

**Minutes of Meeting of Mid Ulster District Council held on Thursday 26 April 2018 in the Council Offices, Circular Road, Dungannon**

**Chair:** Councillor Ashton

**Members Present:** Councillors Bateson, Bell, Buchanan, Burton, Clarke, Cuddy, Cuthbertson, Doris, Elattar, Forde, Gildernew, Gillespie, Glasgow, Kearney, Mallaghan, McAleer, McElDowney, McFlynn, McGinley, B McGuigan, S McGuigan, McKinney, McLean, McNamee, McPeake, Milne, Molloy, Monteith, Mullen, Mulligan, J O'Neill, T Quinn, M Quinn, Reid, G Shiels, J Shiels, Totten and Wilson

**Officers in Attendance:** Mr Tohill, Chief Executive  
Dr Boomer, Planning Manager  
Ms Canavan, Director of Organisational Development  
Mr Kelso, Director of Public Health & Infrastructure  
Mr McCreesh, Director of Business & Communities  
Ms Mezza, Head of Marketing & Communications  
Mr P Moffett, Head of Democratic Services  
Mrs Forde, Member Support Officer

The meeting commenced at 7pm

**C78/18 Apologies**

Councillor Robinson

**C79/18 Declarations of Interest**

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

**C80/18 Chair's Business**

The Chair, Councillor Ashton advised that agenda item 24 would be taken prior to item 23.

The Chair, Councillor Ashton paid tribute to the Economic Development and Tourism staff for the success of the recent visit of a delegation from Hong Kong.

The Chair, Councillor Ashton referred to the meeting on Monday 23 April 2017 with representatives of the Health and Social Services Trust in relation to the current situation with General Practitioner Practices. The Chair stated that the outcome had not been positive.

Councillor Wilson advised that the provision of health care in Cookstown was in real difficulties and that over the past few years Members had worked with both Health

and Social Care Trusts' to create a better vision for health care across Mid Ulster. He referred to the ongoing work of community planning through which he had hoped health care provision would become more strategic and that the situation would improve, yet at a recent meeting involving senior health officials Members had been informed that there had been a business case for four medical hubs of which the Dungannon one would proceed but the planned hub for Cookstown would not be happening in the near future. He said it was in fact be discarded for the next 5-10 years. He stated that representatives of the Trusts' sit on the community planning team yet this fact was not shared and simply goes against good practice. Councillor Wilson proposed that Council seek an urgent meeting with the Permanent Secretary of the Department of Health to discuss the short to medium health plans for the three main towns in Mid Ulster.

The Chair, Councillor Ashton advised that Council had presented a strong case at the aforementioned meeting but the response was it was someone else's departmental responsibility.

Councillor Buchanan welcomed the news of the Dungannon hub but expressed disappointment regarding the decision with regards the Cookstown hub, as the legacy Council of Cookstown had worked for years to progress same.

Councillor McKinney seconded Councillor Wilson's proposal.

Councillor McNamee voiced his support for the proposal

Councillor Monteith requested that if Councillor Wilson was agreeable could the aforementioned proposal include discussion for a short-term project for additional General Practitioners. He stated, that with the best will in the world the hubs will be a medium to long-term project but the area really needed additional GPs. He emphasised that that Members are told they won't come to the area as they want a specialism thus working 2-3 days as a GP and 1-2 in an acute hospital and as there is no acute hospital in Dungannon, the community who has suffered the indignity of no acute services has the further indignity of no GPs.

The Chair, Councillor Ashton called for a vote

For	39
Against	0

**Resolved** That Council write to the Permanent Secretary for the Department of Health seeking an urgent meeting to discuss short and medium term plans for health provision for the three main towns. Discussion to include short-term project for additional GPs.

Councillor M Quinn requested that the Chair send a letter to the Quinn brothers who were involved in a recent incident on Lough Neagh saving the lives of two men. Councillor M Quinn highlighted the fact that the brothers had recently attended a boat safety course.

Councillor M Quinn condemned the incident in Coalisland during which an elderly lady was robbed and assaulted. He also paid tribute to the local community who had provided great support to the lady at this time.

Councillor M Quinn expressed displeasure regarding a motion, which he had submitted but had not reached the Council papers.

Councillor McGinley concurred with Councillor M Quinn commending the actions of the Quinn brothers and commended the work of Lough Neagh and Ardboe Rescue.

Councillor Doris expressed condemnation regarding the disgraceful attack on a vulnerable pensioner and again highlighted the tremendous community response and appealed for people to supply information in order that the offenders could be brought to justice.

Councillor Reid spoke of the announcements of school closures in the district stating that the proposed closures of primary schools, which were also used in the local community, would be devastating. Councillor Reid proposed that Council write to the Permanent Secretary for the Department of Education and other relevant bodies to seek meetings regarding proposed school closures in the district.

Councillor Glasgow seconded the proposal

The Chair, Councillor Ashton called for a vote

For	39
Against	0

**Resolved** That Council write to the Permanent Secretary for the Department of Education and other relevant bodies to seek meetings regarding proposed school closures in the district.

In response to Members queries the Head of Democratic Services advised that the papers having been previously published to Members are required to be unpublished on the day of the meeting in order that the 'open business' reports can be made public, thus the CMIS system indicates that an updated version is available to download.

### **Matters for Decision**

**C81/18      Receive and Consider Minutes of matters transacted in "Open Business" at the Council meeting held on Thursday 22 March 2018**

Proposed by Councillor McGuigan  
Seconded by Councillor Wilson and

**Resolved:** That the Minutes of the Meeting of the Council held on Thursday 22 March 2018 (C54/18 -C70/18 and C77/18) transacted in “Open Business” having been printed and circulated were considered and

**C82/18      Receive and Consider Minutes of matters transacted in “Open Business” at the Planning Committee meeting held on Monday 9 April 2018**

Proposed by Councillor Gildernew  
Seconded by Councillor Reid and

**Resolved:** That the Minutes of the Meeting of the Planning Committee held on Tuesday 9 April 2018 (P050/18 – P058/18and P064/18) transacted in “Open Business” having been printed and circulated, subject to the foregoing were considered and adopted.

