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**THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY,**  
**1ST DECEMBER, 2006, AT 10.30 A.M.:**

CHAIRMAN: Good morning Mr. O'Neill.

MR. O'NEILL: Today's hearing is convened to take the evidence of Mr. Frank Dunlop.

Mr. Dunlop, will you come to the witness box, please.

10:37:58 1

2

3

**MR. DUNLOP, HAVING BEEN SWORN, WAS QUESTIONED**

4

**BY MR. O'NEILL AS FOLLOWS:**

10:37:59 5

6

7

CHAIRMAN: Good morning, Mr. Dunlop

8

A. Good morning.

9

10:38:26 10

JUDGE FAHERTY: Good morning

11

A. Good morning, Chairman, good morning.

12

13

MR. O'NEILL: My name is Desmond O'Neill. I'm Counsel for the Tribunal and

14

I'll be asking you questions in the course of the day.

10:38:37 15

16

If we could perhaps review the circumstances which have led to your being here  
this morning.

17

18

19

I think that after you'd given initial evidence to the Tribunal, matters were

10:38:46 20

21

adjourned for some time following which interviews took place between yourself  
and certain members of the Tribunal's legal team in the year 2000, in May in  
particular, isn't that right?

22

23

A. That's correct, yes.

24

Q. 1 And in the course of those interviews, I think you indicated to the members of

10:39:02 25

26

the Tribunal's legal team, who were in attendance at those interviews, that you

27

had been involved in the payment of monies to councillors in respect of a

28

number of projects which took place in the course of the review of the 199 --

well the 1983 plan between 1987 and 1993, isn't that so?

29

A. Yes, correct.

10:39:25 30

Q. 2 One of those projects related to lands in Baldoyle in a project which was known

- 10:39:33 1 as the East View project. And that has resulted in this particular Module of  
2 the Tribunal being commenced, which is the Pennine Holdings, Baldoyle Module,  
3 isn't that right?
- 4 A. That's correct, Sir, yes.
- 10:39:48 5 Q. 3 That process started, I think, Mr. Dunlop, with you giving relatively brief  
6 details of your involvement in this matter which led to the Tribunal conducting  
7 its preliminary investigations in private, as part of its information gathering  
8 stage. And in the course of that certain correspondence passed between  
9 yourself, rather your solicitors and the Tribunal's solicitors, culminating in  
10:40:16 10 the circulation of a brief of documents which you've had now for some time,  
11 isn't that so?
- 12 A. Well, yes.
- 13 Q. 4 And certainly you had it in advance of the preparation of your most recent  
14 statement, which the Tribunal received on the 26th of November of this year,  
10:40:33 15 isn't that so?
- 16 A. I'm not sure if I had all of the documents, Mr. O'Neill. I think there has  
17 been an ongoing circulation of documents.
- 18 Q. 5 There always is I think?
- 19 A. But the core of what you're saying is correct.
- 10:40:43 20 Q. 6 Yes. And I think you'd appreciate having given evidence before the Tribunal  
21 now on a number of occasions, that the credibility of every witness is a matter  
22 of vital concern in the assessment ultimately of the evidential value of what  
23 is given in evidence by a witness, isn't that right?
- 24 A. Correct.
- 10:41:01 25 Q. 7 And you appreciate that that is the position, particularly in your own  
26 circumstances, where you had given evidence which subsequently you were obliged  
27 to retract effectively, isn't that right?
- 28 A. Correct.
- 29 Q. 8 Yes. I want to start by reading into the record a copy of the latest statement  
10:41:20 30 which you've given to the Tribunal.

10:41:22 1  
2 And then we can go ahead and deal with sections of it and in particular aspects  
3 of this Module. Okay  
4 A. Sorry, I thought you wanted me to read it.  
10:41:32 5 Q. 9 It will be on screen in front of you, and you can follow it, Mr. Dunlop?  
6 A. I have a copy.  
7 Q. 10 And I am commencing at page 2834 of the Module.  
8  
9 It's the narrative statement of Frank Dunlop. Lands at Baldoyle East View.  
10:41:52 10  
11 On an unspecified date either in late 1990 or early 1991, probably the former,  
12 the Late Mr. Liam Lawlor proposed that Davy Hickey and I become involved with  
13 lands at Baldoyle formerly the Baldoyle Race Course then in the ownership of  
14 Endcamp limited with a view to their being rezoned for either residential or  
10:42:15 15 commercial use or both during the course of the Dublin County Development Plan.  
16  
17 I believe that Mr. Lawlor made this proposal following successful material  
18 contravention of the then County Plan regarding lands at Newlands, Saggart by  
19 Davy Hickey Properties Limited DHPL for which I was an advisor. I believe that  
10:42:35 20 Brendan Hickey about this time also proposed that I become involved in the  
21 proposed rezoning.  
22  
23 At a meeting held in Davy Stockbrokers offices in Dawson Street, Dublin,  
24 Mr. Lawlor outlined the potential for these lands which were given the working  
10:42:49 25 title East View. This was done to avoid the negative perception in existence  
26 regarding these lands arising from previous unsuccessful planning applications  
27 by Endcamp. To my recollection, Mr. David Shubotham, Mr. Brendan Hickey and I,  
28 were present with Mr. Lawlor at this meeting. A combination of this personnel  
29 attended a number of meetings subsequently with regard to the proposals for  
10:43:14 30 these lands.

10:43:15 1  
2 I do not believe that other than a general expression of interest by DHPL, that  
3 any commitments were given at this first meeting. At a later date DHPL agreed  
4 to become involved but on the condition that they would do so after the lands  
10:43:29 5 had been successfully rezoned. They were not prepared to become involved in  
6 the process of lobbying either of officials or elected representatives on the  
7 Council necessary to effect the successful outcome. They were prepared to  
8 carry out feasibility studies regarding the potential for the lands, to pay for  
9 an option on the lands from Endcamp, were it willing to grant such an option,  
10:43:52 10 and to defray costs relating to professional fees, publicity material and any  
11 other miscellaneous costs arising.

12  
13 It was agreed that a company be formed which would enter into any option  
14 agreement and which would be the vehicle for all necessary transactions  
10:44:06 15 relating to the lands following the purchase of the said option.

16  
17 I cannot accurately recall the sourcing of the company Pennine Holdings  
18 Limited. I believe it was a shelf company provided either by Eugene F Collins  
19 solicitors, or another unnamed party. I recall only one meeting in relation to  
10:44:24 20 the provision of signatures on the required Companies Office documentation and  
21 I believe that this meeting took place at the offices of Eugene F Collins  
22 solicitors, Fitzwilliam Square, Dublin. A work colleague, at my request, and I  
23 became directors of the company and Pennine Holdings Limited became the  
24 identified vehicle for all actions and publicity regarding the Baldoyle East  
10:44:46 25 View lands. I do not know precisely of the beneficial ownership Pennine  
26 Holdings in the period from its incorporation in early 1991 to December 1993.

27  
28 I do not recall whether Mr. Lawlor approached Mr. John Byrne of Endcamp  
29 regarding an option or whether he introduced Mr. Brendan Hickey to Mr. Byrne.  
10:45:07 30 In either event Mr. Brendan Hickey solely conducted and concluded negotiations

10:45:12 1 with Mr. John Byrne and paid the requisite consideration. I was not aware at  
2 the time of any of the financial arrangements associated with the option and  
3 only became aware of these arrangements subsequent to DHPL's withdrawal of  
4 interest after the proposed rezoning failed at Dublin County Council.

10:45:31 5 Notwithstanding this, Pennine Holdings Limited held the option. I do not  
6 recall attending any meetings regarding the option, signing any documentation  
7 in its regard and/or paying any monies for the said option.

8  
9 I do not believe that any formal arrangement was entered into by any of the  
10:45:51 10 parties, namely, DHPL, Mr. Lawlor or myself, as to how the individual parties  
11 were to benefit in the event of the lands being rezoned. There was no  
12 arrangement agreed between Mr. Lawlor and me. Nor was there any arrangement  
13 concluded between DHPL and me. The only arrangement between DHPL and me was  
14 verbal and related to the discharge of expenses incurred by me in my endeavours  
10:46:18 15 to effect the rezoning. I am not aware now, and I was not aware at the time of  
16 the rezoning proposal, of any arrangements as to the interests held or to be  
17 held by the parties if the lands were successfully rezoned. Ultimately, when  
18 the rezoning bid was unsuccessful, the option was sold on to Ballymore Homes in  
19 1994 at which time I received payment in respect thereof.

10:46:42 20  
21 I know of no involvement by Mr. Shubotham either in the acquisition of the  
22 option or in any interface with officials and/or councillors regarding the  
23 rezoning. Neither do I know of any involvement of Mr. Hickey in any interface  
24 with officials and/or councillors regarding the proposed rezoning. This makes  
10:47:03 25 all the more sense to me, as when lobbying councillors I always stated that I  
26 was doing this for my own benefit and there were -- and that there were no  
27 backers involved.

28  
29 I do recall briefing both Messrs. Shubotham and Hickey on a number of occasions  
10:47:21 30 regarding progress or otherwise relating to the lobbying of councillors and the

10:47:24 1 likelihood or otherwise of success. These briefings were usually generated by  
2 me rather than via any request for such information from either of the named  
3 individuals. I do not believe that Mr. John Byrne played any active or direct  
4 part in the attempted rezoning. I do recall at least one meeting with  
10:47:43 5 Mr. Byrne at his home in Ballsbridge with regard to the matter. This was by  
6 way of a general discussion as to the likelihood of named councillors voting  
7 for the proposal. I recall one meeting with Mr. Byrne at the offices of his  
8 solicitors, Anthony Gore Grimes, in Parnell square, Dublin. I believe this  
9 meeting related to technical matters vis-a-vis the Mayne Road and the railway  
10:48:07 10 line. I know of no interaction between Messrs. Shubotham, Hickey and/or Lawlor  
11 and Mr. Byrne or his advisors.

12  
13 I do know, however, from comments from Mr. Lawlor, that Mr. Byrne and he knew  
14 one another and had met from time to time. I do recall one meeting in my  
10:48:26 15 office with Mr. Byrne and Mr. Lawlor, subsequent to the failure of the rezoning  
16 at which, on the instigation of Mr. Lawlor, Mr. Byrne agreed to enter into a  
17 new arrangement to attempt to have the matter of rezoning resurrected. I  
18 cannot recall if anything came of this. But I had no involvement with any  
19 subsequent attempted rezoning of these lands.

10:48:48 20  
21 Mr Lawlor attended a number of meetings, at which I was present, regarding  
22 these lands, at Davy Stockbrokers' offices in Dawson Street, Dublin. I cannot  
23 account for any advice that Mr. Lawlor may have given to DHPL, or to Mr. Byrne  
24 in respect of the lands.

10:49:05 25  
26 Mr. Lawlor was in contact with me regarding the attempted rezoning of the  
27 Baldoyle East View lands on a regular, if not, a daily basis. I advised on the  
28 engagement of Fenton Simmons, Town Planners, McCarthy and Partners regarding  
29 technical and engineering matters. He attended meetings with me with  
10:49:27 30 representatives of McCarthy and partners. He drafted material for inclusion in

10:49:31 1 submissions to the Council for distribution to councillors and residents  
2 associations and assisted in the drafting of requisite motions and related  
3 procedural matters.  
4

10:49:43 5 There was no remuneration agreement between Mr. Lawlor and myself regarding any  
6 assistance and/or advice provided by him on matters relating to the rezoning  
7 attempts of the Baldoyle East View lands.  
8

9 I was involved in the preparation and drafting of the motion which was  
10:49:59 10 submitted to the Council in the names of councillors Creaven and Cosgrave (MJ)  
11 which appeared on the agenda of the Council on the 20th of April 1993. I, with  
12 the input of Liam Lawlor, prepared the motions and obtained the signatures.  
13

14 An issue arose relating to the precise boundary of a portion of the land. This  
10:50:22 15 matter was raised by officials. An amendment was submitted following  
16 consultation with me but difficulties arose from the fact that the map in  
17 question was amended by hand. The motion was deferred for consideration at the  
18 next meeting of the on the 27th of April 1993 when, on my advice, Councillor  
19 Cosgrave recommended that the motion be deferred to a later date. This arose  
10:50:47 20 again because of ongoing technical difficulties. A procedural issue then  
21 arose, which, if agreement was reached as to the deferral of the

22 Creaven/Cosgrave motion, another motion, in the name of David Healy of the  
23 Green Party, would have to be taken absent any agreement by him of a deferral  
24 of his motion. It was agreed by a vote to defer the Cosgrave Creaven motion to  
10:51:12 25 a date not later than the 15th of May 1993. I was involved at each stage in  
26 advising on the procedural strategy. However, in the turmoil involved I could  
27 not advise Councillor Cosgrave as to the logical outcome of the vote to have  
28 his and Councillor Creaven's motion deferred in the absence of any agreement by  
29 Councillor Healy to have his motion deferred also. Councillor O'Halloran, on  
10:51:39 30 his own initiative, proposed their decisions relating to the Baldoyle



10:51:52 1 Portmarnock area be deferred until after a site visit had taken place.  
2  
3 I had a brief discussion with Councillor O'Halloran on the margins of the  
4 Council meeting during which he pointed out the folly of allowing matters to  
10:52:00 5 proceed without his motion. Otherwise the likelihood was that Davy Healy's  
6 motion might succeed. I had subsequent discussions with Councillor O'Halloran  
7 relating to motions on the 4th and 6th of May 1993, which were either prepared  
8 by me or on advice provided by me. Mr. Lawlor was involved with me in  
9 connection with such drafting and/or advice. Similarly, I discussed  
10:52:23 10 correspondence between Mr. O'Halloran and the Council regarding the procedural  
11 issues which arose as a result of his motion for a site visit. I cannot  
12 definitively state that I drafted or provided advices to the contents of any  
13 such correspondence. I have a residual recollection of Mr. O'Halloran  
14 informing me that he had received "friendly" legal advice on the matter.  
10:52:47 15  
16 I am not aware of any payments and/or loans or otherwise made to Mr. Lawlor in  
17 connection with these lands.  
18  
19 As to invoices raised and payments actually received by Frank Dunlop, Frank  
10:53:00 20 Dunlop & Associates and/or Shefran Limited with and from DHPL or any associated  
21 company, Mr. Brendan Hickey or Mr. David Shubotham, personally in the period  
22 1990 to December 1993, the following is relevant: -  
23  
24 A. 20,000 pounds June 1991. This was invoiced by and paid to Shefran Limited.  
10:53:25 25 The monies related to the City West lands. The cheque was either cashed or  
26 lodged and withdrawn and formed part of the confluence of funds available for  
27 distribution to councillors.  
28  
29 B, 10,000 pounds January 1992. This payment related to the Baldoyle East View  
10:53:46 30 lands. It was invoiced by and paid to Shefran Limited. This cheque was either

10:53:51 1 lodged to the Shefran account, lodged and withdrawn or cashed and formed part  
2 of the confluence of funds referred to heretofore. This payment was sought to  
3 defray unspecified expenses incurred in the rezoning project. Whilst some of  
4 these funds may have been paid to councillors, DHPL were not so advised.

10:54:14 5  
6 C, 15,030 pounds May 1992. This payment related to Baldoyle East View. It was  
7 invoiced by and paid to Shefran Limited.  
8  
9 D, 10,000 pounds November 1992. This payment related to the City West lands.  
10:54:32 10 This was invoiced by and paid to Shefran Limited by cheque. This money was  
11 either lodged, lodged and withdrawn or cashed and formed part of the confluence  
12 of funds referred to heretofore. Some of this money may have been used  
13 personally.  
14

10:54:48 15 E, 2,500 pounds August 1992. This was invoiced by Shefran Limited and paid by  
16 Newlands Industrial Park Limited subsequent to the re issue of the invoice at  
17 the request of Mr. Brendan Hickey and related to the City West lands.  
18

19 F, 20,000 pounds 1993. At some time in 1993 I was paid 20,000 pounds by David  
10:55:14 20 Shubotham personally. This payment related to the City West lands.  
21

22 G, 3,160.74 pounds, August 1993. This was an FDAL invoice relating to the  
23 opening of the new bridge across the Naas Road. This may have been paid  
24 without VAT being included. See attached a copy of this invoice which has  
10:55:38 25 previously been discovered to the Tribunal.  
26

27 H, 1,200 pounds, January 1994. This is an FDAL invoice. This was raised in  
28 respect of the lands at City West.  
29

10:55:51 30 I, I believe I was paid a token fee by City West regarding the material

10:55:57 1           contravention in 1990. This token fee related to the City West lands.  
2  
3           J, 5,787.51, 29th of April 1993. The records of FDAL contain a "pink" invoice  
4           in the sum of 5,787.51 addressed to DHPL. This invoice is not marked paid and  
10:56:24 5           is not referred to in the cheque/cash receipts book of FDAL. I have no  
6           recollection of whether this invoice was actually paid by DHPL to FDAL. See  
7           attached a copy of this invoice which has previously been discovered to the  
8           Tribunal.  
9  
10:56:53 10          K, 150 pounds 10th of March 1994. This payment related to a Fianna Fail  
11          fundraiser.  
12  
13          L, 598 pounds 27th of March 1992. This payment is referred to at pages 1227  
14          and 1788 of the Tribunal brief. I have no recollection of this payment and I  
10:57:04 15          have no "pink" in relation to it.  
16  
17          M, 862 pounds 13th of September 1991. This payment related to City West and  
18          was paid to FDAL in and around the 3rd of October 1991. The records of FDAL  
19          contain a "pink" invoice in the sum of 861.65, marked paid and addressed to  
10:57:30 20          DHPL. See attached copy of this invoice which has previously been discovered  
21          to the Tribunal.  
22  
23          N, 178 pounds January 1992. This payment is referred to at pages 1227 and 1788  
24          of the Tribunal brief. I have no recollection of this payment and I have no  
10:57:48 25          "pink" in relation to it.  
26  
27          O, 386 pounds 24th of May 1995. This payment related to the City West lands.  
28          The records of FDAL contain a "pink" invoice in the sum of 438.49 addressed to  
29          DHPL. See attached copy of this invoice which has previously been discovered  
10:58:11 30          to the Tribunal. This may have been paid without VAT being included.

10:58:15 1  
2 P, 333.55. 27th of August 1992. I was paid 333.55 by David Shubotham  
3 personally. This payment related to the City West lands.  
4

10:58:31 5 Q, 177.75. 10th of March 1992. Invoice No. 626 was raised on the 10th of  
6 March 1992 and paid on the 27th of March 1992. See attached a copy of this  
7 invoice which has previously been discovered by me to the Tribunal.  
8

10:58:59 9 R, 625 pounds 17th of February 1992. This invoice No. 607 in the sum of 1,  
10 917.10 was raised on the 12th of February 1992. It was part paid in the sum of  
11 625 pounds on the 20th of August 1993. See attached copy of this invoice which  
12 has previously been discovered by me to the Tribunal.  
13

14 I paid 1,000 pounds to the following councillors in relation to these lands:  
10:59:21 15  
16 Jack Larkin, Cyril Gallagher, Tom Hand, Tony Fox, Liam Cosgrave, Don Lydon.  
17

18 The payments were made in cash in each case. The payments were either  
19 immediately before any vote took place relating to the Baldoyle East View lands  
10:59:39 20 or during the course of their consideration by the Council. The payments were  
21 by and large made in the environs of Dublin County Council.  
22

23 John O'Halloran was paid a composite sum by me of 5,000 pounds for his support  
24 during the preparation of the Development Plan, partly in return for his  
10:59:58 25 support of the Baldoyle rezoning.  
26

27 I think you subsequently signed that statement, Mr. Dunlop, is that right?  
28 A. Yes, that's correct, Mr. O'Neill.

29 Q. 11 And you adopted it as being accurate in all respects to the best of your  
11:00:12 30 knowledge?

- 11:00:12 1 A. To the best of my knowledge, yes.
- 2 Q. 12 If we might start on what is, I suppose, the core allegation which is contained  
3 within this statement. And that is that you paid monies to in effect seven  
4 councillors, six of them by a payment in an identical sum of 1,000 pounds  
11:00:34 5 each. And the other being a composite payment of 5,000 pounds.  
6  
7 And I think you identify the source from which these funds came to be a 10,000  
8 pound payment which was made by Davy Hickey Properties Limited to you, isn't  
9 that so?
- 11:00:52 10 A. Well I sourced the funds in monies that I had available to me, part of which  
11 was 10,000 pounds that had been given to me by Davy Hickey Properties.  
12 Q. 13 Well does that mean that you relate the payment of these, to these councillors,  
13 from the monies which you received in the sum of 10,000 pounds from Davy Hickey  
14 Properties in January 1992?
- 11:01:18 15 A. 1992. In January 1992 I requested a payment from Davy Hickey Properties in  
16 relation to miscellaneous expenses.  
17 Q. 14 Yes?
- 18 A. And I was given 10,000 pounds, which formed part of, I cannot exactly tell you  
19 but which formed part of monies available to me. And out of which I paid  
11:01:39 20 councillors.  
21 Q. 15 Very good. Now, you will be aware I think from considering the documents which  
22 are in the brief sent to you, that each one of the councillors named by you as  
23 being the recipients either of these individual sums of 1,000 pounds or the  
24 composite sum of 5,000, denies the receipt of those sums of money from you,  
11:02:01 25 isn't that right?  
26 A. Correct.  
27 Q. 16 And insofar as you have been able to give any detail to the Tribunal in  
28 relation to these payments, it is that contained in the rather terse conclusion  
29 to your lengthy statement, namely, that the payments were made in cash in each  
11:02:20 30 case. They were made immediately before any vote took place in relation to the

11:02:26 1 Baldoyle East View lands or during the consideration of those motions and they  
2 were made in the environs of the County Council, isn't that so?

3 A. Correct.

4 Q. 17 I would like to deal with the documentation which surrounds those periods in an  
11:02:39 5 effort to see whether or not there is further information available from you in  
6 relation to the dates when it is likely that these sums may have been paid, if  
7 in fact they were. And I'm presuming and proceeding on the basis that the  
8 payments were made for the purpose of this examination.  
9

11:02:58 10 I say that because it's not necessarily an accepted fact

11 A. All right, yes.

12 Q. 18 That these payments were made, given the denials that have been received by  
13 each one of the councillors. But I don't want to preface every question by  
14 addressing it as an alleged payment. I'll just talk about the sums and the  
11:03:16 15 councillors involved?

16 A. That sounds eminently reasonable, yes.

17 Q. 19 So we know from the documentation provided from the Council that the first  
18 written document or motion which was to find itself before the Council in  
19 relation to Pennine was signed on the 12th of March of 1993?

11:03:43 20 A. Sorry, I beg your pardon, yes.

21 Q. 20 It's all right?

22 A. I'm taking it that you're ...

23 Q. 21 And so I will go to some period before that arbitrarily to the 1st of March  
24 allowing for a window of opportunity to be considered as to the contacts you  
11:04:02 25 had with councillors?

26 A. Yes.

27 Q. 22 From that date onward?

28 A. Uh-huh.

29 Q. 23 And we'll examine it in relation to what was ultimately to be the attempts to  
11:04:11 30 rezone the East View project.

11:04:13 1  
2 If we start, perhaps, at page 1867 on screen. You'll see a format of document  
3 which you're familiar with, being an extract from your telephone records, been  
4 referred to on many occasions to date, isn't that correct?

11:04:33 5 A. Correct, yes.

6 Q. 24 And where we see a date on the top of it, to the best of your knowledge, that  
7 is an accurate date of when these exchanges recorded in this document took  
8 place?

9 A. I've outlined the circumstances in which these documents were produced by my  
11:04:47 10 secretary in her capacity, taking and receiving messages, yes.

11 Q. 25 And they haven't in any way been altered since the time?

12 A. No.

13 Q. 26 They are contemporaneous documents recording what took place on each day shown  
14 on the heading page?

11:05:01 15 A. Correct.

16 Q. 27 We'll see from this document here that it is recording telephone messages left  
17 for your attention on Monday the 1st of March 1993. You'll see that at the  
18 hour of 3:05 there is a reference to Tom Hand. I take it that is Councillor  
19 Tom Hand who you are going to refer to later on, is that correct?

11:05:23 20 A. Correct, yes.

21 Q. 28 And we'll see that at five o'clock there is a reference to Liam on mobile.  
22 There are a number of Liams involved. Now, there is Mr. Liam Lawlor, Mr. Liam  
23 Cosgrave and there may be other Liams known to you. Can you say from  
24 recollection who this is likely to have been?

11:05:43 25 A. Yes. Well as you quite rightly say Mr. O'Neill, there are a number of Liams  
26 and you have mentioned two of them and there is another, Liam Creaven.

27 Q. 29 Yes?

28 A. But you will note as we go through, I'm not suggesting that you are going to go  
29 through but if you did go through you will find that in those instances either  
11:06:00 30 Liam Creaven or Liam Cosgrave, that there is another addition. Liam here

11:06:07 1 normally means Liam Lawlor.

2 Q. 30 Yes. And obviously, this is not a note being taken by you?

3 A. No, no.

4 Q. 31 Rather by your secretary. But she knew how to convey the identity of the

11:06:19 5 caller to you by writing in the appropriate reference. And Liam invariably

6 meant Liam Lawlor, isn't that so?

7 A. Yes.

8 Q. 32 Now, I take it that as with many of these particular contacts with you or I

9 should say failed contacts with you, because they are recording the fact that

11:06:36 10 the person didn't in fact get in touch with you. But they were trying to,

11 isn't that right?

12 A. At that particular time.

13 Q. 33 At this particular time?

14 A. Notwithstanding the fact that I may well have been present in the office but

11:06:53 15 otherwise engaged.

16 Q. 34 Yes. And in some instances, you might have followed up this note by ringing

17 somebody back when you were available to deal with the matter?

