



**At the Meeting of the Authority
held on Friday 27th June 2008**

Present : Councillor Cluskey
 Councillor Salter
 Councillor Dean
 Councillor Tattersall
 Councillor Twigger
 Councillor Gardiner
 Councillor Crowther

1. **Appointment of Chairperson**

It was moved and seconded that Councillor Cluskey be appointed Chairperson.

Resolved that Councillor Cluskey be appointed Chairperson for the 2008/09 Municipal Year.

2. **Appointment of Deputy Chairperson**

It was moved and seconded that Councillor Salter be appointed Deputy Chairperson.

Resolved that Councillor Salter be appointed Deputy Chairperson for the 2008/09 municipal year.

3. **Apologies for Absence**

Apologies for absence were received from Councillors Lonergan, Harris and Moffatt.

4. **Declarations of Interests by Members and Officers**

Councillor Cluskey declared a non-prejudicial interest in items 12, 15, 18, 19, 21 and 23, recorded herewith as minutes 12, 15, 19, 20, 21 and 23, and a personal and prejudicial interest in item 24, recorded herewith as minute 24 in so far as it relates to his capacity as a director of Mersey Waste Holdings Limited.

Councillor Salter declared a non-prejudicial interest in items 12, 15, 18, 19, 21 and 23, recorded herewith as minutes 12, 15, 19, 20, 21 and 23 and a personal and prejudicial interest in item 24, recorded herewith as minute 24 in so far as it relates to his capacity as a director of Mersey Waste Holdings Limited.

5. **Minutes of the Meeting held on 18th April 2008**

The minutes were amended to remove a reference to the non-attendance of members of the public.

Resolved that the minutes of the meeting held on 18th March 2008, as amended, be approved and signed as a correct record.

6. **Questions from Members under Procedural Rules 9**

There were no questions submitted by Members under Procedural Rule 9.

7. **Motions proposed by Members under Procedural Rule 15**

There were no motions proposed by Members under Procedural Rule 15.

8. **Questions on the Discharge of Functions**
WDA/34/08

The Authority considered a report seeking nominations as to which Members should be responsible for answering questions on behalf of the Authority at their respective constituent Council proceedings.

Resolved that the under mentioned Councillors be nominated to answer questions at their Council proceedings on the discharge of functions of this Authority, in accordance with Section 41 of the Local Government Act 1985.

| | |
|---------------|---------------------|
| Knowsley MBC | Councillor Lonergan |
| Liverpool CC | Councillor Dean |
| St Helens MBC | Councillor Crowther |
| Sefton MBC | Councillor Cluskey |
| Wirral MBC | Councillor Salter |

9. **Constitution including Scheme of Delegation and Procedural Rules**
WDA/35/08

The Authority considered a report recommending proposed amendments to the Authority's Procedural Rules and a new set of rules in relation to

Access to Information. A further amendment was noted during the meeting in relation to the removal of a reference to a 'mayor.'

Resolved that:

1. the amendments to the Authority's Procedural Rules be approved as detailed in the report and its appendices; and
2. the amended Scheme of Delegation be adopted for the 2008/09 Municipal Year.

10. **Appointments and Representations**
WDA/33/08

A report was submitted outlining the roles and responsibilities of Members and the terms of reference and powers of the Authority to be delegated to the Appeals Committee and the Audit and Governance Committee. Members considered the membership of these Committees and representation on other bodies.

Resolved that:

1. the roles and responsibilities are agreed as follows:
 - a. Councillor Cluskey (Strategy and Forward Planning, Finance, Performance Management, Best Value, Procurement, Sustainability portfolio)
 - b. Councillor Salter (Risk Management and Audit portfolio, Communications and PR portfolio and supporting Councillor Cluskey in Procurement)
 - c. All Members (Scrutiny, Public Consultation)
2. the terms of reference and the delegation of powers of the Authority to the Appeals Committee and the Audit and Governance Committee be approved as presented at the meeting;
3. Membership of the Authority's Committees be as follows:
 - a. Appeals Committee
Councillors Salter, Lonergan, Tattersall and Crowther.
 - b. Audit and Governance Committee
Councillors Tattersall, Lonergan, Dean and Gardiner.

4. representations on other bodies for the 2008/09 Municipal Year be as follows:-
 - a. The Board of Mersey Waste Holdings Limited
Councillors Cluskey and Salter
 - b. The Board of Bidston Methane
Councillors Salter, Crowther and Gardiner
 - c. North Western Local Authorities' Employers' Organisation
Councillor Cluskey

11. **Audit Plan 2008/09**
WDA/38/08

The Authority's auditor, Mike Thomas presented to Members for their approval, the proposed Audit Plan to be undertaken by the Audit Commission in 2008/09.

Resolved that the Audit Plan for 2008/09 be approved.

Councillor Cluskey declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

Councillor Salter declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

12. **Outturn Report 2007/08**
WDA/39/08

A report was submitted requesting that Members note the final outturn position with regard to the Authority's Capital and Revenue Expenditure in 2007/08.

