

SPECIAL MEETING OF WICKLOW COUNTY COUNCIL

HELD AT WICKLOW COUNTY BUILDINGS, WICKLOW TOWN

ON MONDAY, 24TH JULY 2017 AT 2:00 P.M.

Gwen Malone Stenography  
Services certify the  
following to be a true  
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notes in the above-named  
action.

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GWEN MALONE STENOGRAPHY

1 THE MEETING COMMENCED ON MONDAY, THE 24TH DAY OF JULY  
2 2017, AS FOLLOWS:

3  
4 **CATHAOIRLEACH:** Members, you are all very welcome.  
5 Thanks for coming to this Special Meeting. Before I 14:05  
6 commence I would just like to propose a couple of votes  
7 of sympathies myself. The first one is for Bernard  
8 Deering, Dunlavin, a brother of former Councillor,  
9 Pascal Deering, who died during the week; and secondly,  
10 Bernie Owens from Baltinglass, related to many Council 14:06  
11 staff here. Thank you. Cllr. Cullen?

12 **CLLR. TOMMY CULLEN:** Chairman, I would like to join  
13 with you for the votes of sympathies for Mr. Deering  
14 and Mrs. Owens. Both families have big connections  
15 with this Council for many years and I would like to 14:06  
16 join in with you in tribute to them.

17 **CATHAOIRLEACH:** Thank you. Any others? One minute's  
18 silence then.

19  
20 **[ONE MINUTE'S SILENCE WAS OBSERVED]** 14:07

21  
22 **CATHAOIRLEACH:** As you are all aware, the purpose --

23 **CLLR. O'NEILL:** Just on an point of order, Chair.  
24 Could I -- I mentioned this here before but still the  
25 practise is being carried out by Wicklow County Council 14:07  
26 and that's --

27 **CATHAOIRLEACH:** Could you press your button.

28 **MS. GALLAGHER:** could you press your button,  
29 Cllr. O'Neill?

1           **CLLR. O'NEILL:** The free distribution of (inaudible).  
2           I don't think it's right that any one individual,  
3           having such a privileged position to distribute his  
4           trash as he has in this Chamber. Untruths after  
5           untruths, he's being fed by proper clowns and writing  
6           what he wants to write about individuals. 14:08

7  
8           I think it's totally wrong that Wicklow County Council  
9           would be facilitating a platform for one paper, one  
10          paper and I think that, again, the Protocol Committee 14:08  
11          should look at that because it's just not right.

12          There's no right to reply in a lot of this stuff. I've  
13          been accused of stuff in the past and misinformation  
14          about me and I talked to this man, he won't come to the  
15          phone, he won't do this, that and the other. I think 14:09  
16          it's very unfair. I know I'm not the only one in the  
17          Chamber that had to suffer at the hands of this paper  
18          but for the life of me I can't see why this man is  
19          allowed use files there of Wicklow County Council.

20          **CATHAOIRLEACH:** You made your point. If you don't 14:09  
21          mind, it's not really on the agenda. You've made your  
22          point.

23          **CLLR. O'NEILL:** It's on my agenda. That that trash  
24          should be displayed in this Chamber.

25          **CATHAOIRLEACH:** Okay. Cllr. Thornhill. 14:09

26          **CLLR. THORNHILL:** Cathaoirleach, go raibh maith agat.  
27          Just a small item. At the last meeting I made a  
28          proposal that a book of condolences would be open for  
29          the fire over in London. And just to let -- I had been

1 |speaking with Lorraine about it and this has been  
2 overlooked but maybe it's just --

3 **CATHAOIRLEACH:** We'll follow up on it.  
4

5 Members, as you know, we're here to discuss the recent 14:10  
6 judgment in the Whitestown Dump saga. Before we  
7 commence I'd just like to summarise the documents which  
8 everyone has been circulated with.  
9

10 I think there's about seven documents in total. First 14:10  
11 of all, the actual recent judgment that was circulated  
12 on Monday, 24th July. That's the long document, 132  
13 pages which I'm sure you've all read.

14 **MS. GALLAGHER:** It was circulated on 11th July.

15 **CATHAOIRLEACH:** Sorry, 11th July. Excuse me. 14:10  
16

17 The second item was the two environmental risk  
18 assessments reports, Tier 2 and Tier 3 which were  
19 circulated last week.  
20

21 Thirdly, then, a summary report from the CEO of the 14:10  
22 history of the Whitestown situation, a four or  
23 five-page summary that was circulated on 20th July.  
24

25 Then, also, the report from Mr. Justice Humphreys on 14:11  
26 Module 3 which covered the issue of timelines on  
27 remediation.  
28

29 Lastly then, and I suppose in a way I have to apologise

1 slightly for this, the legal opinion that I requested  
2 on Friday morning but only received today at quarter to  
3 one, which was circulated by e-mail. I'm not sure if  
4 that's been circulated. That's just been circulated  
5 today. I only literally saw it myself at 1:20 when I 14:11  
6 arrived down here. So that's -- the purpose of that,  
7 by the way, was, I had, when I saw there was an appeal  
8 being made last Thursday, I had reservations about what  
9 we could or couldn't discuss today so I was requested  
10 independent legal advice. I was given four names. I 14:11  
11 picked one randomly. They did the advice. I picked  
12 them on Friday and the advice was furnished to us  
13 today, at I think around quarter to one. You'll see it  
14 there yourself. In fairness to Members and myself,  
15 we've only just got it. I had a quick peruse over it 14:12  
16 there at half one. What I'm going to suggest is that  
17 we adjourn the meeting now for maybe ten or fifteen  
18 minutes so people can read through it and absorb it.  
19 I've read through it. There's nothing -- you can draw  
20 your own conclusions but certainly it does not in any 14:12  
21 way preclude us having this meeting today and  
22 discussing the judgment. With your permission I  
23 suggest that.

24 **CLLR. WINTERS:** I second that.

25 **CATHAOIRLEACH:** It's now ten past two so say about 2:25 14:12  
26 maybe. **CLLR. WHITMORE?**

27 **CLLR. WHITMORE:** I see we also have a copy of the map  
28 of the site. I was just wondering whether it was  
29 possible to get -- the one thing that seems to be

1 missing from this is the location of the Candidate SAC,  
2 the overlap between the site and the SAC and that's  
3 fundamental to the judgment from the High Court that  
4 there is this overlap between the site and that special  
5 Area of Conservation. Could we have even an image of 14:13  
6 the map to show where that site overlaps on the dump  
7 site?  
8 CATHAOIRLEACH: Philip says he can.  
9 CLLR. WHITMORE: Thank you.  
10 CATHAOIRLEACH: Okay, Members. 14:13  
11 MS. GALLAGHER: We'll convene at 2:25.  
12 CATHAOIRLEACH: 2:25 then. Is that okay? 2:25 we'll  
13 come back.  
14 CLLR. TOMMY CULLEN: 2:30, Chair.  
15 CATHAOIRLEACH: Okay, 2:30 is agreed then. 14:13  
16  
17 **THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:**  
18  
19 CATHAOIRLEACH: Thanks, Members. Before I commence I  
20 would just like to acknowledge the presence of MEP, 14:35  
21 Liadh Ní Riada, in the audience, Liadh, you're very  
22 welcome to Wicklow.  
23 MS NÍ RIADA: Go raibh maith agat.  
24 CATHAOIRLEACH: Thank you. Firstly, I suggest that we  
25 read through the summary that has been sent out by the 14:35  
26 CEO and I might ask Philip Duffy to go through the  
27 summary of events, the five-page summary that was  
28 circulated last week.  
29 MR. DUFFY: Thank you, Cathaoirleach. I will just read

1 through it.

2 **CLLR. LAWLESS:** Sorry, the mics are very low. I can't  
3 hear.

4 **MR. DUFFY:** Is that any better?

5 **CLLR. WINTERS;** It's the same. I could barely hear 14:36  
6 anything you were saying earlier.

7 **MR. DUFFY:** I will try and shout. How about that!  
8 Okay.

9

10 I am just going to read through the Chief Executive's 14:36  
11 report that was circulated on 20th July.

12

13 The background to this case is that in November 2001,  
14 the Council discovered a large illegal dump on lands at  
15 Whitestown. Mr. John O'Reilly, the owner of the site 14:36  
16 at the time, was also operating a sand and gravel  
17 extraction business for which planning permission had  
18 been granted in 1979. Historically, the Council itself  
19 had dumped materials on a small scale, arising from its  
20 own operations in the area. Subsequent investigations 14:36  
21 revealed that systematic and large scale dumping had  
22 taken place over a period of a number of years from  
23 1996 to 2001. By June 2002, Wicklow County Council's  
24 investigations concluded that of the order of 250,000  
25 tonnes of waste material had been dumped at the site. 14:37  
26 Those investigations identified two major Dublin waste  
27 firms, Dean Waste Company Limited and Swalcliffe  
28 Limited, as significant dumpers.

29

1 In March 2003, the site was purchased by Brownfield  
2 Restoration Ireland Limited. The Council held  
3 discussions with Brownfield, and also with one of the  
4 dumpers, with a view to securing an agreement to  
5 voluntarily remediate the site, without success. 14:37

6  
7 At the time, the Council also requested the assistance  
8 of An Garda Síochána, and the NBCI, (the National  
9 Bureau of Criminal Investigations) conducted an  
10 investigation. There were a number of circuit criminal 14:37  
11 court convictions subsequent to the Garda  
12 investigation. Neville Watson was convicted and  
13 sentenced to six months imprisonment; John O'Reilly  
14 convicted and fined €150,000; Anthony Dean convicted  
15 and fined €10,000; Louis Moriarty and Swalcliffe 14:38  
16 Limited t/a Dublin Waste convicted and fined a total of  
17 €60,000.

18  
19 Brownfield Restoration Limited applied in 2004 to the  
20 EPA for a waste licence to operate an integrated waste 14:38  
21 facility on the site, but obtained a licence that was  
22 limited to the works and operations necessary to  
23 remediate the site. However Brownfield did not carry  
24 out any remediation works.

25 14:38  
26 In October 2004, the Council gave formal notice to a  
27 number of respondents seeking undertakings to remediate  
28 the site. No such undertakings were given and the  
29 Council commenced High Court proceedings in March 2005,



1 pursuant to Section 58 of the Waste Management Act,  
2 against John O'Reilly, Brownfield, Dean Waste,  
3 Swalcliffe and several other defendants.  
4

5 A series of preliminary court outings followed, and in 14:38  
6 2008 Brownfield commenced proceedings, also under  
7 Section 58, against Wicklow County Council in respect  
8 of its dumping on the site. The substantive hearing in  
9 both cases commenced in July 2009. Issues regarding  
10 discovery and credibility of witnesses arose, and in 14:39  
11 October 2009 there was an application by two of the  
12 parties to have the case struck out or declared a  
13 mistrial. The case was adjourned in November 2009,  
14 with the Court reserving its judgment on strikeout and  
15 mistrial applications. The Court ruled in December 14:39  
16 2010 that the trial should proceed.  
17

18 The Whitestown case had been cited in a ruling in 2005  
19 by the European Court of Justice as one example amongst  
20 many of Ireland's failure to comply with the Waste 14:39  
21 Framework Directive. Following that ruling, the then  
22 Department of Environment, Community and Local  
23 Government on behalf of the Irish State was  
24 endeavouring to satisfy the European Commission that  
25 the Directive had subsequently been fully implemented. 14:39  
26 However, by 2010 the European Commission was concerned  
27 that the illegally deposited waste remained in place at  
28 Whitestown and that the attendant environmental risk  
29 remained, many years after it was first discovered.

1 On 30th September 2010, the Commission issued a letter  
2 of formal notice stating that it may refer the case  
3 back to the Court of Justice, seeking orders against  
4 the Irish State for failure to comply with its judgment  
5 and asking the Court to impose a lump sum fine and a 14:40  
6 daily penalty payment for as long as the infringement  
7 persisted.

8  
9 In those circumstances the Department asked the Council  
10 to itself remediate the site pursuant to powers under 14:40  
11 Section 56 of the waste Management Act. This had major  
12 resource implications for Wicklow County Council. At  
13 the time, and on the assumption that remediation would  
14 necessitate the removal of all the waste, the Council's  
15 'best guess' at the costs involved amounted to 14:40  
16 €25.3 million. The Department committed to recouping  
17 the Council's costs. In November 2011, the Council  
18 formally decided to use its Section 56 powers with the  
19 objective of preventing or limiting environmental  
20 pollution. The High Court adjourned the Section 58 14:41  
21 proceedings in December 2011.

22  
23 The Council established a Technical Working Group made  
24 up of officials from the Council and from the  
25 Environmental Protection Agency, along with a firm of 14:41  
26 environmental consultants, White Young Green. The  
27 purpose of the Technical Working Group was to review  
28 all the existing technical data and to oversee a  
29 programme of detailed investigation works, including

1 borehole drilling and trial pitting, sampling and  
2 analysis, topography surveying, waste characterisation  
3 and remediation trials. Ultimately the Technical  
4 Working Group's brief was to recommend a remediation  
5 strategy for the site and to prepare tender  
6 documentation for the remediation works. 14:41

7  
8 The working Group examined a number of remediation  
9 options and its recommended remediation strategy,  
10 designed to ensure that the identified pollution 14:42  
11 linkages were broken, identified three distinct zones  
12 or landfill areas and proposed different solutions for  
13 each, based on detailed risk assessments.

14  
15 There is a map that has been circulated to the Members 14:42  
16 that shows the three zones. Zone A contained in excess  
17 of 100,000 tonnes of waste and it was characterised as  
18 comprising mainly C&D waste with significant deposits  
19 considered to be permanently in contact with  
20 groundwater and the recommended remediation strategy 14:42  
21 was to excavate all the waste, separate out the various  
22 waste fractions, and remove all non-inert material off  
23 site. Inert materials were to be returned to backfill  
24 the excavated void space.

25 14:42  
26 Zone B was identified as containing high percentages of  
27 clean wastes comprising clay, soil and stone and the  
28 strategy was to excavate 'hot spots' of non-inert  
29 waste.

