



Causeway Coast & Glens Borough Council

Special Council Meeting Thursday 3 March 2016

No	Item	Decision
3	<p>To consider legal opinions received following call in of:</p> <p>3.1 Decision of Council 28th July 2015 Flag Flying Policy on Council Buildings</p> <p>3.2 Decision of Council 24th November 2015 Standing Orders</p> <p>3.3 Decision of Council 6th January 2016 Somme Working Group</p>	<p><i>Deferred until further information is brought back from D Scofield QC (Item 3.1 and Item 3.2).</i></p> <p><i>That Council partners groups in Ballymoney and in Coleraine in funding/running events; Ballymoney Cultural and Historical Society £24,000, Royal British Legion Coleraine in partnership with the Ulster Scots Regeneration Group £7,000.</i></p>

Council Meeting

Minutes of the Meeting of Causeway Coast and Glens Borough Council held in the Council Chamber, on Thursday 3 March 2016 at 7.04pm

In the Chair: The Mayor, Councillor Knight-McQuillan

Present: Aldermen Campbell, Cole, Finlay, Hillis, McKeown, McKillop S, Mullan, Robinson;
Councillors Baird, Beattie, Blair, Chivers, Clarke, Douglas, Duddy, Fielding, Fitzpatrick, Harding, Loftus, McCandless, McCaul, McCorkell, McGlinchey, McGuigan, McKillop MA, McLean, McShane, C, McShane, P, Mulholland, Nicholl, Stevenson, Watton and Wilson

In attendance: D Jackson, Chief Executive
M Quinn, Director of Performance
D Hunter, Council Solicitor
S Duggan, Committee and Member Services Officer

Also in attendance: E Johnston, Head of Democratic and Customer Services

1. Apologies

Apologies were recorded from Councillors Holmes and Hunter.

2. Declarations of Members' Interests

Councillor Duddy declared an interest in the Somme Working Group Item stating he was part of the initial discussions with the Ulster Scots Regeneration Group in the Royal British Legion.

It was proposed by Councillor Mulholland, seconded by Councillor Stevenson and **AGREED: that Council move in-committee.**

3. To consider legal opinions received following call in.

3.1 Decision of Council 28th July 2015 Flag Flying Policy on Council Buildings and Decision of Council 24th November 2015 Standing Orders

The Chief Executive advised members that as the decision of the Flag Flying Policy was dependent on the advice in relation to the Standing Orders and Qualified Majority Vote issue it would be timely to consider the Standing Orders item first because of its impact on the Flag Flying Policy. The Chief Executive stated the Somme Working Group Item had received separate advice, was a separate matter and the advice was; simple majority reconsideration.

In response to Councillor Clarke's query surrounding signatures on a call in, the Chief Executive stated he would need to put that direct to the Barrister, the Chief Executive had sought legal advice whether names or signatures were required; advice was; it was names as opposed to signatures. The specific question; how valid the signatures were; the Chief Executive would direct to the Barrister and in that case Council would be unable to proceed.

It was proposed by Councillor Clarke, seconded by Councillor Stevenson: **that consideration is deferred until further information is brought back from D Scofield QC (Item 3.1 and Item 3.2).**

Councillor McGuigan felt the situation was irrelevant; the legal position had been stated by the Barrister; the document presented was ascertained to be a legal call in by senior officers of Council and a Barrister, it was quite clear with regard to the vote and with the Flag Flying Policy, advice had been given as to what was to happen and what should happen, with the prospect of Judicial Review for the Council.

An amendment was proposed by Councillor McGuigan, seconded by Councillor C McShane: **that Council retake the decision taken on the Flag Flying Policy by Qualified Majority Vote and take it tonight.**

Councillor Clarke raised a Point of Order. The Mayor Ruled discussion was on consideration of both Items together (Item 3.1 and Item 3.2).

Councillor McGuigan stated he was happy to take Item 3.2 first. Councillor McGuigan quoted from 4.(d) of the legal opinion, stating Council was required by law to place the Qualified Majority Vote Standing Order as previously in the Rules of the Council back into the Rules of the Council and apply it to the Flag Flying Policy.

* **Councillor Douglas arrived at the meeting at 7.15pm.**

Councillor Loftus requested a recorded vote.

