

MINUTES OF SPECIAL MEETING OF GREYSTONES MUNICIPAL DISTRICT HELD IN THE CIVIC OFFICES, GREYSTONES ON MONDAY 28TH SEPTEMBER 2015 AT 9.30 A.M.

Present: Councillor G. McLoughlin, Cathaoirleach
Councillors T. Fortune, N. Lawless, D. Mitchell, G. Walsh & J. Whitmore

Also Present: Mr. M. Nicholson, Greystones Municipal District Manager
Mr. S. Quirke, Director of Special Projects, Wicklow County Council
Ms. K. Coughlan, Greystones Municipal District

Apologies : Myra Porter. Municipal District Administrator

The Special Meeting had been called to discuss the disposal of 5.7 hectares (14.085 acres) or thereabouts of land in the townland of Rathdown Lower, Greystones, Co. Wicklow to Greystones Harbour Property Designated Activity Company, C/o Wicklow County Council, County Buildings, Wicklow.

The Cathaoirleach informed the members that discussion would be restricted to this matter and she invited Mr. S. Quirke to speak about his report dated the 17th September 2015 which had been circulated to the members in advance of the meeting.

Mr. S. Quirke outlined the background to the whole harbour development which commenced in 2001 with extensive consultation with all interested parties. He pointed out that an Action Area Plan for the harbour area was adopted by the Council on 3rd November 2003 and included three zones : 1) a development area for up to 375 residential units, 6,500 sq. m of mixed use commercial units and where the harbour, marina and clubhouses could be located; 2) a public park area to include car parking, coastal protection works, the capping of the old landfill and the cliff walk (the size of the public park was not prescribed) and 3) a heritage park – land to be preserved for future development. He pointed out that the Action Area Plan included a map showing indicative zone boundaries.

Mr. Quirke stated that the establishment of an SPV company was put forward for consideration to allay concerns raised by bidders and financiers at procurement stage in relation to the transfer of the land to end users. He stated that this was agreed by members of Wicklow County Council at their meeting held on 13th December 2004 and following on from that, the members nominated Councillors G. Jones and K. Kelleher to act as directors of the SPV Company at their meeting held on 10th January 2005, with Councillor T. Fortune approved as substitute director. He stated that this agreed disposal mechanism was included in the contract for the development signed on 19th December 2007.

Mr. Quirke pointed out that the land proposed to be transferred to the SPV Company is the area where approved development is located and does not include the area for the public park, public square, clubhouses, etc. He stated that this area was approved by An Bord Pleanála, and in the 2003 Local Area Plan and all Local Area Plans since then. He pointed out that the delay in setting up the SPV Company had now stalled the process of SISK bringing a new partner on board and the handing over of the clubhouses.

In reply to a query from Councillor J. Whitmore, Mr. S. Quirke stated that his report dated the 17th September 2015 was issued in response to her email request for further information and he pointed out that the objectives of the Area Action Plan were what was included in the contract for the harbour, subject to planning permission, and that no size for the public park was specified in the contract.

Councillor T. Fortune raised the issues of the market change clause and the parent company guarantee included in the contract. He was of the opinion that there was no need for a Special Vehicle Company to be set up and he suggested that it would not be open to public scrutiny.

The Cathaoirleach informed the members that Standing Order only allowed discussion on the disposal of the land to the Special Vehicle Company.

Councillor T. Fortune challenged the way the Cathaoirleach did not allow him ask questions about the development and he questioned why one Council member was privy to a copy of the Articles of Association and others were not.

Mr. S. Quirke pointed out that the Special Vehicle Company was only to be set up to facilitate the transfer of the land to the end users and was central to the PPP process as it was part of the County Councils obligation to the partnership. He stated that the company would be wholly owned by Wicklow County council and open to scrutiny.

Councillor D. Mitchell stated that the Special Vehicle Company was included to facilitate the process of transferring ownership of the development land to the end users because the developer was required to complete the harbour and marina works prior to the housing development. He stated that this was a major protection for the public and he suggested that the Council would face a lengthy legal battle if it did not proceed, and be left with a half finished building site.

Councillor G. Walsh agreed that the Special Vehicle Company was only to be set up to facilitate the transfer of land to end users and he stated that the Council must comply with its part in the PPP.

In reply to a further query from Councillor J. Whitmore, Mr. S. Quirke stated that the Special Vehicle Company would not be transferring any land to SISK. He pointed out that the original planning application could not be revisited now as the whole scheme was approved by An Bord Pleanala and he stated that the public would benefit from having the harbour development completed. He pointed out that any minor changes to the approved planning permission would be considered under the Part 8 process but that any major changes would have to be approved by An Bord Pleanala.

Mr. Quirke stated that Section 183 of the Local Government Act required the Council members agreement to the transfer of the land and he pointed out that this was only being done now because the land was only being developed now. He pointed out that the setting up of the Special Vehicle Company was included because the Developer and funders needed clarity on the transfer that would not be subject to politics.

Councillors T. Fortune and J. Whitmore requested copies of the harbour development contract and the Articles of Association and Councillor Fortune was critical of the lack of communication about the development. He requested that more detailed reports be provided to the members at their monthly meetings.

Councillor Whitmore was critical of the fact that the Council members were being asked to vote on the transfer of land to the Special Vehicle Company even though they were legally already obliged to do so.

Councillor N. Lawless agreed and stated that the members' power had been taken from them in this matter, although she understood the legality of it and she wanted to see the harbour development completed.

Mr. S. Quirke advised the members that the Council's legal advice was that if the land was not transferred to the Special Vehicle Company, the Council would be open to prosecution by the developers and would likely have to compensate them for the work done to date.

Following further discussion Mr. S. Quirke agreed to circulate the members with a copy of the legal advice received and a copy of the Articles of Association. He further agreed to show the relevant land transfer section of the contract to any member who wished to view same in County Buildings. He stated that the Greystones MD members would be notified of any changes sought to the planning approval.

The Cathaoirleach then asked the members to vote on requesting Wicklow County Council to proceed with the disposal of 5.7 hectares (14.085 acres) or thereabouts of land in the townland of Rathdown Lower, Greystones, Co. Wicklow to Greystones Harbour Property Designated Activity Company, C/o Wicklow County Council, County Buildings, Wicklow.

Councillors G. McLoughlin, D. Mitchell and G. Walsh voted in favour. Councillors T. Fortune, N. Lawless and J. Whitmore voted against. The Cathaoirleach, Councillor G. McLoughlin, used her casting vote to carry the vote in favour.

THIS CONCLUDED THE BUSINESS OF THE MEETING.

SIGNED: _____
CATHAOIRLEACH

CERTIFIED: _____
DISTRICT ADMINISTRATOR

DATED THIS _____ DAY OF _____ 2015.