1 Zone C was characterised as comprising mainly C&D  
2 waste, similar to Zone A, but the potential for impact  
3 was considered to be much less than Zone A as the waste  
4 was generally not in contact with groundwater. The  
5 recommended remediation strategy was to provide an 14:43  
6 impermeable capping layer over the waste, with a view  
7 to stop the generation of leachate by preventing  
8 rainwater from entering the waste body.

9  
10 The Council accepted the recommendations of the 14:43  
11 Technical Working Group.

12  
13 The consultants White Young Green went into liquidation  
14 in August 2012, and in February 2013 the Council  
15 appointed a new firm of consultants, Mouchel, to 14:43  
16 prepare contracts and oversee the remediation works.  
17 Following a tendering process, a contractor was  
18 appointed and the remediation works were carried out  
19 between February and October 2014 with some landscaping  
20 works completed in the spring of 2015. 14:43

21  
22 Both the EPA and the Council's expert advisors were  
23 satisfied that the remediation works undertaken by the  
24 Council adequately dealt with pollution risks arising  
25 on this site. 14:44

26  
27 In June 2015, Brownfield reentered their Section 58  
28 proceedings against the Council, challenging the  
29 adequacy and the legality of the Council's remediation.

1 The hearing of the case commenced in the High Court on  
2 7th March 2017 and concluded on 19th July 2017.

3  
4 The Court has heard the case in a modular form, and  
5 gave a judgment on 12th May 2017 comprising some 40 14:44  
6 pages in respect of Module 1.

7  
8 A lengthy judgment of 132 pages in respect of Module 2  
9 was given on 7th July 2017.

10 14:44  
11 Copies of both these judgments have been previously  
12 circulated to the Members.

13  
14 The Court's judgments in respect of Module 3, dealing  
15 with the framing of the Court order, including the 14:44  
16 timescale for completion of the work, and Module 4  
17 dealing with costs of the proceedings were given on  
18 19th July 2017.

19  
20 I understand that a copy of the Module 3 judgment has 14:45  
21 been circulated and we're still waiting for the written  
22 judgment in respect of Module 4 dealing with the costs.

23  
24 The Court dealt at length with the credibility of one  
25 of the Council witnesses, Donal O'Laoire, and the 14:45  
26 conflict between his evidence and that of the former  
27 County Manager, Eddie Sheehy, and Judge Humphreys  
28 concluded that he had no hesitation in favouring the  
29 evidence of Mr. Sheehy.

1 The Court also concluded that the Council had acted  
2 *bona fide* in deciding to use its powers under Section  
3 56 of the Act.  
4

5 With regard to the extent of the Council's dumping, the 14:45  
6 Court assessed this on the evidence to be at least  
7 38,800 tonnes of waste over the 22 years up to 2001.  
8

9 A very substantial amount of technical evidence from  
10 experts on both sides, by way of affidavits and on 14:45  
11 cross-examination, was considered by the Court.  
12 Ultimately, the Court preferred the evidence of the  
13 Plaintiffs where it differed from that of the Council's  
14 experts.

15 14:46  
16 The Court dealt at length with the question of breaches  
17 of EU law on landfills and on the protection of  
18 groundwater, concluding that the absence of a liner  
19 underneath the waste and the fact that some waste is,  
20 at times, in direct contact with groundwater are 14:46  
21 clearly two breaches of European law.  
22

23 It further concluded that there is no discretion as to  
24 whether EU law should be enforced. And just to say  
25 that the Court also concluded that the Council couldn't 14:46  
26 prove that its remediation option was as effective as  
27 removing all the waste in terms of protecting the  
28 environment. The Court ordered that the Council, as  
29 the last one standing, was to remove all waste,

1 including contaminated soils from the site to a  
2 licensed waste disposal facility or facilities and to  
3 appropriately fill and landscape the site prior to  
4 handing the site bag to Brownfield. The timeframe for  
5 the completion of the necessary works has been 14:47  
6 determined by to the Court to be 78 months.

7  
8 Please note that the Council's Law Agent has been  
9 advised by solicitors for Brownfield that they had  
10 instructions to lodge an appeal against various 14:47  
11 significant aspects of all the judgments handed down by  
12 the Court to date.

13  
14 It cannot be ruled out that appeals or other forms of  
15 legal challenge might be brought by other interested 14:47  
16 parties or indeed by the Council itself.

17  
18 Accordingly, the Chief Executive's advices are,  
19 therefore, that it would be inappropriate to comment  
20 other than in a general way on the proceedings. 14:47  
21

22 I think you have a legal opinion which you have just  
23 considered as well do that effect. Thank you.

24 **CATHAOIRLEACH:** Okay. Thank you, Philip. I am going  
25 to throw it open to the floor now for comments. 14:47  
26 Cllr. O'Connor.

27 **CLLR. O'CONNOR:** First of all, I'd ask this letter that  
28 was provided to us, 20th July 2017, was this letter the  
29 work of the Law Agent or was it the work of Mr. Doyle?

1 If it was the work of Mr. Doyle, as it's signed, then  
2 why is the Law Agent reading out the letter?

3  
4 Secondly, has a notice of appeal been filed and served  
5 in this matter? And until -- I await the answer to 14:48  
6 that, but if a notice of appeal has not been filed and  
7 served in this matter then it is certainly questionable  
8 whether we can actually have a full say on this matter.

9  
10 Lastly, I would ask about the opinion of Martin Hayden, 14:48  
11 Senior Counsel. While absolutely he's a man whose  
12 opinion carries great weight, he does ask or point out  
13 in the letter that we received this morning, that we  
14 can only talk in general terms about this whole  
15 incident rather than specific terms. Maybe I can ask 14:48  
16 for some guidance from the Chief Executive there for  
17 what he considers to be general points. Thanks.

18 **CATHAOIRLEACH:** Cllr. Fox.

19 **CLLR. FOX:** Thank you, Chairman. Certainly, this is a  
20 very significant ruling against the Council and other 14:49  
21 authorities involved.

22  
23 Just in relation to the remediation. There was  
24 obviously a Technical Working Group involved whereby  
25 the Council liaised and looked for recommendations from 14:49  
26 the Technical Working Group. Who were the Members of  
27 the Technical Working Group, because I know there were  
28 obviously representatives from the EPA, probably the  
29 Department of the Environment? Maybe you might furnish



1 me with the Members. And I assume that all issues in  
2 relation to remediation were run past the Technical  
3 Working Group and I suppose these are experts in the  
4 field. I know in June 2015 Brownfield Restoration the  
5 challenged that restoration but certainly if there are 14:50  
6 other authorities, apart from Wicklow County Council,  
7 who approved the remediation works, ultimately they  
8 have to be held responsible if the remediation is not  
9 up to the required standard.

10  
11 But I know in Martin Hayden's legal opinion there seems 14:50  
12 to be some grey area in relation to the EPA and its  
13 role. It states that ultimately there could be a  
14 conflict, potentially, between Wicklow County Council  
15 and the EPA, and I would certainly be interested to 14:50  
16 know how he came to that opinion. Certainly, moving  
17 forward I would see any remediation needing all  
18 relevant authorities to be on the same page and working  
19 together to resolve this. Thank you, Chairman.

20 **CATHAOIRLEACH:** Cllr. Fortune. 14:51

21 **CLLR. FORTUNE:** Thanks, Cathaoirleach. I just want to  
22 make a number of points in relation to this matter.  
23 The letter, the legal letter, as a start, it seems to  
24 me, contrary to Mr. Hayden, that there's no reason to  
25 stop us discussing what we want to discuss. 14:51  
26

27 I had a number of e-mails, as you know, Chair, with  
28 yourself on with this matter going back to 11th July  
29 when I asked you to have a meeting and you very kindly

1 have done that. I also attended the High Court to  
2 witnessed what was happening. I witnessed the  
3 cross-examination that went on in the High Court Module  
4 1 through Module 2. And the points I wish to make  
5 resulting from all of that and having read a lot of 14:51  
6 documentation on it is as follows: Initially a point,  
7 as a kick off to that is that Wicklow County Council  
8 were officially notified of illegal dumping at the  
9 Whitestown site as far back at 7th July 1997. At a  
10 statutory meeting of Wicklow County Council, 14:52  
11 Cllr. Tommy Cullen notified Wicklow County Council and  
12 this was actually printed in the local *Wicklow People*  
13 at the time, I have the copies of it here for anyone  
14 who wants to see them. However, there's a claim that  
15 they were only notified in November 2001. I would ask 14:52  
16 why the gap is on that.

17  
18 In other words, if you just take that point alone.  
19 This massive bill that we're being faced with,  
20 potentially, as a local authority could have been 14:52  
21 avoided if, at the time, Cllr. Cullen was allowed his  
22 democratic right to highlight something that was very  
23 important then and we now know, due to unfortunate  
24 serious, serious cost, it has gone way beyond that.

25 14:52  
26 The other point, the second point I want to make is  
27 that the Court, however, has ruled that Wicklow County  
28 Council was involved in illegal dumping, including  
29 hazardous waste, for a period of 22 years. This is an

1 issue of the most serious nature and there are serious  
2 consequences and consequences that need to be  
3 discussed, some of which are the people of wicklow will  
4 be paying for this total mismanagement, an absolute  
5 debacle. It could amount to increases in property 14:53  
6 charges; local authority rents; commercial rates and  
7 water charges; cutbacks in capital funding for roads  
8 and sewerage; services that this Council are in  
9 existence to provide. If we were a private  
10 organisation today, Chairman, with all due respects 14:53  
11 we'd be out of business.

12  
13 Now, just a couple of other questions arising from the  
14 memo the sent on the 11th. who signed off on what the  
15 Judge labelled "*botched remedial work*" and where did 14:53  
16 the €3.9 million come from? And I'd like answers to  
17 these today, if at all possible. where are the Council  
18 going to get the money for all of this? what are the  
19 implications for the running of the local authority?  
20 Have we immediately started to examine any affected 14:53  
21 services? Has there been an emergency management  
22 meeting held among the Management Group to discuss the  
23 fallout and problems that will arise here? And then  
24 who is responsible for this litany of disaster for our  
25 County? And the question is begs is, has anyone really 14:54  
26 been in charge?

27  
28 Just moving on, I want to talk about accountability.  
29

1 The Judge pointed out that he took a very serious view  
2 of Wicklow County Council's inaction to bring cases  
3 against other illegal dumpers on the site who were then  
4 in funds. And that would have helped to pay the cost  
5 of the remediation but they were allowed to go into 14:54  
6 liquidation and various other situations and disperse  
7 those funds. Why was all this allowed to happen?  
8  
9 Wicklow County Council officials and drivers were  
10 allowed to swear affidavits for the Court in this very 14:54  
11 Chamber, the centre of democracy in County Wicklow.  
12 These affidavits conflicted with statements given to  
13 gardaí and were claimed to have been made at Wentworth  
14 Place in Wicklow. This was simply untrue --  
15 **MR. DOYLE:** Cathaoirleach -- 14:54  
16 **CLLR. FORTUNE:** -- as confirmed under  
17 cross-examination--  
18 **MR. DOYLE:** Cathaoirleach --  
19 **CLLR. FORTUNE:** -- in the Court. It is appalling that  
20 this Chamber --  
21 **MR. DOYLE:** He is clearly --  
22 **CLLR. FORTUNE:** -- was used in this manner --  
23 **MR. DOYLE:** -- asked me what is --  
24 **CLLR. FORTUNE:** -- I'm not finished.  
25 **MR. DOYLE:** These are not general issues. Specific  
26 **CLLR. FORTUNE:** I'm not finished.  
27 **MR. DOYLE:** They are specific questions allocating.  
28 **CLLR. FORTUNE:** I'm not finished. I haven't even  
29 finished, Chair.



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The local authority, as far as I'm concerned, has stood some old proverbs on their head: Game keeper into poacher; becoming the fox in the hen-house.

14:56

So, therefore it is essential, in my view, that this elected body hold those that brought this debacle on the local authority and the ethical and financial disrepute that follows to account.

14:56

The only way I can see this being brought about is a full garda inquiry, as the costs of this, which can only be described as criminal activity, will probably involve a cost in excess of €100,000 and have severe implications for the residents of County Wicklow.

14:56

**CATHAOIRLEACH:** Councillor --

**CLLR. FORTUNE:** An immediate consequence of this has been decided by the High Court, is that the Members of the Executive of Wicklow County Council associated with this debacle should immediately put on 'garden leave' to allow this inquiry take place. The inquiry should also involve --

14:56

**MR. DOYLE:** Cathaoirleach. Chairman.

**CATHAOIRLEACH:** I'm going to have to stop you there, Member. Can I stop you there, please?

**CLLR. FORTUNE:** -- this is what I'm proposing and whether the Acting CEO --

**MR. DOYLE:** Chairman --

**CLLR. FORTUNE:** -- likes it or not, this is a disgrace,

1 the biggest disgrace that has ever happened in this  
2 County. It goes back to 1997. And let's stop  
3 pussy-footing in this Chamber and I'm talking to the  
4 Members: Let's stand up and be counted here today.  
5 This is a disgrace that's going on. The people 14:57  
6 associated with this should be asked to go on garden  
7 leave until this is sorted out. They should not be  
8 allowed to continue to run this authority.  
9 **CATHAOIRLEACH:** You have made your point, Councillor.  
10 **CLLR. FORTUNE:** In a private organisation they wouldn't 14:57  
11 be left here for ten minutes.  
12 **CATHAOIRLEACH:** Cllr. Gerry Walsh.  
13 **CLLR. FORTUNE:** I'm asking -- I'm appealing to the  
14 Members to support what I'm saying.  
15 **CATHAOIRLEACH:** Cllr. Walsh. 14:57  
16 **CLLR. WALSH:** Thank you, Cathaoirleach. Reading the  
17 summary of the judgment there's certainly plenty to  
18 reflect upon and I suppose a lot more questions than  
19 answers. But just on a point of clarity, the Technical  
20 Working Group was set up under the Council under 14:57  
21 Section 56 of the Waste Management Act. They proposed  
22 different solutions and the site was broken down into  
23 three separate zones; Zone A, B and C. Works were  
24 carried out as per the proposals and completed in  
25 spring of 2015. Zone A refers to 100,000 tonnes of 14:58  
26 waste with waste significant deposits stated to be  
27 permanently in contact with groundwater, which seems to  
28 be the more serious part of the site. The works were  
29 concluded, as the report states here, in spring 2015

1 and my question is, was that so, was that addressed?  
2 The issue in Zone A, was that actually addressed? Was  
3 that waste actually removed? I see Zone B was  
4 identified as a lesser percentage of waste, of  
5 significant deposits of waste. 14:58

6  
7 The second question I have then, the Council waste  
8 which was 38,000 tonnes over a period of 22 years, what  
9 type of waste, can you confirm as to what type of waste  
10 and under what considerations was that, what 14:58  
11 arrangement was in place with the landowner when that  
12 was waste was deposited there?

