

THE TRIBUNAL RESUMED AS FOLLOWS ON WEDNESDAY,

13TH DECEMBER 2006, AT 10: 00 A.M.:

09:45:03 1

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10:08:15 5 CHAIRMAN: Good morning, Mr. O'Neill.

6

7 MR. O'NEILL: Good morning, Mr. Chairman.

8

9 I think possibly the first issue to be dealt with is the issue as to the naming

10:08:29 10 of the individual.

11

12 CHAIRMAN: Oh, yes.

13

14 MR. O'NEILL: Who was mentioned by Mr. Dunlop in his evidence.

10:08:35 15

16 And a request was made by Mr. Burke, counsel, to have that information

17 disclosed.

18

19 CHAIRMAN: Yes.

10:08:43 20

21 MR. MARREN: I appear for that individual? Mr. Marren.

22

23 CHAIRMAN: Yes.

24

10:08:47 25 Well the position in this case, as has happened in very many other cases. That

26 once the individual, who has been named unexpectedly in the course of evidence,

27 which I should say, doesn't in any way suggest any wrongdoing on the part of

28 that individual.

29

10:09:03 30 But where a name emerges or is likely to emerge in evidence. And where that

10:09:09 1 person is not a party or a witness in that Module and has no notice that his or
2 her name is likely to be mentioned in the course of evidence.

3
4 The practice of the Tribunal to date has been to have the witness who is
10:09:26 5 inclined towards naming that individual, write the name of that person down.
6 And that person or his solicitor is then notified that this name has been
7 raised in evidence and that it is the intention of to the Tribunal, because
8 this is a public hearing, it is the intention of the Tribunal to release that
9 name once the person or the solicitor has had an opportunity to consider the
10:09:53 10 matter.

11
12 And that is the position as of today. And unless you wish to say anything?

13
14 MR. MARREN: No, no. My client is grateful for the clarification that there
10:10:04 15 is no adverse inference of his good name by reason of the procedure adopted in
16 the first.

17
18 So we are grateful for that clarification. Obviously we're not in a position
19 to oppose any application to reveal his name. We were concerned that there may
10:10:16 20 be an adverse inference taken from the procedure adopted. We are grateful for
21 that clarification, Chairman.

22
23 CHAIRMAN: I can emphasise again, the fact that this procedure was followed on
24 this occasion does not in any way suggest.

10:10:28 25
26 MR. MARREN: Very good.

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28 CHAIRMAN: It shouldn't be taken as suggesting that there was any wrongdoing.

29
10:10:32 30 So the name is Mr. Sean Barrett.

10:10:40 1

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MR. O'NEILL: Mr. O'Halloran, could you return to the witness box, please.

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10:10:54 5

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MR. O'HALLORAN, PREVIOUSLY SWORN, WAS QUESTIONED

7

BY MR. O'NEILL AS FOLLOWS:

8

9

Q. 1 Good morning Mr. O'Halloran.

10:11:03 10

11

CHAIRMAN: Good morning Mr. O'Halloran

12

13

MR. O'NEILL: In the course of yesterday's testimony, Mr. O'Halloran, you were

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being questioned in relation to the motion which you endeavoured to bring

10:11:14 15

16

in relation to the Baldoyle Portmarnock area deferred until a site meeting was

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held in the area so as to allow all councillors to view the lands which were

18

proposed for rezoning.

19

10:11:37 20

21

And we know from the minute which is before you there, that that motion was one

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upon which the Chairperson sought advice from the Manager and was advised that

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the motion was out of order and she followed that advice and deemed the motion

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to be out of order. Consequently, it was not put to the body of member.

10:11:59 25

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And I think I was questioning you yesterday in relation to the circumstances in

27

which you came to bring this motion on this occasion, given that there had been

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quite a period before then during which motions of such a nature could have

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been brought, if you felt it appropriate, to do so. And I think you were

10:12:24 30

explaining to me that you didn't have any recollection as to why it was that

you didn't bring that motion earlier but you felt that it might have arisen

10:12:29 1 from whatever discussion was taking place in the body of the chamber on that
2 day, the 27th, is that a fair summary of where we were?
3
4 And so you went on to say that the reason why you wanted this to happen was
10:12:46 5 that you believed that a deferral would be appropriate, is that right?
6 A. Well I thought we'd have an opportunity for people to see the lands that were
7 being considered.
8 Q. 2 Yes. Now, this was in the context of there being a motion brought by
9 councillors Cosgrave and Creaven to have a decision taken in relation to those
10:13:10 10 lands. And that motion was deferred ahead of your motion, isn't that right?
11 A. Well, I accept what you're saying. I don't have any particular recollection of
12 it.
13 Q. 3 Yes. You may recollect that the hearing which took place on the 27th was in
14 effect a meeting held to complete the business of the 20th, which was the
10:13:34 15 original scheduled motion date for the Baldoyle area. But that meeting had
16 broken up in some disorder and disarray, isn't that right?
17 A. I didn't happen to be there when it broke up. I mean, obviously they were,
18 yeah.
19 Q. 4 But you were there that day?
10:13:51 20 A. I would have been there that day but not when the meeting itself broke up in
21 that fashion.
22 Q. 5 Are you saying that you left immediately before the end?
23 A. No, no, I'm not saying that I left. I wasn't in the chamber when whatever
24 argument took place.
10:14:09 25 Q. 6 Well perhaps if we just look to that meeting and the minutes of that meeting,
26 please.
27
28 The relevant extract that I'd like to draw your attention to is at page 2034.
29
10:14:32 30 Now, 2034 here is dealing with the response of the members of the Council to a

10:14:46 1 proposal which was being made at the meeting on the 20th to amend the second
2 motion which had been brought by councillors Michael Joe Cosgrave and Liam
3 Creaven. And we'll see in the body of this just after the content of the
4 motion is quoted here it goes on to say that some members questioned the
10:15:15 5 validity of submitting an amendment to motion 14.5.G.2 without prior
6 notification. The Manager advised the member that is on a cursory examination
7 the amendment appeared to be in order. Following discussions to which
8 Councillors Tipping, Maher, Quinn, Healy, Malone, Shatter and Kennedy
9 contributed, it was agreed to adjourn the meeting for a short interval to
10:15:40 10 enable the amendment to be examined. When the meeting resumed at 12:35 p.m. it
11 was noted that a quorum of members was present. The Manager advised the member
12 that while it is not desirable to have an amendment submitted without notice,
13 having examined the proposed amendment its effect would be to reduce the area
14 proposed for development and in accordance with previous practice, the
10:16:05 15 amendment could be accepted.

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17 I think that gives the context and what was taking place here.

18

19 What this amendment set out to do was to quantify the number of houses that
10:16:18 20 were intended to be considered in the rezoning application as being 450 houses
21 in Portmarnock. 450 houses in Baldoyle. Whereas the motion in its unamended
22 form had not quantified the houses as such.

23

24 This amendment, in other words, was considered by the Manager as one which on
10:16:41 25 cursory examination appeared to be in order because effectively it was reducing
26 rather than enlarging what was intended to be rezoned.

27

28 So that was the basis upon which this discussion on this page is being dealt

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with.

10:16:57 30

10:16:57 1 And I'll go on to show what happened in the light of that.

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3 It was proposed by Councillor Tipping, seconded by Councillor O'Callaghan, that
4 further consideration of item 14.5 be deferred until the next special meeting

10:17:13 5 of the County Council to be held on the 27th of April 1993.

6

7 Now, the motion that's being referred to there, 14.5, was Councillor Healy's
8 motion to have the areas shown B and G on the plan retain that zoning. So that
9 was that motion.

10:17:36 10

11 There is a further proposal immediately following on that then.

12

13 Where it was proposed by Councillor Malone and seconded by Councillor Dillon
14 Byrne.

10:17:45 15

16 And if we turn to page 2035, the content of that proposal is:

17

18 That further consideration of item 14.5 be deferred until the members have
19 received a copy of the amendment and map to 14.5.G.2.

10:18:05 20

21 So that proposal was, firstly, a proposal also to defer the matter. So these
22 were both deferral motions.

23

24 They were both being brought so as to allow the body of members to consider the
10:18:21 25 matter at their leisure and had both of them been passed, the parties, that is
26 the various councillors who were to consider this, would have had before them
27 the amendment of 14.5.G.2 and the map accompanying it and they would have had
28 time to deliberate on that.

29

10:18:43 30 Do you understand what both of those motions were?

10:18:46 1 A. Do I do.

2 Q. 7 Yeah. Now, you'll see that that matter was dealt with in the following a
3 matter.
4

10:18:54 5 Both motions were put together. They were voted on and the vote against that
6 adjournment or deferral was in favour of those against the motion. That is 35
7 councillors voted that there should not be a deferral. 26 voted in favour of
8 there being a deferral.
9

10:19:19 10 And in the listing of councillors who voted against the deferral, you are one
11 of the councillors involved, isn't that so?

12 A. That's right.

13 Q. 8 So as of that date, on the 20th of April, you apparently didn't feel that there
14 was any necessity to defer the matter for further consideration. Yet, when we
10:19:42 15 move to a week later you are proposing a motion which would in effect have the
16 same, would have the same effect. Do you understand what I'm putting to you?

17 A. I do, yeah.

18 Q. 9 Yeah. Can you explain why there is that apparent contradiction? I know that
19 you explained the reason for bringing your motion on the 27th as being one
10:20:03 20 which would allow for the body of members to have a greater understanding of
21 the matter by having a site visit. If that was your view at that time, how is
22 that compatible with your having decided a week earlier that the matter should
23 be voted upon there and then?

24 A. I can't offer any explanation.

10:20:22 25 Q. 10 Well that's, I appreciate that is a response to the query I've put to you. But
26 it is hardly an answer to the matter that I've put to you. You are the party
27 involved in this exercise. You took both of the decisions that are currently
28 under review. You voted in favour of the matter being put to the membership on
29 the 20th and brought to a conclusion on that date. You voted -- sorry. You
10:20:52 30 proposed a motion the following week, which would have the immediately contrary

10:20:56 1 effect to that. There has to be an explanation for that. And I suggest to you
2 that you're not seriously endeavouring to answer the question merely by saying
3 I don't have an explanation.

4 A. Mr O'Neill, it's thirteen years ago. I can't honestly offer an explanation as
10:21:12 5 to why those things would have happened. I would have changed or contradicted
6 as you say.

7 Q. 11 Yeah?

8 A. One view I held one week and you know the following week then have a different
9 view.

10:21:23 10 Q. 12 Yes. You don't know of anything, any single act or anything else that would
11 have caused you to have done, to have adopted that course, is that right?

12 A. No, no.

13 Q. 13 Now, you may be aware, Mr. O'Halloran, that in the course of the evidence which
14 he gave in this Module of the Tribunal, Mr. Frank Dunlop indicated to the
10:21:42 15 Tribunal that in the body of this meeting on the 27th, on the margins of the
16 meeting I think he described it, he had conversation with you about the
17 circumstances which had arisen by reason of the fact that it was being proposed
18 that Councillor Michael Joe Cosgrave and Liam Creaven's motion was going to be
19 deferred. Have you any recollection of meeting with Mr. Dunlop on that
10:22:13 20 occasion or discussing the matter with him?

21 A. No, I've no recollection of discussing the matter with him. I may have met
22 with him or whatever, but certainly not about Baldoyle.

23 Q. 14 You see, what he said was that you appreciated that in the event that the
24 Cosgrave Creaven motion being put and passed, that is the motion to defer, that
10:22:40 25 a consequence of that would be that the motion of Councillor Healy would be
26 voted upon and that that could have an adverse consequence for the Creaven
27 Cosgrave motion, do you understand what I'm putting to you?

28 A. I do, I accept.

29 Q. 15 Do you have a recollection A, of having that appreciation of the consequences
10:23:06 30 of Councillor Creaven and Cosgrave's motion on that day, firstly. And

10:23:11 1 secondly, do you remember communicating that or endeavouring to communicate
2 that to Mr. Dunlop at the time?

3 A. No.

4 Q. 16 You don't have a recollection of either of those events. Mr. Dunlop in the
10:23:31 5 statement that he provided to the Tribunal in relation to that aspect of your
6 involvement stated as follows. And I'm now looking at document 2839.
7
8 This, I should say is a statement which is provided to the Tribunal in November
9 of this year by Mr. Dunlop and was circulated to you in the brief of documents.

10:24:00 10
11 And if we could start in the second paragraph there. Well, sorry, I'll start
12 with the first paragraph.
13
14 Councillor O'Halloran on his own initiative proposed their decision relating to
10:24:11 15 the Baldoyle Portmarnock area be deferred until after a site visit had taken
16 place.
17
18 That, I think, accords with your evidence, isn't that right?

19 A. Well, having looked at the minutes. I mean, I accept that the minutes are
10:24:27 20 accurate. That's what happened.

21 Q. 17 Yes?

22 A. You know, I mean, up until yesterday I didn't even remember that I had proposed
23 a motion from the floor. I presumed it was the discussion, the written one
24 that was submitted subsequently.

10:24:43 25 Q. 18 That's at a later stage that we'll get to?

26 A. Yes.

27 Q. 19 There are two issues with which you are involved here by way of motion. One,
28 the attempted motion on the 27th, which is ruled out of order. And
29 subsequently, a motion which was considered by the Council, first on the 4th of
10:25:03 30 May and secondly on the 6th of May, isn't that right?

10:25:06 1 A. Yes.

2 Q. 20 In relation to the first motion. That is the motion that was coming from the
3 floor and was ruled out of order. Mr. Dunlop says in his statement that
4 Councillor O'Halloran on his own initiative proposed their decision relating to
10:25:21 5 the Baldoyle Portmarnock area be deferred until a site visit had taken place.
6
7 He goes on to say: I had a previous discussion with Councillor O'Halloran on
8 the margins of the Council meeting during which he pointed out the folly of
9 allowing matters to proceed without his motion, that being the motion coming
10:25:38 10 from the floor. Otherwise the likelihood was that David Healy's motion might
11 succeed.
12
13 He then goes on to say: I had subsequent discussions with Councillor
14 O'Halloran relating to motions on the 4th and 6th of May, which was either
10:25:53 15 prepared by me or on advice provided by me.
16
17 Mr. Lawlor was involved with me in connection with such drafting and/or advice.
18
19 Similarly, I discussed correspondence between Mr. O'Halloran and the Council
10:26:08 20 regarding the procedural issues which arose as a result of his motion for a
21 site visit.
22
23 He says: I cannot definitively state that I drafted or provided advice as to
24 the contents of any such correspondence. I have a residual recollection of
10:26:24 25 Mr. O'Halloran informing me that he had received friendly legal advice on the
26 matter.
27
28 Now, if I can pass from the date the 27th, which was the first date mentioned
29 here.
10:26:39 30

- 10:26:39 1 That was the date upon which the Chairperson, Councillor Ridge, had ruled your
2 motion out of order, isn't that right?
- 3 A. That's right, yes.
- 4 Q. 21 And that was followed up by efforts on your behalf to set aside that decision,
10:26:57 5 isn't that right?
- 6 A. That's right, yes.
- 7 Q. 22 And what Mr. Dunlop says is that those efforts were efforts that were assisted,
8 aided and advised by himself and that he in turn was advised and assisted by
9 Mr. Lawlor in the strategy which was going to be adopted. I think that that
10:27:18 10 again is totally contrary to your evidence on this issue, isn't that right?
- 11 A. Yes.
- 12 Q. 23 We'll see at page 2176. That there was an article published in the newspaper,
13 I think the Sunday Independent, under the heading legal doubts on ruling not to
14 rezone land. You see that? That article, Mr. O'Halloran, predated your letter
10:28:01 15 to the Chairman of the Council making the complaint that her decision was one
16 with which you took issue, isn't that right?
- 17 A. Yes.
- 18 Q. 24 Yeah. You say in your statement to the Tribunal that the motion which you
19 brought was entirely of your own genesis, you conceived it as an idea, you
10:28:28 20 implemented it yourself, you drafted it, you brought it to the Council, isn't
21 that so?
- 22 A. Yes.
- 23 Q. 25 On that basis, you are the only person who knows that is there is going to be
24 this challenge, isn't that right?
- 10:28:43 25 A. Sorry, I don't follow.
- 26 Q. 26 The article which is set out here in the newspaper says that legal doubts have
27 been cast over Dublin County Council's decision not to rezone 400 acres between
28 Baldoyle and Portmarnock, which if confirmed may re-activate plans to develop
29 the area. It goes on to say: A Councillor claims his rights under the Local
10:29:09 30 Authorities Standing Orders were breached at last week's meeting which voted by

10:29:16 1 massive majority to retain the green belt. Pennine Holdings, a consortium of
 2 business people headed by former Government press secretary Frank Dunlop had
 3 proposed building 900 houses, 25,000 square meeting shopping centre and golf
 4 facilities on the property. Councillor John O'Halloran had proposed that a
 10:29:36 5 decision on the lands be deferred until after councillors had visited the site
 6 but this was ruled out of order because Green Party Councillor David Healy
 7 insisted on his motion to keep the green belt be taken. At a Council meeting
 8 yesterday Councillor O'Halloran said two days after Baldoyle decision was a
 9 contradictory ruling was given by the Chairperson. This brings into doubt the
 10:30:09 10 decision eventually taken in relation to Baldoyle. It goes on then to deal
 11 with the views of Councillor -- sorry. Of the planning official Mr. Al Smith.
 12 It goes on to say that there will be a meeting the following day. It says then
 13 that afterwards Councillor O'Halloran was primarily motivated by proper
 14 procedural practices but was in favour of reopening the Baldoyle Portmarnock
 10:30:32 15 rezoning to allow for a limited form of community beneficial development to
 16 take place.

17
 18 Now, that article and the reference to there being a legal doubts cast over the
 19 decision is in effect expressing the view which you, as the Councillor who are
 10:30:52 20 had raised the wish to defer the matter, by way of motion, were bringing before
 21 the motion, before the Council, on the following day, the 4th. You've told us
 22 you're the only person who is involved in that concept, that is the bringing of
 23 a motion to challenge the matter. And could I suggest that it follows from
 24 that, that this article here contains information which nobody knew other than
 10:31:22 25 you at that time. You were the only person who was threatening legal
 26 proceedings in relation to this at the time.

27 A. I don't think I was threatening legal proceedings.

28 Q. 27 Sorry?

29 A. I was challenging.

10:31:35 30 Q. 28 The legality of it. That is more accurate, I agree entirely, you are right?

- 10:31:40 1 A. Yes.
- 2 Q. 29 What the article says is that the legality of the decision was something which
3 was being challenged, isn't that right?
- 4 A. Yes.
- 10:31:47 5 Q. 30 You were the only person challenging it, isn't that right.
- 6 A. Yes.
- 7 Q. 31 This article here is published the day before you write to the Council telling
8 them that you have that challenge to the legality, do you understand?
- 9 A. Yes.
- 10:32:00 10 Q. 32 It follows from that, that you are the person who made the statement to the
11 journalist, which allowed that journalist publish this article, isn't that
12 right?
- 13 A. Yes. I don't recall. I mean, I spoke to Jody Corcoran on a couple of times,
14 I've no recollection of this particular issue.
- 10:32:20 15 Q. 33 You don't?
- 16 A. No.
- 17 Q. 34 So, you're saying that it could have been you who leaked or released this but
18 it might not have been?
- 19 A. I can't honestly say. I don't know.
- 10:32:31 20 Q. 35 Right. I mean, if it was you it would be part of a campaign being initiated in
21 the press to start a reversal of the rezoning process, isn't that right? It is
22 a strategic, it is a strategic act on somebody's part?
- 23 A. Maybe, but certainly not on mine.
- 24 Q. 36 There was not strategic benefit as you saw in the publishing of this article,
10:33:01 25 isn't that right?
- 26 A. I wouldn't think so, no.
- 27 Q. 37 Right. But the promoters of the Pennine option scheme certainly could have a
28 different view because it would be opening the door to allowing persons to
29 believe that the green belt rezoning was still on the agenda and therefore,
10:33:23 30 that the decision taken on the 27th of April on foot of Councillor Healy's

- 10:33:28 1 motion, was not conclusive, would you agree with that?
- 2 A. Well, I accept what you're saying. I wouldn't disagree with it.
- 3 Q. 38 Now, the documentation which was generated in connection with your legal,
4 expressing your legal concern, was a letter which was written by you to the
10:33:54 5 Chairperson, Therese Ridge, dated the 4th of May of 1993. We'll see that at
6 page 2144. You recognise your signature, I take it, at the bottom of that?
- 7 A. I do, yes.
- 8 Q. 39 Yeah. Do you remember how that letter came to be drafted?
- 9 A. I've no particular memory of it, Mr. O'Neill. Again, as I say, it's thirteen
10:34:31 10 years ago.
- 11 Q. 40 Yes. Is the font on the typing any way familiar to you or the manner in which
12 its expressed, is there anything to indicate in that, that it is familiar to
13 you?
- 14 A. Not really. It looks like standard fronts other than the bold prior to any
10:34:50 15 decision being taken it's ...
- 16 Q. 41 Yes. You see Mr. Dunlop says that is this was typed in his office. Was it
17 typed in his office?
- 18 A. I can't honestly say that it wasn't. And I can't honestly say that it was.
19 Because I can't recall at the time what facilities were available to
10:35:07 20 councillors for typing up letters so ...
- 21 Q. 42 Yes. This document, to put it in its context, Mr. O'Halloran, is one which is
22 a document which was to be given to the Chairperson in advance of a scheduled
23 meeting of the Council on the same date, the 4th, isn't that so?
- 24 A. Yes.
- 10:35:33 25 Q. 43 Right. Now, is there any reason why you would have been in Mr. Dunlop's office
26 as opposed to in the body of the Council building on the 4th of May of 1993?
- 27 A. No. Unless he was facilitating me by getting the letter typed up for me.
28 That's ...
- 29 Q. 44 And why would he be facilitating you by typing up a letter, the content of
10:36:02 30 which really was something which had been covered in a press release the

10:36:09 1 previous day, the 3rd, do you understand? The subject matter of this letter
2 had already been released to the press through, to Mr. Corcoran, and he had
3 printed an article the day before, which essentially encompassed this
4 complaint. Do you know why it is that that was?

10:36:29 5 A. No.

6 Q. 45 Published?

7 A. No.

8 Q. 46 Is it possible that you had given him a draft or somebody else had given
9 Mr. Corcoran a draft of what was intended to be put out in the Council meeting
10:36:42 10 the following day?

11 A. That's possible but I didn't give him a draft.

12 Q. 47 You see, what Mr. Dunlop is saying is that this letter was drafted, that he
13 assisted in the drafting of this letter with you and that he did so with the
14 assistance of Mr. Liam Lawlor. He does not say that Mr. Lawlor and himself and
10:37:05 15 yourself were together as a threesome. But he believes that you and he, that
16 is you and Mr. Dunlop, were present when this document was typed in his office.
17 Do you dispute that?

18 A. No, no, I don't dispute that I was there when it was typed.

19 Q. 48 Yes?

10:37:20 20 A. The drafting and the motions and the letter was my letter, my motion.

21 Q. 49 Yes. We'll see that the motion itself is at 2145.
22
23 And again, you see that document on screen there is a, an early copy, if I
24 might call it that, of the motion which was to find itself on the agenda later
10:37:52 25 that day. The distinction between this and what was on the Council's file is
26 that this has not been signed by Councillor Sean Gilbride. Do you see that?

27 A. I do, yeah.

28 Q. 50 The motion which was put into the Council was signed by Councillor Sean
29 Gilbride. And Mr. Dunlop says that he typed that motion that we see on screen
10:38:15 30 there, in his office. Do you dispute that?

