

**MINUTES OF JANUARY MEETING OF DONEGAL COUNTY COUNCIL, HELD ON  
31<sup>st</sup> JANUARY, 2022**

C/1/22

**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, M Mc Mahon, G Mc Monagle, A Molloy, M Naughton, J O'Donnell, J S Ó'Fearraigh, and B Sweeny.

C/2/22

**OFFICIALS IN ATTENDANCE**

John Mc Laughlin, Chief Executive, Patsy Lafferty, A/Director of Housing, Corporate and Cultural Services / Meetings Administrator, Richard Gibson, Head of Finance, Brendan O' Donnell, A/Director of Roads & Transportation, Liam Ward, Director of Community Development & Planning Services, Michael Mc Garvey, A/Director of Water & Environment, Anne Marie Conlon, A Director of Economic Development, Information Systems & Emergency Services, Eunan Quinn, Senior Planner, Paul Christie, Senior Executive Planner, Frances Friel, Communications Officer, William Colvin, Assistant Communications Officer, Seán O' Daimhin, Rannóg na Gaeltachta, Róise Ní Laifearthaigh, Rannóg na Gaeilge, Anne Marie Crawford, Staff Officer.

C/3/22

**ADJOURNMENT OF THE MEETING**

On the proposal of Cllr. Donaghey, seconded by Cllr. I. McGarvey, it was resolved to adjourn the meeting to 12 noon in order to complete the business on the Plenary Workshop agenda.

C/4/22

**MINUTES OF THE ANNUAL BUDGET MEETING OF DONEGAL COUNTY COUNCIL HELD ON THE 25<sup>TH</sup> NOVEMBER, 2021.**

On the proposal of Cllr Harley, seconded by Cllr Mc Gowan the minutes of the Annual Budget meeting of Donegal County Council held on 25<sup>th</sup> November, 2021 were adopted.

C/5/22

**MINUTES OF THE NOVEMBER MEETING OF DONEGAL COUNTY COUNCIL HELD ON THE 29<sup>TH</sup> NOVEMBER, 2021.**

Cllr G Doherty proposed, seconded by Cllr Donaghey that the minutes of the November Meeting of Donegal County Council be adopted.

Cllr Doherty at this juncture referred to Minute C/246/21 and the reference in the minutes to corruption and systemic corruption. He was he said particularly concerned about the line which referred to the fact that some staff members and councillors were looking after their own needs. He was, he said, like most other members alarmed at these allegations and the seriousness of same. He noted that it had been agreed that any such allegations would be investigated providing there was sufficient evidence to substantiate same and that all relevant

information was to be provided to the Chief Executive and the Cathaoirleach.

He asked if the evidence in question had been presented and substantiated and whether or not an investigation was ongoing. It was imperative, he said, that members were informed as to what stage things were now at.

Cllr N Crossan concurred with Cllr Doherty. He said that a number of allegations made at the Budget Meeting had been recorded and put up put up on social media. He asked for clarity in relation to this and particularly with regard to the relevant provisions in Standing Orders. He asked why these were not being adhered to.

The Cathaoirleach said that he had taken the allegations very seriously and had confirmed on the day that they would be looked into fully.

Following a number of interjections from Cllr. McBrearty, he was asked by the Cathaoirleach to stop interrupting and to take his seat. Cllr Mc Brearty contended that the Cathaoirleach did not have the mandate to investigate such claims.

After asking Cllr Mc Brearty a number of times to take his seat and stop interrupting, the Cathaoirleach stated that he was adjourning the meeting for ten minutes due to the disruptive behaviour of Cllr McBrearty.

C/6/22

#### **RESUMPTION OF THE MEETING**

On resumption the Cathaoirleach reiterated that he and the Chief Executive had taken the allegations of corruption very seriously. After repeated interruption from Cllr Mc Brearty, the Cathaoirleach asked him if he was going to allow the meeting to go ahead. The Cathaoirleach indicated that due to the continued and persistent disruption of the meeting by Cllr. McBrearty he would have to adjourn the meeting again.