13  
14 And another question that springs to mind is the  
15 arrangement with Brownfield when they bought the site 14:59  
16 in 2004. What was negotiated with Brownfield? I take  
17 it they bought the site knowingly, knowing the  
18 condition of the site. They bought it. They bought  
19 it. What was their responsibility regarding the  
20 clean-up and the remediation of the site at that 14:59  
21 particular time. Thank you.

22 **CATHAOIRLEACH:** Cllr. Whitmore.

23 **CLLR. WHITMORE:** Thanks very much, Chair. This is a  
24 very complex issue and it, you know, seems to be going  
25 back 40 years. I've spent the last week going through 14:59  
26 the High Court judgment and reading the supporting  
27 documentation and I'm still not a hundred percent clear  
28 as to what happened and why it happened. So I suppose  
29 from my own understanding of it I have a number of



1 questions. My understanding is that initially when the  
2 illegal dump was identified, that the companies and the  
3 people responsible were required to remediate and at  
4 that point Wicklow County Council had specified that  
5 all the waste was to be removed from the site as part 15:00  
6 of that remediation. It then seems that a decision was  
7 made that it was going to be Wicklow County Council  
8 that was responsible for doing remediation. At that  
9 point the Remediation Plan went from being a complete  
10 removal of the waste to just dealing with the hot spots 15:00  
11 and having a partial remediation.

12  
13 This was raised in the High Court judgment. This  
14 actually contravenes the guidelines which state that in  
15 all cases where there is an overlap with a Candidate 15:00  
16 SAC, in all cases it is to be assumed that the waste  
17 shall be removed from the site, or except only where it  
18 can be shown that an alternative solution provides  
19 greater protection to the environment and the health of  
20 the local population. The High Court decision has made 15:00  
21 it clear that Wicklow County Council should have but  
22 did not apply this guideline.

23  
24 The reading of the High Court judgment, it didn't not  
25 make pleasant reading as an elected representative of 15:01  
26 Wicklow County Council. He referred to the remediation  
27 as botched and said that it was not  
28 scientifically-driven, but was client-driven with cost  
29 to the forefront. He also stated that the EPA had

1 potentially compromised themselves in relation to this.

2  
3 So I suppose the questions that I have, because I don't  
4 think that Wicklow County Council, on its own, were  
5 responsible for this failed remediation. The other 15:01  
6 Members have stated that there was a Working Group  
7 involved and on that Working Group the EPA, who in my  
8 understanding would be the authority or the agency that  
9 would licence or approve this activity, that they're  
10 actually involved in this Working Group. 15:01

11  
12 So my questions are:

13  
14 why was the decision made to downgrade the remediation  
15 from a full removal of waste from the site to one 15:01  
16 whereby a spot remediation was to occur and who made  
17 that decision?

18  
19 who knew of the decision and who approved and licensed  
20 it? 15:02

21  
22 I would also like some clarity as to the role of the  
23 different agencies involved in this Working Group  
24 because I'm really unsure as to where the EPA fit into  
25 it. I did a quick look through Parliamentary Questions 15:02  
26 and the reporting of this on the Kildare.com website  
27 and it would appear to me that the EPA and the  
28 Department were fully appraised of this Remediation  
29 Plan throughout its entirety and, therefore, I would

1 just like to know who knew what and when? Because I  
2 think there is more than one agency that is responsible  
3 for this failed remediation.  
4

5 Moving on from this, I suppose the second issue that I 15:02  
6 would be concerned with is the proposed remediation of  
7 the site. You know, it's obvious from the map, the  
8 site is right beside the Carrigower River, which feeds  
9 into the Slaney, which in itself is a, you know, is a  
10 (inaudible) river and is deserving of significant 15:03  
11 environmental protection.  
12

13 I'd like to welcome the Wicklow County Council  
14 requesting an EIS be conducted as part of the future  
15 Remediation Plan and also an appropriate assessment. I 15:03  
16 was surprised that the Judge did not request this. I  
17 think the material, you know, this was material was  
18 dumped 40 years ago, material that was dumped is not in  
19 the same composition now. It will have changed, it  
20 will have developed over that time and I think it's 15:03  
21 important that when it is being removed it is being  
22 removed properly and in a manner that ensures that  
23 there is no risk to either the groundwater or the  
24 surface water beside the system.  
25

26 The risk with this is, at the moment this waste is  
27 slowly leaching but if you go in with a digger and  
28 start removing it, you could have, I suppose,  
29 essentially a big whack of pollution which would cause

1 a significant, have a significant impact on the  
2 downstream. So I think it's very important that this  
3 is done properly.

4  
5 So I think that, yes, a full EIS is required and I 15:04  
6 would also, in this issue, I would call for the Council  
7 for there to be full transparency and stakeholder  
8 involvement in the process. If you look at the other,  
9 there's a dump in Kildare and it has its own website  
10 and on the website it shows what monitoring is 15:04

11 happening, it has consultation notices for stakeholders  
12 for the local community, so people know exactly what's  
13 happening. So I would ask that as part of the  
14 Remediation Plan that the Council set up such a  
15 website, that there is a Community Liaison Committee 15:04  
16 set up because I would imagine that there would be  
17 serious and significant concerns of the local community  
18 in relation to this site. I think all required  
19 stakeholders should be involved and I'm not sure  
20 whether National Parks and Inland Fisheries have been 15:05  
21 involved in this process to date but I would hope and  
22 will expect that they're involved it moving forward.

23  
24 I would also encourage the Council to involve Wexford  
25 County Council because while the site is in Wicklow the 15:05  
26 impacts will be felt in Wexford and they will be felt  
27 in the River Slaney so you'll have the River Slaney  
28 Trust and Wexford County Council, both of who I think  
29 actually should be involved in this process as well.

1 I think it's very, very important that not only does  
2 Wicklow County Council conduct this remediation  
3 properly, it has to be seen to be conducting it  
4 properly and that is key. We need to really, really go  
5 beyond what we've done to date and make sure that 15:05  
6 everyone knows exactly what's happening, why it's  
7 happening, and what the result of it is going to be.  
8

9 The one concerning thing that came from this for me is  
10 that it seems that initially Wicklow expected private 15:06  
11 individuals and companies to remove the waste in its  
12 entirety but when it came to Wicklow County Council  
13 doing it that a spot system was, spot remediation was  
14 approved. I don't know why that decision was made or  
15 who made that decision, however, I think as a Council 15:06  
16 we cannot hold individuals or private operators to a  
17 higher standard than we hold ourselves. We should be  
18 leading in this regard and we should make sure that we  
19 are absolutely proactive in our environmental  
20 responsibilities in this and we have not been to date. 15:06  
21 We have a responsibility to safeguard the environment  
22 and we have a responsibility to actually do it in a  
23 precautionary manner. So it doesn't necessarily have  
24 to be, the facts don't all necessarily have to be  
25 there. In the absence of facts we have to safeguard 15:06  
26 the environment in a precautionary manner and that's  
27 very, very, it's very, very important that we do so.  
28

29 I suppose the issue of costs is probably one that we

1 are all going to be very concerned but I think, you  
2 know it was going to cost -- to do full remediation ten  
3 years ago it was going to cost a considerable amount.  
4 That cost will have increased because of (a) the time,  
5 so more resources need to be put in but also because 15:07  
6 there is additional waste there that will need to be  
7 removed now. But, again, this comes back to who was  
8 aware of what was going on and who had signed off on  
9 this and I think that's something that we need to, as  
10 representatives need to be made aware of. Thank you. 15:07  
11 **CLLR. KAVANAGH:** Cllr. Lawless.  
12 **CLLR. LAWLESS:** Go raibh maith agat, Cathaoirleach. I  
13 just want to thank you for the Special Meeting. On the  
14 11th we were actually looking for a Special Meeting as  
15 well so I do appreciate that you have facilitated us 15:08  
16 here today.  
17  
18 I suppose like it's an extremely complex case and like  
19 the rest of the Councillors here I've been reading  
20 through a lot of the judgments. But as a public 15:08  
21 representative, I suppose, we're looking to see how the  
22 public is looking at Wicklow County Council and they're  
23 not really looking at them very favourably. I mean we  
24 seem to be continually in the papers for very high  
25 profile court cases between. This one now obviously 15:08  
26 Cllr. Cullen, Cllr. Nevin, John Brady, Deirdre de Burca  
27 - just to name a few. And, again, this is all costing  
28 a huge amount of money to the taxpayers as well.  
29

1 Just on the letter received dated 20th July. To me,  
2 reading this letter and then reading the judgment it  
3 sounded like a little bit of a fairytale. You know,  
4 'once upon a time in November 2001, the Council  
5 discovered a large illegal dump.' Yet, in the judgment 15:08  
6 on page 3, point 4 it says the illegal dump, you know,  
7 the Council and other agencies were dumping from 1979  
8 to 2001 and it just amazes me that, you know, that you  
9 were unaware of what was actually going on. It's like  
10 you were blindly bringing the waste into this place 15:09  
11 and you didn't see what was happening in it. I just  
12 find it really hard to believe that it has gone for  
13 such a lengthy length of time and then for you to say  
14 that in November 2001 you discovered it. It was like  
15 you were out in a field somewhere, you know, having a 15:09  
16 picnic and all of a sudden you came over a hill and  
17 discovered this massive big waste, you know, in the  
18 middle of nowhere and it just beggars belief so it is.  
19 And the costs that are being bantered around of what  
20 it's going to cost this county for this is just 15:09  
21 absolutely staggering. Staggering so it is. And again  
22 it's down to is the taxpayer going to have to, you know  
23 -- are we going to be foot with this bill? How is this  
24 going to affect us here with our budget? You know, I  
25 mean, staff as well, like, the staff here as well. 15:10  
26 This is part of the budget to pay the salaries, is to  
27 pay the services. You know, it's an absolutely  
28 disgrace that we find ourselves in this situation. I  
29 really, really, really find it very, very hard to

1 believe that a County Council was dumping on a site, a  
2 long with other agencies, and they weren't aware what  
3 was going on. I just find it really, really hard to  
4 believe. The truck drivers must have been wearing  
5 blindfolds going into this site because clearly if 15:10  
6 there's a massive illegal site of dumping of any kind  
7 of waste you would notice straightaway, regardless.

8  
9 Also, in regards the Technical Working Group, I'd also  
10 like to done the same as what Cllr. Fox asked, I would 15:10  
11 like to know who was actually on that Group and who was  
12 involved in that process as well.

13  
14 Just in regards ourselves here. We did submit some  
15 questions into the Council on Friday and they're 15:11  
16 general questions, they're not all directly linked to  
17 this specific case but they do kind of link together,  
18 again with the legal costs and the high profile cases  
19 that we have here in Wicklow. And I'm just going to  
20 read them out. 15:11

21  
22 Our first question was: How much have the Whitestown  
23 and Cullen/Nevin case cost the taxpayer in County  
24 Wicklow and how will it be funded?

25 15:11  
26 Are Wicklow County Council involved in any superior  
27 course cases or tribunals, at the moment, or are any of  
28 these cases pending? If this is the case, can we have  
29 a list and description of the cases because I don't



1 want to be sitting here in a couple of months' time and  
2 yet again see another big headline: 'Wicklow County  
3 Council is up in the High Courts for X, Y and Z and  
4 it's going to cost the taxpayers money.'

15:11

5  
6 Also, will the formal County Manager pay any costs  
7 towards the case involving him with Cllr. Nevin and  
8 Cllr. Cullen? And if not I'd like to know why?

9  
10 And also, will the Council now be issuing an apology to  
11 Cllr. Cullen, Cllr. Nevin and Cllr. O'Shaughnessy after  
12 the result of their case during the week?

15:11

13  
14 As I say, I'm just, I'm absolutely disgusted as a  
15 public representative to think that we're sitting here  
16 discussing something like this and I know the people of  
17 Wicklow are extremely angry and we all want answers.  
18 Thank you.

15:12

19 **CATHAOIRLEACH:** Cllr. Thornhill.

20 **CLLR. THORNHILL:** Cathaoirleach, go raibh maith agat.  
21 (Irish spoken) As a relatively new member of Wicklow  
22 County Council - three years - I would like to think  
23 that I would be able to give a dispassionate view on  
24 this matter.

15:12

25  
26 My viewpoint is that this matter is an unmitigated  
27 disaster with implications for the environment and also  
28 for the financial purse of Wicklow County Council. At  
29 a time when finance is needed for various items,

15:12

1 housing, et cetera, I consider it a disgrace that this  
2 affair has gone on for sixteen years and still no end  
3 in is sight. This matter cannot be overstated as the  
4 taxpayer will be liable for this grave mismanagement.

15:13

5  
6 If Bray is considered the gateway to the Garden of  
7 Ireland; well it show follow that whitestown should be  
8 considered the dustbin of Ireland for reasons we now  
9 know.

15:13

10  
11 People often ask me about my experience as a County  
12 Councillor. what do I think or see? well, I can  
13 honestly say it is an "experience", but having been  
14 presented with this judgment, this the first real  
15 opportunity, as a public representative, to ask  
16 meaningful questions and get answers for the taxpayer.

15:13

17  
18 In this regard I believe we should all be working  
19 together, Elected Members, administrators and anyone  
20 who has worked on this ongoing project; the illegal  
21 dumping in whitestown.

15:14

22  
23 This, on my behalf, is not a witch hunt. I have no  
24 agendas. That's why I was elected. I was a member of  
25 An Garda Síochána for 30 years and I was down the  
26 middle all the time.

15:14

27  
28 First, we have to establish the facts. Wicklow County  
29 Council was one of a number of polluters engaging in

1 illegal dumping at a huge illegal dump in Whitestown.

