

**Ballymoney Borough Council**

**Health & Environmental Services Committee Meeting No 388 – 22<sup>nd</sup> January 2013**

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**BALLYMONEY BOROUGH COUNCIL**

Minutes of Health & Environmental Services Committee Meeting No 388, held in the Council Chamber, Riada House, Ballymoney on Tuesday 22<sup>nd</sup> January 2013 at 7.04pm.

**IN THE CHAIR:** Alderman H Connolly

**PRESENT:** **Aldermen**  
F Campbell  
C Cousley, MBE

**Councillors**  
J Atkinson  
W Blair  
J Finlay  
R Halliday  
R McAfee  
E Robinson, Mayor  
I Stevenson

**APOLOGIES:** Councillor A Cavlan

**IN ATTENDANCE:** Mr Eamon Molloy, NWRWMG [item 388.2]  
Mr Jonathan Gray, NWRWMG [item 388.2]  
Chief Executive  
Director of Borough Services  
Committee Clerk

**388.1 DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

**MATTERS FOR CONSIDERATION****ENVIRONMENTAL SERVICES****388.2 NWRWMG WASTE INFRASTRUCTURE PROJECT**

Members have previously received the following information –

- Waste Infrastructure Project – Appointment Business Case (December 2012) [report]
- Waste Infrastructure Project – ISFT Evaluation Report (December 2012) [report]
- Same information as above (CD Format)

These matters were considered by the NWRWMG Joint Committee at its meeting held on 19<sup>th</sup> December 2012 and the following recommendation was made by the Joint Committee:-

“The Joint Committee of the NWRWMG **RECOMMENDS** that the Tender Evaluation Report presented to the Committee at its meeting on Wednesday the 19<sup>th</sup> December 2012 is accepted on the basis of the SBS Mandatory Variant bid.

**IT FURTHER RECOMMENDS** that on the basis of the Appointments Business Case, SBS is appointed preferred bidder and award of contract is subject to the approval of the Final Business Case by Member Councils.”

NWRWMG constituent council members had the opportunity to attend a Workshop held on 10<sup>th</sup> January.

In addition to the other information members have received a short report entitled “NW Region Waste Infrastructure”.

Members will receive a presentation on the Final Tender and Appointment Business Case as regards the North West Region Waste Management Group (NWRWMG) Waste Infrastructure Procurement Project. Following which members will be asked to consider the recommendation made by the NWRWMG Joint Committee (as set out above) and **IT IS RECOMMENDED** that the Council’s Health & Environmental Services Committee make a recommendation to Council on the appointment of Preferred Bidder Status.

At the meeting the Director of Borough Services welcomed Mr Eamon Molloy and Mr Jonathan Gray from NWRWMG. Prior to consideration of agenda item 388.2, Mr Eamon Molloy read a statement as follows:-

*“As Members will be aware the Councils of the NWRWMG has been engaged in the Waste infrastructure procurement process for a period in excess of 30 months.*

*We are now approaching the preferred bidder stage of this process and it is essential that in so far as is possible we adhere to a strict timetable to ensure that we deliver the project by the absolute date of 31<sup>st</sup> March 2017. However, there are matters that will arise that have the potential to impact on this timetable and they must be dealt with in a timely fashion.*

*One such instance has just occurred.*

*A High Court Writ has been issued by Mills Selig, acting for City Industrial Waste Limited (CIWL), to challenge the procurement process. The effect of the issue of the Writ is to prevent the Councils from entering into the contracts relating to the procurement. It would be unlawful to do so unless and until the Court confirms that the Councils may do so. The outcome of the proceedings is a matter for the Court.*

*It is therefore essential that member Councils do not take any action that could be interpreted as infringing procurement law.*

*I referred in paragraph two above to the timetable for completion of this project and it is that matter that I wish now to address for completeness.*

*We have a duty, if this project proceeds, to ensure that where possible we take every care necessary to meet project timelines and that we remain compliant, not least because of the amount of time and monies that have been invested in the Project to date. This includes costs incurred during the procurement exercise by both the Public Purse and the bidder.*

*The timeline has been dictated not only by the actual planning, permitting, construction and commissioning periods but also by the need to maintain our ability to achieve maximum benefit from the NI Renewable Obligations Certificates regime (NIROC's). This is a vital component with regards to the financial viability of this project and the date of the 31<sup>st</sup> March 2017 is immutable.*

*With this in mind Councils should confirm if they wish to receive the presentation on the Project and consider the recommendation of the Joint Committee. If Members deem this to be appropriate any recommendation they may make in this matter should, for clarity, carry the caveat "subject to the outcome of Court proceedings".*

*In doing so Members will protect the procurement process against any additional undue delays while at the same time taking cognizance of the Public Procurement Regulations and respecting the authority of the Courts.*

*We have instructed solicitors in relation to the Court proceedings."*

- \* Mr Jonathan Gray and Mr Eamon Molloy left the meeting at 7.09pm.

