

**Extract from the Cabinet minutes – 3 April 2013**

**83. EVALUATION OF FINAL TENDERS TO PROVIDE PARKS AND OPEN SPACES, STREET CLEANSING AND WASTE AND RECYCLING**

Cabinet received a report setting out the evaluation process used to assess bids and recommending a company to be selected as Preferred Bidder for the provision of Parks and Open Spaces, Street Cleansing and Waste and Recycling services. In addition, the report sought approval to commit some council resources to support the mobilisation period of the service redesign.

Cabinet also considered a Part B report covering the tender evaluation including financial information (minute number 85).

The Mayor introduced the item explaining that following a large amount of correspondence, many meetings and the need for further reassurance following the Cabinet meeting in December she now felt more comfortable with the recommendations being made. She asked Cabinet to note the two separate issues to consider; the outsourcing of the service and the awarding of the contract to Veolia in light of the petition put to the Council in March.

She invited the Executive Director, Services, to introduce the report and explain the process that had been followed.

The Executive Director said that, following the Cabinet meeting in December, further work had been done to ensure the in-house benchmark was deliverable. This included meetings with Unison on the staffing reductions and changes to working arrangements which would have been necessary to achieve the higher level of savings required. The level of savings achievable through outsourcing was, however, three times greater than those which could have been achieved in-house.

She took Members through the evaluation of the submissions and it was noted that both bidders had been very close in terms of costs and had exceeded the technical requirements to deliver the service. Other benefits included additional Green Flags, opportunities to enter Britain in Bloom, an apprenticeship scheme and improved training and development opportunities for staff.

She referred Members to paragraph 3.4 of the report which addressed the concerns expressed about outsourcing the service and included a series of questions and answers. She advised that the contract would be looked after by the Veolia London Team and that they currently ran over twenty contracts in and around London. Excellent references had been obtained in all areas including flexibility, health and safety and relationships with the public and staff. There had, in fact, been hardly any negative feedback.

She concluded by offering her personal thanks to the staff who had worked hard on the in-house benchmarking and had continued to deliver and support each other despite the uncertainty. She said that this was to their credit and both Veolia and Enterprise had expressed their confidence in the staff.

The Mayor then spoke about the petition to Council and the concerns expressed by the petitioners regarding the activities of one of the Veolia entities in the Occupied

Territories. A meeting had since taken place with the Lead Petitioner and she accepted that this was a matter on which it was very difficult to agree. She stressed the need to ensure that the Council operated correctly and legally and to this end Counsel's opinion had been sought to clarify the position. She invited the Legal & Democratic Section Head to read out a summary of the advice received. It was quite clear from the advice received that it would be illegal for the Council to exclude Veolia on these grounds.

Councillor Scudder spoke about the lengthy process which had been undertaken to ensure that this most difficult of decisions was right for the Council. It had included visits to other authorities with lots of information being gathered. He explained that the two main drivers for the decision were to save money because of reduced budgets and the need to change the recycling service to remove cardboard. He added that the Council had been fortunate in being awarded £2.5m from the DCLG towards collections.

He went to specifically address the key concerns which had been raised in respect of the outsourcing option:

**Flexibility** – A number of other authorities had been visited and all had said that both Enterprise and Veolia were very flexible and appreciated the pressures councils were currently under.

**Costs** – The costs savings offered by both Veolia and Enterprise were significantly higher than could be achieved in-house.

**Quality** – Having spoken to other councils there was no doubt that quality would be maintained and in some areas, enhanced.

**Staff impact** – Both companies had offered reassurance that the staff would have protection in terms of salary, pension etc. There were many examples of staff in other authorities who were still on their protected terms and conditions many years on.

Evaluation showed that the two companies – Veolia and Enterprise – had been very close and the final decision had been based on costs and the fact that Veolia's waste collection methodology had little risk and Veolia was well-prepared for mobilisation. The costs submitted by the two companies had been very close which was quite reassuring.