- 10:38:18 1 A. I don't dispute it because I'm not in a position to dispute who actually typed
2 the motion.
- 3 Q. 51 Right. Your signature is on that document, isn't that right?
- 4 A. Yes.
- 10:38:28 5 Q. 52 And this is a document which came to the Tribunal not through any records of
6 yours, you've explained to us that you didn't keep records of -- you haven't
7 kept records?
- 8 A. No.
- 9 Q. 53 I should say. Of what took place at that time. But this document comes from
10:38:45 10 Mr. Frank Dunlop's records. He did keep records at the time. And this is a
11 record coming not from the Council file but from Mr. Dunlop's file. And I
12 think you'd agree with me, that that establishes that Mr. Dunlop had a copy of
13 your motion before you filed your motion with the County Council, isn't that
14 so?
- 10:39:05 15 A. That's right, yes.
- 16 Q. 54 That's the only way in which he could have that document. He also has given
17 evidence that when you gave him the document in the format in which we see it
18 on screen now. That he went to Councillor Gilbride and had him attach his
19 signature to it. Does that accord with your recollection or do you dispute
10:39:25 20 that that happened?
- 21 A. I don't dispute it. I don't remember it either. So I don't dispute it.
- 22 Q. 55 You have no memory of going yourself to Councillor Gilbride?
- 23 A. no.
- 24 Q. 56 And asking him to sign it?
- 10:39:35 25 A. No.
- 26 Q. 57 And he will say equally, that when both signatures were received on it, that he
27 provided this document. He lodged this document before the Council to be dealt
28 with on that day. Do you have a recollection of being the person who lodged
29 this ultimately signed document or do you accept that it may have been Mr.
10:39:59 30 Dunlop who lodged it?

- 10:40:00 1 A. I don't.
- 2 Q. 58 It had to be handed into the secretariate until such time --
- 3 A. I'm assuming I would have lodged it, Mr. O'Neill. But I've no absolute memory
- 4 of the event, of lodging it, lots of motions would have passed between
- 10:40:18 5 councillors and secretariat or whatever. I don't have a particular memory of
- 6 it, no.
- 7 Q. 59 You can't distinguish this one as opposed to any other one that you were
- 8 involved in?
- 9 A. No.
- 10:40:28 10 Q. 60 I think you were prepared to acknowledge that this document may well have been
- 11 typed by Mr. Dunlop in his office, it wasn't typed in the Council's office, for
- 12 example?
- 13 A. Well, I don't think that we had facilities in the Council office for typing.
- 14 Again, I don't really remember. I don't dispute what he's saying because I
- 10:40:50 15 don't recall. So it may have happened. That's briefly what I have to say.
- 16 Q. 61 If it did happen what possible explanation for that is there? In other words,
- 17 how could it be that motions which you say were of your own initiative and
- 18 which were prepared by you without the assistance of anybody else, as far as we
- 19 know, from the statements you have given to us. Why are you now prepared to
- 10:41:15 20 accept that in fact they may well have been drafted in Mr. Dunlop's office and
- 21 typed at that location?
- 22 A. No, no sorry. I didn't say that they were drafted in the office Mr. O'Neill.
- 23 I said I don't dispute that it may have been typed.
- 24 Q. 62 Yes?
- 10:41:27 25 A. Not drafted.
- 26 Q. 63 Well I --
- 27 A. I just explained that Mr. Dunlop at the time was very much available to do
- 28 favours for councillors, in terms of doing things for them and whatever because
- 29 in my case it was to do with another Module that will come later on. In fact
- 10:41:50 30 there was a kind of a joke going around that Mr. Dunlop would take a phone call

- 10:41:55 1 from you in the middle of the night lest he would discommode you in any way.
2 So, I mean, it may have been in that context. Again, I don't know.
- 3 Q. 64 You see, what you're saying now, Mr. O'Halloran, is totally contradictory to
4 your most recent statement provided to the Tribunal through your solicitor on
10:42:20 5 the 13th of November of 2006.
6
7 Where at page 2624 it is stated as follows:
8
9 The motions of the 26th of April and 6th of May 1993 were originated, prepared
10:42:36 10 and executed by our client exclusively without assistance from any other party
11 and in accordance with his stated belief etc.
12
13 I know that the motion of the 4th is amended in a minor detail by the addition
14 of another date by the 6th. But in essence, the motion that we're talking
10:43:02 15 about now is the motion which you say was prepared by you, originated, prepared
16 and executed, exclusively without assistance.
17
18 Now, is that or do you believe that to be compatible with the belief that you
19 now have, that this may well have been typed in Mr. Frank Dunlop's office?
- 10:43:23 20 A. Sorry. Just to say. The motion entirely -- what's there is absolutely true.
- 21 Q. 65 Yes?
- 22 A. If Mr. Dunlop suggests that he facilitated by having the motion typed, I can't
23 remember if he did or didn't do that. So I'm not in a position to say yes or
24 no. That's what I'm saying to you, Mr. O'Neill.
- 10:43:42 25 Q. 66 Well, there is, as I put to you, an obvious contradiction between the two. And
26 your account of that is that at this point in time that if it is the case that
27 Mr. Dunlop is correct, then that's not something you remembered at the time, is
28 that the explanation for it?
- 29 A. Yes.
- 10:44:02 30 Q. 67 Fine. The motion in question, you knew was one which would have the effect of

- 10:44:16 1 opening up the rezoning of the Baldoyle area as an issue again, isn't that
2 right?
- 3 A. Subsequently that's what happened. But that wasn't the intention of the
4 motion, Mr. O'Neill.
- 10:44:27 5 Q. 68 Well, do we not have your quote in the newspaper article of the 3rd which is
6 outlining what your view was in relation to these lands?
7
8 You said you were in favour of the re-opening of the Baldoyle Portmarnock
9 rezoning file to allow "a limited form of community beneficial development to
10 take place at that site".
11
12 That's on page 2176.
13
14 In that article the journalist is quoting you as having an interest in the
10:45:00 15 reopening of the Baldoyle Portmarnock rezoning, isn't that so?
- 16 A. That's a consequence of the motion.
- 17 Q. 69 Yes?
- 18 A. The motion wasn't originally intended to do that. When I proposed the motion
19 originally from the floor, nothing to do with reopening or deferring or
10:45:17 20 whatever in that sense. To give an opportunity for people to see the lands or
21 whatever.
- 22 Q. 70 You certainly had formed that intention by the 3rd. Because you're quoted in
23 the newspaper of the 3rd as having that view, isn't that right?
- 24 A. Well, that's what the article says, yes.
- 10:45:33 25 Q. 71 Yes. Well, if that is true, it means that in bringing the motion before the
26 house, that is the -- before the chamber, I should say, on the 4th. It was
27 brought with the intention that it would assist in the re consideration of the
28 rezoning of Baldoyle, isn't that right?
- 29 A. Yes, but it's as a consequence of a number of things, Mr. O'Neill. That wasn't
10:46:05 30 the primary motive with regard to the motion.

- 10:46:05 1 Q. 72 Well, this is a matter in respect of which you knew Frank Dunlop and those
2 associated with him stood to make according to a newspaper article published
3 only a week beforehand, ten million pounds profit, isn't that so?
- 4 A. Mr. O'Neill, I've said this and it probably sounds foolish now.
- 10:46:24 5 Q. 73 Yes?
- 6 A. I wasn't aware of Mr. Dunlop's absolute involvement with this Baldoyle, either
7 as a lobbyist or indeed a beneficial owner of any of the property.
- 8 Q. 74 Well, certainly the Tribunal has heard evidence to the effect that, from
9 councillors who were present at the meeting on the 27th, that in the light of
10 the publication in the Irish Independent on the morning of the motion hearing
11 that there was no way in which the councillors were going to vote in favour of
12 this particular motion in the light of the information which was being
13 discussed and considered, perhaps informally, by all the councillors there at
14 the time. And that that was the reason why the motion of councillors Cosgrave
10:47:11 15 and Creaven was deferred. Do you not have any recollection on that?
- 16 A. No, not at all. I heard it said here yesterday. I don't have any recollection
17 of that no,.
- 18 Q. 75 But wouldn't it be, I suggest, extraordinary that you would be the only person
19 who wouldn't be made aware of this or wasn't aware of that issue? It was a
10:47:32 20 front page article as far as I understand in the independent on that day?
- 21 A. It probably was but I didn't read the independent, Mr. O'Neill.
- 22 Q. 76 All right. Well, we know that the motion was listed for hearing on the 4th.
23 It was deferred from the 4th to the 6th. In other words, there was no debate
24 upon it on the 4th. But as regards contacts which took place between yourself
10:48:07 25 and Mr. Dunlop. Could I suggest that on the day after the motion you were in
26 touch with Mr. Dunlop on two occasions on that day, on the 5th of May. Now,
27 you've indicated that you don't necessarily accept the accuracy of the entries
28 that are in Mr. Dunlop's telephone records and you have no personal
29 recollection of any of the dates upon which those contacts may have taken
10:48:37 30 place. So that insofar as there is a record of it, you're not in a position to

10:48:42 1 assist the Tribunal as to what that was in relation to, isn't that right?

2 A. That's correct, yeah.

3 Q. 77 For completeness, I should say that of the two meetings, sorry, the two

4 telephone contacts which you made with Mr. Dunlop's offices on that day. One

10:49:00 5 of them at 10.30 was enquiring about the telephone number of Ambrose Kelly, who

6 as far as we know is not connected with the Baldoyle lands. But there was a

7 second phone call at five o'clock. Sorry, at 12:50 that day, which is not

8 related to Mr. Kelly. But you can't say whether that was or was not a contact

9 in relation to the motion?

10:49:26 10 A. No.

11 Q. 78 No. The motion then came before Dublin County Council on the 6th, that's at

12 2188. And in this, in the minutes which we see at 2188. It reviews the

13 progress of the matter to the date of the 6th. And it commences by quoting in

14 full the advices which were given by Mr. Al Smyth, the principal officer. It's

10:50:15 15 a review effectively of what took place, I don't know that we have to dwell on

16 it to any great length.

17

18 But we'll see that the advices which were given by the principal officer are,

19 firstly, at page 2190. At the end of that page.

10:50:38 20

21 Having reviewed all of the matter he says "I'm of the opinion still that the

22 advice that I gave you, this is directed to the Chairperson, on the 27th of

23 April 1993 was correct. Namely, that Councillor O'Halloran's motion was not in

24 order.

10:51:01 25

26 So despite the -- your letters and the views that you had expressed in the

27 letters which we've already seen this morning, the view from the Council

28 management point of view was that they were still right in the advices that

29 were given on the 27th.

10:51:21 30

10:51:21 1 And I think that they continued to have that view in relation to your later
2 motion, that is the motion which was before the Council on the 6th. Because we
3 see at page 2191.

10:51:36 5 He says: I point out that Councillor O'Halloran's proposed motion, which he
6 states he intends to move on the 6th, refers to all lands, including lands
7 which the Council has decided should be rezoned.

9 So, he was challenging your entitlement to bring before the house a motion
10 which would effect lands upon which decisions had already been made.

11
12 And I think he further went on to suggest that the motion you were bringing was
13 of itself a motion which shouldn't be considered. But in any event, they were
14 considered, isn't that right

10:52:24 15 A. Yes.

16 Q. 79 And the circumstances in which they came to be considered were where there had
17 been, I think, an amount of dispute and disorder again in the chamber in
18 relation to this matter, isn't that right?

19 A. Yes.

10:52:44 20 Q. 80 There is a procedure where when a debate before the members has extended for a
21 given period of time, I think it's a little over half an hour perhaps, a member
22 can move that the question now be put, isn't that right?

23 A. Yes.

24 Q. 81 And that I think is a procedural step which allows for debate to be brought to
25 an end at that particular time and the matter voted upon, isn't that right?

26 A. Yes.

27 Q. 82 And in matters which are contentious to make such a proposal is of itself
28 likely to be contentious and can cause disorder, isn't that right?

29 A. It could, yeah.

10:53:24 30 Q. 83 And I think that that's what happened here as we see at page 2192. That there

10:53:29 1 was the discussion and the proposal by Councillor Gilbride, seconded by
2 Councillor Conroy, was that the question now be put. The Chairman agreed. The
3 matter was put. We'll see at the very end there that because of disorder in
4 the chamber, the Chairman adjourned the meeting for a short period at 4:17 p.m.

10:54:01 5
6 And the matter is then resumed on the following day. Sorry, on the following
7 page, I should say.

8
9 Page 2193.

10:54:10 10
11 Now, the first matter that was voted upon there was an amendment to the motion
12 that you had put before the Council by the addition of the words "the site
13 visit to take place on Tuesday the 18th of May 1993". And you might remember
14 that those words had to be introduced because as it was originally framed, the
10:54:37 15 motion did not comply with standing orders because it didn't provide for a
16 specific date upon which the matter was to take place, isn't that right?

17 A. Again, I don't particularly remember it. But, I mean, I'm looking at it here
18 so I accept it.

19 Q. 84 It was then put and the only circumstance in which this matter could be
10:55:02 20 considered, I suggest, was because the Manager had -- sorry. Because the
21 Chairman had altered the view that she had originally formed on the 27th of
22 April. And was now prepared to consider this motion whereas before she would
23 not have been prepared to do so, isn't that right?

24 A. Yes.

10:55:26 25 Q. 85 We see that at the top of page 2193 where it says as follows:

26
27 The Manager again advised that the motions before the meeting were out of
28 order. The Chairman informed the members that because there was a doubt as to
29 the correctness of her decision when ruling the motion proposed by Councillor
10:55:46 30 O'Halloran, seconded by Councillor Liam Cosgrave out of order. At the meeting

- 10:55:53 1 on the 27th of April she was ruling the motions now before the Council in
2 order. But that all decisions taken in relation to the matter would be
3 referred to the law agent for advice.
4
- 10:56:08 5 Now, we'll see on the following page, that's 2194.
6
7 That when the motion was put before the house there were 34 votes in favour,
8 four votes against and one abstention. Although as you know from the
9 attendance taken of the members present at the commencement of the meeting,
10:56:31 10 which we see at page 2187. There were substantially more councillors than
11 those who actually stayed for the vote. 39 stayed, a large number of those who
12 had been present walked out, isn't that right?
- 13 A. I don't remember.
- 14 Q. 86 Do you not?
- 10:56:52 15 A. No.
- 16 Q. 87 It's reported in the newspapers that the labour councillors, the PD
17 councillors, the Green Party and others walked out claiming that the matter of
18 putting this vote before the membership was in itself illegal. You've no
19 recollection of that?
- 10:57:08 20 A. No, no.
- 21 Q. 88 At some point in time, I take it, Mr. O'Halloran, you realised that the pursuit
22 of the motion that you intended to bring before the house was one which would
23 have the effect of advancing the prospects of Pennine Holdings Limited having
24 an opportunity of having these lands rezoned, isn't that right?
- 10:57:48 25 A. Well, subsequently, yes.
- 26 Q. 89 At what point in this process did that occur to you?
- 27 A. I can't say.
- 28 Q. 90 That this had happened?
- 29 A. I can't say.
- 10:58:04 30 Q. 91 Is it purely a coincidence then that the course that you followed was one which

10:58:13 1 had the support and the advice and input of Mr. Frank Dunlop who was the face,
2 public face of this project?

3 A. Sorry?

4 Q. 92 Is it purely a coincidence that both -- that your interest in having this
10:58:33 5 motion brought before the Council and Mr. Dunlop's interests were the same?

6 A. Yes.

7 Q. 93 And that's purely coincidental?

8 A. Yes.

9 Q. 94 And therefore you reject his evidence that you were bringing this motion upon
10:58:48 10 and with his advice and the advice of Mr. Liam Lawlor?

11 A. Yes.

12 Q. 95 The meeting that was to take place on the 18th of May, which was in effect a
13 site meeting to view the Baldoyle lands of Mr. Byrne, took place sorry on the
14 19th of May, isn't that right? Have you a memory of that?

10:59:19 15 A. I remember a site meeting. I couldn't tell you the date.

16 Q. 96 Right. But it was the culmination of the process that we have just discussed?

17 A. Yes.

18 Q. 97 It came about only because of the fact that you brought the motion and
19 Councillor Ridge as Chairperson allowed you to do so. But it was subject to
10:59:36 20 the caveat which we see here, that the advice of the law agent would be a
21 determinant as to where to go from there, isn't that right?

22 A. Yes.

23 Q. 98 And I think you are aware that the law agent received advice which indicated
24 that the decision taken on the 27th of April ruling your motion out of order
10:59:57 25 was an appropriate and valid order and consequently everything that flowed from
26 then on had to be set aside, isn't that right?

27 A. I don't think I remember it but I don't dispute what you're saying.

28 Q. 99 Yes. But I think that it's agreed by everybody that the matter never came back
29 before the Council after the site visit for the purpose of having the deferred
11:00:23 30 motion of councillors Cosgrave and Creaven considered because the law agents'

- 11:00:30 1 advice was that that motion could not be taken. It fell and it fell on the
2 27th of April?
- 3 A. Well, it never went back to the Council. It was never discussed again, I'm
4 aware of that.
- 11:00:47 5 Q. 100 Do you know it may be that you're agreeing with me but I'm a little unclear as
6 to whether or not that is the case. Do you agree that that situation occurred
7 because the legal advice given was that the Council could not consider that
8 matter?
- 9 A. Well, what I'm saying. I don't dispute what you're saying. But I've no
11:01:08 10 absolute recollection of the detail.
- 11 Q. 101 Yes. This was a motion, however, that you had brought all of the way. It was
12 your, you say it was of your origin, your genesis, you have drafted it, you had
13 brought it to the motion on the 4th. You'd brought it and amended it on the
14 6th. You'd progressed it to the point where the meeting took place on the
11:01:32 15 19th. And you say you don't remember why it is that it didn't lead on to
16 something further?
- 17 A. No, no, I just have no clear recollection of the law agent being involved.
18 What I'm saying is following the site meeting, I mean, no other meeting or it
19 wasn't discussed again in the Council.
- 11:01:51 20 Q. 102 Yes. But that wasn't the intention of having had the site meeting, isn't that
21 right? The site meeting was to allow for the matter to be brought back to the
22 Council?
- 23 A. No, the original purpose of the site meeting, for me anyway, I mean, other
24 things happened then after that, was to allow people to go out and see these
11:02:13 25 lands. Because a lot of people criticised us for taking a decision on lands
26 that we'd never seen.
- 27 Q. 103 Yes?
- 28 A. So.
- 29 Q. 104 Am I not right in saying Mr. O'Halloran. That the purpose of the councillors
11:02:23 30 going out to see the lands was that having then seen it they could then come

- 11:02:28 1 back and determine the merits or otherwise of the rezoning process?
- 2 A. Yes.
- 3 Q. 105 So that it was a step in a process intended to lead to there being a meeting of
- 4 the Council to discuss the Pennine Holdings project?
- 11:02:42 5 A. Yes.
- 6 Q. 106 And that never took place?
- 7 A. No.
- 8 Q. 107 Even though the meeting took place. Sorry, even though the site visit took
- 9 place?
- 11:02:48 10 A. Yes.
- 11 Q. 108 And the reason for that was because it was deemed that it could not take place
- 12 in view of the decision taken on the 27th of April. You don't dispute that?
- 13 A. Sorry, the site meeting couldn't take place.
- 14 Q. 109 The site meeting took place on a without prejudice basis, that that meeting
- 11:03:07 15 could take place subject to the Council obtaining the advice of the law agent
- 16 as to?
- 17 A. Oh, sorry I beg your pardon, yes, yes.
- 18 Q. 110 Yes. And when that advice came. That is the reason why it went no further,
- 19 isn't that right?
- 11:03:21 20 A. Well, sorry, I'm accepting what you're saying. I don't have a particular
- 21 memory of it but ...
- 22 Q. 111 I see. In relation to your financial affairs at this time, Mr. O'Halloran. It
- 23 is the position, I believe, that you are not in a position to account for
- 24 individual items of expense because you do not have personal records which
- 11:03:51 25 allow you to identify the immediate source of funds that were lodged to bank
- 26 accounts of yours during that period, isn't that right?
- 27 A. Yes.
- 28 Q. 112 You can hazard a guess as to the likely source of these funds but you cannot
- 29 definitively state?
- 11:04:09 30 A. No.

11:04:09 1 Q. 113 Where the money came from, isn't that so?
2 A. That's correct, yeah.
3 Q. 114 Thank you, Mr. O'Halloran.
4

11:04:16 5 CHAIRMAN: Do you want to ask any questions?
6
7 JUDGE KEYS: Mr. O'Halloran, just one thing I'd like to ask.
8
9 Could I have page 615 on the screen, please.

11:04:31 10
11 Look at paragraph three there. You say that "I do not recollect whether or not
12 I voted and supported the motion. If I did so I do not recollect my reasons
13 for so doing. The area of the lands at Baldoyle Race Course were of no
14 interest to me". Is that true?

11:04:55 15 A. No particular interest in a sense that I didn't represent the area.
16
17 JUDGE KEYS: Well, how then were you involved in so many motions? There was
18 one motion from the floor. Followed by another motion for the 27th I think of
19 April, which was adjourned to the 4th and then on to the 6th. And then a
11:05:14 20 letter from you to the Chairman challenging the ruling in relation to the
21 validity of the motions.

22 A. The motion from the floor stemmed, again, I'm working on vague memory of a
23 criticism that was leveled about people making decisions about lands that they
24 hadn't seen. So I moved a motion that a site visit be organised. Everything
11:05:37 25 else kind of stemmed from that then.
26
27 JUDGE KEYS: So the question of the Baldoyle lands were totally irrelevant.
28 It was really the procedural side of things you
29 A. More or less, yes.
11:05:50 30

11:05:50 1 JUDGE KEYS: You were somewhat upset about?

2 A. Upset would be too strong a point. It was the challenge of criticism maybe

3 that had been leveled against councillors who were voting on not just these

4 lands but indeed other lands. And the criticism was that we were taking

11:06:07 5 decision on lands that perhaps we'd never seen perhaps.

6

7 JUDGE KEYS: But that wouldn't have been the first time that it happened

8 A. No, no, no.

9

11:06:15 10 JUDGE KEYS: That happened frequently

11 A. It did, yeah.

12

13 JUDGE KEYS: Well, why did you pick Baldoyle about above all of the parcels of

14 land where motions came before the Council, where there were no inspection of

11:06:31 15 lands? Why did you

16 A. I can't say.

17

18 JUDGE KEYS: Pardon

19 A. I can't say.

11:06:36 20

21 JUDGE KEYS: Well had it anything to do with your involvement with Mr. Dunlop

22 A. No.

23

24 JUDGE KEYS: None whatsoever

11:06:42 25 A. No.

26

27 JUDGE KEYS: I see. Thank you.

28

29 CHAIRMAN: All right. Thank you very much Mr. O'Halloran

11:06:48 30 A. Thank you.

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THE WITNESS THEN WITHDREW.

MR. O'NEILL: The next witness is Michael Joe Cosgrave. Sorry. Sean
Gilbride. I beg your pardon.

Is Mr. Gilbride present? .

11:07:25 1 **MR. SEAN GILBRIDE HAVING BEEN SWORN, WAS QUESTIONED**

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

3

4

11:07:28 5 CHAIRMAN: Good morning Mr. Gilbride

6

7

MR. O'NEILL: Good morning Mr. Gilbride.

8

9

You were a Councillor at the time of the review 1983 Dublin County Development

11:07:40 10 Plan. And you participated in that process in relation to the lands at

11 Baldoye, which are the subject of the current Module of inquiry of the

12 Tribunal. And those lands were the subject of an application by a company

13 called Pennine Holdings Limited, to have those lands redeveloped from their

14 then existing status, which was of -- well zoning status of B and G, green belt

11:08:12 15 effectively, to a variety of uses including residential in part. District

16 centre in part. Business park in part. And also industrial in part, isn't

17 that so?

18 A. That's right.

19 Q. 115 And did you have any particular knowledge or personal interest in the rezoning

11:08:38 20 of this particular area?

21 A. Knowledge, yes. I would have known the Baldoye lands fairly well. They were

22 adjacent to Portmarnock, which would be an area that I represented. And they

23 had been lying there for a long time.

24 Q. 116 Yes?

11:08:55 25 A. There was a demand for housing and jobs in all of that particular area. And I

26 saw it as an opportunity for housing and jobs for young people and other people

27 in the area.

28 Q. 117 And your interest then, I take it, commenced or was in existence at the time

29 when the review process started, isn't that right?