The Director intimated that it was appropriate for the two NWRWMG officers to withdraw from the meeting as the first matter now to be considered, as Mr Molloy had drawn attention to, was whether or not Committee wished to receive the presentation and consider the recommendation of the Joint Committee. He explained that if members agreed to receive the presentation and consider the recommendation of the Joint Committee and were minded to make a recommendation to Council that the recommendation would be subject to the caveat referred to by Mr Molloy. Both the Chief Executive and Director responded to member questions.

It was proposed by Councillor Stevenson, seconded by Alderman Cousley and  
**AGREED:**

***that the Health & Environmental Services Committee receive the presentation on the NWRWMG Infrastructure Project and consider the recommendation of the Joint Committee.***

- \* Mr Jonathan Gray and Mr Eamon Molloy joined the meeting at 7.17pm.

The Chair advised that the Health and Environmental Services Committee wished to receive the presentation and consider the recommendation of the Joint Committee.

Mr Molloy thanked the Chair and members. Both he and Mr Gray made a presentation to members [attached as an appendix 1] and then responded to members questions.

The Chair, on behalf of the Committee, thanked Mr Molloy and Mr Gray for attending the meeting.

- \* Councillor Atkinson left the meeting at 7.59pm.

Mr Gray advised there was further information available to members which included a DVD.

- \* Mr Molloy left the meeting at 8.00pm, with Mr Gray leaving at 8.02pm.

The Director drew members' attention to the recommendations of the Joint Committee of the NWRWMG arising from its meeting on 19<sup>th</sup> December –  
 “The Joint Committee of the NWRWMG **RECOMMENDS** that the Tender Evaluation Report presented to the Committee at its meeting on Wednesday the 19<sup>th</sup> December 2012 is accepted on the basis of the SBS Mandatory Variant bid.

**IT FURTHER RECOMMENDS** that on the basis of the Appointments Business Case, SBS is appointed preferred bidder and award of contract is subject to the approval of the Final Business Case by Member Councils.”

He reminded members of the statement read out and the advice that any recommendation Committee might make to Council ought to carry the caveat “subject to the outcome of Court proceedings”.

It was proposed by Councillor Stevenson, seconded by Councillor Robinson and **AGREED:**

***to recommend to Council that it accept the recommendations of the NWRWMG Joint Committee; namely that the Tender Evaluation Report is accepted on the basis of the SBS Mandatory Variant Bid and that on the basis of the Appointments Business Case, SBS is appointed preferred bidder and award of contract is subject to the approval of the Final Business Case by Member Councils, subject to the outcome of Court proceedings.***

- \* Councillor Atkinson rejoined the meeting at 8.05pm.

- \* Councillor Stevenson left the meeting at 8.07pm

### **388.3 MINUTES - Meeting No 387 – 20<sup>th</sup> December 2012**

It was proposed by Councillor Finlay, seconded by Councillor Atkinson and **AGREED:**

***to recommend that the minutes of Meeting Number 387 – 20<sup>th</sup> December 2012, as circulated, be confirmed as a correct record.***

- \* Councillor Stevenson joined the meeting at 8.09pm.

#### 388.4 CLOSED LANDFILL: NIEA COMPLIANCE NOTICE

As Members were aware following receipt of a compliance notice (CN/05/01) in respect of the Council's closed landfill at Crosstagherty, Council on 6<sup>th</sup> June determined to appeal same.

Following notification of a date of hearing for the appeal by the Planning Appeals Commission and representations made by the 3 no. Councils acting together, NIEA issued on 4<sup>th</sup> January a notification of withdrawal of compliance notice CN/05/01. Also on 4<sup>th</sup> January 2013 NIEA issued Compliance Notice CN/05/01/A1, which as Councils had argued is risk based and not as prescriptive as its predecessor.

***IT IS RECOMMENDED*** that Council note recent developments and that work is on-going, in conjunction with other Councils, to procure the necessary closed landfill closure plan.

It was proposed by Councillor Robinson, seconded by Councillor Atkinson and **AGREED:**

***to recommend that Council note recent developments and that work is on-going, in conjunction with other Councils, to procure the necessary closed landfill closure plan.***

Councillor Robinson expressed as a group, thanks to officers and other Council officers involved in this issue.

#### 388.5 NWRWMG COUNCIL MDR CONTRACT

As Members have previously been advised substantial difficulties have arisen as regards the outworking of this contract and indeed its immediate predecessor – the Council's interim MDR contract with the same company. Legal advice has been taken on both matters.

***IT IS RECOMMENDED*** that Committee consider the matter and make recommendation as to how Council ought to proceed.

The Director updated members as to how both the Council's own interim contract and the present NWRWMG contract had worked out to date, setting out the key factors and explaining the legal advice which had been obtained and its implications. During the ensuing discussion the Director responded to member questions.

\* Councillor Finlay left the meeting at 8.40pm.

