

**MINUTES OF THE ADJOURNED JULY MEETING OF DONEGAL COUNTY  
COUNCIL HELD ON MONDAY 26<sup>TH</sup> JULY, 2021 (ONLINE)**

**C/136/21 MEMBERS PRESENT**

Cllrs J Murray (Cathaoirleach), L Blaney, K Bradley, C Brogan, P Canning, T Conaghan, D Coyle, G Crawford, N Crossan, T Crossan, A Doherty, G Doherty, L Doherty, R Donaghey, M Farren, M T Gallagher, M Harley, N Jordan, J Kavanagh, D M Kelly, N Kennedy, M C Mac Giolla Easbuig, F Mc Brearty Jnr, M Mc Bride, M Mc Clafferty, M McDermott, I Mc Garvey, N Mc Garvey, P Mc Gowan, B McGuinness, M McMahan, G Mc Monagle, A Molloy, M Naughton, J O'Donnell, J S Ó Fearraigh, and B Sweeny.

**C/137/21 OFFICIALS IN ATTENDANCE**

John McLaughlin, Chief Executive, Joe Peoples, Director of Housing, Corporate and Cultural Services / Meetings Administrator, Liam Ward, Director Community Development & Planning Services, Brendan O'Donnell, A/Director of Roads & Transportation, Richard Gibson, Head of Finance, Garry Martin, Director of Economic Development, Information Systems & Emergency Services, Michael Mc Garvey, A/Director of Water & Environment, Seán O'Daimhin, Rannóg na Gaeilge, Frances Friel, Communications Officer, Anne Marie Crawford, Staff Officer, Corporate.

**C/138/21 PASSING OF A RESOLUTION TO VARY THE LOCAL PROPERTY TAX  
IN RESPECT OF 2022**

The Cathaoirleach welcomed members to the meeting. Mr Joe Peoples, Meetings Administrator advised that there were three proposals for consideration as resolved by members at the meeting on the 19<sup>th</sup> July, 2021. These were:-

- i. Proposal by Cllr Mc Brearty, seconded by Cllr Mac Giolla Easbuig that the rate of the Local Property Tax for 2022 in the County of Donegal be varied by -15%.
- ii. Proposal by Cllr Harley, seconded By Cllr Kavanagh that the rate of the Local Property Tax for 2022 in the County of Donegal be varied by +15%.
- iii. Proposal by Cllr Mc Monagle, seconded by Cllr G Doherty that a resolution is not passed to vary the rate of the Local Property Tax in the County of Donegal for 2022.

A roll call was taken with the following members listed as being in attendance:-

Cllrs J Murray (Cathaoirleach), L Blaney, K Bradley, C Brogan, P Canning, T Conaghan, D Coyle, G Crawford, N Crossan, T Crossan, A Doherty, G Doherty, L Doherty, M Farren, M T Gallagher, M Harley, N Jordan, J Kavanagh, D M Kelly, N Kennedy, M C Mac Giolla Easbuig, F Mc Brearty Jnr, M Mc Bride, M Mc Clafferty, M McDermott, I Mc Garvey, N Mc Garvey, P Mc Gowan, B McGuinness, M McMahan, G Mc Monagle,

A Molloy, M Naughton, J O'Donnell, J S Ó Fearraigh, and B Sweeny.

Cllr N Crossan asked for clarification in relation to the operation of Standing Order 62.

The Cathaoirleach said that it had come to his attention that there had been a breach of Standing Order No 62 and that a recording of the Council Meeting on the 19<sup>th</sup> July had been circulated on social media.

Cllr N Crossan asked what would happen if this reoccurred.

The Meetings Administrator drew member's attention to Standing Order No 62 and the fact that recording was prohibited other than with the prior approval of the Council.

A recorded vote was then taken on the proposal by Cllr Mc Brearty, seconded by Cllr Mac Giolla Easbuig to vary the rate of the Local Property Tax in County Donegal by -15%.

This resulted in 3 voting for and 21 voting against. There were 10 abstentions.