11:09:21 30 A. Oh, yes, yes, yes.

11:09:22 1 Q. 118 And the opportunities for making suggestions or submissions to the Council and
2 to your fellow councillors?
3 A. Uh-huh.
4 Q. 119 Arose as early as I think 1990 when a motion could have been brought before
11:09:40 5 the, before the Council?
6 A. Yes.
7 Q. 120 In advance of the publication of the first Draft Plan, isn't that right?
8 A. I don't recollect that. I mean, motions were going in and out just when
9 particular areas -- motions just went in then . there wasn't any, there weren't
11:10:01 10 that many motions in before an area would come up. It would like be a short
11 time before the area came up. There was a certain number of days you had to
12 have the motion in.
13 Q. 121 Yes?
14 A. But not a long time beforehand.
11:10:12 15 Q. 122 I'm not suggesting that it necessarily had to be via a motion but rather the
16 submission or a proposal could be brought by a Councillor for inclusion of the,
17 of a particular plan prior to it going on its first public display?
18 A. Oh, yes.
19 Q. 123 Yes?
11:10:32 20 A. Yes, yes, yes.
21 Q. 124 I'm just dealing now?
22 A. Yeah.
23 Q. 125 With the opportunities that were open to a Councillor to reflect his interest
24 or wish to rezone land, that that can happen before the public display period,
11:10:46 25 isn't that right?
26 A. Yeah. But I -- I don't remember too many of those events happening, I must
27 say.
28 Q. 126 Okay. Well certainly we know that in relation to Baldoyle no Councillor
29 availed of the opportunity of making any submission in relation to these lands
11:11:01 30 prior to the matter going on public display which took place in September of

- 11:11:06 1 1991?
- 2 A. Right.
- 3 Q. 127 And in September of 1991?
- 4 A. Yes.
- 11:11:10 5 Q. 128 A map and plan and in fact a written draft proposal was circulated to all
6 councillors, isn't that right?
- 7 A. Uh-huh, that's right.
- 8 Q. 129 And the matter also went on public display from that date until December of
9 1991, isn't that right?
- 11:11:27 10 A. That would be correct.
- 11 Q. 130 And there was a period immediately after that, during which submissions could
12 be made by interested parties?
- 13 A. Yeah.
- 14 Q. 131 And we know that a document which has been referred to in the course of the
11:11:44 15 hearings here as the blue book, which was a compilation of the reports of the
16 advisors engaged on behalf of Pennine Holdings, was circulated to all
17 councillors?
- 18 A. Yes.
- 19 Q. 132 And to the -- to all interested parties, both by the promoters of the scheme
11:12:10 20 and I take it, it would be internally circulated by the Council also?
- 21 A. Yes.
- 22 Q. 133 Yes. We know, for example, that something over 100 copies of this were printed
23 up. And I suspect that they were sent to each individual Councillor by the
24 promoter, isn't that right?
- 11:12:27 25 A. Yes.
- 26 Q. 134 So that you would have been aware in 1992 of what it was proposed to do?
- 27 A. Uh-huh.
- 28 Q. 135 With these lands?
- 29 A. Yes.
- 11:12:36 30 Q. 136 Isn't that so?

11:12:37 1 A. That's right.

2 Q. 137 And at some point in time, is it correct to say that you identified Mr. Dunlop
3 with this project or he was identified with the project for you?

4 A. He identified himself to me about the project.

11:12:54 5 Q. 138 Yes. And can you say whether that was by reference, let's say, to the
6 signature by you of the first motion that was brought in respect of these lands
7 and that date was the 12th of March of 1993?

8 A. I'd say around that time.

9 Q. 139 In and around that time?

11:13:13 10 A. That time, yes.

11 Q. 140 Now, we know that the motion was signed by yourself and by councillors Cyril
12 Gallagher, Michael Joe Cosgrave and Liam Creaven?

13 A. Yes.

14 Q. 141 Isn't that right?

11:13:28 15 A. That's right.

16 Q. 142 Mr. Dunlop has indicated to the Tribunal that he typed the particular motion
17 himself. That he brought that document down to you and to the other
18 councillors, that the document was signed in his presence?

19 A. Uh-huh.

11:13:51 20 Q. 143 By you?

21 A. That's right.

22 Q. 144 That as far as he was aware, there was no interchange between the councillors
23 themselves. In other words, you didn't speak with Cyril Gallagher nor with
24 Michael Joe Cosgrave nor with Liam Creaven in relation to it, isn't that right?

11:14:10 25 A. As far as I remember, yes.

26 Q. 145 Yes. If we see the document on screen. At 1886.
27
28 We'll seat four signatures involved. At the very bottom there you'll probably
29 identify your own as being the second down from the top. It doesn't
11:14:29 30 necessarily follow that you were the second to sign it

- 11:14:32 1 A. I don't think I was actually.
- 2 Q. 146 Yes. And that's your signature though on the document?
- 3 A. Oh, it is, yes, yes.
- 4 Q. 147 And behind that document we'll see?
- 11:14:40 5 A. Yes.
- 6 Q. 148 At page 1887. The map with the boundaries drawn out showing on the right-hand
7 side the Baldoyle estuary. And the left hand line is the Dublin/Belfast
8 railway line. And they are the two most distinguishing features there as to
9 boundary?
- 11:15:03 10 A. Uh-huh.
- 11 Q. 149 And if we go to the north of the map, to the northern left corner you'll see
12 Portmarnock station and the road running from there to the estuary?
- 13 A. Uh-huh.
- 14 Q. 150 So that it's a clearly identifiable tract of lands?
- 11:15:17 15 A. Uh-huh.
- 16 Q. 151 I appreciate that it's a very large tract of land, being some 436 acres of so
17 or at least. But it didn't require to be identified to any greater particular
18 clarity for you to know what was proposed, isn't that right?
- 19 A. No, no.
- 11:15:36 20 Q. 152 At the same time, we'll see that there are a range of proposals contained
21 within this proposal, isn't that right?
- 22 A. That's right.
- 23 Q. 153 And I think I'm correct in saying that you had no input in determining which
24 part of these lands should be residential, which should be industrial, which
11:15:55 25 should be for the purpose of district centre. They were not decisions of
26 your's, isn't that right?
- 27 A. No, no. Well, I mean, I say they're not decisions of mine. I mean, the whole
28 400 acres. It would be when a planning application would go in that the
29 decision would be made, what went where.
- 11:16:17 30 Q. 154 Well, to an extent that's correct?

- 11:16:19 1 A. Yeah.
- 2 Q. 155 Mr. Gilbride. But that's not the complete picture. Because if the land is
3 zoned for particular use?
- 4 A. Yes, yes.
- 11:16:27 5 Q. 156 One cannot simply bring a planning application in respect of it for another
6 use?
- 7 A. No.
- 8 Q. 157 Unless there is to be a material contravention, isn't that so?
- 9 A. Uh-huh.
- 11:16:38 10 Q. 158 So that the division here as to what uses individual parts of this 436 acres
11 was to be made for was a serious matter and was to have serious consequences?
- 12 A. Uh-huh.
- 13 Q. 159 For the rezoning if it were successful, isn't that right?
- 14 A. That's right.
- 11:16:55 15 Q. 160 And I just want to be clear in my own mind for the Tribunal that you did not
16 have any input in deciding which areas should be proposed for particular uses?
- 17 A. No, I didn't, no.
- 18 Q. 161 You signed, in effect, what was put in front of you?
- 19 A. That's right.
- 11:17:09 20 Q. 162 And how do you equate that with the exercise of the function that is that of a
21 Councillor to evaluate any proposal for rezoning and to reach a determination
22 based upon the merits of that proposal for a particular zoning use?
- 23 A. If I can have the first sheet again with the motion.
- 24 Q. 163 Of course, yes.
- 11:17:33 25
26 It's page 1886.
27
28 This is the narrative which accompanied the motion, right?
- 29 A. Well the mixture of uses there would have appealed to me. You had the golf
11:17:48 30 course, residential and related industrial uses and a district centre. All of

- 11:17:57 1 those would have been appealing.
- 2 Q. 164 Yes. I mean without knowing exactly how and where these were to take place and
- 3 the extent to which the totality of the proposal would be involved for any
- 4 particular use. Could I suggest that you couldn't reach any legitimate
- 11:18:16 5 decision on the merits or otherwise of this without a detailed analysis of what
- 6 was to take place and where?
- 7 A. I wouldn't agree with you on that.
- 8 Q. 165 You wouldn't?
- 9 A. No.
- 11:18:30 10 Q. 166 You see what, Mr. Dunlop has indicated to the Tribunal. You may well disagree
- 11 with it was that he put this matter in front of you for signature. He doubts
- 12 whether you even considered the content of the map which is behind it. That
- 13 you affixed your signature to it. And that there was no discussion between
- 14 himself and yourself as regards the merits or otherwise of the proposal. You
- 11:18:51 15 simply signed what was put in front of you?
- 16 A. I wouldn't agree with Mr. Dunlop on that.
- 17 Q. 167 Well, can you indicate exactly what discussion you say took place on the merits
- 18 of this proposal and what input, if any, you had in relation to it?
- 19 A. As you said, the motion -- I signed it, I was there. I looked at the motion and
- 11:19:14 20 I thought it was a good motion for that particular area. I did ask Mr. Dunlop
- 21 what interest he had in the lands himself. And he told me that he had an
- 22 option to buy the lands.
- 23 Q. 168 Yes.
- 24 A. Yeah.
- 11:19:27 25 Q. 169 Can I suggest to you Mr. Gilbride, that given that this was a motion which was
- 26 typed up by Mr. Dunlop?
- 27 A. Uh-huh.
- 28 Q. 170 Prior to him coming to you with it and given that there does not appear to be
- 29 any variation on the face of it from what was?
- 11:19:46 30 A. Uh-huh.

- 11:19:47 1 Q. 171 Proposed by him?
- 2 A. Uh-huh.
- 3 Q. 172 That in effect you were giving effect to his wish or his proposal rather than
- 4 your own, you understand what I'm putting to you?
- 11:20:00 5 A. Sure, I mean, I agreed with the proposal.
- 6 Q. 173 Yes. If you'd had any disagreement with any aspect of it, would you have
- 7 refused to sign it or were you signing it because Mr. Dunlop was a person who
- 8 you wished to assist in this instance?
- 9 A. On this particular motion I didn't see anything to disagree with in it. I
- 11:20:26 10 mean, the land had been lying there for years. Was in need of all of the
- 11 things that was provided for there. I thought it was a good motion. Still do.
- 12 It's been built on now.
- 13 Q. 174 This motion found itself before the Council on the 20th of April and you --
- 14 sorry. Councillor Creaven and Cosgrave withdrew the motion?
- 11:20:50 15 A. Uh-huh.
- 16 Q. 175 At that time. So your motion never came for discussion for debate, anything of
- 17 that nature. Were you aware of the fact that it was going to be withdrawn on
- 18 the day?
- 19 A. I can't remember now and I'm being honest in saying that I probably did. I
- 11:21:07 20 just don't remember. I think -- my recollection is that there was some
- 21 discussion on it. And that during the meeting a different map went in. That's
- 22 my recollection.
- 23 Q. 176 Okay?
- 24 A. I could be wrong on that.
- 11:21:20 25 Q. 177 I think we'll see, Mr. Gilbride, that you are wrong on that?
- 26 A. Yeah.
- 27 Q. 178 There was certainly discussion in relation to the lands which are the subject
- 28 of the motion?
- 29 A. Uh-huh.
- 11:21:30 30 Q. 179 Which you formed?

11:21:31 1 A. Uh-huh.

2 Q. 180 But your motion was given the Council reference No. 14.5.G.1?

3 A. Uh-huh.

4 Q. 181 That motion was withdrawn at hearing on the 20th?

11:21:44 5 A. Uh-huh.

6 Q. 182 Of April?

7 A. Uh-huh.

8 Q. 183 And motion 14.5.G.2 was proposed before the membership?

9 A. Uh-huh.

11:21:54 10 Q. 184 You were not a signatory?

11 A. Uh-huh.

12 Q. 185 To that motion. That, you appear to disagree with that?

13 A. It's my recollection.

14 Q. 186 Yes?

11:22:04 15 A. That there had been some discussion on this and that at some stage during the

16 discussion a different motion went up. I may be wrong. The minutes give

17 decisions made. Look it, I'm open to contradiction on it. But it was my

18 recollection, some sort of discussion on it. I may be wrong. I could be

19 wrong. I'm not ...

11:22:29 20 Q. 187 I just want to afford you the opportunity of being able to see exactly what

21 took place on that day and.

22

23 And if we look to page 2032. About half way down the page there you will see a

24 reference to Councillor Creaven.

11:23:00 25

26 Councillor Creaven indicated that he wished to withdraw the following motion in

27 the name of Councillors Creaven, Gilbride, Gallagher and MJ Cosgrave.

28

29 You see the reference number following then of 14.5.G.1. And the content of

11:23:17 30 that is as we saw just a moment ago, when we were looking at your signature on

11:23:22 1 the document, right?

2 A. Yes, yes. I'm just wondering. At the top of the page.

3 Q. 188 Yes?

4 A. Where they were talking about, I'm wondering is that referring to Baldoyle?

11:23:35 5 Q. 189 It is?

6 A. Yes.

7 Q. 190 Yes. That's the planning officer's report?

8 A. Yeah.

9 Q. 191 If you want to look --

11:23:42 10 A. That's fair enough, fine.

11 Q. 192 If we just look to page 2031.

12

13 We see at the very bottom of it there the planning officer's report. The

14 planning officer is setting out the reasons why these lands in Baldoyle should

11:23:54 15 not be rezoned

16 A. Yeah, that's probably my recollection. I had a feeling that there had been

17 some discussion about it but I must have been referring to the planning

18 officer's, yes.

19 Q. 193 So the planning officer essentially is against it?

11:24:08 20 A. Yeah.

21 Q. 194 We then go to 2032. And we see that there are a series of motions for debate

22 before the Council on that day.

23

24 The first of them is given the reference No. 14.5.1. And that was Councillor

11:24:21 25 Healy's motion. Which was proposing in effect the retention of these lands in

26 their existing use

27 A. Uh-huh.

28 Q. 195 Maintaining, in other words, the status quo?

29 A. Yeah.

11:24:33 30 Q. 196 Because as you know on the plan that was circulated by the Council's own

11:24:38 1 planning staff and put on public display. This land was to stay B and G, isn't
2 that right? So Councillor Healy was endeavouring to maintain that status quo.
3 And his motion was the first in time?
4 A. Right.
11:24:52 5 Q. 197 Immediately after that was the motion which you had appended your signature to?
6 A. Uh-huh.
7 Q. 198 On the 12th of March 1993. And that is the motion which Councillor Creaven
8 indicated he wished to withdraw. And you, I think, were indicating to the
9 Tribunal that you don't have a recollection of being informed in advance of
11:25:14 10 that happening. That it was going to happen?
11 A. I don't, no, no.
12 Q. 199 So that it was open to any one of the four of you, I suppose, to propose it?
13 A. Uh-huh.
14 Q. 200 Had it not been withdrawn, isn't that right?
11:25:30 15 A. Uh-huh.
16 Q. 201 So you weren't involved in the consultation process that resulted in it being
17 withdrawn, isn't that right?
18 A. No, I wasn't.
19 Q. 202 Is that a fair indication of the level of involvement on your part with this
11:25:45 20 project insofar as you were not deemed to be one of the parties who required to
21 be consulted before the withdrawal of your motion.
22 A. Probably is a fair indication, yes. I wasn't consulted on that, no. I was
23 surprised myself I remember at the time.
24 Q. 203 All right. We'll see that the other -- well two of the other councillors who
11:26:09 25 had been involved, that is councillors Cosgrave and Creaven, they proposed the
26 next motion. And that is 14.5.G.2.
27
28 And you'll see that it is a variation on what was proposed in your motion,
29 isn't that right ?
11:26:33 30 A. Uh-huh.

- 11:26:34 1 Q. 204 But you had not been consulted to that point in relation to that variation,
2 isn't that right?
3 A. That's right, yes.
- 4 Q. 205 Now, you do come back in though. Because an amendment to that motion is now
11:26:51 5 proposed.
6
7 If you want to look at what we see on page 2033.
8
9 This shows motion two in its unamended form
- 11:27:04 10 A. Uh-huh.
- 11 Q. 206 Now, it is making general statements in relation to housing. It talks of at
12 point A there the provision of new high quality housing.
13 A. Uh-huh.
- 14 Q. 207 And the amendment which was proposed then is at the bottom of the page.
- 11:27:24 15 A. Uh-huh.
- 16 Q. 208 And if we go on perhaps to page 2034.
17
18 You'll see that the substantive amendment is that it quantifies the number of
19 houses that are going to be built here
- 11:27:41 20 A. Uh-huh.
- 21 Q. 209 It puts, in other words, or suggests a limited development?
22 A. Yeah.
- 23 Q. 210 Of 450 new houses on approximately 75 acres at the Portmarnock end and
24 similarly at the other end, isn't that right?
- 11:27:55 25 A. Uh-huh.
- 26 Q. 211 Again, this is a matter which Mr. Dunlop says was as a result of his further
27 consideration of the matter rather than any discussion or agreement or
28 involvement, indeed, of the councillors who were proposing this motion. Do you
29 accept that?
- 11:28:23 30 A. Is there another page?

- 11:28:25 1 Q. 212 Yes. Of course.
2
3 The next page is 2035.
4
- 11:28:37 5 And the final page is 2036, whenever you want me to turn to that.
6 A. Yes.
7 Q. 213 That was an inconclusive meeting, Mr. Gilbride?
8 A. Uh-huh.
9 Q. 214 You may remember that it broke up in disorder and it was adjourned until the
11:28:57 10 27th when the substantive matters were revisited on that occasion and became
11 the subject of the debate. So no conclusion was reached in relation to the No.
12 2 motion or its amendment at this meeting?
13 A. Yeah.
14 Q. 215 As much as could be said occurred at this meeting?
11:29:15 15 A. Uh-huh.
16 Q. 216 Was that the motion which you had signed was withdrawn?
17 A. Withdrawn, yeah.
18 Q. 217 The other matters were left for debate to the later meeting?
19 A. Uh-huh.
11:29:27 20 Q. 218 Do you have any recollection of being involved in the detail of either the
21 consideration of motion No. 2?
22 A. Uh-huh.
23 Q. 219 With either councillors Creaven or Michael Joe Cosgrave or with the amendment
24 of that motion?
11:30:03 25 A. Could I see it or have I seen it, there's so many things going up there.
26 Q. 220 Yes. If we go back to 2033?
27 A. Yeah.
28 Q. 221 We'll see it in its unamended form now in front of you at 2033?
29 A. Yes, yes.
11:30:19 30 Q. 222 We looked at 2034?

11:30:21 1 A. Uh-huh.

2 Q. 223 Which showed the amended version. And as I indicated to you, that amendment

3 was in substance to quantify the number of buildings to be built?

4 A. Yes.

11:30:31 5 Q. 224 That is the amendment?

6 A. Yeah.

7 Q. 225 Now, I was asking you whether or not you had any involvement in the first, that

8 is the unamended version of that?

9 A. I don't think so, no.

11:30:39 10 Q. 226 And do you have any recollection of being involved in the amendment itself as

11 regards its detail?

12 A. I just don't remember, I must say.

13 Q. 227 Because, again, that is a motion in respect of which Mr. Dunlop says that he

14 drafted the motion. The amendment to it. That he had it signed by the

11:31:08 15 councillors and that the councillors had no input in relation to what was put

16 before them, they merely signed it. Do you have anything to say to that?

17 A. I don't. I haven't any great recollection of it I must say.

18 Q. 228 I see?

19 A. No.

11:31:34 20 Q. 229 The next?

21 A. I mean, I wouldn't have signed the motion without looking at it and seeing what

22 was on it.

23 Q. 230 Well I appreciate that you'd have to look at it to put your signatures on it.

24 But as regards giving it any meaningful consideration or evaluation or

11:31:44 25 analysis. Could I suggest to you that that didn't happen?

26 A. I wouldn't agree with you on that.

27

28 JUDGE FAHERTY: Mr. Gilbride, sorry, Mr. O'Neill.

29

11:31:55 30 Can I just ask before we move on a bit. You're looking at now the motion in

11:32:00 1 the names of Mr. Creaven and Mr. Michael Joe Cosgrave

2 A. That's correct, yes.

3

4 JUDGE FAHERTY: Which varied the original motion that had been signed, that

11:32:08 5 you were a signatory to

6 A. I did, yes.

7

8 JUDGE FAHERTY: And it's clear obviously -- it seems obvious that there was an

9 amendment to the new motion

11:32:16 10 A. Uh-huh.

11

12 JUDGE FAHERTY: To limit the number of houses

13 A. Uh-huh.

14

11:32:20 15 JUDGE FAHERTY: Can I just ask you. This morning or when you started to give

16 evidence you said that one of the reasons that you wanted to, that you were

17 supportive of this project was the need for housing and jobs

18 A. Yes.

19

11:32:33 20 JUDGE FAHERTY: And looking at the motion of Mr. Cosgrave and Mr. Creaven

21 A. Uh-huh.

22

23 JUDGE FAHERTY: The housing -- the jobs aspect of that would seem to have been

24 substantially changed from the first motion

11:32:48 25 A. Uh-huh.

26

27 JUDGE FAHERTY: Because there's no provision for any E zoning in it. Now,

28 there is district centre and golf course. But there's no -- I hope that I'm

29 not wrong in that. I'm just reading it there. There doesn't seem to be any

11:33:03 30 provision for the industrial zoning

11:33:05 1 A. Yes.
2
3 JUDGE FAHERTY: There was in the first one
4 A. That's right, yeah.
11:33:08 5
6 JUDGE FAHERTY: That to me would appear quite a substantial change, if you
7 like, to what you had originally put your signature to
8 A. Yes, yes, yes.
9
11:33:17 10 JUDGE FAHERTY: And I think --
11 A. Yes. As you said that the industrial would have gone at maybe -- I forget
12 myself.
13
14 JUDGE FAHERTY: Well there's no industrial on the one that Mr. Creaven and
11:33:27 15 Mr. Michael J. There is district centre in fairness.
16
17 MR. O'NEILL: I think there is a distinction
18
19 JUDGE FAHERTY: Yes.
11:33:34 20
21 MR. O'NEILL: Judge, in relation to that. Insofar as there is a reduction in
22 the area involved
23
24 JUDGE FAHERTY: Oh, I see.
11:33:43 25
26 MR. O'NEILL: The original plan had included part of the lands which were the
27 subject of the Bauval option.
28
29 MR. O'NEILL: Yes.
11:33:51 30

11:33:51 1 MR. O'NEILL: They had the benefit of an existing E zoning under the 1983
2 plan.

3

4

JUDGE FAHERTY: They were taken out.

11:33:57 5

6

MR. O'NEILL: They were taken out by re drawing the map.

7

8

JUDGE FAHERTY: Yes, I understand that.

9

11:34:02 10 MR. O'NEILL: They changed their actual zoning status but they weren't part of
11 the motion before the new map, exactly.

12

13 JUDGE FAHERTY: Yes. I think my fundamental question is still the same, based
14 on -- I understand what you're saying Mr. O'Neill.

11:34:14 15

16

MR. O'NEILL: Yes. I think that there is a change --

17

18 JUDGE FAHERTY: The map showed E zoning on the original.

19

11:34:21 20 MR. O'NEILL: E zoning industrial.

21

22 JUDGE FAHERTY: That was something that was already there.

23

24 MR. O'NEILL: Yes. There is a business park area at Baldoyle, which was
11:34:30 25 altered to residential rather than business park.

26

27 JUDGE FAHERTY: Yes.

28

29 MR. O'NEILL: So the point is well made. The principle is the same. Just as
11:34:38 30 regards the details.

11:34:39 1
2 JUDGE FAHERTY: Just in terms of jobs and that. The number of jobs that could
3 be provided was limited. Was reduced now in terms of the 430 acres we're
4 looking at

11:34:48 5 A. Uh-huh.
6
7 JUDGE FAHERTY: I'm just wondering did that occur to you or did you engage in
8 any debate with the other signatories or indeed anybody when you looked at
9 this, Mr. Gilbride?