2  
3 whitestown in this judgment was declared "*the largest*  
4 *illegal landfill in the State*". When the Council  
5 discovered it in 2001 the dump was to be fully 15:14  
6 remediated. Whitestown Dump is in an SAC, a Special  
7 Area of Conservation and beside the Carrigower River.  
8 Dumping by the Council was facilitated by  
9 mid-management rather than senior management and that's  
10 according to the judgment. 15:15

11  
12 This dumping came to the attention of Europe. The  
13 Council decided to remediate the dump after contact  
14 with the Department. The Council decided to allow as  
15 much waste as possible to remain on the site. 15:15

16  
17 Consultants of various descriptions were brought into  
18 this mess. At this stage, this judgment begs more  
19 questions than answers.

20 15:15  
21 I would like to put some questions and proposals on  
22 record that this Council should invite the Minister of  
23 the Environment -- the Minister of the Environment  
24 should be invited to constitute an independent inquiry  
25 into this affair, and also into the behaviour of 15:15  
26 Wicklow County Council and any staff that were directly  
27 involved.

28  
29 That the Elected Members should be transported down to

1 whitestown to view the site and to have someone  
2 independent who could make a presentation about what  
3 the Council has done or not done.

4  
5 A sub-group of the County Council Members to be set up 15:16  
6 to further ask questions and they should be made up of  
7 representatives from various parties from the  
8 (inaudible) system.

9  
10 where was supervision by higher management between 1979 15:16  
11 and 2001?

12  
13 How much have wicklow County Council incurred to date  
14 on legal fees and consultation fees?

15 15:16  
16 why have wicklow County Council not made the polluters  
17 pay? There was 22 companies involved.

18  
19 when the court case was ongoing why did the Council  
20 choose not to join the other parties? 15:17

21  
22 why wasn't the EPA Code followed? It was breached on  
23 many occasions according to the judgment.

24  
25 who is going to be held to account? 15:17

26  
27 Now, I will just give you a snapshot of just a few  
28 quotes that I got from the judgment.

29

1           *"Having had 16 years to get a story straight since the*  
2           *discovery of the waste, the Council continued to drop*  
3           *new theories into the case right up to the end."*

4  
5           *"WIG, the consultant group, were duly influenced by* 15:17  
6           *their clients."*

7  
8           Another consultant [made reference to] importantly, he  
9           also accepted that the site was an inappropriate one  
10          for a landfill. 15:17

11  
12          The cheaper option was, of course, used. The Council  
13          witnesses generally seemed somewhat at sixes and sevens  
14          in terms of the precise details of whether the Code  
15          applied. 15:18

16  
17          well, that's all I have to say about the matter now,  
18          but I will just say on behalf of myself that as just a  
19          newly elected member, as I said I'm just getting the  
20          feel of matters, I must say I was horrified at this and 15:18  
21          I mean at the end of the day, I mean, you know,  
22          especially when people are going to be looking at  
23          finance and you're looking at the housing crisis and  
24          everything like that, this should have been looked at  
25          straightaway. "*Procrastination*" is a word that comes 15:18  
26          to mind because if this was done years ago when it was  
27          first spotted and done, this only -- I mean, we  
28          wouldn't be talking about it.

1 I mean I'll just give you an example of a little story  
2 of where, it was a friend of mine was telling me a  
3 story about, well he built a house and the septic tank  
4 nearby was in bad shape so he had to go, for the sake  
5 of the environment, to look after the septic tank and 15:19  
6 he had it removed, but he had to put in a new septic  
7 tank. And of course as you know, when you put in a new  
8 septic tank you have to get planning permission, but  
9 obviously time would be of essence. So he puts in the  
10 new septic tank and then applied for retention and I 15:19  
11 think this is what the Council should have done years  
12 ago.

13  
14 So that is my feeling on the matter. Cathaoirleach, go  
15 raibh míle maith agat. 15:19

16 **CATHAOIRLEACH:** Cllr. Matthews.

17 **CLLR. MATTHEWS:** Cathaoirleach, thanks for holding the  
18 meeting. I think the priority here has to be the  
19 clean-up of this site and clean it up as quickly as  
20 possible before there's any further environmental 15:20  
21 damage. That seems to be the view of the Judge on  
22 this. He has given a 78-month timeframe for it. So  
23 could I ask that we are provided with regular updates,  
24 if that is the course of action that's to be taken. He  
25 split it down into two and three and six-month 15:20  
26 different modules. So if we could be provided with  
27 two-monthly or quarterly reports on that I think that  
28 would be helpful.

29

1 There's 20 years of dumping gone on down here, all  
2 matter of material, inert, non-inert from places we  
3 don't even know. It seems to have been a free-for-all  
4 of trucks going in and out of there over 20 years. And  
5 I think, I don't think we'll ever find who was 15:20  
6 responsible ultimately for this but one thing should be  
7 made clear, it's the people of Wicklow are not  
8 responsible for this and they shouldn't suffer the  
9 financial loss on this, whatever the Council are found  
10 responsible, this shouldn't reflect in a cut in 15:21  
11 services or any cuts in funding that we have for all  
12 the services we provide. It wasn't the people of  
13 Wicklow who dumped there.

14  
15 Just two questions on it there, Chairman. The entire 15:21  
16 site, is that owned by Brownfield, the entirety of the  
17 site? And the third question is, they were granted a  
18 licence in 2004 to remediate the site, is that licence  
19 still valid or is that the licence that the Judge  
20 referred to that they've withdrawn now, or is that a 15:21  
21 separate licence? Thanks, Chairman.

22 **CATHAOIRLEACH:** Cllr. O'Brien.

23 **CLLR. O'BRIEN:** Having listened to all the conversation  
24 and discussion going on there and the phrase that comes  
25 to mind is that Nero fiddled while Rome burned. I mean 15:22  
26 it's incredible how slow we do business, you know, that  
27 everybody has to get their cut out of it before  
28 anything is done. We have had a 134-page document, you  
29 know, to discuss a matter that's very simple. We have

1 people digging in to find out where exactly is the  
2 really dangerous waste? I mean this sounds absolutely  
3 to me to be ridiculous. I mean it's a simple problem.  
4 It's a simple problem that needs to be sorted out  
5 straightaway by a plan of action. Obviously it should 15:22  
6 be done immediately. I say why are you worrying about  
7 where the money is coming from or who is going to get  
8 the money and stuff isn't going to get it (sic). I'd  
9 like to see something done about it immediately. I'm  
10 not interested in who did what, who did where, when and 15:22  
11 why. We have a problem on our hands here now that I  
12 would like to see us addressing immediately, putting a  
13 proper plan in place saying what needs to be done,  
14 should it be sealed or does it all need to be cleared  
15 out? And make a decision on that and let's gone on it 15:22  
16 and let's not worry about the cost. That's what the  
17 Government are there to do, is to make sure to worry  
18 about the cost. That's not our job. And I would like  
19 to see us doing something like that immediately.

20 **CATHAOIRLEACH:** Cllr. Winters. 15:23

21 **CLLR. WINTERS:** Thanks, Cathaoirleach. I won't repeat  
22 all that's been said. Just in response to  
23 Cllr. O'Brien's comments, not to be worried about the  
24 cost. Unfortunately that is something we have to be  
25 very worried about. Whether the County Council has to 15:23  
26 find it out of its budget, or whether the Department of  
27 the Environment has to find it, ultimately the  
28 remediation costs have to be met by the Irish taxpayer  
29 either through here or through the Department and the



1 legal bill that goes with it that has to be met. And  
2 in order, I suppose, to discourage other local  
3 authorities from engaging in protracted legal action  
4 and incurring these type of costs, I am sure that there  
5 will be some form of retribution against the people and 15:23  
6 the residents of County Wicklow and that ultimately we  
7 will suffer. I know that if you look at Sligo's road  
8 grant, both pre and post Lissadell, they haven't  
9 officially suffered but they have. And I think we'll  
10 probably suffer the same fate. 15:24

11  
12 I think it's shocking you can read a judgment and say  
13 we didn't think there was any waste there but we know  
14 it's going to cost 100 million to take what we don't  
15 think is there out. I can't believe that we, 15:24  
16 everybody, everybody knew there was waste in there.  
17 Everybody knew it was going to have to get cleaned up  
18 and we spent a couple of - we don't know what the total  
19 legal bill is going to be - fighting about what we knew  
20 ultimately was going to have to be done and that's 15:24  
21 the bit that I find so stressful about being a  
22 Councillor is that people expect us to have some  
23 influence or control and we only ever discuss everything  
24 after the fact. And I've been saying that for the last  
25 13 years. We talk about everything after the fact. 15:25  
26 Anything that we ask about is told, you can't discuss  
27 it, it's a court case. And then here we are, again  
28 today, where we can only discuss in general terms, no  
29 specifics, just in case, just in case. They'll be

1 writing books about it before we're allowed discuss it.  
2 Thank you.

3 **CATHAOIRLEACH:** Cllr. Behan.

4 **CLLR. BEHAN:** Thanks, Cathaoirleach. First of all,  
5 thank you for showing the leadership that you showed in 15:25  
6 deciding to call this meeting, and also in deciding to  
7 pursue with the meeting, despite what may have been  
8 said in terms of legal advice. I think you showed  
9 great courage and independence on your part as  
10 Cathaoirleach and First Citizen of the County and I pay 15:25  
11 tribute to you for that, Cathaoirleach. I am certainly  
12 mindful of the advice that we received today and I'm  
13 mindful of your, I suppose, anxiousness or anxiety to  
14 ensure that we don't stray from advice that might put  
15 the Council in a weaker position further down the 15:26  
16 tracks. So I'll do my best to abide by that advice,  
17 Cathaoirleach.

18  
19 And the first thing I want to say is that it hasn't  
20 really been referred to but I think it's important that 15:26  
21 certainly somebody address it and I certainly want to,  
22 is that in the publicity surrounding a number of these  
23 modules, aspersions were cast on the integrity of  
24 senior, present and past officials of this Council,  
25 specifically Eddie Sheehy. And I have to say I never 15:26  
26 ever once, ever, doubted the honesty or integrity of  
27 Eddie Sheehy, or any other Members, senior management  
28 staff of this Council present and past, and indeed any  
29 member of the staff of this body.

1 The Judge in fact expressly made that point in his  
2 decision and in his findings with regard to a previous  
3 module where Eddie Sheehy's reputation was certainly on  
4 the line, publicly, and he made it very clear that he  
5 had every confidence in his integrity and I have to say 15:27  
6 that I was very pleased to see that being said by the  
7 Judge because it was certainly my opinion. But he  
8 also, in his findings, even though they may have been  
9 very dramatic from the point of view of the Council, he  
10 specifically also said that anything that was done was 15:27  
11 done without *mala fides* which, in other words, to my  
12 reading of it is without bad faith. In other words,  
13 anything that was done by the officials of this Council  
14 was done in good faith, in an effort to address what  
15 was a very difficult problem that had gone back, as 15:27  
16 Councillors have said, for many years.

17  
18 I think in everything that has been said we should not  
19 lose sight of that fact. I think it is very important  
20 that we bear that in mind. However, we also must 15:27  
21 remember the statement that the Judge made, which was  
22 very, very stark when you actually read it, when he  
23 said "*this is the biggest illegal dump ever discovered*  
24 *in Ireland.*" *Ever discovered in Ireland.* So we have,  
25 on our hands "*the biggest illegal dump*" in the country. 15:28  
26 It's quite obvious we are not solely responsible for  
27 it. We are partially responsible for what was dumped  
28 in it. We are certainly responsible for how it was  
29 handled after it was discovered, as in Wicklow County

1 Council, but there is another player in this, as far as  
2 I'm concerned, and that is the Department of the  
3 Environment.

4  
5 There has been very little real information coming 15:28  
6 through any of the documentation as to whether the  
7 Department of the Environment came into this whole  
8 scenario; what advice they were giving the senior  
9 management of the Council at various steps along the  
10 way. Particularly, when the EU got involved in this 15:28  
11 whole process and started to, you know, make quite  
12 stringent demands on the Council and then a decision  
13 was made to do a kind of a lesser remediation job than  
14 should, obviously now we've discovered should have been  
15 done. It's is certainly something that I think we need 15:29  
16 to pursue. And within the bounds of whatever it is  
17 we're able to say today, I certainly would like as much  
18 clarification as possible from Mr. Doyle about what the  
19 attitude of the Department of the Environment has been  
20 right up to these particular decisions, and what is the 15:29  
21 attitude of the of the Environment now? Because as has  
22 been said, and lots of speculation has been made about  
23 the cost of this eventually, and we hear, we see  
24 figures upwards of €100 million, if not more. That's,  
25 I think, twice the annual output, and, you know, the 15:29  
26 gross income, if you like, and expenditure, the budget  
27 of this Council I think at the moment. We cannot  
28 possibly sustain a bill like that and, more  
29 importantly, the taxpayers and the citizens of Wicklow

1 must definitely should not be asked to bear it. This  
2 has to be done at Central Government level and one of  
3 the reasons I say that is that I have very strong  
4 suspicions that in the background they were, to some  
5 extent, a guiding hand in decisions that have been made 15:30  
6 on this down through the years. Now if that's not the  
7 case I think we're in very serious trouble. Very  
8 serious trouble. But my suspicion would be that there  
9 would have been ongoing contact between senior  
10 management here and the Department right throughout 15:30  
11 this process. And, again, if Mr. Doyle can outline to  
12 some extent, or the greatest extent possible, what the  
13 view of the Department is, I would certainly appreciate  
14 it.

15  
16 Cathaoirleach, I will just finish with another  
17 statement that the Judge made which I think, in the  
18 context of other things that are happening in this  
19 country and in this county at the moment it's  
20 worthwhile hearing again. He referred to Leona 15:31  
21 Helmsley and her comment, she was an American, and she  
22 made the point that *"only the little people pay taxes"*.  
23 So, you know, the small people, the ordinary person  
24 gets caught for everything. He extended that into the  
25 attitude of Wicklow County Council with regard to this 15:31  
26 dump, which was that only the little dumps should be  
27 remediated, but the big ones, where we're involved, no,  
28 we'll have a different standard for that because the  
29 costs would be so astronomical we couldn't possibly go



1 change that attitude and to focus our attention and our  
2 services on the ordinary people of this county, the  
3 people who sustain us with their taxes, their central  
4 taxes and their local taxes. And in everything we do  
5 from now on, Cathaoirleach, I think that should be the 15:33  
6 mark that we make our decisions by. Thank you,  
7 Cathaoirleach.

