

SPORT NORTHERN IRELAND

MINUTES

CONFIDENTIAL

Special Meeting 2009

Held on 27 August 2009 in the Bowling Pavilion at the Northern Ireland Civil Service Sports Association, Upper Newtownards Road, Belfast BT4 3TA.

PRESENT

In the Chair:	D Walsh
Members:	A Moneypenny M Muldoon B McCargo H McCaughey D O'Connor A Strong P Turnbull
Chief Executive:	E McCartan
Staff in Attendance:	N Harkness S Ogle A Sloan R McCormick A Campbell J News E Bailey L Beattie

1 **APOLOGIES**

Apologies were received from O Brown, M Cowan, J D'Arcy, U Duncan, B Macaulay, J Rodgers.

2 **CHAIRMAN'S BUSINESS**

- 2.1 The Chairman welcomed Members and informed that the position of Vice-Chair was being progressed by the Minister and it was hoped that an announcement would be forthcoming in the near future.
- 2.2 The Chairman reminded Members that some Performance Appraisal Self-Assessment Forms were still outstanding.

3 **MINUTES**

The Minutes of the Special Meeting held on 8 July 2008, having been previously circulated, were approved and signed.

4 **MATTERS ARISING**

Members sought an update on the Strategy for Sport and heard that the delay in finalising still lay with the Executive. The Chair and Chief Executive are to meet with the Minister on 1 September and will raise the matter then.

Members noted that this Strategy was first underway when Mr David Hansen MP was the Minister for Culture Arts and Leisure.

5 **CORRESPONDENCE**

There was no correspondence.

6 **DECLARATION OF INTERESTS**

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

The following Members declared an interest.

Mr D O'Connor – Elite Facilities Programme
Mr P Turnbull – Appeals Panel.
Mr A Money Penny – Elite Facilities Programme
Mr A Strong – Elite Facilities Programme

7 **PARTICIPATION UNIT**

7.1 **Elite Facilities Programme**

The Chairman welcomed Mr P Curran of Arthur Cox Solicitors who was invited to summarise the decision of the High Court in the challenge brought by FGS McClure Watters and to discuss next steps with the Council.

Members first considered whether or not Mr P Turnbull should absent himself from the meeting, It was agreed that Members of the Appeal Panel were entitled to know the outcome of the High Court proceedings and legal advice confirmed that he could stay for this. However, it was decided that he should absent himself from the subsequent discussions on whether or not Sport NI should appeal the High Court's decision.

Mr P Curran took members through the the decision of the High Court of 14 August 2009 and summarised the position.

It was made clear that the only decision Members were being asked to make today was whether or not to appeal the High Court's decision to the Court of Appeal.

If Members decided not to appeal the High Court's decision then the next step would be for Sport Northern Ireland to reconsider the issue of the late applications in accordance with the direction of the High Court, and include in that reconsideration the issue of whether or not a reduced offer of award should be made.

Members considered the decision of the Lord Chief Justice in the High Court proceedings and discussed the issues raised therein. Members noted that SNI was successful on all but one of the grounds raised by FGS McClure Watters in the proceedings.

It was noted that the judgment concluded that SNI had the right to exclude late bids and that there was no requirement to accept late bids. It was also noted that Members had acted proportionately, reasonably and rationally in coming to the decision that the bids would be excluded.

However, the case was ultimately decided on the ground the Council should also have considered the possibility of a reduced offer of award before coming to its decision on 20 February 2009.

It was noted that the Court did not express a view as to whether a reduced award would be appropriate; it was for the Council to come to its own conclusion on this matter.

The Chairman expressed disappointment at the findings of the Lord Chief Justice, recognising that SNI had acted on legal advice throughout the process.

Members agreed that the outcome was disappointing and that a review of the appeals process should be carried out.

Before considering whether or not to appeal the High Court decision the following Members with a declared interest left the room.

Mr D O'Connor, Mr A Strong, Mr P Turnbull.

At this point the meeting was not quorate as one Member had not been able to turn up for the beginning of the meeting. Members in attendance at this point were Mr D Walsh, Mr H McCaughey, Mr B McCargo, and Mr A Money Penny. Ms M Muldoon was contacted and would arrive at 11.30 am, having been delayed in her workplace. Discussion of this subject therefore ceased and the legal advisor left the meeting. Discussion would re-commence at 11.30 am when the meeting would be quorate. The meeting then continued with the agenda.