It was proposed by Councillor Robinson, seconded by Councillor Atkinson and **AGREED:**

***to recommend that Council adhere to the legal advice received and act accordingly.***

### **388.6 EXTENSION OF WEEE (WASTE ELECTRICAL & ELECTRONIC EQUIPMENT) CONTRACTS**

This matter was considered by the North West Region Waste Management Group Joint Committee at its meeting on 3<sup>rd</sup> October 2012. WEEE contracts were awarded to European Recycling Platform in January 2010 and expire on 31<sup>st</sup> March 2013. The Joint Committee recommended that the contract be extended for a further 24 months in accordance with Clause 3.1 of same.

***IT IS RECOMMENDED*** that Council endorse the recommendation of the NWRWMG Joint Committee that the WEEE contracts be extended for a further 24 months commencing 1<sup>st</sup> April 2013.

It was proposed by Alderman Campbell, seconded by Councillor Stevenson and **AGREED:**

***to recommend that Council endorse the recommendation of the NWRWMG Joint Committee that the WEEE contracts be extended for a further 24 months commencing 1<sup>st</sup> April 2013.***

### **388.7 WASTE HAULAGE CONTRACT TENDER 2013-2014**

Tenders were invited, by public advertisement, regarding the transport of the Council's municipal waste from its Crosstagherty Waste Handling & Transfer Facility to various specified locations. The closing date for tenders was 12.00 noon, Thursday 17<sup>th</sup> January 2013. Five tenders were received. The tenders were opened by the Head of Environmental Services, together with the Head of Amenities on 17<sup>th</sup> inst. at 12.15pm. The tender prices submitted are detailed in the table below. In order to preserve commercial confidentiality, the lowest price for each site is identified by letters – A, B, C, etc.



**1. Transport of Residual Municipal Waste to the Council's Nominated Landfill Site**

<b>Contractors</b>	<b>Magheraglass Landfill Site – price per tonne (£)</b>
RiverRidge Recycling, 56 Craigmore Road, Ringsend, GARVAGH, BT51 5HF.	A + £0.05
Brickkiln Waste Ltd., 23 Heather Road, Creevagh, L'DERRY, BT48 9XD.	A
Mediclean Hygiene Services Ltd., Unit 20 Avondale Ind. Estate, BALLYCLARE, BT39 9AU.	A + £5.95
R. Heatrick Ltd., 341 Tandragee Road, PORTADOWN, BT62 3RB.	A + £11.45
Clarann Haulage Ltd., 18 Carrowdoon Road, DUNLOY, BT44 9DL.	A + £15.05

**2. Transport of Household Recycling Centre & Bulky Household Waste to the Council's Nominated Waste Reprocessor Facility**

<b>Contractors</b>	<b>RiverRidge Recycling – price per tonne (£)</b>
RiverRidge Recycling, 56 Craigmore Road, Ringsend, GARVAGH, BT51 5HF.	B
Brickkiln Waste Ltd., 23 Heather Road, Creevagh, L'DERRY, BT48 9XD.	B + £2.00
Mediclean Hygiene Services Ltd., Unit 20 Avondale Ind. Estate, BALLYCLARE, BT39 9AU.	B + £6.25
R. Heatrick Ltd., 341 Tandragee Road, PORTADOWN, BT62 3RB.	B + £10.85
Clarann Haulage Ltd., 18 Carrowdoon Road, DUNLOY, BT44 9DL.	B + £12.35

**3. Transport of Organic Waste [Garden Waste only] to the Council's Nominated Composting Facility**

<b>Contractors</b>	<b>Letterloan Composting Facility - price per tonne (£)</b>
RiverRidge Recycling, 56 Craigmore Road, Ringsend, GARVAGH, BT51 5HF.	C
Brickkiln Waste Ltd., 23 Heather Road, Creevagh, L'DERRY, BT48 9XD.	C + £1.25
Mediclean Hygiene Services Ltd., Unit 20 Avondale Ind. Estate, BALLYCLARE, BT39 9AU.	C + £6.25
R. Heatrick Ltd., 341 Tandragee Road, PORTADOWN, BT62 3RB.	C + £4.30
Clarann Haulage Ltd., 18 Carrowdoon Road, DUNLOY, BT44 9DL.	C + £12.35

#### 4. Other Transport

Contractors	Price per tonne per single journey mile (£/t/mile)
RiverRidge Recycling, 56 Craigmore Road, Ringsend, GARVAGH, BT51 5HF.	D
Brickkiln Waste Ltd., 23 Heather Road, Creevagh, L'DERRY, BT48 9XD.	D + £0.105
Mediclean Hygiene Services Ltd., Unit 20 Avondale Ind. Estate, BALLYCLARE, BT39 9AU.	D + £0.185
R. Heatrick Ltd., 341 Tandragee Road, PORTADOWN, BT62 3RB.	D + £0.335
Clarann Haulage Ltd., 18 Carrowdoon Road, DUNLOY, BT44 9DL.	D + £0.285

RiverRidge Recycling is the lowest tender as regards the work on offer.

**IT IS RECOMMENDED** that Council engage RiverRidge Recycling to haul its municipal waste during 2013-2014, in accordance with the Council's Specification and Contract Conditions.

