

**Ballymoney Borough Council**  
**Council Meeting No 1006 – 5<sup>th</sup> January 2015**

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**BALLYMONEY BOROUGH COUNCIL**

Minutes of Council Meeting No 1006 held in the Council Chamber, Riada House, Ballymoney on Monday 5<sup>th</sup> January 2015 at 8.00 pm.

**IN THE CHAIR:** Alderman B Kennedy, Mayor

**PRESENT:** **Alderman**  
F Campbell  
H Connolly, Deputy Mayor  
C Cousley, MBE

**Councillors**  
J Finlay  
R Halliday  
R McAfee  
T McKeown  
C McLaughlin  
A McLean  
I Stevenson

**APOLOGIES:** **Councillors**  
J Atkinson  
A Cavlan  
P McGuigan  
E Robinson, MBE

**IN ATTENDANCE:** Chief Executive  
Director of Borough Services  
Director of Central & Leisure Services  
Head of Corporate & Development Services

Press x 2

**1006.1 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**1006.2 MINUTES OF COUNCIL MEETING NO 1005 – 1<sup>ST</sup> DECEMBER 2014**

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

*that the minutes of Council Meeting No 1005 – 1<sup>st</sup> December, as circulated, be confirmed as a correct record.*

**1006.3 CONSULTATION COMMITTEE MEETING NO 103 – 15<sup>TH</sup> DECEMBER 2014**

The report was tabled.

*the minutes of Consultation Committee Meeting No 103 – 1<sup>st</sup> December 2014, as circulated, were received.*

**1006.4 SEAL DOCUMENTS**

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

*that the Seal of Council be affixed to Grave Registration Certificate numbers 1409 (transfer), 1410 and 1411 (duplicate).*

\* **The Director of Central & Leisure Services joined the meeting at 8.05 pm.**

**1006.5 DEVELOPMENT REPORT – DECEMBER 2014**

The Head of Corporate & Development Services presented the report.

**5.1 Ballymoney Revitalisation Programme – WiFi**

The business case for proposal to install a free public service WiFi system in Ballymoney Town Centre (Main Street shopping destination) has been prepared and submitted to DSD. Tenders, invited under the auspices of Limavady Borough Council, have been assessed.

***IT IS RECOMMENDED*** that Council accept the tender, dated 10 December 2014, from WiFi SPARK, Exeter, in the amount of £13,876.80, plus annual maintenance of £2,790.24, subject to 100% capital funding from DSD under the Ballymoney Revitalisation Programme and statutory approvals being met, with landing page, included on visitballymoney.com website, to be used as advertising space for town business and activities.

The works are to be complete by 23<sup>rd</sup> February and claim to DSD by 1 March 2015.

**5.2 Rating of Commercial Window Displays**

DFP Rating Policy Division have forwarded a draft proposal paper (copy circulated) to allow for the display of goods in vacant windows without incurring a rating liability. The proposal was presented earlier this year when Simon Hamilton, the Finance Minister, met Peter Murray, Manager of Buttercrane Shopping Centre. The proposal was presented as a way of helping improve the appearance of shopping centres with high levels of vacancy. It involves a concession being made so that the window displays

of empty shops can be used for the display of goods without incurring a full occupied rate.

Views on the proposal which has been issued to NIIRTA, Association of TCMs and local Chambers, are sought by **9 January 2015**. ***IT IS RECOMMENDED*** that Council consider the comments put forward in the paper circulated (attached as Appendix 1).

### **5.3 Drumaheglis Marina & Caravan Park**

#### **a. “Fresh Waters – Best Of” Award**

Drumaheglis Marina was awarded joint winner in the “Best of Fresh Waters” Awards 2014. A plaque acknowledging the award will be erected at the facility.

#### **b. RIVERS Launch**

The Regeneration in Villages and Emergency Rescue (RIVER) Project closing ceremony to mark the successful completion of the RIVER project was held on the banks of the River Bann at Drumaheglis Marina on 27<sup>th</sup> November. A copy of NEP Newsletter covering the event was circulated.

### **5.4 Invest NI – Mobile App**

The mobile app, developed on behalf of the CCG Cluster Councils by Wavteq Ltd, Belfast, has been completed and tested.

### **5.5 Adoption of Report**

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

***that the Development report for December 2014 be adopted and the recommendations therein approved.***

- \* Alderman Cousley joined the meeting during presentation of the Development Report at 8.10 pm.

## **1006.6 LEISURE & AMENITIES REPORT – DECEMBER 2014**

### **LEISURE SERVICES**

#### **6.1 New Community Grant Scheme**

The following applications for grants were considered:-

- i. Stranocum Flute Band for assistance towards a St Patrick Night, Cultural Music Event.
- ii. Stranocum LOL 749 for assistance towards a Local History Event.
- iii. Topp Rural Regeneration and Cultural Society for assistance towards a Youth Project.
- iv. Lavin LOL 913 for assistance towards WWI Presentation.
- v. The Apprentice Boys of Derry, Cloughmills Branch for assistance towards An Ulster Scots Concert.
- vi. Bann Valley Community Association for assistance towards a Seasonal Event.
- vii. Glebeside Community Association for assistance towards a Seasonal Service.
- viii. Glebe-B-Tots for assistance towards a Mother and Toddler Event.
- ix. Glebeside Young at Heart Club for assistance towards a Community Social Event.
- x. Glebeside Men's Group for assistance towards an Activity Day Clay Pigeon Shoot.
- xi. Glebeside Dream Scheme for assistance towards Incentive for Young People.
- xii. Ultoniae Cultural & Heritage Society for assistance towards Cultural and Heritage Workshops.

