

Minutes of Meeting of Special Environment Committee of Mid Ulster District Council held on Thursday 17 August 2017 in Council Offices, Burn Road, Cookstown

Members Present	Councillor McGinley, Chair Councillors Burton, Cuthbertson, Gillespie, Glasgow, Kearney, B McGuigan, S McGuigan, McNamee, Mulligan, J O'Neill and Totten
Officers in Attendance	Mr Cassells, Director of Environment and Property Mr Kelso, Director of Public Health and Infrastructure Ms McAleer, Corporate Policy & Equality Mr McCreesh, Director of Business & Communities Ms Mezza, Head of Communications Ms Grogan, Committee Services Officer
Others in Attendance	Councillor Bateson, Bell, Cuddy, Doris, McPeake and Wilson Mr Mark Deeney – NIFRS - Western Area Commander Mr Roy Robinson – Chief Inspector - PSNI Representatives from PSNI and NIFRS

The meeting commenced at 7.00 pm

SE001/17 Apologies

Councillors Buchanan, McFlynn and M Quinn.
Representatives from NIEA and NIHE

SE002/17 Declarations of Interest

The Chair reminded Members of their responsibility with regard to declarations of Interest.

SE003/17 Chair's Business

The Chair, Councillor McGinley welcomed to the Special Meeting elected members and representatives from the NIFRS, PSNI and the Press.

The Chair advised members that after reading certain things within the press, he reminded members of the importance of conducting this meeting in a mature and respectful manner. He said that the meeting tonight would only be discussing matters relative to Mid Ulster Council and nowhere else.

The Chair advised the Committee that a request to hold a Special Environment Committee Meeting was made following the Motion being passed at the Council meeting on 25th August 2016 in the aftermath of recent Bonfires on Council Property.

He said that a number of question's had been raised by members within the Sinn Fein party on how to proceed with concerns regarding Bonfire safety and regulation. The Chair advised that Councillor B McGuigan had raised that issue of Bonfire Safety and invited him to address the meeting.

Councillor B McGuigan said that he wanted to thank the Chair for facilitating tonight's special meeting as requested by himself so that a number of issues of concern regarding 'Bonfires' on council property could be addressed. He said that tonight he wanted to concentrate on our responsibilities as elected representatives and as a Council in relation to this issue.

He said that from the outset of tonight's special meeting he wished to remind Councillors of the purpose of the Bonfire Working Group which was set up in response to the following motion which was passed by Council.

The Motion Reads:

"We welcome that the Minister of the Environment through his Agency the NIEA will bring in appropriate measures which adequately deal with used tyres as the current system does not rigidly control how suppliers do this. That this Council does not clean the remains from Bonfires from any other property that does not belong to the Council. On Council property that is used for bonfires, only suitable materials are used and all other materials such as tyres, rubbish, flags, election posters or effigies of individuals are removed. That this Council seeks to prosecute through its powers anyone who illegally dumps any hazardous materials on public or private lands associated to bonfires".

He stated that in his correspondence to the Chairperson of the Environment Committee, despite working with all public bodies within the Bonfire Working Group to mitigate the problems associated with a number of these bonfires, illegal practices continue and are having serious detrimental impacts to the quality of life of many residents within our district.

He said that for the Sinn Féin group on this Council, this was totally unacceptable.

The questions and actions that need to be given immediate attention were outlined in the same correspondence addressed to the Chairperson of the Environment Committee, and was included in papers for tonight's meeting.

He stated that during the course of their meeting, his party colleagues would join him in dealing with these and other questions that have arisen since.

Councillor B McGuigan said that at this stage he wished to take the opportunity to commend Council Officers on having provided their paper detailing costs to date which amount to £17,549.37 for a clean-up operation in relation to 12th July bonfires which took place on Council property. The costs do not include VAT, Officer time obtaining third party Contractor services, ongoing remedial work such as power washing, hard and soft landscaping repairs to damaged areas as these have generally not been completed.

He said that he would like to begin tonight's discussion by asking the appropriate Council Officers if they have any indications as to what the final costs of the remedial work still needing to be done is expected to cost.

The Chair thanked Councillor B McGuigan for his contribution and advised that as we were still in Chair's Business that we must move on.

Councillor Cuthbertson referred to the article in the local press and advised that he was annoyed to see the local press being made aware of the Special Environment meeting before elected members of Mid Ulster District Council.

Councillor Cuthbertson stated that this wasn't a meeting of the Bonfire Working Group and that this report listed Bonfires which took place within Mid Ulster in July only, he asked Officers why they had consented to this meeting taking place as the next meeting of the Environment Committee was in 17 days time anyway.

