

**Minutes of Meeting of Mid Ulster District Council held on Thursday 26 February 2015 in the Council Offices, Circular Road, Dungannon**

**Members Present:** Councillor Mallaghan, Chair (Presiding Councillor)

Councillors Ashton, Bateson, Bell, Buchanan, Burton, Clarke, Cuddy, Cuthbertson, Dillon, Elattar, Forde, Gildernew, Gillespie, Glasgow, Kearney, McAleer, McEldowney, McFlynn, McGinley, B McGuigan, S McGuigan, McKinney, McLean, McNamee, McPeake, Molloy, Mullen, Mulligan, C O'Neill, J O'Neill, M Quinn, T Quinn, Reid, Robinson, G Shiels, J Shiels, Totten and Wilson

**Officers in Attendance:** Mr A Tohill, Chief Executive  
Mrs Canavan, Lead HR Officer  
Mrs Campbell, Director of Policy and Development (MDC)  
Mr Cassells, Director of Technical Services and Leisure Services (MDC)  
Mr Kelso, Director of Environment Health and Building Control (CDC)  
Mr McCreesh, Acting Chief Executive (CDC)  
Mrs Mezza, Marketing Communications Manager  
Mr Moffett, Change Management Officer  
Mr JJ Tohill, Lead Finance Officer  
Mrs Smith, Council Business Manager (D&STBC)

The meeting commenced at 7 pm.

**C20/15 Apologies**

Councillor Monteith

**C21/15 Declarations of Interest**

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

**Matters for Decision**

**C22/15 Receive and consider minutes of matters transacted in "Open Business" at Council meeting held on Thursday 22 January 2015**

Proposed by Councillor S McGuigan  
Seconded by Councillor Clarke and

**Resolved** That the Minutes of the Meeting of the Council held on Thursday 22 January 2015 (C1/15 – C10/15 and C19/15), transacted in "Open

Business” having been printed and circulated were considered and signed as accurate and correct.

**C23/15      Receive and consider minutes of Special Meeting of the Council held on Thursday 12 February 2015**

Proposed by Councillor T Quinn  
Seconded by Councillor McGinley and

**Resolved**      That the Minutes of the Special Meeting of the Council held on Thursday 12 February 2015 (SC1/15 – SC4/15), transacted in “Open Business” having been printed and circulated were considered and signed as accurate and correct.

**C24/15      Receive and consider the minutes and recommendations of matters transacted in “Open Business” at the Planning Committee meeting held on Monday 2 February 2015**

Proposed by Councillor McKinney  
Seconded by Councillor Reid and

**Resolved**      That the Minutes and recommendations of the Planning Committee meeting held on Monday 2 February 2015 (P9/15 – P15/15) transacted in “Open Business”, having been printed and circulated were considered and adopted.

**C25/15      Receive and consider the minutes and recommendations of matters transacted in “Open Business” at the Policy and Resources Committee meeting held on Tuesday 3 February 2015**

Proposed by Councillor M Quinn  
Seconded by Councillor McFlynn and

**Resolved**      That the Minutes and recommendations of the Policy and Resources Committee meeting held on Tuesday 3 February 2015, (PR18/15 – PR30/15 and PR33/15), transacted in “Open Business”, having been printed and circulated were considered and adopted.

**C26/15      Receive and consider the minutes and recommendations of matters transacted in “Open Business” at the Environment Committee meeting held on Wednesday 4 February 2015**

Proposed by Councillor McNamee  
Seconded by Councillor B McGuigan and

**Resolved**      That the Minutes and recommendations of the Environment Committee meeting held on Wednesday 4 February 2015, (E9/15 – E20/15 and E23/15) transacted in “Open Business”, having been printed and circulated were considered and adopted.

**C27/15      Receive and consider the minutes and recommendations of matters transacted in “Open Business” at the Development Committee meeting held on Thursday 5 February 2015**

Proposed by Councillor Wilson  
Seconded by Councillor T Quinn and

**Resolved**      That the Minutes and recommendations of the Development Committee meeting held on Thursday 5 February 2015, (D17/15 – D25/15 and D31/15) transacted in “Open Business”, having been printed and circulated were considered and adopted.