All 12 applications meet the criteria of the New Community Grant Scheme. ***IT IS RECOMMENDED*** that the above 12 applicants are awarded £350.00 each.

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

***that the above 12 applicants are awarded £350.00 each.***

## **6.2 Ballymoney Museum Exhibition – Ulster's TT Heroes**

The Director reported that the Ballymoney Museum Exhibition, Ulster TT Heroes, which was a huge success in Ballymoney Museum in 2013, has been specially selected by Manx National Heritage as their summer exhibition.

The exhibition tells the story of the great riders from Ulster who conquered the TT Circuit and it features the Ballymoney biking legends of the Dunlop family and Adrian Archibald.

The exhibition will be on display in the House of Manannan, Peel, Isle of Man from 28<sup>th</sup> March 2015 until 6<sup>th</sup> September 2015.

The Museum Manager and Museum Officer have been invited to attend the launch of the exhibition.

The Director of Central & Leisure Services advised that invitations are expected to be extended to the Mayor and other members/officers to attend the launch.

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

***that Council meet the cost of members and officers attending the launch, representations to be agreed by Council.***

### **6.3 Good Relations Programme 2014/15**

The Office of the First Minister and Deputy First Minister (OFMDFM) has offered the Council additional funding of £11,000, to be matched by Council funds of £3,666.67, for the 2014/15 Good Relations Programme. This expenditure is within the budget set for the year and will be expended on projects included in the original action plan approved by Council.

A response has been made to OFMDFM indicating an intention to accept the full amount of the additional funding.

***IT IS RECOMMENDED*** that Council accepts the funding offered.

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

***that Council accepts the funding of £11,000 offered by OFMDFM.***

## **1006.7 CORPORATE & CENTRAL SERVICES REPORT – DECEMBER 2014**

The Director of Borough Services presented the Central Services Report. With the consent of the Mayor it was agreed that an additional item referring to staff matters be heard in Committee after presentation of all Officer Reports.

### **CENTRAL SERVICES REPORT**

#### **7.1 Councillors Allowances**

The Department of the Environment, in exercise of its powers conferred by the Local Government Finance Act (Northern Ireland) 2011 has determined new maximum rates for councillors allowances from 1<sup>st</sup> January 2015 until 31<sup>st</sup> March 2015. The new maximum rates include an increase of 2.2% applied to both the Basic Allowance and Special Responsibility Allowance. The new maximum rates of Basic Allowance payable by Ballymoney Borough Council from 1<sup>st</sup> January 2015 to 31<sup>st</sup> March 2015 are:

£838.58 for councillors serving on Ballymoney Borough Council only.

£418.79 for councillors serving on both Ballymoney Borough Council and the Shadow Council.

Council currently pays the maximum rate of Basic Allowance.

***IT IS RECOMMENDED*** that Council approves the rate of Basic Allowance payable for the period 1<sup>st</sup> January to 31<sup>st</sup> March 2015.

The new maximum level of Special Responsibility Allowance is £20,819 for a Council with a population of less than 50,000.

In 2014/15 Council set a budget of £16,000 for Special Responsibility Allowance which is allocated in full.

Councillor McLean expressed his view that it would not be appropriate to accept increased payment of basic and special responsibility allowance for a three month period. At the request of Councillor Finlay for publication of attendance figures for meetings, in addition to Schedule of Payments to Councillors published on the website, the Chief Executive advised that it is a statutory requirement to publish allowances paid and in addition, Council do include information on their website on attendances.

It was proposed by Councillor McLean, seconded by Councillor Finlay and **AGREED**

***that Council does not accept the additional rate of Basic and Special Responsibility Allowance payable for the period 1<sup>st</sup> January to 31<sup>st</sup> March 2015.***

## **7.2 Councillors Allowances and Expenses Paid 2013/14**

A schedule detailing the allowances and expenses paid to councillors in 2013/14 was circulated.

## **7.3 De-Rating Grant 2014/15**

The De-rating Grant payable to the Council for 2014/15 was estimated on the basis of February 2013 non-domestic rates and penny products for de-rated properties valued at 31<sup>st</sup> October 2013. Valuations for de-rated properties, updated at 31<sup>st</sup> October 2014, have now been confirmed and the DOE has recalculated the Councils grant allocation for 2014/15 using a revised de-rated penny product and February 2014 non-domestic rate.

The actual grant due for 2014/15 is £316,477, an increase of £1,935. The additional amount will be reflected in the instalments payable in January, February and March 2015.

## **7.4 Actual Penny Product 2014/15 In Year Forecast**



Land and Property Services (LPS) has completed the third in year forecast calculations at end November 2014, of the Actual Penny Product outturn for 2014/15.