It was proposed by Councillor Robinson, seconded by Councillor Atkinson and **AGREED:**

***that Council engage RiverRidge Recycling to haul its municipal waste during 2013-2014, in accordance with the Council's Specification and Contract Conditions.***

## ENVIRONMENTAL PROTECTION

### 388.8 WATER (NI) ORDER 1999: EFFLUENT CONSENT APPLICATION

NIEA Water Management Unit has advised that it has received the undernoted applications –

<u>Applicant</u>	<u>Location</u>
Northern Ireland Water	Macfin Waste Water Treatment Works
Northern Ireland Water	Dempsey Park Water Treatment Works

In that the NIEA will set levels as to the quality of effluent to be discharged to a waterway. ***IT IS RECOMMENDED*** that Council note the applications.

It was proposed by Councillor Stevenson, seconded by Councillor Robinson and **AGREED:**

***to recommend that Council note the applications.***

## HEALTH & SAFETY

### 388.9 THE SAFETY OF SPORTS GROUNDS (NI) ORDER 2006: GENERAL SAFETY

#### CERTIFICATE RENEWALS

Members were aware that DCAL (Department of Culture Arts & Leisure) has designated the undernoted two venues within the Borough in respect of their use for certain sports as described –

- Father Healy Park, Loughgiel (gaelic games)
- Riada Stadium, Ballymoney (soccer)

Council is responsible for re-issuing and enforcing General Safety Certificates on an annual basis in respect of the aforementioned designated venues when same are used for the sports described. Whilst the primary responsibility for the safety of spectators rest with the respective ground management (and users in the case of Riada Stadium) nonetheless Council is responsible for monitoring compliance with its General Safety Certificate at each designated venue.

***IT IS RECOMMENDED*** that Council renew the General Safety Certificates in respect of both Father Healy Park, Loughgiel and Riada Stadium, Ballymoney referred to in this report.

It was proposed by Councillor Stevenson, seconded by Councillor Robinson and **AGREED:**

***to recommend that Council renew the General Safety Certificates in respect of both Father Healy Park, Loughgiel and Riada Stadium, Ballymoney referred to in this report.***

## ENVIRONMENTAL HEALTH GENERAL

### 388.10 THE PRIVATE TENANCIES (NORTHERN IRELAND) ORDER 2006 ARTICLE 36 (4) CERTIFICATE OF FITNESS

**Landlord**

Mr. John McAuley

**Dwelling- House**

181 Castlecat Road,  
Dervock,  
BALLYMONEY,  
Co. Antrim, BT53 8AS.

A fitness inspection of the above dwelling has been conducted and the dwelling house meets the fitness standard for human habitation as set out in Article 46 of the Housing (NI) Order 1981.

***IT IS RECOMMENDED*** that the Borough Council grant Article 36 (4) Certificate of Fitness in respect of the above dwelling house.

It was proposed by Councillor Atkinson, seconded by Councillor McAfee and  
**AGREED:**

***to recommend that the Borough Council grant Article 36 (4) Certificate of Fitness in respect of the above dwelling house.***

### 388.11 CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT (NI) 2011 7 HENRY STREET, BALLYMONEY, BT53 6HX.

Further to the recommendation that an abatement notice be served on the landlord of the above premises under the Clean Neighbourhoods and Environment (NI) Act 2011, minute CM 968.9 refers, a request has been received from the landlord to extend the period of compliance to 28<sup>th</sup> February 2013. The landlord has provided evidence to show that a contractor has been appointed and works have been scheduled to take place within this period.

***IT IS RECOMMENDED*** that an extension to the period of compliance, in respect of abatement notice served on the landlord of the above premises be granted.

It was proposed by Councillor Atkinson, seconded by Councillor Stevenson and  
**AGREED:**

***to recommend that an extension to the period of compliance, in respect of abatement notice served on the landlord of the above premises be granted.***

## LICENSING

### 388.12 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 1985 - LICENCE APPLICATIONS (FULL) (RENEWAL)

#### Premises

The Bridge Bar,  
145 Bridge Road,  
Dunloy,  
BALLYMENA, BT44 9EQ.

Rafters Snooker Club,  
18 Seymour Street,  
BALLYMONEY, BT53 6JR.

#### Applicant

Mr. Daniel J. McFerran

Mr. Samuel Wylie

***IT IS RECOMMENDED*** that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the case of The Bridge Bar subject to the provision of a satisfactory electrical test certificate. In addition to the Borough Council's "Conditions of Licence" adopted on 7<sup>th</sup> October 1985 the additional conditions detailed on the premise files also apply.

It was proposed by Councillor Atkinson, seconded by Councillor Halliday and **AGREED:**

***to recommend that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the case of The Bridge Bar subject to the provision of a satisfactory electrical test certificate. In addition to the Borough Council's "Conditions of Licence" adopted on 7<sup>th</sup> October 1985 the additional conditions detailed on the premise files also apply.***

### 388.13 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 1985 - LICENCE APPLICATIONS (FOURTEEN UNSPECIFIED DAYS) (RENEWAL)

#### Premises

First Ballymoney Presbyterian  
Church Hall,  
65 Meetinghouse Street,  
BALLYMONEY, BT53 6JN.