**C28/15      Interim Arrangements for Flags, Emblems and Corporate Branding**

*Councillor Bateson arrived at 7.05 pm*

The Chief Executive presented a report seeking direction on interim arrangements for flags, emblems and corporate branding for Mid Ulster District Council.

He stated that Members would be aware that Section 75 of the Northern Ireland Act 1998 (the Act) requires Council to comply with two statutory duties on equality of opportunity and good relations. In carrying out its functions, Council was required to have due regard to the need to promote equality of opportunity:-

- a. Between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- b. Between men and women generally;
- c. Between persons with a disability and those without; and
- d. Between persons with dependents and persons without.

Without prejudice to the above Council is also required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. While the Act contains detail on the equality duty it is essentially silent in relation to defining and creating a framework around the good relations duty.

The Chief Executive stated that a draft equality scheme was presented to the August 2014 Council meeting and subjected to a 12 week public consultation exercise. A number of responses had been received and presented to Council in December 2014 for consideration. Responses were received from the Equality Coalition and the Committee for the Administration of Justice advocating a “decoupling” of the equality and good relations duties. The Council resolved to adopt this approach and submitted its equality scheme to the Equality Commission for approval undertaking to revert in respect of the good relations duty. The equality scheme will not be approved until a suitable methodology for addressing good relations issues is developed.

The Chief Executive further stated that in respect of Regional and Minority Languages, Members would be aware that Council had developed draft language

policies. Council had agreed to go to public consultation on its draft Irish Language Policy and to refine its draft Ulster Scots Language Policy before it went to public consultation. Under its equality scheme the Council would make arrangements for assessing, monitoring and publishing the impact of its policies. Screening will identify those policies that are likely to have an impact on equality of opportunity. If the screening concludes that the likely impact of a policy is “major” on one or more of the stated categories, Council will subject the policy to an equality impact assessment (EQIA). Where the impact is “minor” Council may still conduct an EQIA depending on the policy.

While the majority of Council policies may be screened out there are some policy matters which are likely to require an EQIA and there was a requirement on Council to consult on its EQIAs, with the consultation period being normally twelve weeks.

It is considered that the following may require an EQIA:-

- a. Flags and Emblems Policy
- b. Regional and Minority Language Policies

The Chief Executive said that given the timeframes to 1 April 2015 it would not be possible to have an approved equality scheme in place and to carry out EQIAs on policies, where required. Direction from Council was therefore necessary to ensure clear arrangements were in place to cover a number of matters from 1 April 2015.

In respect of Flags and Emblems, the predecessor councils have the following arrangements in place:

	Cookstown	Dungannon	Magherafelt
Flags	None	Designated days from main council office	None
Emblems	None	Boxes of Poppies are permitted to be placed at reception in the main council office	Boxes of Easter Lilies and Poppies are permitted to be placed at reception in the main council office

The Equality Commission has indicated in the past that the current practice of the predecessor councils in respect of flying no flag or the Union flag on designated days from the main council building were within the range of reasonable options available.

In respect of corporate branding, the predecessor councils currently have the following arrangements:

	Cookstown	Dungannon	Magherafelt*
Headed paper	Trilingual	Trilingual	Bilingual
Vehicles	English	English	English

Signage	English	English	English
Uniforms	English	English	English

\*Magherafelt District Council has recently adopted an Irish Language policy which includes bi-lingual branding.

The Chief Executive that the following options were open to Council to address the issues prior to the introduction of formal polices after 1 April 2015:

- a. Continue with the existing policy arrangements of one of the predecessor councils across the entire council area
- b. Continue with the existing policy arrangements of each of the predecessor councils in their previous respective areas
- c. Adopt separate arrangements to cover flags, emblems and corporate branding.

Legal advice was sought on whether the above options would suffice to discharge or manage the Section 75 duty, while the Good Relations element was defined as a strategy formulated, consulted upon, agreed and submitted for approval.

The legal opinion advised against the first option, to adopt the existing scheme of one of the existing councils and apply it to the whole district as this appeared to be arbitrary in approach and would fail to recognise or take account of the range of views of resident in the new district as a whole.

The opinion noted that legally, in default of a decision of the council to make alternative arrangements, allowing the existing arrangements for each of the former districts to continue is the option that would be likely to apply. However the opinion noted that in reality this would be less than practical and even dysfunctional as this would entail three concurrent schemes being applied in the new district at the same time.