18 A. That's correct.

19 Q. 35 Yes. We'll see then on the following day, that's at page 1868. The 2nd of

11:07:05 20 March, the day starts 10:45 with Liam on mobile. And then at 11 we see Sean

21 DCC, which I take it means Dublin County Council, from 11:30 approximately.

22 And there is another reference to a Sean a little further down at that page at

23 2:30, Sean Gilbride at home. Are they one and the same?

24 A. Yes, they are.

11:07:31 25 Q. 36 Yes. And this was contact from Councillor Sean Gilbride to you, twice that

26 day. Obviously seeking to get in touch with you in relation to a particular

27 matter of joint interest?

28 A. Nice Freudian slip there, Mr. O'Neill.

29 Q. 37 There was. Is it possible you for you to identify what the subject matter was

11:07:51 30 of that contact by reference to this particular document or indeed perhaps by



- 11:07:58 1 reference to your diary which we will look at shortly?
- 2 A. Yes. Well I think without reprising everything in relation to other Modules.
- 3 What I have said is that at this particular time, there were a number of issues
- 4 that I was directly involved with, either on behalf of others or on my own
- 11:08:17 5 behalf, as in the case with Baldoyle. And that whatever the immediacy of an
- 6 issue was, happened to be. If it was a Council meeting that was taking place,
- 7 whatever issue that was on the Council agenda for that particular day, may well
- 8 have been the subject matter of the conversation or the genesis of the call.
- 9 Q. 38 Right. We'll see later then on the same day at 4:45 Tom Hand phoned you from
- 11:08:43 10 his home?
- 11 A. Sorry.
- 12 Q. 39 4:45 sorry, I beg your pardon, yes. Again, if we turn now to the document at
- 13 1869. This is your diary, I think we are familiar with your diary entries over
- 14 a period of time, isn't that right?
- 11:09:05 15 A. That's correct, yes.
- 16 Q. 40 And if we look to your diary entries for the 3rd of March. You'll also be
- 17 looking at the telephone records for the same date. But on that date the 3rd
- 18 of March, it starts at 8:30 with are a reference to TR. You have two TR's at
- 19 times through your diary. One Mr. Tom Roche I think, the other Councillor
- 11:09:25 20 Therese Ridge?
- 21 A. Yes.
- 22 Q. 41 Which?
- 23 A. Mr. Roche.
- 24 Q. 42 This was Mr. Roche?
- 11:09:30 25 A. Yeah.
- 26 Q. 43 Immediately beneath that then at 9:30 there is a reference to Brendan Hickey?
- 27 A. Yes.
- 28 Q. 44 Is that the same gentleman who was involved in Davy Hickey Properties Limited
- 29 who was referred to in your statement?
- 11:09:46 30 A. Correct.

11:09:46 1 Q. 45 And beneath that then you will see at one o'clock there is Sean G, DCC. And at  
2 2:30 LC MJC. Am I right in thinking that when you had dealings with  
3 Mr. Michael Joseph Cosgrave invariably Mr. Liam Creaven was associated with  
4 that meeting?

11:10:10 5 A. Yes.

6 Q. 46 Isn't that right?

7 A. Yes.

8 Q. 47 Albeit that they were of a different political persuasion, one being Fianna  
9 Fail and the other Fine Gael. They seem to have operated in their dealings  
10 with you as a team, is that so?

11 A. They were inseparable.

12 Q. 48 Inseparable, and these meetings which took place then -- well, sorry, I'm  
13 presuming that they're meetings. But you do make these entries in  
14 anticipation?

11:10:37 15 A. Yes.

16 Q. 49 That there will be a meeting at the time specified with the individuals  
17 concerned, is that right?

18 A. Correct, yes.

19 Q. 50 And unless there is a line through it, as there is immediately beneath this  
11:10:48 20 one, at three o'clock here, can we take it that it is almost certain that the  
21 meeting did in fact take place?

22 A. Yes, almost certain.

23 Q. 51 Yes. So that on the 3rd of March in the context of East View, you had had  
24 meetings both with the individuals who had acquired the option over the land in  
11:11:12 25 1991, Mr. Hickey. And also with the councillors who were to be involved in a  
26 vote on the issue of rezoning of those lands, somewhat later, probably a little  
27 over a month later, isn't that so?

28 A. Well, I presume that you are using the word in the context of the East View  
29 lands widely.

11:11:31 30 Q. 52 Yes?

- 11:11:31 1 A. It may well be with the exception, possible exception of Mr. Hickey and I  
2 don't. I'm not using this in any way to take away from the point that you have  
3 made. I could well have been talking to Brendan Hickey about an issue in  
4 relation to City West. But in the context that you have placed it and in the  
11:11:55 5 date that you've alluded to, I would say the likelihood is yes.
- 6 Q. 53 Right. If we turn to a moment, for a moment to page 1870, which is the  
7 telephone record for the same date. We'll see a number of telephone  
8 communications which took place that date, on that day rather. At 1:55 Tom  
9 Hand in the Council wants to see you?
- 11:12:15 10 A. Uh-huh.
- 11 Q. 54 That was probably at a time when you were at the meeting with councillors  
12 Cosgrave and Creaven, which we saw in your diary for 1:30 on that day. And  
13 then at 2:30 John O'Halloran at home if FD wants to call him. Didn't call on  
14 Monday evening. Not sure whether there's an implicit criticism in that of you.  
11:12:42 15 But apparently it suggests that you were to have met Councillor O'Halloran on  
16 the Monday evening, this is Wednesday the 3rd of March. So it would have been  
17 Monday the 1st of March, isn't that right?
- 18 A. Or call him. It depends on your interpretation of the word "call" there Mr  
19 O'Neill but yes I think there is an implicit criticism. There must have been  
11:13:01 20 some arrangement for me to call him and I didn't.
- 21 Q. 55 Right. And Councillor O'Halloran is another one of the councillors in respect  
22 of whom you say you made this composite payment, isn't that right?
- 23 A. Yes.
- 24 Q. 56 If we go then back to page 1869. We'll see that on the Friday of that week  
11:13:21 25 there are references on Friday at 2:15 S Gill, you see that?
- 26 A. Yeah.
- 27 Q. 57 LC, MJC. That is Councillor Sean Gilbride, Liam Creaven and Michael Joe  
28 Cosgrave, isn't that correct?
- 29 A. That's correct.
- 11:13:40 30 Q. 58 And they are three of the councillors who were to find themselves signing the

- 11:13:45 1 first motion in respect of East View which was signed on the 12th of that  
2 month, isn't that correct?
- 3 A. That's correct, yes.
- 4 Q. 59 Can you relate that or do you think it's likely to have been a matter concerned  
11:13:58 5 with the East View project. And particularly by reference to the fact that  
6 there had been an earlier meeting two days prior to that with at least two of  
7 those individuals and a conversation with a third?
- 8 A. Yes. I think that is correct, Mr. O'Neill. And for the avoidance of doubt,  
9 unless I say to the contrary, that these meetings, while they are taking place  
11:14:24 10 may not have been in relation to any specific item of land or motion. They  
11 could have been composite discussions in relation to items that were on the  
12 agenda that I was involved in. Not any old items, any items that I was  
13 involved in.
- 14 Q. 60 Yes, obviously you wouldn't turn up at other people's meetings dealing with  
11:14:44 15 other matters?
- 16 A. No. The point I'm making, Mr. O'Neill. Even though these meetings take place  
17 and it's more than likely that East View was discussed. Other motions in  
18 relation to other lands that I had an involvement in were discussed also.
- 19 Q. 61 Yes. We take it from that, that you would have used the opportunity presented  
11:15:04 20 by meetings with councillors to deal with any outstanding matters or any  
21 matters that might be current in relation to any one of the projects you were  
22 promoting at that particular time?
- 23 A. Particularly if there was a meeting on that day or within days of that meeting.
- 24 Q. 62 Yes.
- 11:15:19 25 A. Council meeting I mean.
- 26 Q. 63 Yes. We'll see at page 1872 on Thursday, I think it was the day before the  
27 meetings that you had on the Friday. 11:30 Tom won't meet you tomorrow at ten  
28 o'clock. Planning meeting at 2:30 in the afternoon?
- 29 A. Uh-huh.
- 11:15:44 30 Q. 64 Do you think that Mr. Hand was intended to be an attendee at the meeting on

- 11:15:49 1 Friday but was cancelling at this point on Thursday?
- 2 A. It is a possibility, yes.
- 3 Q. 65 Yes. At home if you will call him. Then further down you'll see at 3:20 that
- 4 day, Thursday, Tom Hand meeting him at around one o'clock but FD to call him.
- 11:16:07 5 Suggests you were going to have a meeting with him on Thursday?
- 6 A. Yes.
- 7 Q. 66 But you were to call him in advance. And immediately after that, John
- 8 O'Halloran might see you tomorrow in the Council. Has something to discuss and
- 9 give to you, otherwise call him?
- 11:16:20 10 A. Uh-huh.
- 11 Q. 67 On the same day later we'll see at 1873, got Tom Hand one o'clock in the
- 12 Gresham tomorrow. Obviously you rejigged your meeting for the Friday?
- 13 A. Yes.
- 14 Q. 68 Left message for John O'Halloran at home. FD will see him in the Council
- 11:16:42 15 tomorrow afternoon.
- 16
- 17 On Friday, that's at page 1874. You had contact by phone or rather Sean
- 18 Gilbride had attempted contact with you. At 12.30. And Liam Lawlor phoned you
- 19 at 3:45 and 4:40 on the same day.
- 11:17:05 20
- 21 Mr. Lawlor, I take it, from what you've told us, was involved on a daily basis
- 22 or almost daily basis in relation to the East View project with you, is that
- 23 right?
- 24 A. Yes, Mr. O'Neill. And again, for the avoidance of any doubt. Mr. Lawlor's
- 11:17:24 25 modus operandi was either to call, as he has done hereby telephone, or to
- 26 arrive unannounced, at my office or to arrive by arrangement at my office.
- 27 Q. 69 Yes?
- 28 A. Or for he and I to meet by prearrangement at some other venue.
- 29 Q. 70 Yes. And I take it that if you were going to hold an East View meeting with a
- 11:17:42 30 number of councillors who were intending to be the signatories to a motion

11:17:47 1 proposed before the Council, Mr. Lawlor would be aware of that fact. I know  
2 you tell us that he drafted some of the documents. But just to put in context  
3 perhaps his contacts with you that follow upon meetings with councillors. Are  
4 they likely to have been on the question as to how you had got on with these  
11:18:04 5 particular councillors, who was prepared to support the motion?

6 A. Yes, I would not resile from that. I would say that, yes, it wasn't a question  
7 of reporting to Liam Lawlor of what had occurred. But because he was involved  
8 at the level that he was involved, there is no doubt in my mind that there was  
9 frequent conversations about the likelihood of support by named councillors in  
11:18:28 10 relation to East View.

11 Q. 71 Right. I see then that although Mr. Gilbride had been a member of the body or  
12 three councillors who you'd met on the Friday earlier in the day he phoned you  
13 at 5:10 that day we'll see at 1875. Sean Gilbride. This is a phone call which  
14 took place?

11:18:53 15 A. Yeah.

16 Q. 72 After your meeting with him. And the other two councillors and after  
17 Mr. Lawlor's contact with you. Do you know Mr. Lawlor to have been in contact  
18 with Mr. Gilbride independently of you in relation to matters, such as and in  
19 particular, the East View project?

11:19:12 20 A. Well, no, I don't have any independent knowledge of that, other than to say to  
21 you that of all of the councillors who would have had a jaundiced view,  
22 including people in his own party, of Liam Lawlor, Mr. Gilbride was a friend  
23 and supporter of Mr. Lawlor.

24 Q. 73 Right. So it would be likely that there would be no impediment to a free  
11:19:36 25 exchange of views between them and you'd believe it likely that they did  
26 communicate on matters of common interest without the necessity of you being  
27 present. In other words, I can appreciate that there would be some councillors  
28 through whom Mr. Lawlor would make contact only through an intermediary like  
29 yourself, is that right?

11:19:57 30 A. Yes.

11:19:57 1 Q. 74 But Mr. Gilbride was not one of them?  
2 A. Not one of those, no.  
3 Q. 75 We'll see in your diary entries for the week commencing March 8th and ending on  
4 the 13th. At page 1876. There are a whole list of meetings that may have  
11:20:14 5 relevance to the East View project. Starting on Monday morning some time  
6 before 10.30 there's a reference to Tom Hand. You see that? It might be the  
7 third item down?  
8 A. Yes, I see it, yes.  
9 Q. 76 Do the X's beside it mean anything? I'm not sure if you were doing some form  
11:20:33 10 of a check by, some are ticked off, some are X'd off, I'm wondering whether  
11 that is something that you put on the diary?  
12 A. Yes, I can't account for that, Mr. O'Neill.  
13 Q. 77 Yes?  
14 A. Sorry, could I look at the -- could you put the whole page back up again for a  
11:20:56 15 moment, please.  
16 Q. 78 Yes.  
17 A. No, I can't account for why the X's or the ticks are there. I mean, normally a  
18 tick might lead you to suggest that a meeting had taken place or an X might  
19 indicate that it hadn't taken place. But I don't think that is the case.  
11:21:17 20 Q. 79 All right. Well we can move down through that day. You'll see that at 13 --  
21 it might be 1:30 or 13:30 you've written in there, you'll see MJ Cosgrave and  
22 perhaps the word "East View" immediately after it. And beneath Mr. Cosgrave, S  
23 Gilbride, do you see that?  
24 A. No, no.  
11:21:38 25 Q. 80 We're still talking about Monday. If perhaps you'd?  
26 A. Yes.  
27 Q. 81 Enlarge Monday, please.  
28  
29 CHAIRMAN: Creaven  
11:21:56 30 A. Creaven it is, Mr. O'Neill.

11:21:56 1 Q. 82 It's Creaven, sorry, I couldn't decipher it, myself. Again, the three  
2 councillors who are going to be ultimately involved in signing this document  
3 are present on this Monday. And you have a meeting with them. I'm not sure if  
4 that is 3:30, perhaps it is.

11:22:06 5 A. I think.

6 Q. 83 Or 13:30?

7 A. I think if you take it sequentially the one above it is 2:30 and the one below  
8 is 4:30 I think the likelihood is that it's 3:30.

9 Q. 84 We'll see on the following day at nine o'clock you have a meeting in Davy's?

11:22:27 10 A. Yes.

11 Q. 85 Your involvement with Davy's and I'm talking now about the premises rather than  
12 the firm of stockbrokers. But your entries for Davy's I think are generally in  
13 relation to meetings with Mr. David Shubotham, who is a director of Davy's and  
14 instrumental in the Davy Hickey Properties company, is that right?

11:22:51 15 A. That's correct.

16 Q. 86 It has been described, perhaps inaccurately, but commonly in the newspapers, as  
17 being the property arm of Davy Hickey stockbrokers, Davy Hickey Properties  
18 Limited was referred to from time to time in the context of the East View  
19 project?

11:23:10 20 A. Yes.

21 Q. 87 As it being the property arm of Davy Hickey stockbrokers?

22 A. No, I would agree with you, I don't think that is a proper designation.

23 Q. 88 But there is that association that we see here. That you enter it in your  
24 diary as Davy's what you mean to reflect is Davy Hickey Properties Limited  
11:23:28 25 rather than the stockbroking arm, generally?

26 A. Yes. And without getting too complicated ...

27 Q. 89 Yes?

28 A. Mr. O'Neill, the reason Davy's is there is obviously there's a meeting in  
29 Davy's. It is with specific people. The reason the meeting is taking place in  
11:23:44 30 Davy's is, and I cannot account for this because I don't know the dates, and



11:23:48 1 maybe somebody else can provide this. When Davy Hickey Properties established  
2 offices independently other than out of Davy's. I don't know when that  
3 occurred. But, yes, meetings took place in Davy's. When I referred to Davy's  
4 I mean in relation to one, if not two people in particular.

11:24:07 5 Q. 90 Right. And these meetings at Davy's I think you refer to in the course of your  
6 statement as being meetings which might be attended by, amongst others,  
7 Mr. Liam Lawlor, Mr. Brendan Hickey, Mr. David Shubotham, who was located at  
8 that office at the time, isn't that right?

9 A. Correct, yes.

11:24:25 10 Q. 91 We'll see from the telephone record of the same day, that is of March the 9th,  
11 that you had contacts on that day with or from I should say rather than "with",  
12 John O'Halloran, Liam Lawlor, Tony Fox, Mr. Lawlor more than once on that day,  
13 if we look to page 1877.

11:24:48 15 At 10: 35 John O'Halloran leaving a message to the effect that he would be in  
16 Dublin County Council that afternoon. Tom Hand rang at 11:05 and was given a  
17 message on some matter. At 11:30 there's a message that you're to get your  
18 diary in order from Tom Hand, whether that was because you had failed to turn  
19 up at a meeting perhaps or ...

11:25:18 20 A. Rather direct criticism, yes, I would say Mr. O'Neill.

21 Q. 92 Was Mr. Hand expecting you and upset at the fact that you hadn't turned up for  
22 some or any particular reason that you know on the 8th of March of 1993?

23 A. No, Mr. Hand was the type of person. He didn't like to be taken for granted.  
24 If you made an arrangement with him, he expected you to turn up.

11:25:38 25 Q. 93 Yes. Later that day we'll see at page 1878. There is a relevant reference to  
26 Grainne Mallon, I think, who was the planner involved at 11:40 that day. She  
27 was in touch with you in relation to East View?

28 A. Correct.

29 Q. 94 Now, I think it's fair to say that by that stage, all of the technical side,  
11:26:01 30 technical documentation, preparation, had been completed. Indeed, that had

11:26:05 1 taken place probably in November, at the early part perhaps of 1992?

2 A. Yes.

3 Q. 95 Isn't that right? Sean Gilbride was at his house until 12:45 and then in

4 Dublin County Council. And then at 2:10 p.m. the Vice-Chairman of the Council

11:26:24 5 at that time, Therese Ridge, was on to you. Indicating that you could ring

6 between a particular time, it wasn't urgent. At 2:15 Councillor Liam Creaven

7 in the FF Council rooms. Isn't that so?

8 A. Yes.

9 Q. 96 Yes. These, as I say, were all contacts which had taken place on the day upon

11:26:47 10 which you'd had a meeting in Davy's. And your meeting in Davy's could either

11 have been in relation to the East View project or possibly in March 1993 to the

12 final stages of City West, is that right?

13 A. Yes. It is a possibility but I would say that in relation to the City West,

14 the possibility of City West. I'd say that that would be at the lower end of

11:27:11 15 the spectrum.

16 Q. 97 Yes?

17 A. Given one, the immediacy of having a motion put forward to Dublin County

18 Council.

19 Q. 98 Yes?

11:27:21 20 A. And the level of contact that is going on which I just see as well as 4:45

21 Mr. Lawlor's secretary has been on to say that he won't be able to make a

22 meeting.

23 Q. 99 Yes. And do you think that that meeting was a meeting intended to be an East

24 View meeting?

11:27:40 25 A. Yes, and I would almost certainly say yes. I think I've given evidence

26 previously, Mr. O'Neill, to the effect that while Mr. Lawlor may well have

27 introduced me to other projects, this is one that he was particularly active

28 in.

29 Q. 100 Yes. I will be going in to Mr. Lawlor's involvement in considerably greater

11:28:05 30 detail a little later?

- 11:28:06 1 A. Okay.
- 2 Q. 101 But I'm going through this at the moment just to see where we can link your  
3 involvement with councillors?
- 4 A. Yeah.
- 11:28:13 5 Q. 102 Leading to the payments which you say you made to him. And I'm not trying to  
6 cut you short in any way on it?
- 7 A. No, no, no.
- 8 Q. 103 And we will comment as we go through on certain, perhaps, important events as  
9 they progress through to the date of the motions and immediately thereafter.
- 11:28:29 10
- 11 You'll see on March the 10th that, the following day. At 11 or perhaps 11:30  
12 in the morning you have a note for MJC and LC. Sorry. It's page 1876 if you  
13 can revert to the diary entry on that day, please.
- 14
- 11:28:50 15 At 11:30 MJC and LC
- 16 A. On March the 10th, yes Mr. O'Neill, that's correct, yes.
- 17 Q. 104 On March 10th. As we move a little further down in the afternoon of that day  
18 having met the councillors you meet with Mr. John Byrne and Mr. Liam Lawlor?
- 19 A. Correct.
- 11:29:06 20 Q. 105 Is there any doubt in your mind but that they are interlinked meetings?
- 21 A. None whatsoever.
- 22 Q. 106 No. And presumably, then having turned up at the meeting with Mr. Byrne and  
23 Mr. Lawlor, the subject matter of that would have been the extent to which you  
24 have been involved with the councillors to that point in time, isn't that  
11:29:28 25 right?
- 26 A. Yes. Well the simple answer is yes.
- 27 Q. 107 Now, we're going to look to the telephone records that are on the same day,  
28 that is the 10th. And we'll see who was in contact with you in relation to  
29 those matters.
- 11:29:50 30

- 11:29:50 1 At 1881. The first call that day is Liam in Lucan. Set up meeting with John  
2 Byrne for 2:30 here, presumably that's your own offices, in Mount Street. He  
3 wants to confirm this?
- 4 A. Well, this is an example of Mr. Lawlor's unilateral mode of operation  
11:30:14 5 Mr. O'Neill. He has set up a meeting with John Byrne in my office and he's now  
6 leaving a message for me to say that he has done so and that he expects me to  
7 be there.
- 8 Q. 108 Yes. And at 10.30 on that morning you'll see that John O'Halloran is ringing  
9 you to tell you that he'd be in the Council from 10.30 that day. You are going  
11:30:34 10 to have a meeting at 11 with the other two councillors. But he's ringing you?
- 11 A. Oh, 9:15 yes. He rings at 9:15. Yes, he is going to be in the Council from  
12 10.30, yes.
- 13 Q. 109 Yes. And at 11 Liam Lawlor is back on to you?
- 14 A. Uh-huh.
- 11:30:51 15 Q. 110 Presumably, trying to confirm the meeting perhaps. John O'Halloran gets back  
16 to you at twelve o'clock. And we'll see at 12:50 there is a telephone call  
17 from Brendan Hickey. He is trying to make contact with you immediately  
18 followed by the Liam Lawlor telling you that he is on his mobile phone. And  
19 immediately after that, Mr. Hand leaves a message that he wants to do that bit  
11:31:16 20 of business and to please contact him before the end of the day. He's in DCC  
21 presently.
- 22  
23 Is that euphemism for any particular type of exchange that was intended to take  
24 place between Councillor Hand and yourself?
- 11:31:42 25 A. Well I don't. The honest answer is I don't know. I think I'm reprising now  
26 what I think so I said before in relation to this. Because this matter has  
27 been dealt with before in another Module I think, Mr. O'Neill.
- 28 Q. 111 Uh-huh?
- 29 A. But whatever arrangements I had with Mr. Hand, I cannot absolutely say that  
11:31:53 30 that was something that was to particularly occur. Obviously, Mr. Hand had

- 11:31:58 1 something in mind, I don't know.
- 2 Q. 112 Yes. Presumably your secretary noted it in the way in which he, Mr. Hand,  
3 would have expressed himself?
- 4 A. Oh, I would very much say that that was her practice. If there was a message  
11:32:13 5 to be given, that is the message.
- 6 Q. 113 Exactly. He wasn't actually giving you any great detail about what he wanted  
7 you to do. But he was phrasing it in a way which he hoped you would understand  
8 presumably. And what inference would you draw from this type of statement if  
9 it was made to you by Mr. Hand that he wanted to do that bit of business?
- 11:32:33 10 A. Well, I think, I did say before, I don't want to -- I'm conscious all of the  
11 time in relation to Mr. Hand in particular, who is no longer with us, and can't  
12 answer for himself. But I did have a very close relationship with him and I  
13 met him very, very frequently and he did a number of things for me and was  
14 extremely cooperative and I did give him money. He signed the motions for me.  
11:32:57 15 He actively supported various developments A. And for me to say specifically  
16 that it related to a payment, which I presume is what you mean by when you use  
17 the word "euphemism."
- 18 Q. 114 Yes?
- 19 A. Or whether it was to look after signing a motion or whatever. I hesitate to be  
11:33:21 20 specific. But because of my relationship with Mr. Hand, there is no doubt that  
21 it relates only to matters in Dublin County Council.
- 22 Q. 115 All right. There was in effect no business relationship with you. There was  
23 no commercial relationship?
- 24 A. Oh, no.
- 11:33:35 25 Q. 116 With you in talking about business here he could not have been talking about  
26 business in the normal use of that phrase, isn't that right?
- 27 A. Absolutely not.
- 28 Q. 117 So he was addressing his relationship with you by using the term "business?"
- 29 A. Correct.
- 11:33:49 30 Q. 118 Whether he treated your payments as commercial is a matter only he knows. But

11:33:53 1 that is the terminology he used when expressing his wish to you to have you  
2 deal with such matters as Council motions and payments and signatures to  
3 motions, is that right?

4 A. Yes. And other than that particular statement in that, on that particular day,  
11:34:14 5 that particular message.

6 Q. 119 Yes?

7 A. I think in the main any contact that Mr. Hand made with me was just to stay  
8 that he rang and he wanted me to return a call. In this particular instance,  
9 it is a little more expansive.

11:34:28 10 Q. 120 All right. We'll see if we revert back to page 1876. On Thursday you have yet  
11 a further meeting with Mr. John Byrne. You'd met him the day before with  
12 Mr. Lawlor. On this occasion you have him recorded solely. Do you have a  
13 memory of what that would have been about. What matters would have been left  
14 over that required to be determined the following day?

11:34:54 15 A. Yes. I don't have a recollection. I have said and I will continue to say that  
16 I did meet with Mr. Byrne on a number of occasions, including in his home. And  
17 I do believe once at least in the offices of Anthony Gore Grimes. Or Grimes  
18 solicitors I should say, in the presence of Anthony Gore Grimes. But and all  
19 of those such meetings related to only to one matter, and that was to the  
11:35:21 20 Baldoyle lands.