Allen & Adair Memorial Hall,  
233 Castlecat Road,  
Dervock,  
BALLYMONEY, BT53 8BP.

John Armstrong Hall,  
Dalriada School,  
1-9 St. James's Road,  
BALLYMONEY, BT53 6BL.

#### Applicant

Mrs. Trudy Pollock

Mr. Thomas J. Johnston

Mr. David R. Balmer

**Premises**

Trinity Presbyterian Church Hall,  
Rodeing Foot,  
BALLYMONEY, BT53 6JJ.

Rasharkin Presbyterian Church Hall,  
13 Moneyleck Road,  
Rasharkin,  
BALLYMENA, BT44 8QB.

The Robinson Hall,  
56 Moyan Road,  
BALLYMONEY, BT53 8NX.

**Applicant**

Mrs. Anne Backus

Mr. Richard John Wilson

Mr. Maurice F. R. Christie

***IT IS RECOMMENDED*** that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the cases of First Ballymoney Presbyterian Church Hall and Robinson Hall subject to the receipt of satisfactory electrical test certificates. In addition to the Borough Council's "Conditions of Licence" adopted on 7<sup>th</sup> October 1985 the additional conditions detailed on the premise files also apply.

It was proposed by Councillor Stevenson, seconded by Alderman Campbell and **AGREED:**

***to recommend that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the cases of First Ballymoney Presbyterian Church Hall and Robinson Hall subject to the receipt of satisfactory electrical test certificates. In addition to the Borough Council's "Conditions of Licence" adopted on 7<sup>th</sup> October 1985 the additional conditions detailed on the premise files also apply.***

### **388.14 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 1985 - REVOCATION OF LICENCES**

**Premises**

Stranocum Hall & Stables & Marquee,  
139 Fivey Road,  
Stranocum,  
BALLYMONEY, BT53 8HY.

**Applicant**

Ms. Mary Eakin

The renewal of the indoor entertainments licence for the above premises was due on the 1<sup>st</sup> July 2012. An Officer from this Directorate spoke to the owner and he advised that the business was now closed and he would not be seeking renewal of an entertainments licence.

**Premises**

North Irish Horse Inn,  
15 Carncullagh Road,  
Dervock,  
BALLYMONEY, BT53 8BT.

**Applicant**

Ms. Mandy Graham



The renewal of the indoor entertainments licence for the above premises was due on the 28<sup>th</sup> February 2012. An Officer from this Directorate spoke to the Manager and he advised that the business did not hold entertainment and he would not be seeking renewal of an entertainments licence.

**IT IS RECOMMENDED** that the Borough Council revoke the Indoor Entertainments Licences for the two above-mentioned premises.

It was proposed by Councillor Robinson, seconded by Councillor Atkinson and **AGREED:**

***to recommend that the Borough Council revoke the Indoor Entertainments Licences for the two above-mentioned premises.***

### **388.15 THE BUSINESS OF TATTOOING, EAR PIERCING AND ELECTROLYSIS – REGISTRATION OF PERSONS AND PREMISES – PART V PROVISIONS**

<u>Applicant</u>	<u>Premises</u>
Rolanda O'Boyle (Ear Piercing/Electrolysis)	Look Good Feel Good Beauty Boutique, 164A Tullaghans Road, Dunloy, BALLYMENA, BT44 9AF.
Clare Doherty (Acupuncture)	108 Bravallen Road, BALLYMONEY, BT53 7DU.

**IT IS RECOMMENDED** that the above persons and premises be registered.

It was proposed by Councillor Atkinson, seconded by Alderman Cousley and **AGREED:**

***to recommend that the above persons and premises be registered.***

### **BETTING, GAMING, LOTTERIES AND AMUSEMENTS (NORTHERN IRELAND) ORDER 1985**

**388.16** Applications have been received from the undernoted Societies for renewal of registration by the Borough Council (Article 136 of the 1985 Order refers):-

<u>Society</u>	<u>Lottery Promoter</u>	<u>Fee</u>
Ballymoney Homing Pigeon Society	Mr. Derek McMullan, 20 Straham View, Dervock, BALLYMONEY, BT53 8BQ.	£17.50
Ballinagarvey Ind. LOL33	Mr. Frank McClure, 5 Bannview Park, BALLYMONEY, BT53 7LL.	£17.50

<u>Society</u>	<u>Lottery Promoter</u>	<u>Fee</u>
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Ballymoney Utd. Youth Academy	Mr. David Cunningham, 16 Castlehill Terrace, BALLYMONEY, BT53 6RY.	£17.50
Co. Londonderry Horse Breeding Society	Ms. Yvonne Hanna, 74 Glenstall Road, BALLYMONEY, BT53 7QN.	£17.50
Dunaghy Flute Band	Mr. David McAuley, 26 Parklands, BALLYMONEY, BT53 7QU.	£17.50
Friends of Armour Day Centre	Mr. John Esler, 34 Cherry Gardens, BALLYMONEY, BT53 7AS.	£17.50
The Poultry Club of GB	Mrs. Dorothy Ann Bachmet, Keeper's Cottage, 40 Benvardin Road, Ballybogy, BALLYMONEY, BT53 6NN.	£17.50
Ballymoney Borough Twinning Association	Mr. Warner Kirkpatrick, c/o Riada House, 14 Charles Street, BALLYMONEY, BT53 6DZ.	£17.50