11:35:00 10 A. I forget. I think it might have been, I would have been aware that there was C
11 zoning there already, you know, that would have provided for. On the
12 particulars of it I hadn't any great recollection myself.
13
14 JUDGE FAHERTY: All right. Sorry to have interrupted you, Mr. O'Neill.
15 Thanks Mr. Gilbride.
16
17 MR. O'NEILL: On this date the 20th. As I was saying, there was no conclusive
18 decision reached save the withdrawal of the motion that you were involved in
19 initially?

11:35:29 20 A. Yes.
21 Q. 231 And there was the proposal to amend the other motion, which had been brought by
22 councillors Creaven and Cosgrave. And you were one of the parties who was a
23 signatory to that proposed amendment, isn't that right?

24 A. That's right, yeah.

11:35:46 25 Q. 232 And that would carry with it the suggestion that you had determined that as
26 between the original motion and the amendment that was being proposed.
27 A. Uh-huh.
28 Q. 233 That you had considered the original and had considered that it merited
29 amendment in the manner in which we have seen here?

11:36:04 30 A. Uh-huh.

- 11:36:05 1 Q. 234 By the quantification of the houses that were to be built?
- 2 A. Yeah.
- 3 Q. 235 Isn't that right that?
- 4 A. Would be correct, yes.
- 11:36:12 5 Q. 236 Now, could I suggest to you that again this was an amendment which was made in
6 the house, in the chamber itself. It was handwritten initially?
- 7 A. Yeah.
- 8 Q. 237 And the handwriting for that project, for that proposal is the handwriting of
9 Mr. Frank Dunlop?
- 11:36:31 10 A. Uh-huh.
- 11 Q. 238 Are you aware of that?
- 12 A. No, I'm probably aware of it but, I mean, it's such a long time ago it's hard
13 to remember everything.
- 14 Q. 239 Yes. Well, sorry. If we could look to page No. 2008.
- 11:36:48 15
16 This document here on Fingal area
- 17 A. Yeah.
- 18 Q. 240 Committee notepaper?
- 19 A. Uh-huh.
- 11:37:01 20 Q. 241 Is a manuscript of what we saw in print?
- 21 A. Yes.
- 22 Q. 242 In the minutes, isn't that right?
- 23 A. That's right.
- 24 Q. 243 And the handwriting on this is all that of Mr. Frank Dunlop?
- 11:37:14 25 A. Yeah.
- 26 Q. 244 Whilst there were three councillors present and they were present in the
27 chamber at the time. He wrote out the amendment. And we'll see on the next
28 page, at page 2009 the signature of the three of you?
- 29 A. Uh-huh.
- 11:37:29 30 Q. 245 And that then was typed in the secretariat?

- 11:37:34 1 A. Uh-huh.
- 2 Q. 246 Of the Council or sorry in the Council itself?
- 3 A. Uh-huh.
- 4 Q. 247 At the time. And it is the signed version of that that was then put before the
- 11:37:44 5 members, isn't that right?
- 6 A. That's right, that's correct.
- 7 Q. 248 Again, we know that that particular meeting was acrimonious and didn't, the
- 8 business of the day was not concluded that day?
- 9 A. Uh-huh.
- 11:38:05 10 Q. 249 It was necessary to adjourn the matter for a week, to the 27th, when the matter
- 11 came up before the Council again, isn't that right?
- 12 A. That's right.
- 13 Q. 250 And to this point in time your involvement is in both motions. And are you
- 14 aware or have you a recollection of the publication on the morning in the
- 11:38:30 15 newspaper of the fact that Mr. Dunlop and those who were said to be associated
- 16 with him in this project stood to make 10 million pounds profit in the event
- 17 that you and your colleagues voted in favour of this rezoning?
- 18 A. Yes. I would have been aware of it, yes, yes.
- 19 Q. 251 Can you remember what effect that had, firstly, on you as regards this motion.
- 11:38:59 20 And your wish to have it brought before the house?
- 21 A. Well.
- 22 Q. 252 Or the chamber?
- 23 A. Well, I don't remember the article that well. But, I mean Mr. Dunlop had made
- 24 me aware that he was, had the option on the lands. I wasn't aware that there
- 11:39:18 25 was now another person involved apart from Mr. Dunlop.
- 26 Q. 253 Yes.
- 27 A. I don't think it made any difference to my attitude towards.
- 28 Q. 254 Exactly, the extent to which that material is ...
- 29 A. Yeah.
- 11:39:30 30 Q. 255 If one looked at it from a purely planning and zoning point of view?

11:39:34 1 A. Uh-huh.

2 Q. 256 In theory it is totally irrelevant as to whether or not one individual as
3 opposed to a group of individuals is a promoter, isn't that right?

4 A. Yes.

11:39:43 5 Q. 257 In those circumstances, do you know why was it that the project was shelved, if
6 I might put it that way. And by project I mean at that point on the 27th at
7 the meeting on the day this was to be debated and the day upon which your
8 adjourned motion was to be considered by the body of councillors present?

9 A. Uh-huh.

11:40:06 10 Q. 258 Why was it that it did not proceed to be dealt with on that day?

11 A. I cannot remember that actually. I thought it was. I just don't remember
12 that.

13 Q. 259 Yes?

14 A. Was it on a motion by the signatures, not have it discussed or what?

11:40:23 15 Q. 260 Yes. There was a motion that it would be deferred?

16 A. Yeah. And sorry, can I see?

17 Q. 261 Of course. We'll look at the minutes which is of assistance to you?

18 A. Please.

19 Q. 262 We'll look to page 2115?

11:40:39 20 A. Yes.

21 Q. 263 The very top of the page there you'll see that councillors Cosgrave and Creaven
22 indicated a wish to postpone discussion. They were asked to clarify the matter
23 which they wished to have deferred. Councillor MJ Cosgrave indicated that he
24 asked to have motion 14.5.G.2 only deferred.

11:40:59 25
26 Now, that is the motion

27 A. Yeah.

28 Q. 264 Before it is amended?

29 A. Uh-huh.

11:41:03 30 Q. 265 Right?

- 11:41:04 1 A. Uh-huh.
- 2 Q. 266 It's the motion that was in the name of both of them?
- 3 A. Yes.
- 4 Q. 267 It had the right to be amended?
- 11:41:10 5 A. Right.
- 6 Q. 268 It had yet to be amended in the manner proposed on the 20th, which would have
- 7 involved the signature of the three of you, right?
- 8 A. Yes, yes.
- 9 Q. 269 This then records that it was indicated to the meeting that if such a motion
- 11:41:28 10 were moved and passed, motion 14.5.1 in the name of Councillor Healy would
- 11 remain on the agenda?
- 12 A. All right.
- 13 Q. 270 So that was just a caveat which was put in?
- 14 A. Uh-huh.
- 11:41:32 15 Q. 271 Right. Then in the knowledge that that was the position we'll see that it was
- 16 proposed by Councillor MJ Cosgrave, seconded by Councillor Creaven, that motion
- 17 14.5.G.2 and the proposed amendment there to be deferred for further
- 18 consideration to a date not later than the 15th of May 1993?
- 19 A. Yes.
- 11:41:57 20 Q. 272 So what has happened here is that the business of the day was to deal with this
- 21 motion?
- 22 A. Uh-huh.
- 23 Q. 273 The promoters or two of the promoters of the motion have moved a motion to
- 24 defer. That in itself becomes a matter to be voted upon by the body of
- 11:42:17 25 councillors, isn't that right?
- 26 A. That's right, yeah.
- 27 Q. 274 Now, do you know why it is that this was deferred and why it was not dealt with
- 28 as it should have been had everything been equal on the day?
- 29 A. I don't, no. It's no good saying I do, I don't have any great recollection of
- 11:42:36 30 it either.

- 11:42:37 1 Q. 275 Okay. Mr. Dunlop has indicated that the reason for it being deferred was that
2 he indicated to the councillors who had brought it before the Council meeting
3 on that day, that it was to be deferred. And that they complied with his
4 request that that be done. Is that in any way a surprise to you or would you
11:43:01 5 dispute it?
- 6 A. Well, I wouldn't dispute it but, I mean, I have absolutely no recollection of
7 Mr. Dunlop saying to me that I want this deferred or anything like that. My
8 form was if you had something down you went ahead with it and that was it.
- 9 Q. 276 Exactly. Can I put it this way to you Mr. Gilbride. There was no change in
11:43:28 10 the zoning criteria or zoning considerations or planning considerations?
- 11 A. Uh-huh.
- 12 Q. 277 That you were aware of?
- 13 A. No.
- 14 Q. 278 That would cause this to be adjourned, isn't that right?
- 11:43:40 15 A. No.
- 16 Q. 279 Nothing had changed from the 20th?
- 17 A. Uh-huh.
- 18 Q. 280 From a planning or zoning perspective?
- 19 A. Uh-huh.
- 11:43:46 20 Q. 281 Albeit that there had been this public statement about a profit of 10 million
21 to be made by the promoters of the project, is that right?
- 22 A. These things happen.
- 23 Q. 282 Yes. But, that of course, should not be in any sense a relevant consideration?
- 24 A. No.
- 11:44:03 25 Q. 283 For the councillors when making their mind up on the benefits or lack of
26 benefit of this issue, isn't that right?
- 27 A. That's correct.
- 28 Q. 284 And therefore, this matter should have progressed on the day, as far as you're
29 concerned?
- 11:44:14 30 A. Yes.

- 11:44:16 1 Q. 285 Yes?
- 2 A. That would have been my attitude, yes.
- 3 Q. 286 Now, Mr. Dunlop has indicated to the Tribunal that following discussion between
- 4 himself and Mr. Liam Lawlor. They decided that the matter was a dead duck if
- 11:44:31 5 they tried to bring it before the Council on that day. The councillors
- 6 couldn't be seen to support a proposal which would have the effect of making
- 7 Mr. Dunlop and those associated with him multi-millionaires. And that's the
- 8 reason why it was deferred in the expectation that when it next came back
- 9 before the Council it would be less of a media event. And therefore, their
- 11:44:54 10 chances of having the matter considered without their personal involvement
- 11 being highlighted would be increased. That's a synopsis of what?
- 12 A. Yes. I mean, that's something that I don't know anything about.
- 13 Q. 287 If true it would be a very cynical exercise of the councillors functions in the
- 14 Tribunal being manipulated by outside interests for their own benefit, their
- 11:45:23 15 own financial benefit, isn't that so?
- 16 A. Yeah, hmmm, it's hard to go back on all of these things and try to remember.
- 17 But I said to you earlier, if a motion was down you'd usually go ahead with it
- 18 and get it done. That would have been my attitude. I see that I voted for the
- 19 deferral all right ...
- 11:45:49 20 Q. 288 Would you disagree that it was the case, Mr. Gilbride, that Mr. Dunlop was able
- 21 to interfere with the agenda of the Council meeting of the 78 councillors of
- 22 Dublin County Council to suit his own private ends by adjourning this
- 23 particular motion, that that was a manipulation of the Council by him, doesn't
- 24 that follow?
- 11:46:19 25 A. I don't know does it follow. I mean, there are 78 people there.
- 26 Q. 289 Yes?
- 27 A. And they all would have feelings and things like that.
- 28 Q. 290 Yes?
- 29 A. I wouldn't necessarily believe everything Mr. Dunlop said.
- 11:46:31 30 Q. 291 But as far as we can see?

- 11:46:33 1 A. Yeah.
- 2 Q. 292 From the minutes here?
- 3 A. Yes, I understand that, yes.
- 4 Q. 293 What the minutes tell us is that?
- 11:46:45 5 A. Uh-huh.
- 6 Q. 294 Is that the agenda for the day involved a consideration of a motion?
- 7 A. Uh-huh.
- 8 Q. 295 Including a motion to which you had lent your name as a signature, isn't that
- 9 right?
- 11:46:49 10 A. Yes.
- 11 Q. 296 That motion did not progress as it should on that day, isn't that right?
- 12 A. That's right.
- 13 Q. 297 You were one of the promoters of that motion. Yet you had no input in deciding
- 14 that it would not go on that day, isn't that right?
- 11:47:01 15 A. I didn't propose or second that it shouldn't go on.
- 16 Q. 298 Yes. You didn't?
- 17 A. No, no. I didn't vote or second that.
- 18 Q. 299 You had proposed an amendment to the motion which councillors Gilbride and
- 19 Cosgrave intended to put before the meeting?
- 11:47:16 20 A. That's right.
- 21 Q. 300 You were not consulted by them as to whether or not it should or should not go
- 22 on on that day. They made the deferral decision?
- 23 A. Well, it was, according to the minutes, yes.
- 24 Q. 301 Yes. That deferral, there is no reason recorded in the minutes for such a
- 11:47:34 25 deferral to take place?
- 26 A. Well, as I said in the minutes, they reflect decisions taken.
- 27 Q. 302 Yes?
- 28 A. You know, whether there was a discussion on it or not, I don't know or the
- 29 reasons why it's ...
- 11:47:50 30 Q. 303 You've agreed with me Mr. Gilbride, that there was no planning or zoning

- 11:47:55 1 change?
- 2 A. Yes.
- 3 Q. 304 Which had taken place between the 20th and 27th?
- 4 A. Yes, yeah.
- 11:47:59 5 Q. 305 There is no apparent reason for the adjournment of Council business on this
6 day, I suggest, other than to suit the personal interests of Mr. Frank Dunlop
7 and those promoting the Pennine Holdings option, isn't that so?
- 8 A. Well, that's what you're saying.
- 9 Q. 306 No well, please, correct me if you know of any reason why that statement is not
11:48:19 10 accurate?
- 11 A. I'm not saying that it's not accurate. But, I mean, that were other occasions
12 when motions were deferred that. Wouldn't be the only motion that was
13 deferred for particular reasons. Don't ask me on this particular one. I mean,
14 I can't -- I find it very hard to answer that question, you know.
- 11:48:38 15 Q. 307 So, you don't know is the answer?
- 16 A. Yes, yes, yes.
- 17 Q. 308 All right. And following upon this request to have the matter deferred?
- 18 A. Uh-huh.
- 19 Q. 309 That was put before the membership and it was voted on?
- 11:48:58 20 A. Uh-huh.
- 21 Q. 310 And more councillors were in favour of the deferral than otherwise?
- 22 A. That's right.
- 23 Q. 311 And it was passed, isn't that right?
- 24 A. That's right, yes.
- 11:49:06 25 Q. 312 And you were one of the persons who voted in favour of it being adjourned?
- 26 A. Yes.
- 27 Q. 313 Or deferred is, I suppose, more accurate?
- 28 A. Yes.
- 29 Q. 314 And you don't know why that is?
- 11:49:21 30 A. Looking at the names I would have gone along with my colleagues on it.

11:49:25 1 Q. 315 Yes. Now, whilst that motion was passed. You may then be aware, if we look to
2 2116.
3
4 Of the fact that there was another motion advanced from the floor by Councillor
11:49:38 5 O'Halloran and seconded by Councillor Liam Cosgrave. Seeking to have decisions
6 relating to the Baldoyle Portmarnock area deferred until a site meeting is held
7 in the area to allow all councillors view the lands proposed for rezoning
8 A. Uh-huh.
9 Q. 316 And you'll see that that was a motion which was determined as being out of
11:50:01 10 order by the Manager?
11 A. Uh-huh.
12 Q. 317 Sorry. He advised that it was out of order. The Chairman agreed and ruled it
13 out of order, isn't that right?
14 A. Yeah.
11:50:10 15 Q. 318 Now, it seems that since that was ruled out of order the agenda of the day
16 moved on to consider the first matter which was on the list to be dealt with
17 that day?
18 A. Uh-huh.
19 Q. 319 And that was the motion of Councillor Healy, isn't that right?
11:50:32 20 A. Yes.
21 Q. 320 And because Councillor Healy had not sought a deferral of his motion?
22 A. Uh-huh.
23 Q. 321 It remained on the agenda to be dealt with by the Councillors?
24 A. Yeah.
11:50:43 25 Q. 322 And it was then voted upon, isn't that right?
26 A. That's right.
27 Q. 323 And I think that that motion resulted in one of the, I suppose, greatest series
28 of abstentions or any particular motion ever heard before the Council, isn't
29 that right?
11:51:01 30 A. That's right.

- 11:51:02 1 Q. 324 Although you were one of the parties who actually voted against rather than
2 abstained from it?
- 3 A. Uh-huh.
- 4 Q. 325 And by against it, I mean you voted against the idea that it would be retained
11:51:14 5 as green belt, isn't that right?
- 6 A. That's right.
- 7 Q. 326 And that motion was passed. And as a result of that motion we'll see that the
8 motion of councillors Cosgrave and Gilbride -- and Creaven, which had been
9 deferred to a date not before the 15th of May, was now, it now fell because of
11:51:37 10 the determination of Councillor Healy's motion, isn't that right?
- 11 A. That's right.
- 12 Q. 327 And I take it that since you were a supporter of the deferral motion?
- 13 A. Yeah.
- 14 Q. 328 That it had been your belief that the Cosgrave Creaven motion would find itself
11:51:58 15 for debate before the Council at a later date?
- 16 A. Yeah, now after the Healy motion it was going to be difficult.
- 17 Q. 329 Well, after the Healy motion there was immediately I think a pronouncement by
18 the Manager that since that motion had passed?
- 19 A. Uh-huh.
- 11:52:18 20 Q. 330 The other motion fell as a consequence of that?
- 21 A. Yes, yeah.
- 22 Q. 331 But there certainly was no advice recorded in the minutes specifically advising
23 the members in advance of their vote?
- 24 A. Uh-huh.
- 11:52:34 25 Q. 332 That that would be the consequence, do you understand?
- 26 A. Yes, I do, yes, I do.
- 27 Q. 333 It has been indicated to the Tribunal by Mr. Dunlop, for example, that the full
28 consequences of the ramifications of what was going to take place by seeking to
29 defer the Cosgrave?
- 11:52:53 30 A. Uh-huh.

11:52:54 1 Q. 334 Creaven motion were not fully considered by him at the time. And that he
2 didn't apportion blame for that but he did indicate that it was a reality.
3 Were you aware and was it always your view that the consequence of the deferral
4 of the motion which you intended to amend?

11:53:20 5 A. Uh-huh.

6 Q. 335 Was that the Healy motion might have the effect of snookering, if I can use
7 that term?

8 A. I wouldn't have been the best person in the world with standing orders or
9 anything like that. But as far as my vote against Councillor Healy's motion.
11:53:41 10 I never abstained on any vote, you know, and I was being consistent. I opened
11 a course in that -- I was in favour with that which probably would come.

12
13 CHAIRMAN: Yes. Mr. O'Neill, I wonder, perhaps we might take break for about
14 ten or fifteen minutes because we sat at ten.

11:54:04 15
16 All right.

17
18 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**

19 **AND RESUMED AS FOLLOWS:**

11:54:18 20
21
22 MR. O'NEILL: Mr. Gilbride, we were dealing with the meeting that took place
23 on the 27th of April 1993. Where at the conclusion of the vote on Councillor
24 Healy's motion the Manager advised those present that the Cosgrave Creaven
12:12:41 25 motion, which had been deferred earlier in the meeting to a date not before the
26 15th fell.

27 A. Yeah.

28 Q. 336 Isn't that so?

29 A. That's right.

12:12:50 30 Q. 337 And have you any recollection as to how it was that you became involved in the

- 12:13:00 1 attempts to get the matter back on the agenda, if I might call it that, of the
2 Council?
- 3 A. Have we some documentation on this?
- 4 Q. 338 Yes. We know, I'll just paint the picture, if I may, firstly?
- 12:13:16 5 A. Yeah.
- 6 Q. 339 We know that Councillor O'Halloran was apparently unhappy with the ruling which
7 had been made?
- 8 A. Uh-huh.
- 9 Q. 340 Ruling his motion out of order. That's the motion where he sought to defer
10 decisions in relation to Baldoyle Portmarnock until a site visit had taken
11 place?
- 12 A. Yeah.
- 13 Q. 341 All right. We see that in the newspapers at that time there was a publication
14 on the 3rd of May suggesting that the legality of that decision?
- 12:13:54 15 A. Uh-huh.
- 16 Q. 342 Was a matter which was being challenged by a Councillor and that you were
17 present when the evidence was given by Councillor O'Halloran?
- 18 A. Yes.
- 19 Q. 343 Of his unhappiness?
- 12:14:04 20 A. Uh-huh.
- 21 Q. 344 With the result. All right?
- 22 A. Yeah.
- 23 Q. 345 Now, that effort of Mr. O'Halloran's to undo what had been done at the meeting
24 of the 27th involved him writing a letter to the Chairman of the Council on the
12:14:22 25 4th of May. And we'll see that at page 2144.
- 26
- 27 And you effectively associated yourself with the expression of concern within
28 this document because you are the co-signatory to the motion which accompanied
29 this letter
- 12:14:47 30 A. Okay. Can I have that, please.

12:14:50 1 Q. 346 The motion is on page 2145.
2
3 The version of it we see here
4 A. Yeah.

12:15:00 5 Q. 347 Is the version signed only by?
6 A. Uh-huh.
7 Q. 348 Mr. O'Halloran. This is a version from the files of Mr. Dunlop?
8 A. Uh-huh.
9 Q. 349 But you may be aware that you signed the original documentation. You want to
12:15:16 10 see that?
11 A. Yeah.
12 Q. 350 I'll find that for you now. Sorry. It's the one with the manuscript addition.
13 Just bear with me a moment, Mr. Gilbride, while I find that.
14
12:15:53 15 Page 2143 on screen, please.
16
17 You will see your signature is under that of Mr. O'Halloran here
18 A. Uh-huh.
19 Q. 351 There are other additions or manuscript alterations?
12:16:10 20 A. Yeah.
21 Q. 352 To this document?
22 A. Uh-huh.
23 Q. 353 They, it seems, are addressing the fact that it does not comply with standing
24 order 39 because as drafted here it didn't have a specified date?
12:16:23 25 A. Yeah.
26 Q. 354 On it as to when the meeting was to take place and therefore, had it gone in
27 this format to a final vote it could not have been carried because it breached
28 Standing Orders. But I think just looking at that. That satisfies you I
29 think?
12:16:40 30 A. Oh, yes.

- 12:16:41 1 Q. 355 That you signed?
- 2 A. Oh, yes, yes, yes.
- 3 Q. 356 And if we can refer back then to page 2144, which was the letter on screen a
- 4 little earlier. This is a letter which is signed by John O'Halloran?
- 12:16:58 5 A. Yes.
- 6 Q. 357 You see that?
- 7 A. I do, yes.
- 8 Q. 358 And if you read through it there. Perhaps you might be able to assist the
- 9 Tribunal as to whether or not you believed that this was in fact a letter
- 12:17:08 10 drafted by Mr. O'Halloran himself or whether it is a letter which was drafted
- 11 with the assistance of others. The language used, the terminology, the manner
- 12 of expression, those matters. Are they the words of Mr. O'Halloran that we see
- 13 here? You're not familiar with his level of the use of the English language
- 14 isn't that so?
- 12:17:35 15 A. That's fine.
- 16 Q. 359 What the Tribunal has been told, Mr. Gilbride, is that this letter was drafted
- 17 with the assistance of Mr. Frank Dunlop. What appears not to be seriously in
- 18 dispute is that it was typed in his offices?
- 19 A. Uh-huh.
- 12:17:53 20 Q. 360 And that when it was typed it was signed by Mr. O'Halloran?
- 21 A. Uh-huh.
- 22 Q. 361 And it was after Mr. Dunlop received it in the form we see on page 2145. I'm
- 23 now talking of the motion?
- 24 A. Uh-huh.
- 12:18:12 25 Q. 362 Now, that motion was signed by Mr. O'Halloran?
- 26 A. Um.
- 27 Q. 363 And Mr. Dunlop then went to you with it?
- 28 A. Uh-huh.
- 29 Q. 364 For your signature?
- 12:18:20 30 A. Uh-huh.