The indicative outturn for the Council is a positive sum of £135,259.

The indicative outturn at September 2014 was a positive sum of £141,920.

An examination of the tax base shows that there has been a slight growth in both the domestic and the non-domestic sector plus LPS have examined in more detail the losses in the non-domestic sector.

The forecast attempts to reflect as accurately as possible the end of year rate revenue outturn position; however situations of a positive or negative nature could still arise in the period to 31<sup>st</sup> March 2015.

### **7.5 Accounts for Payment**

The following payments have been made in Periods 8 – November 2014 and Period 9 December 2014 -

November – Revenue Account	£350,079.64
Capital Account	£410,981.04
December – Revenue Account	£341,236.81
Capital Account	£296,161.29

### **7.6 Potential Insurance Claims**

The Council at its meeting on 1<sup>st</sup> December 2014 approved the appointment of a specialist legal firm, recommended by the Council's Insurance Broker, to represent the Council in the potential asbestos related insurance claim dating back to the 1970-1973 period.

Murphy O'Rawe Solicitors have been engaged and have opened communications with the claimant's solicitor.

The Director will report developments on this matter in due course.

### **7.7 Ballymoney Cemetery Memorials**

The following applications have been received for the erection of memorials in Ballymoney Cemetery –

#### Section 7 Nos. 27 & 28

Mr William Caldwell, 5 Greenmount Crescent, Coleraine  
Black Granite Headstone and Base

Section I2 No. 29

Mrs Mary Connor, 8 Ballycormick Park, Ballymoney  
All Polished Black Granite Headstone & Base

Section E3 No. 18

Mrs Sheena McCartney, 144 Finvoy Road, Ballymoney  
All Polished Black Granite Headstone & Base

Section 6 Nos. 43 & 44

Mrs Pauline Hutchinson, 20 Kenvarra Park, Coleraine  
Granite Headstone & Base

Section E3 No. 19

Mrs Barbara McKeever, 4 Beechwood Drive, Balnamore, Ballymoney  
All Polished Granite Headstone and Base

Section G4 No. 1

Miss Irene Cunningham, 39 Margaret Avenue, Ballymoney  
Granite 'OG' Design Barrel Sides Headstone and Base

## 7.8 Adoption of Report

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

*that items 7.2 – 7.7 of the Central Services report be adopted and the recommendations therein approved.*

## CORPORATE SERVICES

### 7.9 Defibrillator Provision in Ballymoney Town

The report on costs of a defibrillator was considered (costs circulated) at council meeting CM 1005 and deferred for one month.

During December 2014, Mrs Flynn of the Family Dental Care practice on Queen Street at Union Street junction contacted Council to advise that the practice was considering providing a defibrillator and was interested in sharing costs and making it available outside business hours; they also have two staff members trained to use it. It was agreed that this proposal would be put before council when it gave the matter further consideration.

Members discussed the security and liability issues of installing defibrillators in Megaw Park and Riverside Park and concurred that these issues needed to be carefully considered before proceeding further.

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

***that Council:***

- a) accepts the offer from Family Dental Care Practice to share the costs for provision of a defibrillator in the surgery;***
- b) Install defibrillators at the Town Hall and Castlecroft Square;***
- c) Train up to 20 people in the use of a defibrillator***

Arising from discussion on implementation arrangements initiated by Councillor McAfee and suggestion that advice be taken from the British Heart Foundation or relevant body, the Chief Executive advised that based on the Magherafelt model, discussions would be entered into with PCSP, traders and PSNI. Steps would also be taken to ascertain people prepared to be trained.

\* **Alderman Connolly left the meeting at 8.50 pm.**

## **1006.8 HEALTH & ENVIRONMENTAL REPORT**

The Director of Borough Services presented the Amenities Report.

### **AMENITIES**

#### **8.1 Amenities Projects Completed**

***IT IS RECOMMENDED*** that Council note that the following amenities projects have been completed –

Rasharkin Community Centre Refurbishment Scheme  
Redecoration Work at Ballymoney Town Hall  
Redecoration Work at Riada House

#### **8.2 Adoption of Amenities Report.**

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

***that the Amenities Report be adopted and the recommendations therein approved.***

### **ENVIRONMENTAL SERVICES**

#### **8.3 The Landfill Allowance Scheme (NI) Regulations 2004 Scheme Year 2013-14: Final Reconciliation**

NIEA has advised that the total amount of Biodegradable Local Authority collected Municipal Waste sent to landfill by Ballymoney Borough Council for the scheme year 2013-14 was 5,012 tonnes. Council did not exceed its allowance, with the amount landfilled equating to 94.37% utilization of

available allowances. Previously NIEA had advised that Council had landfilled 4,984 tonnes of BLACMW a utilization of 93.84%.

***IT IS RECOMMENDED*** that Council note that it once again has attained compliance with its statutory obligations.

## ENVIRONMENTAL HEALTH

### 8.4 Certificates of Fitness

#### The Private Tenancies (Northern Ireland) Order 2006 Article 36 (4)

<u>Landlord</u>	<u>Dwelling-House</u>
Mr James Mooney	9 Henry Street, BALLYMONEY BT53 6HX.
Mr & Mrs. Adams	72 Loughill Road, Cloughmills, BALLYMENA BT44 9HX.