Those voting in favour included:-

Cllrs Mac Giolla Easbuig, Mc Brearty and Mc Bride.(3)

Those voting against included;

Cllrs Blaney, Brogan, Canning, Conaghan, Coyle, Crawford, N Crossan, Farren, Harley, Kavanagh, Kelly, Kennedy, Mc Clafferty, Mc Dermott, I Mc Garvey, N Mc Garvey, Mc Gowan, Mc Guinness, Molloy, Naughton and Sweeny. (21)

The following abstained:-

Cllrs T Crossan, A Doherty, G Doherty, L Doherty, Gallagher, Jordan, Mc Mahon, Mc Monagle, Murray, and Ó Fearraigh. (10)

Thus the motion fell.

It was clarified that the proposal by Cllr Harley would have the effect that the LPT in 2022 for County Donegal remained the same as in the previous year.

The Meetings Administrator proceeded to take a recorded vote on the proposal by Cllr Harley, seconded by Cllr Kavanagh to vary the rate of the Local Property Tax in County Donegal by +15%.

This resulted in 23 voting for with 13 against.

Those voting in favour included:-

Cllrs Blaney, Bradley, Brogan, Canning, Conaghan, Coyle, Crawford, N Crossan, Farren, Harley, Kavanagh, Kelly, Kennedy, Mc Clafferty, Mc Dermott, I Mc Garvey, N Mc Garvey, Mc Gowan, Mc Guinness, Molloy, Naughton, O' Donnell and Sweeny. (23)

Those voting against included:-

Cllrs T Crossan, A Doherty, G Doherty, L Doherty, Gallagher, Jordan, Mac Giolla Easbuig, Mc Brearty, Mc Bride, Mc Mahon, Mc Monagle, Murray, and Ó Fearraigh. (13)

Thus it was resolved in accordance with Section 20 of the Finance (Local Property Tax) Act 2012 to vary the rate of the Local Property Tax in County Donegal by +15% from the baseline for 2022.

C/139/21 **TO CONSIDER AND NOTE THE AUDITED FINANCIAL STATEMENT 2020.**

Members considered the report circulated with the agenda in relation to the above.

Mr Richard Gibson, Head of Finance noted that a copy had been forwarded to members on the 12<sup>th</sup> July, 2021 for their consideration. This report, he advised, complemented the Income and Expenditure Report for 2020 which had been considered by members at the Adjourned May meeting held on the 14<sup>th</sup> June, 2021. The report, he said, was self explanatory and that he would be available to answer any questions that the members might have.

Cllr Mc Brearty proposed that the Government be called on to engage an external audit firm to carry out a complete review of the financial records of Donegal County Council.

He said that there were many unanswered questions regarding the Council's finances and that these needed to be answered as a matter of urgency and in the public interest.

Cllr Mac Giolla Easbuig seconded this proposal.

Cllr Harley proposed a vote of confidence in the current Head of Finance, the previous Head of Finance and the entire financial management team all of whom, he said, had worked extremely hard to bring financial stability to Donegal County Council. The results were evident, he said, and the strides made in the aftermath of the financial crash in 2008 were now clearly paying dividends. This was seconded by Cllr Kavanagh.

Responding to concerns raised by Cllr N Crossan the Cathaoirleach said that Standing Order No 62 was explicit and clearly stated that sound recording was prohibited unless formally approved by the elected members. Cllr Mc Clafferty noted that a recording of the previous meeting

was available on YouTube.

A lengthy debate took place with members advising of the following;

- That the financial affairs of Donegal County Council were thoroughly reviewed both internally and externally and that a proposal to bring in external auditors would send out the wrong message completely.
- Prudent financial management had contributed to a year on year reduction of the Council debt.
- Every confidence expressed in the ability of the Chief Executive and the Senior Management team to deliver and implement all relevant financial measures.
- The most appropriate way to deal with such concerns was through the Value for Money Committee and the relevant Strategic Policy Committee.
- Clarity requested as to what was actually being looked for by Cllr Mc Brearty. Generally speaking, there were no issues with the request but clarity is needed as to why it was felt that an external review was needed in the first place.
- Whilst not casting any aspersions on anybody working in finance there was a requirement to be fully transparent and answerable to the general public.
- Noted that nothing of an irregular manner had been brought to member's attention in the annual financial audit.