**C83/18      Receive and Consider Minutes of matters transacted in “Open Business” at the Environment Committee held on Tuesday 10 April 2018**

Councillor McGinley sought an update in relation to item E102/18 Chair’s Business - provision of a halting site for travellers.

In response, the Director of Public Health and Infrastructure stated that a meeting had taken place on 18 April at which there had been discussion regarding suitable sites for provision a halting site for travellers. He advised that he had received an update from the Northern Ireland Housing Executive on 26 April that a site at Traad had been identified and in order to progress a feasibility study would be required. It was proposed by Councillor McGinley and seconded by Councillor McPeake that Council Officers liaise with the Northern Ireland Housing Executive to progress a feasibility study on the site identified at Traad for a proposed halting site for Travellers.

Councillor Wilson drew attention to E116/18 Bank/Public Holiday working Arrangements for 2018/19 - Environmental Services. He advised that he had been contacted by a number of traders requesting that the wintertime opening hours be extended by 30 minutes to permit shops to dispose of waste after closing time. In response, the Director of Environment and Property advised that he would review the timings.

**Resolved** That the wintertime hours be reviewed to ascertain if opening hours of the recycling centre could be extended by 30 minutes within current resources.

In response to Councillor McGinley’s enquiry in relation to the afore-mentioned proposal the Chair Councillor Kim Ashton called for a vote

For	39
Against	0

**Resolved** That Council Officers liaise with Northern Ireland Housing Executive to progress a feasibility study on the site identified at Traad for a proposed halting site for Travellers.

Councillor Molloy drew attention to item E102/18 Chair's Business in relation to signs that had been erected across the district containing threatening language towards staff and councillors and asked if they had been removed. In response, the Director of Environment and Property advised that the signs were not on Council property and thus Council could not remove but confirmed that the PSNI were involved.

Proposed by Councillor McGinley  
Seconded by Councillor McNamee and

**Resolved:** That the Minutes of the Meeting of the Environment Committee held on Tuesday 10 April 2018 (E100/18 – E121/18 and E132/18) transacted in “Open Business” having been printed and circulated were considered and adopted.

**C62/18 Receive and Consider Minutes of matters transacted in “Open Business” at the Development Committee held on Wednesday 11 April 2018**

Proposed by Councillor McNamee  
Seconded by Councillor J Shiels and

**Resolved:** That the Minutes of the Meeting of the Development Committee held on Wednesday 11 April 2018 (D069/18 – D082/18 and D86/18) transacted in “Open Business” having been printed and circulated were considered and adopted.

**C84/18 Receive and Consider Minutes of matters transacted in “Open Business” at the Policy and Resources meeting held on Thursday 12 April 2018**

The Chief Executive drew attention to PR075/18 and amended the second paragraph of the minute to read, *“He said that where there has been an issue with the accuracy of the minutes the matter has been referred back to the relevant committee and the committee Members have agreed the wording of the minute.”*

Councillor McLean requested that the item PR073/18 Chair's Business page 2, paragraph 2 be amended to read; *“Councillor McLean referred to a meeting last year with representative from DfI Roads Service at which mention was made of an ‘app’ being promoted (by a private individual) on which issues such as potholes in the area could be notified,....”*.

Proposed by Councillor Molloy  
Seconded by Councillor Gildernew and

**Resolved:** That the Minutes of the Meeting of the Policy & Resources Committee held on Thursday 12 April 2018 (PR071/18 – PR082/18 and PR093/18) transacted in “Open Business” having been printed and circulated and subject to the foregoing were considered and adopted.

## **C85/18      Conferences, Seminars and Training**

The Head of Democratic Services sought approval for the undernoted for attendance of Councillors and Council Officers as outlined in the report, the payment of attendance fees and associated costs as incurred.

### **(i)      Member Approvals**

- Rural Society in Transition: Planning for 21<sup>st</sup> Century Rural Potentials and Challenges - Thursday 26 April 2018 at Crowne Plaza Hotel, Dundalk. No conference fee, travel and subsistence

Retrospective approval for Councillor McPeake

- The Dundalk Widows Group with the support of Cllr. Emma Coffey - The Parliament Qualification of Women Act 1918-2018 - Have Women Qualified?  
-  
Saturday 5<sup>th</sup> May 2018, at An Grianan, the I.C.A. headquarters in Termonfeckin, Co. Louth. Conference fee €110 plus travel and subsistence.
- UK and Ireland Lakes Network Conference 2018 - “CONNECTING PEOPLE AND LAKES: PAST AND PRESENT” UK and Ireland Lakes Network (UKILN) - Monday 21<sup>st</sup> and Tuesday 22 May 2018 at Seamus Heaney HomePlace, Bellaghy. Cost Conference Only £25, conference & tour £50, conference tour and dinner £75, travel and subsistence.
- NILGA in association with Fermanagh & Omagh District Council invites you to the Driving Government Locally Summit - Friday 25 May 2018 10am – 3.00pm at Silverbirch Hotel, Omagh. No conference fee, travel and subsistence

### **(ii)      Officer Approvals**

<b>Conference &amp; Seminar</b>	<b>Date</b>	<b>No. of Attendees</b>	<b>Location</b>	<b>Attendance Fee (Yes/ No)</b>
Social Enterprise NI	22/3/18	1	Lisburn	Yes
Freight Transport Association	24/5/18	2	Belfast	Yes

Proposed by Councillor McNamee  
Seconded by Councillor McGinley and

**Resolved:** That the attendance of Members and Officers, the payment of attendance fees and associated costs as incurred be approved, as required for attendees.

