



SPECIAL COUNCIL MEETING TUESDAY 4 AUGUST 2020

Table of Contents

No	Item	Decisions
1.	Apologies	<i>Alderman Finlay and Councillor C McShane</i>
2.	Declarations of Members' Interests	<i>None</i>
3.	Legal Opinion in the matter of a call in requests in respect of two decisions of the Council Meeting dated 3 December 2019 in relation to:	
	<p>(a) <i>That consideration is deferred to a Special Council Meeting; that Standing Orders are waived to allow the Independent Member to address Council and G Ireland invited to attend.</i></p> <p>(b) <i>That Council accept the report produced by Moore NI and the terms of Reference that they were working under, as set out.</i></p>	<i>AGREED - that a decision be deferred to a Special Council Meeting to be convened in 14 days when legal representation is available and for any further allegations and evidence in relation to the matters presented for reconsideration to be presented by Councillor P McShane and Councillor Quigley and then Council can consider how it wishes to proceed</i>

<p>4.</p>	<p>Legal Opinion in the matter of a call in request in respect of a decision of the Council dated 4 February 2020 in relation to:</p> <p><i>That this Council agrees to appoint independent consultants specialising in management assessment and takes immediate steps to advertise, interview and appoint a fully external independent forensic auditor. Such consultants to prepare an independent report and present to council within 3 months. This review will look at performance review and measures, at every level of the organisation a root and branch review, in the interests of transparency and public confidence</i></p>	<p>AGREED - that a decision be deferred to a Special Council Meeting to be convened in 14 days when legal representation is available and for any further allegations and evidence in relation to the matters presented for reconsideration to be presented by Councillor P McShane and Councillor Quigley and then Council can consider how it wishes to proceed</p>
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**MINUTES OF THE PROCEEDINGS OF THE SPECIAL MEETING OF THE
COUNCIL
HELD REMOTELY ON
TUESDAY 4 AUGUST 2020 AT 9:40PM**

In the Chair : The Mayor, Alderman Fielding (C)

Members Present : Alderman Baird, Boyle, Duddy, Hillis, McCorkell,
McKeown, S McKillop and Robinson
(All Remote Attendance)

Councillors Anderson, Bateson, Beattie, Callan, Chivers,
Dallat-O'Driscoll, Holmes, Hunter, Knight-McQuillan,
McAuley, McCandless, McCaw, McGurk, MA McKillop,
C McLaughlin, McLean, McMullan, McQuillan,
P McShane, Mulholland, Nicholl, Peacock, Quigley,
Schenning, Scott, Wallace, Watton and Wilson
(All Remote Attendance)

Officers Present : A McPeake, Director of Environmental Services (C)
P Donaghy, Democratic Services and Central Services
Manager (R)
C Thompson, ICT Officer (C)
W McCullough, Head of Sport & Wellbeing (R)
D Allen, Committee & Member Services Officer (C)
I Owens, Committee & Member Services Officer (R)

In Attendance : Press (1 No) (R)

C = Chamber

R = Remote

1. APOLOGIES

Apologies were recorded for Alderman Finlay and Councillor C McShane.

2. DECLARATIONS OF MEMBERS' INTERESTS

There were no Declarations of Interest recorded.

The Mayor informed Members that the Legal Opinion in the Matter of 'Call in' requests in respect of two decisions of the Council Meeting dated 3 December 2019 would be taken as the first item on the agenda.

MOTION TO PROCEED 'IN COMMITTEE'

Proposed by Councillor Knight-McQuillan
Seconded by Councillor Callan and

AGREED – that Council move 'In Committee'.

* **The Press left the meeting at 9.45pm.**

3. LEGAL OPINION IN THE MATTER OF A CALL IN REQUESTS IN RESPECT OF TWO DECISIONS OF THE COUNCIL MEETING DATED 3 DECEMBER 2019

The Director of Environmental Services confirmed the decisions were in relation to:

- (a) *That consideration is deferred to a Special Council Meeting; that Standing Orders are waived to allow the Independent Member to address Council and G Ireland invited to attend.*
- (b) *That Council accept the report produced by Moore NI and the terms of Reference that they were working under, as set out.*

Members were reminded that the legal opinion in respect of the two decisions had been previously circulated.