Mr D O'Connor, Mr A Strong and Mr P Turnbull returned to the room

Mr A Money Penny left the room.

7.2 50m Swimming Pool

Members received an update on the 50m Swimming Pool (Paper SNI/09/121) Members noted the progress report and recalled the previous Council decision in Paper SNI/09/98 to approve the progression of the NDBC application for a 50m swimming pool, from full Business Case and procurement strategy stage (Stage Three) to detailed design stage (Stage Four) subject to DFP and DCAL FBC approvals when SNI Stage Three requirements are satisfied.

Members heard that final approval of DCAL was received the day before the Council meeting and DCAL had confirmed that there is budget covered into the next Comprehensive Spending Review period and they are comfortable for SNI

to go ahead with a binding letter of offer.

Mr A Moneypenny returned to the room.

7.3 Active Communities Investment Approvals

Members considered Paper SNI/09/122 which updated on the implementation of the "Active Communities" Investment Programme and sought approval for the investment in 11 District Council-led consortia.

Members acknowledged the work carried out by SNI staff over the last twelve months. They also noted that there is a sense of ownership by each of the eleven District Council-led consortia. They also clarified the quality of delivery.

Mr McCaughey referred to the difficulties currently being experienced in the economy. He tried to contextualise the impact of these difficulties on the Business Plan of SNI. He emphasised the need not to over-commit and to ensure that any commitments made by SNI were qualified by available budget.

After discussion Members approved the recommendations subject to affordability.

8 **PERFORMANCE UNIT**

8.1 Request by 2 and 4 Wheels Motorsport Steering Group for NW1200 Funding

Members considered Paper SNI/09/125 and a request from 2 and 4 Wheels Motorsport Steering Group for retrospective funding for safety upgrading of the NW200 circuit.

DCAL had allocated SNI a budget of up to £2 million over the years 2009/10 2010/11 for Motorsport. This allocation was made by the Minister and confirmed in his letter of 12 June 2009 and enabled urgent works to be undertaken on the NW 200 Motorcycle circuit. SNI assisted 2 and 4 Wheels Motorsport to produce a business case releasing £100k from the £2 million Ministerial allocation for these urgent works.

After discussion Members retrospectively approved £100,000 funding for the safety works to the Paddock area of the NW200 motorcycle racing circuit.

8.2 Delegated Decisions – Performance Unit

Members noted action taken in accordance with Council policy (Paper SNI/09/126).

9 **CORPORATE SERVICES UNIT**

9.1 International Financial Reporting Standards

Members received an update (Paper SNI/09/128). Members noted the work being carried out on the implementation process and work to be carried out in the future. The paper also highlighted potential areas where adjustments may be necessary and identified and acted upon any potential difficulties that have arisen or may arise in the future.

9.2 Delegated Decisions - Corporate Services Unit

Members noted decisions taken in accordance with Council Policy (Paper SNI/09/129).

9.3 Capitalisation Policy for Fixed Assets

Members considered Paper SNI/09/130 which reviewed the current fixed asset capitalisation policy. Members noted the reason for the change in policy and approved the amendment to the fixed asset capitalisation policy and the change to be implemented in the 2009/10 accounts.

9.4 Depreciation of Fixed Assets

Members considered Paper SNI/09/131. This reviewed the current method of charging depreciation to fixed assets. Members were asked to note the reason for the change and approve the amendment to the depreciation accounting estimation and the change to be implemented in the 2008-09 accounts.

After discussion Members approved the recommendation.

9.5 Section 75 Annual Report 2008-09

Members received an update on Sport Northern Ireland's Section 75 duties (Paper SNI/09/123) and approved its submission to the Equality Commission. Members were informed that the Permanent Secretary of DCAL holds Sport Northern Ireland as an example of best practice in this area. Members approved the Paper and commended officers on this work.

9.6 Quarter One Business Plan Review 2009-10

Members received Paper SNI/09/124 and noted the Business Plan Performance Review which highlighted Sport Northern Ireland's progress against key performance indications for the first quarter (April-June) of 2009/10.

During discussion Members raised a variety of questions regarding presentation of results shown the Paper and ensuring that the provided SNI with the best possible information. They noted however that the presentation was in line with DCAL requirements; and were asked to liaise with the Director of Corporate Services Unit if they wished to make any further suggestions.

9.7 Marketing

9.7.1 Press and Media Report

Members received Paper SNI/09/127 and noted the recent and upcoming activities in the Marketing and Communications Department.