Cllr Mc Brearty on a point of order said that he was not asking Donegal County Council to engage with these audit companies but rather calling on the Government to employ same so that a forensic examination of the Council's finances could take place. He said that there was no assertion of any wrong doing but rather the need to investigate why the Council finances were in the state that they are. There was, he said, no money to fix roads, maintain our housing stock etc and that clarity was needed as to why the Council was in this position. He alluded to Standing Order No 40 and the fact that a member was permitted to speak more than once on a the same motion for the purpose of submitting a point of order.

Cllr Blaney called on Cllr Mc Brearty to get his facts straight and said that numerous internal and external audits had not been afraid to raise items.

The Chief Executive said that he had no previous notice of the claim made by Cllr Mc Brearty but would have expected to have been briefed in relation to same prior to the commencement of the meeting. Such a claim, he said, distorted the image of Donegal County Council. The External Auditor, he added, each year invited submissions from Councillors, the

general public etc and this was a well documented process. Members, he said, had a duty to bring forward any information that they might be aware of, but that the appropriate course of action was to bring the matter to the attention of the executive initially so that a decision could be made as to the relevant course of action.

Cllr Mc Brearty expressed disappointment at this response and said that he was entitled to raise any issue that he wished.

Cllr Gallagher proposed, seconded by Cllr Mc Guinness that all relevant information regarding any alleged mismanagement of Council finances should be brought in the first instance to the executive and a report issued to members for their consideration.

The Meetings Administrator clarified that there were two proposals before the meeting i.e. one from Cllr Mc Brearty requesting that the Government employ external auditors to carry out a review of the Council's finances and a second from Cllr Harley that any information with regard to alleged financial irregularity be brought to the attention of the Chief Executive so that it could be investigated and a report brought to the members. He said that as the Chief Executive had committed to investigating any information brought to his attention, it would not be necessary to put the proposals to a vote.

C/140/21 **TO CONSIDER AND NOTE THE LOCAL GOVERNMENT AUDIT REPORT ON THE AFS FOR 2020 AND THE REPORT FROM THE DONEGAL COUNTY COUNCIL AUDIT COMMITTEE ON ITS CONSIDERATION OF THE 2020 AUDITED FINANCIAL STATEMENT AND AUDIT REPORT FOR 2020**

Members considered the report circulated with the agenda in relation to the above.

It was resolved to take items 3(c) and 3(d) together.

Mr Richard Gibson, Head of Finance referred to page 19 of the Local Government Audit Report which stated that the Local Government Auditor had acknowledged the fact that all audit requests were addressed by the Council in a timely and professional manner. He drew attention to the fact this was an unqualified audit opinion and a fair and accurate representation of the Council's finances.

He drew attention to the fact that a number of issues had been raised during the course of the audit and that adequate clarification had been provided in respect of the issues raised.

In relation to the Audit Committee report, it was confirmed that the Local Government Auditor had met with the Donegal County Council Audit Committee on the 7<sup>th</sup> July, 2021 to discuss the report. As a result, he said, the Council's Audit Committee had been happy to endorse and recommend the Local Government Auditor's Report for 2020.

On the proposal of Cllr Harley, seconded By Cllr Farren, members noted the Local Government Audit Report on the AFS for 2020 together with the the Donegal County Council Audit Committee on the 2020 Audited Financial Statement and Audit Report for 2020.

C/141/21 **LEGAL ADVICE ON THE EMERGENCY MOTION IN RELATION TO THE PURCHASE OF 5 HOUSES IN BUNCRANA**  
**SECOND LEGAL OPINION IN RELATION TO THE COUNCIL PUTTING PROTOCOLS IN PLACE TO ENSURE THAT THE COUNCIL DO NOT PURCHASE ANY PRODUCTS FROM QUARRIES THAT ARE KNOWN TO HAVE DEFECTIVE MATERIALS**

Mr Joe Peoples, Meetings Administrator informed members that the legal advice from the County Solicitor in relation to the Emergency Motion on the purchase of five houses in Buncrana and the second legal advice in relation to the procurement issue would be circulated to members later in the meeting and that arrangements had been made for the County Solicitor to be in attendance for the consideration of the items. The advice for the County Solicitor, he confirmed, was that the legal advice in question should be taken in committee. The Cathaoirleach suggested that the meeting be adjourned at 1.30pm for lunch and the relevant legal advices circulated to facilitate the County Solicitor's attendance at 2.30pm. This was unanimously agreed.