C/7/22

#### **RESUMPTION OF THE MEETING**

On resumption the Cathaoirleach apologised to members of the public who had joined the meeting. He indicated that he wanted to get through the business as professionally as possible. He reiterated that he taken the allegations of corruption very seriously. After interruption from Cllr Mc Brearty, he asked that respect be shown for the Chair. He indicated that Cllr. McBrearty was being persistently disruptive and persistently ignoring the will of the Chair and asked him to allow the business to go ahead.

He said that the Chief Executive and himself had written to the two Councillors who had made the allegations and asked them to provide information to substantiate the alleged corruption by the end of January 2022. There had not been, he said, a response to date.

Cllr Mc Brearty contended that the Chief Executive had received a response from him together with number of emails, whatsapp messages etc.

After a number of further heated exchanges the Cathaoirleach advised that again due to complete lack of respect and disregard for the Chair, and the persistent disruption he would have to adjourn the meeting again for another ten minutes.

C/8/22

### **RESUMPTION OF THE MEETING**

On resumption the Cathaoirleach said that it was unfortunate that the adjournments had taken place but that they were due to the continuous and persistent disruption by Cllr Frank Mc Brearty, and that he was persistently disregarding the rule of the chair.

In accordance with Standing Order Number 46, he proceeded to read into the record the provisions of Paragraph 13 of Schedule 10 of the Local Government Act, 2001 as amended by Section 57(d) of the Local Government Reform Act, 2014:-

*13.—(1) If (a) in the opinion of the person chairing a meeting (in this paragraph referred to as the “chair”), any member has been or is disorderly by persistently disregarding the ruling of the chair, or by behaving irregularly, improperly or offensively, or by otherwise obstructing the business of the meeting, and*

*(b) the chair has conveyed his or her opinion to the members present by naming the member concerned, then the chair or any member may move “that the member named leave the meeting” and the motion, if seconded, shall be put and determined without discussion.*

*(2) Where a local authority decides in accordance with subparagraph (1) that a member leave a meeting, that member shall immediately leave the meeting and shall not be entitled to speak or to take any further part in that meeting on that day.*

*(3) Where in the opinion of the chair—*

*(a) there is general disorder which impedes the orderly transaction of business, or*

*(b) where a member against whom it was resolved that he or she leave the meeting by virtue of this paragraph refuses to do so, the chair may adjourn the meeting for such period as he or she considers necessary in the interests of order.*

The Cathaoirleach then stated that he was asking, and putting it to the floor that Cllr. McBrearty leave the meeting. It was thus resolved on the proposal of Cllr Murray, seconded by Cllr Mc Mahon that Cllr Mc Brearty leave the meeting.

In accordance with Paragraph 13(1)(b) of Schedule 10 a recorded vote was then taken by the Meetings Administrator requesting that Cllr Mc Brearty withdraw from the meeting. This resulted in 32 voting for with 1 voting against.

Those voting for included:-

Cllrs Blaney, Bradley, Brogan, Canning, Conaghan, Coyle, Crawford, N Crossan, T Crossan, A Doherty, G Doherty, L Doherty, Donaghey, Farren, Gallagher, Harley, Jordan, Kavanagh, Kelly, Kennedy, Mc Clafferty, Mc Dermott, N Mc Garvey, Mc Gowan, Mc Mahon, Mc Monagle, Molloy, Murray, Naughton, O' Donnell, O Fearraigh and Sweeny. (32)

Cllr Mac Giolla Easbuig voted against.

The Cathaoirleach confirmed that it had thus been resolved that Cllr. McBrearty leave the meeting and asked him to withdraw from the meeting. Cllr Mc Brearty refused.

The Cathaoirleach further adjourned the meeting.

C/9/22

#### **RESUMPTION OF THE MEETING**

The Cathaoirleach indicated that the members had resolved that Cllr McBrearty leave the meeting. He asked Cllr McBrearty to leave the meeting. Cllr Mc Brearty refused to leave.