#### **C86/18      Consideration of Requests for Civic Recognition**

The Head of Democratic Services referred Members to the previously circulated report and approval sought for requests for civic recognition from members, in line with Council Receptions Policy.

The Chair, Councillor Ashton advised that two further civic award ceremonies were planned prior to the end of her term in office but that given the number being approved this evening it would not be possible to incorporate them thus they will be honoured by the incoming Chair.

The Head of Democratic Services reminded Members that a new policy on receptions had been considered by Policy and Resources committee and thus had been adopted this evening and advised that a form to complete with short guidance notes would be forwarded to Members in due course.

Proposed by Councillor McGinley  
Seconded by Councillor McPeake and

**Resolved:** That approval be given to submitted requests for civic recognition as outlined in the report.

#### **C87/18      Revisions to the Protocol for the Operation of the Planning Committee**

The Planning Manager drew attention to the previously circulated report to agree amendments to the Protocol for the Operation of the Planning Committee.

The Planning Manager highlighted the key changes to the protocol as outlined at 3.1 of the report and reminded Members that their introduction was to permit the planning committee to expedite its business in a timely manner. In particular, he highlighted the changes to speaking times emphasising that everyone had the right to be heard but that one opportunity should be sufficient and that requests for deferrals would be received in writing.

Proposed by Councillor Mallaghan  
Seconded by Councillor Kearney

That Council approve the revisions to the Planning Protocol.

Councillor McLean sought clarity on the three minute speaking time as to whether it also applied to the Planning Manager stating that in his opinion if the case officer presents the case, the Planning Manager is not required to rehearse it again, he also expressed concern regarding planning applications/cases being removed from the agenda immediately prior to the meeting starting He said that agents could often be travelling for example from Belfast and fees were considerable.

In response, the Planning Manager advised that planning legislation was complex and second only to tax law and he had to be mindful that Members needed to be fully appraised in order to reach an informed decision.

Councillor McLean, in referring to last minute withdrawal of applications, stated that the Planning Department should reimburse incurred costs and that it would be a worthwhile exercise to determine over the past year how many applications were withdrawn on the night of a committee meeting.

In response, the Planning Manager stated that it would not be a fair statistic given that the protocol was being amended to permit applicants to write and request further considerations.

Councillor Mallaghan stated that the aforementioned was an unfair attack on the Planning Manager stressing that often it is the agents who bring new information prior to the meeting, which the Planning team have not had time to consider.

The Planning Manager stressed that if there is a request for an application to be withdrawn from the agenda he puts it to the committee thus it is their decision and not his.

Councillor McKinney drew attention to the protocol in relation to Members only speaking once and stated that often it is necessary for a Member to speak for a second time to attain clarity. He stressed that planning was working well and stated that if new evidence is presented it is frustrating if the committee spends perhaps 40 minutes discussing the matter for it then to be pulled.

Proposed by Councillor McKinney  
Seconded by Councillor Reid

*That the line “Members however should not engage in open conversation with speakers. They should normally only speak once on any application in order to ensure committee business is dealt with in a speed manner. The Chair retains the discretion to curtail members where points are being made repeatedly.” be removed.*

In response to Councillor Cuthbertson’s comments in relation to 3.2 and the suggestion of a change of time for the planning committee the Planning Manager advised that no change of time was being proposed within the protocol.



With regard to the proposal for a second opportunity for Members to speak the Planning Manager reminded the meeting that the Chair has the discretion and can and has permitted this. The Planning Manager also advised that often when an application is deferred it comes back as a changed opinion when new information has been considered and this is why often an officer requires more than three minutes to speak. He also reminded Members that Mid Ulster had the highest approval rate in Northern Ireland.

Councillor Reid advised that he would also agree with the request for a second question as sometime something new is brought to the table. He stressed the need for flexibility together with time considerations.

The Planning Manager advised that one of the changes was that agents would not be permitted to speak on a second occasion and the Chair could permit a follow up question.

In response to Councillor McKinney the Planning Manager drew attention to item 19 of the Planning Protocol, in reference to the proposed amendments and read out its content.

Councillor McKinney sought clarity in relation to item 23 and the Planning Manager drew attention to the second bullet point emphasising that there will always be an exception when someone produces revised plans

Councillor McKinney stated that under item 19 if a Member wishes to speak again it is at the Chair's discretion.

Councillor Kearney suggested that the protocol is referred back to the Planning Committee for further discussion.

The Planning Manager reminded Members that the revisions had been discussed at a Member workshop.

Proposed by Councillor Kearney  
Seconded by Councillor McAleer

That the revisions to the Planning Protocol be referred back to committee.

Councillor Kearney withdrew as seconder to Councillor Mallaghan's proposal to approve the revisions to the Planning Protocol.

Councillor Bell seconded Councillor Mallaghan's proposal

That Council approve the revisions to the Planning Protocol.

The Chair Councillor Ashton put Councillor Mallaghan's proposal to the vote.

For	24
Against	12
Abstained	3

The Chair declared Councillor Mallaghan's proposal carried.

The Chair, Councillor Ashton called for a vote on Councillor McKinney's proposal

For	10
Against	19
Abstained	10

The Chair, declared the proposal defeated.

Councillor Kearney withdrew his proposal.

### **C88/18      Mid Ulster Bonfires – Draft Procedures (Reconsideration)**

The Chief Executive drew Members attention to the previously circulated report updating Members on the outcome of the call-in of the Council's decision of 22 March 2018.