Cllr Mc Brearty said this would send out the wrong message to the general public and create the impression that the Council executive were trying to protect themselves.

The Cathaoirleach said that the timetable as outlined would allow the County Solicitor time to travel to Lifford and be available to answer any queries that the members might have.

Cllr Mc Brearty said he was entitled to ask why the advice had to be considered in committee, but contended, that there was no such thing in case law as privilege for Donegal County Council. It was wrong to force the Council into committee, he added, as the public had a right to know what was going on. He queried as to whether the legal advice itself was privileged.

Mr Joe Peoples, Meetings Administrator said that he was simply passing on the advice given by the County Solicitor and that it was a matter for the members to decide collectively whether they wished to consider the advice in committee or in public session. The practice had been, he said, to consider such advice in committee. Members must now, he said, take a view as how they wished to proceed.

Cllr Mc Brearty proposed, seconded by Cllr Mac Giolla Easbuig that the legal opinion be taken in public

Cllr I Mc Garvey said that members had an obligation to ensure that the general public were fully informed. There was also, he noted, a

responsibility to consider the advice of the County Solicitor that the legal advice be taken in committee. He cited the need to consider the legal opinion in question and then make a decision as to whether there should be public debate on the matter.

Cllr Mc Brearty called for a recorded vote.

Responding to a number of queries the Meetings Administrator said that it was important that the County Solicitor had an opportunity to brief members in committee to deal with their queries. Members could then, he advised, resolve to go into public session.

Cllr Blaney said it was important that it was made clear that there was no hiding or cover up of information. As the person who had asked for the second legal opinion in relation to the purchasing of materials, he was, he confirmed happy to take the advice initially in committee before bringing it into the public domain. Members, he said, needed to act responsibly as that was what they had been elected to do.

The Meetings Administrator confirmed that the County Solicitor would be in attendance at the meeting at 2.30pm and would explain his reasons for recommending that the advice be taken in committee.

Cllr Mc Brearty interjected to query why the County Solicitor was not in attendance at this juncture.

Following a heated exchange the Cathaoirleach said that he was proceeding with the next item on the agenda and that there would be an opportunity to discuss the issues further with the County Solicitor later in the afternoon.

C/142/21 **NOMINATION OF MARGARET TONER AND DECLAN MEEHAN TO  
FILL THE CASUAL VACANCIES ON THE DONEGAL JOINT POLICING  
COMMITTEE**

Members considered the report circulated with the agenda in relation to the above.

On the proposal of Cllr Mc Monagle, seconded by Cllr Sweeny members noted the nomination of Margaret Toner to fill the casual vacancy on the Donegal Joint Policing Committee arising from the resignation of Virginia Mc Loone. It was further resolved on the proposal of Cllr Mc Monagle, seconded by Cllr Sweeny that Declan Meehan fill the outstanding PPN vacancy on the Donegal Joint Policing Committee.

C/143/21 **TO ADOPT A TOBACCO FREE CAMPUS POLICY FOR DONEGAL  
COUNTY COUNCIL IN LINE WITH THE TOBACCO FREE IRELAND  
STRATEGY**

Members considered the report circulated with the agenda in relation to the above.

Mr Liam Ward, Director Community Development & Planning Service Services responding to a request for additional clarity on the strategy said that the aim of the policy was to contribute to the denormalisation of tobacco in line with the Tobacco Free Ireland Strategy, so as to help change social norms around tobacco use for children and young people. This it was acknowledged also required the creation of a supportive environment for staff who wanted to stop smoking.