The third option, to adopt a separate policy on flags and emblems, the opinion noted that were this to involve a neutral environment on flags and emblems, such a policy insofar as it relates to those issues is acceptable in terms of compliance with the Section 75 duties and has resonance with the position adopted by the Equality Commission relating to flags and emblems. In relation to the administrative arrangements of the new Council a neutral environment falls within the range of reasonable responses taking the circumstances into account.

The legal opinion noted that in the absence of an approved equality scheme, Council would be entitled, as a policy choice, to adopt interim measures to ensure compliance with the duties referred to, provided such measures may be reasonably interpreted as fulfilling that objective.

The opinion concluded that of the three options presented, the third represents the most reasonable and common sense approach and that advice should be sought from the Equality Commission.

In respect of the above matters the Commission noted that Council had elected to remove the good relations questions from the generic equality scheme and that Council would revert regarding its good relations duty. The Commission recognised the difficulties that the Council faced in converging the three predecessor councils into a new organisation and of the different practices adopted in respect of the flags, emblems and the use of regional and minority languages on corporate branding by the predecessor councils.

The paper highlighted that the Commission noted its preference for the existing arrangements of the predecessor councils (where these arrangements comply with the Commission's advice and guidance) to remain in place until such times as all of these issues could be considered under approved equality and good relation frameworks. The Commission however recognised that this approach would create particular difficulties in respect of the development of a new corporate brand.

Members are requested to provide direction on the interim arrangements for the following

- i. Emblems
- ii. Flags
- iii. Use of regional and minority languages in corporate branding on
  - a. Stationery
  - b. Vehicles
  - c. Exterior Signage
  - d. Staff Uniforms

The Chair, Councillor Mallaghan, stated that due to ongoing discussion in relation to the issue of flags he had determined to postpone the discussion to the next council meeting.

Councillor S McGuigan stated that in trying to ensure the Council achieved an outcome that provides for a neutral environment he recommended that the Council move forward with option 3 as an interim measure until all policies have been completed and therefore

Proposed:

That the Council adopts:

- no emblems
- top right design proposal provided by McCadden (logo with Irish followed by English)
- stationery, vehicles and exterior signage use bilingual
- staff uniforms - council crest only

Councillor McGinley seconded the proposal.

Councillor Wilson proposed

That the Council adopts:

- flags should be flown on designated days
- top left design proposal provided by McCadden (logo with English only)

- stationery, vehicle and exterior signage use English only
- staff uniforms - council crest only.

The Chair, Councillor Mallaghan, stated that he had determined that he was not taking the flags issue tonight and asked Councillor Wilson if he wished to amend his proposal to reflect this.

Councillor Wilson stated that he would keep the full proposal.

The Chair did not accept the proposal.

Councillor Kearney stated that there should be no emblems so as to provide a neutral workplace, stationery, vehicle and exterior signage should be bilingual (as set out on top right of design proposal provided by McCadden) and Council crest only on staff uniforms.

Councillor McLean stated that poppies represent both communities therefore

Proposed

That the Council adopts:

- poppies should be available in council properties
- top left proposal by McCadden (logo with English only)
- stationery, vehicles and exterior signage use English only
- uniforms – Council crest only

Councillor Ashton seconded the proposal.

Councillor McGuigan's proposal was put to the meeting 24 (twenty four) Members voted in favour and 15 (fifteen) Members voted against.

Councillor McLean's proposal was put to the meeting 15 (fifteen) Members voted in favour and 24 (twenty four) Members voted against.

The Chair declared Councillor McGuigan's proposal carried.

Councillor Reid stated that the outcome of the vote and decision taken was again not a very promising outcome for both communities living in Mid Ulster. He advised caution in relation to drawing down of the next phase of PEACE money as the Council was not showing the right leadership with the commitment and respect to both cultures. PEACE money was about building relationships and not doing what had been done at the meeting and suspected that when the discussion on flags comes forward the outcome will not be much different.

## **C29/15      Conferences and Seminars**

The Change Management Officer referred to details of the undernoted conferences and sought approval for the attendance of members and officers, the payment of attendance fees and associated costs as incurred.