21 Q. 121 Yes. But not only to the Baldoyle lands, could I suggest. But also, to at  
22 this particular stage, to the rezoning of the Baldoyle lands as opposed to  
23 other aspects of it which I'm sure existed?

24 A. Oh, sorry, I do accept that further provision that you make. That, yes, it  
11:35:42 25 would be illogical to suggest otherwise that I would be having contact with  
26 Mr. Byrne other than in that context.

27 Q. 122 Yes. You may be aware of the content of Mr. Byrne's statement to the Tribunal  
28 where he says that after the option agreement was entered into, that he had no  
29 involvement whatsoever with the -- with advancing the project of Pennine, isn't  
11:36:04 30 that right?

11:36:04 1 A. Yes. I've seen that.

2 Q. 123 Yes?

3 A. And I interpret that as meaning and maybe incorrectly, that -- but it is

4 something that I can attest to quite definitively, that Mr. Byrne did not have

11:36:29 5 any active part to play in the lobbying of councillors.

6 Q. 124 Yes?

7 A. Certainly not with my knowledge. Certainly not at my instigation. And I

8 certainly never saw him at a meeting or in the environs of Dublin County

9 Council during the course of any attempt to have the lands rezoned.

11:36:44 10 Q. 125 Yes. I mean your function in this entire exercise as you've indicated, was to

11 be the interface with councillors?

12 A. Yes.

13 Q. 126 It would be defeating the entire purpose of your involvement if the persons

14 involved were to do so themselves, isn't that right?

11:36:58 15 A. Yes.

16 Q. 127 But Mr. Byrne's qualification as to involvement was not limited to saying that

17 he did not lobby councillors directly himself. He said that he had no further

18 involvement after the option was signed. And certainly the matter allows for

19 the impression to be created that Mr. Byrne is saying that once he'd signed the

11:37:21 20 option he had washed his hands of the deal and he'd left it in the hands of

21 yourself and Pennine Holdings Limited and whoever might be behind that to

22 secure and involve themselves in the rezoning process?

23 A. Yes. Well, the only reply that I can give to that, with all due respect to

24 Mr. Byrne, is that that cannot be true.

11:37:42 25 Q. 128 Yes. Now, you'll see a little later on the same date. A number of entries

26 further down. Again, we see LC, MTC and I can't quite make out what the next

27 word is.

28 A. Sorry.

29 Q. 129 If we perhaps, it's highlighted on the screen now. The LC certainly is

11:38:06 30 Mr. Creaven and the MJC --

11:38:08 1 A. If we could take away the highlighting Mr. O'Neill, I may be able to assist  
2 you.

3 Q. 130 Unfortunately I think I've marked. Yeah. Could we magnify that, please,  
4 without the highlighter. Certainly, there was a meeting with those two  
11:38:34 5 councillors?

6 A. Here we are.

7 Q. 131 I can't quite interpret immediately after that what your reference is.  
8  
9 CHAIRMAN: Is it Grove Avenue?

11:38:42 10  
11 MR. O'NEILL: Grove avenue is beneath it but immediately after MJC. Do you  
12 see?

13 A. Yeah, I think whatever is following Grove Avenue. If that is what it is,  
14 Mr. Chairman. I think.

11:39:01 15 Q. 132 Is there a Baldoyle immediately above it perhaps, after LC, MJC. Is that the  
16 word Baldoyle being written from top down?

17 A. From top down. I was going to suggest that -- I think, with respect to the  
18 Chairman's interpretation of it. I think that perhaps that may well read, I  
19 think this is a matter that we have discussed before. But nonetheless twelve  
11:39:33 20 o'clock Denis O'Mahony, Kilbarrack. 12 o'clock, home Baldoyle. It may well be  
21 that I met Mr. Creaven and Mr. Cosgrave, MJ Cosgrave, at one or other of their  
22 homes.

23 Q. 133 Fine?

24 A. Now, I cannot absolutely say that. But certainly Grove Avenue is beneath.

11:39:59 25 Q. 134 Yes?

26 A. Thing. But I have no -- unless I'm badly mistaken. I do not believe that  
27 Mr. Creaven or Mr. Cosgrave live at an address called Grove Avenue. So I don't  
28 think it could be them.

29 Q. 135 In any event, you were --

11:40:17 30 A. It could be that address.



- 11:40:19 1 Q. 136 You were going to meet them on that day, the 11th. And you'll note from the  
2 entry for the 12th that the deadline for the submission of the written motions  
3 with the Council expired at five o'clock on the following day, the 12th of  
4 March. And obviously, since we know that these gentlemen signed the  
11:40:39 5 documentation in question, the probability is that it was following upon a  
6 meeting with you on that day, isn't that right? Unless it had been signed some  
7 days earlier?
- 8 A. Unless, that was just the point I was going to make. Unless it had been signed  
9 earlier and it is followed again, if I may say so, Mr. O'Neill, on March 11th  
11:40:59 10 with a meeting with Cyril who was also a signatory to a motion. That means  
11 Cyril Gallagher.
- 12 Q. 137 Yes?
- 13 A. In the interim period, in the period you have outlined as the matrix for this  
14 particular examination. This is from the 1st of March until now at five  
11:41:14 15 o'clock the 12th of March.
- 16 Q. 138 Yes?
- 17 A. That is the period obviously in which the signatures were obtained.
- 18 Q. 139 I see?
- 19 A. Whether at the lower end, the earlier end or at the latter end.
- 11:41:27 20 Q. 140 Yes. Now, we'll see that there were quite a number of telephone calls to you  
21 on Thursday the 11th from amongst others John O'Halloran, Tom Hand, Liam  
22 Lawlor, Therese Ridge. You'll see that at page 1883. The start of that day,  
23 the following phone calls are made to you. David Shubotham rings you at 9:15,  
24 he's returning your call?
- 11:42:09 25 A. Uh-huh.
- 26 Q. 141 John O'Halloran the at 10.30 to 11:30 in the Council. Liam, get him in the  
27 Dail or the mobile. Sean in the Council before 11. That's, I take it,  
28 Councillor Gilbride, is that right?
- 29 A. Yes, Mr. O'Neill.
- 11:42:25 30 Q. 142 Then at 10:40 Tom Hand 11:05 Liam Lawlor. 11:10 David Shubotham. These are

11:42:35 1 all calls being made to you. They are not recorded, obviously in, your  
2 meetings but if we go back to look at your meetings then on the 11th.  
3  
4 At page 1876. We see starting with the first meeting with Mr. Byrne at 11:30  
11:42:52 5 and then the meetings at 1:00 with Mr. Cosgrave and Mr. Creaven. And at 2:30  
6 with Cyril Gallagher. That everybody who was to be involved really in the East  
7 View project features in either your telephone call, your telephone record or  
8 your notes of the same day, that is the eve of the motion filing date, isn't  
9 that right

11:43:16 10 A. Correct.

11 Q. 143 And is it likely that the subject matter of those exchanges or attempted  
12 communications by persons with you, was to establish whether everything was in  
13 order for the deadline date?

14 A. Yes. With the caveat.

11:43:33 15 Q. 144 Yes?

16 A. Mr. O'Neill, that as you will see, because you had it on the screen earlier,  
17 that there was a deadline for the submission motions.

18 Q. 145 Yes?

19 A. It wasn't particularly a motion in relation to East View.

11:43:48 20 Q. 146 Yes?

21 A. And we have reprised this in the context of other Modules.

22 Q. 147 Yes?

23 A. So there was a deadline for a series of motions.

24 Q. 148 Yes. You note them at the end of the entry for March 12th?

11:44:01 25 A. Yes.

26 Q. 149 Certainly for the airport and for Swords.

27 A. Yeah.

28 Q. 150 Presumably, because they were matters upon which you had a particular interest  
29 because you were representing parties who have been considered in other Modules  
11:44:13 30 and perhaps in subsequent ones touching on those lands, isn't that right?

- 11:44:17 1 A. Correct.
- 2 Q. 151 But if we look to Baldoyle in exclusively Baldoyle. We'll see that there are
- 3 persons whose involvement with you was solely limited to Baldoyle and not to
- 4 the airport and not to Swords?
- 11:44:30 5 A. That is correct, yes.
- 6 Q. 152 And included in that list of persons is Mr. David Shubotham. And Mr. John
- 7 Byrne?
- 8 A. Correct.
- 9 Q. 153 In particular, isn't that right?
- 11:44:39 10 A. Yes, correct.
- 11 Q. 154 If one, I think, broadly perhaps put them into the category of the developer
- 12 side of things rather than the developer owner side perhaps to be?
- 13 A. Yes, I think in a document that I produced.
- 14 Q. 155 Yes?
- 11:44:53 15 A. For public consumption I think it was deliberately or specifically produced, I
- 16 should say.
- 17 Q. 156 Yes?
- 18 A. For circulation among residents and other people. Davy Hickey Properties is
- 19 identified on a list as the developer.
- 11:45:08 20 Q. 157 Yes. Now, on the 12th we see at 10.30 Development Plan dev plan reference, you
- 21 see that?
- 22 A. Yes.
- 23 Q. 158 On the 12th at 10.30. Does that mean where we see this entry in your diary
- 24 that it's one of the days where you turned up personally at a meeting of the
- 11:45:32 25 Council, one of the special meetings held to review the Development Plan for
- 26 Dublin?
- 27 A. Yes. That is highly likely. And if you contextualise it in the next entry in
- 28 the diary, meeting in the Gresham. So I'm in the immediate environs of Dublin
- 29 County Council.
- 11:45:51 30 Q. 159 Yes. And that terminology, the immediate environs of the County Council, is

- 11:45:56 1 one which you adopt as being the location of payments?
- 2 A. Yes.
- 3 Q. 160 And you made them to councillors, isn't that right? So that payments mightn't
- 4 necessarily be made on the particular day of that a particular motion is either
- 11:46:11 5 signed or heard. It may be made in, within the window, if I might call it
- 6 that, of being contemporary to those events. It may be either before or indeed
- 7 after the event, isn't that right?
- 8 A. Correct.
- 9 Q. 161 I think it's correct to say that by this stage of your involvement with
- 11:46:31 10 councillors in March 1993, it wasn't the case of councillors insisting in
- 11 advance, necessarily, of giving their signatures to motions that they would be
- 12 paid but that it would happen in and around that time?
- 13 A. Correct.
- 14 Q. 162 You had built up some credibility with them, is that right?
- 11:46:50 15 A. Yes. And there is an added dimension in this particular context, and that is
- 16 that I am promoting this qua Frank Dunlop. I'm not promoting this on the basis
- 17 of a client per se.
- 18 Q. 163 Yes?
- 19 A. As I was doing with many of the others.
- 11:47:11 20 Q. 164 Whilst of course, Mr. Dunlop, you could say that to the councillors, the
- 21 reality of this was that this was a project which was well beyond any financial
- 22 aspirations that you could ever aspire to. It involved the acquisition of 250
- 23 acres of land, the construction of the end, if you were successful, a minimum
- 24 of 900 houses and perhaps more. And the construction of perhaps 275,000 square
- 11:47:45 25 feet of commercial or retail outset, isn't that right?
- 26 A. That is correct, yes.
- 27 Q. 165 It's not something that I suspect that any councillors who you told that this
- 28 was my project could have believed for a moment, isn't that right?
- 29 A. Hmmm.
- 11:48:01 30 Q. 166 I'm not saying that you weren't involved. It's obvious that you were involved

11:48:05 1 because you indicated?

2 A. That's the point I was just going to make. Sorry. That was the point I was

3 just going to make. Obviously, they knew that I was involved and I promoted

4 myself as being involved and yes, in a document that I circulated I did allude

11:48:18 5 to Davy Hickey Properties as being the developers. Whether they believed in

6 total or -- that I was the only person or not is a mute point. I'm not -- I'm

7 not -- I'm not suggesting that they might have done. And I think there is a

8 validity in what you're saying that some of them may have done. But the fact

9 of the matter is that I never introduced any of them or was asked to

11:48:52 10 introduce -- by them to introduce anybody else to them as being the putative

11 owners of this option.

12 Q. 167 Yes?

13 A. Other than myself.

14 Q. 168 Yes. Because I think that was the policy decision, which was taken by all

11:49:06 15 concerned, other than yourself. That insofar as there was to be any individual

16 identified with this project, it was to be you personally?

17 A. Correct.

18 Q. 169 Right. But having said that, would you not agree with me, that any person who

19 was looking at your involvement in this would not have concluded that this was

11:49:25 20 a solo run by Frank Dunlop, who was going to develop or bring some form of

21 development to this?

22 A. Well, I know that -- I know, Mr. O'Neill, that this is not what you want me to

23 do.

24 Q. 170 No, no?

11:49:41 25 A. I would like to have it short but maybe it would turn out to be a lengthy

26 discussion with you about it.

27 Q. 171 Yes?

28 A. And when you are asking the question I'm trying to think. Did anybody ever

29 question me as to the validity of my position in the whole matter or whether or

11:49:59 30 not I was going to ultimately develop the land. I would suggest that the vast

11:50:05 1 majority of people knew that I ultimately wasn't going to have anything to do  
2 with development or building. And that the possibility was that this was going  
3 to be passed on.

4 Q. 172 I think it is the case Mr. Dunlop, that as early as February March of 1991  
11:50:22 5 there had been a press release?

6 A. Correct.

7 Q. 173 Presumably slipped out by yourself into the media as to a development to be  
8 called East View, which would involve a consortium of -- without defining who  
9 the backers were, but that the consortium intending to develop these lands?

11:50:40 10 A. Yes.

11 Q. 174 Would do certain things, they'd have a residential element, they'd have a golf  
12 course. I think in fact the first document that was issued in 1991 had a map  
13 with it which was remarkably?

14 A. Correct.

11:50:53 15 Q. 175 Similar to what was ultimately put forward to the Council over two years later,  
16 isn't that right?

17 A. That is correct. And just to quibble with your use of the verb "slipped."

18 Q. 176 Sorry. Perhaps released would, that be an appropriate word?

19 A. Yes.

11:51:09 20 Q. 177 It found itself in the media in one of the journals concerned with the property  
21 side of things?

22 A. Yes, that's correct.

23 Q. 178 As being not quite a flier I suppose or a trailer for what was to happen. But  
24 it was releasing information which was known only to you and those with you?

11:51:26 25 A. Correct.

26 Q. 179 And it had been put out for a particular reason, isn't that right?

27 A. Yes.

28 Q. 180 And in that could I suggest that it didn't immediately identify you?

29 A. No.

11:51:35 30 Q. 181 As being an owner or the person who was going to bring this project to

11:51:40 1 fruition. It talked about, as one would expect, a consortium or commercial  
2 enterprise that was going to bring this to fruition?

3 A. That is correct.

4 Q. 182 And I think it would be correct to say that as the matter was covered in the  
11:51:55 5 press subsequently, the journalists who report it had all reported your role as  
6 being that of a representative rather than being the owner, isn't that right?

7 A. Yeah, I think that is accurate too, yes.

8 Q. 183 They identified, for example, that it remained the land in the ownership of  
9 Mr. Byrne?

11:52:15 10 A. Correct.

11 Q. 184 And they never indicated that he had sold on his interest to anybody but rather  
12 that this enterprise was an option based arrangement, isn't that right?

13 A. That is correct.

14 Q. 185 Perhaps if we get back now to the deadline and the meetings with Mr. Byrne  
11:52:35 15 which took place immediately in advance of the deadline. These I take it were  
16 to acquaint Mr. Byrne with exactly what was going on to that point, isn't that  
17 right?

18 A. Yes, I would say, Mr. O'Neill, that while I can't account for the level of  
19 detail that might have been.

11:52:55 20 Q. 186 Yes?

21 A. Gone into in a particular time. But if one places Mr. Byrne's involvement in  
22 historically in these lands, Mr. Byrne did display a certain amount of anxiety  
23 as to what was taking place and what the possibilities for a positive outcome  
24 from.

11:53:18 25 Q. 187 Yes. I mean, obviously, he had a large commercial interest in ensuring that  
26 the plan was successful because, as we know, this is a cyclical enterprise.  
27 The Development Plans were to occur every five years or so. If you didn't get  
28 in with your zoning and run there was an automatic minimum five year delay and  
29 it could be considerably greater. Historically it had been up to eight or nine  
11:53:50 30 years?

- 11:53:51 1 A. On this one that we are now reviewing it was actually coming up to the ten  
2 years before, subsequent to the previous plan.
- 3 Q. 188 Exactly. But the level of involvement of Mr. Byrne at this time, and I'm  
4 talking now about the 10th and the 11th in the context of the deadline being  
11:54:07 5 the 12th. Was that one meeting wasn't sufficient. There were two meetings?  
6 A. Correct.
- 7 Q. 189 If you merely had to convey to him the fact of there being a motion available  
8 to be put forward, that is something that could have been conveyed by letter,  
9 by telephone call, by anything at all, isn't that right?
- 11:54:31 10 A. Yes, that's correct, yes.
- 11 Q. 190 Do you have a memory of the matters which were discussed between Mr. Lawlor and  
12 Mr. Byrne at the meeting of the 10th which was scheduled for three o'clock.  
13 What level of detail was covered, what was -- what was Mr. Lawlor's role at  
14 that meeting? Obviously, you were the person who could tell him what the  
11:54:58 15 interface with the councillors was. What role was Mr. Lawlor playing here?  
16 A. Yes. Well bearing in mind, Mr. O'Neill, that Mr. Lawlor has rung to set up  
17 this meeting with Mr. Byrne that I'm not a party to establishing in the first  
18 instance. Secondly, well I don't want to be difficult, I'm not suggesting that  
19 the meeting did not take place.
- 11:55:18 20 Q. 191 Yes?
- 21 A. With Mr. Byrne, Mr. Lawlor and myself. Certainly, I was at a meeting with  
22 Mr. Byrne and Mr. Lawlor at some stage. And I do recall a meeting with  
23 Mr. Byrne's legal advisors and possibly the presence of Mr. Byrne in Gore  
24 Grimes' offices, but that is another matter.
- 11:55:38 25 Q. 192 Yes?
- 26 A. But certainly the context of these meetings is in what is the current position  
27 in relation to the Baldoyle lands, the motion, has it been signed, who signed  
28 it, what is the likelihood of success. And I think that is the general. I  
29 know it sounds extremely general Mr. O'Neill. But that is the nature of it.  
11:56:03 30 And I think possibly to concentrate on the latter part of your question,



11:56:09 1 particularly which was what was Mr. Lawlor's role in this. I think Mr. Lawlor  
2 was there certainly to reassure Mr. Byrne that things were being looked after,  
3 Mr. Frank Dunlop was the immediate interface with everybody. And that he has  
4 been successful before and the likelihood is that he will be successful again

11:56:36 5 Q. 193 Yes. You don't then have any particular recollection of what was actually  
6 discussed. You are not entirely sure that a meeting took place on the 10th.  
7 But the probabilities have to be very high that it did, isn't that right?

8 A. Oh, I would accept that, absolutely. I mean, given the nature of Mr. Lawlor's  
9 relationship with me. Given the nature of the message that he left. There is  
11:57:04 10 no doubt in my mind that a meeting took place, whether it was the previous  
11 evening or that morning, or the following morning. And the there is no doubt  
12 in my mind that if John Byrne's name is entered into my diary and there is no  
13 deletion of it that a meeting took place with him.

14 Q. 194 Yes?

11:57:29 15 A. It could only possibly be about one issue. Ever only was one issue in relation  
16 to Mr. Byrne. I don't think I discussed anything with Mr. Byrne ever other  
17 than Baldoyle.

18 Q. 195 Yes?

19 A. So, therefore, such a meeting did take place.

11:57:36 20 Q. 196 Right?

21 A. If it's in my diary and such was the level of the conversation.

22 Q. 197 Yes. And the other matter we can I think glean from that is that the meeting  
23 took place at your offices?

24 A. Yes.

11:57:48 25 Q. 198 Yes. And there is no reference to Gore and Grimes being present?

26 A. No.

27 Q. 199 And they did not attend that meeting?

28 A. No, no representative of Gore Grimes ever attended a meeting in my office.

29 Q. 200 Right.

11:57:58 30

11:57:58 1 CHAIRMAN: It's five to twelve. We'll take a ten minute break.

2

3 MR. O'NEILL: Yes.

4 A. Time flies.

11:58:19 5

6 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**

7 **AND RESUMED ADDS FOLLOWS:**

8

9

12:17:34 10 CHAIRMAN: Sorry, Mr. O'Neill.

11

12 MR. O'NEILL: Before the break, Mr. Dunlop, I think you were saying that the  
13 probability was that there was a meeting with Mr. Byrne, yourself, Mr. Lawlor,  
14 on either of the two days, and possibly on both?

12:17:50 15 A. Yes.

16 Q. 201 Certainly, with Mr. Byrne, possibly on both?

17 A. Uh-huh.

18 Q. 202 And probably with Mr. Lawlor on one. And that the underlying reason for it,  
19 you speculated, was that Mr. Lawlor wanted to give some assurance to Mr. Byrne  
12:18:07 20 about your capacity to effectively achieve the task which had been allocated to  
21 you, and that was to interface successfully with the councillors to the extent  
22 that a motion would be advanced on behalf of the enterprise, which would be  
23 successful?

24 A. To reassure him I think was the word I used. That matters were in hand and  
12:18:30 25 that Frank was doing everything in his power to ensure that the matter would be  
26 successful.

27 Q. 203 And of course he would know that matters were in hand because you weren't  
28 simply going to sit by and do nothing. He knew at all times that you were  
29 going to be engaged. And this was the eve of the deadline on which the motions  
12:18:48 30 had to be filed. He was aware that you were aware that Mr. Lawlor was aware of

- 12:18:52 1 it. And it would suggest that this was a meeting held to have a meeting of  
2 minds as to what the position was and were to go and in the light of the  
3 information available to Mr. Byrne and to you and Mr. Lawlor at that time,  
4 isn't that right?
- 12:19:08 5 A. Yes. I would not under any circumstances resile from that. But I just,  
6 Mr. Byrne's history with the land, from my point of view, is always the  
7 context. He had a somewhat jaundiced view of both the planners and the  
8 councillors, particularly I recall on one occasion in one of the meetings that  
9 I had with him, him expressing a view which couldn't in any stretch of the  
12:19:47 10 imagination be described as complimentary about some of the politicians in the  
11 wider area of north County Dublin, I'll just leave it in those terms.
- 12 Q. 204 Were you able to give Mr. Byrne the assurance that Mr. Lawlor perhaps had been  
13 seeking?
- 14 A. Yes, I think, again, without you categorically and definitively nailing me to a  
12:20:17 15 particular point of view, I can definitely say to you that I would -- was able  
16 to reassure Mr. Byrne in relation to the very fact a motion was going to go  
17 forward, that lobbying had taken place, and perhaps if I promote some, a  
18 thought with you that you may well come back on or not but at this stage of the  
19 process the likelihood for the success of this was very high.
- 12:20:53 20 Q. 205 Yes?
- 21 A. And given the nature of my interface with councillors, there was  
22 notwithstanding the discussion you and I had in relation to what councillors  
23 did or did not think. There was quite a significant element of support for the  
24 matter, not solely but certainly partly because I was involved.
- 12:21:22 25 Q. 206 Yes. I was asking you specifically, Mr. Dunlop, whether you were in a position  
26 to give to Mr. Byrne the assurance that everything was in order and as far as  
27 you are concerned, matters were going very well?
- 28 A. Correct, yes.
- 29 Q. 207 And I think you have given evidence in earlier Modules that the system of which  
12:21:51 30 the Tribunal is to inquire into as to planning in Dublin at the time, that that

- 12:21:57 1 system was one which involved corruption of politicians and was one which you  
2 came to rather than created, isn't that right?
- 3 A. Yes.
- 4 Q. 208 And I think paraphrasing it, you indicated that you learned of this system  
12:22:23 5 effectively through Mr. Lawlor and your dealings with him?
- 6 A. Correct.
- 7 Q. 209 So when we come to this meeting on, be it the 10th or the 11th, of the two  
8 persons at least present at that meeting, you know the system is corrupt,  
9 Mr. Lawlor knows the system is corrupt. You are being asked to give assurances  
10 about the success of the project to Mr. Byrne. Did anybody indicate to him how  
11 it was intended to achieve the rezoning and in particular whether you had in  
12 fact exercised what was the system at that time?
- 13 A. No. The direct answer to that Mr. O'Neill, is no. I certainly did not, either  
14 to Mr. Byrne, directly or by any inference, indicate that payments would need  
15 to be made or had been made or would be made. I do not recall, and I  
16 specifically use that phrase. I do not recall specifically discussing with  
17 Liam Lawlor whether or not councillors would have to be paid. Certainly, I did  
18 not discuss with him the fact that councillors had been paid or would be paid.  
19 But Mr. Byrne never asked me, and I never proffered any information to him in  
12:23:06 20 relation to payments to councillors.
- 21 Q. 210 You said a little earlier, again, I'm paraphrasing it somewhat, that Mr. Byrne  
22 did not have a high regard for the elected representatives in the Council in  
23 the context of planning matters and perhaps extending beyond the council to all  
24 elected members he seems to have a jaundiced view in relation to their capacity  
12:24:14 25 to act fairly in relation to his lands in Baldoyle. Is that fair, is that what  
26 you understood him to say to you?
- 27 A. Yes, he had a bad history.
- 28 Q. 211 Yes. And he was a person who, as we know, did not make any application himself  
29 within the review period on the 1983 plan to alter the zoning of this land,  
12:24:34 30 isn't that correct?