The policy, he confirmed, had been considered by the LCDC, the Community Social and Cultural Strategic Policy Committee and the Corporate Policy Group who had approved a further proposal to further promote the denormalisation of smoking, vaping and tobacco use across all county council facilities and thus create a tobacco free campus.

Cllr Canning enquired as to whether this would be applicable in play areas under the remit of the Council.

Cllr Mc Monagle asked for clarification as to how this differed from the policy currently in operation.

The Director of Service said that this particular policy aimed to highlight the dangers associated with smoking . There was, he confirmed, a specific policy in place with regard to play areas and members of the public accompanying children in these facilities were currently not permitted to smoke.

It was targeted specifically, he added, at those who wanted to stop smoking and a staff survey undertaken in Donegal County Council had indicated that over 91% of those surveyed had been in favour of introducing the policy, with 76% declaring an interest in quitting smoking.

Smoking it was noted was not permitted in any council building, and the policy as outlined in the report aimed to broaden this out to other council facilities.

Responding to a number of queries, he said that emphasis of this policy was on encouraging people to give up smoking rather than being an enforcement measure.

On the proposal of Cllr Gallagher, seconded by Cllr Sweeny it was resolved to adopt a Tobacco Free Campus Policy for Donegal County Council in line with the Tobacco Free Ireland Strategy.

C/144/21 **TO NOTE MINUTES OF THE MEETING OF THE CORPORATE POLICY GROUP HELD ON THE 24<sup>TH</sup> MAY, 2021**

On the proposal of Cllr Gallagher, seconded by Cllr Mc Mahon members noted the minutes of the meeting of the Corporate Policy Group held on the 24<sup>th</sup> May, 2021.



C/145/21 **THAT DONEGAL COUNTY COUNCIL ACKNOWLEDGE THE FANTASTIC WORK DONE BY COMMUNITY, SPORTING AND VOLUNTARY GROUPS TO FUNDRAISE FOR THE PROVISION OF COMMUNITY DEFIBRILLATORS.**

On the proposal of Cllr G Doherty, seconded by Cllr Gallagher it was resolved to adopt the following motion:-

“That Donegal County Council acknowledges:-

The fantastic work done by community, sporting and voluntary groups throughout the County to fundraise for the provision of community defibrillators, and commits to working with these groups to create a list of defibrillator locations to be shared on social media etc. to maximise awareness among the general public”.

He received a response from the Director of Community Development & Planning Services in relation to the above.

It was noted that this had already been brought to the attention of the Lifford/Stranorlar Municipal District members and that a number of other Municipal Districts had expressed their support for the creation of a dedicated database. He called for the Council to work with all the groups concerned so as to create a poster for social media that people could then save on their phones with access to the location of all community defibrillators locations in the County.

Cllr Gallagher supporting the motion said that online mapping would save lives and was something that was needed sooner rather than later.

There was no opposition to the motion.

Mr Liam Ward, Director of Community Development & Planning Services said that the Community Development Section in Donegal County Council had administered grant aid to community groups to assist with the purchase of community defibrillators for the past number of years. He confirmed that preparatory work had taken place in relation to the development of a county wide list and that there would be further engagement with local community groups to finalise same. It was intended then, he said, to work with the IS Department to initiate the rollout of same.

Cllr Mc Bride asked that contact be made with students in Loreto College, Letterkenny who had been involved in a similar mapping initiative. He suggested also that companies be invited to sponsor community defibrillators at specific locations throughout the county.

C/146/21 **THAT DONEGAL COUNTY COUNCIL STOP IMMEDIATELY THE COLLECTION OF THE LPT, AND COMMERCIAL RATES FROM THE VICTIMS AND BUSINESSES THAT HAVE BEEN DESTROYED BY MICA, PYRITE AND PYRRHOTITE.**

On the proposal of Cllr Mc Brearty, seconded by Cllr MacGiolla Easbuig it was resolved to adopt the following motion:-

"With the support of the members I am demanding (a) that Donegal County Council stop immediately the collection of the LPT from the victims that have been destroyed by Mica, Pyrite and Pyrrhotite and that they refund all monies back to the victims since the establishment of the Local Property Tax. (b) that the Council stop immediately the collection of commercial rates from property and business owners that have been destroyed by Mica, Pyrite and Pyrrhotite and that all commercial rates be re-funded to these victims from the date of completion of their properties when they became commercially rateable".  
(To be circulated to all Local Authorities especially Mayo, Sligo, Clare and Galway).