***IT IS RECOMMENDED*** that the Borough Council renew the registrations of the above-mentioned Societies.

It was proposed by Councillor Atkinson, seconded by Councillor Stevenson and **AGREED:**

***that the Borough Council renew the registrations of the above-mentioned Societies.***

## **WELFARE OF ANIMALS**

### **388.17 WELFARE OF ANIMALS ACT (NORTHERN IRELAND) 2011 AUTHORISATION OF OFFICERS**

Further to Committee item 379.22 it is necessary to authorise the following additional officers to discharge this function on behalf of Ballymoney Borough Council –

Shanna Wilson (Animal Welfare Officer)  
Neal Morrow (Animal Welfare Officer)

***IT IS RECOMMENDED*** that in exercise of its powers under 47A of the Local Government Act 1972 as amended by Article 26 of the Local Government (Miscellaneous Provisions) (NI) Order 1985, Ballymoney Borough Council appoints the aforementioned officers as inspectors under Section 45(1)(b) of the Welfare of Animals Act (NI) 2011.

It was proposed by Councillor Stevenson, seconded by Councillor Robinson and **AGREED:**

***to recommend that in exercise of its powers under 47A of the Local Government Act 1972 as amended by Article 26 of the Local Government (Miscellaneous Provisions) (NI) Order 1985, Ballymoney Borough Council appoints the aforementioned officers as inspectors under Section 45(1)(b) of the Welfare of Animals Act (NI) 2011.***

## **BUILDING CONTROL**

### **388.18 BUILDING CONTROL FEES FOR LOFT INSULATION**

Members may recall that in December 2009 Council agreed to waive Building Control fees for top-up roof space insulation in existing dwellings (CMT 910.5 refers), at the request of the Head of the Energy Saving Trust (NI). The EST scheme, which offered the incentive of a one-off rebate on domestic rates, received very poor take up and has now been superseded by the Warm Homes Scheme. This scheme is funded by the Department for Social Development (DSD) to increase energy efficiency within homes. The scheme is only available to people who are in receipt of certain benefits.

Under the scheme people may be able to receive cavity wall, loft insulation, a hot water tank jacket and energy advice. The Warm Homes Plus scheme also includes the installation or upgrade of the central heating system in the home with an energy efficient system. An application to Building Control is required for these works and it is necessary for a surveyor to visit each and every dwelling to ensure that the works have been undertaken correctly and that ventilation to the roof space is not compromised.

The Building Control fee for a loft insulation application is £60 if the application is made in advance of the works being undertaken, and £72 where the application is made retrospectively. Councils were requested to “waive” these fees for an initial period of 6 months. As the statutory inspections must still take place, this is in fact not a “waiver” but absorption of costs, covered by all ratepayers within the council area.

The scheme expanded over 2010-11, and continues to increase, and a number of councils, including Ballymoney Borough Council, continued to absorb the application costs, whilst other councils reverted to charging fees (the split is approximately 60/40 in favour of charging fees). The initial loss of fee income to Council was minimal, with only 2 applications submitted to Building Control in 2010/11. However, the number of applications for top-up roof space insulation has dramatically increased since then, to 75 for 2011/12, and to date 58 for 2012/13. This equates to a £4,500 loss of Building Control income in 2011/12, and £3,480 thus far in the current year. In March 2012 Council elected to continue with the waiver of fees for top-up roof space insulation (CMT 958.7 refers). No provision has been made in the rates estimates for this loss of income.

H&A Mechanical Services (H&A), who manage the scheme on behalf of DSD, have previously written to councils requesting that Building Control fees in respect of applications for loft insulation be waived. DSD have also advised that it was never intended that any of the budget for the scheme would be diverted towards

Building Control fees. DSD and H&A state that unless the fees are waived then a portion of homes in the area will not be able to receive the energy upgrades. It would appear that DSD did not incorporate the statutory building control fees in the budget for the Warm Homes Scheme.

Members will be aware that Council may only charge a fee if they have specific legislative authority to do so. In this case the authority is within the *Building (Prescribed Fees) Regulations (NI) 1997*. These regulations authorise the Council to charge the permitted fees but do not require Council to charge the fee. Section 115 of the *Local Government Act (NI) 1972* provides councils with the power to make payments for any purpose which in its opinion is in the interests of the council. In this case the council is not making any payments but rather, if it so resolves, would be taking a decision not to exercise a power to claim a payment.