Counsel's summary of Conclusions

- (a) The 'Call In' request with regard to the decision to adopt the Moore NI report **does have merit** under Section 41(1)(a) of the Local Government Act (Northern Ireland) 2014.
- (b) The 'Call In' request with regard to the decision to convene a Special Meeting of the Council to consider the Special Audit Committee Meeting's proposals **does not have merit** under Section 41 (1)(a) or Section 41 (1) (b) of the Local Government Act (Northern Ireland) 2014.

Councillor P McShane stated that he had asked Council's Solicitor, for a legal opinion on this matter at 3pm and that the legal opinion had not been forthcoming on the 6 Members that signed that 'Call In' who, in his opinion, should have removed themselves from any discussions in relation to this matter.

The Mayor confirmed Council's solicitors had not provided the legal opinion and would therefore not be in attendance at the meeting.

The Mayor read out a statement received from the Chief Executive in relation to a query Councillor P McShane had raised at the earlier Council Meeting in relation to information which in his opinion should have been sent to the Department for Communities in relation to land disposal matters.

"Mr Mayor

In relation to matters raised during the Council Meeting, I have not received any request to send files to the Department for Communities since February 2020.

Following discussion at the June Council Meeting, I followed up with the PSNI on 16 June 2020. They confirmed that matters raised during Council Meetings had been referred to the PSNI Economic Crime Branch, who at that time, had not concluded their enquires."

Councillor P McShane reiterated that some documents were not present in the two files previously referred to and both files should have been forwarded to the Minister for Communities 5 months ago.

Alderman Boyle raised a 'Point of Order' under Standing Order 8.11:

Duration of Speeches

*Except with the permission of the Council, a Member, in introducing a Notice of Motion, shall not speak for more than **ten minutes**, and in replying to the debate on the Motion, for more than **five minutes**. Any Member speaking on any matter, other than introducing a Notice of Motion, shall be limited to a maximum of 5 minutes.*

Councillor Quigley referred Members to Section 50 of the Opinion of Counsel, previously circulated, and suggested that they should not continue without the legal opinion.

Councillor Callan felt that the full report needed to be read in context in order to get full meaning, Members should not just pick out one paragraph. The report was an opinion and not law.

In response to a query from Councillor MA McKillop, the Mayor provided further clarification on why Council's Solicitor was not present at the meeting stating that Legal Services had a potential conflict of interest.

Councillor P McShane informed the Mayor that he had only spoken for 2.1/2 minutes of the 5 minutes allowed and requested to speak using the

remaining 2.1/2 minutes. The Mayor allowed Councillor P McShane to proceed.

Following further discussion it was:

Proposed by Councillor Peacock
Seconded by Councillor P McShane

- that a decision be deferred until a legal representation is available to Council.

* **The Mayor declared a recess at 10.20pm**

* **The meeting reconvened at 10.30pm.**

Amendment

Proposed by Councillor Holmes
Seconded by Councillor Callan

- that a decision be deferred to a Special Council Meeting to be convened in 14 days when legal representation is available and for any further allegations and evidence in relation to the matters presented for reconsideration to be presented by Councillor P McShane and Councillor Reigley and then Council can consider how it wishes to proceed.

Councillor McMullan raised a Point of Order that the Amendment differed greatly from the proposal; he was unable to state the relevant Standing Order.

Councillor Scott raised a Point of Order under Standing Order 16.4 *'that the question now be put'*.

The Mayor informed Members that *'the question now be put'* is required to be put to a vote, under Standing Order 16.4 (2).

Councillor P McShane requested a Recorded Vote.

The Mayor put the Motion *'the question now be put'* to the Council to vote.