Fitness inspections of the above dwellings have been conducted and the dwelling houses meet 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) Certificates of Fitness in respect of the above dwelling houses.

### 8.5 Certificate of Fitness

#### The Private Tenancies (Northern Ireland) Order 2006 Article 36 (4)

<u>Landlord</u>	<u>Dwelling-House</u>
Mrs. Vivian Logan	240 Ballyveely Road Cloughmills BALLYMENA BT44 9NW

The landlord of the above property has complied with an abatement notice issued by this council in January 2014. Therefore 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.

## LICENSING

**8.6 Local Government (Miscellaneous Provisions) (Northern Ireland)  
Order 1985 - Licence Applications (Full) (Renewal)**

<b><u>Premises</u></b>	<b><u>Applicant</u></b>
St. Patrick's Parish Centre, 4 Queen Street, BALLYMONEY BT53 6JA. Manor Hotel, Main Street 69 Main Street, BALLYMONEY BT53 6AN.	Mr George Field  Mr Danny Coulter
The Scenic Inn, 38 Fivey Road, Fivey Road Armoy, BALLYMONEY BT53 8UT.	Ms Shirley McKinley
The Corner House Bar, 2 Culcrum Road, Cloughmills, BALLYMENA BT44 9NH.	Mr Anthony O'Hanlon
Molly's Restaurant and Bar, 24 Main Street, BALLYMONEY BT53 6AL	Mr Sammy Mullan
Rasharkin Community Centre, 135 Duneaney Road, Rasharkin, BALLYMENA BT44 8SR.	Mrs Mary Gilmore
Ballymoney Royal British Legion Social Club, 11 Townhead Street, BALLYMONEY BT53 6BE.	Ms Amanda Louise Brennan
Blackwater Bar & Restaurant, 250/252 Castlecat Road, Dervock, BALLYMONEY BT53 8BP.	Mr Stephen and Mrs. Sharon McKillop
Ballymoney United Football, Recreation and Social Club, 35 Castle Street,	Mr Gerry McAleese

BALLYMONEY BT53 6JT.

Racks,  
Unit 9A Ballybrakes Bus. Park,  
BALLYMONEY BT53 6LW.

Mr Nigel and Mrs.  
Nicola Craig

***IT IS RECOMMENDED*** that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the case of Rasharkin Community Centre, subject to the provision of satisfactory electrical test certificates, PSNI and NI Fire & Rescue Service reports. 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.

**8.7 Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 - Licence Applications (Fourteen Unspecified Days) (Renewal)**

**Premises**

**Applicant**

St. James's Presbyterian Church  
Main & Minor Halls & Annexe,  
St. James's Road,  
BALLYMONEY BT53 6BJ.

Mr Sean Carey (Church  
Secretary)

Cloughmills Memorial Orange Hall,  
6 Main Street,  
Cloughmills,  
BALLYMENA BT44 9LG.

Mr William J. Kirkpatrick

Dunloy & Hannah McCracken  
Memorial Hall,  
12 Station Road,  
Dunloy,  
BALLYMENA BT44 9AB.

Mrs. Anne Allen

***IT IS RECOMMENDED*** that the Borough Council renew the Indoor Entertainment's Licences as detailed above and in the cases of St. James's Presbyterian Church and Cloughmills Memorial Orange Hall, subject to the provision 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.

**STREET TRADING**

**8.8 Street Trading Act (NI) 2001 - Temporary Street Trading Licence**

Application for the grant of Temporary Street Trading Licence has been made to this Directorate as follows:-

<u>Purpose</u>	<u>Applicant</u>
Sale of Donuts, Sweets and Light Ups on Linenhall Street at corner of High Street, Ballymoney at Christmas lights switch on 20 <sup>th</sup> November 2014.	Mr Carson Skelton

***IT IS RECOMMENDED*** that the Borough Council grant the Temporary Street Trading Licence as detailed above retrospectively for the Christmas lights switch on.

### **8.9 The Street Trading Act (NI) 2001 - Illegal Street Trading**

The Directorate received a complaint on 8<sup>th</sup> September 2014 in relation to allegations of Illegal Street trading within the Ballymoney Borough Council area. An investigation was carried out into the matter, specific measurements and photographs taken and the business owner interviewed in the presence of his solicitor.

A letter was sent to Mr Y, believed to be the owner of the goods being offered for sale on 18<sup>th</sup> September 2014 advising him of the requirements in relation to street trading and giving him the opportunity to comply with the Street Trading Act (NI) 2001 legislation.

Site visits were carried out on 20<sup>th</sup> September 2014. Traders were noted on Frosses Road and Milltown Road to be trading potatoes and vegetables. The traders were within 10 metres of the road. They were advised that they needed to be at least 10 metres away from the road to fall outwith the requirement for a street trading licence. They were advised of their legal obligations and that they should contact their employer to have the trailer moved. The traders were advised that if they were noted trading without a licence in the future further action would be taken.