- 12:18:21 1 Q. 365 Is there any issue on that?
- 2 A. No, there's no issue on that, no, no.
- 3 Q. 366 So you accept that Mr. Dunlop came to you?
- 4 A. Uh-huh.
- 12:18:28 5 Q. 367 With this motion. He asked you to sign it?
- 6 A. Yes.
- 7 Q. 368 Why did you understand did Mr. Dunlop have an involvement in this at all, given
- 8 that it expresses itself to be a motion signed by one of your colleagues and
- 9 presumably there was no impediment in that colleague discussing the matter with
- 12:18:47 10 you, explaining his position and asking for your support.
- 11 A. Well, I think it goes back to the original motion which I was supporting and
- 12 which I consistently supported. That probably trying to revive it. Whether it
- 13 could be revived or not -- well it wasn't in the end. But, I mean, I was in
- 14 favour of the original motion. I voted against Councillor Healy's motion. I
- 12:19:19 15 still thought it was a good -- and if this was going to further it, I didn't
- 16 see any reason why I shouldn't sign it.
- 17 Q. 369 Yes. I'm just trying to understand why you believe that Mr. Dunlop was
- 18 involved at this stage and not your colleague, Mr. O'Halloran, as being the
- 19 person who involved you in it?
- 12:19:35 20 A. Yeah.
- 21 Q. 370 You understand that?
- 22 A. Yes, I do sorry, I didn't understand you first.
- 23 Q. 371 Yes. Mr. Dunlop is the conduit here between yourself and Mr. O'Halloran. And
- 24 I wonder if --
- 12:19:47 25 A. That's what he's saying. I can't contradict that. I have no great
- 26 recollection of it. Whether it was Mr. O'Halloran, Mr. Dunlop. But, I mean, I
- 27 presume I'd have to take his word on that, yes.
- 28 Q. 372 I'm wondering if you have any recollection of ever discussing with the
- 29 signatory, John O'Halloran, the strategy and the detail of this motion or the
- 12:20:15 30 letter which preceded it which we saw on screen?

- 12:20:18 1 A. The letter, no. The motion, I just can't remember, Mr. O'Neill, I'm afraid.
- 2 Q. 373 You can't?
- 3 A. No.
- 4 Q. 374 In any event, this was written in anticipation of the matters being raised in
- 12:20:31 5 it?
- 6 A. That's right, yeah.
- 7 Q. 375 Being the subject of a meeting of the Council to take place that day, the 4th?
- 8 A. Yeah.
- 9 Q. 376 And we know that on the 4th it appears in the agenda and if you look to page
- 12:20:46 10 2150 before you there. About half way down the page you'll see that following
- 11 discussions to which Councillors O'Halloran and Gilbride?
- 12 A. Uh-huh.
- 13 Q. 377 Contributed, the Manager replied to queries raised by the members. And it was
- 14 agreed to further defer -- sorry, agreed to defer further consideration of the
- 12:21:04 15 matter to the meeting for the 6th?
- 16 A. Yeah.
- 17 Q. 378 So really nothing took place?
- 18 A. No.
- 19 Q. 379 On the 4th save that it was raised and then adjourned, isn't that right?
- 12:21:24 20 A. That's right.
- 21 Q. 380 And again, it seems that after that happened on the following day, you were in
- 22 contact with Mr. Dunlop. We'll see that at page 2174. You were ringing his
- 23 office at 10:40 that day. And you left a message that you'd be at home until
- 24 12 and there was no panic. Do you think that that was a contact which you were
- 12:21:38 25 making with Mr. Dunlop in connection with the impending motion which was to be
- 26 heard the following day?
- 27 A. I
- 28 Q. 381 You don't know?
- 29 A. It may have been. I'm just wondering had I, was it in reply to a phone call
- 12:21:56 30 from Mr. Dunlop or something like that, you know, he might have been looking

12:22:00 1 for me, I don't know.

2 Q. 382 You contact him again later that day at 5:20 again just before close of

3 business. You see that at page 2175?

4 A. Yeah.

12:22:11 5 Q. 383 And again, the matter is?

6 A. Uh-huh.

7 Q. 384 Could well be the meeting?

8 A. It could be. It may well be, yes.

9 Q. 385 Yes. Well is it an indication that you did in fact discuss the matter with Mr.

12:22:29 10 Dunlop in advance of the meeting which was to take place on the 6th?

11 A. I may have, yes. I may have, yes.

12 Q. 386 And in what circumstances did you see yourself acting on the 6th, which was the

13 day that the motion was going to be considered by your colleagues? Were you

14 promoting the interests of Pennine Holdings Limited or were you advancing the

12:22:57 15 cause of the councillors and Mr. O'Halloran in particular in bringing this

16 motion?

17 A. My train all along would have been I saw that area as a good area for

18 development. I stuck consistently with that. There was very little land

19 around the Portmarnock, Malahide, Baldoyle area zoned and this land was

12:23:22 20 available for the different purposes.

21 Q. 387 Yes. As regards your dealings and relationship with Mr. Frank Dunlop in and

22 around this time. I think it is the case that you met him on a frequent basis

23 in relation to the matters which were the subject of rezoning motions at the

24 time, isn't that right?

12:23:50 25 A. Yes, some of them, yes.

26 Q. 388 Some of them. And in this particular one, did you identify him as being

27 perhaps more a personal beneficiary from any -- of any decision than other

28 motions that he was promoting for other persons?

29 A. Yeah. Well he had made me aware that he had an option on the land at the very

12:24:11 30 beginning.

12:24:12 1 Q. 389 Yes?

2 A. So I would have been aware that, let's say, if he would have been a

3 beneficiary.

4 Q. 390 Was that an issue that you considered, therefore, in your decision making as to

12:24:24 5 whether you'd assist or otherwise?

6 A. Mr. O'Neill, if you look at my record I voted for all motions.

7 Q. 391 It was an irrelevance as far as you were concerned?

8 A. It was, yes.

9 Q. 392 Fine. Okay. Thanks, Mr. Gilbride. There may be some questions for you.

12:24:52 10

11 JUDGE FAHERTY: Just one matter, Mr. Gilbride. I just want to ask you. On

12 the 27th of April, we know what happened. I won't go through it again. But

13 ultimately, the Healy motion was left on the agenda

14 A. Uh-huh.

12:25:10 15

16 JUDGE FAHERTY: Yes. And we know Mr. Cosgrave's and Mr. Creaven's motion was

17 deferred

18 A. Yes.

19

12:25:15 20 JUDGE FAHERTY: And we know Mr. O'Halloran sought to bring a motion

21 A. Uh-huh.

22

23 JUDGE FAHERTY: And that was ruled out of order. But the Healy motion was the

24 first in time. He didn't want this deferred. So that was left.

12:25:29 25 A. Uh-huh.

26

27 JUDGE FAHERTY: In answer to Mr. O'Neill. You said a little while ago. You

28 actually are one of the few councillors who voted against the Healy motion.

29 And I think you said that you realised the consequences?

12:25:44 30 A. Yes. I may have said that. Justice, I never abstained any --

12:25:51 1
2 JUDGE FAHERTY: Sorry
3 A. I never abstained on any vote in the Council.
4
12:25:54 5 JUDGE FAHERTY: Yes
6 A. I was either for or against. I was usually for. I was being consistent in
7 what I did.
8
9 JUDGE FAHERTY: Yes
12:26:01 10 A. If I had signed --
11
12 JUDGE FAHERTY: I --
13 A. If I had signed a motion saying that this land was suitable for the different
14 purposes, I think that would have been foolish then to say that it wasn't. You
12:26:12 15 know, I had to be consistent.
16
17 JUDGE FAHERTY: I can understand that. I just want to ask you about the
18 consequences
19 A. Yes. There was --
12:26:20 20
21 JUDGE FAHERTY: To paint the scenario as I understand it. Mr. Healy and
22 Mr. Gordon, I think it was.
23 A. Uh-huh.
24
12:26:26 25 JUDGE FAHERTY: Had a motion to retain the status quo as it was and as
26 promoted on the Draft Plan. That was to keep the lands B and G
27 A. Yes.
28
29 JUDGE FAHERTY: Now, it seems that the lands that they wanted to keep B and G
12:26:45 30 the whole area between Portmarnock and Baldoyle. The Pennine Holdings lands

12:26:45 1 were subsumed in that

2 A. Yes.

3

4 JUDGE FAHERTY: So that's what he wanted to keep B and G

12:26:47 5 A. Yes.

6

7 JUDGE FAHERTY: When you said, you say you voted against that because

8 A. I did, yes.

9

12:26:52 10 JUDGE FAHERTY: Because you were in favour of the zoning of the Pennine Lands

11 A. Yes.

12

13 JUDGE FAHERTY: but it would appear that a vote was taken obviously

14 A. That's right, yeah.

12:27:01 15

16 JUDGE FAHERTY: And what was it? I can't see it now. See what the actual

17 vote was. Yes. 43 - 3. And there was a lot of abstentions. We know that.

18 That's not what I'm interested in, Mr. Gilbride. There was a vote taken. The

19 majority who exercised their vote in favour sought to keep it B and G. Now,

12:27:28 20 you made a positive step

21 A. Uh-huh.

22

23 JUDGE FAHERTY: In that you voted against it

24 A. I did, yeah.

12:27:33 25

26 JUDGE FAHERTY: And on that day you didn't raise any issue about procedures or

27 anything like that?

28 A. It was after I think people were talking.

29

12:27:41 30 JUDGE FAHERTY: Yes but I just --

12:27:43 1 A. About procedures. As I said to Mr. O'Neill, I wouldn't have been great on
2 Standing Orders. But they were talking about it afterwards that were taken in
3 the wrong order and things like that, you know.
4

12:27:54 5 JUDGE FAHERTY: Yes. I know that there was no reference by the Manager on the
6 day on the 27th
7 A. Uh-huh.
8

9 JUDGE FAHERTY: That the Healy or that the Creaven and Mr. Cosgrave's and
12:28:04 10 Mr. Creaven's motion would fall. He didn't say that in advance
11 A. Yes.
12

13 JUDGE FAHERTY: What he said was if you defer this Mr. Healy's motion remains
14 on the agenda
12:28:14 15 A. That's correct.
16

17 JUDGE FAHERTY: And if Mr. Healy wanted to put it to a vote it would go to a
18 vote
19 A. Yeah.
12:28:19 20

21 JUDGE FAHERTY: And it would be either voted for or against. As we know, it
22 was voted for. The B and G remained
23 A. Yes.
24

12:28:25 25 JUDGE FAHERTY: In fairness to yourself Mr. Gilbride. You said to Mr. O'Neill
26 that you took a positive act
27 A. Yeah.
28

29 JUDGE FAHERTY: You saw the potential consequences. You didn't want this
12:28:35 30 retaining the B and G

12:28:37 1 A. No. Not if I'd signed the other one I couldn't.
2
3 JUDGE FAHERTY: Absolutely and I understand that. That's the backdrop, if
4 you like
12:28:45 5 A. Yeah.
6
7 JUDGE FAHERTY: And I'm just wondering then for better or worse, in your view,
8 obviously, the lands remained B and G, as of the 27th
9 A. Yes.
12:28:55 10
11 JUDGE FAHERTY: Isn't that right
12 A. That's right, yeah.
13
14 JUDGE FAHERTY: But then you seem to be, I won't say the word annoyed and I
12:29:03 15 don't mean that in any derogatory word way with Mr. O'Halloran, to try and
16 resurrect the substantive issue but you actually exercised an action on the
17 substantive issue in that you had voted no
18 A. Yes.
19
12:29:18 20 JUDGE FAHERTY: I'm just saying why. Obviously you weren't happy with it. I
21 mean, there would have been a lot of votes in Dublin County Council I'm sure
22 you would have been on the losing end before. Do you see what I'm saying
23 A. I do, yes, I do.
24
12:29:31 25 JUDGE FAHERTY: I'm just wondering in this case --
26 A. As far as I remember, Mrs. Justice Faherty. There was quite a few queries
27 afterwards whether the motions were taken in the right order or not. And I
28 think that was.
29
12:29:45 30 JUDGE FAHERTY: I see

12:29:47 1 A. There was a question of Standing Orders and things like that. As I said, I
2 was in favour of it and I was still in favour of it and still am in favour of
3 it, you know. But I thought it was a good idea at the time and I was being
4 consistent in what I did.

12:30:02 5
6 JUDGE FAHERTY: All right. Thank you very much, Mr. Gilbride

7 A. Thank you.

8
9 CHAIRMAN: Thank you very much, Mr. Gilbride

12:30:06 10 A. Thank you, Mr. Chairman.

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14

THE WITNESS THEN WITHDREW.

12:30:10 15

16

17 MR. O'NEILL: The next witness is Michael Joe Cosgrave, please.

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12:30:13 1 **MR. MICHAEL JOSEPH COSGRAVE, HAVING BEEN SWORN, WAS QUESTIONED**
2 **BY MR. O'NEILL AS FOLLOWS:**
3
4
12:30:37 5 CHAIRMAN: Good afternoon
6 A. Good afternoon.
7
8 JUDGE FAHERTY: Good afternoon.
9
12:30:41 10 MR. O'NEILL: Good afternoon Mr. Cosgrave
11 A. Good afternoon Mr. Gallagher.
12 Q. 393 Unlike the earlier councillors who've given evidence in relation to this
13 particular area. You were the local Councillor, isn't that right?
14 A. I live in Baldoyle.
12:30:52 15 Q. 394 You live in Baldoyle. And it's probably immediately on your doorstep in the
16 sense that this was a very large tract of land which would be the subject of
17 the rezoning proposal, isn't that right?
18 A. Correct.
19 Q. 395 And you had been a Councillor, I think, for quite some time?
12:31:10 20 A. I was elected in 1974.
21 Q. 396 Yes. So?
22 A. To Dublin City Council.
23 Q. 397 Yes. So during which time part of this land was within the city area and part
24 of it was in the Council area, isn't that right?
12:31:27 25 A. Yeah. About, I'd say about 14 acres in the city end. And the balance being in
26 the county end.
27 Q. 398 Right. And you probably, therefore, were aware of the long running Endcamp
28 saga which predated any involvement of Pennine Holdings with these lands in
29 1991, isn't that right?
12:31:48 30 A. That's so.

- 12:31:48 1 Q. 399 And just briefly by way of background. I think you probably are aware that
2 what had been intended by the owner of the lands, Mr. Byrne, in his earlier
3 1974 and later 1982 proposals, was the building of something over 2,500 houses
4 in this area, isn't that right?
- 12:32:13 5 A. From my memory, yes, I think that would be right.
- 6 Q. 400 And there were I think extensive appeals to An Bord Pleanala. You might well
7 have attended those in your capacity?
- 8 A. I attended on the Endcamp thing, yes, I did.
- 9 Q. 401 So you were both familiar with the ownership of this land and you were familiar
10 with its planning and zoning history prior to embarking upon a consideration of
11 the review of the 1983 plan, isn't that so?
- 12 A. I would have had a fair knowledge. And there were rumours about it at the time
13 that Mr. Byrne owned it.
- 14 Q. 402 Yes. And I think that we know that there were various opportunities open to
15 councillors to advance proposals if they were to vary or be a variation on the
16 Manager's own plan, isn't that right?
- 17 A. That's right.
- 18 Q. 403 And it doesn't, in other words, require the intervention of a developer to have
19 the matter brought before a Council meeting for its consideration, isn't that
12:33:14 20 right?
- 21 A. Well, no, it doesn't require that, no.
- 22 Q. 404 The councillors themselves, if they have a wish to promote industry or
23 development of housing or any other function off their own bat, if I can put it
24 that way, can bring such a proposal before their fellow members for
12:33:30 25 consideration, isn't that right?
- 26 A. That's correct.
- 27 Q. 405 And I think it's correct to say that that opportunity was drawn to the
28 attention of councillors by the Council secretariat at various stages through
29 the Development Plan process, isn't that right?
- 12:33:49 30 A. That's correct.

- 12:33:50 1 Q. 406 And that opportunity, insofar as it was an opportunity, was not availed of by
2 you, isn't that right?
- 3 A. That's right. In the 1990, around 1990 it came before us, yes. Could I just
4 add to what I have said, please.
- 12:34:03 5 Q. 407 Of course you may.
- 6 A. You see, the race course property was lying there since the 1970s. And the
7 Endcamp inquiry was on. And it failed to get planning permission. It became
8 derelict. I tried to have a, the National Sports Centre. I was a member of
9 the Dail at the time. I tried to have that sited there, run a campaign within
10 the Dail by asking questions and raising it in the Dail. I also wished to have
11 it put into a golf course, bought by the Government or, you see, it was so near
12 the rail heads and all that could go with it. That it would have made an
13 excellent centre for the National Sports Centre. So I campaigned on that
14 basis. But I also, I campaigned to have it returned to a race course. That
15 failed.
- 12:34:52 16 Q. 408 Yes?
- 17 A. So everything seemed to be failing. So the next best thing was to, when the
18 Development Plan came along, to try and get something done with it. Because it
19 had become an eye sore.
- 12:35:06 20 Q. 409 Yes?
- 21 A. It had become derelict. It was constantly trespassed upon. The people who had
22 it let to raise farm animals couldn't do so, because they were running all over
23 the place. Some of them were attacked. So it was just deteriorating day by
24 day.
- 12:35:22 25 Q. 410 Yes. The uses for use as a golf course certainly was not something that was
26 incompatible with its existing zoning status, isn't that right?
- 27 A. That's right.
- 28 Q. 411 So that could have been facilitated?
- 29 A. It could, oh, yes.
- 12:35:37 30 Q. 412 My question really was to establish from you whether or not it was the case

- 12:35:41 1 that you made any proposal for consideration before your colleagues in the
2 rezoning process which was involved in reaching the 1993 plan to have these
3 lands rezoned in any particular way?
- 4 A. No.
- 12:35:57 5 Q. 413 I think the answer to that is correct?
- 6 A. No, I made no effort prior to the motion that I put in to have it rezoned no,.
- 7 Q. 414 And it was only after the matter went on public display and a submission was
8 made by the entity called Pennine Holdings Limited, that the matter came on the
9 agenda for consideration before the Council and you in particular, isn't that
10 right?
- 11 A. Correct.
- 12 Q. 415 And we've heard that because of the volume of work that was facing the large
13 Council, as it then was, the matter which had been on public display between
14 September and December 1991, didn't find itself listed for special meetings of
15 the Council insofar as Baldoyle was concerned until April of 1993, isn't that
16 right?
- 17 A. Correct, correct.
- 18 Q. 416 And there was an imperative to bring this process to a conclusion because it
19 was intended originally that there would be five year reviews of the Dublin
20 County Development Plan, isn't that right?
- 12:36:59 21 A. That's correct.
- 22 Q. 417 And the last plan had been in 1983. There should have been a plan in place by
23 1988?
- 24 A. Correct.
- 12:37:09 25 Q. 418 You were now almost five years later and yet you have not come to a plan, isn't
26 that so?
- 27 A. That's correct.
- 28 Q. 419 And so time was to, an extent, crucial in relation to this. In order to bring
29 it to a conclusion, isn't that correct?
- 12:37:26 30 A. Correct.

- 12:37:26 1 Q. 420 And when we get to the date in March of 1983, which was the last day for the
2 submission of written motions. Sorry, 1993?
3 A. '93.
4 Q. 421 Not '83. The last day for submission of motions was to have been the 12th of
12:37:47 5 March 1993, isn't that correct?
6 A. Correct.
7 Q. 422 And I think that for all practical purposes, the motion which would effect
8 these lands was the Pennine Holdings motion brought in relation to these lands
9 by yourself, Councillor Cyril Gallagher, Councillor Gilbride and Councillor
12:38:11 10 Creaven, isn't that right?
11 A. Correct.
12 Q. 423 Yes. And we've heard that the origins of that particular motion from a
13 physical point of view rather than its content, was that it was typed by and
14 presented to the councillors by Mr. Frank Dunlop, isn't that so?
12:38:29 15 A. Correct.
16 Q. 424 And you don't dispute that?
17 A. I don't dispute that because I had lost my seat in the Dail. I had no typing
18 facilities whatsoever.
19 Q. 425 Yes?
12:38:38 20 A. So he drew up the motion.
21 Q. 426 Now, if we look to page 1886. We see the motion itself. 1886. With a date
22 stamp receiving it in the Council on the 12th of March. The signatures of
23 yourself and the other councillors there.
24 A. Correct.
12:38:55 25 Q. 427 And the date in the manuscript in the bottom corner there?
26 A. Correct.
27 Q. 428 And Mr. Dunlop says that that is the motion that he prepared, that he brought
28 it down to the four councillors, including yourself and that each one of them
29 signed it. And we'll see that behind that there is the map 1887, which shows
12:39:19 30 the area in question.

- 12:39:21 1 A. Right.
- 2 Q. 429 In respect of areas that are within the boundaries and are marked off with
- 3 letters either E, A1, G, B and G. They are all designations of the intended
- 4 rezoning of those lands that would be encompassed if this proposal were
- 12:39:43 5 successful, isn't that right?
- 6 A. That's correct.
- 7 Q. 430 And certainly, it is what is being advanced by the councillors to their fellow
- 8 colleagues for consideration at the meeting which was to take place on the
- 9 20th, isn't that right?
- 12:39:56 10 A. That is correct.
- 11 Q. 431 Now, to what extent, if at all, were any of the boundaries or divisions showing
- 12 these areas proposed to be used for particular purposes the result of your
- 13 input? Did you have anything to do with drawing this map, either as regards
- 14 its overall boundaries or the individual designations within it?
- 12:40:21 15 A. Not that I can recollect.
- 16 Q. 432 No. As regards the terminology used as we see at 1886.
- 17
- 18 Were you the author of any part of the designations that are described here?
- 19 If we start with the first of them.
- 12:40:44 20
- 21 A public pay as you play golf course in order to protect and enhance the open
- 22 nature of the land between urban areas.
- 23
- 24 The verbiage or the words used here, were you the author of the words used here
- 12:41:00 25 or are they the words of Mr. Frank Dunlop
- 26 A. I would have said they were the words of Frank Dunlop. I would have had an
- 27 input Mr. Gallagher, in the sense that I would have said to him 'look what we
- 28 need in Baldoyle is open space with pay as you play golf course'. I suggested
- 29 other things to him. The reason being this I am a realist. I realised that a
- 12:41:20 30 developer's not going to come in and give over so much land unless he can get

12:41:25 1 some return for it. So a pay as you play golf course which is right opposite
2 the Portmarnock Golf Course would have been ideal. I haven't evidence of any
3 land samples or anything like that. But it had a sandy base, which would have
4 been ideal.

12:41:39 5 Q. 433 Yes. Just for the accuracy of the transcript. Mr. Gallagher, I'm afraid has
6 left us and I'm Desmond O'Neill, Senior Counsel?

7 A. I beg your pardon, Mr. O'Neill.

8 Q. 434 I am not taking it as a slight but just when we have to read the transcript
9 later it's better that we have the names accurate.

12:41:56 10
11 What you are, I think, agreeing with, firstly, Mr. Cosgrave, in your answer
12 here. Is that all of the words that are used on the face of this document were
13 words which were put on this paper by Mr. Dunlop himself, isn't that right

14 A. I accept that.

12:42:12 15 Q. 435 Yeah. Just as the designation of the areas into particular usages was that of
16 Mr. Dunlop and not yourself, isn't that right?

17 A. Correct.

18 Q. 436 And if we just look for a moment to the map back on 1887. You'll see that the
19 area which is encompassed within the boundary line drawn here is greater than
20 that which involved Pennine Holdings own lands. It extends to cover areas
21 which were the subject of another option and that is the option of Bauval,
22 Mr. Jim Kennedy and Mr. Liam Lawlor and Mr. Caldwell involved in the Bauval
23 option but not in the Pennine Holdings application. And if we focus for a
24 moment on the lands around the house Talavera?

12:43:09 25 A. Talavera.

26 Q. 437 Which is off the Grange Road there, you'll see that?

27 A. Yeah. Talavera House, if I may just get it here a second.

28 Q. 438 It's the bottom left hand corner?

29 A. Oh, I see Talavera, yes.

12:43:21 30 Q. 439 You see it. If you follow the Grange Road, which is clearly visible there?