The Chief Executive outlined that in accordance with Section 41(2) of the 2014 Act, a legal opinion had been obtained from a practising barrister regarding the claim that "the decision would disproportionately affect adversely any section of the inhabitants of the district". He advised that the legal opinion had concluded that the call-in did not have merit.

The Chief Executive advised that in accordance with the Council's standing orders the decision must be reconsidered by simple majority.

Members were requested to reconsider the decision of the Council on 22 March 2018 to implement the Draft procedural Arrangements under options 3 and 4 for the promotion of bonfire safety.

Councillor Wilson stated that whilst he was not a legal expert his reading of the response was that the "*consideration of staff safety was recommended*" and sought clarification. He further commented that the response to the (b) "*that the decision would disproportionately affect adversely any section of the inhabitants of the district*" was a 'complete cop out' that there needed to be further consideration, full consultation and an equality impact assessment carried out.

The Chief Executive stated that Members would be aware that Senior Counsel legal advice stated that the decision was, in effect, one of agreeing to continue to develop policy rather than to definitively settle upon a particular policy.

Councillor Wilson queried if there would be consultation and an equality impact assessment.

Councillor Mallaghan sought clarity as to the cost of the 'call in', in response the Chief Executive advised that to date invoices had not been received.

Councillor Mallaghan stated that this was the third 'call-in' from the formation of the Council and it was always Unionism trying to block progress and reflected back to the rates meeting when Unionists accused Sinn Féin of spending money 'willy-nilly' yet some of them did not even take the opportunity to engage at in the Working Group, where the policy had been discussed. He stated the situation was hypocrisy claiming that the discussion went through a number of channels. Making reference to media coverage he claimed that public opinion was on the side of Council and the vast majority welcomed the decision. Councillor Mallaghan stressed that Unionism needed to show leadership, to go back to the community and say things need to change in the future. Councillor Mallaghan referred to a radio interview when a Member of the Democratic Unionist Party would not condemn the burning of an effigy but the next week had attended the unveiling of an effigy in Stormont.

Councillor McLean stated he would point out a few corrections regarding the comments of the previous speaker. Firstly, he stated the Member spoke of policy yet this was a procedure so the terminology was wrong and he clarified that his party leader had attended the unveiling of an effigy at Stormont the day before the radio comments not the following week.

In relation to comments on leadership, Councillor McLean stated that this procedure was "Nationalism using a sledgehammer to crack a nut", he stressed that Unionism had shown leadership and that taking this Sinn Féin proposed approach would not do any good. Councillor McLean stated that the approach was an undermining of the Unionist culture and reflected on the money being used to promote the Irish language "to stick up our noses". He claimed that he did not need to look over his shoulder and that the Irish language was not a culture thing for Sinn Féin but an election manifesto to be used as a stick to beat Unionism and tramp them into the ground. Councillor McLean stated that Unionist people felt like second-class citizens and asked that the recommendation to be withdrawn to allow Unionist Members to work on the situation within the community.

Councillor Wilson expressed the seriousness of the situation. He stated that work was going on behind the scenes to address the issue but to progress it, these were not the headlines which Unionists needed. He emphasised that they had provided leadership but highlighted that the situation now was that at one of the bonfire sites ramps had been put down and a lady who used a mobility scooter could not get out of her house although this was being addressed. He stated that the Barrister's recommended considerations would not happen before July and stressed that the proposal is withdrawn for community work continue.

Councillor McGinley reflected on comments around the fact that 'this is not a policy' and if not why waste ratepayers money on a call in. He stated he resented the 'crack a nut' analogy as the Council is endeavouring to deal with hate crime and

environmental issues on its own property and this had been a sophisticated process which all had had the opportunity to engage in.

Proposed by Councillor McGinley  
Seconded by Councillor McPeake

To progress option 3 and 4 for the promotion of bonfire safety.

Councillor McLean expressed disappointment in the Barrister's lack of clarity regarding the call-in, he said he was aware it was the third call-in but it was an available legal procedure and if Sinn Féin did not try to rule Unionism it would not happen. Councillor McLean stressed he was seeking his own legal opinion on the legal opinion provided to Council.

Councillor Cuthbertson stated that the majority of bonfires were on NIHE property and that the procedure they followed helped and supported the community and the results showed a safe outcome on 11<sup>th</sup> July bonfires. He stated he had attended a special meeting and outlined why they were not represented on the Bonfire Working Group. He also said there appeared to be working groups for every part of the council, yet members could discuss the issues at recorded meetings. Councillor Cuthbertson stated that all would see the sort of leadership Sinn Féin when it comes to internment bonfires and declared that they would be like "school boys with their tails between their legs" for they had lost the run of both Coalisland and Dungannon.

Proposed by Councillor Cuthbertson  
Seconded by Councillor McLean

That Council adopt option 2 and emulate the current policy of the Northern Ireland Housing Executive.

Councillor McGinley stressed that what confused him was that the proposals that go forward do not stop people having bonfires but promotes a mature way to work through the situation. He reflected on the issue raised by himself at the Environment Committee and by Councillor Molloy earlier in the meeting regarding the posters with threatening language towards staff, sub-contractors and Members emphasising that it was a disgrace.

Councillor Molloy stated that he been accused of being out of touch with people in Dungannon but said that there are those who are out of touch with people who use Windmill Wood and cannot access it in July. He also referred to the people who had their properties damaged because of bonfires.

Councillor M Quinn stated that the discussion was in a 'tit for tat' situation and concurred with Councillor McGinley in that the procedures were to look at environmental issues and had nothing to do with eroding anyone's culture. He stressed that he took exception to the claim that Sinn Féin had run Dungannon and Coalisland as such talk did not help anyone. He emphasised that the proposed was a procedure and that Council had waited for years to see what would happen and should now be commended for taking the 'bull by the horns' and getting something

that would both work and would apply to all bonfires. With regard to bonfires in Coalisland he stated he was yet to see a bonfire commemorating internment.