- 12:24:35 1 A. That's correct.
- 2 Q. 212 He was relying on persons who were the option holders to achieve what he  
3 couldn't achieve?
- 4 A. Correct.
- 12:24:42 5 Q. 213 Right. And what do you think that he believed you could do that was not, that  
6 was not possible for him to do in relation to these lands?
- 7 A. Sorry, Mr. O'Neill. I think from any discussion that I had with him. One  
8 tries to be kind. But Mr. Byrne would reprise for you on almost every occasion  
9 the history of his involvement with the lands and what had happened and what  
10 hadn't happened and what might have happened. And one is reminded a little bit  
11 of Donald Rumsfield and what we don't know and what we might have known. And  
12 that was his dimension on this. And he always gave me the impression that and  
13 certainly his legal advisor did, and I'm not saying this because I know that  
14 Mr. Gore Grimes has said something in evidence which I haven't read the  
12:25:48 15 transcript but which I've seen in the papers that. Mr. Byrne was heartily fed  
16 up of Baldoyle or being involved in Baldoyle, which of course would be a little  
17 bit hard to swallow if one recognised the fact that this was acres in north  
18 County Dublin and eventually somebody, somewhere, somehow was going to make an  
19 inroad into the lands. But certainly there was an element of frustration. He  
12:26:14 20 didn't -- he did discuss the support of one particular Councillor or the  
21 attitude, I should say, of one particular Councillor on one occasion with me.  
22 He appeared to be quite happy with what he thought would be the attitude of  
23 Fianna Fail members, certainly if one was to take what he viewed the attitude  
24 of Mr. Liam Creaven, the local Councillor, to be. He had a somewhat jaundiced  
12:26:51 25 view of a Fine Gael Councillor in the area, which he expressed, whose name  
26 hasn't been mentioned to my knowledge. So, therefore, I do not want to make  
27 any imputation in that context.
- 28 Q. 214 Well, my question really, Mr. Dunlop, was directed towards establishing, if we  
29 can, what you believe?
- 12:27:12 30 A. Yes.

- 12:27:13 1 Q. 215 Mr. Byrne believed you could do, that he couldn't do, and why?
- 2 A. Yes. I think, I think Mr. Byrne believed that I could achieve the rezoning by
- 3 lobbying councillors, by making presentations, by dealing with local residents
- 4 associations and I think it probably, in the context of what he had been told
- 12:27:41 5 by either Liam Lawlor and/or others as to what I had done previously or had
- 6 achieved previously.
- 7 Q. 216 Right. And this was all to be done in the context of you acting for this
- 8 entity, Pennine Holdings, or through this entity Pennine Holdings of which he,
- 9 Mr. Byrne, was not to have any interest, save on the exercise of the option he
- 12:28:10 10 was to get a fixed sum per acre, is that correct?
- 11 A. Yes.
- 12 Q. 217 We've got to the point now on the 12th of March, which would be I suppose the
- 13 first occasion which would fall within the definition of being a period when
- 14 the councillors were considering the matter. And therefore, one of the periods
- 12:28:21 15 in which the possibility of councillors being paid arose. And having reviewed
- 16 the facts until now, have you any recollection of making any of the payments
- 17 which you say you made to the seven councillors in that period?
- 18 A. No.
- 19 Q. 218 We've talked about a period from the 1st of March now to the 12th of March, the
- 12:28:44 20 day upon which the motion was to be lodged?
- 21 A. Yes. No, I cannot say that I have. I have given evidence in relation to
- 22 people signing motions and indicating support of motions and asking for money
- 23 and being paid in a period, a wider period leading up to that, up to that date.
- 24 I do not have an absolute recollection of the exact timing in relation to it
- 12:29:14 25 other than to say it was during the period when it was being considered.
- 26 Q. 219 Right. Well perhaps we could look at that a little closer. I thought I was
- 27 being rather broad in fixing the time scale for that period?
- 28 A. Uh-huh.
- 29 Q. 220 By going back, let's say, twelve days before the first motion was signed?
- 12:29:34 30 A. Yes.

12:29:34 1 Q. 221 That's on the 12th. And we know that the motions were actually considered in  
2 the sense of the entire Council membership considering it in advance of  
3 meetings which took place on the 20th of April, the 27th of April, the 4th of  
4 May and the 6th of May. They were the motions that specifically dealt with?

12:29:53 5 A. Yes.

6 Q. 222 The Pennine Holdings options?

7 A. Yes.

8 Q. 223 And that process, that is the process of bringing a motion before the Council,  
9 started with this lodgement of the documents by the deadline, the 12th?

12:30:06 10 A. The 12th.

11 Q. 224 Now, is it possible or are you saying that the payment period that you were  
12 considering when you drafted your statement was to extend perhaps earlier than  
13 the 1st of March?

14 A. No.

12:30:19 15 Q. 225 No?

16 A. No, I don't think. I misunderstood you. And I'm sorry if I gave you that  
17 impression, Mr. O'Neill, I did not mean to do that. No, is the answer.

18 Q. 226 Right. So in the period we're looking at here now, this would fall within the  
19 broad definition of the period in question, but you're saying that you did not  
20 make any payment to that date, is that your best recollection?

12:30:40 21 A. That is my best recollection.

22 Q. 227 Yes?

23 A. In the context of all that was happening at the time.

24 Q. 228 Fine. Okay. We will move on then perhaps to look at the period immediately  
25 after this to see whether there's any trigger in that which might suggest that  
26 the payment was made immediately following this.

27

28 Firstly, if we look to the motion itself. Its at page 1886. And this is a  
29 photocopy. Sorry. On the screen, if we may. 1886. And if we could blow it  
12:31:22 30 up somewhat.

- 12:31:23 1  
2 This is a photocopy of the original. You'll see it bears the date stamp Dublin  
3 County Council, the 12th of March. Confirming that it was made within the  
4 period required. It also has in manuscript the date at the bottom right hand  
12:31:40 5 corner. And we see the signatures of a number of councillors who are familiar  
6 to you, isn't that right  
7 A. That's correct.  
8 Q. 229 And as I decipher them from top to bottom. Liam Creaven, Sean Gilbride, Cyril  
9 Gallagher and Michael J Cosgrave. Isn't that so?  
12:31:56 10 A. Yes.  
11 Q. 230 This was a accompanied, as it had to be, by a map which we see at 1887. And  
12 that map shows in broad terms what was intended and we'll see that the A1  
13 designation is a residential designation, isn't that right?  
14 A. That's correct, yes.  
12:32:24 15 Q. 231 E, is for industrial or business park?  
16 A. Yes, business park.  
17 Q. 232 The B and G was green belt amenity area?  
18 A. Uh-huh.  
19 Q. 233 And G I think is amenity or high amenity area?  
12:32:37 20 A. High amenity, yeah.  
21 Q. 234 So that as we look at this, the original motion intention here, as advanced by  
22 the four councillors, was a proposal that as we move from south to north, that  
23 the area immediately adjoining Baldoyle would be entirely residential as A1?  
24 A. Correct.  
12:33:00 25 Q. 235 In between them there would be a golf course, B and G. Pay as you played golf  
26 course. And moving beyond that then another residential area with a business  
27 park tucked in close to Portmarnock station area, isn't that right?  
28 A. Correct.  
29 Q. 236 Were these --  
12:33:23 30 A. There is, Mr. O'Neill.



- 12:33:25 1 Q. 237 Sorry?
- 2 A. There was something which is, I just -- because it's a photocopy. At the  
3 bottom right hand corner.
- 4 Q. 238 Yes?
- 12:33:33 5 A. Of the map.
- 6 Q. 239 Of the map?
- 7 A. Of the map, yes. outside of the boundary of the land there's something written  
8 there. It's a C or something. I'm not sure whether it's ... no, sorry. No, I  
9 beg your pardon. Sorry. It's a quarry. Sorry.
- 12:33:50 10 Q. 240 I think and I'm not saying that it necessarily involves your lands, that is the  
11 Pennine Holdings option lands. If you look to where Talavera is in the bottom  
12 right hand left hand corner shown A1, you see that?
- 13 A. Yes.
- 14 Q. 241 That is a part of Mr. Byrne's lands that adjoins Grange Road, isn't that right?  
12:34:22 15 You'll see a Grange Road?
- 16 A. Yes, I do, yes.
- 17 Q. 242 Now, in fact that wasn't included within the take of the 400 acres that were  
18 the subject of the Pennine option. But rather was already encompassed in an  
19 earlier option to a company called Bauval?
- 12:34:42 20 A. Well.
- 21 Q. 243 Yes?
- 22 A. Sorry, I don't want to enter into -- you're telling -- I now know this.
- 23 Q. 244 Yes?
- 24 A. I did not know that at that time.
- 12:34:52 25 Q. 245 Yes?
- 26 A. I now know this having looked at the documentation and having seen various  
27 references to various companies, that being one of them.
- 28 Q. 246 Right. And this was an area which was already zoned, albeit, it had a  
29 different zoning. It had an E zoning, it was the industrial lands?
- 12:35:08 30 A. Correct.

- 12:35:08 1 Q. 247 And it so happens that in 1991 an option notice had been served in respect of  
2 those lands, upon Mr. Byrne, by the nominee of Bauval Limited, which is a  
3 company called Sabre, in respect of that acreage of land there, a little over  
4 12 acres I think or maybe 11 acres, I'm not sure. And then -- but for some  
12:35:33 5 reason it has been included within the proposal that was advanced by the four  
6 councillors, isn't that so?  
7 A. I don't know.  
8 Q. 248 Sorry. The proposal as we see it on the map here?  
9 A. I know that Mr. O'Neill. I don't know how you wish me to deal with this  
12:35:50 10 matter.  
11 Q. 249 Well, perhaps we might firstly agree with the factual content of what I'm  
12 saying?  
13 A. Yes.  
14 Q. 250 And that is that the four councillors who signed this proposal here did so in  
12:36:01 15 respect of land all of which was owned by Mr. Byrne, isn't that right?  
16 A. That's right.  
17 Q. 251 All of which was subject to options in favour of persons other than Mr. Byrne?  
18 A. Correct.  
19 Q. 252 The majority of which was the option in favour of Pennine Holdings, with which  
12:36:22 20 you were directly involved?  
21 A. Correct.  
22 Q. 253 The A1 area here around Talavera was not within the Pennine Holdings option but  
23 was in the possession of another option holder, Bauval, isn't that right?  
24 A. Yes. I now know that.  
12:36:38 25 Q. 254 You now know that?  
26 A. Yes.  
27 Q. 255 When you had the map signed by the parties, did it not occur to you that there  
28 was an area here which appeared to be A, outside the area of immediate interest  
29 to you and secondly, that it might be involving the rights or the views or  
12:37:03 30 prospects that the other option holder might have?

12:37:05 1 A. Yes.

2 Q. 256 Who it so happens is also representative of Mr. Lawlor if his role is as  
3 representative?

4 A. Yeah, the answer is no.

12:37:12 5 Q. 257 Uh-huh?

6 A. But my amplification of the answer is to the effect that the genesis of this  
7 man is the important issue.

8 Q. 258 Yes?

9 A. Yes.

12:37:26 10 Q. 259 And its genesis is?

11 A. Mr. Lawlor.

12 Q. 260 Fine. In effect, this is serving the interests of Mr. Lawlor wearing two hats.  
13 One, insofar as he has involvement with Pennine. And the other, insofar as he  
14 had an involvement with the Bauval option?

12:37:45 15 A. Yes.

16 Q. 261 Is that so?

17 A. Again Mr. O'Neill, that is absolutely correct.

18 Q. 262 Uh-huh?

19 A. That is as I now know it. That is as I became aware of matters subsequently  
12:37:56 20 to -- subsequent to any attempt to have these lands rezoned in Dublin County  
21 Council.

22 Q. 263 All right. Moving to the contacts then which there were with the councillors  
23 after the document that we've just looked at the on screen was lodged. The  
24 first document I think I should refer to it for completeness is the telephone  
12:38:24 25 record of the 12th itself, which is at 1885. Mr.-- 1885, please.

26 Mr. Shubotham wanted you to call him at 12:50. Mr. Tom Hand phoned you at  
27 2:20. Liam Lawlor at 2:50. Tom Hand 2:55. Sean Gilbride missed you in the  
28 Royal Dublin. He's in Dublin County Council now. Liam stepped out of the  
29 office at five to five.

12:38:57 30

- 12:38:57 1 By this stage, of course, you were lodging -- I think you personally lodged the  
2 document with Dublin County Council on the 12th, isn't that right?
- 3 A. Yes. And the point I wish to make to you and I just missed it as we were  
4 proceeding. The handwritten date on the bottom.
- 12:39:14 5 Q. 264 Yes?
- 6 A. Of the motion is my handwriting.
- 7 Q. 265 Is yours?
- 8 A. Yeah.
- 9 Q. 266 So you submitted it by the deadline before five. You were obviously then not  
12:39:23 10 available to take these calls?
- 11 A. Yes.
- 12 Q. 267 For that reason, isn't that right? But in relation to Mr. Shubotham's contact  
13 with you. You presumably got back to tell him that everything is in order, I  
14 have lodged the documents?
- 12:39:35 15 A. Yes, I think it wouldn't be stretching anyone's imagination to say otherwise.  
16 I think that is probably the truth, yes.
- 17 Q. 268 You may also know that Mr. Shubotham in his dealings with the Tribunal and his  
18 communications with the Tribunal has indicated that the interest that they had  
19 was limited to the preparation of an initial feasibility study, that when the  
12:39:58 20 feasibility study was received by them, they determined that the matter was  
21 unlikely to succeed and they pulled of the arrangement, isn't that so?
- 22 A. That is so according to Mr. Shubotham's statement.
- 23 Q. 269 Yes?
- 24 A. Yes.
- 12:40:10 25 Q. 270 I think we can see from these diary entries and from your evidence so far, it  
26 would appear that in relation to the ongoing motions, which were to be heard in  
27 April, Mr. Shubotham appears to have had in March an interest in the probable  
28 outcome of those to the extent of checking with you on a regular basis as to  
29 how it was progressing, isn't that right?
- 12:40:33 30 A. Yes. And for -- in ease of Mr. Shubotham, unless he can allude to other

- 12:40:45 1 matters in those specific instances where contact is made, that I am not able  
2 to refer to. There was contact I'd say with Mr. Shubotham in relation to two  
3 matters only ever and that was City West and Baldoyle.
- 4 Q. 271 Yes. Now, the involvement, I'll just deal with it very briefly at this point.
- 12:41:06 5 The involvement of Mr. Hickey and Mr. Shubotham started as you indicated  
6 probably at the end of 1990, the beginning of 1991, without picking a  
7 particular month. It's most likely to have been January. It's certain by  
8 February from documentation?
- 9 A. Oh, yes.
- 12:41:26 10 Q. 272 Which we see. But that is of 1991. We're now two years and two months later.  
11 Do you know or were you ever aware or made aware of there being a feasibility  
12 study of any sort carried out by anybody in relation to this project?
- 13 A. Well certainly I know that Grainne Mallon produced some type of document which  
14 I don't have now. But there was certainly an involvement by Grainne Mallon at  
15 some stage. There was then an involvement by a company called Fenton Simmons.
- 16 Q. 273 Yes?
- 17 A. Who were town planners.
- 18 Q. 274 Yes?
- 19 A. There was an involvement at the instigation of Mr. Lawlor, and I she should say  
12:42:12 20 as well that the involvement of Fenton Simmons was also at the instigation of  
21 Mr. Lawlor. I do not know at whose instigation Grainne Mallon was involved.  
22 The McCarthy and partners, at the instigation of Mr. Lawlor, in relation to  
23 technical matters.
- 24 Q. 275 I appreciate that all?
- 12:42:33 25 A. In relation to flooding.
- 26 Q. 276 All of those persons were engaged, Mr. Dunlop?
- 27 A. Yes.
- 28 Q. 277 Two of them have given evidence yesterday?
- 29 A. Uh-huh, I see that.
- 12:42:43 30 Q. 278 Both of them have indicated that they produced no feasibility studies for

- 12:42:47 1 anybody?
- 2 A. Yes.
- 3 Q. 279 What they did produce was a submission, which was called the blue book. Which
- 4 was going to be the basis upon which?
- 12:42:53 5 A. Yeah.
- 6 Q. 280 The submission was advanced to the Council?
- 7 A. Yes.
- 8 Q. 281 What is advanced on behalf of Mr. Shubotham and Mr. Hickey in their statements
- 9 to the Tribunal is that they did not become involved in this process, other
- 10 than to be involved in an initial feasibility study and having read that, they
- 11 decided to proceed no further.
- 12
- 13 Now, my question to you is whether or not you ever saw a feasibility study,
- 14 whether anybody ever indicated to you that there had been one or whether it was
- 12:43:10 15 ever indicated to you that they were not proceeding because the feasibility
- 16 study advised them against involvement. Now, there are three questions there
- 17 A. Sorry, I'll take them ad seriatum. The first one is no. The second one I have
- 18 never seen a feasibility study. I did see a document. The provenance of which
- 19 I cannot highlight. I cannot source for you. And I'm interested to hear this
- 12:43:58 20 evidence in relation to the blue book, what the blue book. Does the blue book
- 21 mean that it had covers or was it ...
- 22 Q. 282 It was terminology I think adopted by you?
- 23 A. Yes.
- 24 Q. 283 You called it the blue book in your address to councillors?
- 12:44:13 25 A. Yes.
- 26 Q. 284 You referred to it as being the blue book and we had it here yesterday. We'll
- 27 have it here after lunch. Sorry, I have it here in front of me. So I'll pass
- 28 it to you?
- 29 A. That is -- it has the blue covers, yes.
- 12:44:25 30 Q. 285 That is the unattributed?

12:44:29 1 A. Yes.

2 Q. 286 Submission which was dated November 1981.

3 A. Yes.

4 Q. 287 Which was lodged in response to the public display period of the?

12:44:41 5 A. Yes.

6 Q. 288 Development Plan between September 1991 and December 1991?

7 A. Yeah.

8 Q. 289 I think there was a date probably in March of '92 by which such submissions had

9 to be lodged, and that was one. Now, in relation to that document yesterday we

12:44:58 10 had the evidence of Mr. Kevin O'Donnell, of McCarthy's. We had the evidence of

11 Grainne Mallon. To say that her evidence was, her input was the first twelve

12 pages of that?

13 A. Yes.

14 Q. 290 Which deals with the planning aspects or zoning aspects. The balance being the

12:45:15 15 technical aspect. As far as she was concerned, was prepared by McCarthy and

16 partners. Does that accord?

17 A. Yes.

18 Q. 291 With your recollection at the time?

19 A. Yes. And this document, as far as I can recall, and looking at it again now

12:45:40 20 and the typeface on it, was not prepared in my office. But I can --

21 unfortunately, I have sworn to tell the truth. But I cannot absolutely swear

22 to you absolutely that I know exactly where it was prepared.

23 Q. 292 Yes. But you have a pretty good idea?

24 A. Yes, I do.

12:45:57 25 Q. 293 And you might tell us what that opinion is?

26 A. I think it was prepared in Liam Lawlor's office.

27 Q. 294 Yes?

28 A. Certainly, if that is a feasibility study. The purpose -- this is not,

29 Mr. O'Neill, I don't want to be tendentious about this. This is not a

12:46:13 30 feasibility study that one would hire McCarthy & Partners to prepare and pay a

12:46:17 1 fee for on the basis of all of the aspects relating to the land. This was  
2 something that was a composite document put together by Mr. Lawlor as a result  
3 of the involvement of various ...

4 Q. 295 Yes. And it wasn't for the purpose of establishing whether the project was  
12:46:32 5 feasible or otherwise because it offers no opinion as to whether it is feasible  
6 or otherwise. What it does is to make a submission, encouraging the reader of  
7 it, to adopt the proposition and to allow for the rezoning of the lands from  
8 green belt to residential and business parties and to put out a plausible and  
9 comprehensive methodology as to how this is to be achieved. It covered every  
12:46:59 10 aspect of drainage, densities, roads, all of that matter, isn't that right?

11 A. Couldn't put it better myself.

12 Q. 296 And what you're saying is that that is the only document which you have seen  
13 that amounts to a report on the capacity of these lands to be developed in the  
14 manner intended?

12:47:16 15 A. It's a submission document, Mr. O'Neill. It's not a feasibility study.

16 Q. 297 Right. And do you know any reason, therefore -- sorry. That is probably the  
17 answer to the first two of the question?

18 A. Sorry.

19 Q. 298 Questions I asked you. The third one was whether or not Mr. Hickey or  
12:47:32 20 Mr. Shubotham ever indicated to you. We are not proceeding with this project  
21 because we have received a feasibility study following upon our technical  
22 analysis. And we are not proceeding for that reason?

23 A. No, that is not the reason.

24 Q. 299 Fine. Okay. I'm not cutting you short on what the reason is?

12:47:51 25 A. No, no, no.

26 Q. 300 But I'll return to it in another aspect.  
27

28 We'll see then that the process, firstly isn't started by lodging the document.  
29 That is the motion, isn't that right, with the Council. It's lodged by a  
12:48:08 30 particular date so as to allow for the secretariat to copy it, to assemble it



- 12:48:13 1 with other submissions, to forward it by way of a brief or a notice of agenda  
2 to the elected representatives so that they have time to consider it in advance  
3 of the motion date, the special hearing date, at which it will be considered  
4 together with others, isn't that right?
- 12:48:34 5 A. That's correct.
- 6 Q. 301 And the Council procedures would be -- well, firstly, that the special motions  
7 or the special meetings were held which were map referable. Map No. 8 in the  
8 booklet of maps circulated in the Development Plan encompassed the area of  
9 Portmarnock and Baldoyle. And matters within that map area would be considered  
10 on a particular date, isn't that right?
- 11 A. Correct.
- 12 Q. 302 Correct?
- 13 A. Would be scheduled for consideration on that date.
- 14 Q. 303 And on assumption that things went as they should, they'd be concluded on that  
15 date. But that didn't invariably happen, isn't that right?
- 12:49:02 16 A. Correct.
- 17 Q. 304 And part of the process, I suppose, was the enormity of the workload that the  
18 Council had, given that there hadn't been a review practically for ten years by  
19 the time this was being discussed, isn't that right?
- 12:49:14 20 A. Yes, I think that's a fair comment.
- 21 Q. 305 And the document you last referred to was probably lodged with the Council at  
22 the end of 1991, maybe the very beginning of 1992, but it wasn't for 15 months  
23 later that it came to be discussed before the Council, isn't that right?
- 24 A. Correct.
- 12:49:30 25 Q. 306 And when it did, one of the matters that was going to be discussed was, is the  
26 motion that we have just seen. But in the interim it would appear that a  
27 second motion was drafted in advance of that meeting taking place, isn't that  
28 right?
- 29 A. That's correct, yes.
- 12:50:07 30 Q. 307 And whereas the first councillors that we see to have been involved in the

- 12:50:14 1 motion were Councillor Creaven, Gilbride -- sorry. Sorry. Creaven, Gilbride,  
2 Gallagher and Cosgrave. A lesser number were involved in the second motion,  
3 isn't that correct?
- 4 A. Yes.
- 12:50:31 5 Q. 308 Sorry, before I leave the first one. Can I perhaps just draw your attention to  
6 the fact that of the councillors you say you paid money to only one of them was  
7 a signatory of the first motion?
- 8 A. Correct, Mr. Gallagher.
- 9 Q. 309 Thank is Mr. Cyril Gallagher deceased?
- 12:50:47 10 A. Correct.
- 11 Q. 310 You say that you paid him money but you didn't pay any of the other three who  
12 were there?
- 13 A. That's correct, yes.
- 14 Q. 311 And if we move then to the next motion. That is a motion which we see at page  
12:51:04 15 2206.
- 16 A. No.
- 17 Q. 312 I beg your pardon. No, we'll move to 1922 I think is the motion that is  
18 immediately?
- 19 A. A seminal date.
- 12:51:23 20 Q. 313 Yes. This motion here now that we're looking at, again, it carries the  
21 reference number. I beg your pardon?
- 22 A. Yes, sorry.
- 23 Q. 314 Perhaps we could bring it down slightly. Do you see in manuscript in the top  
24 right hand corner 14 (5) (G) (2)?
- 12:52:01 25 A. Yes, that's my handwriting yes.
- 26 Q. 315 Are you adopting obviously a designation that had been attributed to this by  
27 the Council itself? And this is an internal Council reference number to it,  
28 isn't that right.
- 29 A. Correct, yes.
- 12:52:15 30 Q. 316 And does that indicate that you were given this designation for it at the time

- 12:52:20 1 you submitted it or later?
- 2 A. Or later. Not on the particular day. Because if I recollect matters
- 3 correctly, when you submitted a motion or somebody submitted a motion on your
- 4 behalf, it was just a matter of submitting the motion. They did not give you a
- 12:52:36 5 reference number then.
- 6 Q. 317 Right?
- 7 A. Subsequently in the circulation of documentation which you alluded to earlier.
- 8 That then gets a number.
- 9 Q. 318 I see?
- 12:52:44 10 A. A reference number I should say.
- 11 Q. 319 Right. Well, if we -- we look to this one it doesn't have the date stamp on it
- 12 that's the first thing?
- 13 A. No.
- 14 Q. 320 But it is a signed copy?
- 12:52:54 15 A. Yeah.
- 16 Q. 321 By both councillors, isn't that right?
- 17 A. Yes.
- 18 Q. 322 Liam Creaven and Michael Joe Cosgrave?
- 19 A. And Mr. O'Neill, the handwritten notes to the right beside the signatures,
- 12:53:05 20 that's not my handwriting.
- 21 Q. 323 That's the C 308/?
- 22 A. Yes, yes.
- 23 Q. 324 Were you also instrumental in having this motion signed?
- 24 A. Yes. And that typeface and that document was generated in the my office.
- 12:53:20 25 Q. 325 I see. We will see similar typeface throughout an amount of the documentation.
- 26 And does it follow that every time we see this typeface, it is a document?
- 27 A. Yes.
- 28 Q. 326 Generated by you although we'll see that it doesn't necessarily appear to be a
- 29 documentation of yours?
- 12:53:38 30 A. Yes. I will, as you produce documentation, to the best of my ability, I will

12:53:49 1 take responsibility for it on the basis of what I know to be the case in  
2 relation to typeface and format.