Site visits were carried out on 27<sup>th</sup> September 2014 to Ballybogey Village, Benvardin Road, Frosses Road and Milltown Road. Illegal street trading (sale of potatoes and vegetables from a trailer) was noted to be taking place on Benvardin Road and Milltown Road. The trader at Benvardin Road agreed to move the trailer at least 10 metres away from the road, as it was hooked up to a tractor.

Potatoes and vegetables were being offered for sale from a trailer on the Milltown Road, however it was not hooked up to a tractor and could not be easily moved. A decision was made that the trailer and goods contained inside would be seized under Section 18 of the Street Trading Act (NI) 2001. Evidence was obtained prior to the seizure including photographic

evidence, measurement of distance from the road and an inventory of the goods being offered for sale.

The vehicle and goods were removed and securely stored until a Justice of the Peace could authorise a disposal order on the goods as they were perishable. The Justice of the Peace requested that the goods be given to food banks rather than disposed of.

In deciding whether or not to initiate legal proceedings the test should be twofold;

- (1) Is there enough evidence against the defendant and is there a reasonable prospect for prosecution?

In the officers opinion the evidence test is met, that offences have been committed under Section 17 in that the defendants engaged street trading without a licence, this being contrary to the Street Trading Act (NI) 2001.

- (2) Is it in the public interest to prosecute?

It has never been the rule that every criminal offence must automatically be prosecuted. For this reason, in each case, the Prosecutor must consider whether a prosecution is required in the public interest.

A recommendation to prosecute will usually take place unless the investigating officer is sure that there are public interest factors tending against prosecution which outweigh those tending in favour.

Ballymoney Borough Council has to establish if it is in the public interest to prosecute in this case. In order to do so the Council should consider a number of factors:-

- (a) The seriousness of the alleged offence

The actions of the defendants were an offence under Section 17 of the Street Trading Act (NI) 2001 in that they employed persons to engage in street trading without the relevant licence. However, the defendants were unlikely to cause undue harm to members of the public.

- (b) The previous history of the party concerned

Ballymoney Borough Council has not taken formal action against Mr Y or Mr X previously. However, correspondence had been sent to Mr Y on four occasions since 2011 reminding him of his legal obligations in relation to Street Trading.

- (c) The ability and willingness of witnesses

The officers involved in the prosecution are willing to attend court.



(d) The willingness of the party to prevent a recurrence

Mr X attended an interview under caution. He is willing to comply with the legislation. He gave assurances that he would ensure trading took place at a distance of at least 10 metres from a road. Subsequent visits have determined that the vehicle used for trading is at least 10 metres away from the road.

(e) The probable benefit of a prosecution

The benefit of prosecution is that it will show the public and other street traders the action the Council is prepared to take regarding such an incident.

(f) Any explanation offered by the responsible person.

Mr X offered an explanation during formal interview. Mr X advised that he has been more or less a sleeping partner to the business for a number of years and has had no active part in running the business for health reasons. Mr X advised that it was Mr Y that was left to manage the day to day running of the business. Mr X advised that Mr Y had been suffering from mental health issues and was unable to attend formal interview. Mr X produced doctors' letters confirming same. The doctors' letters advised that Mr Y had symptoms of severe anxiety and depression and thoughts of self-harm. Mr X also advised that his understanding of street trading was that if you traded from private land you did not require a licence.

(g) Whether another action such as a (formal caution) would be more appropriate.

Mr X has provided some mitigating factors as an explanation as to why they were trading without a licence. This is a relatively minor incident and therefore a formal caution in this instance would be recommended.

The investigation has established the following facts:

- The defendants employed persons to engage in street trading without a licence. Evidence was obtained to verify this offence.
- Mr X attended formal interview and confirmed that he did not have a street trading licence for any sites within the Ballymoney Borough Council area.

**IT IS RECOMMENDED THAT** on this occasion a formal caution be issued to Mr X. In the event that Mr X does not accept this formal caution,

**IT IS FURTHER RECOMMENDED** that legal proceedings be instigated against Mr X.

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

**8.10 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>
Friends of Armour Day Centre	Mr Benny Knight 11 The Meadows, BALLYMONEY BT53 6AX.	£17.50
Ballymoney Borough Twinning Association	Mr Warner Kirkpatrick, c/o Riada House 14 Charles Street, BALLYMONEY BT53 6DZ	£17.50
Ballymoney Voluntary Welfare	Mrs Elizabeth Anderson 8 Greenville Avenue BALLYMONEY BT53 7BJ.	£17.50
Ballymoney Homing Pigeon Society	Mr D. McMullan, 20 Straham View, Dervock, BALLYMONEY BT53 8BQ.	£17.50
Cloughmills Vintage Club	Mr Ryan McGarry, 78 Corkey Road, Loughguile, BALLYMENA BT44 9JJ.	£17.50

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

**PHARMACY AND POISONS**

**8.11 Applications for Renewal of Registration in respect of the sale of Poisons Included in Part II of the Poisons List together with the appropriate fees have been received as follows:-**

<u>Name</u>	<u>Address</u>	<u>Deputies</u>
Mr Danny McIntyre	Taggart & Co. Ltd. 38-44 Main Street BALLYMONEY BT53 6AL	J Hill C Murphy B. McCulloch M Moore A McClean G McClelland