Councillor Bell (Labour) said that it was a difficult time for staff. He noted Councillor Scudder's responses to the concerns which had previously been expressed about the outsourcing option especially with regard to quality and flexibility. He added that he was concerned about quality being maintained and advised that in Lambeth satisfaction levels were lower than in Watford. He also referred to Three Rivers D.C. where the outsourced service had subsequently been brought back in-house incurring further costs and to a number of authorities where Veolia had pulled out of the bidding for no reason or had lost the contract.

In his view, staff were more committed to working for a local authority and there were also fewer opportunities to hold a private company to account. He asked whether there was ever really a chance for the in-house bid to be accepted. He also advised

that Enterprise was currently going through a buy-out which could make them a stronger proposition than Veolia.

Councillor Bell referred to the latest edition of "About Watford" which featured the bin collection service but made no mention of the fact that the service was likely to be outsourced. He commented that there did not appear to have been much public consultation on the option.

He did not consider that comparisons with Lambeth and Westminster were relevant as the contracts had been in operation for a very long time in these authorities. He concluded by saying that he hoped the Mayor would push for the "living wage" to be applied.

The Mayor referred the councillor back to the response she had given at the recent Council meeting regarding the living wage. No employees of the Council were paid below the London standard living wage. Staff would be transferred in accordance with TUPE thus maintaining their terms and conditions of employment.

With regard to the councillor's point about consultation, she said she was not aware of any council consulting local residents on this kind of issue. Her hope was that the transition would be seamless and residents would not notice the difference. She added, however, that the Citizens' Panel had been consulted and, as would be expected, the results had been split. The reality was that, in the 21<sup>st</sup> century, most councils outsourced some of their services.

The Executive Director responded to the councillor's point about the Lambeth satisfaction scores and said that London scores were likely to be lower but that the Lambeth scores were still 4% above the London average.

With regard to accountability, she stressed that the contract was very robust and included penalty points for non-compliance which translated into fines or ultimately the termination of the contract. It was not, however, an adversarial contract but did include the necessary checks and balances.

In terms of the in-house benchmark, she explained that the staff had done a lot of work on how savings could be made and many options had been considered. The fact was that economies of scale made it difficult to compete with large private companies in terms of savings.

She was aware of the Enterprise buy-out and whilst this could be an advantage there were also unknown risks.

She was also aware that Veolia had pulled out of some bidding and whilst she did not know why, she did know that the company was quite particular about which contracts it took on and if asked would probably only give a fairly anodyne response. Veolia was one of the largest providers and it was useful to look at places where they had been in operation for a long time to understand the way they developed their partnership approach.

The Mayor commented that it had always been made clear that status quo was not an option and re-iterated the process undertaken in respect of the in-house

benchmark including the work done since the Cabinet decision in December and the fact that the intention had always been to keep an open mind.

In response to questions from Councillor Turmaine (Labour) the Executive Director outlined the different penalty clauses (over 70) and also explained that, whilst additional services were an option under the contract, they were not being taken up at this stage.

The Managing Director added that, with regard to monitoring the contract, there would be a strategic overview through the Partnership Board to ensure a high quality service, standards were met and views fed in.

Councillor Khan (Labour) referred to the legal advice obtained regarding excluding Veolia and asked whether a different decision from the recommendation could still be taken. He also considered that the link with Parks and Open Spaces was quite a strange one and asked whether other options had been considered.

The Mayor disagreed and said that many authorities linked these particular services. With regard to the councillor's point about going against officers' recommendations, the Legal & Democratic Section Head advised that this was possible as long as there was good reason. Counsel had been quite clear that Veolia could not be legally excluded on the grounds referred to in the petition to Council.

Councillor Sharpe endorsed this view and said that if there were other grounds for excluding a particular company which were considered acceptable within the procurement process then a different decision could be made. That was not the case with Veolia.