The Chair, Councillor Ashton quoted Standing Orders in relation to call-ins and stressed that the decision had to be taken by simple majority.

The Chair stated that there were two proposals.

Councillor Wilson on a point of clarification asked if Council would be following the legal advice regarding an equality impact assessment.

In response the Chief Executive stated that the decision was that of the Council, Members' had to vote on the proposals, matters may go back to committee and subsequent council ratification but he stressed that Members should be taking into account all matters.

The Chair, Councillor Ashton called for a vote on Councillor Cuthbertson's proposal

For	14
Against	25
Abstained	0

The Chair, Councillor Ashton called for a vote on Councillor McGinley's proposal

For	24
Against	14
Abstained	1

The Chair, Councillor Ashton stated that Councillor McGinley's proposal carried.

**Resolved** That Council implement the Draft procedural Arrangements under options 3 and 4 for the promotion of bonfire safety.

Councillor McGinley expressed his disappointment in that there was no condemnation except from the Nationalist tradition regarding the aforementioned posters.

## **Matters for Information**

### **C89/18 Consultations Notified to Mid Ulster District Council**

The Head of Democratic Services referred to the previously circulated report providing an update on consultations notified to Mid Ulster District Council since the last meeting of Council.

Councillor Cuthbertson drew attention to the Consultation of the Education Authority regarding Early Years Special Educational Needs. He said that this was an important issue for parents and requested that Council prepare a response.

Councillor Mallaghan concurred with Councillor Cuthbertson and added that the pathway fund regarding early years run over a typical financial year whilst the school year run from September to June and stressed that this was causing budgeting difficulties and requested that Councils response should reflect on this issue.

*Councillor M Quinn left the meeting at 8.07pm*

**Resolved** That Council prepare a response to the Education Authority, Early Years Special Educational Needs Consultation the closing date being 24 May 2018.

## **C90/18 Correspondence**

The Head of Democratic Services drew attention to the previously circulated report to update the Council on correspondence received from;

- Patron of Acre Somme Association Lurgan & Brownlow Royal British Legion;
- Correspondence from Permanent Secretary, Department for Infrastructure – A29 Cookstown Bypass

The Chief Executive commented on the response from the Permanent Secretary, Department for Infrastructure - A29 Bypass and stated that it was positive that following a cross party delegation Council had secured commitment for the Cookstown bypass.

Councillor McNamee welcomed the response and expressed concern that Council were told the budget had been redirected to other projects yet after being lobbied there was a U-turn. He stressed whilst this was welcome Council needed to keep the pressure on.

*Councillor M Quinn returned to the meeting at 8.11 pm*

Councillor Wilson welcomed the news and emphasised that it demonstrated that results were achievable when council worked together.

Councillor Buchanan on behalf of the DUP welcomed the positive news on the Cookstown bypass.

Councillor Cuthbertson drew attention to the correspondence from the Patron of Acre Somme Association Lurgan & Brownlow Royal British Legion and stated the 'Ribbon of Poppies Campaign' is to commemorate the 100<sup>th</sup> anniversary of the end of the Great War and was in memory of those brave men who fell during World War one. He emphasised that those who fell had come from all side of the community and proposed that Council pledge support, purchase seeds and sow in strategic points, flowerbeds and gateways to the district.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Reid

That Council pledge support, purchase seeds and sow in strategic points, flowerbeds and gateways to the district.

The Chair, Councillor Ashton called for a vote on the proposal

For	17
Against	19
Abstain	2

The Chair, Councillor Ashton stated that the proposal had fallen.

Councillor Cuthbertson stated that the result of the vote was disappointing in that all sides and homes had been affected, but the result was not surprising.

## C91/18      **Notice of Motion**

Councillor McAleer moved the undernoted motion:

*"That Mid Ulster Council rescinds the decision of Council taken to cease maintenance of the old burial grounds after six months' notice is given to the representative Church Bodies, considered and agreed by Environment Committee on 13 March 2018 (minute E095/18- item 1) and ratified at Council Meeting on 22 March 2018 following the request from local communities to have this reconsidered."*

Councillor McAleer expressed her thanks to the staff involved in preparing the reports in relation to the burial grounds identified. The Councillor stated that now that maintenance was to cease she had been lobbied by local stakeholders. Reflecting on the legacy Councils decision to continue maintenance on the sites Councillor McAleer stressed that this had been decided because the local community wanted to preserve its history and to do so Council support was necessary. To cease maintenance would lead to the burial grounds becoming 'swallowed up', Councillor McAleer stressed that the grounds were not only a reminder of our own mortality but told the history of the district. She advised she had spoken with former Councillor Pat Daly who in 2009 had requested a report on non-Council owned sites, Councillor McAleer advised she had sourced minutes from that era which showed that the matter was to be discussed in 2009 but a Member of Council had passed away thus the decision was postponed until 2010 at which time the decision was taken to maintain the eight sites mentioned in the report. Councillor McAleer highlighted that the old burial ground in Eglishe contained headstones dating back to the history of the O'Neill's in the eighteenth century and highlighted the burial ground of the blind harpist Art O'Neill. Councillor McAleer stated that it was somewhat unfair to withdraw this maintenance programme and requested that the eight sites be incorporated in the policy to be maintained.

Councillor Reid welcomed this motion and stated that the matter had come before the Environment Committee and welcomed the change of heart. He stated that although many died in the Great War those that did make it back could be interred in some of the burial grounds and pledged his support for the motion.