He received a response from the Head of Finance in relation to the above.

Cllr Mc Brearty contended that the Government had misled people in relation to the mica exemption which it was clear would only be available to those who had registered for the scheme.

Many people, he said, were not able to afford an engineer's report and would not get the exemption.

This, he said, was not just about home owners but those property owners, holiday home owners, commercial property owners and those in the rental market who had been impacted by mica.

He said he was of the opinion that the Government and Council's immediate agenda was to push people down the remedial works route.

All of this, he added, left no option but to take the legal route and would result in Donegal County Council being named in multiple cases.

Cllr Mac Giolla Easbuig seconded the motion and concurred with Cllr Mc Brearty's assessment.

There was no opposition to the motion.

Mr Richard Gibson, Head of Finance advised that the Council's LPT allocation from the Local Government Fund for 2021 was €26.8m and equated to approximately 17% of the Council's income in 2021. The LPT, he confirmed, was charged in accordance with the Finance (Local Property Tax) Act 2012 (as amended) and payment was collected by the Revenue Commissioners. It was noted that the Finance (Local Property Tax) (Amendment) Act 2013 had introduced a temporary exemption from the charge to LPT for properties affected by pyrite.

The Minister for Finance, he stated, had announced a six year exemption from LPT for homes affected by mica and that this was expected to be

provided for in legislation due to be enacted shortly. He emphasised that there was no provision within the existing LPT legislation to refund LPT charges on the basis that a property had been affected by mica or within Commercial Rates legislation to refund commercial rates paid in connection with properties affected by mica.

Cllr Mc Brearty said that this was a civil rights issue and that the motion was about supporting mica homeowners in their quest for justice. He thanked members for their support and said that the reality was that the exemption did not exist as of yet.

C/147/21 **THAT A SECTION BE SET UP WITHIN THE COUNCIL TO TAKE ON THE ROLE OF TESTING HOMES AND PROPERTIES FOR THE PRESENCE OF MICA**

On the proposal of Cllr Micheál C MacGiolla Easbuig, seconded by Cllr Mac Brearty it was resolved to adopt the following motion:-

“Go mbunófaí rannóg sa Chomhairle le bheith freagrach as tithe agus foirgnimh a scrúdú le féachaint an bhfuil Mica ann, agus gan aon chostas a bheith ar úinéir an tí nó an fhoirgnimh”.

"That a section be set up in the Council to take on the role of testing of homes and properties for the presence of Mica at no cost to the homeowner or property owner".

He received a response from the Director of Housing, Corporate and Cultural Services in relation to the above.

Cllr Mac Giolla Easbuig asked that this be further explored as homeowners were not in a position to pay the exorbitant costs involved with the testing process. He asked that all viable options be explored.

Cllr Mc Brearty supporting the motion called for a thorough investigation into the establishment of the Defective Concrete Blocks Scheme which, he contended, was dysfunctional. He cautioned Engineers Ireland on their support for the remedial works option and said that he would have them before the Courts if they continued to push the Government's agenda for remedial works.

He vowed to work on behalf of all mica victims and said that there would be no hiding from his legal team.

Mr Joe Peoples, Director Housing, Corporate & Cultural Services alluded to the fact that the Minister for Housing, Local Government & Heritage had established a Working Group to review the operation of the scheme. He said that it would be prudent to await the outcome of their deliberations as many of the issues raised could be addressed in that forum.

C/148/21 **THAT THE COUNCIL WRITE TO THE MINISTER FOR HOUSING TO PROVIDE FUNDING FOR EMERGENCY ACCOMMODATION IN EACH MUNICIPAL DISTRICT.**

On the proposal of Cllr O'Ferraigh, seconded by Mc Mahon it was resolved to adopt the following motion:-

“That the Council write to the Minister for Housing to provide funding for emergency accommodation in each Municipal District.