8 **CATHAOIRLEACH:** Cllr. O'Connor, you wanted to come back  
9 in, you're waiting a while.

10 **CLLR. O'CONNOR:** Oh, yeah, thanks. Thanks very much, 15:33  
11 Cathaoirleach, and again I would like to echo what  
12 people have said about you calling this meeting and  
13 having this meeting go ahead. I think it was very  
14 brave of you and fair play to you for that.

15 15:33  
16 I would like to know, to get on to specifics on this  
17 dump I would like to know and appreciate some specific  
18 answers. How does Wicklow County Council propose to  
19 clean up this dump? Paragraph 3.11 of the judgment  
20 states that it is up to the Council to remediate this 15:34  
21 site.

22  
23 Paragraph 3.19 states that there is a suggestion - and  
24 these are the words that I'm quoting her - that "*the*  
25 *Court can take comfort from a presumption that the* 15:34  
26 *Council will act properly*" - and I'm quoting directly  
27 here from Mr. Justice Richard Humphreys:

28  
29 "*As I found out in Module 1, any such presumption has*





1 identified and there's no one around this Chamber have  
2 said anything about them. They talk about the  
3 Council's responsibility. They talk about the -- what  
4 about the polluter pays? It's always been the  
5 principle in this country. These people came into our 15:36  
6 county and dumped an unbelievable amount of rubbish in  
7 our county and it looks to me like they're practically  
8 getting off scot-free. Just the small fines they were  
9 fined, in what, 2004, being brought through the courts?  
10 It's unbelievable to think that anyone could just walk 15:36  
11 away, do such environmental damage, could walk away.  
12 And like what all Councillors say here, somebody is  
13 going to have to pay the tab here and it looks like  
14 it's not going to be the people who came in and done  
15 the dumping, it looks like it's the ordinary people of 15:36  
16 this country because this county cannot afford to pay  
17 that type of thing and it was done from people who are  
18 even outside this county. We cannot afford to do this  
19 so who pays? The taxpayer. And I'm sick to death of  
20 recent court cases that have taken, not alone with 15:36  
21 this, but with other issues, financial issues and all  
22 as well, that have taken so long to come before the  
23 courts and most people in this country are fed up with  
24 the length of time it takes justice to be brought to  
25 people who abuse the particular system. I think that 15:37  
26 has to be recognised here as well.

27  
28 It's recognised that the Council dumped there  
29 themselves and people are saying, like the Council --

1 obviously the Council are responsible for it. I think  
2 the Council stopped dumping there in 2001. But from  
3 what I'm hearing throughout the country and I've had  
4 various contacts with various Councillors throughout  
5 the country, is that they're practically hasn't been a 15:37  
6 Council in the country in 2070, 2080, 2090 (sic) done  
7 similar type of dumpings with the type of inert  
8 materials, roads materials and all, farmers and that  
9 had, you know, holes in the ground. So effectively  
10 what they are talking about is applying environmental 15:37  
11 standards that are there today to what maybe 25/30  
12 years ago. I'm not saying it's right but I'm just  
13 saying it's a fact of life, and just a perfect example  
14 for people who are well aware of the situation in Bray,  
15 in the North Beach, not locals, the locals will regard 15:38  
16 it as the Back Strand in Bray, hundreds of thousands of  
17 tonnes have been dumped there over the years. Bray  
18 Town Council done it because every local authority in  
19 the country collected refuse, 20, 30, 40 years ago and  
20 it wasn't like the environmental standards we have now 15:38  
21 in regard to having cells and we have leachate and we  
22 have all the run-offs and all that are properly going  
23 into tanks and properly remediated. There's not a  
24 Council in the country that haven't this particular  
25 problem. But this particular problem was at a much 15:38  
26 later stage and from what I can see is the people who  
27 were mainly responsible for this have walked away  
28 scot-free.

29



1 out of this. Thank you.

2 **CATHAOIRLEACH:** Cllr. O'Neill.

3 **CLLR. O'NEILL:** Thanks, Cathaoirleach. There's just a  
4 few questions that I'd like to put forward and  
5 hopefully I will get an answer somewhere along the 15:40  
6 line.

7  
8 Councillors admit that there was 38,000 tonnes put into  
9 the dump, into John Joe O'Reilly's dump. I'd like to  
10 know how much did that cost? How much was paid over to 15:40  
11 John Joe for that? I am aware of other, well I'm not  
12 aware as such, it's kind of well known in the area that  
13 it's not only Wicklow County Council that used this,  
14 there was, in my reckoning, you know, over 100,000  
15 lorries went in and out of there over that time period 15:40  
16 with the use of the sand and gravel and the same with  
17 the sand and gravel so it was fairly busy. A very,  
18 very busy spot. I think, I'm calling for a bit of an  
19 inquiry into all this stuff. I'd be worried and  
20 concerned about, you know, it's easy enough to blame, 15:41  
21 this, that and the other. There has been actually  
22 deaths in that area of Whitestown where people actually  
23 took their own life and people would say to this day  
24 that it was related to the situation they found  
25 themselves in. 15:41

26  
27 But there's one very clear question that I want and  
28 that even in the height of the mess, the whole lot,  
29 John Joe O'Reilly did make an attempt, in May 2002, to

1 possibly rectify this to a certain extent. He came to  
2 the Council here with the name of an individual that  
3 advised, who had advised John Joe what route to take  
4 with all this and to also invoice the Council of one  
5 million, to the tune of one million for the dumping, 15:42  
6 for the use of the dump.

7 **CATHAOIRLEACH:** Councillor, I'd just advise you to be  
8 very careful and stop. You're talking about  
9 individuals. I'd advise you just to stop there.

10 **CLLR. O'NEILL:** well, I'm just asking the question. 15:42  
11 This is documented, I'm not making guesses or anything.  
12 It's documented that --

13 **CATHAOIRLEACH:** No, but you're commenting on it. I'd  
14 just ask you to be very careful.

15 **CLLR. O'NEILL:** well, I am being very careful. what 15:42  
16 I'd like to know, this is well documented. But I'd  
17 like to know the individual, who the individual was  
18 that advised John Joe O'Reilly to put that --

19 **CATHAOIRLEACH:** I don't want you to talk about  
20 individuals here. 15:42

21 **CLLR. O'NEILL:** -- to put the -- I mean it's a well  
22 known fact that he did come here. He met officials.  
23 That he put in a bill of €1 million because what  
24 puzzles me is how come --

25 **CATHAOIRLEACH:** Councillor, I'm going to have to cut of 15:42  
26 off now. I'm going to have to cut off off actually. Do  
27 you have anything more to say?

28 **CLLR. O'NEILL:** well, I don't think I should be cut off  
29 with stuff that's well documented, you know.

1 CATHAOIRLEACH: I've given you my opinion. I'm the  
2 Chairman. I'm going to cut you off if you don't stop  
3 talking.

4 CLLR. O'NEILL: I'd just like to know who that person  
5 was, whether it was a member of the local authority -- 15:43

6 CATHAOIRLEACH: You're repeating yourself now. You're  
7 repeating yourself. Cllr. Fortune, you wanted to come  
8 back in.

9 CLLR. FORTUNE: Thanks, Chair. I would also, like  
10 Cllr. O'Connor asked a number of questions that I would 15:43  
11 like to have answered. I also would like to formally  
12 protest at the way my contribution was interrupted.  
13 The only one, contribution so far this afternoon that  
14 was interrupted by the CEO. I just cannot accept that.  
15 15:43

16 Also, if I may, I made reference because of all the  
17 cross, the cutting across me trying to stop me making  
18 my points, in that article I talked about on 10th July  
19 1997 - and I quot from it, from in the *wicklow People*:  
20 15:43

21 *"Meanwhile, Baltinglass-based Councillor, Tommy Cullen,*  
22 *staged a walkout from the meeting after a row between*  
23 *himself and Chairman, Pat Vance. Cllr. Cullen had*  
24 *attempted to bring up the subject of dumping in west*  
25 *wicklow but the chairman ruled that he should stick to 15:44*  
26 *the dumps being referred to by Cllr. O'Shaughnessy."*  
27

28 The point I was making at that juncture, Chair, was  
29 that this whole debacle was highlighted properly, as

1 far back as then.

2 **CATHAOIRLEACH:** I believe you made that point clearly.

3 **CLLR. FORTUNE:** No, but I want to make sure -- well, I  
4 was interrupted so much I just want to make sure it's  
5 not lost. 15:44

6 **CATHAOIRLEACH:** Ah, no, it was clear. It was clear,  
7 yeah.

8 **CLLR. FORTUNE:** well, I want to make sure it's not  
9 lost. So this whole thing we're doing here today, this  
10 waste of time we're at here today with this big bill 15:44  
11 that's facing the Council could have been avoided if  
12 people had have listened. And that's why I said at the  
13 end of my contribution that it needs to be the inquiry  
14 that I proposed and I hope that was captured. I hope  
15 the stenographer was able to hear what I said at the 15:44  
16 present at the end, due to the interruptions. If she  
17 wasn't able to hear it I would like to get the okay to  
18 repeat the it so she does hear it.

19 **CATHAOIRLEACH:** I think you made your point clear,  
20 thanks. Cllr. Whitmore, you wanted to come back in. 15:45

21 **CLLR. WHITMORE:** Thanks very much, Chair. Just in  
22 relation to, a couple of the other Councillors have  
23 mentioned Brownfield and what their status is now. I  
24 was just wondering if we could just get some answers to  
25 that. My understanding is that the licence that they 15:45  
26 had is a licence for, you know, the storage and dumping  
27 of waste, but it was also, remediation was an aspect of  
28 that. I suppose I'm not sure if remediation was  
29 covered under their licence, how it then became wicklow

1 County Council's responsibility? That's just something  
2 just to clear up.

3  
4 A couple of the other Councillors also have spoken  
5 about the need for speed in the remediation and I know 15:45  
6 the High Court Judge also was very, very definite about  
7 that. I would caution against going too quickly that  
8 the full, you know full protections are afforded. We  
9 need to make sure that we know whatever we're going to  
10 do that we're not going to be impacted any further on 15:45  
11 the environment and I think we've to be very, very  
12 careful that our solution to this is not worse than the  
13 problem. So I would caution against going too quickly  
14 and not making sure that there's an environmental  
15 impact assessment done it. 15:46

16 **CATHAOIRLEACH:** Thank you. Cllr. Mitchell.

17 **CLLR. MITCHELL:** Thank you, Cathaoirleach. Rather than  
18 repeat what a lot of Councillors have said, certainly a  
19 concern to this historic issue has come back to bite  
20 us. I would ask that we would seek an indemnity from 15:46  
21 the Government or the EPA or somebody for our costs in  
22 relation to this. I mean if there has been -- if we  
23 have been part of a group which they have been managing  
24 together with the Council I think we should be  
25 indemnified for our costs, which are likely to be 15:46  
26 extensive.

27  
28 I'd echo Cllr. Vance's point that the people who  
29 actually did the dumping, the most, most -- the vast



1 quantity of the dumping and the most destructive  
2 material which is in it, seem to have got away with it  
3 and they don't seem to be, subject to any meaningful  
4 penalties so far as I can see and I think that's  
5 appalling. Nor do they seem to be subject to any 15:47  
6 requirement to remediate it. I also point out that  
7 from what I have read of this, that most of this  
8 dumping, this waste actually came from County Dublin,  
9 it didn't come from Wicklow at all. I think there's  
10 been -- like Wicklow is getting blamed here for this 15:47  
11 situation but the waste is basically Dublin waste and  
12 it should have been dealt with in County Dublin. There  
13 have been many, many statements and ten years' of rows  
14 about waste in Dublin, but Dublin has not provided for  
15 getting rid of its own waste. Now this may change when 15:47  
16 the incinerator comes into action around Christmas or  
17 sometime like that, but basically the problem in the  
18 surrounding counties, and in our case in the Whitestown  
19 Dump, have been because of the inadequacies, getting  
20 rid of waste, disposal of waste in County Dublin. I 15:48  
21 think that shouldn't be lost, particularly on those  
22 people in Dublin who claim that the incinerator wasn't  
23 necessary and various other statements which they make  
24 about it. But it's incumbent on County Dublin to  
25 dispose of its own waste. Thank you. 15:48

26 **CATHAOIRLEACH:** Cllr. Tommy Cullen.

27 **CLLR. TOMMY CULLEN:** Yes, Chairman. Chairman, I, like  
28 Cllr. Fortune, attended a number of days in the Court  
29 and I have a view that the Council were let down very

1 badly by the technical advice from the consultants that  
2 they received.

3  
4 I think that a lot of the issues that arose was because  
5 of the inadequacy of that technical advice from 15:48  
6 consultants that led to a lot of problems.

7  
8 I think that attempted remediation that was started in,  
9 I think it was 2012 or 2013 was based --

10 **CATHAOIRLEACH:** Councillor, sorry, could you speak up a 15:49  
11 bit. I think they're having problems hearing you.

12 **CLLR. TOMMY CULLEN:** Oh, sorry.

13 **CATHAOIRLEACH:** Could you speak up, please.

14 **CLLR. TOMMY CULLEN:** Oh, sorry. I think the 2011  
15 remediation that was put in was designed by these 15:49  
16 technical expert consultants and I think Bryan Doyle  
17 did his best based on the technical advice he got and  
18 he did liaise with the local community there and there  
19 was a local committee set up and I think it was acted  
20 in -- that it was acted based on that technical advice. 15:49  
21 That technical advice was obviously seriously flawed,  
22 as that's what the Court has found, and the advice  
23 going back to 2002 was also found wanting as well.

24  
25 Chairman, that's a problem that this Council has with 15:50  
26 regards, the same with trying to design houses that we  
27 have, we haven't got the architectural skills in the  
28 Council anymore so there is a lack of a technical  
29 expertise now within the County Council, and that has

1 happened over many years. So we do need to up-skill  
2 people dealing with the new economy.