Councillor Cuthbertson thanked Councillor McAleer for bringing the motion stating that when it came before Committee he had taken a lead on this requesting consultation and asked what consultation had taken. He emphasised the need to preserve the old burial grounds and made mention of those in Killyman and St McCartan's where the Cairns family grave was highlighting that the Cairn's brothers had been instrumental during the Siege of Londonderry with one of them shutting the gates of the city. He stressed that this history should not be lost and pledged his support to the motion.

Councillor Burton commended Councillor McAleer on the work put into researching the motion. She stated that Councillors in rural areas were concerned that their communities were being left to get on with it. Councillor Burton stressed that the tourism product in the area is very much based in history emphasising that in Clogher in particular people come from across the world to trace family graves. The Councillor also made mention of a graveyard in Aghaloo where a lady could not gain access to the area of her husband's grave as she was a wheelchair user. Councillor Burton emphasised the need for appropriate measures to maintain graveyards and ancient burial sites stating that one section of Council was endeavouring to preserve and promote the districts history whilst another section is withdrawing maintenance which preserve s it. Councillor Burton pledged her support for the motion.

Councillor Monteith expressed his support for the motion and stated that these burial grounds needed to be maintained emphasising that the heritage in local communities was just as important as, for example, that of the Heaney HomePlace. He said if Council was not going to help to maintain such sites they would fall into disrepair. Councillor Monteith referred to the current endeavours to identify famine graves in the area of the old 'workhouse' stressing that if someone had had the foresight to maintain them it would not be the mammoth task it had become. The Councillor referred to the promotion of heritage grant and stated it was imperative that Council should be maintaining the burial grounds aforementioned and others in the future. He reflected on the restructuring of Councils in 2014 at which time local authorities were provided with the General Power of Competence to permit them to act and stated that the sites should be insurable.

Councillor Mulligan commended Councillor McAleer in bringing the issue forward and stated that it was disappointing when cemeteries were dropped from maintenance schedules. He voiced his support and commended the motion to all Members calling for support from across the board and to ascertain if all graveyards dropped from the list could be reinstated.

The Director of Environment and Property advised that the approach officers adopted was to follow the guidelines detailed in the relevant Act of Parliament that set out the criteria for maintenance of old burial grounds which was if they are vested to Council they may be legally maintained. He advised that there are 36 burial grounds in total and it was proposed to cease the maintenance of eight of those at which Council was unaware of any agreements thus there would be significant issues regarding liability. He stated that he would be keen to have the matter of maintenance investigated further and informed Members that there were instances in



other places where children had been killed due to unsecure headstones falling on them. The Director advised that council neither owned nor had the eight burial grounds vested to them, he reminded the meeting that the six-month notice period runs out at the end of September. He concluded that the matter should be further investigated as Council could not take on liabilities that could lead to health and safety risks.

Councillor S McGuigan stated that whilst he could accept the argument regarding the preservation of history he would not be in favour of resuming maintenance expressing concern that the Council may be taking on duties they do not have responsibility for and such action may 'open the door' to other issues. He reflected that the matter had been discussed and decided upon at committee and that the Council had ratified the decision.

Proposed by Councillor S McGuigan

To progress the original decision unless officers can bring forward a rationale for provision of maintenance.

Councillor McPeake stated that he understood the historic importance but his concern would be it leading to other situations highlighting the example of the cessation of grass cutting on the entrance to Castledawson which was historically cut by the legacy Magherafelt District Council. He said he had assisted with arranging meetings with residents to progress the matter at which time they received a period of 'grace' prior to Council ceasing maintenance. He stated that these residents would want maintenance resumed if they heard about the burial ground situation.

The Chief Executive stated that the key question was whether Council had the legal authority to give effect to what has been requested and that at this stage Officers had not been able to establish that the Council had the legal authority. He continued stating that the General Power of Competence may assist but a comprehensive overview would be required to ascertain this. The Chief Executive stated that if Council did not have a legal obligation to incur this expenditure and Members decided to do so, this could be a matter that the Local Government Auditor would take an issue with which could ultimately lead to Members being surcharged..

Councillor Monteith asked if, when the situation was initially being investigated by officers, the possibility of utilising the General Power of Competence had been considered and expressed his dismay if this was only happening now.

The Director of Environment and Property stated that officers were guided by the Public Health Ireland Act 1978 and emphasised that under this Council did not have the vires to maintain the burial grounds in question. The Director stated that the General Power of Competence was somewhat different and concluded that officers had considered the legislation as it stood.

Councillor Monteith asked if the answer to his question was no.

In response the Director of Public health and Infrastructure confirmed that it was no.

Councillor Monteith stated that it was disappointing and that he could not understand that three years into the new Council such a big issue as the General Power of Competence had not been explored.

Councillor Cuthbertson referred to earlier comments regarding grass cutting and stated it was his understanding that this was considered under a different policy, but advised that the main reason put forward by officers at Committee was insurance and concluded that if it was such a major issue staff would not have been repeatedly sent out to do it.

Councillor Mallaghan sought clarity as to who had the legal title to the graveyards asking if they belonged to the local churches.

In response the Director of Environment and Property stated as far as he was aware it was the Churches.

The Chair, Councillor Ashton asked did Council seek clarification.

The Director of Environment and Property advised that in the main they are associated with local Churches but he suspected that the land may be unregistered.

Councillor Wilson stated that there was six months to progress to a decision and whilst he supported the motion he was aware that there was a warning of a surcharge and thus he would like a legal opinion on the matter.

Councillor Wilson asked if Councillor McAleer would be prepared to wait for a decision.

Councillor Wilson proposed to amend the motion to defer the decision.

Councillor McFlynn stated that Members had voted at committee on officer advice and warned that part of the six-month period being referred to has already passed, thus there was a shorter period for reconsideration.