Resolved that:

1. Members note the final outturn position with regard to the Authority's Capital and Revenue Expenditure for 2007/08; and

2. Members note the final outturn with regard to the Authority's Prudential Indicators as included in Appendix 3.

13. **Statement of Accounts 2007/08**
WDA/40/08

A report was submitted presenting Members with the Authority's Statement of Accounts for 2007/08. Members were informed the Accounts and Audit Regulations 2003 (as amended 2006) places a duty on the Authority to prepare and publish its Statement of Accounts by 30th June 2008.

Resolved that:

1. the Authority's Statement of Accounts for 2007/08 be approved; and
2. the Chairperson of the Authority sign and date the Statement of Accounts as required.

14. **Review of Local Conditions of Service**
WDA/29/08

A report was submitted which informed Members of a review of the Authority's Local Conditions of Service and proposed a number of amendments to support the development and implementation of employment packages that meet the needs of a modernised service and flexible workforce. A further amendment was proposed to Section 4 in relation to 'Leave to serve as a Member of Another Local Authority,' to include the phrase, 'within the exigencies of the service.'

Resolved that:

1. the revised policy amendments to the Local Conditions of Service identified within the report and at the meeting be approved;
2. Members agree to the deletion of all unreceipted subsistence allowance claims; and
3. delegated powers be granted to the Director to agree minor amendments to the Local Conditions of Service, including completion of consultation with the trade unions.

Councillor Cluskey declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

Councillor Salter declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

15. **Review of Freedom of Information Framework and Confidentiality Protocol in relation to Procurement WDA/30/08**

The Authority considered a report informing Members of the implications of recent rulings by the Information Commissioner in relation to Freedom of Information and Environmental Information Regulation matters, and how those matters relate to Merseyside Waste Disposal Authority's Procurement Process.

Resolved that:

1. Members note the most recent findings of the Information Commissioner in relation to East Riding of Yorkshire Council and South Downs Waste Services Ltd; and
2. the revised Merseyside Waste Disposal Authority Publication Scheme (June 2008) be approved.

The following item appeared on the agenda as a private item but Members agreed to the report being considered without excluding the public.

16. **Waste PFI Procurement Programme – Summary of Timetable, Risks, Costs and Wider Economic Benefits WDA/28/08**

Members considered a report which detailed the outcome of the 4Ps Strategic Gateway Review of the Waste PFI Procurement Process, the risks and costs associated with any delay to the site acquisition and planning timetable. The report introduced the Economic Impact Study of the Waste PFI Project commissioned by the North West Development Agency.

Resolved that:

1. the significant risk and costs which attach to the potential failure to progress site acquisitions and planning consents for the Merseyside and Halton Waste PFI Procurement Programme be noted;

2. the wider positive economic impact which will result from the waste infrastructure when delivered be noted;
3. the Director submits a report on the outcomes of this analysis, for consultation, to the Mersey Leaders and Chief Executives meeting at the earliest convenient opportunity; and
4. the Director writes to the constituent District Councils and Halton MBC to inform them of the outcomes of this analysis, as partners in the Waste Contract Procurement exercise.

17. **Exclusion of the Public**

Resolved that the public be excluded from the meeting during consideration of the following items for the reasons stated.

| <u>Minute</u> | <u>Reason (under the Local Government Act 1972)</u> |
|----------------------|--|
| 18, 19, 20 & 21 | Exempt information relating to the financial or business affairs of any particular person (Para 3 of Schedule 12A) |
| 22 & 23 | Exempt information in respect of which a claim to Legal professional privilege could be Maintained in legal proceedings (Para 5 of Schedule 12A) |
| 24 | Exempt information relating to any individual (Para 1 of Schedule 12A) |

18. **Site Acquisition Strategy**
WDA/37/08

A report was submitted which reviewed the approach taken regarding the acquisition of land to provide the facilities required to meet the needs of the Procurement Project and ultimately to deliver the Joint Municipal Waste Management Strategy (JMWMS) for Merseyside and Halton.

Resolved that:

1. the course of action relating to the acquisition of land as identified in the report be approved;

2. provision in the approved Capital Programme be altered so that the necessary finances are made available in the 2008/09 financial year and that the Director be empowered to take the action proposed in the report if necessary, in consultation with the Clerk and Solicitor to the Authority; and
3. as and when appropriate, the Director advises Members of progress in the matter.

Councillor Cluskey declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

Councillor Salter declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

19. **Capital Programme 2008/09**
WDA/36/08

A report was submitted seeking approval to set the overall Capital Programme for 2008/09 which reflects the Authority's current circumstances and needs.

Councillor Twigger asked that his dissent to this item be recorded in the minutes.

Resolved that:

1. the Authority approve a revised programme of capital expenditure in the sum of £22,890,000 for 2008/09; and
2. delegated powers be granted to the Director in consultation with the Treasurer to agree standard tender evaluation criteria consistent with the Authority's sustainable procurement policies.