The Cathaoirleach then referring to Standing Orders Appendix 1, and Paragraph 13(4)(b) of Schedule 10 of the Local Government Act, 2001 as amended by Section 57(d) of the Local Government Reform Act, 2014 advised of the following:-

*(4) Where at a meeting—*

*(a) it has been resolved in accordance with subparagraph (1) that a member leave a meeting and the chair adjourns the meeting under subparagraph (3) because the member refuses to leave, and*

*(b) it has been resolved by further resolution that the member was the cause of the meeting being so adjourned, then any remuneration to, and any allowances for expenses incurred, by that member concerned, as provided for by regulations under section 142, shall be reduced for the period of 12 months (irrespective of whether or not a local election is to be held during that period) from the date of the meeting concerned as follows:*

*(i) on the first occasion of it being resolved that the member refused to so leave, 10 per cent;*

He said that he was now putting to the floor that the cause of the adjournment was due to Cllr Mc Brearty's refusal to leave the meeting. Cllr. McBrearty stated that this would cause a constitutional crisis. The Cathaoirleach indicated that he was happy to open the matter up to the floor.

Cllr Mc Mahon, seconded by Cllr T Crossan, proposed that Cllr. McBrearty was the cause of the adjournment due to his refusal to leave the meeting.

The Cathaoirleach indicated that Cllr. Mac Giolla Easpaig wished to speak. Cllr. McBrearty proceeded to speak. The Cathaoirleach indicated to Cllr. Mac Giolla Easpaig that he was trying to let him speak, but it was difficult to hear him due to Cllr. McBrearty's disruption.

Cllr Mc Brearty said that this was taking away his rights and that it was not natural justice. He was, he contended, a democratically elected member of the Council and it was extremely unfair that monies would be taken from him.

He then called for an adjournment and said that he would have this dealt with in the courts. He advised that there would be constitutional consequences.

The Cathaoirleach asked that recorded vote be taken. A recorded vote was then taken by the Meetings Administrator and this resulted in 30 voting for with 1 voting against.

Those voting in favour included:-

Cllrs Blaney, Bradley, Brogan, Canning, Conaghan, Coyle, Crawford, N Crossan, T Crossan, A Doherty, G Doherty, L Doherty, Donaghey, Farren, Harley, Jordan, Kavanagh, Kelly, Kennedy, Mc Clafferty, Mc Dermott, N Mc Garvey, Mc Gowan, Mc Mahon, Mc Monagle, Molloy, Murray, Naughton, O Ferraigh and Sweeny. (30)

Cllr Mac Giolla Easpaig voted against.

Cllr. McBrearty expressed his dissatisfaction. The Cathaoirleach indicated that he did not want to be in this position and asked Cllr. McBrearty to withdraw from the meeting. Cllr. McBrearty continued to voice his displeasure. The Cathaoirleach indicated that he would adjourn the meeting again.

He asked members during the adjournment to read the provisions contained in Standing Orders Appendix 1 and confirmed that that a copy would be made available to members during the recess.

## **RESUMPTION OF THE MEETING**

On resumption of the meeting the Cathaoirleach said that it was an unfortunate process that was taking place and that it was impossible to see at this juncture any way forward with regard to completing the business of the meeting. He pleaded with Cllr Mc Brearty to adhere to the resolution of the members of the Council and withdraw from the meeting. Cllr. McBrearty continued to speak.

The Cathaoirleach read into the record the following extract from Standing Orders, Appendix 1 as provided for in Paragraph 13 Schedule 10 of the Local Government Act, 2001 as amended by Section 57(d) of the Local Government Reform Act, 2014

*(5) (a) Where at a meeting—*

*(i) the resolutions referred to in clauses (a) and (b) of subparagraph (4) have been resolved, and*

*(ii) where, following the chair expressing the further opinion that the member has continued to be disorderly by disregarding the ruling of the chair, or by behaving irregularly, improperly or offensively, or by otherwise obstructing the business of the meeting and the chair has conveyed such further opinion to the members present by naming the member concerned, it has been resolved further by at least two-thirds of those present and voting, on a motion moved by the chair or any member (which motion, if seconded, shall have been put and determined without discussion) that for a specified period 'the member stand suspended with immediate effect from all meetings of the local authority and any committee of the local authority, and all meetings of municipal district members' and the period so specified is, subject to clause (c), for at least one month but does not exceed 3 months, then the consequences provided for by subparagraph (4) shall not apply to the member concerned in relation to that suspension except and to the extent provided for by clause (g) in respect of any other suspension.*

He said that this was now the only option available to him and that all concerned should be clear as to the seriousness of taking this decision.