The Chair advised that he had made it clear at the beginning of the meeting that no other discussion would take place unless it was regarding the issue of Bonfires and that he was within his right as Chair to call a Special Meeting as it was within the remit of the Standing Orders.

The Director of Public Health & Infrastructure advised Councillor Cuthbertson that the Standing Orders were consulted with and the Chair had the authority to call the Special meeting.

Councillor B McGuigan stated that during the time of the Bonfire Working Group there had been no other bonfires i.e. Halloween or Internment on Council owned land and would be off the same opinion regardless of the occasion throughout the year and this is not just about July bonfires.

The Chair advised that the Director of Public Health & Infrastructure would present his report first and then members would have the opportunity to make any comments or suggestions afterwards.

SE004/17 Mid Ulster Bonfire Issues

The Director of Public Health & Infrastructure advised that some of the detail within the report was still in draft form.

The Director of Public Health & Infrastructure drew attention to the report previously circulated to update members on the work of the Mid Ulster District Council Bonfire Working Group and the public safety concerns relating to Bonfires held on Council property in the Mid Ulster area.

The Director of Public Health and Infrastructure recommended that:

- 1) The establishment of a formal Bonfire Inter Agency Working Group formatted within the Mid Ulster Community Planning framework to develop a Short/Medium/Long term Action Plan to address and promote Bonfire Safety
- 2) Engagement with local communities who wish to host bonfires and those who don't wish to host bonfires on Council land to ensure adherence to Good

Practice with Council and other Statutory Agencies to promote public safety at bonfires.

In response to the Chair's query if Councillor B McGuigan was happy with the response, he said that he would be happy to work with groups who want to celebrate with bonfires in a safe, regulated way and that there was a need for proper leadership.

Councillor Cuthbertson said that it was worth noting that the NIFRS advised that the residents of Killymerron Park were not at any immediate risk and in relation to cost, the vast amount of expense was relating to collection of tyres. He felt that the people of Killymerron should be commended as in the past they had an agreement with Officers from the legacy Dungannon Council in working to keep things under control and keep the public safe.

Councillor Cuthbertson felt that the NIEA should have a more active involvement in clearing away any toxic materials including tyres.

He referred to Appendix 1.2 of the report: Scoping Document – July Killymerron, Dungannon hate crime incidents which were advertised in the local press and felt that it would be more beneficial to take advice from the PSNI rather than relying on newspaper reports.

The Chair in making reference to the press, stated that election posters and effigies of members from his party were strategically placed on top of bonfires.

Councillor McNamee enquired if there were any requests for compensation from residents of Killymoon for smoke damage.

The Director of Public Health and Infrastructure advised that one complaint had been received and one formal complaint made. He stated that the request for compensation had been declined following advice from the Council insurers.

Councillor S McGuigan stated that there were definitely issues at the bonfire at Killymerron as two MP's were called in the early hours by residents. He said that the bonfire was approximately 80 foot high so it was a significant bonfire. He said that residents were concerned about it and were unsure how to address it.

Councillor J O'Neill advised that instead of putting out the fire, fire officers were hosing down houses.

Councillor Cuthbertson strenuously denied the allegation and stated that residents of the area advised him that no properties were hosed down.

Mr Mark Deeney, Fire Service's Western Area Commander rejected an earlier claim by Councillor Cuthbertson that the Fire Service had stated that none of the bonfires in the vicinity provided an imminent risk. He said that there was a legal remit to protect properties from fire but that there wasn't a legal obligation to distinguish a fire, but if a bonfire was out of control that the Fire Service would attend the scene.

Councillor B McGuigan enquired what residents from Killymerron do for insurance, with the Chair advising that there was no concrete information in that regard.

The Chair said that it would be beneficial for Officers to liaise with the NIFRS to see what actual costs were incurred on their part.

Councillor Cuthbertson stated that there was no question that there was sympathy with homeowners and didn't want to see anyone at a loss because of potential damage caused, but he felt that the Council wasn't responsible for all damage done, not just by bonfires but by bombings etc in the town centres down through the years which the Council wasn't responsible for either.

Councillor McNamee again raised that question of compensation stating that there could be potentially more letters coming forward seeking compensation and felt that it was easy for the committee to say that it was nothing to do with us if it was on Council property. He said that there were many houses involved and if the residents decided to take the Council to Court then we would be liable for this and enquired if there was adequate funding in the budget to cover such incidents.

The Director of Public Health and Infrastructure stated that the Council would be in a position of robust denial of liability and that risk assessment is currently being reviewed.