He received a response from the Director of Housing, Corporate and Cultural Services in relation to the above.

Cllr O' Ferraigh said that on many occasions people had sought access to emergency accommodation and nothing was available. This was a serious issue, he noted, in many localities and something needed to be done to alleviate the situation at Municipal District level.

Cllr Mc Mahon said that the shortage of housing was a very serious matter and the long term impact on people's well a cause for immediate concern. He asked that contact be made with the Peter Mc Verry Trust regarding the initiatives they had undertaken to tackle the homelessness situation in many of our major cities.

He noted that there were numerous vacant properties in towns and villages throughout the county which could be renovated for this purpose.

There was no opposition to the motion.

Mr Joe Peoples, Director Housing, Corporate & Cultural Services in his response outlined the typical supports available for those that were homeless in Donegal. Incidences, he noted, were increasing and that this presented particular challenges going forward.

The Homeless Action Team were, he advised, were looking at various initiatives at present and that he would be happy to relay the issues raised to them for further consideration.

C/149/21 **ADJOURNMENT OF THE MEETING**

It was unanimously agreed to adjourn the meeting until 2pm. Members were advised that the legal advice in relation to items 4(a) and 4(b) would be circulated via email during this recess.

C/150/21 **LEGAL ADVICE ON THE EMERGENCY MOTION AND REPORT IN RELATION TO THE PURCHASE OF 5 HOUSES IN BUNCRANA**

On resumption of the meeting the Meetings Administrator outlined the background to the advice circulated by email to members during the recess. The Cathaoirleach called on members to address the meeting in an orderly fashion and to use the raised hand icon to indicate their intention to take part in the debate.

Cllr Mc Brearty said that he was dismayed that members were expected to proof read a 32 page document in the space of half an hour. He queried as to whether the County Solicitor was present and when exactly the

documentation had been received. He said that he had forwarded same to his own senior counsel for advice and would be putting it into the public domain. He queried the following:-

- Who owned the houses and who sold them to the Council?
- Why did the Council rush to buy them?
- Was political representation made for the sale of these houses?
- Why did the Inishowen members not discuss the overall consequences or query the rationale for buying the five houses?
- What knowledge did Cllr Nicholas Crossan have in relation to the project and the sale of the houses?

The Council, he said, knew that they were buying mica houses and he demanded to know what engineer had signed off on the acquisition.

The Cathaoirleach confirmed that the County Solicitor would address members in relation to his advice when the meeting moved into committee.

Cllr A Doherty said that he wanted to put on record that he had learned of the purchase of the five houses in An Crannla through the local media. He said that he was of the opinion that a more robust procurement policy was needed. He said that he had reservations about the strength of the visual inspection policy and was not satisfied that the report in relation to the purchase and the manner in which members were briefed was adequate. He cited the need for a robust policy to deal with housing acquisitions going forward.

A number of queries were then raised namely:-

- Whether the Council was happy when it entered into the purchase of the houses that the tests initially showed no presence of mica.
- Who had been responsible for the testing of the five houses and were they professional people?
- Detail needed in relation to the fact that only one application for Turnkey acquisition was received in Buncrana.
- Was there mica in the houses concerned initially and why was this not included in the report?
- Were the houses bought in good faith and was it only confirmed afterwards that they had mica?
- Whether or not there had been any political representation in relation to the sale.

Mr Joe Peoples, Meetings Administrator noted that the lease on the five houses concerned had expired in 2019 and that whilst there was an

option to renew the lease for another ten years, the overall cumulative cost to the Council would be in the region of €640,000 with no tangible benefit at the end of that period.

The Council had, he confirmed, initially looked at the overall implications and impact on the families involved and had decided that it was in the best interest of all concerned to acquire the properties.

Having explored various options it was decided, he said, to buy the houses, and tests were carried out on two of them for the presence of mica.

The houses in question, he confirmed had been leased initially to Buncrana Town Council by Mr Ronald Mc Grory.

He said that the Housing & Corporate SPC which was due to meet at the end of the week could look at and consider the development of a more robust housing acquisition policy.