3 Q. 327 Yes. And can you tell us -- perhaps we should look at the map that accompanied  
4 this and we'll see what the distinctions are between that and the original.  
12:54:01 5 Page 1923.  
6  
7 On this map now we'll see, firstly, if we go back to the Talavera area, that is  
8 the industrially zoned land on Grange Road. We now see it with the designation  
9 E faintly visible. And it is no longer enclosed within the boundaries of the  
12:54:28 10 submission, isn't that right  
11 A. Yes.  
12 Q. 328 And we move then across to see retained B and G. And B and G to C. You see  
13 those areas there?  
14 A. Yes, yes.  
12:54:40 15 Q. 329 Were they all within the area of the option lands or not?  
16 A. No, I don't think so.  
17 Q. 330 No. So the areas zoned E?  
18 A. Yeah.  
19 Q. 331 The industrially zoned lands?  
12:54:52 20 A. Yeah.  
21 Q. 332 Were to retain if this submission was accepted by the Council, they would not  
22 be the subject matter of the motion?  
23 A. Correct.  
24 Q. 333 And presumably, would retain their existing zoning which was for industrial  
12:55:04 25 use?  
26 A. For industrial use, yes.  
27 Q. 334 However, there are changes as regards to what is to happen to the other areas  
28 down at the coast side. And these are the areas marked B and G to C, which I  
29 suggest were part, can you see that Mr. Dunlop?  
12:55:26 30 A. My screen has gone blank. Sorry.

12:55:31 1

2

CHAIRMAN: Sorry, Mr. Dunlop.

3

4

MR. O'NEILL: We'll have to sort that gremlin.

12:55:55 5

6

CHAIRMAN: All right. It's five to one so we'll rise until two o'clock and

7

hopefully it'll be fixed.

8

9

All right.

12:56:01 10

11

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14

**THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**

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**THE TRIBUNAL RESUMED AS FOLLOWS AT 2:00 P.M.:**

- 12:58:31 1
- 2
- 3
- 4
- 14:07:11 5
- 6 MR. O'NEILL: If we could have document 1922 on screen, please.
- 7
- 8 Mr. Dunlop, earlier in the day we were looking at a motion which had been
- 9 submitted to the Council on the 12th of March. And I think it was to have the
- 14:07:32 10 Council reference 14 (5) (G) (1) and then this motion here we see on screen is
- 11 next sequentially to that, isn't that right?
- 12 A. I didn't -- Yes.
- 13 Q. 335 Though the description of what was intended to be carried out by way of
- 14 development is very similar, isn't that right?
- 14:07:53 15 A. It is, yes.
- 16 Q. 336 Now, obviously, when you had set about seeking support for the initial
- 17 proposal, you had discussed its content with the promoting councillors, isn't
- 18 that right? And they had looked at the map, for example, they'd signed their
- 19 names to it, they knew what they were advancing before their colleagues or
- 14:08:14 20 would advance before their colleagues at the meeting itself, isn't that right?
- 21 A. Broadly speaking, yes.
- 22 Q. 337 I'm sorry?
- 23 A. Broadly speaking, yes.
- 24 Q. 338 But, I mean, it's quite distinct or was it that they didn't mind what was on
- 14:08:30 25 it?
- 26 A. Well, I'd rather you said that than me. But it is the case and I have given
- 27 evidence to the fact before, that certain people, at my request, would sign
- 28 motions.
- 29 Q. 339 Yes.
- 14:08:40 30 A. And I have yet to come across a Councillor who would incisively deconstruct a

- 14:08:49 1 motion or look at a map to such an extent that they would be able to point to  
2 deficiencies or inaccuracies.
- 3 Q. 340 Sure?
- 4 A. So if I produce it, in the vast majority of cases within the confines of a  
14:09:03 5 certain number of councillors they would sign it.
- 6 Q. 341 Well, the motion that we were looking at on the 12th was one signed by four  
7 councillors?
- 8 A. Yes.
- 9 Q. 342 Two of whom were the local councillors in that area, isn't that right?
- 14:09:18 10 A. Yes.
- 11 Q. 343 And they were as we've already established on both sides of the major political  
12 party divide Fine Gael Fianna Fail, and they had signed this document at your  
13 request, isn't that right?
- 14 A. Correct.
- 14:09:32 15 Q. 344 And we know that in the period leading up to 1993, there had been a number of  
16 opportunities for landowners, interested parties, councillors themselves, to  
17 bring forward a plan or a proposal which might be a variation to what had been  
18 conceived by the Council's own planners and reflected in the Draft Plan which  
19 was on public display, isn't that right?
- 14:10:00 20 A. That is correct, yes.
- 21 Q. 345 Put it this way. If there was a Councillor who had a particular concern about  
22 his own area and its usage, it was always open to him to make a submission  
23 without having to do so through an individual who might have a particular  
24 private interest in altering the zoning, isn't that right?
- 14:10:31 25 A. There may well be a scenario where a local councillor on foot of local  
26 representation about a matter which was on public display could or would put  
27 forward a motion, if they so wished.
- 28 Q. 346 And none of the four councillors who signed your motion had signed any other  
29 document in relation to the Baldoyle area themselves initiating a wish to  
14:10:43 30 change, isn't that right?

- 14:10:44 1 A. Not that I'm aware of, no.
- 2 Q. 347 Right?
- 3 A. Certainly not then and subsequently either.
- 4 Q. 348 I mean, we know that Councillor Healy had his own motion?
- 14:10:53 5 A. Yes.
- 6 Q. 349 But as regards other councillors being the initiators of change, that simply
- 7 didn't happen in relation to these lands, isn't that right?
- 8 A. Correct, and Councillor Healy's motion, just for completeness in relation to
- 9 him, I think was submitted subsequent to my motion. Now, I'm not.
- 14:11:13 10 Q. 350 Well if --
- 11 A. Or contemporaneously.
- 12 Q. 351 Contemporaneously, yes if one was to look at the sequencing of numbering, it
- 13 seems that his motion may have been ahead of yours?
- 14 A. The only reason I make that point, Mr. O'Neill, is that while I cannot say
- 14:11:30 15 this. And if Mr. ...
- 16 Q. 352 Healy?
- 17 A. Healy. Sorry. I beg your pardon. Wants to attest to this, it would seem
- 18 strange to look for the genesis of Mr. Healy's motion. Because if you looked
- 19 at the planners reports, the planners reports had nothing contained in relation
- 14:11:51 20 to the zoning of the Baldoyle lands. The only possible reference to the zoning
- 21 of Baldoyle lands came from me. So whether it was anecdotal or otherwise that
- 22 he knew about it.
- 23 Q. 353 Well I think that establishes that in your view it is the case that the first
- 24 motion was a motion which was intended to reflect your wishes at the time for
- 14:12:11 25 these lands and not a particular wish of either of the councillors who are
- 26 involved in its signature, isn't that right?
- 27 A. Oh, absolutely not, yes.
- 28 Q. 354 And therefore, we see that this next motion, which is on -- at page 1922. That
- 29 also was a motion to serve a requirement of yours and not of the councillors,
- 14:12:31 30 isn't that correct?



14:12:32 1 A. Correct.

2 Q. 355 This was not any form of revision on the part of either councillor Creaven or

3 Cosgrave, as to what they had initially proposed and perhaps on mature

4 reflection, we were going to alter it to a new scheme. This was to advance yet

14:12:47 5 another scheme of yours, isn't that right?

6 A. That's correct, yes.

7 Q. 356 Right. And what was it that required you or triggered the change from what you

8 had believed to be suitable for your purposes on the 12th and was unsuitable

9 and substituted or intended to be substituted by this within a relatively short

14:13:06 10 period thereafter?

11 A. Because Mr. Lawlor required -- required is the wrong word. I shouldn't say

12 required. But at the instigation of Mr. Lawlor and in discussions with

13 Mr. Lawlor, the change was made. It's a different matter. It's the same map,

14 by and large. There are different zonings in different parts of ...

14:13:32 15 Q. 357 Yes?

16 A. The land. And as I pointed out to you this morning, I had no knowledge then

17 until much later about any interest that Mr. Lawlor might have had in any parts

18 of the land.

19 Q. 358 If we look to the map then that accompanied the second of the motions.

14:13:51 20

21 It's at 1923. We'll see that the significant variations, as I think I

22 mentioned this morning

23 A. Yes.

24 Q. 359 If one's dealing with the southerly part of the holding, is that the

14:14:07 25 industrially zoned lands revert to being outside the area intended to be

26 altered. They retain their existing E zoning, isn't that right?

27 A. Yes.

28 Q. 360 And if one moves directly then to the north, you'll see that the B and G area

29 is intended now to be changed to A, residential. Whereas, in the original

14:14:28 30 plan, it had been for business, for E at that end of the development?

14:14:33 1 A. Yes.

2 Q. 361 Isn't that right?

3 A. Correct.

4 Q. 362 And of course, these changes, you say they were initiated or perhaps were

14:14:44 5 intended to serve Mr. Lawlor's perhaps change of mind, was it, or Mr. Lawlor

6 had been involved?

7 A. Yes.

8 Q. 363 To the afternoon upon which the documents of the 12th were lodged. And

9 therefore, I have a little bit of difficulty in understanding why it is that

14:15:03 10 his wishes weren't reflected in the first map?

11 A. Yeah.

12 Q. 364 And have to be the subject of a change?

13 A. Yes, I fully understand that you would have difficulty. I have some difficulty

14 myself even in recollection in the context of it. But Mr. Lawlor was deeply

14:15:16 15 involved in the ongoing process in relation to both motions and maps. I

16 certainly did not have the capacity to decide, exclusively on my own, and would

17 not have that same capacity now either, to draw up a map of this nature

18 outlining in red, in particular acreage formats what exactly the zonings ought

19 be or what they ought not be.

14:15:48 20 Q. 365 Right.

21 A. However, the only thing that I can say to you is that because of Mr. Lawlor's

22 involvement I certainly had an involvement with this map and certainly the

23 motion, because as I said to you, it's typed in my typeface and in my office.

24 And I got the signatures from both gentlemen. This was produced by Mr. Lawlor

14:16:12 25 in consultation with me. I'm not absolving myself of it. But it was produced

26 by Mr. Lawlor in the context of a change.

27 Q. 366 Fine. Exactly why you're not sure. But it was produced and it was seemingly

28 acceptable to you insofar as you're representing Pennine?

29 A. Exactly. Well I, Mr. Lawlor's role, again, without unduly being negative about

14:16:41 30 Mr. Lawlor's role. Mr. Lawlor was deeply involved on an ongoing basis with the

- 14:16:46 1 development. And I think you yourself used the phrase earlier this morning,  
2 you know, he could have been riding two horses. I wasn't aware of that fact.  
3 If Mr. Lawlor said I think, Frank, the best thing to do would be to change B  
4 and G to A and put the B and G elsewhere. I would be relatively convincible.
- 14:17:09 5 Q. 367 Very good. We're not in a position to date this particular document. It's  
6 undated?  
7 A. Undated.
- 8 Q. 368 We know that it was circularised to councillors on the 14th of April and  
9 therefore it follows that on some date between the 12th of March and the 14th  
10 of April there was a change as to exactly what was deemed to be in the best  
11 interests of those seeking to effect this change?  
12 A. Correct.
- 13 Q. 369 Isn't that right. And we'll see from the telephone attendances and records of  
14 yours from the 12th onward there are numerous references again to  
15 Mr. Shubotham's involvement or certainly contacts with you, to Mr. Byrne's  
16 involvement and to Mr. Lawlor's involvement. And as you said Mr. Shubotham and  
17 yourself only had an interest at this time, a joint interest I should say, in  
18 relation to the East View rather than the pre existing City West. Albeit that  
19 it was an ongoing business relationship, it didn't require your involvement  
14:18:16 20 really, isn't that right?  
21 A. Yes, I wouldn't discount that on some of the occasions that the calls in  
22 relation to Mr. Shubotham did specifically relate to City West. I think if you  
23 look at the history of City West, it wasn't just a question of getting a  
24 material contravention for the land to be rezoned.
- 14:18:33 25 Q. 370 Yes?  
26 A. There was a planning application, and there were ongoing issues in relation to  
27 it. But having said that, there is no doubt that of the two issues that I was  
28 related to -- that I was dealing with in relation to Mr. Shubotham as an entity  
29 himself, related only to two. That is City West and Baldoyle.
- 14:18:56 30 Q. 371 If we look to document 1892, which is your telephone messages record of the

- 14:19:01 1 16th of March. That's the Tuesday after the initial motion was lodged. You'll  
2 see that Mr. John Byrne was seeking to telephone you at 2:30 that afternoon?
- 3 A. Uh-huh.
- 4 Q. 372 Liam Lawlor has a map and is awaiting further instructions?
- 14:19:16 5 A. Uh-huh.
- 6 Q. 373 And there are also earlier references to Liam Lawlor and also to Liam Creaven  
7 on that day. And do you know of any reason other than perhaps a  
8 reconsideration of the initial map and motion that would have necessitated  
9 Mr. Byrne to be in contact with you again in relation to this project?
- 14:19:46 10 A. No, I don't.
- 11 Q. 374 We'll see on the 22nd of March. At page 1899. A reference to documents coming  
12 over from Liam Lawlor's secretary at 11:50. Ann who was his secretary at the  
13 time. Liam Lawlor office sending over finished document for John Gore Grimes  
14 this afternoon.
- 14:20:18 15  
16 Obviously, the only common interest those parties had was in relation to East  
17 View, is that right?
- 18 A. Correct, absolutely.
- 19 Q. 375 Yes. We'll see on the same day at 3:20. On page 1900 that there is a message  
14:20:33 20 to ring John Byrne after 4:30 that afternoon?
- 21 A. Yes.
- 22 Q. 376 And we'll see two days later then at page 1898 there was a meeting. On the  
23 24th of March, Wednesday, at 11:00 David S and Brendan H, I think that's David  
24 Shubotham is it?
- 14:21:11 25 A. Yes, at Davy Stockbrokers. D stocks, Davy Stockbrokers.
- 26 Q. 377 At Davy Stockbrokers?
- 27 A. Yes.
- 28 Q. 378 The -- there was a man, a Dermot O'Connor. Was he involved in Baldoyle  
29 possibly for one of the residents associations, is that right?
- 14:21:30 30 A. Yes, there was a Mr. O'Connor, correct. I think he was the Chairman of one of

- 14:21:36 1 the housing, Abbey, not Abbey Park. Certainly there was a residents  
2 association and that man was the Chairman, yes.
- 3 Q. 379 Yes. And I think it seems you may have had a meeting with him on the 25th of  
4 March at 12.30?
- 14:21:50 5 A. Yes.
- 6 Q. 380 And on the same day, you were contacted, as we will see, from the telephone  
7 records, by Mr. Cosgrave, Tom Hand, Mr. Creaven and Mr. Gilbride. And I'm  
8 just -- I see that at 1903 firstly on the Wednesday. David Shubotham was in  
9 touch with you at 1:15. Tom Hand was in touch with you at 2:50. Sean Gilbride  
10 at five o'clock. And on the following day then, the Thursday, Michael Cosgrave  
11 was contacting you at 9:30. Brendan Hickey at 11:15. Tom Hand at 11:45 and  
12 again, at 12:50, Liam Creaven at 3:25 and Sean Gilbride at 4:20.  
13  
14 These were the original signatories or some of them
- 14:22:48 15 A. Yes.
- 16 Q. 381 To the motion. And I assume that if you intended to alter that or if it was  
17 intended to be altered, as a matter of course, you'd be getting in touch with  
18 them. Even if they weren't to be the signatories on the new motion?
- 19 A. Well anybody that I had been in touch with obviously would have to be told at  
14:23:07 20 that a new motion and a new map was being submitted or there was the  
21 possibility that that was going to be done.
- 22 Q. 382 Yes. On the following day, 1908. You start your day with a phone call from  
23 John Byrne?
- 24 A. Uh-huh.
- 14:23:19 25 Q. 383 At 9:20?
- 26 A. Uh-huh.
- 27 Q. 384 Again, at 11:00, the same day, and Mr. Cosgrave is ringing you at 11:45. And  
28 then on the 31st of March. We'll see at page 1910 you'd a meeting, possibly a  
29 lunch meeting, with Liam Creaven.
- 14:23:47 30 A. Yes.

- 14:23:48 1 Q. 385 Brendan Hickey also contacted you on the 29th of March. You see that at 1911.  
2 At one o'clock that day on the mobile.
- 3 A. Uh-huh.
- 4 Q. 386 On the following day, the 30th. He contacted you at 11:00 saying it was very  
14:24:09 5 important?
- 6 A. Uh-huh.
- 7 Q. 387 And on the 31st, which is the Wednesday, we see what I believe to be the only  
8 recorded reference to Mr. Tony Fox, who was one of the councillors to whom you  
9 have indicated you paid money. And he rings you at 11:15 on that day, leaving  
14:24:32 10 possibly a home number and asking you to telephone him. And this is at a stage  
11 which is between motions, if I can ... the screen has gone again?
- 12 A. No, no, you were dealing with a page that is not on my screen. Sorry,  
13 Mr. O'Neill.
- 14 Q. 388 Sorry. 1916. And I'm not sure if you want to see any of the earlier ones. Is  
14:24:51 15 it just this document you didn't see?
- 16 A. The reason I said it, you said to it's the only recorded occasion on which  
17 Mr. Fox called. I thought we had an occasion this morning when Mr. Fox was  
18 listed.
- 19 Q. 389 Possibly. I'll check it?
- 14:25:04 20 A. Yes.
- 21 Q. 390 I know?
- 22 A. There are very few.
- 23 Q. 391 If there are two, there are very few?
- 24 A. Yes.
- 14:25:11 25 Q. 392 But it is certainly the one we're seeing on screen now, 1916. At 11:15  
26 telephone call, please call him?
- 27 A. Uh-huh.
- 28 Q. 393 Your day ends with Sean Gilbride at 1917 calling you. I take it you've no  
29 particular memory of the contact with Councillor Fox on this day, whatever  
14:25:43 30 about meeting at the development meetings?

14:25:46 1 A. No.

2 Q. 394 That are held and we'll see recorded in your diary. This is a reference which  
3 is outside that opportunity of meetings certainly?

4 A. Yes.

14:25:56 5 Q. 395 And it is indicative of a wish on his part to contact you rather than vice  
6 versa?

7 A. Correct.

8 Q. 396 Do you know why Mr. Fox was seeking to contact you in and around this time, the  
9 end of March 1993?

14:26:09 10 A. Well it can only -- without being blase about it, it can only relate to  
11 matters dealing with Dublin County Council. Tony Fox rarely, rarely called the  
12 office. There are very few indications of his contact with me by telephone in  
13 my telephone lists.

14 Q. 397 Yes?

14:26:31 15 A. We either met at the Council or arranged to meet at the Council the following  
16 day or the following week or whatever. That is the way he operated. But, no,  
17 I don't have a specific recollection.

18 Q. 398 All right. So do you think this telephone call was specifically to arrange  
19 some form of a later meeting between?

14:26:46 20 A. I think so.

21 Q. 399 Right.

22 A. Sorry, I should say.

23 Q. 400 Yes?

24 A. It's one of two things. He either wants to tell me something and I was  
14:26:56 25 interested in the telephone number whether it's his home or his place of work.  
26 He either wants to tell me something that has either happened at the Council or  
27 is going to happen at the Council or he wants to arrange to meet me.

28 Q. 401 You didn't, in other words, have a relationship with him, either personal or  
29 business or otherwise, other than in the context of planning motions before  
14:27:16 30 Dublin County Council?

14:27:16 1 A. Correct.

2 Q. 402 At this time, is that right?

3 A. Correct.

4 Q. 403 Now, we'll see on the 1st of April of 1924. That Mr. Byrne is contacting you

14:27:25 5 and at 12:10 he leaves a message that it's very important that you please call

6 him in London. He leaves a number, a contact number there. And on the same

7 day, well I should say, firstly, immediately following the contact is from

8 Brian Davy of Davy's. That may be to do with an entirely separate issue.

9 A. How will I put this. Well let me deal with Mr. Byrne first.

14:27:53 10 Q. 404 Fine?

11 A. The call from London. Obviously, my secretary put it down. He wants to talk

12 to me. What he exactly wanted to talk to me, I just don't know. It obviously

13 relates to Baldoyle in some fashion or another. It couldn't relate to anybody

14 else. He's not calling me from London about, you know.

14:28:11 15 Q. 405 Right?

16 A. The latest shows in London. He's calling me in London about something in

17 particular in Baldoyle he's found out or about told about or he wants me to

18 tell him what the current position.

19 Q. 406 He believes it's very important?

14:28:26 20 A. Absolutely.

21 Q. 407 It's not a matter for you to casually to ring back at a later stage?

22 A. Absolutely. I think the following name on the list.

23 Q. 408 Yes?

24 A. Relates to an issue that was ongoing at the time.

14:28:42 25 Q. 409 Yes?

26 A. Which may have, how shall I describe this a peripheral aspect in relation to

27 contact with Mr. Shubotham. But I believe that this man was calling me about a

28 very specific issue.

29 Q. 410 Yes. And on Monday the 5th we see a reference to Mr. David Shubotham and 1913.

14:29:11 30 At two o'clock. You see the reference to David S. That, I take it, is David



- 14:29:16 1 Shubotham. Sorry, it's not coming up on the screen is it. Sorry, the number  
2 is 1931. 1931.
- 3 A. Yes, sorry.
- 4 Q. 411 The entry at two o'clock, David S. On Monday the 5th of April?
- 14:29:36 5 A. Yes.
- 6 Q. 412 Beneath it you'll see that there was to have been a meeting with John Gore  
7 Grimes and it's been struck out?
- 8 A. It's been struck out.
- 9 Q. 413 Is that right. But there is a meeting arranged for later that week on  
14:29:47 10 Wednesday the 7th of April?
- 11 A. That's correct, yes.
- 12 Q. 414 And reference?
- 13 A. And David S is David Shubotham.
- 14 Q. 415 So certainly these parties, that is Mr. David Shubotham?
- 14:29:59 15 A. Uh-huh.
- 16 Q. 416 And Mr. Byrne, through his solicitors certainly, are still actively in  
17 communication with you on matters that they believed to be of importance to  
18 their interests obviously?
- 19 A. Yes, with the proviso.
- 14:30:13 20 Q. 417 Yes?
- 21 A. That tangential as it may seem, that Mr. Shubotham may well be making contact  
22 about another issue. But that does not, if that were the case, is not across  
23 the period of contact by Mr. Shubotham. I mean, that's not the reason for all  
24 of his telephone calls to me. It may well be on occasion about a matter that  
14:30:35 25 was of public concern at the time.
- 26 Q. 418 Right. But insofar as it was, it represented only a smaller proportion?
- 27 A. Yes.
- 28 Q. 419 Of the contact isn't that right? We see that both of these gentlemen contact  
29 you on the 6th of April. Page 1935. David Shubotham at ten past ten.  
14:30:52 30 Mr. Lawlor for completeness at 10.30. Mr. Byrne at 11:45, followed by

- 14:30:59 1 Mr. Creaven, Mr. O'Halloran at 11:50 and 12:05. And on the same day, you're  
2 also contacted by Sean Gilbride at four o'clock and Liam Lawlor completes your  
3 messages at 4:30 that day?
- 4 A. And Deputy Kenny looking for copies of the proposal.
- 14:31:22 5 Q. 420 Yes. This level of contact between Mr. Byrne and Mr. Shubotham after this  
6 motion, the first motion has been lodged and prior to the lodging of the second  
7 motion, suggests that there must have been some detailed discussion between the  
8 parties as to whether or not the original plan and map as submitted would in  
9 fact serve the purposes that they intended to achieve at the end of the day,  
10 isn't that right?
- 11 A. Yes, sorry. Before I answer that Mr. O'Neill. Your question there is premised  
12 on contact between Mr. Byrne and Mr. Shubotham.
- 13 Q. 421 Sorry, I mean the contact with you through?
- 14 A. Sorry, yes, I don't mean to be picky but even just from the point of view  
15 of the transcript.
- 16 Q. 422 Yes?
- 17 A. I would suggest, no, more than suggest. I would say yes to your question.  
18 That there may well have been concern certainly on the part of Mr. Byrne. I've  
19 already given evidence to the effect that other than speaking to Mr. Byrne  
14:32:26 20 about Baldoyle, I don't recollect ever discussing any other issue with him at  
21 all, ever. In relation to Mr. Shubotham, I do not recollect ever discussing  
22 the terms of a motion. Sorry, I beg your pardon. The terms of a motion or the  
23 contents of a map. I may be wrong. I don't think I am. But I do not believe  
24 I ever discussed any of that detail with Mr. Shubotham.
- 14:33:04 25 Q. 423 Yes?
- 26 A. Notwithstanding any of that, the frequency of contact between Mr. Byrne,  
27 Mr. Shubotham and to a lesser extent at this stage, Mr. Hickey, with me, either  
28 individually or collectively, all relate to Baldoyle.
- 29 Q. 424 Yes?
- 14:33:24 30 A. With the exception that Mr. Shubotham may be ringing me about a matter of

- 14:33:29 1 concern, public concern relating his firm.
- 2 Q. 425 Whilst it's correct to say that direct contact between Mr. Byrne and
- 3 Mr. Shubotham or indeed Mr. Hickey may have been somewhat limited, or indeed
- 4 very limited, I'm not sure, but there are certainly contacts between them. It
- 14:33:46 5 is the case that the information that each of them had was information which
- 6 came from you, isn't that right?
- 7 A. Or Mr. Lawlor.
- 8 Q. 426 Or Mr. Lawlor?
- 9 A. Yeah.
- 14:33:54 10 Q. 427 They, in other words, to use the term. They were in the loop. There's no way
- 11 that they were receiving limited information about this scheme, that is either
- 12 Mr. Shubotham or Mr. Byrne. They weren't being kept in the dark about any
- 13 aspect of this?
- 14 A. Well certainly that was never an objective to keep anybody in the dark.
- 14:34:13 15 Q. 428 Yes?
- 16 A. I did, as I think I said, as I know I said in my statement. I did report to
- 17 both Mr. Shubotham and Mr. Hickey on occasion in relation to the status of the
- 18 Baldoyle, the East View proposal.
- 19 Q. 429 Yes. Now, I mentioned to you that the second draft, the second motion?
- 14:34:37 20 A. Uh-huh.
- 21 Q. 430 I should say, which was signed by two councillors. That's Creaven and
- 22 Cosgrave. That that motion was one which was received within the Council by
- 23 the 14th of April and circulated to the membership on that date. You may be --
- 24 A. Oh, no, no, sorry you're coming from the point of view of the documentation
- 14:35:02 25 from the Council showing it was received on that day.
- 26 Q. 431 Yes?
- 27 A. Because there is no date on the actual motion.
- 28 Q. 432 Yes. We know that the latest date that it was received or prepared?
- 29 A. Was the 14th.
- 14:35:12 30 Q. 433 Was the 14th. And certainly, the Council had it by that date and had

- 14:35:16 1 circulated it and one would then assume that insofar as Mr. Hickey, yourself,  
2 Mr. Shubotham, Mr. Lawlor and others had been discussing the motion to that  
3 date, the motion which was lodged and circulated as of the 14th represented  
4 your then view as to what the optimum rezoning would be as of that date, is  
14:35:40 5 that correct?
- 6 A. That is correct, yes.
- 7 Q. 434 And we know that it's to be amended yet again by the 20th, isn't that so?
- 8 A. Yes.
- 9 Q. 435 And immediately, well perhaps not immediately after it was lodged, but  
14:35:52 10 certainly by the 15th of April we'll see that Mr. Byrne is again getting in  
11 touch with you with the view to holding a meeting. And that's at 1975.  
12 Telephone record 10 a.m. John Byrne re meeting?
- 13 A. Uh-huh.
- 14 Q. 436 And again on the same date the parties who were in touch with you were  
14:36:13 15 Mr. O'Halloran, Mr. Gilbride, Mr. Cosgrave and Liam Creaven?
- 16 A. I don't mean to be picky.
- 17 Q. 437 Yes?
- 18 A. Again Mr. O'Neill. John Byrne at ten o'clock re meeting. There is a  
19 possibility, I'm not discounting the fact that it may have been a meeting with  
14:36:34 20 me or an arranged meeting with me or with others.
- 21 Q. 438 Yes?
- 22 A. It may well refer to a Council meeting.
- 23 Q. 439 Fine?
- 24 A. He may well have been.
- 14:36:37 25 Q. 440 Yes?
- 26 A. It may well have been that he has some information that has come to his,  
27 something has come to his knowledge about something that happened at the  
28 Council. I'm not discounting in any way that it is probably likely to be a  
29 meeting for, with me.
- 14:36:52 30 Q. 441 Right. Certainly there isn't an immediate record of?