Councillor B McGuigan stated that the bonfire builders had no right to be on Council owned property as they were there without permission. He said that there were public liability issues and that the Council were at a serious risk if there was a potential claim or injury. He felt that there was a need for this to be recorded on a risk register and when the Council were giving out a grant to anyone within the Council area in terms of any community festival, there was a request for insurance to cover such incidents. He advised that if his party applies to parade down a road there was onus on them to put their names to that because they are responsible for what takes place during that parade.

Councillor B McGuigan said that there was nothing to indicate that an application was made to build a bonfire on Council property. He continued to say that there was no attack on culture regardless of where it's coming from but there's responsibility regarding how it's managed. The bonfire builders have no right to be on Council owned property because no permission had been granted.

The Chair stated that the Risk Register had been noted.

The Director of Public Health and Infrastructure stated as this was being referenced on the risk register doesn't mean we are condoning them.

The Chair, felt that it would be worthwhile investigating the idea of some form of licensing and insurance method as the Council were not in a position to look at criteria for people using Council property having to provide certain criteria and provide insurance and felt that there was some level of accountability.

Councillor Kearney agreed that licencing would bring in an additional level of safety that would reduce the number of bonfires which were unsafe.

The Director of Public Health and Infrastructure said that this would be a legislative process and that the Assembly would be required to implement this.

The Chair, felt that the Council should be looking into this as there was some sort of obligation for licencing and accountability.

Councillor Glasgow said that it seemed to him that the Council were looking at setting up a bonfire commission akin to the Parades Commission.

The Chair rejected Councillor Glasgow's comment and stated that he didn't hear anyone comparing the activity and enquired if Councillor Glasgow wasn't in agreement of accountability and safety.

Councillor Glasgow advised that safety was first and foremost but before we put the cart before the horse, there was a need to look at everything involved in this and not bypass the Bonfire Working Group for something else.

The Chair said that he hadn't heard this at all.

Councillor B McGuigan stated that one party decided not to turn up to the Bonfire Working Group.

Councillor J O'Neill said that he found it hard to believe that if a person falls from top of a bonfire, that consideration would be given to paying compensation, he said that this was unbelievable and needs to stop immediately.

The Chair asked Councillor J O'Neill for clarification on his comments on whether he was asking for risk management or a stop altogether.

Councillor J O'Neill advised that he wanted risk management.

Councillor Cuthbertson advised that no matter what Council employees work at, there should be a risk assessment carried out.

Councillor McGuigan said that when some of the community groups couldn't cover the insurance for events, the Council covered these and it may be assumed that this risk would be also covered. He said that he would have concerns around this as he believed that groups automatically think that they are covered by the council. He stated there was a need for this to be differentiated.

The Director of Public Health and Infrastructure advised that the Council do not provide funding support for Bonfires. He said that if any member wanted further information on funding that this could be discussed at the appropriate committee.

The Director of Environment and Property advised that in the past groups have asked for council property to host events and they had to provide an indemnity insurance.

The Chair stated that if people were looking to use Council properties then insurance would need to be provided by them.

Councillor Kearney advised that the former Minister for Environment, Mark Durkan had previously passed legislation which resulted in 80 tonnes of toxic materials being removed and felt that a licencing system within the Council should be looked at as this would reduce a lot of bonfires taking place.

The Director of Public Health and Infrastructure highlighted that this would be a legislative process and would require formal legislation to be implemented by the Northern Ireland Assembly.

The Chair advised that this was only for Mid Ulster and would propose that Officers look at criteria for advice and steering which would be brought to the attention of the Bonfire Working Group before being brought to committee.

Councillor Glasgow advised that Parades and Bonfires were totally separate and felt that this Council was going to bite of more than they could chew. He said that Interagencies had a huge role in trying to sort the issues of tyres and toxic materials and wouldn't be supportive of going down this line as this could result in the Council losing their identity in all of this.

Councillor Glasgow felt that it was portrayed tonight that the Bonfire Working Group has lacked leadership in all of this and stated that this wasn't the case and it should be given a chance to proceed without the involvement of Interagencies.

The Chair said that the Bonfire Working Group had attempted to make process but there was a lack of membership from one party and suggested that a process of criteria and accountability be implemented for the Bonfire Working Group.

Councillor B McGuigan said that the Bonfire Working Group was working very well and felt that the one party that didn't get involved should have been there to show leadership.

The Chair felt that answers Questions 2 and 3 have been answered and that a Risk Register be considered and that Officers go through this and bring a report to the October committee meeting.

In response to a query, the Director of Public Health and Infrastructure advised that there was no automatic air monitoring system in place in the Dungannon area, although there had been one in Cookstown in the past provided by funding from Dept of Environment. He advised that this was removed from service some years ago as the Department felt that it was no longer required and too costly to run.