Responding to a query from Cllr Mc Brearty, Mr Peoples confirmed that the Council had bought the houses from Mr Mc Grory.

Cllr Mc Brearty demanded an investigation into the manner in which the houses had been bought and leased. He said that he would do everything in his power to get the relevant answers.

The Cathaoirleach then called on him to withdraw a number of remarks he had made regarding Council officials.

Cllr A Doherty asked that clarification be provided as to whether the houses in question would be added to the planned maintenance programme and if it was anticipated that the Government would respond favourably. He asked how the Council intended to finance the necessary remedial works. It was confirmed that funding would be sought from the Department of Housing, Local Government & Heritage.

Cllr Donaghey said that she had been aware of the fact that the houses had mica as there had been ongoing consultation with the families in question regarding their situation and the expiry of the 10 year social housing lease. This, she confirmed, was an established neighbourhood and the families in question faced being made homeless at Christmas time. The only option, she said, was to put them into hotel accommodation as there was no private or public housing available in Buncrana and this was not something that the tenants in question were in favour of. The acquisition of the houses was thus determined to be the most appropriate course of action given the circumstances.

The Director of Housing, Corporate & Cultural Services said that the acquisition of houses going forward would need to be re-examined as the test results received initially had all indicated that the houses were in good

condition. The level of deterioration found subsequently, he confirmed, was unexpected and concerning. He reiterated the need for the development of a housing acquisition policy and suggested that the safest option might be not to buy any houses at all given the element of risk involved.

Cllr Mc Brearty said that a criminal investigation was warranted.

The Cathaoirleach warned that the meeting could not continue if members continued to interrupt the meeting in an ad hoc manner.

Mr Paddy Mc Mullin, County Solicitor joined the meeting and addressed members in relation to items 4(a) & 4(b). He said that the general principle was that legal advice to the Council was taken in committee and that this was a well established legal principle. Members, he said, then had the option to take or reject the advice.

The Cathaoirleach called on the members to decide whether or not they wished to proceed with the consideration of the legal advice in committee.

Cllr Mc Brearty asked why the County Solicitor was claiming privilege on matters of public interest.

Cllr Blaney noted that there had been general agreement to consider the advice initially in committee but that a particular Councillor had confirmed his intention to share the advice regardless of whether the Council went into committee or not. He called on the Cathaoirleach to intervene in this matter.

The County Solicitor said that the decision to go into committee was something that the members themselves needed to decide, and if that was not the case then the matter would be dealt with in public session. He said that if someone were to breach the in committee rules then that would be dealt with as a separate issue. He said his advice was to proceed with the consideration of the legal advice in committee.

Cllr Mc Monagle proposed, seconded by Cllr Mc Mahon that the meeting proceed in committee and that any outstanding issues be dealt with in the aftermath.

Cllr Mc Brearty said that Standing Orders had no legal standing in law and queried what confidentiality clause he was breaching by wanting to have the legal advice debated in public.

The Meetings Administrator informed members that in order for the legal advice to be taken in committee it would be necessary to adjourn the current meeting and avail of a short recess to enable a new meeting link to issue.

A recorded vote was then taken on the proposal by Cllr Mc Monagle, seconded by Cllr Mc Mahon to consider the legal advice on items 4(a) and 4(b) in committee. This resulted in 33 voting for with 1 voting against.

Those voting in favour included:-

Cllrs L Blaney, K Bradley, C Brogan, P Canning, T Conaghan, D Coyle, G Crawford, N Crossan, T Crossan, A Doherty, G Doherty, R Donaghey, L Doherty, M Farren, M T Gallagher, M Harley, N Jordan, J Kavanagh, D M Kelly, N Kennedy, M Mc Bride, M Mc Clafferty, M McDermott, I Mc Garvey, N Mc Garvey, B Mc Guinness, M Mc Mahon, G Mc Monagle, A Molloy, J Murray, M Naughton, J S Ó Fearraigh, and B Sweeny. (33)

Cllr Mc Brearty voted against.

The remainder of the meeting continued in committee and after an acrimonious debate the Cathaoirleach adjourned the meeting, without fixing a date for the meeting to be reconvened.