3  
4 I believe, ultimately, this is going to be looked at  
5 and examined by the Local Government Auditor and 15:50  
6 Comptroller & Auditor General, probably the Finance  
7 Committee of the Council and a Finance Officer, they  
8 will examine where this public expenditure goes to. So  
9 that would be a separate examination to the courts.

10 15:50  
11 I think, at this stage, we need to know where is this  
12 waste going to be put to, if this waste is now removed?  
13 Has a site been identified? The Court seems to have  
14 directed that that site is going to be probably in the  
15 County somewhere. I don't know. Maybe it's going to 15:51  
16 the incinerator in Dublin, I'm not sure. But the cost  
17 will be substantial. There's no point in anyone saying  
18 it won't be.

19  
20 I think that the Department of the Environment and the 15:51  
21 EPA, and possibly the European Commission and possibly  
22 Elected Members, should form part of some working  
23 Committee now to work out a strategy as to handle this.  
24 This is probably one of the most important, if not the  
25 most important counsel meetings in 120 years because of 15:51  
26 the scale of the money that's involved. I don't think  
27 this Council is certainly not financially capable of  
28 dealing with it. The EPA are not financially capable  
29 of dealing with. The only body that is financially

1 capable of dealing with this is the Department of the  
2 Environment and I think that there should be a Working  
3 Group set up to oversee where this is going into the  
4 future. And I think, Chairman, representatives of the  
5 Council, and particularly from that area should have an 15:52  
6 involvement in that because I think that something has  
7 to be done. It's a serious issue and it's not going to  
8 go away and we have to work out a way out of this what  
9 is effectively a crisis, we have to work our way out of  
10 it. I think the Council have now got a lot more 15:52  
11 expertise into this than the Council would have had a  
12 few years ago, which there has been and hopefully a lot  
13 of the lessons learnt. And I would ask, Chairman, that  
14 the Chief Executive would consider setting up a Working  
15 Group and would invite people from the EPA, the 15:52  
16 Department of the Environment and if the EU Commission,  
17 they have great expertise in this in dealing with big  
18 industrial sites of dumping, cleared up in the UK and  
19 Belgium and Holland in post-industrial areas, that that  
20 should also be looked to come and join the Committee. 15:52  
21 They should look to set up a Working Committee and see  
22 how we can work out a strategy for the remediation and  
23 the funding of it because clearly this Council, it's a  
24 national issue. And as I think Cllr. Mitchell said,  
25 most of this waste came from Dublin, it didn't emanate 15:53  
26 in Wicklow. So there is a national responsibility on  
27 the Department of the Environment because the waste  
28 came from the Capital, it came from another county and  
29 that wasn't in our jurisdiction. And one could say if

1 Dublin City Council was doing its job it could have  
2 kept regularity on where the waste generated in the  
3 City was going to. So they have a responsibility, I  
4 think, to assist as well because the waste, most of the  
5 waste was generated in Dublin. So there is a 15:53  
6 responsibility for the Department of the Environment,  
7 therefore, to contribute to towards the clean-up  
8 because it's not fair to put it on the people of  
9 Wicklow.

10  
11 That's all I've got to say, Chairman, thank you. 15:53

12 **CATHAOIRLEACH:** Thank you. Cllr. Bourke.

13 **CLLR. BOURKE:** Thank you, Cathaoirleach.

14 Cathaoirleach, I'm quite flabbergasted, like all the  
15 other Members and the general public, to hear that we 15:53  
16 potentially will be caught for this liability of  
17 upwards of €100 million. It was always my  
18 understanding and my belief that any remediation work  
19 that was approved at Whitestown was being underwritten  
20 by the Department of the Environment and I'm sure I've 15:54  
21 seen that in correspondence sent by the Executive to me  
22 over the last couple of years. Where have the wheels  
23 come off? I'm really shocked and bewildered as to what  
24 is happening.

25  
26 I also feel that the general public and the taxpayers 15:54  
27 in Wicklow certainly deserve an explanation and a  
28 reassurance, as soon as possible, as to whether or not  
29 this liability will actually fall on the citizens of

1 County Wicklow, or will it be funded and paid for by  
2 Central Government? I think that's really important  
3 that that assurance be given because so far I'm hearing  
4 nothing but ambiguities about liability and who will  
5 end up paying and I don't really feel that's good 15:54  
6 enough because the sums are so vast. And I really feel  
7 that the Executives should clarify this today, if  
8 possible, for the general public.

9  
10 It also raises a question too that if all this waste is 15:55  
11 to be disposed of and paid for by somebody else -- I  
12 recall a case a number of years ago of a man in Arklow  
13 who set up a waste recycling business and the Council  
14 nailed him to the cross because it didn't work and I  
15 think the man has gone bankrupt since and he was faced 15:55  
16 with a bill, I don't know if he was ever able to pay it  
17 but the bill was massive for the disposal of a thousand  
18 tonnes of waste material which was being recycled as  
19 organic recycling, as the techniques hadn't been  
20 perfected yet. We really nailed that poor individual 15:55  
21 to the cross and I feel that's unfair. Does this mean  
22 then that it sets a precedent for perhaps his case or  
23 others where they may have had the full rigours of the  
24 Waste Acts unleashed by them by the Council and paid up  
25 for perhaps, you know, infringements on waste disposal. 15:55  
26 Should they be entitled to a refund, at this stage, and  
27 have the taxpayer pay it?

28  
29 It's just a thought that crosses my mind and I want to

1 throw that out there to the Management for a comment as  
2 well. Thank you, Cathaoirleach.

3 **CATHAOIRLEACH:** Just one item. If people have  
4 submissions to make I'd ask that they do so in writing.

5 **MS. GALLAGHER:** If they're proposals. If there are 15:56  
6 proposals coming from the floor, that they be put in  
7 writing and handed to the Chair.

8 **CATHAOIRLEACH:** Cllr. Ruttle?

9 **CLLR. RUTTLE:** Yes, Cathaoirleach. Thank very much.

10 **CLLR. WINTERS:** I couldn't hear what Lorraine said. 15:56

11 **MS. GALLAGHER:** I'm just saying, if there are proposals  
12 coming from the floor that they be put in writing and  
13 handed to the Chair.

14 **CATHAOIRLEACH:** Cllr. Ruttle?

15 **CLLR. RUTTLE:** Cathaoirleach, look, certainly this is a 15:56  
16 saga which has gone on for a long time. I would  
17 certainly agree with the sentiments expressed by  
18 Cllr. Fox and Cllr. Behan, two in particular, that any  
19 of the Management that I ever came across at any level  
20 within the Council always acted in good faith and the 15:57  
21 best way possible to deal with this issue, but there  
22 are serious questions about the level and the efficacy  
23 obviously of professional advice that they were given,  
24 technical advice they were given at certain times.

25 15:57

26 But a time like the moment, where we are is where we  
27 are now. This is not the time for what John Hume,  
28 which referred to the politics of "whataboutery", it's  
29 about how do we deal with it now and how do we go

1 forward? We, as the Council, and I think the people of  
2 Wicklow need to have a clear path forward as to how  
3 this is to be dealt with and, as was outlined by  
4 Cllr. Behan, the Road Department at all times, their  
5 promptings, be they written or verbal or whatever else 15:57  
6 it was, in the resolution processes needs to be got out  
7 in the open and responsibility taken for it. But it  
8 must, it must be dealt with all along the way and a  
9 path shown because it can't just ramble on again. I  
10 know it may be subject to appeals and that kind of 15:57  
11 thing, but we must now draw up a system where we go  
12 from here, who can pay for it? Who is able to pay for  
13 it? Who's not able to pay for it because, as outlined  
14 in the Wicklow Budget and the figures here, it doesn't  
15 make sense, one way or the other, but a way out must be 15:58  
16 find more, but clear-cut. But certainly I would not be  
17 into the politics of blaming officials that acted, as  
18 far as I can see, at all times in good faith throughout  
19 the whole process; were probably badly advised, as it  
20 came out; did their best; met with local people, et 15:58  
21 cetera, et cetera. But having said all that, this  
22 ruling that we have now, that's where we are and we  
23 have to deal with it and we need to find a path  
24 forward.

25  
26 I would perhaps like some guidance on that from the  
27 Management as to where they see that going and how that  
28 path will be achieved and demonstrated. Thank you,  
29 Chairman.



1           **CATHAOIRLEACH:** Cllr. Fitzgerald?

2           **CLLR. FITZGERALD:** I'm not going to go back over old  
3 ground but it has been mentioned by a few Councillors  
4 there that 250,000 was dumped in that site between 1997  
5 and 2001. Of that, 15% was - I'm only saying in           15:59  
6 figures - was dumped by Wicklow County Council so  
7 effectively dumping of 212,000, the people who dumped  
8 212,000 on that site, let's say, have escaped the wrath  
9 of the courts which is wrong, in my opinion. Whether  
10 they're bankrupt or what, I think there must be --           15:59  
11 look, that is a wrong. But there are huge concerns in  
12 the community about the costs of the remediation of  
13 this site and I just noticed in the pages we got last  
14 week, there is no work to take place at the site  
15 removing the product that was dumped there for 42           15:59  
16 months; three years and six months before that happens.  
17 There'll be a lot of work to be done, which is a big  
18 concern considering the Judge thought it so urgent to  
19 have the matter dealt with, to have 42 months of I  
20 think 12 different modules before you take stuff off           16:00  
21 the site. That only started in the last three years, I  
22 think it is six years we have, or whatever years. If  
23 you go through the different modules the removal  
24 doesn't take place until after three years and six  
25 months which I find -- but, I'm not in the business of           16:00  
26 casting aspersions on anyone and I've no intention to  
27 do it. We have to move on, find the best way to deal  
28 with this and I think Cllr. Behan and other Councillors  
29 have said it, Cllr. Ruttle, we need to get it sorted

1 out. Deal with it. But retrospectively we can't go  
2 back, we have to go forward. Get the matter dealt  
3 with.

4  
5 But the big concern is, where are we going to put all 16:00  
6 these tonnes in this country, as I'm told we don't have  
7 space in this country to move them tonnes to? Is it  
8 going to have to go out of the country or is there some  
9 magic ways and means of getting rid of 250,000 tonnes  
10 within the country? I don't know that there is a 16:00  
11 reason or there is a way of doing of that.

12 **CATHAOIRLEACH:** Cllr. Blake?

13 **CLLR. BLAKE:** Thanks, Cathaoirleach. I'm not going to  
14 rehash what a lot of Members have said here either, but  
15 I think a very pertinent point brought up by 16:01  
16 Cllr. Bourke here when he referred to a recycling case  
17 in Arklow and the fact that the Council did act, and  
18 did act very strongly on that particular site. It  
19 didn't work. I think it is a clear indication of how  
20 the staff actually treat anything in this county that 16:01  
21 actually go wrong. So rather than criticise the staff  
22 we should compliment them on their actions in that  
23 regard.

24  
25 Equally so, we have been building roads in this county 16:01  
26 for a good number of years and there is such a thing as  
27 a bore pit that develops then where material is taken  
28 out and refilled back in again. An awful lot of stuff  
29 that the Council would have put into the whitestown

1 site would have been of a very similar nature as well.  
2 It was a policy that went on on a large, or a scale  
3 that every county did it and every town probably and  
4 village in the country as well probably had a site, a  
5 landfill site of some description or other. I know we 16:02  
6 had one in our own village as well, whatever waste was  
7 generated in the village was actually deposited there  
8 as well. It wouldn't have been lime. It wouldn't have  
9 been designed in such a way to take the leachate out as  
10 well, but it is a system that was there for years and 16:02  
11 years in terms of how we dealt with our waste.

12  
13 Obviously things have changed and the standards have  
14 been improved and brought to greater and higher level  
15 in that regard and it's very welcoming that it's done 16:02  
16 that way as well. But certainly we have a major  
17 problem here. The Council have, in their wisdom, taken  
18 the best advice available to them in how to deal with  
19 this particular site. There has been a cost factor in  
20 how to do that so far. It's obviously going to be a 16:02  
21 significant factor in terms of costs into the future as  
22 well.

23  
24 what has been said here, it wasn't our waste, it was  
25 waste that came from Dublin. Dublin were very 16:02  
26 neglectful in how they dealt with their waste in those  
27 particular years as well. We heard all about the fact  
28 that they don't want to their incinerator in Dublin.  
29 They didn't want to deal with their own waste, they

1 brought it down here and we heard on numerous occasions  
2 about all the lorries that were coming down the N11,  
3 N81, we didn't know about it as well but they were  
4 coming down in that regard. So look it, Dublin have  
5 been prepared to land their waste here in 16:03  
6 County Wicklow so I think on a national basis, taken on  
7 a Dublin basis, that they should take some responsible,  
8 as Cllr. Mitchell has said here in that regard.  
9 Thanks, Chairman.

10 **CATHAOIRLEACH:** Thank you. Cllr. Vance. 16:03

11 **CLLR. VANCE:** Just briefly. I forgot to mention that  
12 Members are well aware we got documentation in the last  
13 day or so about, there's a possibility of an appeal  
14 going in there and effectively if Brownfield, and of  
15 course there's a possibility, I suppose, of the Council 16:03  
16 appealing the decision as well. So I mean we have to  
17 take care of any decisions today, take that into  
18 consideration that this is ongoing if there is an  
19 appeal. And what effectively would that do to the  
20 judgment if an appeal comes in, what effectively would 16:04  
21 that do the judgment of Mr. Justice Humphreys in regard  
22 to the timeframe and various things for remediation of  
23 it, pushing it further out? And I think there's a  
24 general consensus that's coming around the table now  
25 with most people that really, what we really want to do 16:04  
26 is to get down and get this site remediated as quickly  
27 as we possibly can and bring it back to the type of  
28 standards that exist there. I think there's general  
29 agreement in regard to that. But I think people should

1 be aware of the ongoing case and obviously the appeal  
2 that could go in from either side or both sides in  
3 regard to this as well. Thank you.

4 **CATHAOIRLEACH:** cllr. walsh?