Councillor S McGuigan said that he was concerned as in the past Environmental Health Officers looked at trying to reduce pollution and if a monitor was within a radius, it should have been looked at.

Councillor Cuthbertson said that if we were going down this route then there was a duty of care for all people of the area and not just for the areas with Bonfires, and he said if this was the case then solid fuels should also be looked at.

The Chair said that this suggestion should be made to the Interagency group.

Councillor Glasgow suggested that the Council investigate financing an air pollution monitor.

The Chair said it may be useful investigating the issue.

The Director of Public Health and Infrastructure advised he would refer the request to the Environmental Health Service to provide a report on the matter.

The Chair referred to question 5 and asked members if they had any further comments or questions on what legal responsibilities of public bodies in respect of controlled waste and environmental pollution where Bonfires were located.

Councillor Burton said that when you see how much money was spent on removing tyres she enquired what moves could be made to trace illegally placing tyres on top of bonfires.

The Chair said that it was his understanding that the PSNI were investigating this and invited the Chief Inspector of the PSNI, Mr Roy Robinson to address the meeting.

Chief Inspector Robinson advised the committee that the PSNI try to trace tyres placed on top of bonfires but it proves difficult. He said that following up on one site, an individual was seen taking tyres from the site but that there was no indication when they were placed or who the individual was. He said that in the past he had worked within an area where a Bonfire Working Group invited local garages to get involved to try and help identify the tyres from the garage. He said the tyre suppliers put an identification mark on their used tyres which would identify which garage they came from and if the tyres were not properly disposed of or stolen to put on bonfires, that garage would come and remove the tyres.

The Chair said that he was aware of this initiative and agreed that it was a good idea, but said that he was also concerned about asbestos and wood being dumped by some committees, which should be disposed of in a safe way.

Councillor J O'Neill advised that Ballymena implemented a scheme by putting a number on used tyres, which could be traced back to the tyre suppliers which would be beneficial.

Councillor Cuthbertson said that in his opinion that this was the responsibility of the NIEA and they should be asked to take this on board.

Councillor Burton agreed that the initiative of spraying tyres which have been paid for by the motorist for disposal should be traced back to the tyre supplier.

The Chair advised that there was a fine line between what the Council can do and what other people's responsibilities were.

Councillor S McGuigan said that under the General Power of Competence that this matter should be looked at on the safe disposal of tyres.

The Director of Environment and Property said there was a duty of care outlined by the NIEA and that every time waste was passed on an operator was required to present evidence on how they have disposed of the items and within the eyes of the law, nothing bigger than a bicycle tyre can be disposed of on landfill sites.

Councillor J McNamee raised the issue of some items being placed on bonfires, which effect the good relations within the community. He said that the burning of effigies was having a serious effect on good relations and for a number of years he had reported a number of poster thefts to the PSNI. He enquired what steps were being taken to prevent this. He stated that when the 12th of July comes, it's just hate season of everything nationalist on a bonfire. He said that he was concerned about children witnessing that. He also stated that the nationalist communities were looking at Sinn Féin, SDLP posters, Irish Flags with people celebrating people going up in flames, which he found disgusting and said that something needed to be done.

Councillor Cuthbertson said that good relations was being endangered by the actions of the Mid Ulster District Council itself. He said that only for the fact that there was so much shouting in other Council areas that this wouldn't be such a big issue and that bonfires may not have been so big. He stated that if a community feels their traditions were under threat, they go out to do them in a bigger and better way.

Councillor Cuthbertson said that he felt that this Council had a detrimental effect on good relations and within the legacy Council in Dungannon there was an understanding in relation to working with issues that could be confrontational. He felt that this Council had jumped feet first in relation to signage and other silly decisions relating to Council property and that the Council needed to tread very carefully.

The Chair said that he disagreed with Councillor Cuthbertson's sentiments and stated that anything he had heard tonight that there was no attack on culture. He said that discussion was around illegal activity, with posters and effigies and people in this room being burned in terms of their posters. He said that the members present were having a mature, structured discussion in terms of how we can make things respectful for all people.

Councillor Cuthbertson said that everyone was coming across saying that they were concerned about health and safety but that this wasn't the case. He said that it was an attack on unionist working class traditions and stated that if parties came out earlier and removed their election posters that there would be no issues of them being put on top of the bonfires. He continued to say that in the past poppy wreaths were burnt at a bonfire and a poster glorifying the murder of Lee Rigby and an effigy of a Police Landover were also evident.