Mr George Pollock	James Pollock & son 5 Ballybrakes Road BALLYMONEY BT53 6LG	Mr D Camp Mr D McLean Mrs Ann Hughes Miss J McClelland
Mr David Christie	David Christie & Son 16 Greenhill Road BALLYMONEY BT 53 6LZ	Mr A Christie Mr R Wilson Mr B Lamont
Mr Ken Storey	Aquason Unit 6 Logan's Complex 232 Frosses Road, Cloughmills, BALLYMENA	Ms Glenda Agnew
Mr Mark Alexander	John McElderry Ltd 24-26 Market Street BALLYMONEY BT53 6EB.	Mr Patrick McQuestion Mr R McKay Mr G Boyd Mr Pearson Mr S Jamieson
Mr Ray Boyland	North Antrim Potatoes 170 Ballinlea Road, Stranocum BALLYMONEY	Mrs Clare Smyth

***IT IS RECOMMENDED*** that the Borough Council give its approval to the above.

**8.12 Applications for New Registrations in respect of the sale of Poisons included in part II of the Poisons List together with the appropriate fees have been received as follows:-**

<b><u>Name</u></b>	<b><u>Address</u></b>	<b><u>Deputies</u></b>
Mr John Steele	Steele Farm Supplies Unit 4, 14 Market Street BALLYMONEY BT53 6EB	Mr J. Steele (Snr) Mrs. A. L. Steele Mrs. H.A.M. Steele Mr R. McKeeman Mr P. Anderson
Mr Alan Neill	Ashwood Garden Centre 1 Greenhill Road BALLYMONEY BT53 6LZ	Mr F. McAteer Mrs. H. Thompson Mr N. Johnston

Mr Christopher Logan	Logan's Hardware 36 Drumadoon Road Cloughmills BALLYMENA BT44 9LJ	Mrs. V. Logan Mr R. Logan Mr M. Logan
<b>T</b> / Mr Timothy McFadden	Stranocum Post Office 2 Main Street Stranocum BALLYMONEY BT53 8PE	Mrs S McFadden Mrs L Calvin Miss S McAuley

**IT IS RECOMMENDED** that the Borough Council give its approval to the above.

## LICENSING

### 8.13 Licensing (Northern Ireland) Order 1996

<u>Applicant</u>	<u>Purpose</u>	<u>Date</u>
Mr Martin Doyle The Diamond Bar 2 High Street BALLYMONEY BT53 6AG	Application for an Occasional Licence at Our Lady and St. Patricks Church Hall Castle Street, Ballymoney on Sunday 14/12/14 from 8pm to 12 midnight.	27/11/14
Mr Sammy Mullan Molly's 24 Main Street BALLYMONEY BT53 6AL	Application for an Occasional Licence at Topp Orange Hall, 161 Gracehill Road, Stranocum, on 31/12/14 to Thursday 1/1/15 at 7pm to 1am.	

**IT IS RECOMMENDED** that the Borough Council note the above.

### 8.14 Adoption of Environmental Services Report.

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

***that the Environmental Services Report be adopted and the recommendations therein approved.***

**1006.9 CORPORATE SERVICES REPORT (continued –deferred from 1006.7)****Staff Matters**

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

*that Council move ‘into Committee’ to consider the report.*

- \* **Members of the press left the meeting at 8.55 pm.**
- \* **Councillor Stevenson left the meeting at 8.55 pm.**

**9.1 Honorarium**

During the period April 2010 to March 2014 when 2 of the Assistant Managers Posts, in the Joey Dunlop Leisure Centre were vacant and when the remaining Assistant Manager had a period of sickness absence, the 5 Lead Attendants and the Business Support Manager carried out additional duties at the request of the Centre Manager.

The additional duties and responsibilities undertaken during the period worked by each employee have been assessed and in recognition ***IT IS RECOMMENDED*** that the payment of honoraria be made to the 6 employees as follows:

Employee	03475	£3,302
“	03852	£2,693
“	03814	£ 940
“	03840	£1,030
“	03847	£2,044
“	03112	£ 503

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

*that payment of honoraria, as detailed above, be made to the 6 employees.*

**9.2 Vacancies**

The Chief Executive advised that the ICT Manager’s post will become vacant at the end of January due to the resignation of the post holder. As this post is essential to service delivery, ***IT IS RECOMMENDED*** that the post be filled under the Vacancy Control arrangements.

Councillor Finlay reiterated his view that all vacant posts should be filled.

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

***that the ICT Manager's post be filled under the Vacancy Control arrangements.***

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

***that Council move 'out of Committee' to continue the business of the meeting.***

#### **1006.10 CAUSEWAY COAST & GLENS SHADOW COUNCIL**

The Chief Executive advised that copies of Shadow Council minutes are available from the Office of the Chief Executive and a copy can also be found in the Members' Room.

#### **1006.11 DEPARTMENT OF JUSTICE – RECONSTITUTION OF THE NORTHERN IRELAND POLICING BOARD**

The Minister of Justice, Mr David Ford, has written to Council advising of his responsibility for the appointment of independent members to the Northern Ireland Policing Board under Part III of Schedule 1 to the Police (Northern Ireland) Act 2000 (as amended).

