garden waste collection at its previous meeting on 9 July 2020 and queried why the £150k savings had not been included within this earlier report.

Councillor Pearson

Referenced paragraph 2.2 of the report and requested further details about how the £150k would be allocated.

Councillor Horrill

Suggested that it would be preferable for the £150k savings to be included within the wider review of the Council budget due to the impact of COVID-19 rather than allocated to the garden waste service.

Councillors Tod and Cutler responded to comments made, including highlighting that the previous report to Cabinet on 9 July (report CAB3234 refers) had stated that expenditure would be required on marketing and other associated costs of introducing garden waste charges to achieve the required take up of the service. A reserve of £250k had been allocated for this purpose and the £150k savings would be utilised to reduce this.

Cabinet agreed the following for the reasons set out above and outlined in the report.

RESOLVED:

1. That an exemption to contract procedure rules (CPR) be approved in accordance with paragraph 41 of the CPR in the council's constitution.
2. That an extension of the existing waste contract with BIFFA until 31st January 2021 be approved due to supply chain delays in provision of new vehicles due to Covid 19.
3. That authority be delegated to the Strategic Director (Services), in consultation with the Cabinet Member for Service Quality and Transformation and the Service Lead – Legal, to negotiate, prepare and enter into final documentation to complete the extension and later commencement date of the new contract.
4. That £150,000 of the savings resulting from this decision be used to further support the implementation of the improved Garden Waste service.

8. **LEISURE CENTRE UPDATE - IMPACT OF COVID-19 (LESS EXEMPT APPENDICES)**
(CAB3249)

Councillor Prince introduced the report emphasising the significant impact of the enforced closure of centres due to the COVID-19 pandemic on both finances and the health and wellbeing of the community. The new centre remained on track to open in the spring of 2021 with Everyone Active as the operator. The report proposed that the existing contracts with Places Leisure for both River Park Leisure Centre (RPLC) and Meadowside be terminated and that Everyone Active be appointed as the interim operator of both.

The Strategic Director: Place and Service Lead: Legal provided further explanation of the report's proposals, including explaining that an open book approach was proposed with Everyone Active for the interim operation of the centres. The costs outlined in paragraph 2.6 of the report consisted of the costs accrued over the closure period, hibernation costs, and did not include any compensation to Places Leisure for lost income or profit. As owner of the buildings, the Council was obliged to comply with various statutory requirements and government guidance even when the centres were closed. The figures include reflection of agreed provisions under the deed of variation, statutory and government guidance and associated budget provision, previously agreed with Places Leisure for early termination of the operator contract for RPLC (report CAB3037 refers).

The Head of Programme responded to each of the points made by Emma Back during public participation including welcoming the offer from Winchester SALT to help identify and communicate with local groups. The Corporate Head of

Resources (Interim) confirmed that the operator estimates had been scrutinised in great detail and the estimated net cost was as set out in paragraph 2.6 a) – d), correcting the totalled figure in the report to £1.128m.

At the invitation of the Leader, Councillors Lumby and Gottlieb addressed Cabinet as summarised briefly below.

Councillor Lumby

In general, welcomed proposals to reopen the two centres as soon as possible. Queried whether consultation had been undertaken to ascertain which facilities people would want to see reopened first? Asked whether the underwrite offer to Everyone Active was capped? Questioned whether the payment to Places Leisure was justified given the state of the RPLC building. Would the maintenance works at Meadowside be completed by the proposed reopening date and some further comments regarding the whether it was necessary for the contract for Meadowside to be transferred for such a short term period.

Councillor Gottlieb

In general, supported the proposals to pursue option C as outlined in the report. However, queried whether there was adequate oversight of the levels of payment to the new operator for continued operation of RPLC. Also, raised a number of questions regarding the proposed payment to Places Leisure, making reference to the history of the council's contract with the operator and whether the council had adequately enforced repair obligations regarding the RPLC building. He believed that before a decision was taken, all councillors should be provided a forum to properly scrutinise the legal background and financial justification for the proposed termination payment.

The Strategic Director: Place and the Service Lead: Legal responded to comments made, including reiterating assurances that legal and finance officers, together with external consultants, had carefully scrutinised the proposed settlement for the termination of the contract with Places Leisure. The Strategic Director acknowledged that there were risks involved, particularly regarding the uncertainty over the implications of COVID-19, but negotiations had been undertaken to achieve the best possible solution for both the council and the wider community. The Head of Programme also confirmed that timings and process of the tendering for the Meadowside centre had been given careful consideration with the preferred proposal as set out in the report.