Members noted that a replacement for the Marketing Assistant would be finalised shortly.

The Chief Executive thanked Members for their extensive representation and attendances at various sporting events.

10 **COMMITTEE REPORTS – FOR ADOPTION**

10.1 Participation Committee

Members adopted the Minutes of the Meeting held on 21 May 2009.

10.2 Places Committee

Members adopted the Minutes of the Meeting held on 21 May 2009.

11 **COMMITTEE REPORTS – FOR INFORMATION**

There were no Committee Reports.

12 **PUBLICATIONS**

There were no publications.

13 **DATE OF NEXT MEETING**

It was agreed that there may be a need for another Council meeting before the next scheduled meeting on 6 October. Officers would be in touch with Members in due course.

Ms M Muldoon joined the meeting

14 **ANY OTHER BUSINESS**

14.1 Members referred to the recent incident at a GAA ground in Co Tyrone. The Chairman and Chief Executive confirmed that they were to meet with the GAA Ulster President and Secretary on this matter.

14.2 Mr H McCaughey referred to the Business Plan discussed at paragraph 9.6 and suggested that the Director of Corporate Services Unit should bring a half-yearly report to Council. This was agreed.

14.3 Mr P Turnbull noted that Management Accounts had not been brought to the meeting and the director of Corporate Services Unit explained this was a special meeting to consider the outcome of the Judicial Review. Mr Turnbull then referred to a European management model which he had discussed with the Director of Corporate Services Unit.

14.4 Members were reminded that any outstanding travel claim forms and declaration of interest forms should be submitted urgently. The view was expressed that the detail required to be filled in on the declaration of interest forms can be quite tiresome and asked if it could be reviewed.

Mr P Turnbull advised Council that he had recently been working with the European Excellence Model and that he would be willing to discuss its merits with SNI's HR Manager if it was thought useful.

14.5 The Chief Executive updated Members on a recent meeting with Ulster Branch of the Irish Rugby Football Union. He outlined the major areas of discussion including the use of SINI and the paucity of capital bids for UB IRFU. He drew to their attention that this issue was raised by SNI at an earlier meeting. UB IRFU indicated that in terms of pitches that their clubs had probably enough pitches. Both parties agreed to further meetings to further discuss these issues. Members noted that this was discussed at the Places Committee.

14.6 Elite Facilities Programme (Agenda Item 7.1)

At this point in the meeting, which was now quorate, Members discussed the Elite Facilities Programme. Mr P Curran of Arthur Cox Solicitors re-joined the meeting.

Mr P Turnbull, Mr D O'Connor and Mr A Strong left the room.

Members present were: Mr D Walsh, Mr A Money Penny, Ms M Muldoon, Mr B McCargo and Mr H McCaughey.

The earlier discussion was summarised for the benefit of Ms M Muldoon.

The Chairman referred to the findings of the High Court and sought Members' views as to whether or not to appeal the decision.

Mr Curran reminded Members that the only decision to be made today is whether or not to appeal and that the consideration of merits of reduction or any other aspects of the decision on the BCC applications are not for this meeting. If Council decided not to appeal, the next step would be for Council to meet to re-consider the matter again in full. Members noted the judgement of the High Court that:

"...it is common case that this issue was never considered by the Sports Council. I do not intend to express a view as to whether or not a reduction of award would have been appropriate. The decision maker in this case is the Sports Council and it is for the members of the council to come to their conclusion on this issue."

To facilitate the decision, Mr Curran circulated a copy of an Opinion from Michael Bowsher Q.C. and Paul McLaughlin B.L. which summarised the position and the merits of appealing. Mr Curran talked Members through the Opinion. Members noted that an appeal would have to be brought on the basis that the Judge had made an error in law. Also, in practical terms, it would be difficult to get an appeal hearing before the end of the year.

In making their decision Members were reminded to maintain an open, fair and reasonable mind. Members sought clarification on a number of matters with the legal advisor and after a lengthy discussion, Members unanimously agreed that, on the basis of the legal advice, SNI would not appeal the High Court's decision.

Members were reminded by the Chairman of the need for confidentiality when dealing with this matter in other domains.

Mr P Curran then outlined the next steps for SNI and referred to a communication received from FGS McClure Watters which was being dealt with.

There being no further business the Chairman thanked everyone for their attendance and the meeting closed

Signed: _____

Dated: _____

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