5 **CLLR. WALSH:** Sorry, Cathaoirleach, just on a quick 16:04  
6 point, a point of interest, having heard all the other  
7 discussion. To conclude, it's probably not possible,  
8 at this point, to establish what parties were  
9 responsible for what volumes and what types of waste at  
10 the site. It is accepted that the companies involved 16:05  
11 probably do no longer exist.

12  
13 The Circuit Criminal Court convictions, interestingly,  
14 ten years ago, those decisions and those judgments, it  
15 would be interesting to see how were the Court fines 16:05  
16 formulated? was there a connection between the fines  
17 and the volumes and types of waste dumped? what  
18 mechanism was used by the Courts in those cases and  
19 where does the Council fit in the overall picture there  
20 in relation to those? 16:05

21 **CATHAOIRLEACH:** cllr. Fortune, you wanted to come back  
22 in a second time.

23 **CLLR. FORTUNE:** Chair, yeah, I just want to put on  
24 record that I don't wish to be part of cllr. Vance's  
25 consensus. I took the trouble -- 16:05

26 **CLLR. VANCE:** I wouldn't expect you to.

27 **CLLR. FORTUNE:** will you tell him to stay quiet while I  
28 speak. I took the trouble to attend the Court and I  
29 heard what I heard and when you hear something you

1 can't unhear it. So I don't wish to be part of his  
2 consensus ever.

3 CATHAOIRLEACH: Thank you. Cllr. Cullen, do you want  
4 to come back in?

5 CLLR. TOMMY CULLEN: Yes, Chairman. 16:05

6 CLLR. VANCE: I didn't include you in that consensus.

7 CLLR. FORTUNE: You didn't say that, though.

8 CATHAOIRLEACH: Cllr. Cullen.

9 CLLR. VANCE: If you wanted me to name you I would have  
10 named you. 16:06

11 CLLR. FORTUNE: You could have solved this yourself  
12 back in 1997.

13 CLLR. VANCE: And listen, you look at that 1997,  
14 right --

15 CATHAOIRLEACH: Councillors, Councillors. Cllr. Cullen, 16:06  
16 go ahead.

17 CLLR. VANCE: -- (inaudible) that wasn't identified in  
18 1997.

19 CLLR. FORTUNE: Is he the Chair now?

20 CATHAOIRLEACH: Cllr. Cullen. 16:06

21 CLLR. VANCE: The site wasn't identified. Right.

22 CLLR. TOMMY CULLEN: I was talking about Dublin being  
23 asked to contribute something because, you know, thee  
24 is a thing called the 'polluters pay' principle. The  
25 waste did generate from Dublin and Dublin Corporation 16:06  
26 and the County Council in Dublin have a responsibility  
27 to ensure that the waste generated in their area was  
28 regulated. It wasn't the role of Wicklow to police the  
29 waste generated in Dublin City and the general area and

1 yet we're being asked to clean up, in effective, 90% of  
2 this waste which was generated is Dublin's waste. I  
3 think Dublin have, if not a legal responsibility,  
4 certainly a moral responsibility to assist in this  
5 remediation.

16:06

6  
7 The other thing is, Chairman, these experts, these  
8 consultants, were the same people who advised us on the  
9 Blessington remediation and does this not raise very  
10 serious questions of the standards of Blessington  
11 remediation carried out now as well? If these are the  
12 same people who advised us on the remediation of  
13 Whitestown that done -- Chairman, I genuinely believe  
14 that there should be a Working Group set up and it  
15 needs public representative input into it to try and  
16 work out some kind of strategy and the way forward on  
17 this to solve this. Thank you.

16:07

16:07

18 **CATHAOIRLEACH:** Councillor, you were out when I said  
19 it, but any proposals that anyone wants to make, if  
20 they could submit them in writing to me.

16:07

21 **CLLR. VANCE:** Chairman, I think to be fair to  
22 Cllr. Cullen, that's a reasonable proposal --

23 **MS. GALLAGHER:** To be fair, I'm just reading from this.

24  
25 *"The proposer of a motion not listed in the agenda or*  
26 *an amendment, and not in common, shall, upon moving*  
27 *same, deliver a copy to the Cathaoirleach."*

16:07

28  
29 So I think to be fair to all Elected Members, if

1 there's proposals coming from the floor, they should be  
2 submitted to the Chair.

3 **CATHAOIRLEACH:** In writing. I have one proposal here  
4 from Cllr. Whitmore.

5 **MS. GALLAGHER:** That Wicklow County Council undertake 16:08  
6 to ensure a full and transparent implementation of the  
7 Remediation Plan including, but not limited to, an  
8 information website outlining progress; establish  
9 community liaison committee; involvement of key  
10 stakeholders including Inland Fisheries, NPWS, Wexford 16:08  
11 County Council, et cetera; regular monitoring and  
12 publishing of the results of groundwater, surface water  
13 and environmental assessments. Do I have a seconder  
14 for that?

15 **CLLR. LAWLESS:** I'll second that. 16:08

16 **CATHAOIRLEACH:** One small point I would make, if you're  
17 going to involve Wexford County Council you should  
18 involve Carlow County Council as well because the  
19 Slaney flows through Carlow as well.

20 **CLLR. WHITMORE:** Just any of the, I suppose, relevant 16:08  
21 stakeholders.

22 **CATHAOIRLEACH:** Okay. I will invite the CEO to come  
23 back on all the questions. Thank you.

24 **MR. DOYLE:** Thank you, Cathaoirleach. I think I know  
25 that myself and Cllr. Fortune had an interaction but 16:09  
26 I'd say there was a little bit of other questions asked  
27 there that I'm not in a position, having regard to the  
28 legal advice that Councillors have received via the  
29 Cathaoirleach or my own legal advice, having regard to



1 the fact that Brownfield Restoration come out very  
2 early and informed our legal team that they intended to  
3 appeal the decision or part of the decision so it's  
4 totally unclear to me and I have to be mindful of the  
5 legal issue. I have to be very mindful of the impact 16:10  
6 of discussions on the case that's going to be reheard  
7 again and I don't want to add anything that might  
8 damage our case because there are issues involved, as  
9 you can see, in Martin Hayden's advice that will  
10 require some further examination for the period for the 16:10  
11 deadline for appealing the decision.

12  
13 Currently, I was asked in no great order with regard,  
14 have we done a review? I think it was Cllr. Fortune.  
15 Yes, of course, we have done a review and we'll be 16:10  
16 continuing to review the situation. It's a significant  
17 judgment, has big ramifications for Wicklow County  
18 Council. And, as it stands, we got the last couple of  
19 decisions Friday, I think we sent it out to the Members  
20 so this is really hot off the press. I supported fully 16:11  
21 the Cathaoirleach when he received the information  
22 requesting a Special Meeting because it does require  
23 discussion by the Members. The legal scenario provides  
24 that a certain amount of can be discussed in a general  
25 way but specific questions and some of those are around 16:11  
26 the dumpers, how the remediation was carried out, and  
27 questions that are being asked about who is responsible  
28 for what, I cannot deal with those. I haven't got the  
29 answers to a lot of them. And what I am very concerned

1 about, the nature and the possible import of the cost  
2 of the works. The judgment sets it out very clearly  
3 what's required of Wicklow County Council over a period  
4 of time and it sets it out in a planned way with have  
5 environmental assessment, and other issues that maybe 16:12  
6 will change over time. I have no problem with regard  
7 to what has been proposed there about liaison.  
8 Cllr. Cullen raised it with myself. When we did go  
9 back in to do with the remediation I met, on a number  
10 of occasions, with a local group that were nominated to 16:12  
11 represent and as the Council have remarked here, the  
12 work was done in good faith. The report to you  
13 indicated that we took the legal advice that was  
14 available to us. In any examination of a possible  
15 appeal, that technical advice would have to be 16:12  
16 re-examined. That is an ongoing process as we speak.  
17  
18 We identified the constituents of the working group. I  
19 would have to take advice with regard to actually  
20 giving out the names who comprise that group. What I 16:13  
21 will do is, with regard to all of the questions that  
22 were asked, and there are quite a number of them the  
23 same, when the transcript is available to me I will  
24 arrange to formulate answers that if the legal team  
25 allows me, and if I can have an overview from the 16:13  
26 Senior Counsel that the Cathaoirleach has obtained as  
27 to what information I can bring forward to the Members.  
28  
29 There is no doubt that Wicklow County Council were, not

1 so much under pressure but we were in a position that  
2 we could influence when the dump could start the  
3 remediation process. And in that regard there is talk  
4 within the judgment of moving from a Section 58 action  
5 to a Section 56 action and that was the subject of a 16:14  
6 lot of discussion. So, yes, that was to kind of move  
7 the situation forward at a pace to deal with the ECJ  
8 case.

9  
10 The Waste Management Act came in in 1997 and that was 16:14  
11 at a time within two years we set up an enforcement  
12 team here in the Waste Management Section. The Judge,  
13 in looking at time for the dumping that we had there  
14 and someone else asked what it is, it is generally road  
15 sweepings and taking bends off roads, generally within 16:14  
16 an urban area, the urban area of West Wicklow. And in  
17 that period of time Ireland Inc. did not get their  
18 house in order, let's say, until 1997 when custom and  
19 practises, as has been mentioned here, bring it to a  
20 working dump, bring it to a landfill. That was what 16:15  
21 was happening and that culture had to be changed. It  
22 did take a little bit of time. It was accelerated when  
23 the Council -- this county was subjected to a raft of  
24 illegal dumping. That was the first time that in 1997  
25 I think, my memory would be that Ireland was in 16:15  
26 somewhat of a recession but things happened, moved very  
27 quickly and there was no landfill space. And I  
28 remember when I came here first the whole issue was to  
29 provide a landfill out in Ballynagran and it took us

1 years and, as it turned out, it was a private sector  
2 that took it up and took up the running of it. So it  
3 was difficult to get space. There was certainly no  
4 space in Dublin. And gate fees were also very high and  
5 ultimately this county paid the bounty on it. 16:16

6 Cllr. Cullen mentioned Blessington. We had other  
7 Coolamadra. We had other sites, indeed, that were  
8 remediated.

9  
10 I do have concerns with regard to the possible costs of 16:16  
11 this. I have no estimate of what the Judge has ordered  
12 should take place or will take place. Of course if  
13 there is an appeal that will, again, put things on hold  
14 and park the whole process. But I have already

15 initiated discussions with now two Government 16:16  
16 departments. We have Housing, Planning,

17 Communications, Community and Local Government and we  
18 have a department of climate action, communication and  
19 environment. So we're now working with two Government

20 departments because of changes and in fact that's what 16:17  
21 I've done, I've contacted them. They're aware, they

22 have -- they're aware of the judgments but I've also  
23 passed on the judgments to them. I have not had an

24 opportunity to pass on the judgments that I received  
25 Friday evening with a view to commencing discussions 16:17  
26 with them.

27  
28 I think there will be a time taken to consider possible  
29 appeals by a number of parties. The fact that there's

1 an EU involvement in it, it may well be the Department  
2 will take a view on things. The EPA may take a view on  
3 things because they are kind of, they are tied in with  
4 the Council in the discussion. And the Wicklow County  
5 Council, as can be seen from Martin Hayden's review of 16:17  
6 the judgments, would have grounds for looking for  
7 clarification and certainly appeal some points in the  
8 judgment. I'd say it is the case that Brownfield will  
9 appeal it. So we are kind of talking in a vacuum. But  
10 I agree wholeheartedly with the Members, it's a matter 16:18  
11 that should have been discussed. It's something that  
12 shouldn't have happened in the County. But I also not  
13 that Councillors have mentioned this, we tried to put a  
14 timeline on it. I know it's a fairytale, you mentioned  
15 that, but it is the factual situation. We could detail 16:18  
16 it a little bit more. I probably didn't -- anyone that  
17 has been here and dealt with the higher courts or even  
18 Circuit Courts, when you are interacting on a complex  
19 issues, affidavits, replying affidavits, you get a  
20 further turn to replying affidavits and all of a sudden 16:18  
21 time goes by. Certainly some of our decisions would  
22 have been made around the time of the ECJ case being  
23 live. I do not know what those fines would be back in  
24 that time and indeed I'm not sure of the current  
25 situation. Because of the wording in the judgment it 16:19  
26 is likely that other parties may review the activities  
27 of the County Council. So it does open a nest of  
28 vipers.  
29

1 The Department have paid all our costs to date, outside  
2 of the current court case, on Whitestown. And  
3 Cllr. Bourke is correct, I have a letter from the  
4 Department back in 2011 saying that they would pay the  
5 cost of the remediation. I suppose we are in a 16:19  
6 different time zone now really with changes in  
7 Government Departments and also -- but it is something  
8 that I have reminded them of that. I don't think it  
9 will be an easy discussion. I think it would be  
10 helpful, notwithstanding the concerns that the members 16:20  
11 have, to support me as Chief Executive in that  
12 discussion. I think the Councillors have mentioned it  
13 here today that without the help of the Department the  
14 Council would be in a serious situation and I'm asking,  
15 notwithstanding all the problems that have been put out 16:20  
16 here by the Members and their concerns, that they  
17 support the Executive in asking the Departments, the  
18 various departments to continue with their support that  
19 they provided back in 2011 with regard to the judgments  
20 that have taken place. They are slightly different, 16:20  
21 we're in a different scenario so I'm sure that will be  
22 an awkward discussion. But, again, once the dust  
23 settles on the judgment and when the appeals are out of  
24 the way, I would envisage a close working relationship,  
25 and liaising with the Members in plotting the way 16:21  
26 forward, particularly with regard to the provision of  
27 information in a transparent way, in all the things  
28 that were done. Part of the appropriate assessment  
29 will involve public consultation with all the parties

1 that have been mentioned and it will also provide the  
2 Members of the Council with an opportunity to feed into  
3 that and that is a process and we have to get that over  
4 the line.

5  
6 Not only that, I think it's an arduous journey to go  
7 through that judgment because it picks and shoves and  
8 it's a complex judgment, well thought out by the Judge  
9 and it's important we get the full thrust of it and  
10 that's what the Management Team -- and it's difficult,  
11 at this time of the year, to get everyone together but  
12 that's what we've done.

13  
14 As I say, I'll review all the questions and pass them  
15 to our legal team and, in turn, to Martin Hayden to  
16 have an overview to see what more information I can  
17 give to the Members.