Cabinet then moved into exempt session to discuss the information contained in the exempt appendix before returning to the open session as detailed below.

The Leader commented that there was a public expectation that leisure centres would reopen and the proposals allowed this, whilst also assisting with the smooth transfer between previous and new leisure centre operator. She concurred with the wish that the centres reopen as soon as possible, but the various measures that were required prior to this happening meant that 1 September 2020 was the earliest practical date possible.

Cabinet agreed the following for the reasons set out above and outlined in the report.

RESOLVED:

1. That the termination of the existing operator management contract with Places for People Leisure Management Ltd (Places Leisure) for River Park and Meadowside Leisure Centres be approved due to circumstances related to the COVID-19 emergency from 31 August 2020 based on the heads of terms set out in exempt appendix 3 of report CAB3249.

2. That the budget of up to £345,000 expenditure associated with the leisure centre contract termination be approved, which includes maintaining the River Park and Meadowside Leisure Centres during the closure period and up until 31 August 2020.

3. That authority be delegated to the Strategic Director – Place in consultation with the Cabinet Member for Sport, Leisure and Communities and Deputy Leader and Cabinet Member for Finance and Risk, final negotiation of a settlement agreement based on the heads of terms in exempt appendix 3 of report CAB3249 and the Service Lead Legal to prepare, agree and enter into the relevant contractual arrangements to terminate the operator contract with Places for People Leisure Management Ltd and associated agreements such as any lease and/or licence or transfer or novation arrangements.

4. That the interim appointment of Sports and Leisure Management Ltd (Everyone Active) as operator of River Park and Meadowside Leisure Centres from 1 September 2020 be approved, based on the heads of terms in exempt appendix 2 of report CAB3249 until the procurement of a new operator in Meadowside Leisure Centre and the transition of operation from River Park Leisure Centre to the new Winchester Sport and Leisure Park.

5. That authority be delegated to the Strategic Director – Place in consultation with the Cabinet Member for Sport, Leisure and Communities and Deputy Leader and Cabinet Member for Finance and Risk, the finalisation of interim contract terms with Sports and Leisure Management Ltd (Everyone Active) based on the draft Heads of Term in exempt appendix 2 and the specification set out in exempt appendix 4 of report CAB3249 and the Service Lead Legal to prepare and enter into the relevant contractual arrangements for an interim operator contract with Sports and Leisure Management Ltd (Everyone Active) as necessary until permanent arrangements are put in place, inclusive of associated agreements such as temporary lease and/ or any licence or transfer or novation arrangements.

6. That a budget of up to £790,000 for the management and operational expenditure be approved to enable the opening River Park and Meadowside Leisure Centres in September 2020 until the

procurement of a new operator in the Meadowside Leisure Centre and the transition of operation from River Park Leisure Centre to the new Winchester Sport and Leisure Park.

7. That authority be delegated to the Strategic Director Places and the Service Lead Legal authority to use the negotiated procedure without prior publication process under s32 (2) (c) of the Public Contract Regulations 2015 for the appointment a new operator until the procurement of an operator for Meadowside Leisure Centre and the transition of operation from River Park Leisure Centre to the new Winchester Sport and Leisure Park and to issue a VEAT notice notifying of a direct award of an interim contract on the basis of urgency.

9. **EXEMPT BUSINESS:**

RESOLVED:

1. That in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

2. That the public be excluded from the meeting during the consideration of the following items of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
12	Leisure Centre Update – Impact of COVID-19 (exempt appendices)) Information relating to the financial or business affairs of any particular person (including the authority holding that information). (Para 3 Schedule 12A refers)

10. **EXEMPT MINUTE OF THE PREVIOUS MEETING HELD ON 24 JUNE 2020**

RESOLVED:

That the exempt minute of the previous meeting held 24 June 2020 be agreed as a correct record.

11. **LEISURE CENTRE UPDATE - IMPACT OF COVID-19 (EXEMPT APPENDICES)**
(CAB3249)

Cabinet considered the exempt appendices which contained a financial analysis, draft heads of terms and the interim contract specification (detail in exempt minute) before returning to the open session of the meeting to consider the report's recommendations, as set out in the minute above.

The meeting commenced at 9.30 am and concluded at 11.25 am

Chairperson