

SPORT NORTHERN IRELAND

MINUTES

CONFIDENTIAL

Special Meeting 2008

Held on Wednesday 10 December 2008 in the House of Sport, Malone Road, Belfast BT9 5LA.

PRESENT

In the Chair:	D Walsh
Members:	O Brown M Cowan J D'Arcy U Duncan B Macaulay A Moneypenny B McCargo D O'Connor J Rodgers P Turnbull
Chief Executive:	E McCartan
Staff in Attendance:	N Harkness S Ogle A Sloan A Campbell S O'Hare E Bailey

1 **APOLOGIES**

Apologies were received from Ms M Muldoon, Mr H McCaughey and Mr A Strong.

2 **DECLARATION OF INTERESTS**

The Chairman asked everyone present if they had any interest to declare.

Cllr J Rodgers declared - Belfast City Council.

Mr D O'Connor declared - Basketball and Belfast City Council.

Mr A Moneypenny declared – Basketball (although he is not member of Basketball NI).

Mr M Cowan declared – a tenuous interest in his capacity as a freelance Consultant.

Ms A Campbell declared – Ballymena and Antrim Athletics Clubs.

Following declarations of interest and before Members left the room, the Chief Executive reminded Council that they had yet to make the decision on Paper SNI/08/214.

Whatever that decision there would be a need to plan for an appropriate Appeals Committee. The Chairman had spoken to Members of the Council to ask if they would be willing to absent themselves from the discussion today in order to make themselves available for an appeal, should that arise.

Dr O Brown and Mr P Turnbull left the room.

Cllr J Rodgers and Mr D O'Connor also left the room.

3

ELITE FACILITIES PROGRAMME

Members considered Paper SNI/08/214 which was presented in detail by Ms A Campbell.

Ms Campbell talked through the purpose of the paper which was to request Members to make decisions concerning late applications made to Stage Two of the Elite Facilities Programme. Members were being asked to make the decisions following consideration of the Elite Facilities Programme Stage Two Information, the established procedures of Sport Northern Ireland (SNI), a full and detailed account of the management of the submission, and the legal advice obtained from SNI's solicitors, Arthur Cox.

Members noted the background to the Stage Two Programme Information. This stated dates of issue of letters, guidance documents and noted that the documents stated that submission of an Outline Business Case and associated documents was required before 4pm precisely on Friday 28 November 2008 to the House of Sport Reception. The Paper gave exact details of the procedures and management of submissions and explained what happened to those submissions which were received after the deadline of 4pm.

The Paper provided additional information regarding the submission delivered by FGS McClure Watters.

Members were asked to consider what approach SNI ought to adopt in respect of the two applications received at the House of Sport Reception after the specified deadline.

Members raised a number of questions to seek clarification and gave lengthy and considered thought to the recommendations contained in the Paper. After debate, the preliminary view of all present was that the two applications had been received after the specified deadline and that neither the applicant nor those acting on its behalf had taken reasonable steps to submit the bids by the required time. However, it was acknowledged by all present that legal advice would have to be sought on the matter before any final decision could be taken.

At this stage the meeting was joined by two representatives of SNI's solicitors Arthur Cox - Mr P Curran and Mr A Taylor. They outlined the implications of both admitting and refusing to admit the late applications and answered a number of questions from Members. They referred to the fact that this competition was not a public procurement exercise which is subject to the Public Contracts Regulations 2006 although in many respects it is analogous to competitions which would be subject to those regulations. They expressed the view that general procurement principles may, by analogy, apply in the present circumstances and it was suggested, for example, that an argument could be

made that an implied contract exists between SNI as awarding authority and those participating in the competition and that they might have a bearing on the Council's deliberations.

The solicitors were also of the view that from what they had seen, SNI appear to have in place excellent procedures, including very good record keeping procedures.

They discussed the possibility of legal challenge to both a decision to admit and a decision to refuse to admit the late applications. After discussion and following advice from Arthur Cox, Members agreed that the Chief Executive and Executive Team should be empowered to instruct Counsel to provide a written Legal Opinion on the matter for further consideration by the Members.

There being no further business the Chairman thanked everyone for their attendance and the meeting closed at 1.15 pm.

Signed: _____

Dated: _____

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Upper Malone Road
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