The accounts of Council are subject to audit by the Local Government Auditor who has in the past expressed concern with how some councils exercised their discretion in respect of Building Control fees. Any erratic use of powers would be subject to Judicial Review and scrutiny in the audit regarding the financial probity of the transaction. Under Section 115 of the *Local Government Act (NI) 1972* any deferment of fees/payment must be:

1. Time bound
2. Non discriminatory
3. Benefit the rate payers of the council, and
4. The duty of the service provider is met by the rate payer.

In essence Council needs to be seen to be acting for proper motives in an open and unbiased way after full and detailed consideration of the issues. It would be unlawful for Council to only waive fees for loft insulation to those applications under the Warm Homes Scheme. Any decision to waive fees would need to be applied to all applications within the Council, not just to those benefitting from the grant scheme.

There is no doubt that the Warm Homes Scheme is a very noteworthy initiative and that it will assist in addressing fuel poverty within the Ballymoney Borough Council area. However there is concern than should fees be waived for loft insulation then Council would be requested to waive fees for other worthwhile schemes that address energy efficiency or safety within the home. There is also concern that DSD has not provided any evidence that the fee income saved in council areas where the fee has been waived has been reinvested for fuel efficiency measures within that council area.

Previously, district councils have had a choice of two options: either to continue to absorb the fee, or to charge the fee. Several councils have now developed a third option, whereby fees for top-up roof space are charged initially in line with the fee regulations, but with the income from those fees subsequently ring fenced to be used by that council for whatever way it sees fit, providing that it satisfies the fuel poverty or carbon reduction initiatives for domestic properties.

**IT IS RECOMMENDED** that Council adopt one of the following options when charging Building Control fees for the work of adding additional insulation to roof areas in dwellings:-

- Option 1 – revert to charging fees in line with the *Building (Prescribed Fees) Regulations (NI) 1997*
- Option 2 – continue to waive fees for a further period of 12 months
- Option 3 – charge the fees, with the income raised subsequently ring fenced for fuel poverty initiatives, as directed by the Director of Borough Services.

It was proposed by Councillor Stevenson, seconded by Councillor Robinson and **AGREED:**

***to recommend that Council adopt Option 2 – continue to waive Building Control fees for the work of adding additional insulation to roof areas in dwellings for a further period of 12 months.***

## MATTERS FOR INFORMATION

### ENVIRONMENTAL SERVICES

#### 388.19 MUNICIPAL WASTE RETURNS

<u>Waste Type</u>	<u>Dec 2011</u>	<u>Dec 2012</u>	<u>Apr 11 – Dec 11</u>	<u>Apr 12 – Dec 12</u>
Mixed Residual Waste (waste direct to landfill)	773.02t	666.06t -13.84%	6,847.18t	6,390.26t -6.67%
Mixed Dry Recyclables (blue bin recycling)	153.64t	162.28t +5.62%	1,272.77t	1,404.83t +10.38%
Garden Waste (brown bin recycling)	n/a	n/a	1,119.96t	1,074.18t -10.48%
Waste Recovery (segregated HRC waste)	52.48t	48.44t -7.70%	595.70t	622.92t +4.57%
Cardboard	8.22t	7.42t -9.73%	53.39t	42.12t -21.11%
Timber	13.06t	14.18t +8.58%	246.88t	208.10t -15.71%

Councillor Robinson noted the increase in mixed dry recyclables and pleasing reduction in black bin waste.

#### 388.20 EXTENSION OF FUNDING FOR BIODIVERSITY OFFICER POST

Council has received a letter of offer from NIEA Natural Heritage Grants Programme expressing its willingness to extend funding towards the Biodiversity Officer post. The current tranche of funding from NIEA expires on 5<sup>th</sup> December 2013. The Department has now agreed to provide grant aid for the local biodiversity project from 6<sup>th</sup> December 2013 to 5<sup>th</sup> December 2016. No additional Council contribution, over and above that already set aside for this post, is necessary.

#### 388.21 PUBLIC HOLIDAY ARRANGEMENTS REFUSE COLLECTION 2013

<u>PUBLIC HOLIDAY</u>		<u>ALTERNATIVE COLLECTION</u>
St Patrick's Day	Monday 18 <sup>th</sup> March	No change
Good Friday	Friday 29 <sup>th</sup> March	No change
Easter Monday	Monday 1 <sup>st</sup> April	No change
Easter Tuesday	Tuesday 2 <sup>nd</sup> April	No change
May Day	Monday 6 <sup>th</sup> May	No change

**PUBLIC HOLIDAY****ALTERNATIVE  
COLLECTION**

Spring Bank Holiday	Monday 27 <sup>th</sup> May	No change
12 <sup>th</sup> July	Friday 12 <sup>th</sup> July	Saturday 13 <sup>th</sup> July
13 <sup>th</sup> July	Monday 15 <sup>th</sup> July	No change
Summer Bank Holiday	Monday 26 <sup>th</sup> August	No change
Christmas Day	Wednesday 25 <sup>th</sup> December	Saturday 21 <sup>st</sup> December
Boxing Day	Thursday 26 <sup>th</sup> December	No change
New Year's Day	Wednesday 1 <sup>st</sup> January 2014	No change

**ENVIRONMENTAL PROTECTION****388.22 POLLUTION PREVENTION AND CONTROL PUBLIC REGISTERS**

NIEA have recently furnished annual Environmental monitoring reports and Pollution Inventory Reports for NI Water PPC permitted sites as follows:-

P0312/09A NI Water Glenstall WWTW  
P0369/11A NI Water Altnahinch WTW

The information has been placed on the public register as required.