12:43:26 1 A. Yeah.

2 Q. 440 It's just south of Talavera?

3 A. Right.

4 Q. 441 There's an indent which is outside the area intended to be zoned. That I think

12:43:37 5 was already developed as possibly a service station, was it? Petrol station?

6 A. No, I think it was a builders providers.

7 Q. 442 Or a builders providers. In any event --

8 A. I should point out that there's family connection there. It's part of my

9 family. Tom Walsh Motors were there and they're part of my family too.

12:43:58 10 Q. 443 And that was very familiar that area there?

11 A. Yes.

12 Q. 444 The area immediately around Talavera is shown on this plan as A 1, you see

13 that?

14 A. I see that.

12:44:08 15 Q. 445 That is a residential zoning whereas that land will an existing E zoning under

16 the 1983 plan which was for industrial?

17 A. I accept that.

18 Q. 446 Yes?

19 A. Though I've no absolute knowledge of it but I accept it, as you say.

12:44:27 20 Q. 447 Now, I'm just identifying that from the point of view of the E zoning, which

21 was to be provided for in this plan, which you signed. The E zoning is now up

22 around Portmarnock Railway Station. You see that?

23 A. I see that.

24 Q. 448 Okay. Now, we know that this particular motion never came to fruition because

12:44:47 25 at the meeting on the 20th of April it was withdrawn?

26 A. That's right.

27 Q. 449 By yourself and Councillor Creaven, isn't that right?

28 A. That's right.

29 Q. 450 And in the interim we know that there had been another proposal which we'll

12:45:01 30 call motion No. 2. If we look to page 1922.

- 12:45:13 1
2 This motion also relates to Baldoyle. It's not in relation to exactly the same
3 boundaries as the motion we've just considered a little earlier
4 A. Right.
- 12:45:23 5 Q. 451 But you'll see that it's signed by Councillor Creaven and subsequently by
6 yourself?
7 A. That's correct.
- 8 Q. 452 Beneath it. Unlike the other motion it doesn't contain a date stamp from the
9 Council and we're not able to establish precisely when it was that this
12:45:40 10 document was signed. But Mr. Dunlop tells us that if you look to the top right
11 hand corner there, 14.5.G.2?
12 A. 14?
13 Q. 453 It's in manuscript. Perhaps if we could scroll it down slightly from the top?
14 A. Scroll it down, please. I see that there, it is very faint.
- 12:46:03 15 Q. 454 Very faint, indeed. He says that that was his handwriting. And it reflects
16 the fact that this motion had a sequential number, one greater than the earlier
17 motion which we considered a moment ago?
18 A. Right.
- 19 Q. 455 Which was signed by the four councillors?
12:46:19 20 A. Right.
- 21 Q. 456 Okay. The intention of the meeting apparently to be to consider this motion in
22 sequence after the other motion?
23 A. Right.
- 24 Q. 457 Now, do you have any particular memory as to why it was that you signed this
12:46:40 25 motion, there already being in place a motion which was motion No. 1, do you
26 understand my question?
27 A. I understand your question.
- 28 Q. 458 Perhaps for completeness you might want to look at the map that is behind this.
29
12:46:53 30 Well before we leave this, sorry. You'll see that what it provides for is B

12:47:05 1 and G

2 A. B and G, yes.

3 Q. 459 B and G was there already and expressed in the exact same terms as the B and G

4 is here, namely, a public pay as you play golf course. I think the addition of

12:47:15 5 the words "public park" comes in here?

6 A. Right.

7 Q. 460 Which wasn't provided for before. Recreation pitches and a Pitch and Putt

8 course in order to protect and enhance the open nature of the lands. So the

9 addition of the recreation pitches and the public park and the Pitch and Putt

12:47:34 10 course are additional words used over and above what had been in the original,

11 okay?

12 A. All right.

13 Q. 461 We then go down to deal with the housing. Whereas the original plans for A,

14 housing, had been to provide for new low density residential communities. What

12:47:57 15 is provided for at A here, is to provide for new high quality housing is the

16 definition?

17 A. That's correct.

18 Q. 462 Then when we get to C, which is the district centre. Originally this was

19 expressed as being to provide -- sorry. To protect and provide for improved

12:48:17 20 district centre facilities in this motion, it's more concise. It says to

21 provide for district centre facilities.

22

23 And then the original provided at E, for industrial related uses. Whereas this

24 makes no provision for industrial uses. It provides for retaining G zoning, to

12:48:44 25 protect the high amenity lands as shown.

26

27 So, if we look now to the map which is behind this, which formed part of the

28 submission.

29

12:48:55 30 It's at 1923.

12:48:58 1
2 You might perhaps start with the area at the bottom left hand corner at
3 Talavera which I had mentioned on the earlier map
4 A. Right.
12:49:08 5 Q. 463 And it's a rather poor copy here. We can't quite distinguish the reference to
6 Talavera. But it is the area squared off with the E designation in the bottom
7 left hand corner. You see that?
8 A. I see it down here, yeah, yeah.
9 Q. 464 So that the boundary that is being drawn for this new plan, apparently, doesn't
12:49:31 10 include the E, the already zoned E area. Do you understand?
11 A. Correct.
12 Q. 465 So it is excluded from this motion?
13 A. Correct.
14 Q. 466 And if we look then to the northern part of the site where we had the E zoning
12:49:45 15 around the train station at Baldoyle. That has been lost in this proposal.
16 And it's now an A zoning, you see that?
17 A. It's now an A zoning.
18 Q. 467 B and G to A is what's written here?
19 A. Okay, I accept that.
12:50:05 20 Q. 468 So that this is a different proposal than the original which was signed by the
21 four councillors, okay?
22 A. Correct.
23 Q. 469 And it's signed by the two of you. And again, we cannot put a date precisely
24 on when this took place but we do know that it happened before the 14th of
12:50:27 25 April because on the 14th of April councillors were circulated by the Council
26 with notice of the fact that the agenda for the meeting on the 20th would
27 include this additional motion?
28 A. Okay.
29 Q. 470 Okay.
12:50:44 30 A. Okay.

- 12:50:45 1 Q. 471 So, do you have any recollection as to why it was that your original motion was
2 amended in the terms that we see in this new motion? Do you have a
3 recollection of that?
- 4 A. I haven't. I've a vague recollection of it.
- 12:51:02 5 Q. 472 Right?
- 6 A. And to be helpful to the Tribunal. I would speculate what happened here was
7 this. There were constant toing and froing with constituents, for instance.
8 Some constituents would say to you look, they can put thousands of houses
9 there if it's not specified in the motion. Hence, the 450 at each end,
12:51:22 10 Portmarnock and Baldoyle. That's my memory of it. The first motion there that
11 we discussed. Evidently that was flawed.
- 12 Q. 473 In what sense?
- 13 A. In my opinion. In flawed with the map. We were including lands that were
14 already rezoned.
- 12:51:43 15 Q. 474 Yes. You were altering?
- 16 A. I haven't an exact recollection of that. But that's one of the reasons, you
17 know, I would have thought.
- 18 Q. 475 Well just on that point. Can I suggest to you the fact that land is zoned
19 already?
- 12:51:55 20 A. Right.
- 21 Q. 476 Doesn't mean that you can?
- 22 A. Can't rezone it to something else.
- 23 Q. 477 From rezoning it to something else?
- 24 A. Yeah.
- 12:52:01 25 Q. 478 And when we talk of inclusion and exclusion, the lands at -- in the first
26 motion were intended to be changed from their existing industrial use to
27 residential use in the proposal that you signed?
- 28 A. I see, yes, yes.
- 29 Q. 479 So?
- 12:52:19 30 A. I've no clear recollection of that.

- 12:52:21 1 Q. 480 Well if you want to look at it?
- 2 A. No, I accept what you're saying. I accept what you're saying. Like, it's
3 there in black and white, so one cannot dispute that.
- 4 Q. 481 Exactly. And it's immaterial whether it was zoned already or not zoned
12:52:36 5 already, from the point of view of either motion. The fact that it's zoned
6 doesn't mean you can't apply to zone it in another format, isn't that right?
- 7 A. Oh, absolutely, yeah.
- 8 Q. 482 Yes?
- 9 A. That's the whole idea of the Draft Development Plan.
- 12:52:51 10 Q. 483 Exactly. So that when we look to the map that is before you there at 1923.
11 There is no immediate explanation yet forthcoming as to what it was exactly
12 that caused you to change your mind from the motion which you had proposed on
13 the 12th of March and signed to this motion, which was proposed prior to the
14 14th of April, do you understand?
- 12:53:22 15 A. I understand what you're saying.
- 16 Q. 484 So can you assist the Tribunal as to who was the instigator of causing you to
17 change from that first motion and in effect to bring this motion which we
18 believe from what happened later was intended to be in substitution for the
19 earlier one, isn't that right?
- 12:53:43 20 A. That's right.
- 21 Q. 485 Yeah.
- 22 A. Hmmm.
- 23 Q. 486 It was Mr. Dunlop who said --
- 24 A. It's possible that it was he. Right? But I cannot -- it's vague in my
12:53:53 25 recollection. So I cannot be definite but I'm sure it was Mr. Dunlop.
- 26 Q. 487 Okay. Can we agree that, firstly, he drew the map?
- 27 A. Right.
- 28 Q. 488 He drew the divisions. And he marked on those divisions what the intended
29 proposed use for these lands would be?
- 12:54:09 30 A. Yes.

- 12:54:09 1 Q. 489 And if we go back then to 1922. Which is the motion itself. Again, can we
2 agree that all of the wording that appears on the face of this document was his
3 creation?
- 4 A. Yes, we can.
- 12:54:23 5 Q. 490 Yes?
- 6 A. With the proviso. It is definitely all of the wording. The answer is yes. We
7 would have definitely had a certain amount of input into, for instance,
8 especially later on in getting houses limited.
- 9 Q. 491 You will see that there is no reference here at all on this document to the
12:54:41 10 number of houses involved, isn't that right?
- 11 A. That's right.
- 12 Q. 492 Yet it is a motion which you and Councillor Creaven signed, notwithstanding the
13 absence of definition or definitive numbers of houses, isn't that right?
- 14 A. That's right.
- 12:54:54 15 Q. 493 So it satisfied you at this point, to the extent that you were happy to sign
16 it, isn't that right?
- 17 A. Correct.
- 18 Q. 494 So it is a variation from the first one. You sign it in this format?
- 19 A. Correct.
- 12:55:04 20 Q. 495 It is intended to be presented in this format at the meeting on the 20th, isn't
21 that right?
- 22 A. That's right.
- 23 Q. 496 And when we get to the meeting on the 20th you will see that it is a motion
24 which is intended to be further amended. In other words, not substituted but
12:55:25 25 amended in an amendment which we see on page 2006 on screen.
- 26
- 27 This is its typed version.
- 28 A. Yes.
- 29 Q. 497 At the very top of it, it expresses itself to be an amendment to motion
12:55:39 30 14.5.G.2. The operative reference here is the two at the end of it, right?

- 12:55:47 1 That's what distinguishes this from the original one?
- 2 A. Yes.
- 3 Q. 498 And the amendment intended to delete all of the words after "Stapolin" on the
4 first motion, the first draft of it which was before the Council. And to
12:56:03 5 substitute these words "in lieu", isn't that right?
- 6 A. That's right.
- 7 Q. 499 Effectively, this is really a new motion being put forward in the form of an
8 amendment to the original?
- 9 A. That is correct.
- 12:56:16 10 Q. 500 Isn't that so? And again, could I suggest to you that, firstly, I draw your
11 attention to the signature of both of you. That is Mr. Creaven and yourself on
12 the bottom of it. That that document as signed here was one which was typed up
13 in the Council on the day of the hearing, the 20th of April.
- 14 A. Where it was typed up, I don't know.
- 12:56:42 15 Q. 501 Yes. It was typed up, I suggest to you, in the Council because we know that
16 there was a handwritten amendment, prepared by Mr. Dunlop, in the Council that
17 morning. And if we look to 2008 we'll see a document which expresses itself to
18 be a Fingal area committee document?
- 19 A. That's right.
- 12:57:08 20 Q. 502 The handwriting you may recognise as Mr. Dunlop's handwriting?
- 21 A. I don't. But if you tell me it is, that's okay with me.
- 22 Q. 503 He tells me that it is?
- 23 A. Yeah, well I accept that.
- 24 Q. 504 Okay. And if we go to 2009 you'll see your signature. And that of
12:57:34 25 Mr. Cosgrave and Gilbride on the document there. You see that?
- 26 A. That's right.
- 27 Q. 505 So again, this was a document which on its face appears to have been drawn up
28 by Mr. Dunlop, isn't that so?
- 29 A. Yes, I would say so.
- 12:57:44 30 Q. 506 And he says that this was drawn up on the day and that is the 20th, just before

- 12:57:51 1 the matter was going to be put to the membership?
- 2 A. Right.
- 3 Q. 507 Isn't that right? And are you saying that the changes which we see reflected
- 4 in this amendment. And if we go back to 2006, it's the easiest way of looking
- 12:58:10 5 at it because it's typed rather than in manuscript.
- 6 A. Right.
- 7 Q. 508 And the changes that you see here effectively are to drop any industrial at
- 8 all. There's no E zoning, right?
- 9 A. Right.
- 12:58:27 10 Q. 509 And to provide for residential in a specific way in, that this introduces a cap
- 11 on number of houses intended?
- 12 A. Correct, cap.
- 13 Q. 510 Capped at 450 houses on 75 acres at each of the two locations which in previous
- 14 motions had not been capped, to use that term, isn't that right?
- 12:58:54 15 A. That's right.
- 16 Q. 511 And that, I think, has significance in the context of the planning or zoning
- 17 history for these lands because as you mentioned a little earlier, the Endcamp
- 18 proposal had envisaged the building of approximately 2,500 houses on this site?
- 19 A. That's correct.
- 12:59:13 20 Q. 512 Whereas this plan limits to 900 houses, if it did get zoning, isn't that right?
- 21 A. That is correct.
- 22 Q. 513 Though, of course, it is somewhat unusual that in a zoning application one
- 23 would be talking about numbers of houses because generally in zoning terms one
- 24 is zoning use by definition, be it residential or otherwise?
- 12:59:36 25 A. Correct.
- 26 Q. 514 Rather than by numbers, which tends to be a matter ultimately for determination
- 27 in the planning permission process rather than the zoning process, isn't that
- 28 right?
- 29 A. That is correct.
- 12:59:48 30 Q. 515 But this particular motion seems to seek to bridge the zoning/planning

12:59:56 1 difference that exists by incorporating within a zoning motion a limit on
2 houses, which might be more particularly appropriate for the planning process,
3 isn't that right?

4 A. Well, I was trying to tie it down.

13:00:10 5 Q. 516 Yes?

6 A. At this stage.

7 Q. 517 Yes. Well, are you saying that that amendment was, therefore, a proposal
8 emanating from you rather than one emanating from the promoters of the Pennine
9 project, which is what Mr. Dunlop effectively is telling us; that it was his
10 project, his proposal, his intention to do what was done here in the manner in
11 which it was done and not that of the councillors and in particular not that of
12 yourself or Mr. Creaven?

13 A. Well, from my point of view, this, because I was receiving so many
14 representations locally. And because it wasn't determined in the motions. The
13:00:57 15 number of houses people saw that, you know, they build houses all over the
16 place.

17 Q. 518 Yes?

18 A. That has happened since, they have built 2,000 houses on the Baldoyle end and
19 they propose another 2,000 on the Portmarnock end.

13:01:11 20 Q. 519 Yes?

21 A. So I was wise, I believe, in what I was doing. In other words, to cap it and
22 limit it. And I believe that I could have done it within the Draft Development
23 Plan.

24 Q. 520 Yes. The question really that I'm asking you, Mr. Cosgrave, is as to whose
13:01:26 25 idea this was and in particular?

26 A. Oh, I see.

27 Q. 521 And in particular, whether you were coming to this as a signatory to the
28 amended motion that we see on screen at the moment, as a signatory to something
29 which had been conceived and drawn up by Mr. Frank Dunlop or whether it was a
13:01:47 30 matter which was conceived and drawn up by you?

- 13:01:49 1 A. I believe the 450 houses plus the pay as you play golf course plus the Pitch
2 and Putt golf course were my ideas.
- 3 Q. 522 Yes?
- 4 A. The linear costal park, for instance, which is coming along now. In fact, we
13:02:03 5 are debating it in the Council of late.
- 6 Q. 523 Yes?
- 7 A. And the other parks which we're going to get, already some of the football
8 pitches have been constructed.
- 9 Q. 524 Yes. We are dealing historically herewith events taking place in 1993?
- 13:02:23 10 A. Oh, I accept that.
- 11 Q. 525 And I'm well aware of the fact that matters have progressed all around County
12 Dublin and the three independent councils that now exist to deal with zoning
13 and planning which deal with these specific areas. But as regards the
14 involvement in 1993. We were talking about a larger Council making decisions,
13:02:44 15 albeit in anticipation that within a year or so these areas were to be hived
16 off to the local newly created councils for whatever implementation that might
17 be, isn't that correct?
- 18 A. That's correct.
- 19 Q. 526 Indeed, some of them would be the subject of local area action plans in that
13:03:05 20 area?
- 21 A. Correct.
- 22 Q. 527 But when it came to make the proposal in 1993, it was being done in a context
23 of endeavouring to complete the 1993 Dublin County Development Plan, isn't that
24 right?
- 13:03:18 25 A. That's correct.
- 26 Q. 528 And that would allow for persons to know what it was that had been agreed as
27 part of the County Development Plan for their particular area, isn't that
28 right?
- 29 A. That's right.
- 13:03:31 30 Q. 529 And we know certainly from the document that you've considered on screen in

13:03:38 1 handwritten form. That is the document which was ultimately translated into
2 this typed document on screen. That Mr. Frank Dunlop was present and actually
3 wrote out the terms of what was to be signed by you and by Councillor Creaven,
4 isn't that correct?

13:03:55 5 A. Correct.

6 Q. 530 Now, there's no immediate reason that I can see why he should have been
7 involved in this project at all at this point in time. This is a matter which
8 is taking place in the environs of the Council itself, isn't that right?

9 A. That's right.

13:04:12 10 Q. 531 As councillors you would have the entitlement to go up and have this typed up
11 in any format you wanted, isn't that right.

12 A. That's right.

13 Q. 532 It didn't involve or need the involvement?

14 A. Or you could handwrite it.

13:04:25 15 Q. 533 You could have handwritten it. In fact, it was Mr. Dunlop who did so, isn't
16 that right?

17 A. That's right.

18

19 CHAIRMAN: I don't want to stop you mid flow. Is it time? It's just after

13:04:38 20 one. It will be five past two I think because of a commitment.

21

22 MR. O'NEILL: Five past two, Mr. Cosgrave

23 A. Thank you.

24

13:04:45 25

26

27

28 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH.**

29

30

13:05:00 1

2

THE TRIBUNAL RESUMED AS FOLLOWS AT 2:05 P.M.:

3

4

14:11:14 5

6

MR. O'NEILL: Mr. Cosgrave, please.

7

8

Q. 534 If we could have document 2008 on screen.

9

14:11:27 10

Mr. Cosgrave, just before lunch, we were discussing this handwritten document

11

here, which is prepared by Mr. Dunlop and it is the draft of the motion which.

12

Sorry. The amendment to the motion which you had signed with Councillor

13

Creaven and which was before the meeting on the 20th of April. And you were

14

indicating, I think, in your evidence this morning that it was open to you to

14:11:57 15

have a motion typed up by the Council staff at the meeting, if you requested

16

it, isn't that so?

17

A. Well I'm sure they would oblige, yeah.

18

Q. 535 We know that they did oblige in this instance?

19

A. Did they, yeah.

14:12:13 20

Q. 536 Because this was drafted on the day of the motion. And it is translated into a

21

typed copy at page 2006.

22

23

And that is the copy that was before the motion on the day.

24

14:12:25 25

You will see it has the amendment to motion written on the top of it there

26

A. Yes, that's correct.

27

Q. 537 And that is the motion?

28

A. That is the motion.

29

Q. 538 And what I was enquiring from you was as to why it was that this required or

14:12:41 30

was in fact a handwritten by Mr. Dunlop if it was something which you were

- 14:12:48 1 capable of handwriting yourself and having typed by the staff of the Council.
2 In other words, if this motion's content were your proposals it did not require
3 Mr. Dunlop to be your stenographer for that event, isn't that right?
- 4 A. It didn't require it but Mr. Dunlop was very good at putting together motions.
- 14:13:14 5 Q. 539 Yes, indeed. We've established that I think from your earlier evidence that
6 the two motions which were not drafted within the confines of the Council,
7 which this one was, were typed in his office by his typewriter and brought to
8 you in the form in which they were signed by you. So there was no amendment of
9 those motions, if you understand?
- 14:13:40 10 A. Yes, I'll accept that.
- 11 Q. 540 And if you've agreed that the content of the motions and the areas marked on
12 maps were all the handy work of Mr. Dunlop. As we see --
- 13 A. Well he typed them. I had an input. And it's his wording.
- 14 Q. 541 Yes?
- 14:13:57 15 A. We'll accept that.
- 16 Q. 542 Fine. What I was trying to establish from you, Mr. Cosgrave, is what, if any,
17 do you say was your input in this, the last motion, which is on screen here?
- 18 A. The 450 houses. The pay as you play golf course. Public park, linear park,
19 especially the Pitch and Putt course.
- 14:14:19 20 Q. 543 You say that this is your suggestion, at your suggestion this motion was
21 drafted in these terms, isn't that right?
- 22 A. Following representations from people in my constituency, yes.
- 23 Q. 544 But not from Mr. Dunlop. In other words, these motions, you say. Sorry.
24 These suggestions that the houses should be capped at 450 was your idea?
- 14:14:40 25 A. That's my idea.
- 26 Q. 545 Right. As you may know, Mr. Dunlop's evidence on this point is that throughout
27 the motions which he had signed by you and by Councillor Creaven, at all times
28 the decisions were taken by him and not by yourself and that as much as you did
29 was to sign the documents which were put in front of you, and that effectively
14:15:05 30 you would have signed anything that he put in front of you. That's what his

14:15:09 1 evidence has been. You reject that as?

2 A. I reject that. I've explained to you.

3 Q. 546 Yes?

4 A. How the motion was put together and what I wanted for my constituents.

14:15:19 5 Q. 547 Yes.

6

7 And if we look now to page 210.

8

9 You'll see the map that accompanied the document that has just left the screen.

14:15:29 10 That was the narrative. This is the drawing which shows what was proposed.

11 A. Right.

12 Q. 548 Is this your handy work or Mr. Dunlop's?

13 A. I wouldn't be certain of that. But I would suggest it's Mr. Dunlop's.

14 Q. 549 Yes. In other words, you would not have been in a position to establish which

14:15:46 15 particular 75 acres were going to be used for one use or another, isn't that

16 right?

17 A. That's right.

18 Q. 550 So it's likely that this certainly undisputedly was his handy work, isn't that

19 right?

14:15:57 20 A. I would suggest so, yes.

21 Q. 551 Now, as we know, when it came too the motions on the 20th. The minutes record

22 that you and I'm now looking at page 2033.

23

24 You proposed and it was seconded by Councillor Creaven that the motion, that is

14:16:19 25 the unamended motion, be put to the meeting and after proposing it you'll see

26 that you suggested or advised the members that you wished to amend the motion.