For: Alderman Baird, Boyle, Duddy, Fielding, McCorkell, McKeown
(24) S McKillop and Robinson
Councillors Anderson, Beattie, Callan, Holmes, Hunter,
Knight-McQuillan, McAuley, McCandless, McCaw,
MA McKillop, McLean, McQuillan, Scott, Wallace, Watton and
Wilson

Against: Councillors P McShane, Mulholland and Quigley
(3)

Abstain: Councillor Bateson, Chivers, Dallat O'Driscoll, McGurk,
(9) McLaughlin, McMullan, Nicholl, Peacock, and Schenning,

The Mayor declared the Motion **CARRIED**.

The Mayor put the Amendment to the Council to vote.

For: Alderman Baird, Boyle, Duddy, Fielding, McCorkell, McKeown
(25) S McKillop and Robinson
Councillors Anderson, Callan, Holmes, Hunter,
Knight-McQuillan, McAuley, McCandless, McCaw, McLean,
McQuillan, P McShane, Mulholland, Quigley, Scott, Wallace,
Watton and Wilson

Against: Councillors Beattie, Dallat O'Driscoll and MA McKillop
(3)

Abstain: Councillor Bateson, Chivers, McGurk, McLaughlin,
(8) McMullan, Nicholl, Peacock and Schenning

The Mayor declared the Amendment **CARRIED**.

* **Councillor Mulholland and Alderman Hillis lost remote connection to the meeting.**

3. LEGAL OPINION IN THE MATTER OF A CALL IN REQUEST IN RESPECT OF A DECISION OF THE COUNCIL DATED 4 FEBRUARY 2020

* **The Mayor declared a recess at 11.00pm for ICT to address Members connection issues.**

* **The meeting reconvened at 11.05pm.**

* **Due to connection issues it was not possible to for Alderman Hillis to re-join the meeting.**

* **Councillor Mulholland re-joined the meeting.**

* **Councillor Anderson left the meeting.**

"That this Council agrees to appoint independent consultants specialising in management assessment and takes immediate steps to advertise,

interview and appoint a fully external independent forensic auditor. Such consultants to prepare an independent report and present to Council within 3 months. This review will look at performance review and measures, at every level of the organisation a root and branch review, in the interests of transparency and public confidence.”

Confidential advice, previously circulated.

Counsel's summary of Conclusions

The 'Call In' **does not have merit** under Section 41(1)(a); there is insufficient evidence provided to conclude that the *"decision was not arrived at after a proper consideration of the relevant facts and issues"* but nonetheless, a reconsideration of the decision is still required under Section 41(1)(a) on the basis of a simple majority vote.

Proposed by Councillor Peacock

Seconded by Alderman Boyle

- that a decision be deferred to a Special Council Meeting to be convened in 14 days when legal representation is available and for any further allegations and evidence in relation to the matters presented for reconsideration to be presented by Councillor P McShane and Councillor Quigley and then Council can consider how it wishes to proceed.

Councillor P McShane requested a Recorded Vote.

The Mayor put the Motion to the Council to vote.

For: Alderman Baird, Boyle, Duddy, Fielding, McCorkell, McKeown
(35) S McKillop and Robinson
Councillors Bateson, Beattie, Callan, Chivers,
Dallat O'Driscoll, Holmes, Hunter, Knight-McQuillan, McAuley,
McCandless, McCaw, McGurk, MA McKillop, McLaughlin ,
McLean, McMullan, McQuillan, P McShane, Mulholland,
Nicholl, Peacock, Quigley, Schenning, Scott, Wallace, Watton
and Wilson

Against: (0)

Abstain: (0)

The Mayor declared the Motion **CARRIED**.

Councillor Callan requested that any evidence that is submitted by Councillor P McShane and Councillor Quigley relating to the previous item

be forwarded to Members in advance of the Special Council Meeting to be convened in 14 days' time.

Councillor Quigley requested that the previous files be made available again for Members to view, if they so wish.

The Director of Environmental Services advised that the arrangements would be made to provide access to the files.

MOTION TO PROCEED 'IN PUBLIC'

Proposed by Councillor Callan
Seconded by Councillor Schenning and

AGREED: that Council move 'In Public'.

This being all the business, the Mayor thanked everyone for their attendance and the meeting closed at **11.20pm.**

Mayor