Paragraph 28 of Schedule 1 to 2000 Act provides for consultation with the First Minister and Deputy First Minister, district councils and any other bodies he considers appropriate before making any appointment of independent members to the Northern Ireland Policing Board ("The Board"). Council is therefore requested to consider his views on his proposed approach to the appointment of independent members (circulated).

The next reconstitution of the Board will take place by May 2015 at the end of the current four-year appointment term for independent members. Political members are due to be appointed after the next Assembly election scheduled for May 2016. The Minister has therefore decided not to automatically reappoint existing eligible members to the Board but will reconstitute the Board in 2015 when the current independent Board members' term expires. Members who are eligible to apply for appointment to a second term may do so. He also proposes to move to a rolling appointments model for appointing independent members, to be either appointed or reappointed to the Board every year, in contrast with the current approach which sees nine members appointed once every four years. He believes this will provide a more effective model for appointing members and will help ensure the effectiveness of the Board.

It is the Minister's intention to launch the appointment competition by the end of January 2015 to have new Board members in place by May 2015 and comments on his proposed approach are requested **before Friday 16<sup>th</sup> January 2015**.

- \* **The Director of Borough Services and the Director of Central & Leisure Services left the meeting at 8.00 pm.**

#### **1006.12 POST OFFICE COMMUNITY BRANCH FUND**

Correspondence has been received from the Consumer Council advising of available post office funding for branches located within the council area. Post Office Limited launched its Community Branch Fund in June 2014 making available £20 million to support the most vulnerable post offices across the UK. The Consumer Council welcomes the fund as it represents an opportunity for local post offices, which are often struggling to survive, to apply for a grant so they can invest in branch improvements. This can make a difference to the sustainability of post offices and will benefit consumers and local communities by making sure they have access to essential services such as pensions and benefits, financial services and postal services.

Since the launch of Post Office Limited's Community Branch Fund only three post offices in Northern Ireland have applied for financial support. This fund is not available to all post offices, only those which have been classified as a community branch by Post Office Limited. There are two post offices in the council area that are eligible to apply (Loughgiel and Corkey) and the Consumer Council will be writing to the sub postmasters of these post offices to make them aware of the funding and to encourage them to apply.

#### **1006.13 CONSULTATION ARISING FROM THE TEMPORARY CLOSURE OF INTERMEDIATE CARE SERVICES AND MULTIPLE SCLEROSIS (MS) RESPITE CENTRE AT DALRIADA HOSPITAL**

As members will be aware, the Trust began a consultation on 2 December 2014 in respect of the temporary closure of Intermediate Care Services and the Multiple Sclerosis Respite Centre at Dalriada Hospital.

Following the outcome of a judicial review hearing awarding interim relief, the Trust is reinstating the services at Dalriada Hospital pending further determination during the judicial review process.

In the light of this, the Trust has been instructed to discontinue the eight week retrospective public consultation process.

#### **1006.14 REPORTS**

A schedule of reports was circulated for members' information.

**The meeting closed at 8.05 pm.**

Appendices listed: Appendix 1 Rating of Commercial Window Displays (Response)

**APPENDIX 1**

**RATING POLICY PROPOSAL PAPER  
COMMERCIAL WINDOW DISPLAYS**



**APPENDIX 1****RATING POLICY PROPOSAL PAPER – COMMERCIAL WINDOW DISPLAYS****Background**

This proposal was presented earlier this year when Simon Hamilton, the Finance Minister, met Peter Murray, Manager of Buttercrane Shopping Centre, as a way of helping improve the appearance of shopping centres with high levels of vacancy. It involves a concession being made so that the window displays of empty shops can be used for the display of goods without incurring a full occupied rate.

Under the rating system empty shops are normally entitled to 50% empty property relief (subject to some exclusions) and this policy is set to continue. However, at present almost any use of an empty shop unit within a shopping centre will trigger full commercial rates at 100%.

The proposal would therefore make a legislative change to allow LPS, in deciding whether there is rateable occupation, to **disregard the use of shop windows for the display of goods that are sold in neighbouring shops.**

Similar proposals had support during the 2012 review of commercial rating but they were ruled out at that stage due to concerns about creation of a competitive advantage or a loophole within the rating system.

**Legislative context**

Article 18 of the Rates (Northern Ireland) Order 1977 (as amended) states that “*every occupier of a hereditament which is included in the valuation lists shall be chargeable to rates in respect of the hereditament according to its rateable values*”.

There is no statutory definition of the words ‘occupier’ and ‘occupation’ when used in rating legislation.

The four elements of rateable occupation have evolved through case law and can be summarised as follows:

- There must be ‘actual’ occupation or possession;
- It must be ‘exclusive’ for the particular purposes of the possessor;
- Possession must be of some value or ‘benefit’ to the possessor; and
- Possession must not be for too ‘transient’ a period.