The Mayor commented that it was a difficult issue and it was helpful to have the legal advice to ensure that the decision was being made on appropriate grounds.

Councillor Connal (Labour) asked for reassurance that the Veolia entity in the UK was not part of the entity operating in the occupied territories. The Legal & Democratic Section Head responded that a different legal entity did have a 5% interest and referred the councillor to his earlier statement. The Council had to operate within a legal framework and a bid submitted by a separate entity had to be treated separately.

Councillor Dhindsa (Labour) asked a number of questions relating to what would happen to the Council's assets if the contract did not work out; what would happen about the collection of bulky waste; the risk that the savings identified over the next few years would be at the expense of staff redundancies and concerns over financial, health and safety and ethical issues.

The Executive Director responded to the councillor's points:

Assets would remain the property of the Council and leased to the company on a full repair and maintenance lease following a survey at contract beginning and end; bulky waste collection would continue and any changes to charges would be subject to discussion; the situation with regard to savings and redundancies would have been much the same if the contract had been awarded in house and Unison had a national agreement with Veolia; financial, environmental and other issues were covered in

the report and in terms of health and safety, the percentage of incidents report by Veolia under RIDDOR was actually considerably lower than for Watford.

Councillor Crout referred back to Councillor Khan's point about the inclusion of Parks and Open Spaces. He spoke about Veolia's established track record including the prestigious Regent's Park in London. They were a company who wanted to work with the Council and understood its commitment. They also responded to emerging issues as demonstrated by the aim to obtain two more Green Flags, enter Britain in Bloom and their apprentice scheme. They offered technical and management courses which had been rated as exceptional. Whist he admitted to having had reservations in the first instance he was now confident that it was the right course of action and that it would provide an exciting opportunity for staff to develop.

Councillor Watkin added that he had visited Solihull where Enterprise operated and was struck by the feeling of camaraderie between the contractors and the council's staff which he understood was replicated at Lambeth.

Councillor Sharpe commented that the Council had been well-served in the past and that there had been step improvements year on year. It was necessary to balance costs with quality and consider what was the best way to provide a good service to the people of Watford. He could, however, understand the concern and trepidation being felt by staff at this point in time.

The Mayor concluded the debate by saying that it was now important to get Veolia to work with staff towards eliminating those fears and uncertainty. She understood the concerns of staff but they would be protected and it could ultimately be a good opportunity for them. She added that if it had not been possible to make savings using this route they would have had to have been made through cuts elsewhere. She had not been prepared to reduce the level of Council services just to keep the service in house.

She thanked the Executive Director and all the staff for the incredible amount of work that had gone into the process and reminded Members that there would be a quarterly Partnership Board meeting to oversee the contract and the usual scrutiny process would also apply.

## RESOLVED

that, subject to consideration of the Part B report on the tender evaluation and the financial information (minute number 85) Cabinet agrees:

1. to award Veolia Environmental Services preferred bidder status with a start date of 1 July 2013 for the contract but to hold Enterprise in reserve until the contract is signed with Veolia.
2. that the contract with V4 is extended to provide support to the Council during mobilisation to a maximum of £18,000 and to be funded from the Invest to Save Reserve.

**84. EXCLUSION OF PRESS AND PUBLIC**

RESOLVED

that, under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of the item there would have been disclosure to them of exempt information as defined in Section 100(1) of the Act for the reasons stated in the report.

**85. EVALUATION OF FINAL TENDERS TO PROVIDE PARKS AND OPEN SPACES, STREET CLEANSING AND WASTE AND RECYCLING**

Cabinet received a report which accompanied the Part A report on the outsourcing of Parks and Open Spaces, Street Cleansing and Waste and Recycling Services. It provided details of the bids and the evaluation, which due to commercial sensitivity were required to be kept confidential at this point in the evaluation process.

The Executive Director introduced the report and answered a number of questions from Cabinet and non Cabinet Members present at the meeting.

RESOLVED

that the resolutions passed at minute no 83 be endorsed.