Councillor Cluskey declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

Councillor Salter declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

20. **Sale of Hafod Quarry by Mersey Waste Holdings Associates Limited**
WDA/41/08

A report was submitted, seeking Members' approval to the sale of Hafod Quarry Landfill site (HQ) by MWH Associates (MWH).

Resolved that shareholder approval be given to the sale of Hafod Quarry Landfill Site by Mersey Waste Holdings Associates, a wholly-owned subsidiary of Mersey Waste Holdings Limited, in turn, wholly-owned by the Authority, to the preferred bidder on an asset sale basis.

Councillor Cluskey declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

Councillor Salter declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

21. **Waste Management Contracts Procurement Project**
Revised Resource Estimates
WDA/31/08

A report was submitted which informed Members of the increased anticipated costs of employing professional advisors to support the Authority's Waste Management Contracts Procurement Project and the anticipated total internal and external advisory and support costs of the project. Members were asked to consider options to deal with future costs.

Resolved that:

1. the revised resources estimate set out in the report be approved;
2. the adoption of Option 2 set out in paragraph 7 of the report to manage the risk of inflation in professional advisor fees be approved; and
3. the recommendation regarding funding which is set out in paragraphs 9.1.6 and 9.1.7 of the report be approved.

22. **Resource Recover Contract**
Evaluation of Submission of Outline Solutions
WDA/42/08

The Authority considered a report, advising Members of the outcome of the evaluation process in relation to the Outline Solutions submitted by participants as part of the RRC Competitive Dialogue process.

Resolved that Members note the evaluation of the Outline Solutions submitted by Covanta, Elliniki, Global Renewables, Resource from Waste Alliance, Shanks, Sita, Veolia, Viridor, and VT Group in respect of the Resource Recovery contract and approve carrying forward the solutions proposed by:

- Covanta;
- Shanks;
- SITA;
- Resource from Waste Alliance;

and their continued inclusion, into the Invitation to Submit Detailed Solutions stage.

Councillor Cluskey declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

Councillor Salter declared a non-prejudicial interest in the following item and in accordance with the Code of Conduct for Members, remained in the meeting.

23. **Waste Management and Recycling Contract**
Evaluation of Submission of Detailed Solutions
WDA/43/08

A report was submitted advising Members of outcome of the Evaluation of participants Detailed Solutions submitted as part of the Waste Management Recycling Contract Competitive Dialogue process.

Resolved that:

1. the evaluation of the Detailed Solutions submitted by SITA, VEOLIA and WRG in respect of the Waste Management and Recycling Contract be noted and the carrying forward of two participants to a final period of dialogue prior to the Call for Final Tenders stage be approved as follows:
 - SITA
 - VEOLIA

2. the Director make an approach to the above two Participants to seek confirmation of their continued engagement in the Competitive Dialogue and Call for Final Tender stage. Should an unsatisfactory response be received from either Participant, then the Director be authorised to engage with the de-selected Participant to maintain two participants in the Competitive Dialogue;
3. the decision at 1 above be not made public until such time as the Director has completed the actions under 2 above;
4. the Trade Union representatives of the Mersey Waste Holdings Ltd staff be advised that the Authority will not advise Participants in the WMRC that pension arrangements for all staff should be based on inclusion within the Local Government Pension Scheme; and
5. the current WMRC specification be varied to include asking participants to price for the inclusion of kitchen waste treatment capacity, subject to a specific Authority instruction before implementation, with an agreed mobilisation timeframe and pricing mechanism.

Councillor Cluskey declared a personal and prejudicial interest in the following item and in accordance with the Code of Conduct for Members, left the meeting during the consideration of the item.

Councillor Salter declared a personal and prejudicial interest in the following item and in accordance with the Code of Conduct for Members, left the meeting during the consideration of the item.

It was moved and seconded that Councillor Crowther take the chair in the absence of the Chairperson for the following item.

24. **Annual Bonus Payments**
Mersey Waste Holdings Limited
WDA/44/08

A report was submitted advising Members of the recommendation of the Board of Merseyside Waste Holdings Ltd in respect of bonus payments for the period to September 2007.

Resolved that:

1. the payment of the pay award of 2.475% on basic salary be agreed;
2. the recommendation of the Board of Merseyside Waste Holdings Ltd in respect of the payment of bonus to Directors for the period ending September 2007 be noted;
3. the Remuneration Committee of MWHL be requested to reconsider their awards to take account of all potential future contractual claims, pension liabilities and affordability. This should also apply to the decision of MWHL to pay loyalty bonuses.
4. bonus payments for 2007/08 should not be paid:
 - (i) until such time as there is a detailed assessment of profitability produced for the Remuneration Committee of MWHL and submitted to the MWDA. This should include a detailed analysis of all known liabilities.

and
 - (ii) until such time as this detailed analysis is accepted by the Remuneration Committee and MWDA as an appropriate basis upon which to determine the level of bonus payments to the Directors for 2007/08.