Commercial properties not in rateable occupation are still subject to a non-domestic vacant rating charge. That charge is levied at 50% of the occupied rate.<sup>1</sup>

It is important therefore for the Department to be clear about what will be considered to be rateable occupation and what will be deemed a vacancy. Ordinarily the use of a shop window would constitute rateable occupation. As occupation of part of a property constitutes occupation of the whole property then under the current legislation a window

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<sup>1</sup> Such properties will fall within the prescribed class of hereditament (in accordance with Article 25A of, and Schedule 8B of the Rates (Northern Ireland) Order 1977 and (from 1 October 2011) the Rates (Unoccupied Hereditaments) Regulations (Northern Ireland) 2011).

display would be enough to trigger full rates liability on the property.

### **Position in GB**

The position in Northern Ireland is different from the rest of the UK on rating of empty premises. In Northern Ireland we have retained empty property relief at 50% unlike England and Wales where full rates are payable and Scotland where 90% is payable. Therefore, the introduction of these measures in the rest of the UK would not provide the same level of savings to businesses as it would in Northern Ireland, because in the rest of the UK they pay virtually the same level of rates on empty properties as they do when the same premises are occupied. Therefore there would not be the same risk of abuse in GB as we could experience here in Northern Ireland.

### **Eligibility Criteria**

The proposal would be aimed at allowing the use of empty shop window space to display goods sold in adjacent shops.

The existing definition of window space (used for the current non commercial disregard) may be appropriate. That is: “the depth of the display would not exceed 1.5 metres and the area of the window display would not exceed 5 per cent of the floor area of that part of the building fronted by the window display”.

Furthermore it is proposed that there is no point of sale or separate method of payment within the premises or adjacent to the premises unless that is within another rateable shop in close proximity, or within the same centre.

It is also intended that the person/s benefitting from use of the window must also be a non domestic ratepayer in the vicinity, with no outstanding rating debt beyond the year in question.

### **Next Steps**

Currently the Department has no discretion in relation to charging full rates if a window display in an empty shop is used for commercial purposes because occupation of part of a shop is considered occupation of the whole. Unfortunately rating legislation must be amended if the policy is to change. However, there is a Rates Amendment Bill already scheduled for passage through the Assembly in 2015 which can be used for this purpose.

As was the case with the current policy which disregards the non-commercial use of window displays it is proposed that this scheme be time-bound for an initial period of one year in order to assess its effectiveness and to monitor any abuse that may occur.

The proposal would help reduce dead frontages in shopping areas and therefore improve their trading position by not imposing full rates on a shop owner who allows a local retailer to “display” (but not sell) goods in an empty shop.

Rating Policy Division DFP  
November 2014

**ANNEX A - QUERIES FOR STAKEHOLDERS**

We welcome views on the information and options outlined in this short paper.

We also welcome any other views, suggestions or evidence you may have.

- 1. Do you agree with the policy proposal?**
- 2. How can the policy be designed in order to prevent abuse or the creation of an unfair competitive advantage?**
- 3. How could such a policy be implemented in order to ensure that someone cannot set up a full retail business and claim it is simply a display?**
- 4. What do you feel would be the impact of such a concession on other forms of commercial advertising?**
- 5. In granting this rates concession, should the Department simply allow shop owners or centre managers to choose who they want to make use of the window display?**

### **Ballymoney Borough Council Response**

1. Yes, Ballymoney Borough Council agrees with the policy proposal, subject to clarification that this proposal includes high streets and is not just confined to shopping centres.
2. As suggested within this paper:
  - the area should have a maximum depth of 1.5 metres and the window display area should not exceed 5% of the floor area of the part of the building fronted by the window display;
  - there must be no point of sale (POS) or separate method of payment within the premises where the window display is located or adjacent to the premises unless it is located within the rateable shop(s) benefiting from the use of the window; and
  - the individual(s)/business(es) benefiting from use of the window must be non-domestic ratepayers, with no outstanding rating debt beyond the year in question.

In addition, the following is also suggested:

- the empty shop window area should only be made available to adjacent shops and/or shops in close proximity that sell goods to the general public;
  - the window display area, where possible, should contain, as a minimum, goods from at least two of these shops therefore limiting the potential for unfair competitive advantage;
  - there must be no payment (in cash or in kind) exchanged for the use of the window display; and
  - any formalisation of use must indicate that the usage is of a transient nature and no landlord/tenant rights are conferred by agreement to participate in the window display scheme (although legalities regarding due care and attention in relation to other people's property must be maintained).
3. The shop containing the window display must not be open to the general public. Only owners of the premises or their representatives or the owners or representatives from the shops utilising the display should have access to the premises.
  4. To ensure that the potential for distortion of the commercial advertising market is minimised, there should be no advertising material other than a typed plain card advising as to which shop the goods on display belong, e.g.

The goods on display in this shop  
can be purchased at  
'*name of shop*'.

The area containing this information should be a maximum of A5 (A4 folded) if one shop's name is on it or A4 (A3 folded) if more than one shop's name is on it. There should be no more than 2 cards in any window display.

By limiting the advertising material in shop window displays to the goods being sold and an acknowledgement of where the goods can be located, and given the reliance on local footfall, it is envisaged that the potential to distort the commercial advertising market would be at most minimal.

5. No, as suggested above there has to be set criteria for those participating in the scheme whether as the shop owner or the individual(s)/business(es) utilising the window display area. It is also suggested that a third party public body/bodies would manage the scheme, as access to LPS rates payments records would be required.