27 You see that?

28 A. I see that.

29 Q. 552 The amendment is what we've seen on screen just a moment ago. And this

14:16:40 30 amendment appears on the following page, at 2034. Again, it is merely

- 14:16:48 1 transposing what we've already seen on screen.
- 2 A. That's correct.
- 3 Q. 553 And as seen here, after some discussion on the matter, the councillors decided
- 4 that they would entertain the bringing of that amendment because the area that
- 14:17:06 5 was involved was a lesser area. It was -- it wasn't increasing the area to be
- 6 rezoned. It was decreasing it somewhat. And for that reason, it would be
- 7 allowed as a motion from the floor?
- 8 A. But it was flawed.
- 9 Q. 554 Sorry?
- 14:17:20 10 A. It was flawed in the respect of, as you outlined it.
- 11 Q. 555 The existence or otherwise of there being a flaw in it wasn't really crucial
- 12 because you'll see the Manager here gave the advices to the councillors. That
- 13 when the meeting resumed at 12:35 it was noted a forum was present. The
- 14 Manager advised the member that while it was not desirable to have an
- 14:17:51 15 amendment submitted without notice, having examined the proposed amendment its
- 16 effect would be to reduce the area proposed for development and in accordance
- 17 with the previous practice the amendment could be accepted.
- 18
- 19 So to that extent, it wasn't being rejected on the basis of being flawed. The
- 14:18:11 20 advice from the Manager was that it could be in fact considered. Isn't that
- 21 correct
- 22 A. Well I'll accept that.
- 23 Q. 556 That was the advice?
- 24 A. I'll accept that.
- 14:18:18 25 Q. 557 And the response then of the councillors present was to seek to adjourn both
- 26 Mr. Healy's motion and your own motion for a period of one week so as to allow
- 27 the councillors time to consider the map and the proposals and to deliberate on
- 28 it a week later, are you aware of that?
- 29 A. That is correct.
- 14:18:39 30 Q. 558 And those --

- 14:18:40 1 A. The minutes tell us that.
- 2 Q. 559 Sorry?
- 3 A. The minutes tell that you say.
- 4 Q. 560 Indeed, they do. And that proposal, which was advanced by those councillors
- 14:18:49 5 was voted down. You will see that at page 2035. The second of the two motions
- 6 was that further consideration --
- 7 A. Yes. Be deferred until the members have received a copy of the amendment and
- 8 the map.
- 9 Q. 561 Yes. That was what was proposed?
- 14:19:07 10 A. That's right.
- 11 Q. 562 That was put up as a motion then for decision. And 35 of the councillors voted
- 12 against it. The result of that being that there wasn't available time to the
- 13 members to consider that matter. They had to consider your motion and
- 14 amendment there and then, isn't that what?
- 14:19:28 15 A. That's what the minute tells us.
- 16 Q. 563 Right. And you were one of the councillors, obviously, who voted against the
- 17 matter being deferred so as to allow your colleagues time to consider the
- 18 consequence of the amendment and the map to it, isn't that right?
- 19 A. That's correct.
- 14:19:50 20 Q. 564 Yes. Was there any particular urgency that you identified which directed you
- 21 towards opposing the views of the councillors to the effect that the matter
- 22 should be deferred to allow for a period of time to elapse for consideration?
- 23 A. My recollection fails me in this regard. And I cannot even hope to speculate
- 24 why I did that.
- 14:20:19 25 Q. 565 Yes.
- 26 A. I'm sorry.
- 27 Q. 566 Very good. The result then of -- the result of this meeting was as we see at
- 28 page 2036.
- 29
- 14:20:44 30 A. 2036, yes.

14:20:45 1 Q. 567 2036. Yes. Just towards the end of that you see that Councillor Devitt
2 proposed after a discussion that as over half an hour had elapsed since the
3 discussions began that the question be put. In other words, there had been
4 debate on the issue for a period of half an hour and she suggested that the
14:21:05 5 matter be determined by a vote. That caused disorder in the chamber, as you
6 will see, at 1:35?
7 A. I see that.
8 Q. 568 Chairman decided to adjourn the meeting for a short period due to disorder in
9 the chamber. That however continued. As the disorder continued the Chairman
14:21:24 10 decided to adjourn the meeting and it concluded at 1:38 p.m, isn't that so?
11 A. That's correct.
12 Q. 569 And I think that that level of discord stemming from this meeting was reported
13 in the press and the thing became very much the subject of press attention.
14 And in particular, the adjourned date to which these matters would be
14:21:50 15 considered became the focus of media attention, isn't that right?
16 A. It did, it did.
17 Q. 570 And there was a large media presence, I think, both outside the chamber before
18 this meeting on the 27th started?
19 A. Uh-huh.
14:22:02 20 Q. 571 But it also had been covered over that week in the press, isn't that right?
21 A. Yes, and I think it was on television too.
22 Q. 572 Yes. And I think you'd probably agree that the focus of the press coverage was
23 to the effect that this was against the wish of the majority of people in the
24 area rather than for it. I'm not asking you to decide whether or not it was
14:22:26 25 the case that the majority were against it. But I'm merely suggesting to you
26 that the press coverage of the matter was from a viewpoint that this was a
27 controversial rezoning which was being opposed by many people, isn't that
28 right?
29 A. That would be the assumption, yes. That would be the way it read in the
14:22:48 30 papers.

- 14:22:48 1 Q. 573 Exactly. And we'll see that at page 2107.
- 2
- 3 Added to the complications that were going to arise on the 27th itself was this
- 4 article in the front of the Irish Independent saying that a group was to net 10
- 14:23:06 5 million pounds if your motion was voted upon, favourably from the developer's
- 6 point of view that day, isn't that right
- 7 A. That's right.
- 8 Q. 574 Yeah. And I'm not sure if you were aware of the evidence of Mr. Dunlop on this
- 9 point. But he says that he learned of the content of this article from a
- 14:23:25 10 telephone call he received from Mr. Liam Lawlor on his mobile phone in which
- 11 Mr. Lawlor indicated to him that they were sunk as regards the project in view
- 12 of this particular publication. Mr. Dunlop says that on attending the meeting
- 13 in the Council that he met with yourself and the other councillors, Councillor
- 14 Creaven, who were the promoters of the particular motion. And that he was
- 14:23:57 15 following a strategy which had been discussed by himself and Mr. Lawlor
- 16 indicating that this motion should be deferred. Now, we know from the minutes
- 17 of the meeting that there was a motion. Sorry. There was an application by
- 18 you and Councillor Creaven to have the matter deferred, isn't that right?
- 19 A. That's right.
- 14:24:24 20 Q. 575 Can you explain to the Tribunal why it is that you did bring a motion to have
- 21 the matter deferred. It had been apparently your wish to progress it to a
- 22 conclusion on the 20th. Isn't that so?
- 23 A. That's right.
- 24 Q. 576 It was adjourned from the 20th to the 27th because of controversy and
- 14:24:45 25 disruption in the chamber. You are, presumably, prepared to advance your
- 26 position on the 27th but something intervened to prevent that. And Mr. Dunlop
- 27 says that it's his intervention and the Tribunal would like to know what your
- 28 reason for seeking the deferment was?
- 29 A. Firstly, I do not remember Mr. Dunlop approaching me in the way that you've
- 14:25:08 30 outlined. Secondly, I believe the headline certainly was a headline which

- 14:25:12 1 wasn't going to help within the chamber. Thirdly, we had introduced this new
2 idea of the capping at 450 houses. And that we would give time for the local
3 communities to absorb that and see would that be of help. Now, that's the only
4 reason that I can give you.
- 14:25:34 5 Q. 577 Okay. If the last reason was the reason for it, Mr. Cosgrave. That
6 opportunity was presented to you by the motions of the councillors on the 20th
7 where they had suggested that the matter be deferred until the 27th so as to
8 allow for the amendment and the map which accompanied it to be considered. You
9 will appreciate that?
- 14:25:55 10 A. I appreciate that.
- 11 Q. 578 Well, that surely then cannot be the reason for your seeking to defer it on the
12 27th because you had already voted against exactly such a proposal one week
13 earlier?
- 14 A. Things change.
- 14:26:12 15 Q. 579 Well, what did change in the week? I mean, obviously?
- 16 A. The headline.
- 17 Q. 580 Yes. Well?
- 18 A. Would be one reason.
- 19 Q. 581 Can we ignore or put aside for the moment the fact that it might have been to
14:26:26 20 do with further consideration of the number of houses that would be involved?
- 21 A. Oh, yes, that would be a factor in it.
- 22 Q. 582 Well, I thought that we had established that when you voted against such a
23 proposal on the 27th that that was hardly a proposal that you would have
24 advanced -- sorry. You'd voted against such a proposal on the 20th in those
14:26:48 25 terms. It was hardly a matter which you would yourself propose only seven days
26 later?
- 27 A. Well, I put it to you this way. But I'm not certain of this. I may have felt
28 at the time that we may have got it through the Council on that day. May have.
- 29 Q. 583 You may have.
- 14:27:07 30 A. That's the only explanation I can give for that.

14:27:13 1 Q. 584 Your deferral motion we'll see at page 2115. Proposed by Councillor MJ
2 Cosgrave. Seconded by Councillor Creaven. That motion No. 14 5(g)(ii) and the
3 proposed amendment there to be deferred for further consideration to a date not
4 later than the 15th of May of 1993. Now, I do understand from your evidence,
14:27:39 5 Mr. Cosgrave, that that was independent of any request made of you by Mr. Frank
6 Dunlop, to do so?
7 A. I never Mr. Dunlop asking me to do that. But one through debate and listening
8 to things in the chamber. Did the visit take place to the site after that?
9 Q. 585 The visit took place on the 19th of May?
14:28:04 10 A. And this date was?
11 Q. 586 The 27th of April.
12 A. April. So the visit took place in May.
13 Q. 587 That's right.
14 A. So, therefore, it could be said, and this probably entered my mind at the time,
14:28:17 15 that I wanted the visit to take place.
16 Q. 588 You wanted the visit to take place?
17 A. Yes.
18 Q. 589 Well, we'll see that there was a motion in precisely those terms promoted by
19 Councillor O'Halloran and seconded by Councillor Liam Cosgrave on the same day
14:28:49 20 as this application by you to defer was made. And that's at page 2116.
21
22 About half way down you will see it's proposed by Councillor O'Halloran,
23 seconded by Councillor Cosgrave. That decisions relating to the Baldoyle
24 Portmarnock area be deferred until the a site meeting is held in that area to
14:29:12 25 allow all councillors to view the lands proposed for rezoning.
26
27 And you will see that immediately following on that in the minutes it's noted
28 that the Chairman asked the Manager to advise as to whether or not such a
29 motion coming as it did from the floor and without notice to the parties was in
14:29:31 30 order. And the Manager advised the members that the tradition of the Council

14:29:38 1 was that if a Councillor moved a motion it should not be deferred if he
2 dissented, that's in relation to Councillor Healy's motion. And therefore, the
3 Manager advised that the motion, that is the motion of Councillor O'Halloran
4 and Cosgrave. Liam Cosgrave, that is

14:29:57 5 A. Yes.

6 Q. 590 Was not in order. And the Chairman then ruled it out of order.

7 A. I see that.

8 Q. 591 You see that. So that one of the consequences of a deferral of the motion was
9 addressed there in that note. And that was that if the motion of Councillor
14:30:22 10 Healy was not one which he wished to defer, it would be heard that day. That's
11 the first arm of that minute?

12 A. That's right.

13 Q. 592 And the second aspect of it was that a motion to defer decisions in relation to
14 Baldoyle until a site visit had taken place was out of order?

14:30:41 15 A. Correct.

16 Q. 593 Did you understand that in the event that the motion of Councillor Healy
17 proceeded and was voted in favour and was carried by majority, that the motion
18 which you had deferred with the consent of the majority of councillors
19 immediately before that, would fall as a matter of course?

14:31:03 20 A. Well, the Manager has pointed that out, has he not?

21 Q. 594 No?

22 A. He hasn't?

23 Q. 595 No?

24 A. It may have crossed my mind. But I'm not certain of that. I don't recollect.

14:31:13 25 Q. 596 Again, you may know that Mr. Dunlop said that the full implications of the
26 decision to defer your motion and to allow the Healy motion to proceed had not
27 been fully evaluated by him at a time when he gave you instruction to defer the
28 motion. Now, in that scenario, you would make two points I think. Firstly,
29 that there never was a contact by Mr. Dunlop. And therefore, he could not have
14:31:43 30 made that for the purpose for which he says he made it to you?

- 14:31:48 1 A. I do not recall that.
- 2 Q. 597 You don't recall?
- 3 A. No.
- 4 Q. 598 All right?
- 14:31:51 5 A. I'm not saying it didn't happen. I may have went out of the chamber or
6 something like that but I don't recall it, I'm sorry.
- 7 Q. 599 All right. Insofar as the publication of the fact that the promoters of this
8 scheme were going to make ten million profit in the event that the vote went
9 through. If that was a consideration or the consideration for your deferring
10 the motion. How do you say that that was a valid reason for deferring a
11 decision of the Council on the issue?
- 12 A. I felt that that headline would have made councillors very much afraid to pass
13 such a motion.
- 14 Q. 600 And is that because they would be the subject of considerable further press
15 coverage and scrutiny?
- 14:32:32 16 A. Correct.
- 17 Q. 601 In that context?
- 18 A. Correct.
- 19 Q. 602 Hardly a planning or zoning issue or political issue, is that the logic?
- 14:32:42 20 A. Well people do consider these things, you know.
- 21 Q. 603 Yes. That was the logic of your thinking at the time?
- 22 A. Yeah, that would have entered my mind of course.
- 23 Q. 604 I think that certainly those present at the meeting were left in no doubt as to
24 the effect of the passing of the Healy motion, following the advice given by
14:33:04 25 the Manager once the vote was in favour of Councillor Healy's motion, isn't
26 that right?
- 27 A. That's right.
- 28 Q. 605 We see at page 2117 the Manager advised the member that is as a result of
29 passing motion 14.5.1, that's the Healy motion, that motion 15 5(g)(ii) and the
14:33:25 30 amendment proposed by Councillor MJ Cosgrave, seconded by Councillor Creaven

- 14:33:30 1 fall and the meeting then conclude?
- 2 A. Correct.
- 3 Q. 606 So at the end of that meeting the prospects for Pennine Holdings rezoning their
- 4 lands in the 1993 review were effectively gone, isn't that so?
- 14:33:46 5 A. They were severely dented.
- 6 Q. 607 Well could I suggest that, firstly, given the time constraints that existed
- 7 with regard to adopting the plan?
- 8 A. Oh, yes, yes, yes.
- 9 Q. 608 It was intended that it would be adopted by September?
- 14:34:00 10 A. Yes.
- 11 Q. 609 That year?
- 12 A. Yeah.
- 13 Q. 610 The chances of there being another motion brought within the procedures of the
- 14 Council which would have allowed for the review of the Healy motion were not,
- 14:34:14 15 were not available, isn't that right?
- 16 A. Well they weren't great, I can put it to you that way.
- 17 Q. 611 Well, could I suggest to you that the Standing Orders of the Council were such
- 18 that if a motion was passed, dealing with the specific issue. That that issue
- 19 could not be revisited under the Council's Standing Orders until a period of
- 14:34:35 20 six months had elapsed from the date upon which the first decision was made
- 21 unless at a meeting of the Council, attended by no less than 50% of the elected
- 22 members, 75% of those members voted in favour of reconsidering the matter.
- 23 Isn't that the standing order?
- 24 A. Standing Orders. I wasn't too sure of it. But as you say it, yes, you're
- 14:34:59 25 right.
- 26 Q. 612 And the effect of that is that if one is talking about a decision being made at
- 27 the end of April. It means that one could not approach, revisiting this issue
- 28 until the end of October. And it was intended to wrap the matter up in
- 29 September, isn't that right?
- 14:35:18 30 A. Completely, yeah.

- 14:35:20 1 Q. 613 Isn't that right?
- 2 A. That's right.
- 3 Q. 614 And therefore, it involved, if this matter was to come on an agenda of the
- 4 Council again it could only happen in two ways. Firstly, if there was a legal
- 14:35:34 5 challenge brought to the decision which was made by the Council on the 27th,
- 6 isn't that right?
- 7 A. That's right.
- 8 Q. 615 Or secondly, if within the Council's own procedures the motions that were
- 9 considered on the 27th were interpreted in a particular way?
- 14:35:58 10 A. Correct.
- 11 Q. 616 Right. And we know that consideration of both of those avenues of challenge
- 12 was given by the promoters of this scheme, isn't that so?
- 13 A. I've read that, yes.
- 14 Q. 617 And I think you yourself were engaged with Mr. Creaven in the pursuit of one of
- 14:36:15 15 those avenues. And that was the attempt to have the Chairman of the Council
- 16 alter the views that she had expressed and the decision she had made upon the
- 17 advice of the Manager on the 27th, isn't that so?
- 18 A. What evidence is there of that?
- 19 Q. 618 I beg your pardon?
- 14:36:36 20 A. What evidence is there, please, of that.
- 21 Q. 619 Well there are the letters that you wrote to the Chairman challenging the
- 22 decision?
- 23 A. Could I see them, please.
- 24 Q. 620 Oh, you can, yes.
- 14:36:45 25 A. Thank you.
- 26 Q. 621 They are letters which were briefed to you, I should say, Mr. Cosgrave?
- 27 A. Which -- sorry I've been away and I haven't had time to.
- 28 Q. 622 I see.
- 29 A. Thank you.
- 14:36:56 30 Q. 623 The first step taken to effectively challenge the decisions of the Chairman as

- 14:37:10 1 pronounced on the 27th, were made not by you but by Councillor O'Halloran. And
2 you may have been in the body of the Tribunal this morning?
- 3 A. I was.
- 4 Q. 624 When we took Mr. O'Halloran through that documentation. And since you're not a
14:37:25 5 signatory to it it's not my intention to go through it line by line. But just
6 to refer to it with you briefly. That you're aware that on the 4th of May of
7 1993 Councillor O'Halloran wrote a letter to the Chairman challenging her
8 decision in relation to not hearing his motion on the 27th, isn't that so?
- 9 A. That's right.
- 14:37:48 10 Q. 625 And that matter then came before the meeting of the Council on the 4th of May.
11 And it was adjourned from that date to the 6th of May when the matter was moved
12 before the Council. And what was moved before the Council on that occasion was
13 a motion brought by Councillor O'Halloran, effectively seeking to have the
14 decisions in relation to Baldoyle adjourned until such time as a site visit
14:38:27 15 took place. I think something you'd say that you aspired to at the same time?
- 16 A. Right.
- 17 Q. 626 And therefore, you would have a joint interest in ensuring that that particular
18 motion went through?
- 19 A. Right.
- 14:38:39 20 Q. 627 And we know that that was amended because it was short of a requisite detail,
21 which was the date of the proposed hearing that had to be added to the motion
22 so as to make it conform with the Council's regulations?
- 23 A. Right.
- 24 Q. 628 And that date was to be the 19th of May. And the matter was put before the
14:39:04 25 body of members and we know that again this was a matter which caused
26 considerable disorder. If you look to page 2192 of the document on screen.
27 You'll see that because of disorder in the Chair, chamber, the Chairman
28 adjourned the meeting to 4:17 for a short period. And now if we move onto the
29 next --
- 14:39:38 30 A. Just a moment sorry.

- 14:39:39 1 Q. 629 Sorry. Yes?
- 2 A. Because of disorder in the chamber, yes, I see that, yes.
- 3 Q. 630 And on the next page. 2193. You will see at the very top of the page. When
- 4 the meeting resumed it was noted that a quorum was present. The Manager
- 14:39:54 5 advised that the motions before the meeting were out of order. The Chairman
- 6 informed the members that because there was a doubt as to the correctness of
- 7 her decision when ruling the motion proposed by Councillor O'Halloran, seconded
- 8 by Councillor L Cosgrave, out of order at the meeting on the 27th of April
- 9 1993, she was ruling the motions now before the Council in order but that all
- 14:40:17 10 decisions taken in relation to this matter would be referred to the law agent
- 11 for advice.
- 12
- 13 And the motion then, as we see, is amended by the addition of the words --
- 14 sorry "the site visit to take place on Tuesday May 18th 1993"
- 14:40:40 15 A. Correct.
- 16 Q. 631 The substantive motion then was proposed and seconded by Councillor O'Halloran
- 17 and Councillor Gilbride respectively.
- 18
- 19 And on the next page 2194. You will see that there were 34 votes in favour,
- 14:40:56 20 four against and one abstention. And you were one of those who voted in
- 21 favour, isn't that right?
- 22 A. That is right.
- 23 Q. 632 And we know also that the low voting turnout here was the result of a walk out
- 24 by a large number of councillors, isn't that so?
- 14:41:16 25 A. Evidently so, yes.
- 26 Q. 633 Yeah. And the motion was then passed. That allowed for the visit to be
- 27 arranged to take place on the 18th of May, isn't that so?
- 28 A. That is right.
- 29 Q. 634 The interpretation of the proceedings of the Council on that day in the public
- 14:41:37 30 domain was that there had been a U-turn taken by the councillors in relation to

14:41:47 1 the green belt rezoning of Baldoyle, isn't that right?

2 A. Where does it say that?

3 Q. 635 Well, if we look to page 2207 you'll see a publication which was on the day

4 following. It's the Irish Independent of the 7th of May of 1993. The day

14:42:07 5 following the motion. It says that the green belt -- sorry. The Baldoyle

6 green belt rezoning controversy has been blown wide open again after Dublin

7 County Councillors yesterday voted to hold a meeting on the property.

8

9 That is an interpretation. I'm not saying it's the only one

14:42:27 10 A. Right.

11 Q. 636 That could be drawn. But it was the popular interpretation of what had

12 happened. The focus, media focus on the issue was that everything to do with

13 Baldoyle was now a controversy rather than necessarily a news item. And that

14 the controversy was one stemming from the conduct of the councillors at the

14:42:51 15 meeting, isn't that so?

16 A. Yeah, and it could have been blown up out of all proportions too.

17 Q. 637 Indeed. But it was the media background, I suggest, against which you had to

18 deal. You've told us that you were mindful of the political situation?

19 A. Situation, yes.

14:43:06 20 Q. 638 Out there. And you had to address these matters. You couldn't act in

21 isolation to this, I take it?

22 A. Oh, no, you could not.

23 Q. 639 But in practical terms, it was probably a fair assessment. That if the motion

24 of the 27th effectively had sunk the project, the introduction of a motion

14:43:27 25 which allowed for a site visit, with a subsequent meeting to take place after

26 that, to consider the merits of rezoning in Baldoyle, would effectively be a

27 U-turn on that position, isn't that right?

28 A. Probably so, yes.

29 Q. 640 It would have to be. Now, in relation to your own involvement. Could I

14:43:51 30 suggest that Mr. Dunlop had a considerable and obvious interest in promoting

- 14:44:01 1 and encouraging anything that would reinstate the Baldoyle rezoning project on
2 the motion paper for a Council meeting, isn't that right?
- 3 A. That seems to be the evidence this morning and I'm sure that's right.
- 4 Q. 641 Yes. And is it the case that you were made aware of this immediately following
14:44:21 5 upon the meeting of the 27th and kept advised by Mr. Dunlop as to what his
6 actions were going to be in order to achieve that end?
- 7 A. I cannot recall that. But I'm sure if he phoned me, you know, or I phoned him.
8 I was on the phone to him, it probably was discussed.
- 9 Q. 642 Yes?
- 14:44:40 10 A. But I do not recollect it.
- 11 Q. 643 Uh-huh. The Tribunal has considered information and evidence from a Mr. John
12 Gore Grimes, who you know is a solicitor?
- 13 A. Solicitor.
- 14 Q. 644 Living in Howth. And he was the solicitor acting for Mr. John Byrne, the owner
14:45:02 15 of the Endcamp lands, if I could call them that. In respect of which Pennine
16 Holdings had an option?
- 17 A. Right.
- 18 Q. 645 Over the lands at the time?
- 19 A. Right.
- 14:45:12 20 Q. 646 Now, we see from an attendance of his, which is at page 2210. That shortly
21 after the meeting of the Council, of which we examined a little while ago.
22 There was a meeting attended by Frank Dunlop and Liam -- sorry.
23
24 Page 2210.
- 14:45:37 25
26 There was a meeting with Mr. Gore Grimes and Mr. Frank Dunlop and Mr. Liam
27 Lawlor. The three of those persons in combination discussing the proceedings
28 of the Council.
29
- 14:45:52 30 Now, if I could just stop at that point there. Were you aware, Mr. Cosgrave,

- 14:45:56 1 that Mr. Liam Lawlor was a participant/advisor in this project with Mr. Dunlop?
- 2 A. I was not so aware.
- 3 Q. 647 Right. The content of their meeting, you will see, is the imparting of
- 4 information from Mr. Dunlop and Mr. Lawlor to Mr. Gore Grimes discussing
- 14:46:24 5 Councillor O'Halloran, introducing a motion to say that Mr. Healy's motion was
- 6 completely without foundation. That motion we have considered a little
- 7 earlier. We saw it drafted on the 4th of May. And it was the motion which was
- 8 considered by the Council.
- 9
- 14:46:48 10 In addition, there's reference to letters to be drafted over the weekend.
- 11 Mr. Lawlor and Mr. Dunlop are to come in to see Mr. Gore Grimes on Monday. He
- 12 is to check over the legal implications of those letters. Now, the letters in
- 13 question, could I suggest were letters Mr. Cosgrave, which were on their face
- 14 to be letters coming from you to Councillor Therese Ridge. These were the
- 14:47:21 15 letters that Mr. Dunlop and Mr. Lawlor were to draft over the following weekend
- 16 A. Uh-huh, yes.
- 17 Q. 648 We'll see that on the following -- the beginning of the following week, that is
- 18 on Tuesday the 11th of May 1993. Mr. Gore Grimes had a further attendance.
- 19 And it's at page 2218. Here he records having attended a consultation with
- 14:47:51 20 counsel, when counsel approved the letters to be written by Mr. Michael Joseph
- 21 Cosgrave to the Chairperson and by the Chairperson back to him. And also the
- 22 information to be submitted regarding the deferral of the motion.
- 23
- 24 If I could stop at that point there.
- 14:48:10 25
- 26 That is, clearly, a reference to you, isn't that so?
- 27 A. It is clearly a reference to me.
- 28 Q. 649 And what Mr. Gore Grimes is saying that he attended with counsel where counsel
- 29 approved letters to be written by you to the Chairperson?
- 14:48:25 30 A. That's what it says.