Councillor McGinley stated that he did not think the decision could be deferred but suggested the possibility of withdrawing the motion and allowing other options to be explored and a report brought back to Committee especially given the risk of surcharge.

Councillor McGinley proposed that the motion is withdrawn and the matter investigated in relation to scope under the 'general power of competence'.

The Chair, Councillor Ashton having taken time to consider Standing Orders drew attention to 19.3(2), which permitted the withdrawal of the motion if both the proposer and seconder agreed.

Councillor McAleer clarified that whilst she had previously mentioned seven burial grounds there were in fact eight including Clogher.

*The Chair, Councillor Ashton adjourned the meeting at 8.45pm for a period of 10 minutes.*

*The Chair, Councillor Ashton reconvened the meeting at 8.55pm.*

Councillor McAleer stated that she had not thought the matter would take so long and expressed her thanks for the positive comments. She stressed that it was important to the community to maintain the burial grounds and stated that she would amend her motion as undernoted:

Proposed by Councillor McAleer

That the matter is further explored to investigate Council legal authority especially in relation to the 'general power of competence' and in the interim period that Council write to Church authorities and advise that the maintenance service will continue until such time as a decision is reached.

The Chair, Councillor Ashton sought clarity as to whether the amendment could be accepted then confirmed to the meeting that under 17.1 of standing orders it would qualify as it was not a direct negative.

Councillor Cuthbertson seconded the proposed amendment.

Councillor McGinley stated that he would like the amendment in writing and sought clarity as to whether Members would still be liable for surcharge.

The Chief Executive stated that the meeting should get the amendment in writing.

Councillor S McGuigan stated that he would object as the amendment appeared to be the out workings of the original motion.

*The Chair, Councillor Ashton adjourned the meeting for 15 minutes at 9.02pm*

*The Chair, Councillor Ashton reconvened the meeting at 9.17pm*

Councillor McAleer stated that she had decided to withdraw the motion to permit further investigation into the possible use of the General Power of Competence and the legalities of the issue in relation to surcharge.

The Chair, Councillor Ashton following standing order 19.3(2) sought the consent of the Seconder.

The seconder, Councillor Cuthbertson withdrew.

The motion was withdrawn.

Proposed by Councillor McAleer  
Seconded by Councillor Wilson and

**Resolved** That Council further investigate and report to a future committee the issue of maintenance of the eight burial grounds, at which maintenance is scheduled to cease, to exploring the possible use of the 'general power of competence' and seeking clarification regarding the legalities of the issue in relation to surcharge.

*Councillor Mulligan left the meeting at 9.18 pm*

## **C92/18 Notice of Motion**

Councillor Milne introduced the motion stating that language is a treasure for everyone and was a major contributor to arts, music and culture stating that Irish is a living language which deserve to be maintained and developed. She continued that it contributed meaning to sport and dance and a language is an important part of the Irish identity which belonged to everyone. Councillor Milne stated that the protection of the Irish language is a threat to no one and that an act would not impose on anyone. The Councillor emphasised that to respect one section of the community is not disrespectful for another. Councillor Milne reflected on the time since the St Andrew's agreement and said that the British government had neglected to bring an Irish language act and that in recent times Sinn Féin and the DUP had come to an accommodation regarding it but then the DUP had failed to deliver. Councillor Milne stated that an Irish Language act would harm no one and prior to moving the motion asked that Council write to the Irish Secretary of State and the Taoiseach. Councillor Milne moved the undernoted motion.

*"This council calls for the introduction of Acht na Gaeilge as promised in the St Andrews Agreement. We recognise the need to have the indigenous language of this island protected in legislation. We also recognise that Acht na Gaeilge is important in the context of protecting rights, showing recognition and demonstrating respect. In this council area, there is a fast growing Irish Language community; including children who are being educated through the medium of Irish. Their rights must be protected."*

The Chair, Councillor Ashton referred to the comments regarding Council writing letters and advised that the request would have to come as an amendment to the motion as it was not contained in the original wording.

Councillor McEldowney stated that she would second the motion as there was a big Irish language community in her area and they were endeavouring to have it designated as a Gaeltacht area. She advised there was a culture of dance, sport and drama shoring how her niece had attended Irish medium education and was now in Cork pursuing a career in it.

Councillor Kearney, on behalf of the SDLP reiterated the belief that the Irish Language must be protected and that it must have legislation that will allow it to continue to grow and flourish. He stated that there is a need for the establishment of a rights based Irish Language Act or Acht na Gaelige which recognises the language's cultural and social importance to these islands and emphasised that the SDLP wanted to see a standalone Irish Language Act.

Councillor Kearney recalled that some ten years ago the SDLP had been the first party to table an Irish Language Act in the Assembly through Dominic Bradley MLA and that prior to the collapse of Stormont the Mid Ulster MLA Patsy McGlone was preparing a Private Members' Bill on the Irish Language to protect, promote and enhance the rights of Irish speakers.

He spoke of the aforementioned deal that was nearly struck to recognise the language but lacked crucial mechanisms to ensure its security. Councillor Kearney stated that he believe the Office of an Independent Commissioner could provide that security and stressed that the Irish language should not be a political issue, a weapon nor leverage against other communities, but should be for everyone as a rich and enriching means of expression, contributing to better understanding of the expression of the Irish identity, be that through literature, song, poetry, even in place names.

Councillor Kearney said that Unionism can recognise that there is nothing to fear from the language and that they too have a role to play in its future. However, if the Assembly is do develop and an Executive set up which is to have at its core parity of esteem and a genuine will to create a reconciled society, then there is a need to accommodate each other. Councillor Kearney further stated that across Mid Ulster everyone needed to celebrate the aspects of our identities which make us unique, he emphasised that the SDLP believes that the Irish language should also be accommodated. Councillor Kearney shared that he had been afforded the opportunity to learn Irish, to teach it as a second language in a primary school and would now like to see legislation that would allow it to grow and flourish. Councillor Kearney concluded saying (in English) 'a country without a language is a country without a soul' and (in Irish), 'Tir gan teanga, Tir gan anam'.