**FOOD CONTROL****388.23 FOOD HYGIENE REGULATIONS (NI) 2006  
REGULATION 6, HYGIENE IMPROVEMENT NOTICES**

The following Hygiene Improvement Notice was served on the food business operator of XXX, on 15<sup>th</sup> January 2013, for failing to comply with the above regulations. The premises were in breach of Article 17(1) of the Food Hygiene Regulations (NI) 2006 in that they contravened the following community provision:

- Regulation EC (No) 852/2004, Article 5(1) and 5(2) (g) because the company's food safety management system is insufficient to demonstrate effective application of HACCP procedures.

**388.24 THE HEALTH AND SAFETY AT WORK (NORTHERN IRELAND) ORDER 1978  
(AS AMENDED BY THE HEALTH & SAFETY AT WORK (AMENDMENT)  
(NORTHERN IRELAND) ORDER 1998) ARTICLES 23, 25 & 26****IMPROVEMENT NOTICES**

The following Health & Safety Improvement Notices were served on the business operator of XXX, on 15<sup>th</sup> January 2013, for failing to comply with the above regulations. The premises were in breach of the Dangerous Substances and Explosive Atmospheres Regulations (NI) 2003 Regulations 5 and 6 and the Management of Health and Safety at Work Regulations (NI) 2000 Regulation 3 in that they had not carried out and provided:

- A suitable and sufficient assessment of the risks to employees and persons not in his employment that arise due to the presence of petrol delivery, storage and dispensing at the premises
- Written procedures to deal with accidents, incidents or emergencies
- Suitable and sufficient petroleum wetstock reconciliation records
- A suitable electrical test certificate
- A decommissioning certificate for the tank filled with concrete.

## **FUEL POVERTY**

### **388.25 KEEP WARM PACKS**

£7,000 was received from the Public Health Agency for the purchase of Keep Warm Packs for distribution to vulnerable people. The packs included thermal underwear, a fleece gilet, gloves, hat, scarf, fleece blanket, a temperature card and energy saving advice. Packs for homeless people also included a foil blanket and waterproof clothing.

391 packs were purchased in total for adults and children, with 283 having been distributed to date.

### **388.26 DSD AFFORDABLE WARMTH PILOT**

As members are aware Directorate staff have been working to deliver within the Borough the area based approach “affordable warmth” pilot scheme. To date 600 visits have been made.

The pilot is progressing, with the required 125 completed surveys having now been audited. As a result, 77 householders have been referred to the Warm Homes Scheme. Of the remaining 48 households, 31 are eligible for Loft Insulation and £50 towards a boiler service, 17 are being offered £50 towards a boiler service and 20 of these 48 may also be eligible for the Boiler Replacement Allowance.

The Building Control Service will now carry out technical inspections where occupiers wish to pursue the loft insulation improvement grant and assist with processing applications for ultimate payment by the Northern Ireland Housing Executive. The Pilot scheme is due to be completed including the processing of all payments by 31<sup>st</sup> March 2013.

### **388.27 DSD MINISTERS RESPONSE RE. FUEL POVERTY FUNDING**

At the behest of Council correspondence was addressed to the DSD Minister Nelson McCausland as regards funding for fuel poverty. His response dated 11<sup>th</sup> January 2013 was circulated to members.



## **SMOKE FREE**

### **388.28 SMOKING (NI) ORDER 2006**

Further to the detection of an offence under Article 8 of the above Order (smoking in a work vehicle) a fixed penalty notice was issued and the discounted rate received (£30.00) it being paid with the 15 day period allowed. The driver of the vehicle was observed smoking a cigarette whilst sitting in the vehicle. The vehicle was parked in a filling station car park.

## **TOBACCO CONTROL**

### **388.29 THE TOBACCO ADVERTISING AND PREVENTION ACT 2002 (AS AMENDED) THE TOBACCO ADVERTISING AND PROMOTION (DISPLAY) REGULATIONS (NORTHERN IRELAND) 2012**

The introduction of the Tobacco product display cover-up into 'large' stores within the Council area has now been successfully completed. The requirement to 'cover-up' displays was introduced through legislation on 31<sup>st</sup> October 2012. A large store is deemed to be a premises with a 'footfall' area in excess of 280m<sup>2</sup> (around 3,000 sq. ft.). Each 'large' store that has had to introduce covering up their tobacco displays have received on-going support from Council's Tobacco Control Officer with respect to the provision of information and advice on policy and legislation. Each store has received at least 3 visits each over September to December, as on-going support.

**This being all the business the meeting closed at 9.04pm.**

**Appendices attached:**

**Appendix 1: NWRWMG presentation**

**APPENDIX 1**



NWRWVG  
Presentation.pdf