He proposed a 30-minute adjournment to allow members reflect on the consequences of this action for Cllr Mc Brearty who, he said, was continually and persistently being disruptive, and continually and persistently disregarding the will of the Chair.

The Cathaoirleach stressing the gravity of the situation called on members to take time to read the relevant sections in Standing Orders, in order to be fully informed.

It was now in the gift of Cllr Mc Brearty, he said, as to whether or not this decision would have to be taken.

The meeting was thus adjourned to 3pm.

C/11/22

### **RESUMPTION OF THE MEETING**

The meeting recommenced at 3pm and the Cathaoirleach said that he would be happy to give members a few more minutes to reflect on the the situation and to read again the relevant sections in Appendix 1 Standing Orders. He again asked Cllr Mc Brearty to adhere to the resolution taken earlier and withdraw from the meeting.

Cllr Mc Brearty said that he had broken no criminal law and was not leaving the building. He said that over €1 million had been paid out for 5 houses in Buncrana and asked as to whether the County Solicitor had been informed that the houses concerned were affected by mica, sulphites and other deleterious materials.

The Cathaoirleach informed members that as Cllr Mc Brearty had not adhered to the earlier resolution to withdraw from the meeting and as he was continuing to interrupt the proceedings, then there was no alternative option but to move forward as referenced prior to the last adjournment.

He said that Cllr Mc Brearty had continued to be disorderly by disregarding the rule of the Chair, and read the following into the record again for the benefit of the members present the provisions of Paragraph 13 5(a) (i) &(ii), Schedule 10 of the Local Government Act, 2001 as amended by Section 57(d) of the Local Government Reform Act, 2014.

*(5) (a) Where at a meeting—*

*(i) the resolutions referred to in clauses (a) and (b) of subparagraph (4) have been resolved, and*

*(ii) where, following the chair expressing the further opinion that the member has continued to be disorderly by disregarding the ruling of the chair, or by behaving irregularly, improperly or offensively, or by otherwise obstructing the business of the meeting and the chair has conveyed such further opinion to the members present by naming the member concerned, it has been resolved further by at least two-thirds of those present and voting, on a motion moved by the chair or any member (which motion, if seconded, shall have been put and determined without discussion) that for a specified period 'the member stand suspended with immediate effect from all meetings of the local authority and any committee of the local authority, and all meetings of municipal district members' and the period so specified is, subject to clause (c), for at least one month but does not exceed 3 months, then the consequences provided for by subparagraph (4) shall not apply to the member concerned in relation to that suspension except and to the extent provided for by clause (g) in respect of any other suspension.*

He was suggesting the minimum suspension period of one month and again called on Cllr Mc Brearty to withdraw from the meeting so as to avoid any further penalty.

Thus on the proposal of Cllr Murray, seconded Cllr G Doherty it was resolved that Cllr Mc Brearty be suspended with immediate effect from all meetings of the local authority and any committee of the local authority, and all meetings of municipal district members' and the period so specified is one month.

A recorded vote was then taken by the Meetings Administrator. This resulted in 32 voting for with one against.

Those voting for included:-

Cllrs Blaney, Bradley, Brogan, Canning, Conaghan, Coyle, Crawford, N Crossan, T Crossan, A Doherty, G Doherty, L Doherty, Donaghey, Farren, Gallagher, Harley, Jordan, Kavanagh, Kelly, Kennedy, Mc Clafferty, Mc Dermott, N Mc Garvey, Mc Gowan, Mc Mahon, Mc Monagle, Molloy, Murray, Naughton, O' Donnell, O Fearraigh and Sweeny. (32)

Cllr Mac Giolla Easbuig voted against.

The resolution was thus passed.

The Cathaoirleach said that unfortunately the resolution had been passed but that it did not reflect well on Donegal County Council that one member chose to continually interrupt the meeting and prevent the remainder from carrying out what they had been democratically elected to do.

The meeting was then adjourned to Monday 7<sup>th</sup> February, 2022 at 1.30pm.