Councillor Cuthbertson stated that it was interesting that the previous two speakers said there was not protection for Irish language which is false, as there is an opportunity for schools and a whole range of things. He stated that when setting the policy the officers kept quoting the Northern Ireland Act 1998 and I agree with Councillor Kearney that the Irish language should not be politicised but constantly pushing it was politicising it. He mentioned respect in referring back to what had been witnessed earlier in the meeting when Members would not commemorate the brave men and women from the island who lost their lives and stated that respect had to be two sided.

Councillor Wilson stated that yet again a divisive motion was being moved and stated that the Ulster Unionist Party had made no promises to anyone about an Irish language Act. Councillor Wilson said the UUP had no quarrel with the Irish language and reflected that under the Belfast Agreement both sides agreed to recognise each

other and that the aim was to take language out of the hands of politicians. He posed the question as to what an Irish language Act was for as for almost a century children have been taught Irish in the Republic, yet English is still the mother tongue of the Republic. He further reflected that the use of Irish in government in the Republic would create havoc and referred to Enda Kenny who in 2015 stated “*that Ireland was an English speaking island.*” Councillor Wilson emphasised that no one is denied the opportunity to learn Irish and highlighted that options such as a blank cheque in the south, a Welsh style or Scottish model had been discussed but Sinn Féin wanted an Irish language commission with the rights of a high court judge and 10% of public jobs given to Irish speakers and made mention of the leaked document following the collapse of the Stormont talks. He stressed that what was needed was a shared future and sought clarity as to what the motion was proposing.

Councillor Monteith pledged his support for the motion stating that the reality was that the language was going from strength to strength and highlighted that the Gaelscoil in Coalisland the Irish stream in St Joseph’s was doing likewise. He said that he did not necessarily agree with every tactic parties have used and emphasised that he had no difficulty with Ulster Scots and had supported its promotion also. He claimed that no one had anything to fear with the promotion of our native tongue and reminded the meeting that the first people to politicise the Irish language was the English government who used it as a weapon and reflected that the history of Dungannon tells how a man was interned for teaching Irish. He concluded stating that party politics would always argue but that opinion on the Irish language was a deep-seated psyche but clarified that Nationalist do not promote it to threaten anyone one.

Councillor McLean stated that he had listened and could believe that there were people genuine about their language but reiterated the point that Sinn Féin use it as a political tool and are holding the Northern Ireland Assembly to ransom to get an Act. He stated that it could be understood why Unionists resent it when it is used as a beating stick. He recalled attending a working group in Magherafelt legacy Council and withdrew from it as any process he put forward was ignored. Councillor McLean stated that this was the reason his party had not engaged in the bonfire working group. Councillor McLean stressed that Unionism was as passionate about its culture as Nationalists but yet again, the Irish language was being used. Referring to the motion Councillor McLean stated that it was a notion and not a motion.

Councillor McGinley stated that the comments were petty and claimed that Councillor McLean was being petty referring to bonfires. He further emphasised that no-one was being prevented from having a bonfire but asked that there was no damage to the environment, property and no burning of effigies and encouraged the chamber not to confuse the two. He was emphatic that introducing a motion did not hurt anyone and that burning the tiles off people’s roofs and burning effigies was not culture.

Councillor McLean stated that he would have a ‘one to one’ discussion with Councillor McGinley. He stated that the proposal was the thin end of the wedge as it led to a process of eradication.

Councillor McGinley stated that he would accept Councillor McLean's invitation to discuss the matters 'one to one' but emphasised that he would have liked to have had him on the bonfire working group.

The Chair, Councillor Ashton reminded Councillor Milne that to include the request for letters would require an amendment.

Councillor G Shiels stated that some folk may be surprised but he did not think the Irish language would do him any harm. He referred to a poster he had seen in Maghera which contained grammatical errors and said his fear would be in the translation if use in public services, which might become somewhat suspect. Councillor G Shiels stated that he too opposed the motion.

Councillor Milne stated that she would not propose an amendment to the motion.

The Chair, Councillor Ashton put the motion to vote

For	25
Against	13

The Chair, Councillor Ashton declared that the motion carried.

### **Local Government (NI) Act 2014 - Confidential Business**

Proposed by Councillor Gildernew  
Seconded by Councillor M Quinn and

**Resolved:** That items C93/18-C99/18 be taken as confidential business.

#### Matters for Decision

- (i) Minutes taken as confidential business at the Audit meeting held on Tuesday 20 March 2018
- (ii) Minutes taken as confidential business of Council meeting held on Thursday 22 March 2018
- (iii) Minutes taken as confidential business at Planning Committee held on Monday 9 April 2018
- (iv) Minutes taken as confidential business of Environment Committee held on Tuesday 10 April 2018
- (v) Minutes taken as confidential business of Development Committee held on Wednesday 11 April 2018
- (vi) Minutes taken as confidential business of Policy and Resources Committee held on Thursday 12 April 2018
- (vii) Correspondence from NILGA
- (viii) Document for Sealing: Evaluation and Option Agreement between Mid Ulster Council and SGN Natural Gas Ltd

*The press left the meeting at 9.43 pm*

Councillors McLean, Buchanan, T Quinn, McEldowney and Reid left the meeting at 9.44pm

**C101/18      Duration of Meeting**

The meeting was called for 7pm and ended at 9.50 pm

CHAIR \_\_\_\_\_

DATE \_\_\_\_\_