14:36:56 1 A. No.

2 Q. 442 Of there having been a meeting, though it's followed up four days later with  
3 another telephone contact from him to you?

4 A. Yes.

14:37:05 5 Q. 443 On the -- sorry. On the very next day there is a contact from him. But  
6 there's also one on the 19th. If we look first to 1977. Date 10:45. John  
7 Byrne. Leaving his home number there for you. And we'll see that that is  
8 followed on the 19th at 9:20 by another contact, John Byrne at 9:20 that  
9 morning. And on that date, as I say, again, Mr. Liam Creaven is in touch with  
14:37:36 10 you, Mr. Tom Hand, Liam Lawlor, David Shubotham at midday, John O'Halloran at  
11 12:10, Sean Gilbride at three o'clock in the Council.  
12  
13 This is the eve of the first hearing of the motion. To date everything that  
14 has been done has been the preparation of the motion documentation for  
14:37:59 15 submission to a hearing of the Council, the first hearing is going to be on the  
16 following day, isn't that right  
17 A. Yes.

18 Q. 444 Do you believe that these contacts were to do with what the format of the  
19 business of the Council the following day was and what representations might be  
14:38:19 20 or what presentations should be made on that day?  
21 A. Sorry, the telephone call references that you're referring to, Mr. O'Neill what  
22 date are they.

23 Q. 445 On page --

24 A. What date.

14:38:32 25 Q. 446 The 19th of April?

26 A. My screen is the 16th. Sorry. That's why I was a little bit confused because  
27 I knew that the meeting was on the 20th. It couldn't have been on the 17th  
28 when you were saying the next.

29 Q. 447 The last references that we saw were references to contacts by Mr. Byrne with  
14:38:48 30 you at page 1700 on Monday the 19th of April. He had been in touch with you

- 14:38:51 1 the previous Friday?
- 2 A. Yes.
- 3 Q. 448 Also on the 16th. And I think he also was in touch with you on the Thursday.
- 4 So other than the weekend, he'd been in touch with you three days in a row?
- 14:39:04 5 A. Correct.
- 6 Q. 449 Leading to the eve of the meeting which was to take place in the Council on the
- 7 following day. And from what we know of Council meetings, it appears that, as
- 8 we know, visitors tickets would be issued to persons to attend. And there was
- 9 a large attendance of interested parties of various types, objectors,
- 14:39:30 10 developers, the press, the elected representatives who were there as of right.
- 11 But there was a considerable degree of interchange, as I understand it, as
- 12 various adjournments and periods of respite in the course of those meetings,
- 13 isn't that correct?
- 14 A. That's correct, yes.
- 14:39:48 15 Q. 450 And you were a participant in advising the various councillors in relation to
- 16 the motions which you freely accept were your own creation and which were
- 17 getting their first public airing at these meetings, isn't that right?
- 18 A. Well, they were my own creation. In the sense that they were prepared in my
- 19 office.
- 14:40:05 20 Q. 451 Yes?
- 21 A. But with advice. They were created in my office. They are my motions for my
- 22 motion in relation to Baldoyle. Nobody else knows that Mr. Liam Lawlor had an
- 23 involvement in it at that stage.
- 24 Q. 452 I was putting it in contra distinction to them being the councillors motions?
- 14:40:24 25 A. Oh, yes.
- 26 Q. 453 Albeit that they appear to be because they are being advanced by the
- 27 signatories of the motions to their colleagues as being their motions. Whereas
- 28 in fact their input in zero, save them signing them?
- 29 A. Correct.
- 14:40:39 30 Q. 454 They were in fact your motions and you were there to see the baby born or the

14:40:44 1 cow calve or whatever it might be. But you were present throughout these  
2 meetings and whenever there would be a point of detail, it's something that the  
3 promoters of the motion would check with you, isn't that right?

4 A. Yes. If the occasion allowed. Sometimes these interchanges took place and I  
14:41:03 5 think there's actually photographic evidence to this effect. I think it's on  
6 RTE television, of my interchanging with councillors in the chamber.

7 Q. 455 Yes?

8 A. But as you quite rightly say, it wasn't always possible to be in the chamber.  
9 First of all, there were, I think, six seats available for the press and there  
14:41:25 10 were ten seats available for the public, which, when you think about it, is an  
11 indication of how Dublin County Council regarded democracy. But how and ever,  
12 that's an aside. Sometimes it wasn't always possible to deal with the  
13 councillors on the floor, as it were. There were frequent breaks and sometimes  
14 some of these breaks were not scheduled but they were manufactured in the sense  
14:41:54 15 that people wanted to ensure that there was a break so that there could be  
16 consultation taking place with advisors, promoters, developers or builders  
17 outside in the lobby, because that was the nature of the building.

18 Q. 456 Yes.

19 A. But there is absolutely no doubt, to answer your question, that I was  
14:42:11 20 frequently in contact with the promoters of motions and in particular with this  
21 one in relation to what should or should not happen.

22 Q. 457 Now, is that the probable explanation for why persons having an interest in the  
23 successful rezoning of these lands would have been in touch with you  
24 immediately before the hearing of these motions to find out?

14:42:36 25 A. I have absolutely.

26 Q. 458 What position you were going to adopt, how you were going to play it, in other  
27 words, on the day?

28 A. Yes, I have absolutely no doubt that that is the case in the context of  
29 Mr. Byrne. And as I said, I cannot specifically say to you that I ever had a  
14:42:51 30 strategic consultation from Mr. Shubotham in relation to either map or motion

- 14:42:56 1 or who might or might not vote for it. I just cannot say that. If I could I  
2 would. But I can't say it.
- 3 Q. 459 Uh-huh. But we'll see that the very last call you got on the 19th of April,  
4 that is recorded as having been received, I should say, rather than you  
14:43:15 5 necessarily got it yourself, is to be seen at page 1702. Where at 5:50 that  
6 day you'll see that Mr. David Shubotham was contacting you from the  
7 intercontinental hotel in London and wanting you to ring him at any time up to  
8 7:30 that evening?
- 9 A. Yes.
- 14:43:34 10 Q. 460 Yes. Have you a memory or would you as a matter of course return telephone  
11 calls, such as that, where people have indicated that they're abroad and  
12 they're ringing you and they want you to ring them by a particular time?
- 13 A. Yes, yes is the answer.
- 14 Q. 461 So the probability is that you did phone them on the evening before the motion?
- 14:43:53 15 A. I would find it extraordinary if somebody was able to prove that I did not.
- 16 Q. 462 Yes. I think the following day, at page 2003. One of the first calls you  
17 received that day was in advance, I should say, of the Council meeting at 9:45  
18 Mr. Shubotham is ringing you from London. And he also rang you at 1:45. Which  
19 would be the lunch break normally -- sorry it would be the time by which the  
14:44:32 20 meeting would have concluded, isn't this right?
- 21 A. Yes, and he is back in Ireland obviously at this stage.
- 22 Q. 463 Yes?
- 23 A. Yes.
- 24 Q. 464 But Council meetings I think extended until to one o'clock unless there was a  
14:44:43 25 specific extension?
- 26 A. There had to be a special, somebody had to put forward a motion to say that you  
27 extended through lunch or that.
- 28 Q. 465 Right?
- 29 A. They were not going to break at lunch, yes.
- 14:44:56 30 Q. 466 So he probably reasonably expected that the business of the day had finished



- 14:45:00 1 and he was contacting you?
- 2 A. Yes. It could well be.
- 3 Q. 467 Yes. It would be surprising, given the level of his involvement to this point,  
4 that he didn't take the first opportunity to contact you to see whether or not  
14:45:14 5 the plan had been successful. Because as of the 20th it was everybody's belief  
6 or was it, that the matter would be concluded on that day?
- 7 A. Well, it was, as I think we discussed earlier this morning, it was certainly  
8 scheduled.
- 9 Q. 468 Yes?
- 14:45:30 10 A. And there had been a lot of, I suppose hype is the wrong word. But certainly  
11 there had been a lot of lobbying by me and there was a recognition that this  
12 matter was going to come up on the 20th and could possibly, unless something  
13 extraordinary, which of course did occur, unless something extraordinary  
14 occurred that it would be dealt with. And I did say to you that at this point  
14:46:00 15 I had no reason for a variety of reasons. I had no reason to believe that  
16 there was anything untoward or contentious in relation to the proposal.  
17 Because people wanted something to happen on the site.
- 18 Q. 469 Well, there seems to have been a, I suppose, a tweaking or a modification of  
19 your plan on a number of occasions as we go through the process. And is it  
14:46:29 20 your evidence that this in some way reflected or indicates that you took on  
21 board some of the arguments that were being advanced by those who were against  
22 the project?
- 23 A. Yes. Certainly there was, not quite a number. There was a number of meetings  
24 with residents associations who made various points in relation to, depending  
14:46:56 25 on where they were from and how close this development would or would not be to  
26 them. That is one category. Another category is Mr. Liam Lawlor. Another  
27 category is Mr. Byrne, though I cannot absolutely say to you that I can -- that  
28 I can recollect any change that Mr. Byrne suggested. But obviously, his  
29 contact with me relates to Baldoyle East View. It cannot be about anything  
14:47:22 30 else. There may well have been concerns expressed politically in the sense by

- 14:47:29 1 politicians in the local area but certainly not the two local councillors who  
2 signed the motion. There may have been expressions of concern by others in the  
3 wider area. For example, it was known to us that people in the Portmarnock  
4 area and representatives of people in the Portmarnock area had something of a  
14:47:58 5 cultural difficulty. Let me just put it that way, about any development that  
6 might bring them any nearer to Baldoyle.
- 7 Q. 470 Right. In the context of payments to politicians, in relation to their support  
8 for the vote upon an issue that would be of benefit to the East View project.  
9 That support would have to be garnered before the hearing date of the special  
14:48:28 10 meeting convened to determine the issue, isn't that right?
- 11 A. By and large, yes. I mean, it might not necessary necessarily mean that we  
12 knew everybody who was going to support. But certainly we would have lobbied  
13 and I would have lobbied the people, you know, obviously because they signed  
14 the motion. And the people whom I say that had paid money to.
- 14:48:53 15 Q. 471 Yes, but it's really the latter that my interest is in at the moment. Just to  
16 try and fix in time what was going on here. Your belief is that up until the  
17 12th, which was the day of the signing of the motion?
- 18 A. Yes.
- 19 Q. 472 You hadn't paid any politician any money in relation to the, to their support?
- 14:49:11 20 A. Correct.
- 21 Q. 473 You accept that when the motion was going to be heard or believed to be heard  
22 on the 20th of April one certainly would have to have all of your soldiers in a  
23 row by that day, isn't that right?
- 24 A. Yes, yes.
- 14:49:23 25 Q. 474 And if you were going to be paying them, the probabilities would be that the  
26 arrangement to pay them, whatever about actually handing over the money, would  
27 have been in place by then, isn't that right?
- 28 A. I think that is logical, yes.
- 29 Q. 475 I mean, there would be no point paying them after the event if they had not  
14:49:39 30 turned up, for example. They were to be there on your account of events to

14:49:44 1 ensure that the matter was carried and supported, isn't that correct?

2 A. Yes.

3 Q. 476 And as regards identifying any individual Councillor with any one of the stages

4 of the operation so far, the only person to whom you say you paid money was

14:50:00 5 Mr. Gallagher, who is the signatory to the first motion?

6 A. That's right.

7 Q. 477 That is the motion No. 1 we'll call it?

8 A. Correct.

9 Q. 478 And as we know, that motion was withdrawn on the 20th?

14:50:12 10 A. Correct.

11 Q. 479 And it's I think correct to say that Mr. Gallagher didn't sign any of the other

12 motions or amendments to existing motions that were to be the subject of that

13 matter, isn't that right?

14 A. Correct, and I don't think he even participated in any discussion that took

14:50:30 15 place in the Council Chamber in relation to the matter.

16 Q. 480 No. Though he was present?

17 A. Oh, he was present, yes.

18 Q. 481 And can you say when it was or when it was likely that you paid him in respect

19 of his input?

14:50:44 20 A. Well, I think it is likely that at the time that he signed the first motion

21 that we had a discussion about a payment and that subsequent to that, I cannot

22 say to you before or after the withdrawing of that motion. But certainly I had

23 a discussion with him, I have given evidence already in relation to many

24 Modules. And I had a discussion with him in which the subject of money was

14:51:08 25 raised and the normal fee that I -- not fee, it's not the word. The normal

26 amount of money concerned was 1,000 pounds. But I cannot say to you exactly

27 when I paid him. He continued to support the project, to the best of my

28 recollection, voted in all of the motions on all of the motions changed and

29 altered, even in the heat of the battle on the Council floor. But I cannot

14:51:38 30 precisely say to you when I gave him the money.

14:51:40 1 Q. 482 Right. And do I understand from that response where you say that you usually  
2 gave him 1,000, that you are making to some extent an assumption that the sum  
3 that you paid him in respect of this particular project was 1,000 or are you  
4 saying you have a recollection?

14:51:59 5 A. No.

6 Q. 483 Of paying him 1,000?

7 A. No, it is I have a recollection because as with others, which I presume we will  
8 deal with, as with others, we had a discussion in relation to my involvement.  
9 I was not saying, notwithstanding the comments that you've made this morning.

14:52:17 10 I was not saying to any Councillor I am the front man for this consortium or  
11 development. Quite the contrary. The image was created that I, this was  
12 actually my project. And the attitude on various people's parts was we must do  
13 this for Frank.

14 Q. 484 Yes?

14:52:38 15 A. And in that context, I had a discussion with Cyril Gallagher. I said to Cyril  
16 Gallagher, this is something that I'm doing myself. In an attempt, in an  
17 attempt to reduce as much as possible any outgoings that I might have.

18 Q. 485 Right.

19 A. Now, that did not occur in the context of two other councillors with whom I had  
14:53:07 20 a slightly fractious debate about it. But not in the context of Cyril  
21 Gallagher.

22 Q. 486 So, to the extent that in this particular instance, you were more identified  
23 with having a personal interest in the project rather than being the  
24 representative of a named developer and/or builder, as the case may be, isn't  
14:53:32 25 that right?

26 A. Cyril -- I don't mean to be disrespectful, but Cyril really couldn't give a  
27 damn. He was doing something for me. In a way, he did something for me all of  
28 the time when I approached him in relation to motions or signatures or support.

29 Q. 487 Yes?

14:53:47 30 A. There were occasions when I did specifically tell him who the promoter or

- 14:53:52 1 developer was, for whom I was acting. I did not do so in this instance.
- 2 Q. 488 Yes. And is that -- do you say that that translated into there being no  
3 difference in the fee, if I could call it that? He charged you what he was  
4 going to charge you, even if you were acting for somebody else?
- 14:54:10 5 A. I think so, yes.
- 6 Q. 489 I see. And you say that that wasn't the case in respect of two others, is that  
7 right?
- 8 A. Yes, yes ...
- 9 Q. 490 Yes?
- 14:54:18 10 A. In the case of Tom Hand. I had an argument with Tom Hand about it.  
11 Notwithstanding the fact that I made the -- I posited it in the way that it was  
12 me. This was something that I was going to.
- 13 Q. 491 Yes?
- 14 A. To benefit from. And I was doing it. Tom was, notwithstanding anybody else's  
14:54:40 15 view of it, Tom was quite a realist and he said 'look if this goes through  
16 you're going to make a hell of a lot of money'.
- 17 Q. 492 Yes?
- 18 A. And we had a discussion with him. But I sort of held my ground, as it were,  
19 and we -- I agreed to give him 1,000 pounds.
- 14:54:58 20 Q. 493 Right.
- 21 A. I had a less contentious debate with Tony Fox. But something of a similar  
22 nature. Because Tony Fox, again, was very realistically appreciable of what  
23 this would entail if it went through.
- 24 Q. 494 We'll see at page 2757. That Mr. Gallagher made a lodgement to An Post on the  
14:55:26 25 26th of April 1993, in the sum of 1,000 pounds. Which is some -- it was the  
26 Monday following the meeting on the 20th. Other than the fact that that is  
27 contemporaneous with the events that were going on, that is the first motion  
28 hearing, and that motion indeed was adjourned until the 27th, which was the  
29 eve?
- 14:55:59 30 A. Yes.

- 14:55:59 1 Q. 495 Of this particular entry. Can you make any connection between that 1,000 and  
2 the lodgement or do you think it likely that you paid Mr. Gallagher in that  
3 period of time?
- 4 A. Well, that I -- I mean, following what I have said as logically as I can. I  
14:56:19 5 cannot put a specific date on it.
- 6 Q. 496 Right?
- 7 A. I had not adverted to the fact that there was 1,000 pounds there. Just looking  
8 at it on the screen. I know it was in the brief. I didn't go down through  
9 this account. That's neither here nor there. I don't -- cannot say to you  
14:56:33 10 that it was on a particular day or date that the payment was made. But  
11 certainly it was within the period in which this issue was coming before the  
12 Council..
- 13 Q. 497 Yes. Now, I think that while we have dealt with the fact that the 12th of  
14 March motion was dropped on the 20th. There was yet another twist in that the  
14:57:00 15 seconds motion was in turn amended so as to be a variation of what was  
16 initially proposed in the second motion. We see that at page 2006. Where the  
17 number of houses, the type of development that's going to take place is  
18 quantified in house terms?
- 19 A. Yes.
- 14:57:20 20 Q. 498 As opposed to general terms, which had been the situation to them, isn't that  
21 right?
- 22 A. This arose specifically, Mr. O'Neill, in the context of a point that I alluded  
23 to two minutes ago. In relation to people on both ends, both Baldoyle and  
24 Portmarnock, did not really believe I think with some justification in  
14:57:45 25 retrospect now. But they did not really believe that if development was going  
26 to take place on that body of land that it could be so contained and that  
27 there would be no green belt in between. So people wanted figures. They  
28 wanted, what's the word.
- 29 Q. 499 Definition of some sort?
- 14:58:05 30 A. Well they wanted it capped. They wanted to be able to say that they knew that

14:58:10 1 only 450 houses would be built on the Baldoyle and only 450 houses would be  
2 built on the Portmarnock end.

3 Q. 500 Yes. And the integrity of both areas would be maintained by there being a  
4 division between the two of them and wouldn't be one continuous strip?

14:58:27 5 A. Correct.

6 Q. 501 Of development. And we see on screen the proposal now which was for, well,  
7 firstly, the pay and as you pay golf course was jiggled about somewhat?

8 A. Yes.

9 Q. 502 In its dimensions. But the essential changes were to provide for not more than  
14:58:45 10 450 houses on approximately 75 acres at Baldoyle with access from the coast  
11 road and to provide for not more than 450 new houses on approximately 75 acres  
12 in Portmarnock. And if we look now to page 2007 we will see those two areas of  
13 residential development. One grouped, one to the north and one to the south as  
14 the B G to A areas, isn't that right?

14:59:15 15 A. That's correct.

16 Q. 503 And that was an amendment apparently which came from the floor effectively of  
17 the house, is that right?

18 A. Yeah. Could you put it back up on the screen for the moment.

19 Q. 504 Certainly?

14:59:29 20 A. Just for identification purposes.

21 Q. 505 2006. Although we'll see a manuscript copy of the amendment at 2008?

22 A. Correct.

23 Q. 506 If you want to look at the printed version first?

24 A. This is not, to the best of my recollection, this is not something that was  
14:59:45 25 prepared in my office.

26 Q. 507 Yes?

27 A. I understand -- if -- not I understand, if I correctly recollect, this is a  
28 matter that was typed in the offices of Dublin County Council.

29 Q. 508 Yes?

14:59:56 30 A. On, at the request of one or other of the signatories that an office be made

- 15:00:05 1 available and that this be typed. So I think that this was typed by a  
2 secretary in one of the offices in Dublin County Council itself.
- 3 Q. 509 Yes. But it is I think likely, like the earlier two motions and the content of  
4 it, it is something drafted by you, is that right?
- 15:00:21 5 A. Oh, yes. No, no, no, it's certainly drafted by me.
- 6 Q. 510 We'll see the manuscript copy of that. At page 2008. It's on paper which was  
7 obviously available in the Council at the time. And it's handwritten here.  
8 I'm just wondering whose writing that was?
- 9 A. That's mine.
- 15:00:40 10 Q. 511 That's your writing?
- 11 A. Yes, it is.
- 12 Q. 512 All right.
- 13 A. And you will note that it is on Dublin County Council notepaper.
- 14 Q. 513 Yes?
- 15:00:47 15 A. Which I would -- I wouldn't normally have available to me. I did have on  
16 occasion Dublin County Council notepaper.
- 17 Q. 514 Yes?
- 18 A. Made available to me by others.
- 19 Q. 515 Yes?
- 15:00:57 20 A. But I would not have had that available to me as a matter of course.
- 21 Q. 516 Right?
- 22 A. So this is something that was handwritten by me on a piece of Dublin County  
23 Council notepaper in local and subsequently typed upstairs.
- 24 Q. 517 Yes. Now, before it was typed it was signed by the parties we'll see at 2009.  
15:01:18 25 We have the signature of Councillor Creaven, Cosgrave and Sean Gilbride?
- 26 A. Gilbride, yes.
- 27 Q. 518 Mr. Gilbride is now a signatory to this, whereas the motion, the original and  
28 unamended version of the motion was signed by two only, Mr. Gilbride now lent  
29 his support to this as well and that was at your request, isn't that right?
- 15:01:41 30 A. Well, it arose in the context of the hub-bub that was taking place in the



- 15:01:47 1 Council and the Mr. Gilbride, who had signed an original motion.
- 2 Q. 519 Yes?
- 3 A. But was not a signatory to the other two motions, other than Liam Creaven and
- 4 Michael Joe Cosgrave was in the vicinity with us because there was concern
- 15:02:04 5 about procedural matters that were taking place in the chamber and he just said
- 6 I'll sign it. I don't recollect my specifically asking him to sign it but the
- 7 fact that his signature on it there would lead me to believe that I either did
- 8 or he offered.
- 9 Q. 520 You've indicated that in respect of the first two motions, you had the
- 15:02:21 10 assistance or certainly the advice, the guidance, whatever it might be, of
- 11 Mr. Liam Lawlor, both as regards the content of the motion itself and what was
- 12 to be shown on the maps?
- 13 A. Yes, correct.
- 14 Q. 521 Now, this is something which took place on the floor of the house or close to
- 15:02:36 15 it. And to what extent, if at all, was Mr. Lawlor either through yourself or
- 16 any other person aware of and perhaps involved in the drafting of this
- 17 particular event?
- 18 A. Yes, well first of all, he was not present. Because he was no longer a member
- 19 of Dublin County Council and he definitely was not present in the environs. He
- 15:03:00 20 wasn't in the County Council chambers or in the lobby of a Council or in a
- 21 local hotel as far as I can accurately reflect. I would not discount that he
- 22 and I had a telephone conversation about this. But he certainly did not, if
- 23 one was to be semantically correct and say he did not draft this motion ab
- 24 initio and completely to its end. I drafted the motion. But I would say
- 15:03:26 25 certainly there was some consultation with him.
- 26 Q. 522 Yes. I think perhaps the subject matter of that motion, that is the
- 27 quantification of the number of houses that were intended to be built here?
- 28 A. Yeah.
- 29 Q. 523 Rather than the general statement that quality housing or appropriate housing
- 15:03:48 30 was to go in, had been possibly discussed with local residents areas, is that

15:03:54 1 right?