18  
19 Apologies if I've missed out on anything. If I have  
20 missed anything -- of course, anything that I haven't  
21 come back on I feel is a matter of detail and I'm not  
22 going to get involved in that.

23 **CATHAOIRLEACH:** Cllr. Lawless?

24 **CLLR. LAWLESS:** Just in regard to the couple of  
25 questions I asked earlier, I was wondering if you might  
26 have a response to some of them now? If they could be  
27 read out? Thanks.

28 **CATHAOIRLEACH:** Are you referring to the questions that  
29 you e-mailed yourself this morning.

1           **CLLR. LAWLESS:** Yes. Yeah, if they could be read out  
2 either now or before the end of the meeting, it would  
3 be appreciated, please. Thank you.

4           **CATHAOIRLEACH:** The Meeting Administrator has them so  
5 let's read out the questions and the answers. 16:22

6           **MS. GALLAGHER:** Question: How much have the whitestown  
7 and Cullen and Nevin cases cost the taxpayer in County  
8 Wicklow and how will they be funded?

9  
10           The cost issue regarding the High Court cases of 16:23  
11 Plaintiffs, Thomas Cullen, Barry Nevin and the  
12 Defendants Eddie Sheehy and Wicklow County Council will  
13 be determined by the Court on 13th October 2017.

14  
15           The costs incurred by the Council in Circuit Court were 16:23  
16 €85,854. The costs incurred by the Council in the High  
17 Court were €286,257. Irish Public Bodies, the  
18 Council's insurer is dealing with the legal costs in  
19 this case.

20 16:23  
21           The legal costs in the whitestown case have yet to be  
22 determined. The County Council costs for the  
23 remediation scheme to date have been recouped by the  
24 Department. The Chief Executive will continue to  
25 liaise with the relevant Government departments 16:23  
26 regarding the financial implications for the Council in  
27 light of the High Court judgment. In the event of the  
28 case being appealed there will be a stay on all  
29 matters.



1 Question 2: Are Wicklow County Council involved in any  
2 superior court cases or tribunals at the moment or are  
3 there any cases pending? If this is the case, can we  
4 have a list and a short description of the case(s)?

16:24

5  
6 The Law Agent will prepare a report on all current,  
7 pending High Court, Court of Appeal and Supreme Court  
8 cases for circulation.

9  
10 Question 3: Will the former County Manager, Mr. Eddie  
11 Sheehy, pay any of the costs towards the cases  
12 involving former Cllr. Nevin and Cllr. T. Cullen and if  
13 not why not?

16:24

14  
15 And the response to this question was answered at number  
16 1, at response 1.

16:24

17  
18 4: Will the Council be issuing an apology to  
19 Cllr. Cullen, former Cllr. Nevin and former Cllr.  
20 Shaughnessy?

16:24

21  
22 The response: The Chief Executive is considering an  
23 appropriate response to the decision of the High Court  
24 appeal by Cllr. Cullen and Mr. Barry Nevin.

25 **CLLR. LAWLESS:** Thanks for that, Lorraine. Thank you.

16:24

26 **CATHAOIRLEACH:** Cllr. Fortune, you want to come in?

27 **CLLR. FORTUNE:** Thanks, Chair. I just want to say,  
28 Chair, that I took time out today to come down here  
29 from some very serious things I should have done today

1 and I have to put on the record that I found this  
2 meeting an absolute waste of time.

3 **CATHAOIRLEACH:** Thank you. I have a number of  
4 proposals here so I'm going to start with them in the  
5 order that I received them. 16:25

6  
7 The first one is from Cllr. Whitmore.

8 **MS. GALLAGHER:** The first one was from Cllr. Whitmore,  
9 what which was read out and was seconded by  
10 Cllr. Lawless. You proposed, or you suggested an 16:25  
11 amendment for Carlow County Council. So relevant  
12 stakeholders really is what is proposed.

13  
14 Do Elected Members want me to read it again?

15 **CLLR. BOURKE:** Yes. 16:25

16 **MS. GALLAGHER:** Okay. That Wicklow County Council  
17 undertake to ensure a full and transparent  
18 implementation of the Remediation Plan including, but  
19 not limited to, an information website outlining  
20 progress; establishing community liaison committee; 16:26  
21 involvement of a key stakeholders, including Inland  
22 Fisheries Ireland, NPWS, Wexford County Council, Carlow  
23 County Council, relevant stakeholders; regular  
24 monitoring and publishing of the results of the  
25 groundwater, surface water and environmental 16:26  
26 assessments.

27 **CATHAOIRLEACH:** Is that agreed? Do you want to take a  
28 vote on it.

29 **MORE THAN ONE VOICE FROM THE FLOOR:** Agreed.

1           **CLLR. FORTUNE:** Don't include me in that please. I  
2           don't --

3           **CATHAOIRLEACH:** Okay. It's agreed except for  
4           Cllr. Fortune.

5           **MS. GALLAGHER:** This one is proposed by 16:26  
6           Cllr. T. Cullen: That a working Group be set up to  
7           include representatives of the Executive and Membership  
8           of the Wicklow County Council, the EPA and the  
9           Department of the Environment to work out a strategy  
10          for remediation of the site. If I could have a 16:26  
11          seconder?

12          **CLLR. BEHAN:** I'll second that.

13          **CLLR. FOX:** Second.

14          **CLLR. FORTUNE:** I'm abstaining.

15          **CATHAOIRLEACH:** Is that agreed by all Members except 16:27  
16          Cllr. Fortune?

17          **MS. GALLAGHER:** Thank you. I now have three proposals  
18          proposed by Cllr. Brendan Thornhill. That this Council  
19          invite the Minister of the Environment to be invited to  
20          constitute an independent inquiry into this affair 16:27  
21          (Whitestown) and also into the behaviour of Wicklow  
22          County Council staff directly involved. That's  
23          proposed by Cllr. Brendan Thornhill. Do I have a  
24          seconder?

25          **CLLR. FORTUNE:** I second that. 16:27

26          **MS. GALLAGHER:** Is that agreed?

27          **CATHAOIRLEACH:** Will I take a vote then?

28          **MORE THAN ONE VOICE FROM THE FLOOR:** Read it out again.

29          **MS. GALLAGHER:** That this Council invite the Minister

1 of the Environment to be invited to constitute an  
2 independent inquiry into this affair (Whitestown) and  
3 also into the behaviour of the Wicklow County Council  
4 staff directly. Proposed by Cllr. Thornhill and  
5 seconded by Cllr. Fortune. 16:28

6 **CATHAOIRLEACH:** Cllr. Mitchell, you wanted to --

7 **CLLR. MITCHELL:** We had a court case about this. That  
8 strikes me as a very independent inquiry into it and I  
9 don't think we need a further independent -- we need to  
10 get the thing fixed and we need to get somebody to pay 16:28  
11 for that. Personally, I think that staff have acted,  
12 as many Councillors have said, in good faith and I  
13 don't think we should, after a court case we should go  
14 back further into it, we should concentrate on getting  
15 it fixed. 16:28

16 **CATHAOIRLEACH:** Cllr. Vance?

17 **CLLR. VANCE:** Chairman, I said earlier on that we have  
18 to be aware that there's an ongoing court case if  
19 there's an appeal going in. It looks like an appeal's  
20 going in. We'd be absolutely mad to agree to an 16:28  
21 investigation like that when there's an ongoing court  
22 case going on. Absolutely crazy.

23 **CATHAOIRLEACH:** Cllr. Cullen?

24 **CLLR. TOMMY CULLEN:** Chairman, yeah. I certainly  
25 think, and I'm record going back that there shouldn't 16:29  
26 be an investigation. There has been an 80-day, nearly  
27 89 days of court carrying out, in effect, what was --

28 **CLLR. WINTERS:** I can't hear you.

29 **CLLR. BEHAN:** Is there anyway we can turn off that fan?

1 MS. GALLAGHER: Is it not off? It is off, it's  
2 roasting. I'd say it's the computer.

3  
4

INAUDIBLE DISCUSSION RE NOISE

5  
6

CLLR. WINTERS: Or even if they gave us earphones. It  
7 is awful to give up your afternoon from work and not be  
8 able to hear anything that people say.

16:30

9  
10

CATHAOIRLEACH: Cllr. Cullen, we'll try again there.  
Continue.

16:30

11  
12

CLLR. WINTERS: will you speak into the mic because you  
keep talking up to them.

13  
14

CLLR. TOMMY CULLEN: Chairman, there's been 80 days of  
a court hearing, which, in effect, was the form of an  
15 investigation. I support an investigation but I think  
16 a lot of this has been thrashed out in the Court and  
17 there is a judgment there. There's three judgments.

16:30

18  
19

We're here today to clean up or to rectify the  
situation now. I think there is a possibility of an  
20 appeal. It's probably a strong possibility of an

16:30

21  
22

appeal, to be truthful, from a lot of parties and I  
don't think that -- I think we should be

23  
24

extraordinarily careful that we all don't end up in  
court. Elected Members and everyone else. So I

25  
26

actually think that -- I would ask that the proposers  
would consider it and perhaps wait and see is there,

16:31

27  
28

until -- hold off on any proposal until after the  
appeal period. I don't know, when is the appeal period

29

up?

1           **MR. DOYLE:** Cathaoirleach, the Order hasn't been  
2           perfected by the Registrar to date so it hasn't been  
3           taken up yet. So I think it is 28 days after that.  
4           I'll keep the Members informed with regard to the  
5           progress. I also want to get the Members a copy of the 16:31  
6           costs judgment. That judgment hasn't been taken down  
7           yet. I believe it will be Tuesday or Wednesday of this  
8           week.

9           **CLLR. TOMMY CULLEN:** Chairman, I think myself that any  
10          proposal should be, await the outcome and see if any 16:31  
11          appeals going to be made, because otherwise because  
12          otherwise we would be in conflict with the Court.

13          **CATHAOIRLEACH:** Cllr. Fox?

14          **CLLR. FOX:** Chairman, I couldn't support an  
15          investigation by the Minister into the behaviour of the 16:31  
16          Council officials because I think Cllr. Behan put it  
17          best when he said that the Council officials acted in  
18          good faith at all times. The Judge stated that.  
19          Clearly stated that in the judgment. So certainly I  
20          would not support a motion investigating the behaviour 16:32  
21          of the officials. Thanks.

22          **CATHAOIRLEACH:** Okay. Thanks. Cllr. Thornhill, would  
23          you like to --

24          **CLLR. THORNHILL:** Go raibh maith agat, Cathaoirleach.  
25          Yes, I would like to withdraw that, but having said 16:32  
26          that, you know, like, we'll see how the appeal goes or  
27          whichever. But I do feel very strongly about it at the  
28          same time and I would just like to have that noted. Go  
29          raibh maith agat.

1           **CATHAOIRLEACH:** Cllr. Ruttle?  
2           **CLLR. RUTTLE:** Just to say, having said what I said  
3           earlier on, I could not support any investigation  
4           involving officials. I believe everyone acted in good  
5           faith and I would not be supporting anything like that. 16:32  
6           Thank you.  
7           **CATHAOIRLEACH:** The second proposal.  
8           **MS. GALLAGHER:** This is the second proposal put forward  
9           by Cllr. Thornhill: That the Elected Members be  
10          transported down to the Whitestown to view the site and 16:33  
11          to have present someone independent who could make a  
12          presentation about what the Council has done and not  
13          done. Proposed by Cllr. Thornhill. Seconded?  
14          **CLLR. TOMMY CULLEN:** Chairman, the evidence that we  
15          heard in court was that there was asbestos, there was 16:33  
16          dust blowing around the site.  
17          **CLLR. RUTTLE:** We shouldn't go there?  
18          **CLLR. TOMMY CULLEN:** No. That's the evidence -- the  
19          technical evidence given in the court was that asbestos  
20          dust -- 16:33  
21          **CLLR. RUTTLE:** Now he tells us! We could have been  
22          wandering over there for --  
23          **CLLR. TOMMY CULLEN:** If anyone is going there I think  
24          there would be health and safety issues but they would  
25          need to wear protective clothing. That's all. Philip 16:33  
26          Duffy is here and he heard the evidence the same as I  
27          did, that asbestos dust is present on the site, on the  
28          top of the site. And the evidence was, the technical  
29          evidence that was -- so there is a health and safety

1 issue about --

2 **CATHAOIRLEACH:** The only thing, Cllr. Cullen, as you  
3 know, if people go there all you'll see is a green  
4 field. You won't actually see anything.

5 **CLLR. TOMMY CULLEN:** Yeah. I just think it is a health 16:34  
6 and safety issue. If people wanted to go. I've no  
7 problem. I wouldn't go. But if I was going I'd  
8 bewareing a protective suit.

9 **CLLR. VANCE:** Chairman, I think if somebody wants to go  
10 to it they should make arrangements with the officials 16:34  
11 for an appointment there, if they so wish.

12 **CATHAOIRLEACH:** Okay. Is that agreed?

13 **MORE THAN ONE VOICE FROM THE FLOOR:** Agreed.

14 **CATHAOIRLEACH:** The third one.

15 **MS. GALLAGHER:** The third one then proposed by 16:34  
16 Cllr. Thornhill: That this Council set up a sub-group  
17 to further ask questions made up of representatives of  
18 various parties to further investigate this matter.

19 **CATHAOIRLEACH:** I think that's similar to  
20 Cllr. Cullen's proposal earlier and it's probably 16:35  
21 covered off by Cllr. Cullen's proposal

22 **CLLR. THORNHILL:** Cathaoirleach, on that I would  
23 withdraw it.

24 **CATHAOIRLEACH:** Thanks, Councillor.

25 **CLLR. THORNHILL:** Go raibh maith agat. 16:35

26 **CATHAOIRLEACH:** Is that it? That concludes the  
27 business of the meeting. Thank you very much, Members.

28 **MS. GALLAGHER:** Just before you all go, I just want to  
29 say that we have received a request from the SIPTU Big



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Start Campaign for them to attend our meeting in  
September. It has been considered by Protocol so with  
the indulgence of the Elected Members we will put that  
on the agenda.

**CLLR. BEHAN:** I propose we invite them, Cathaoirleach, 16:35  
yeah.

**CATHAOIRLEACH:** Agreed. Thank you, Members.

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