The Chair, stated that he disagreed that Sinn Féin made an attempt to attack culture and said that this could be further discussed between them both if need be outside of this meeting. He said that his party were not behind the door condemning this and if he knew of a poster of a DUP candidate being placed on top of a bonfire, that he

would say that this was wrong. He said that posters were stolen during the election process and not after it.

Councillor McNamee felt that Councillor Cuthbertson's comments regarding dual language signage was outrageous and stood by his claim that the burning of flags and posters on bonfires were hate crime. He said that it's the same hate crime year after year and that no-one ever seems to be prosecuted. He felt that it sends out a very negative message to young children around a bonfire of people laughing when people are going up in flames. He said when the nationalist community sees this it had a very negative impact on good relations.

In response to a query, Chief Inspector Robinson advised that the PSNI referring to posters and effigies stated that they take hate crime very seriously and regardless of their background, he would want all people to live in the community without the fear of hate crime and intimidation.

Councillor McNamee said that posters are never removed from bonfires and this sends out a wrong message to young people when they witness people laughing and jeering when the nationalist community goes up in flames.

The Director of Public Health and Infrastructure highlighted that these activities are brought onto Council property illegally and all such incidents should be referred to the PSNI to investigate and action as necessary. He said that the Chief Inspector indicated the need for respect within communities when promoting such cultural events. The Council would continue to support celebrations of culture and diversity through it's various community programmes.

Councillor Cuthbertson asked that facts be based on PSNI reports and not press reports.

The Chair stated that the two recommendations be taken on board.

Councillor Wilson said many people would see this meeting as an attack on the unionist culture and suggested not going with the recommendations tabled here tonight and stated that although we wasn't part of the Environment Committee, he had listened with great interest and suggested engagement with local communities as an alternative way forward. He said that he would be in support of risk management and agreed with the comment regarding the escalation of bonfires in response to Belfast and Londonderry recommendations. He continued to stay that he was aware of the situation regarding the flags and Emblems Committee, which was set up and advised that this committee was due to report their findings by the end of the year and that it would be wise to wait and see what the outcome would be.

The Chair again reminded members that this meeting was relative to the Mid Ulster Council areas only and community involvement.

Councillor McGinley rejected Councillor Wilson's claim and stated that he must have been listening to a different conversation as discussions only referred to all bonfires on Council property. He stated that he disagreed that this meeting was an attack on the unionist culture as it was about the risk of bonfires on all Council properties.

Councillor McNamee however did agree with Councillor Wilson on the importance of community engagement.

Councillor Mulligan said that he would have great difficulty in agreeing to the first recommendation, as it would be moving the issue away from this Council and stated that the Bonfire Working Group had only been set up 8 months ago and it would be premature at this stage to involve the Interagencies.

Councillor Glasgow agreed with Councillor Mulligan and felt that the Bonfire Working Group should be given a chance to proceed on their own to try and find a way forward.

Councillors Mulligan and Glasgow both agreed that setting up an Interagency bonfire group would be moving too fast and would be taking away the power from the Council and agreed with Councillor Wilson's recommendation on waiting on the outcome of the findings from the Flags and Emblems Committee.

Proposed by Councillor Mulligan
Seconded by Councillor Glasgow

That members continue on their work with the Bonfire Working Group and wait until the findings of the Flags and Emblems Committee are made known before inviting the Interagencies to become involved.

Councillor Glasgow felt that the timing of the meeting wasn't appropriate as it was in the middle of the summer season and felt that it was a hammer to the culture within unionism and agreed with Councillor Burton's suggestion of hitting the cause of the tyres being put on bonfires.

Councillor B McGuigan said that he was happy to continue on the work of the Bonfire Working Group and only involve outside agencies like the PSNI, Fire Service and the NIEA as and when required.

It was agreed to proceed with Councillor Mulligan's proposal.

Resolved: That it be recommended to the Council that approval be given to:

- (i) Members continuing on their work with the Bonfire Working Group and wait until the findings of the Flags and Emblems Committee being made known before inviting other agencies ie. PSNI, Fire Service and NIEA to becoming involved.
- (ii) Engagement with local communities who wish to host bonfires and those who don't wish to host bonfires on Council land to ensure adherence to Good Practice with Council and other Statutory Agencies to promote public safety at bonfires.
- (iii) Officers to prepare an Options Paper for the introduction of an application and licencing process, which should meet certain criteria for building bonfires, with this being done through the Bonfire Working Group and then brought back to committee for consideration.

- (iv) Illegal bonfires be put on the Risk Register and being brought back to committee.

SE007/17 Duration of Meeting

The meeting commenced at 7 pm and ended at 8.35 pm.

Chair _____

Date _____