2 A. Yes, that is correct.

3 Q. 524 And to some extent, was this to appease them or to satisfy them as to the

4 nature and density of what was involved here so as do increase the likelihood

15:04:08 5 of there being, let's say, a lack of public opposition as opposed to the

6 Council opposition?

7 A. As I say, there are two things, Mr. O'Neill, in relation to that. Yes, I did

8 have meetings. Yes, the issue of the number of houses arose. It arose

9 specifically because historically there was a belief that if Endcamp had got

15:04:31 10 planning permission on the land when it had sought planning permission and/or

11 zoning ten years or fifteen years previously. That there would be something of

12 the order of 2,000 houses was the figure that was being bandied about by

13 people.

14 Q. 525 Yes?

15:04:47 15 A. I did not know then, I don't know now what was actually proposed in relation to

16 the number of houses. But this was specifically -- negotiated is probably too

17 formal a word. But it was certainly with a view to the ultimate. That if the

18 door was opened in relation to residential development, God knows where it

19 would lead.

15:05:14 20 Q. 526 Yes. There was, therefore, in your minds, an appreciation of the fact that the

21 earlier projects may have been somewhat over ambitious?

22 A. Yes.

23 Q. 527 The figure I think was something over 2,000, 2,250 houses or thereabouts

24 initially?

15:05:33 25 A. Yes.

26 Q. 528 Mr. Byrne's project?

27 A. Well, certainly the figure 2,000, it sticks in my mind.

28 Q. 529 Yes?

29 A. Because it was proposed, not proposed. It was mentioned to me on a number of

15:05:44 30 occasions particularly by local residents associations.

- 15:05:48 1 Q. 530 Yes. I suppose for completeness, one should say that that probably was in  
2 relation to a larger area than was involved here insofar as at the time of the  
3 making of those applications Mr. Byrne's take was in excess of 510 acres.  
4 Whereas this development was intended to be limited to 430 I think.
- 15:06:12 5 A. Well, I think those fine distinctions would not have been something that would  
6 have been readily appreciated by residents associations. Because their view  
7 was that this was what had been proposed. It had failed. And they were feared  
8 that this might happen again.
- 15:06:33 9 Q. 531 Yes. Were you aware, did you have a belief that the proposal that you were  
10 intending to have debated before the Council was one that was going to be  
11 contentious or did you believe that it was a matter which would pass with  
12 relative lack of objection, given that the two local councillors from the major  
13 political parties on their face appeared to be the supporters of it and  
14 obviously were going to be those who were articulating its acceptance before  
15 their colleagues, isn't that right?
- 15:07:06 16 A. Now, I think I would take two -- probably did take two views on that. I have  
17 already said to you that at a certain stage there was nothing to indicate that  
18 there was anything contentious. Other than the fact that this was a body of  
19 land that had been both in local and in the public mind associated with a  
20 previous attempt which had gone spectacularly wrong.
- 15:07:22 21 Q. 532 Yes?
- 22 A. And with all of the implications that that had for anybody who might come along  
23 and try to do something similar, however modified. The second issue that I  
24 said that I felt. Is that as I progress through Dublin County Council in  
25 lobbying, nothing was ever simple. It never turned out to be the way that you  
26 might have prepared for, no matter what support that you thought that you had,  
27 which is to under score the fact that coming up to the day in which a matter  
28 was being dealt with by Dublin County Council an enormous amount of contact was  
29 made by councillors to make sure that they were there, particularly the people  
30 who said that they were going to support you.
- 15:08:07

15:08:08 1 Q. 533 Yes. Now, in relation to the named councillors who you've mentioned as being  
2 the recipients of payments from you. What can you say about your contacts with  
3 them prior to the meeting of the 20th of April of 1993. Did you in fact make  
4 contact with all of them, have you any recollection of when or how that took  
15:08:33 5 place?  
6 A. I think there was ongoing contact with all of the councillors, particularly  
7 those people who said that they were going to support, particularly those  
8 people who said that I might have entered into commitments with in relation to  
9 payment for their support, yes. Hardly a day would pass either by telephone or  
15:08:54 10 more than likely in local in the Council while other matters were being  
11 discussed. Because that was a convenient way of always making contact with  
12 councillors.  
13 Q. 534 Yes. And if we were to go through, just the individual councillors of who you  
14 say were paid.  
15:09:13 15  
16 In the documentation that we've considered so far today, there is no mention of  
17 Councillor Jack Larkin, for example  
18 A. Yeah.  
19 Q. 535 Yet you say he is a person who was contacted by you?  
15:09:25 20 A. Yes.  
21 Q. 536 He is a person who was paid by you. He was a person who you would expect to be  
22 on your side and there and ready to cast his vote on the day?  
23 A. Uh-huh.  
24 Q. 537 And you would have contacted him but there is no reference at all to him, isn't  
15:09:42 25 that correct?  
26 A. That's correct, yes.  
27 Q. 538 That similarly applies --  
28 A. Sorry, for completeness, which is a phrase that I have only begun to use since  
29 I've heard people like yourself using it but it's a very apt phrase. For  
15:09:55 30 completeness. I think if you go through the measure of contact by all

15:09:59 1 councillors. You will find very little references to Jack Larkin, other than  
2 possibly in my diary.

3 Q. 539 Yes. But in relation to this particular?

4 A. Yes.

15:10:07 5 Q. 540 Time we'll see that there isn't any reference at all to him, isn't that  
6 correct?

7 A. Yes, correct.

8 Q. 541 And similar consideration applies to senator Don Lydon?

9 A. That is correct.

15:10:17 10 Q. 542 No reference to him. And no reference to Liam Cosgrave to this point?  
11 A. That's correct.

12 Q. 543 Right. The limited references to Cyril Gallagher as Cyril, perhaps to and an  
13 involvement which we can see on the face of the signed document. And perhaps a  
14 contact insofar as he made a bank lodgment or a post office lodgment in and  
15 around this time on the 26th. And Tony Fox, as we say, a telephone call from  
16 him. Two telephone contacts with him during that period. But other than that,  
17 they are the people?

18 A. That's just to indicate Mr. O'Neill, that I am listening to you.

19 Q. 544 Other than that, no references whatsoever to the other three, isn't that right?

15:11:11 20 A. No.

21 Q. 545 Nothing, let's say, that could be deemed to be an independent confirmation of a  
22 level of contact between you and them at this time that might have explained or  
23 might be relevant to a payment to them, isn't that right?

24 A. That is correct, yes.

15:11:27 25 Q. 546 Do you think that you paid the majority of these councillors prior to the 20th  
26 or after the 20th of April, that being the first hearing date, if I could call  
27 it that?

28 A. No, I couldn't say whether I paid a majority or a minority before. The  
29 conversations that I had with the councillors, that I say that I paid money to,  
15:12:01 30 are some of which we have gone through.

- 15:12:04 1 Q. 547 Uh-huh?
- 2 A. I cannot absolutely say to you when exactly it was that they were paid.
- 3 Sometimes, as I've given evidence heretofore, that I may have given monies to
- 4 councillors before a vote. On occasion I've given evidence to the effect that
- 15:12:24 5 I gave councillors monies after a vote.
- 6 Q. 548 Uh-huh?
- 7 A. I have given money to councillors in various locations, including what I have
- 8 described as the environs of Dublin County Council, which includes Dublin
- 9 County Council itself.
- 15:12:39 10 Q. 549 Yes. And I'm not for a moment, Mr. Dunlop, suggesting that you're being in any
- 11 way blase about this?
- 12 A. Yes.
- 13 Q. 550 But these are significant events, certainly objectively speaking?
- 14 A. Yes.
- 15:12:52 15 Q. 551 One is talking about a number of individuals who are supposed to be forming a
- 16 quasi judicial function where each one of them will make a rationed judgement
- 17 based on the evidence available to them with regard to the best interests of
- 18 the electorate and their local constituents, on the one hand, in a planning and
- 19 environmental rezoning sense, considering only planning issues. And yet, all
- 15:13:21 20 of that process has been set aside and it has come down to a matter of
- 21 accepting a sum of money from you in order to do what they're meant to do as of
- 22 right and without interference by any third party, isn't that right?
- 23 A. Correct. And that has been the substance of my evidence in relation to matters
- 24 in other Modules.
- 15:13:43 25 Q. 552 Yes. And for that reason, one would have thought that each one of these things
- 26 would be a memorable event. Now, I appreciate that repetition can blunt the
- 27 blade and what have you but you certainly seemed to have a very ill defined or
- 28 non-specific recollection of meeting any of these individuals in the context of
- 29 payments to --
- 15:14:11 30 A. Yes.

- 15:14:11 1 Q. 553 I mean, I appreciate that the numbers involved and the period of time extends  
2 over the period during which you were engaged in lobbying in the 1991 to 1993  
3 period. But, I mean, had you developed some form of a system, I mean, did you  
4 decide I'm going to go down tomorrow with eight envelopes with 1,000 in each.  
15:14:41 5 Or I'm going to see two of these people in the morning and two in the afternoon  
6 and two at lunch. How did you set about it? What was the methodology which  
7 you would have adopted. Because you either remembered doing it or else it's an  
8 automatic thing that you don't have a memory of because it was so frequent  
9 between those two. I'm trying to establish which circumstance applied to these  
15:15:03 10 payments because in this Module we're concerned only with the seven instances  
11 here. In respect of which each one of the individual councillors is emphatic  
12 in their denials. And the Tribunal will have to weigh up your evidence and the  
13 evidence of eight of them and there's nobody else supporting you, you'll  
14 appreciate that in your account of events?
- 15:15:27 15 A. Yes. Well it's very tempting almost to start retrospectively from the last  
16 thing you said I'll try and not do that. I'll try and go to the front thing,  
17 the first thing that you said.
- 18 Q. 554 Yes?
- 19 A. As to the methodology or system, whichever the phrase that you wish to use.  
15:15:46 20 That I never gave money to a politician, to a Councillor unless a discussion  
21 had taken place or -- in which it was intimated to me either directly or  
22 indirectly that money was required for a signature or a vote. On occasion that  
23 may well have occurred, the two things may have been contemporaneous and  
24 simultaneous. In other words, the payment for a signature or the payment for a  
15:16:15 25 declaration of support. Or that I made an arrangement with the said people who  
26 asked for money. That I would meet them or see them at a particular location  
27 or that I would meet them in the environs of Dublin County Council or I would  
28 meet them at a County Council meeting and I would do the necessary.
- 29 Q. 555 Yes. Well let's develop that a little bit. In that discussion would you have  
15:16:41 30 nominated or would they have nominated the figure, would you have indicated, as

- 15:16:46 1 in this instance, I'm going to give you 1,000, I'm going to give others 1,000?
- 2 A. Well, I would never say, again, to come back.
- 3 Q. 556 You would never refer to them as others?
- 4 A. Yes, as others. The discussion, the debate in relation to money was either
- 15:17:03 5 directly or indirectly generated by the politician. In the sense that this is
- 6 something that they would be delighted to do. But they need something. What
- 7 are you going to give me. It will cost you. I have used these phrases in the
- 8 context of individuals in the course of my evidence in relation to other
- 9 Modules. On that basis, I either asked what are you talking about, how much
- 15:17:34 10 are you talking about, or I nominated a figure which I thought would be
- 11 acceptable. That is the genesis of the type of methodology that I think you're
- 12 asking me about.
- 13 Q. 557 Yes?
- 14 A. We then, sorry, no.
- 15:17:49 15 Q. 558 No, what you've indicated so far is that there wasn't, firstly a common
- 16 currency because you didn't discuss it with individual members and say I'm
- 17 giving X 1,000 or I'm giving the others 1,000 and therefore I'm giving the same
- 18 to you, is that right?
- 19 A. Well, I'm sorry, Mr. O'Neill, I shouldn't say you do know. In another Module I
- 15:18:12 20 have given evidence to the effect that I was approached by a Councillor who
- 21 said.
- 22 Q. 559 Yes, others are getting money?
- 23 A. And I'm getting nothing.
- 24 Q. 560 Yes. But that didn't quantify the common ...
- 15:18:25 25 A. Currency.
- 26 Q. 561 Of 1,000 pounds as being the appropriate sum or the acceptable sum to be
- 27 accepted?
- 28 A. Correct.
- 29 Q. 562 And therefore, I find it somewhat strange that six individuals who supposedly
- 15:18:37 30 have no connection with each other all seemed to get the same money of 1,000



15:18:42 1 each?

2 A. Uh-huh.

3 Q. 563 All seemed to have got that money even though you say that there is no

4 connection between them on the one hand. Yet they all seemed to be accepting

15:18:55 5 the same sum. And I would have thought that if people were making demands of

6 you, there would be people who would value their vote at 200,000, as some may

7 do. And others who would say that their vote was worth, they'd be happy with

8 500?

9 A. Yes.

15:19:12 10 Q. 564 How is it that everybody apparently gets the same sum?

11 A. Well, I did say to you that in the context of two individuals.

12 Q. 565 Yes?

13 A. Tom Hand and Tony Fox. I did have a debate with them in one case, one more

14 fractious than the other.

15:19:27 15 Q. 566 Yes?

16 A. Tom Hand was looking for a greater sum than 1,000 pounds.

17 Q. 567 Yes?

18 A. In the case of Tony Fox, when the discussion took place with him in relation to

19 what I was going to give him. And I said 1,000 pounds. He thought that wasn't

15:19:46 20 enough. I agreed -- we finally agreed that that was it. Again, in the context

21 that this was money, this was my proposal, I was doing it. There was no

22 backing as it were, I wasn't getting the money from anywhere else.

23 Q. 568 Yes. But on that account of events, you can distinguish certainly between two

24 of the seven councillors involved here. Because in respect of two of them, it

15:20:11 25 got to the point of being a bit contentious?

26 A. Yes.

27 Q. 569 As to how much you were going to get. It imprinted itself on its memory?

28 A. Uh-huh.

29 Q. 570 And allowing for that to be the case. Can you remember where it was that that

15:20:25 30 took place. I can understand how you could pass over an envelope in a

15:20:28 1 restaurant over a glass of wine or at a meal. But if you're going to get into  
2 a contention on the subject, it's not something that would necessarily be  
3 taking place in public?

4 A. No. Well.

15:20:39 5 Q. 571 So where did you have this --

6 A. It depends on what you define by public. I mean, I've already given evidence  
7 to the fact that I gave Councillor Fox for example money in the street which is  
8 a public place.

9 Q. 572 Well I am wondering now about this particular payment.

15:20:54 10 A. Yes.

11 Q. 573 Here you now describe a situation where the Councillor is unhappy. There are  
12 two of them who are unhappy about your proposal. They have a counter proposal.  
13 Between the two of you ultimately you end up with a sum that is either  
14 acceptable to them or accepted by them but it's as a result of a certain amount  
15 of interchange between you. And it's not the sort of interchange that one  
16 would expect to happen in a public place, that level of contention. Because  
17 the subject matter of your discussion is one which essentially was, certainly  
18 possibly legal and definitely not something which was the due performance of a  
19 Councillor's duty. He wouldn't like to be overheard or observed arguing with  
15:21:39 20 you over the toss or the cost of his vote. So that didn't happen in public, I  
21 suggest?

22 A. Well, no. I would disagree.

23 Q. 574 You disagree?

24 A. I disagree.

15:21:49 25 Q. 575 I see?

26 A. In the sense, that and I don't mean in any way to be derogatory. But I think  
27 you're idealised version of the notion of whether anybody over heard them or  
28 not. I don't think that ever entered into people's -- too many people's minds.  
29 I'm sorry to disabuse you of that idealism.

15:22:12 30 Q. 576 That's all right.

15:22:26 1 A. But I have actually discussed the payment of monies, we'll say, for example, to  
2 Tom Hand in the lobby of Dublin County Council. Actually at the reception desk  
3 with the receptionist sitting at, behind the desk. I have actually had a  
4 discussion with him in relation to the payment of money so that is a public.  
15:22:31 5 That occasion was very public.  
6 Q. 577 So it's not an aid to your recollection to say that it's not something which  
7 would normally appear, have occurred in a public area. You say it's as likely  
8 to have been in a public area as a private area?  
9 A. Yes, I would not, for example, I have already given evidence that I had a  
15:22:53 10 discussion with a Councillor in an hotel over lunch and which I made a record  
11 in my diary.  
12 Q. 578 Well?  
13 A. So it can, it did. It did happen.  
14 Q. 579 Okay?  
15:23:02 15 A. In a variety of places.  
16 Q. 580 Fine. We're also talking about cash here?  
17 A. Yes.  
18 Q. 581 And not cheques?  
19 A. Yes.  
15:23:08 20 Q. 582 And I think you've indicated already instances in which you handed over a  
21 briefcase or an envelope or a plastic bag as the case may be?  
22 A. Well the plastic bag was in an office, Mr. O'Neill.  
23 Q. 583 Fine?  
24 A. The envelope was in a street.  
15:23:23 25 Q. 584 It involves an element of packaging of what you had?  
26 A. Yes.  
27 Q. 585 I'm just wondering how you handed over these monies to these people. Was it  
28 the famous brown envelope or was it counted out to them or did you give it to  
29 them in, in what format? Did they all get the same from you?  
15:23:40 30 A. Yes, I mean. Well, first of all, again, sorry, I may have to disabuse you and

- 15:23:47 1 a lot of other people as well. I never used a brown envelope in my life. I  
2 don't think it was currency.
- 3 Q. 586 Right?
- 4 A. If you accept that.
- 15:23:54 5 Q. 587 Well perhaps you'd tell us how you did it?
- 6 A. In an envelope. Either slipping it into somebody's overcoat pocket or handing,  
7 handing him an envelope.
- 8 Q. 588 Yes?
- 9 A. In which the money was in -- there was no question ever of counting the money  
15:24:11 10 in front of somebody.
- 11 Q. 589 Right. I mean, that's all --
- 12 A. I do recall getting a telephone call from a Councillor on one occasion him  
13 having gone home and counted it and said that I had left him, I think it was  
14 200 short.
- 15:24:26 15 Q. 590 Was he right?
- 16 A. I think he probably was but in the rush to get the money into the envelope or  
17 into the whatever I was putting it in, I probably did leave him short. Not  
18 deliberately I hasten to add.
- 19 Q. 591 I'm merely asking you these questions Mr. Dunlop, because the matter of payment  
15:24:45 20 is very seriously in dispute. Obviously if one is paying over monies to  
21 people, you may say that it's a false belief or an innocence on my part. But I  
22 would have thought --
- 23 A. No, no, I said idealism, Mr. O'Neill.
- 24 Q. 592 You would remember the detail of how this took place and when. And I think you  
15:25:06 25 fairly say that in these instances you cannot distinguish one occasion as  
26 opposed to the other as regards these six councillors involved. You're not  
27 saying that you paid them all on the same day?
- 28 A. No.
- 29 Q. 593 You're not saying that you paid them all in exactly the same way?
- 15:25:22 30 A. No.

- 15:25:23 1 Q. 594 Or in the same location as much as we know from you is that they are identical  
2 payments. They are for the same service insofar as it was intended to ensure  
3 that they supported your proposition or your proposal for Pennine Holdings and  
4 that they were to do whatever it was I take it that would have advanced that  
15:25:48 5 from your point of view?
- 6 A. Correct.
- 7 Q. 595 Isn't that right? And in relation to all of these councillors, only one of  
8 them actually did anything in the sense of signing of documents. The others  
9 were men behind the meetings who would cast their vote, you believe, in favour  
15:26:05 10 of your proposals?
- 11 A. That is correct. Except the one proviso that I would add to that. In relation  
12 to the other Councillor to a composite payment.
- 13 Q. 596 Yes?
- 14 A. To Councillor O'Halloran, which included monies in relation to Baldoyle. You  
15:26:20 15 will have appreciated already the role that Mr. O'Halloran played in the  
16 context of what was occurring in Dublin County Council at the time.
- 17 Q. 597 Yes?
- 18 A. In relation to this motion.
- 19 Q. 598 And this is to follow now. Because we know that they are we're only at the  
15:26:35 20 20th now?
- 21 A. Yes.
- 22 Q. 599 And his involvement becomes more apparent after that?
- 23 A. Yes.
- 24 Q. 600 And on the 27th. The adjourned hearing of the motion, isn't that right?
- 15:26:45 25 A. Sorry, I beg your pardon. The 27th, yes.
- 26 Q. 601 We've spoken so far of what your belief was and what was intended to happen on  
27 the 20th?
- 28 A. Correct.
- 29 Q. 602 On the 20th we find that this motion which comes effectively from the floor  
15:27:01 30 causes some dissension and upset in the Council. As a result the Council

- 15:27:09 1 meeting is adjourned, it's attributed to disorder in the house I think. And  
2 they reconvene on the 27th. And on the 27th this amended motion is the first  
3 matter or one of the first matters on the agenda.
- 4 A. That's correct, sorry, yes, that is correct.
- 15:27:30 5 Q. 603 But while payments might well take place both before the 27th and after the  
6 27th. As of the 19th and the 20th, before the meetings started, it was your  
7 belief that the matter would be disposed of as intended on that day. And it's  
8 for that reason that I'm centering the questioning as of that day?
- 9 A. Yes.
- 15:27:56 10 Q. 604 I know that in fact finality was not reached that day. Nor was it to be  
11 reached until three meetings later and then effectively by default?
- 12 A. Well as I said to you, Mr. O'Neill. Once -- if it appeared on the agenda for a  
13 particular date that generated quite a significant amount of activity for that  
14 particular date. Including my presence in the Council.
- 15:28:22 15 Q. 605 Yes?
- 16 A. Including interface with the councillors and lobbying and making contact with  
17 them to make sure they were there. And it might turn out that on that  
18 particular day an issue untoward, unexpected, in relation to another matter,  
19 might relate to the matter being postponed.
- 15:28:38 20 Q. 606 Yes?
- 21 A. Not per se because the matter had started and it was postponed because some  
22 difficulty had arisen about it. It might have been postponed because of  
23 another issue, another development.
- 24 Q. 607 It's in that context that I wanted to ask you whether the events of the 20th  
15:28:54 25 were such that you felt that you had to make a payment in circumstances were to  
26 that time you hadn't intended to make those payments, you understand?
- 27 A. Yes, it is possible. It is possible. I cannot absolutely say that to you but  
28 it is possible.
- 29 Q. 608 So are we to take it then that you don't know whether it's the position that  
15:29:11 30 you had paid all of the money?

- 15:29:12 1 A. No.
- 2 Q. 609 Or intended to pay all of the money in anticipation of a successful outcome on  
3 the 20th or whether you had paid some money for the signature in the first  
4 instance, some money at the conclusion of the affairs -- sorry. Of the motion  
15:29:30 5 on the 20th and pending the adjournment and some further money when the  
6 substance of the motion was debated or was intended to be debated more fully in  
7 the chamber?
- 8 A. Yes. And there is another that went into that matrix, if I might be so bold as  
9 to suggest. That it might well be that I had arranged to pay. Had had  
15:29:52 10 discussions already with these people but hadn't actually paid them. And so  
11 but I cannot precisely give you the date as to when the payments occurred.
- 12 Q. 610 Yes. And again, why is that? I mean, we see the events, we see the  
13 opportunities for payment. We see how in certain circumstances in hindsight  
14 you can see this might have been an opportunity where a payment would be  
15:30:19 15 necessary to achieve a certain result. You seemed to accept that yes, they are  
16 the possibilities. But you don't have any recollection of actually paying in  
17 those instances. And I'm wondering why that is?
- 18 A. Well, I can't -- I can't say anything other than.
- 19 Q. 611 Yes?
- 15:30:38 20 A. What I have said to you in relation to the discussions in relation to this  
21 particular development that trigger in my mind a recollection of the discussion  
22 with the individuals concerned. Namely, the two councillors that I've  
23 mentioned. It is palpably obvious that I did not give any money to John  
24 O'Halloran, for example, until after the -- or immediately after or soon after,  
15:31:03 25 I can't say, in relation to the composite payment. Because I was giving him  
26 money earlier and I would have not have given him money because he was not  
27 involved. He wasn't involved until the 27th.
- 28 Q. 612 Right the?
- 29 A. Now, so I cannot precisely say to you when.
- 15:31:20 30 Q. 613 While you say that he wasn't involved until the 27th he is one of the

15:31:24 1                   councillors. In fact, he's probably one of the more prolific contacts that you  
2                   had between the 1st of March and the 20th of April?

3           A.           That's correct.

4           Q. 614       At the end there's references to him throughout?

15:31:36 5           A.           Yes.

6           Q. 615       And why is it that you say that he wasn't involved. And others perhaps were in  
7                   those circumstances?

8           A.           Yes, well certainly the lead people involved.

9           Q. 616       Yes?

15:31:55 10          A.           In the course of this, we'll just deal with Council. The lead people involved  
11                   were Liam Creaven and Michael Joe Cosgrave. The hymn sheet was prepared by me  
12                   and Michael Joe Cosgrave, I beg your pardon and Liam Creaven would follow the  
13                   hymn sheet.

14          Q. 617       You --

15:32:07 15          A.           John O'Halloran, yes, has been in constant contact with me.

16          Q. 618       Uh-huh?

17          A.           And has been and was in constant contact with me at specific periods in  
18                   relation to various things, in relation to the Development Plan.

19          Q. 619       Yes?

15:32:22 20          A.           Certainly there is no doubt. I have absolutely no doubt that I would have  
21                   contacted him for his support in relation to it.