Alderman Hillis raised that Councillor McGuigan's amendment was not an amendment, it was a new proposal. This was accepted. The Chief Executive put Councillor Clarke's proposal to the Council to vote first.

Councillor McGuigan raised a Point of Order, stating the Chief Executive had said at a previous meeting he had sought legal opinion that did not require signatures on a call in, why therefore was the need to delay this for a reason the Chief Executive clarified did not require signatures on a call in.

The Chief Executive stated the advice received in relation to the call in, did refer to signatures, and it would be right refer to the Barrister to be clear in light of his advice.

* **Councillor Beattie arrived at the meeting at 7.20pm.**

The Chief Executive put Councillor Clarke's proposal to the Council to vote.

For (21)

Aldermen Campbell, Cole, Finlay, Hillis, McKeown, S McKillop, Robinson
Councillors Baird, Blair, Clarke, Douglas, Duddy, Fielding, Harding, Knight-McQuillan, McCandless, McCorkell, McLean, Stevenson, Watton and Wilson

Against (11)

Alderman Mullan, Councillors Beattie, Chivers, Loftus, McCaul, McGlinchey, McGuigan, C McShane, P McShane, Mulholland, Nicholl

Abstain (1)

Councillor Fitzpatrick

The Mayor declared the proposal carried, 21 members voted for, 11 members voted against, 1 member abstained.

3.3 Decision of Council 6th January 2016 Somme Working Group

The Chief Executive restated the legal recommendation, that of reconsideration of the decision by simple majority.

An amendment to the decision was proposed by Alderman Finlay, seconded by Councillor Stevenson: **that Council partners groups in Ballymoney and Coleraine in funding/running events; Ballymoney Cultural and Historical Society £24,000, Royal British Legion Coleraine in partnership with the Ulster Scots Regeneration Group £7,000.**

Councillor McGuigan stated it was clear from the legal opinion provided by the Barrister in this, the process Council had instigated in terms of the proposal, was at fault. Councillor McGuigan stated Groups needed an opportunity to fairly apply, Alderman Finlay's amendment was applying the same faulty process.

It was proposed by Councillor McGuigan, seconded by Councillor McGlinchey: **that Council take on board the legal opinion presented here to us tonight, we either have no funding or we sit down with Officers and advise.**

Council's Solicitor stated, when reconsidering the decision, in his view, the amendment by Alderman Finlay could be made.

Councillor Fitzpatrick raised queries in relation to Point 29 and Point 30 of the Barrister's opinion. Council's Solicitor clarified and provided further explanation.

Councillor Loftus requested a recorded vote.

Councillor McGuigan raised queries in relation to Standing Orders, amendments and process.

The Solicitor stated the advice given was: the call in was accepted, is made under section 41(a) not a sound decision, under section 41(b) whether it had disproportionately affected any section, the information had not satisfied the Barrister and 41(b) is made out, the decision stands as it is. The 41(a) issue had to be determined by majority vote.

Council's Solicitor stated there was a legal obligation for Council to reconsider the decision and Council should give credence to the advice given, ultimately it was a matter for Council.

The Chief Executive put Alderman Finlay's amendment to the Council to vote.

For (21)

Aldermen Campbell, Cole, Finlay, Hillis, McKeown, S McKillop, Robinson; Councillors Baird, Blair, Clarke, Douglas, Duddy, Fielding, Harding, Knight-McQuillan, McCandless, McCorkell, McLean, Stevenson, Watton and Wilson

Against (11)

Alderman Mullan; Councillors Beattie, Chivers, Loftus, McCaul, McGlinchey, McGuigan, C McShane, P McShane, Mulholland, Nicholl

Abstain (1)

Councillor Fitzpatrick

The Mayor declared the amendment carried, 21 members voted for, 11 members voted against, 1 member abstained.

It was proposed by Councillor McGuigan, seconded by Councillor McGlinchey: **that Council Officers produce criteria that fits with Council's grant funding policy and publishes it in local press, to allow all Groups, who wish to apply, a fair opportunity.**

Following Councillor McGuigan's clarification of his proposal, Council's Solicitor stated it was not a proper proposal, the proposal was a direct negative and could not be accepted.

It was proposed by Councillor Duddy, seconded by Councillor Fitzpatrick: **that Council resolve itself out of in-committee.**

This being all the business the meeting closed at 8.03pm.