**Public Consultation on draft Guidance on Operation of Community Planning** (retrospective approval sought). Cost being travel and subsistence where required.

- Monday 23 February, 9.30am-12.10pm  
Craigavon Civic & Conference Centre
- Monday 23 February, 4pm-6.40pm  
Mossley Mill, Newtownabbey Council Offices
- Tuesday 24 February,  
Strule Arts Centre, Omagh
- Tuesday 3 March, 10am-12.40pm  
Roe Valley Arts & Cultural Centre, Limavady

**Informing Local Development Plans - *Delivering Certainty for Communities and Investors***, Wednesday 18 March, 9.20am - 2pm. Cost being registration fee £135, travel and subsistence where required.

Councillor S McGuigan advised that he had attended the community planning event on Tuesday 24 February in the Strule Arts Centre, Omagh.

Proposed by Councillor McGinley  
Seconded by Councillor Gildernew and

**Resolved** That the attendance of members and officers, the payment of attendance fees and associated costs as incurred be approved and that anyone wishing to attend to contact officers.

## **Notice of Motions**

### **C30/15 Councillor Cuthbertson to move Motion**

Councillor Cuthbertson stated that following the announcement that the planning application, as referred to, will not be presented to Dungannon & South Tyrone Borough Council at its next meeting but rather come before to Mid Ulster Planning Committee the Member withdrew the undernoted motion.

*Mid Ulster District Council notes with concern the decision by Planners to approve Planning Application Reference M/2014/0340/F for a 500KW Centralised Anaerobic Digester plant (CAD) located in the village of Ballynakelly; and further notes that 239 residents, who will be most affected by this development, have objected. Council fails to understand the Planners decision to recommend approval believing that this development would have a detrimental impact on the village of Ballynakelly and its residents.*

### **C31/15 Councillor McNamee to move**

In proposing the undernoted notice of Councillor McNamee stated that this will be the final opportunity for the Council along with business and community representatives to lobby the Executive to ensure that the right decision is made to site the Desertcreat Community Safety College in Mid Ulster. He said that a meeting



had been arranged with the Justice Minister and asked members to support the motion.

*That the Mid Ulster District Council gives its support to Cookstown District Council as it prepares to raise once again the very important issue of the Community Safety College coming to Desertcreat. On Monday the 2nd March Cookstown District Council, its Business Leaders and its Community Leaders will go to Stormont to lobby MLA's and Ministers to ensure that the Programme for Government Commitment is fulfilled and the College is built at Desertcreat. The Mid Ulster Council should assist this by sending a cross party delegation of Councillors and available senior management personnel. That the Presiding Councillor of this council delivers a letter to the Minister of Justice, urging him to ensure a quick decision or recommendation following the completion of the review.*

The Chair, Councillor Mallaghan, seconded the motion and stated that it was important that we all get behind this, it is something that Cookstown District Council and others have fought for, it is a huge investment for Mid Ulster and would bring ongoing economic benefit. The Chair urged all those to get behind Cookstown District Council and Mid Ulster Council and attend Stormont on 2 March and to tell those who represent this area to support and deliver this project for Cookstown and Mid Ulster.

Councillor Wilson spoke in support of all that had been said and stated that money had been ring fenced by the Treasury for this project which will not be there for ever and if lost will not just be lost to the college but lost to Northern Ireland as a whole. On behalf of his party he supported the motion and initiative.

Councillor T Quinn stated that he fully supported the motion and was aware of the hard work and commitment that went into this project over the past years, what it means to the citizens and business community and stated that the Council should continue to fight to secure the project.

Councillor Buchanan stated that as the current Chair of Cookstown District Council he supported the motion and was aware of the work put into this issue over the last number of years and hopefully Monday's meeting would change opinions.

Councillor Cuddy declared an interest and stated that he would refrain from any vote. The member did not leave the room.

There being no one speaking against the motion the Chair declared the motion carried.

### **Confidential Business**

Proposed by Councillor J O'Neill  
Seconded by Councillor Bell and

**Resolved** That items C32/15 to C39/15 be taken in committee.

*The press left the meeting at 7.30 pm.*

**C40/15      Duration of Meeting**

The meeting was called for 7 pm and ended at 8.15 pm.

CHAIR \_\_\_\_\_

DATE \_\_\_\_\_