22          Q. 620       Uh-huh?

23          A.           As I would have contacted virtually all of those people that I thought it would  
24                   be probable that I would get support from. It was only in the context of what  
15:32:46 25                   occurred on the floor that Mr. O'Halloran became directly involved. He wasn't  
26                   a signatory to the motion. He did not help me prepare the motion. He  
27                   undoubtedly indicated his support for the motion. Otherwise I would have  
28                   recalled specifically that he was one of the people who would not support it.

29          Q. 621       What appears to be the case with the one exception of Mr. Gallagher in this  
15:33:14 30                   instance, is that the councillors who actually proposed and seconded these



15:33:17 1 motions and the amendments to them and the substitute motions for them were  
2 persons who you didn't pay anything to?

3 A. Correct.

4 Q. 622 But the councillors who you did pay didn't do anything for you?

15:33:27 5 A. Yes.

6 Q. 623 In that sense?

7 A. Yes.

8 Q. 624 That seems to be contradictory in a way, isn't that the so, in a system with  
9 where you say that it required the payments of monies to councillors to achieve  
10 a particular end. You seemed to be achieving that end through the councillors  
11 who you're not paying?

12 A. Yes.

13 Q. 625 But you're paying for councillors who won't do that for you?

14 A. Just for clarification in relation to the people that I said I paid.

15:33:54 15 Q. 626 Yes?

16 A. In relation to this particular motion, Sean Gilbride, no. He was a signatory  
17 to the motion, so he didn't get -- in one of the motions sorry.

18 Q. 627 Yes?

19 A. He wasn't paid. Liam Creaven or Michael Joe Cosgrave. I've already given  
15:34:08 20 evidence to the effect that yes, I have given them money in the context of  
21 Michael Joe Cosgrave's case, I think, an election contribution.

22 Q. 628 That was earlier, that was in a Senate contribution?

23 A. Correct.

24 Q. 629 In January of 1993, which is outside the window period?

15:34:21 25 A. Correct.

26 Q. 630 We're talking about?

27 A. Absolutely. And in the case of Mr. Creaven, I think there is a dispute between  
28 Mr. Creaven and myself in relation to a small payment that I made to him for  
29 some fundraising activity. But I do recollect that I gave him something or  
15:34:35 30 other. Without being offensive to either gentlemen.

- 15:34:39 1 Q. 631 Uh-huh?
- 2 A. They were very willing. We went to lunch quite often together.
- 3 Q. 632 Uh-huh?
- 4 A. They had a predilection for a pint of Guinness. I bought them many pints of
- 15:34:58 5 Guinness. But I've never given them any money in relation either to this
- 6 development or any other development.
- 7 Q. 633 Right. We'll see that the motion of the 20th didn't come to a conclusion
- 8 because, as I say, there was some disorder in the house. I think it's
- 9 probably, I suppose, best summarised really in a newspaper extract that you see
- 15:35:21 10 in the brief at page 2049.
- 11
- 12 Where there's a photograph of you. On the 21st of April 1993. The day after
- 13 this motion was heard
- 14 A. I dispute that's me.
- 15:35:37 15 Q. 634 You dispute it. Right.
- 16 A. (laughter).
- 17 Q. 635 He describes it as being amid chaotic scenes of procedural wrangling, disorder
- 18 and confusion. Dublin County Council has proposed, sorry, postponed for a week
- 19 the decision on the proposal to rezone major tracts of green belt between
- 15:36:01 20 Baldoyle and Portmarnock for a large housing development. The proposal is
- 21 strongly opposed by Council officials. But there appears to be a majority of
- 22 councillors at yesterday's meeting ready to push the scheme through against
- 23 their wishes.
- 24
- 15:36:16 25 This is the opinion of Mr. Breathnach, who was the author of the article at the
- 26 time. But I think it gives a flavour and probably an accurate one, of a rather
- 27 intense meeting at which there was a considerable amount of heated exchange
- 28 between the councillors present on the benefits or otherwise of this scheme,
- 29 isn't that right
- 15:36:36 30 A. Yes. And I think that Gilly Mc Lily, in you look at the second last paragraph

15:36:55 1 of Mr. Breathnach story, he says it appeared that there would have been enough  
2 pro-Pennine councillors in the room to support the proposal and to defeat the  
3 Green Party proposal.

4 Q. 636 Yes. That was in the event that there had been a vote taken as of that time?

15:36:58 5 A. Yes,.

6 Q. 637 Called on the basis of the debate having continued for a certain period, one is  
7 entitled to call for a vote. And if that had been allowed that would have  
8 achieved the result but it wasn't allowed?

9 A. It is my view then and it is my view now, Mr. O'Neill, that were it not for the  
15:37:17 10 procedural wrangles that occurred on the floor, that the project would have  
11 succeeded.

12 Q. 638 Well, certainly it seems that that level of coverage in the press, lit the fuse  
13 for the matter becoming a subject of intense media coverage at the time. And  
14 it polarised views, I think, in the area, is that so?

15:37:40 15 A. Yes, I think that's a fair summary as well, yes.

16 Q. 639 And we'll see certainly it had a reaction amongst those with whom you were  
17 involved in this project. Because they all contacted you immediately following  
18 upon it and there were further exchanges and meetings. Well I'm not quite sure  
19 about meetings. But certainly further contacts between Mr. Shubotham and  
15:38:05 20 others, isn't that right?

21 A. Yes.

22 Q. 640 So that their involvement was continuing. And obviously you've indicated that  
23 the position had to be put in place or strategised or adopted to deal with the  
24 matter in anticipation of there being, I take it, an equal level of debate or  
15:38:27 25 conflict, whichever way you describe it at the adjourned or resumed meeting?

26 A. Yes.

27 Q. 641 Which was to take place on the 27th, isn't that right?

28 A. The 27th, that's correct, yes.

29 Q. 642 And in anticipation of that, I take it you set about putting your, getting your  
15:38:44 30 troops in order again for that, isn't that so?

- 15:38:47 1 A. That's correct.
- 2 Q. 643 And you can never in fact provide for every eventuality. And I think that in  
3 advance and indeed on the day of the adjourned hearing, there were a number of,  
4 certainly one significant press coverage of what was to take place on that day.  
15:39:09 5 In which the Irish Independent published an article in which they either  
6 rightly or wrongly quantified the profit which was intended, which might be  
7 made by the promoters of this project in the event that the vote went a certain  
8 way that day, isn't that right? We'll see it at page 2107, group to net ten  
9 million pounds if green belt goes. You were not to know that this was going to  
10 be published on that day, isn't that right?
- 11 A. I can absolutely categorically, unequivocally tell you where I was when I  
12 received the telephone call as to the publication of that story.
- 13 Q. 644 Yes. And where, as a matter of interest?
- 14 A. I was driving passed the Gresham.
- 15:39:55 15 Q. 645 Yes?
- 16 A. And I got a telephone call from Liam Lawlor who very colloquially described the  
17 net effect of it.
- 18 Q. 646 Yes. And we can I think guess what that might be. But the chances of this  
19 passing on that day before the body of councillors in Dublin County Council was  
15:40:15 20 zero, I take it?
- 21 A. Yes. Well, just to give -- to put meat on the flesh of that skeleton as you've  
22 outlined it. I received a telephone call from Liam Lawlor in the circumstances  
23 that I have outlined. To say that he had received a telephone call from a  
24 friend of his whom we were using, I hasten to add. Both he and I were using to  
15:40:43 25 lobby a senior Fine Gael politician. And the message was that it was as a  
26 result of this photograph -- as a result of this, I hope it wasn't as a result  
27 of the photograph. As a result of this story, matters were predictably going  
28 down the swanny. And this particular politician under no circumstances would  
29 vote for it.
- 15:41:07 30 Q. 647 Yes. I'm just trying to identify the contacts that might have existed in

- 15:41:17 1 relation to securing the support of that particular person?
- 2 A. Yes.
- 3 Q. 648 Let's leave the person unnamed for the moment. Although we will probably ask
- 4 you to name him. But I just want to understand what you've said in the context
- 15:41:34 5 of the effect that this article had. Firstly, yourself and Mr. Lawlor were
- 6 endeavouring to secure the support of that person?
- 7 A. Correct.
- 8 Q. 649 Who was of Fine Gael persuasion?
- 9 A. Correct.
- 15:41:48 10 Q. 650 Not of Fianna Fail persuasion?
- 11 A. Correct.
- 12 Q. 651 And therefore it is something, well perhaps not therefore, but it was something
- 13 that was not the subject of a direct contact between you, although whatever
- 14 contact you were using was able to tell you that prior to this, that person was
- 15:42:15 15 supporting?
- 16 A. Yes.
- 17 Q. 652 And post it they were not going to support it?
- 18 A. As a result of it, yes.
- 19 Q. 653 As a result of this. Now, this contained a number of -- well firstly, it
- 15:42:19 20 identified a number of beneficiaries, accurate in some instances, inaccurate in
- 21 other instances. But it -- or perhaps inaccurate. Certainly it was retracted
- 22 by the newspapers subsequently. But as regards the persons we have spoken
- 23 about so far.
- 24
- 15:42:37 25 It talks about your own involvement and obviously you had that involvement
- 26 A. Could you blow it up a little bit.
- 27 Q. 654 Yes?
- 28 A. It's difficult to read, Mr. O'Neill.
- 29 Q. 655 It is a rather poor copy. Yes?
- 15:42:49 30 A. That's better.

15:42:50 1 Q. 656 It says "a property consortium stands to make ten million pounds profit if a  
2 move to allow house building on agricultural land incorporating the old  
3 Baldoyle Race Course in north County Dublin is successful today. The  
4 consortium has an option to buy green belt land for 20,000 pounds an acre. And  
15:43:12 5 if Dublin County Council agrees to rezone it for housing, its value would  
6 instantly shoot up to 100,000 pounds an acre. This would reap the consortium a  
7 profit of more than ten million pounds profit before a single brick is laid for  
8 any of the planned 900 houses. The property is owned by developer John Byrne  
9 and the consortium is believed to include Glen Dimplex bosses Martin Naughton  
15:43:39 10 and Loughlin Quinn, Yoemen International's, Paul Coulsen and three Davy  
11 Stockbrokers directors, David Shubotham, Brian Davy and Ciaran McLoughlin.  
12 Other interested parties are Oisin O'Buchalla of Management Services and the  
13 St. Helen's Booterstown residential scheme developer Sean Dunne. Davy's has  
14 perhaps holds, I'm not sure, a holding in St. Helen's. The consortium is  
15:44:12 15 represented by PR consultant Frank Dunlop who was successful in winning a  
16 lucrative rezoning battle for Davy's 45 million pounds City West business park  
17 in Tallaght about two years ago. Mr. Dunlop, a former Government press  
18 officer, has been involved in several property rezoning proposals. It is  
19 understood many of the City West investors are also behind the 438 acres  
15:44:40 20 Baldoyle rezoning proposal.  
21  
22 The concept is believed to be the brain child of surveyor Stewart Harrington,  
23 who is also retained -- sorry. The retained agent of City West business park  
24 for Davy's. If the rezoning proposal is successful it will allow up to 450  
15:45:00 25 homes on each of the two 75 acres portions. A business park on 18 acres and  
26 the remainder reserved for the golf course and amenity use. However, the  
27 consortium is unlikely to purchase the entire tract of land as the open space  
28 is non-profitable and will require costly maintenance with a poor return. The  
29 company could exercise its option to buy only the 150 acre residential section  
15:45:28 30 of the land at 20,000 pounds an acre or 3 million for the entire tract. The

15:45:34 1 same lands true market value with planning for houses is worth about 100,000  
2 pounds per acre or 15 million for the 150 acres, creating a profit of more than  
3 10 million before any development takes place. Many local residents also are  
4 opposing the rezoning and will picket the Council Chamber today in advance of  
15:46:01 5 the 10 a.m. meeting. The motion to rezone land is being put forward by Liam  
6 Creaven Fianna Fail, Michael Joe Cosgrave Fine Gael". And the copy I'm afraid  
7 goes off print there. That is the end of it.

8  
9 In any event, substantially what is said here has a factual basis naming  
10 particular individuals I think is a surmise on the part of the author here, who  
11 was perhaps delving into the Davy's client list in the expectation that they  
12 were people who might ultimately be investors in the project. But to your  
13 knowledge it hadn't got to the stage of individual investors being canvassed  
14 for support for this project. That would only happen in the event that Davy  
15:46:53 15 Hickey Properties had been successful in the rezoning, isn't that so

16 A. Sorry E, correct, yes.

17 Q. 657 Yes. And there are, there are, there were a body of investors who had  
18 successfully invested in the City West scheme. And somebody had transposed the  
19 possibility that because those persons were investors in that scheme, they  
15:47:15 20 would, as a matter of course, be the investors in this scheme?

21 A. Yes. Yes. Just, if you look at the date of the story it's 1993.

22 Q. 658 Yes?

23 A. April 1993.

24 Q. 659 Yes?

15:47:27 25 A. It is obvious that the source of this story is somebody with knowledge in  
26 relation to whatever arrangement that existed in the relation to a partnership  
27 in City West.

28 Q. 660 Yes?

29 A. I believe that even at that stage I was not aware of some of those names,  
15:47:48 30 whether they are, whether they were then, are now, continued to be investors in

15:47:53 1 the City West project or members of the partnership. I know some are, some are  
2 not. The transposition of that into this story, obviously having been involved  
3 in the news media from time to time obviously was generated in some fashion or  
4 other by a source.

15:48:13 5 Q. 661 Yes?

6 A. For a purpose.

7 Q. 662 And presumably, it was, it could not be viewed as a beneficial release of  
8 information from the point of view of the promoters. And therefore, one can  
9 assume it was leaked or released or whatever the word is, with the intention of  
10 damaging the prospects of the Pennine Holdings option motion?

11 A. Well, it couldn't but have had any other.

12 Q. 663 Yes?

13 A. Intention, deliberate or otherwise.

14 Q. 664 Yes?

15:48:43 15 A. I mean, because of the nature of the story and the way it was proposed. The  
16 way it was written.

17 Q. 665 Yes?

18 A. It had the effect. Let me fast forward. It had the effect that somebody  
19 obviously desired.

15:48:55 20 Q. 666 Yes?

21 A. It just torpedoed the whole exercise.

22 Q. 667 Yes. And of the information contained within it, which is accurate, it  
23 includes the fact that the price per acre was to be 20,000 pounds per acre?

24 A. Yes. Again, I have to say to you and I know I'm now entering into an area that  
15:49:14 25 you haven't entered into it. But just to put the marker down in relation to  
26 it. And this obviously relates to the option agreement that was entered into  
27 by Davy Hickey Properties specifically Mr. Hickey. I did not know what the  
28 actual terms of that openings were. I did subsequently but I did not at that  
29 stage.

15:49:37 30 Q. 668 Yes. Now, just for completeness. Again, in relation to that. The option was



- 15:49:42 1 taken by Pennine Holdings Limited?
- 2 A. Correct.
- 3 Q. 669 That is a company, as we see later, of which yourself and Mr. Ciaran O'Byrne, a
- 4 business -- sorry. A work associate?
- 15:49:55 5 A. Yes.
- 6 Q. 670 Possibly an employee of yours at the time, I'm not sure?
- 7 A. Yeah.
- 8 Q. 671 You were the directors of that particular company, isn't that right?
- 9 A. Yes.
- 15:50:02 10 Q. 672 It's that company which is the signatory to the option agreement, the
- 11 beneficial ownership of that is a matter which we will have to explore in some
- 12 detail, not now but later?
- 13 A. It is that company but not me.
- 14 Q. 673 It is not --
- 15:50:16 15 A. I did not sign any option agreement with Mr. Byrne.
- 16 Q. 674 Well I think I'll be showing you a document with your signature on it.
- 17 A. Yes but that is in relation to -- well sorry, yeah. I will deal with that when
- 18 you bring it up.
- 19 Q. 675 Yes?
- 15:50:29 20 A. But I did not negotiate. I certainly signed documentation in relation to
- 21 Pennine Holdings. I certainly signed documentation -- I signed documentation
- 22 in relation to Pennine Holdings. I certainly did not negotiate under any
- 23 circumstances any option agreement with Mr. Byrne.
- 24 Q. 676 Yes. Again, that is an area in which Davy Hickey and yourselves, that is
- 15:50:56 25 Mr. Shubotham, Mr. Hickey and yourself, will have an issue as to who exactly
- 26 Pennine Holdings is, isn't that so?
- 27 A. Yes.
- 28 Q. 677 You're aware of that from the statements which are there?
- 29 A. Yes.
- 15:51:06 30 Q. 678 But just as regards the involvement of councillors and the payment of

15:51:12 1 councillors, and the motions which were going through at this particular time.  
2 This again was an instance in which one would have to call in all your favours  
3 if the matter was to be progressed in any positive way for the promoters of the  
4 Pennine Holdings scheme, isn't that right?

15:51:32 5 A. Yes, correct.

6 Q. 679 But in fact the wiser counsel might be to flee and to come back another day?

7 A. Yes.

8 Q. 680 And I think that is what was intended to happen here, is that right? Because  
9 the motion itself was not advanced by the motion. I mean the amended motion  
10 which had been the subject of the controversial meeting on the 20th and which  
11 had been adjourned, hopefully with the intention that it could be peacefully  
12 dealt with the following day, was now scuppered by the fact that this  
13 information had come into the public domain and even your supporters were not  
14 going to support this particular motion until this had been diffused, isn't  
15 that right?

15:52:13 15 A. Correct.

16 Q. 681 We'll see that whilst the Independent Newspaper broke this particular story,  
17 the media interest really arose from the following publications, in following  
18 days where the matter came for some considerable analysis in other newspapers,  
19 isn't that right?

15:52:40 20 A. That's correct, yes.

21 Q. 682 And that I think to some extent was because of the way in which the matter was  
22 dealt with on that day, isn't that right?

23 A. Yes, I think that was the large part of the problem.

15:52:56 24 Q. 683 Yeah. The first thing that had been intended to take place had it not been for  
25 this article being published. Is that the two councillors or maybe the three  
26 councillors, by the time one deals with the amendment, had intended to put  
27 forward the motion No. 2, if I'll call it that, 14.5.G.2 in its amended form,  
28 was to be put before the motion, before the meeting rather on the 27th. It was  
29 the one which intended to advance to the councillors the proposition that the  
15:53:42 30

- 15:53:48 1 450 houses in Portmarnock, the 450 houses in Baldoyle?
- 2 A. Yes.
- 3 Q. 684 Was the appropriate scheme to be adopted. And it was intended that that would
- 4 be advanced at this meeting?
- 15:54:00 5 A. That's correct.
- 6 Q. 685 But because of this article?
- 7 A. Yes.
- 8 Q. 686 That plan had to change and what was sought then was a motion to have that
- 9 motion in its amended form adjourned to an unspecified date not later than the
- 15:54:16 10 15th of May, is that right?
- 11 A. That's correct, yes.
- 12 Q. 687 And that whilst this was a motion which in turn was put up by councillors
- 13 Creaven and supported by Councillor Cosgrave and then voted upon by the body of
- 14 the members and carried. It was a motion which am I correct in saying was
- 15:54:38 15 moved at your instance and your request, is that so?
- 16 A. The deferral.
- 17 Q. 688 We're talking about the deferral?
- 18 A. Yes.
- 19 Q. 689 The intention had been?
- 15:54:48 20 A. Yes.
- 21 Q. 690 Had it not been for this to proceed with the motion. You had everything in
- 22 order to advance the merits of the proposition?
- 23 A. Correct.
- 24 Q. 691 You had the councillors there to say what they were going to say. They didn't
- 15:54:58 25 do so because of the storm that was caused by the publication which Mr. Lawlor
- 26 rang you about and said we're not going to get the support on this. Is that?
- 27 A. Yes.
- 28 Q. 692 It's going to go down. There had to be a strategy then devised to deal with
- 29 this unplanned for occurrence?
- 15:55:18 30 A. Yeah.

15:55:19 1 Q. 693 And was that a strategy which was that of Mr. Lawlor or yourself in combination  
2 with him?

3 A. Yes.

4 Q. 694 How did it come about, in other words, that the next motion we see is a motion  
15:55:32 5 brought by councillors to defer the matter?

6 A. Yes, well contrary to the policy that I followed heretofore, let me start at  
7 the back this time.

8 Q. 695 Yes?

9 A. Certainly the discussion did not take place with Liam Creaven or Michael Joe  
15:55:46 10 Cosgrave. I just said to them look we're going to try and defer this. Yes, a  
11 conversation, a consultation, whatever, with Liam Lawlor did take place. I  
12 don't recollect consulting or having a conversation with anybody else. There  
13 was intense media interest in this, as you have outlined. But, yes, I did have  
14 a consultation with Liam Lawlor. And it was a strategy to try and postpone the  
15:56:10 15 actual consideration of it. Notwithstanding the fact that if it weren't for  
16 this story, if this story had not appeared. The likelihood is that if you look  
17 at the voting pattern in relation to the motions vis-a-vis the lands, they are  
18 in the main substantial. They would have -- it would have been supported.  
19 But, yes, a consultation took place with Liam Lawlor. And as all of us know,  
15:56:39 20 in either life or law, it's between the little intesterses that little things  
21 go wrong.

22

23 And obviously none of us and I could easily blame somebody but I won't, I'm  
24 including myself. That none of us spotted the procedural aspect of if you if  
15:57:00 25 you withdrew the motion that another motion that existed on the order paper  
26 would have to be taken. And once that became clear in the chamber as a result  
27 of the Manager highlighting it, chaos ensued because people, I did not have an  
28 opportunity, even though I was there, to say to people we have to re-strategise.  
29 Let's get out of here or let's call an adjournment of the meeting or whatever.

15:57:27 30 But once that motion of David Healy's was on the order paper, to actually

- 15:57:44 1 deconstruct the whole aspect of a rezoning in Baldoyle, that had to be taken  
2 into account. Now, in fairness, the Manager pointed that out.
- 3 Q. 696 Yes?
- 4 A. I could blame people who were on the floor, on the floor that they weren't  
15:57:46 5 nifty enough on their feet as to how the procedural issue should be dealt with.  
6 That's retrospective judgement.
- 7 Q. 697 Let's look at your aspirations first. We know what was to happen. Had there  
8 not been the Irish Independent publication. Matters would have progressed and  
9 you think you would have been successful.
- 15:58:05 10 A. I think I would, yes.
- 11 Q. 698 We now see a situation where in the light of this publication you know that it  
12 would be highly dangerous to try and put it forward because it would be  
13 defeated?
- 14 A. Well, we've already had a telephone call saying at that --
- 15:58:20 15 Q. 699 That was only one?
- 16 A. Oh, yes but it was. I know you've asked me not to name him. But if that  
17 vote -- if that person made it known to some of his league colleagues or it  
18 became known otherwise that could carry with it a factor of three, five, six  
19 votes.
- 15:58:40 20 Q. 700 Yes. You might just note that name for the Registrar?
- 21 A. I will, sure.
- 22 Q. 701 And we'll move on from it. So the new strategy then was an adjournment and not  
23 before the 15th of May was the proposed date?
- 24 A. Yes.
- 15:59:09 25 Q. 702 I assume that that was something that yourself and Mr. Lawlor established was  
26 an appropriate gap between the consequence of the publication and the re entry  
27 of the matter three and a half weeks later on the basis, I take it, that the  
28 public will have long forgotten within three weeks what was in the paper three  
29 weeks beforehand and you'll get another clean run at it?
- 15:59:34 30 A. Yes. I think the core issue was let's re-assemble the forces. Let's re

15:59:40 1 strategise and see we weren't absolutely certain at this stage that it could  
2 actually be recovered given what had occurred.

3 Q. 703 Well it didn't occur until?  
4 A. Yeah.

15:59:50 5 Q. 704 The vote was taken?  
6 A. Correct.

7 Q. 705 What your first strategy was to say defer it?  
8 A. Yes. Let's reassemble and re strategise and to see what we need to do here.

9 Q. 706 Right. You didn't ask to reassemble a week later or two weeks later?  
16:00:06 10 A. Oh, no.

11 Q. 707 It was three and a bit weeks later?  
12 A. Nearly a month, yes.

13 Q. 708 In the expectation I take it that the furore caused by this article would be  
14 dissipated or capable of explanation and correction?

16:00:19 15 A. Yes.

16 Q. 709 In the period of time between this date and the date upon which the matter  
17 would be ultimately determined, isn't that right?  
18 A. Yes, correct.

19 Q. 710 And I think that it was in the course of that, that we have the first press  
16:00:32 20 release stating that the interest of Davy's is only in the event that the  
21 property is rezoned and they have no interest in it, sorry, no involvement in  
22 it to that point, isn't that so?  
23 A. Yes, that's correct.

24 Q. 711 But in fact as we can see, they were involved to that point to the extent that  
16:00:51 25 we have seen in this short period of documentation from March until the 27th of  
26 April to the extent of being contacted at every stage and at every motion to  
27 that point in time, isn't that right?  
28 A. In the, certainly in the context of Mr. Hickey and in the context of  
29 Mr. Shubotham as I have outlined with the exceptions of the possibility that  
16:01:14 30 there might be other matters including.

16:01:16 1 Q. 712 Yes. And I think we'll have to resume on Tuesday, Mr. Dunlop, I'm afraid.

2

3

4

CHAIRMAN: Tuesday. Tuesday at 10.30.

16:01:26 5

6

MR. O'NEILL: Tuesday at 10.30.

7

8

CHAIRMAN: All right.

9

16:01:28 10

11

MR. BURKE: Mr. Chairman, before you rise. David Burke for the Hand family.

12

Might I request sight of the name which was circulated there a moment ago. I'm

13

sure I'm speaking on behalf of my colleagues.

14

16:01:44 15

16

CHAIRMAN: Well you can renew your application on Tuesday. We certainly won't

17

be producing it today. It isn't a name of anyone represented here. But we'll

18

consider the matter on Tuesday.

19

MR. BURKE: Greatly obliged, Chairman, thank you.

16:01:57 20

21

22

23

24

**THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,**

16:02:24 25

**5TH DECEMBER, 2006, AT 10.30 A.M.:**

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