- 14:48:27 1 Q. 650 I beg your pardon?
- 2 A. That's what it says.
- 3 Q. 651 That's what it says?
- 4 A. Yeah.
- 14:48:31 5 Q. 652 And also approving the letter to be written back to you from the Chairperson,
6 isn't that so?
- 7 A. Yes, that's what it says.
- 8 Q. 653 Have you any recollection or memory of being consulted over the weekend, that
9 is between the 8th of May 1993 and the 11th of May 1993 by either Mr. Gore
10 Grimes or Mr. Dunlop or indeed Mr. Lawlor about the draft of a letter to be
11 sent in your name to the Chairperson?
- 12 A. I have no recollection of it whatsoever.
- 13 Q. 654 No. Could you envisage any situation in which a letter purporting to come from
14 you would find itself being drafted by Mr. Dunlop or Mr. Lawlor and Mr. Dunlop
15 in combination?
- 14:49:21 16 A. I don't really, no, no.
- 17 Q. 655 No. We'll see from this attendance there that Mr. Gore Grimes having had the
18 draft letters approved by his own counsel, then attended a meeting with Liam
19 Lawlor and Frank Dunlop? Do you see that?
- 14:49:44 20 A. I see that, yes.
- 21 Q. 656 At that meeting these letters were approved and we added the matter dealing
22 with the CPO for the Itinerants site. We also telephoned John Byrne and spoke
23 to him. And there then is reference to the fact that Mr. Dunlop was to have a
24 role in removing Brendan Hickey and David Shubotham from the Pennine board. I
14:50:10 25 take it that you were effectively unaware of Mr. Shubotham or Mr. Hickey.
26 Because they hadn't spoken to you in relation to this matter?
- 27 A. I never met the gentlemen.
- 28 Q. 657 So as you see from the recording here by Mr. Gore Grimes. The letters which he
29 had had approved by his own counsel were brought back to Mr. Dunlop and
14:50:33 30 Mr. Lawlor, where they were again gone through. All three parties now agreed

- 14:50:38 1 on their content. And they made one further addition to the letter which was
2 going to be sent to the Manager, which would refer to the itinerants site.
3 That's what's said here, isn't that right?
- 4 A. That's what it is saying there, yes.
- 14:50:55 5 Q. 658 The next document that I'd ask you to look at is a document at 2853. Again,
6 this is a document which was circulated to you in the brief. And you will see
7 that it is a document addressed to Councillor Therese Ridge, Chairperson Dublin
8 County Council. It's dated the 12th of May 1993. And if we go to the next
9 page. 2854. We'll see that the persons intended to be the persons sending
10 this are Michael Joe Cosgrave MCC and Liam Creaven MCC, isn't that right
- 11 A. That's what it says, yes.
- 12 Q. 659 That's what it says. Now, that letter is a letter which Mr. Dunlop says was
13 the product of his drafting exercise with the advice of Mr. Liam Lawlor. In
14 other words, he wrote this letter, isn't that right?
- 14:51:26 15 A. That's what he's saying.
- 16 Q. 660 Now, if you haven't read the letter before, perhaps you should do so now.
- 17 A. I remember this one in the brief now all right.
- 18 Q. 661 You remember that one?
- 19 A. Yeah.
- 14:52:05 20 Q. 662 Fine. What do you say of your knowledge of this letter? Firstly, can you say
21 whether or not it is the case that you drafted the letter?
- 22 A. No.
- 23 Q. 663 Were any part of the queries raised here in connection with the interpretation
24 of Standing Orders, namely, queries A and B here. Were they queries which you
14:52:29 25 in fact had to make in relation to the decision of the Council?
- 26 A. I have no recollection of those queries at all.
- 27 Q. 664 Right. Was this letter signed by you?
- 28 A. I notice it's not signed so.
- 29 Q. 665 This is a draft rather than an original?
- 14:52:49 30 A. Right.

- 14:52:49 1 Q. 666 And I'm asking you whether or not you have a recollection of signing a final
2 version of this letter, if I could call it that.
- 3 A. I have no recollection whatsoever.
- 4 Q. 667 Right. You are I think a member of the Fingal area committee, isn't that
14:53:09 5 right?
- 6 A. Presently.
- 7 Q. 668 Presently. Were you a member of the committee at that time?
- 8 A. I was a member of Fingal County Council.
- 9 Q. 669 Sorry. I'm talking about the area committee within the?
- 14:53:19 10 A. Yes, within the three bodies, yes.
- 11 Q. 670 Yes?
- 12 A. Yes, I was.
- 13 Q. 671 Yes. Because we'll see at page 2301. A letter on that letter heading?
- 14 A. Right.
- 14:53:37 15 Q. 672 Right. So that committee existed at that time, isn't that right?
- 16 A. That Committee existed, the Fingal area committee, yes.
- 17 Q. 673 Yes. And I have to suggest that the draft letter which we see at page 2853.
18 Found itself being transmitted on to a letter heading of the Fingal area
19 committee. We'll see it at page 2227. Now, this is a letter which is exactly
14:54:14 20 in the same terms as the previously shown unheaded version of the letter, do
21 you understand?
- 22 A. That is right. Yeah.
- 23 Q. 674 And Mr. Dunlop says that he had blank correspondence, blank notepaper, bearing
24 the letter heading of the Fingal area committee. And that on that blank -- on
14:54:38 25 that printed letter heading he printed the letter as we now see it on screen
26 here. That having done so he brought it to you for signature and that you
27 signed it?
- 28 A. Could I see the signature, please.
- 29 Q. 675 The signature is not available to the Tribunal because the letter was sent to
14:55:00 30 the Council, to the Chairman of the Council. And the Council file is not

14:55:05 1 available.

2 A. As I say, I don't recall it.

3

4 CHAIRMAN: Well, have we the second page?

14:55:12 5

6 MR. O'NEILL: We do. It's the next page in the sequence. Page 2228.

7

8 Q. 676 This letter is complete save for the presence of a signature, isn't that right?

9 A. That's right.

14:55:29 10 Q. 677 And we will see that this letter is referred to in subsequent correspondence or

11 subsequent correspondence is drafted, I should say?

12 A. I note by the way that this letter is not signed neither.

13 Q. 678 That's what we said a moment ago?

14 A. Yes, that's right.

14:55:44 15 Q. 679 The letter which is not on the letter heading of Fingal Area Committee was not

16 a letter which was sent out. It was a draft?

17 A. That's right.

18 Q. 680 Its terms are put on to this Fingal Area Committee notepaper for dispatch to

19 the Chairman of the Council?

14:56:02 20 A. Correct.

21 Q. 681 And I think that when I asked you about this document's contents, you indicated

22 to me that the two queries which were raised here, you see that? At A and B,

23 were not concerns of yours at the time. Would you like to?

24 A. Can I see them again, please.

14:56:26 25 Q. 682 Okay of course. Perhaps we'll look at it in the format of A and B. They are

26 on page 2227?

27 A. I have it here, yes, thank you.

28 Q. 683 Perhaps if we start at the beginning of the letter.

29

14:56:41 30 "Dear Chairperson. You will recall that at the meeting of the Draft

14:56:45 1 Development Plan review held on 27th of April 1993 I proposed that the motion
2 5(g)(ii) in our joint names, Councillor Michael Joe Cosgrave and Councillor
3 Liam Creaven be deferred for consideration and decision to a date not later
4 than the 15th of May 1993.

14:57:04 5
6 Now, that's accurate as a statement of fact, isn't that right

7 A. That's accurate as a statement of fact.

8 Q. 684 Its Recording your involvement.

9 A. Yes.

14:57:12 10 Q. 685 This deferral meeting was put to the members, voted upon and carried by 37
11 votes to 34. Implicit in this deferral motion was that no further discussion,
12 consideration or decision could take place or be taken regarding the specific
13 lands contained in motion 5(g)(ii). Now that is offering an interpretation of
14 what the passing of your motion meant rather than recording the minutes itself,
15 isn't that right?

16 A. That's right.

17 Q. 686 Is that an interpretation of those facts which you held at that time or since.
18 Namely, that because that motion, your deferral motion, was passed, that
19 implicit in it was that no further consideration or decision could take place?

14:57:57 20 A. I haven't thought of it on that basis.

21 Q. 687 Notwithstanding this. You proceeded to take motion No. 5.1 in the name of
22 Councillor David Healy. Given that Councillor Healy's motion referred to "all
23 lands zoned B and G on the Draft Plan between Baldoyle and Portmarnock" should
24 you not have advised the members that following on the decision to defer
25 consideration of the motion 5(g)(ii) and the specific lands referred to
26 therein, that an amendment be moved to Councillor Healy's motion excluding the
27 specific lands referred to in our motion.

28
29 If, however, the lands referred to in Councillor Healy's motion and presumably
14:58:40 30 outlined in red on the attached map, coincided exactly with the lands referred

14:58:45 1 to in our motion. Should you in accordance with the Standing Orders not have
2 taken Councillor Healy's motion before ours.
3
4 Could you confirm that our interpretation of Standing Orders is correct.
14:58:56 5 Specifically, therefore, could you confirm to us that A, Councillor Healy's
6 motion No. 5.1 should have been taken prior to our deferral motion.
7
8 B, had Standing Orders been adhered to and Councillor Healy's motion put to the
9 members prior to ours. The resulting vote would have had the following effect.
14:59:15 10
11 If asked, Councillor Cosgrave's deferral motion could not have been taken.
12
13 If defeated -- Councillor Cosgrave's deferral motion would have been put to the
14 members and when passed, given that we had concrete evidence of the voting
14:59:29 15 intentions of the members. 37 to 34. No decision could be taken regarding the
16 lands referred to in motion 5(g)(ii) until a date not later than the 15th of
17 May 1993.
18
19 We have written to the Manager requesting clarification on a number of
14:59:47 20 important issues pertaining to the lands covered by our two motions. Number
21 5(g)(ii).
22
23 We attach a copy of this letter for your information.
24
15:00:00 25 Given the serious nature of the proposed land uses by the corporation/council
26 of the Baldoye lands as outlined in our letter to the Manager. We are
27 confident that you will agree that the elected members and the residents of the
28 area are entitled to be fully apprised of the local authority's intentions and
29 the implications thereof.
15:00:20 30

15:00:20 1 In our view, it is incumbent on the Manager to provide the elected members with
2 a comprehensive report and slide presentation regarding the works on these
3 lands scheduled for completion during the period 1994, 1997 given that the
4 current review when adopted will extend beyond this period.

15:00:39 5
6 We look forward to hearing you from you in these matters. Kind regards, Yours
7 sincerely. And then space for signature by a Michael Joseph Cosgrave and Liam
8 Creaven.

9
15:00:53 10 So in relation to the matters which are raised therein. Are you saying,
11 Mr. Cosgrave, that some but not all of those were actually concerns of yours at
12 the time, is that right?

13 A. No, I didn't say that.

14 Q. 688 Or not at all?

15:01:08 15 A. Not at all.

16 Q. 689 You are saying that none of this --

17 A. I cannot remember this letter. I cannot remember discussing this with anyone.
18 My signature is not on it.

19 Q. 690 Yes?

15:01:16 20 A. So, you know, what more can I say. I just don't remember.

21 Q. 691 Yes. Can you envisage any situation even now on reflection and looking that
22 the documentation, in which you could consider that Mr. Liam Lawlor and Mr.
23 Dunlop could feel that it is appropriate that they would draft these letters,
24 this is one of them, putting your name and Councillor Creaven's name to them
15:01:43 25 for, with the intention that it be sent to the Chairman and that they would
26 also have drafted the Chairman's letter in response. Can you envisage any
27 scenario in which they could have felt that they could do that?

28 A. I don't know.

29 Q. 692 No. Well, they apparently did so. Apparently these letters, the evidence has
15:02:09 30 been that this particular letter here is the letter which was taken by Mr. Gore

15:02:16 1 Grimes. He approved this as a letter which was intended to be sent by you.
2 And he also approved the response which was to be sent to you by the Chairman
3 of the Council in relation to it. So that the parties, that is Mr. Dunlop, who
4 we have heard from, Mr. Gore Grimes who we have heard from, and their
15:02:41 5 documentation, supports the fact that they believed that these letters would be
6 written by you to the Chairman and would be responded to. Have you any
7 explanation for that or any comment to make in relation to it?
8 A. I've no recollection of this letter whatsoever.
9 Q. 693 Yes. Or any other circumstance in which you could understand that letters
15:03:04 10 would be written by others to which your name would be affixed on Council
11 business?
12 A. I don't know that.
13 Q. 694 Yes. You don't know of that ever happening?
14 A. Not, that I know of.
15:03:14 15 Q. 695 Either in this instance or before or after, isn't that right?
16 A. Not, that I know of.
17 Q. 696 Yes.
18
19 CHAIRMAN: Mr. Cosgrave, it must come as a huge shock to you that somebody
15:03:35 20 like Mr. Dunlop would be writing a letter
21 A. But is that a fact?
22
23 CHAIRMAN: No, no. But if it's correct
24 A. Oh, it would be a shock to me.
15:03:35 25
26 CHAIRMAN: Yes. Because that would be a very serious indictment of Mr.
27 Dunlop's behaviour
28 A. Uh-huh.
29
15:03:40 30 CHAIRMAN: If --

15:03:42 1 A. As I say, I don't remember that. Justice, I don't remember that letter and my
2 signature is not on it, that's all I can tell you.

3

4 CHAIRMAN: Mr. Dunlop has a memory of it

15:03:51 5 A. Has he? Well I haven't.

6

7 CHAIRMAN: And Mr. Gore Grimes had a memory of it

8 A. Well I haven't. I don't remember it whatsoever.

9

15:03:59 10 CHAIRMAN: But do you, would you accept that if Mr. Dunlop, I mean, I'm not
11 suggesting you have to accept this. But would you be inclined to accept that
12 if Mr. Dunlop says that this letter was written for the purposes of having you
13 sign it, having read it, that you would sign it. Would you be inclined to
14 accept that that is probably what happened or would you?

15:04:28 15 A. I have no factual evidence of that.

16

17 CHAIRMAN: I'm not asking you for the evidence. But if it was something that
18 would be so foreign to what you might have -- to the way that you might have
19 conducted business. Then you could probably say well, while I don't remember
15:04:47 20 it I can't imagine circumstances where this would happen. That might be one
21 view that you would express. I mean, are you going that far that you would say
22 that almost certainly this couldn't have happened in the way it's suggested by
23 Mr. Dunlop?

24 A. I have no recollection of it whatsoever.

15:05:04 25

26 CHAIRMAN: No, no, I can understand --

27 A. Nor I can't speculate neither.

28

29 CHAIRMAN: All right.

15:05:09 30

15:05:09 1 MR. O'NEILL: Mr. Dunlop, who has given evidence on these issues, wrote a
2 letter to Mr. Birmingham, who is counsel, to Mr. John Byrne, the owner of these
3 lands, on the 28th of May 1993. Which we see at page 2294.

15:05:37 5 In this letter he is referring to a telephone conversation. And he is
6 attaching a copy of an opinion submitted by Mr. John Gallagher, Senior Counsel,
7 to Dublin County Council with regard to recent motions by Councillor John
8 O'Halloran regarding Baldoyle. And he seeks an opinion in relation to
9 Mr. Birmingham's views on Mr. Gallagher's opinion. And he says: "For your
15:06:03 10 information I also attach copies of letters sent to the Chairperson of the
11 Council and the Manager of Fingal County Council by councillors Michael Joe
12 Cosgrave and Liam Creaven."

14 You have no recollection, I take it, of Mr. Dunlop being provided by you with
15:06:25 15 copies of letters from you to the Chairperson of the County Council or to the
16 Manager of the Council, is that right

17 A. No recollection whatsoever.

18 Q. 697 No. Though apparently Mr. Dunlop was here in a position to provide such
19 letters to a barrister for the purpose of an opinion on Mr. Gallagher's
15:06:47 20 opinion, isn't that?

21 A. So yeah well.

22 Q. 698 That's what it appears to suggest, isn't that right?

23 A. That's what it appears to suggest, yes.

24 Q. 699 I mean isn't there any other interpretation that could be put on this, other
15:06:57 25 than the fact that as of the date of this letter, 28th of May 1993, the sender
26 of this letter had possession of letters from you to the Chairman of the
27 Council and the Manager of Fingal County Council?

28 A. I cannot recollect those letters.

29 Q. 700 I'm sorry?

15:07:18 30 A. I cannot recollect -- recollect the letters at all.

15:07:30 1 Q. 701 The position in relation to the letter of the 12th, that is the letter which on
2 its face appears to be coming from the Fingal Area Committee. And appears to
3 be a letter from yourself and Mr. Creaven. It was accompanied by a draft
4 letter or copy letter being sent to the Manager, Mr. D Byrne, at Fingal County
15:07:58 5 Council. That's at page 2222.
6
7 And I'd like you to have a look at that letter, if you would.
8
9 I can tell you, Mr. Cosgrave. That it is yet another letter which was
15:08:14 10 apparently to be signed by yourself and Mr. Creaven.
11 A. I cannot recollect that letter.
12 Q. 702 You don't recollect that letter. Right. Okay. Now, we'll see that yet
13 another letter was written to the Chairman, Councillor Ridge, on the 2nd of
14 June 1993. Which also makes reference to the letters of the 12th of May
15:08:51 15 addressed to her, which we have considered a little earlier.
16
17 And if we look to page 2301.
18
19 This is a letter which is dated the 2nd of June of 1993. I should say that
15:09:13 20 it's a letter which is written after the opinion of Mr. John Gallagher had been
21 received by Dublin County Council, which opinion indicated that the decision
22 making process on the 27th of April was correct. And therefore, the subsequent
23 motions brought, including the motion to visit the site, were of no effect and
24 invalid.
15:09:31 25
26 In this letter the author of the letter is saying.
27
28 "Dear Chairperson, we wrote to you on the 12th of May last. Copy attached.
29 Asking you to confirm our interpretation of Standing Orders in respect of the
15:09:47 30 sequence of motions at the meeting of the Draft Development Plan review held on

15:09:52 1 27th of April 1993".
2
3 Now, firstly, that description of the document being its letter of the 12th of
4 May corresponds exactly with the documentation that we saw on screen, though
15:10:05 5 unsigned, highlighted the 12th of May, isn't that right?
6 A. That's right.
7 Q. 703 So this letter purports to say that that letter was sent to the Chairperson.
8 And it also purports to say that that letter was responded to.
9
15:10:21 10 You replied on the 25th of May saying you had forwarded our letter to the
11 Manager for a response from the law agent.
12
13 And if I could stop at that point. If that statement is accurate, it would
14 mean that a reply to the letter of the 12th was received, isn't that so?
15:10:39 15 A. That's what this would suggest.
16 Q. 704 That's what it would suggest. And that that was written on the 25th of May.
17 And that it was received by the parties who had written the letter in the first
18 instance, isn't that right?
19 A. That's what it would suggest.
15:10:54 20 Q. 705 And that's what it states?
21 A. What it states, yeah.
22 Q. 706 Yes. And those parties were on the face of the document yourself and
23 Mr. Creaven?
24 A. Yes.
15:11:03 25 Q. 707 But you say you did not receive a letter from the Chairperson of the Council on
26 the 25th outlining the position as stated in this letter, is that right?
27 A. I cannot recall receiving such a letter.
28 Q. 708 Right. If you did recall -- if you did receive such a letter, it would have
29 been a response to a letter sent by you on the 12th, isn't that right?
15:11:26 30 A. It would be a response to the letter that was sent on the 12th.

- 15:11:30 1 Q. 709 Exactly?
- 2 A. Yeah. It would be if I received it.
- 3 Q. 710 Right.
- 4 A. I cannot recollect receiving it.
- 15:11:39 5 Q. 711 The letter goes on to say "to date we have not received this response.
- 6
- 7 In the interim, however, a copy of the opinion of Mr. John Gallagher SC with
- 8 regard to questions he had been asked by the Manager to advise upon, has been
- 9 made available to us. We note that although the date of the opinion is the
- 15:11:58 10 22nd of May, it's not made available to the elected members until the 28th of
- 11 May 1993.
- 12
- 13 It would also appear that this opinion was available at the time of your
- 14 acknowledgement and replied to us on the 25th of May"
- 15:12:13 15
- 16 The only relevant part of that from my query to you. Is that the elected
- 17 members of the Council were circulated with the opinion of Mr. Gallagher on the
- 18 28th of May of 1993. Now, I take it that you are aware that you would have
- 19 been circulated with that document once it had been received, given the minutes
- 15:12:39 20 of the meetings which have been held to date. They were all conditional upon
- 21 the advice of the law agent being received, isn't that right
- 22 A. That's right.
- 23 Q. 712 So that irrespective as to whether or not you wrote this letter. I think you
- 24 would accept that as of the 28th of May you had received a copy of
- 15:12:58 25 Mr. Gallagher's report?
- 26 A. Evidence would tell us that.
- 27 Q. 713 Yes?
- 28 A. But I don't remember receiving that neither.
- 29 Q. 714 Right. In this letter it goes on to make further queries of the Chairperson.
- 15:13:21 30 The letter reads in the last paragraph on this page.

15:13:25 1
2 "We would respectively query why the law agent was not asked to adjudicate on
3 this crucial matter. And therefore request you, we request you to have his
4 response to the matter raised in our letter of the 12th of May last, made
15:13:40 5 available to the Council before 5:30 p.m. tomorrow 3rd of June 1993".
6

7 And on the following page it reads:
8

9 "We have been denied the opportunity to have the Council consider in full the
10 merits of our deferral motion addressing the neglect of the so-called green
11 belt between Baldoyle and Portmarnock and we would request an early meeting
12 with you to have this matter resolved amicably.
13

14 Yours sincerely".
15

15:14:11 16 And space for the signature of both yourself and Mr. Creaven.
17

18 Again, is this a document with which you are unfamiliar

19 A. I cannot recall that document whatsoever.

15:14:27 20 Q. 715 The matters which are covered in that letter. Were they matters of concern to
21 you in the early part of June 1993?

22 A. I cannot recall them being of concern to me.

23 Q. 716 Do you have any recollection of raising any matters at any meetings of the
24 Council relating to the incident which occurred on the 14th or shortly prior to
15:14:58 25 the 14th of June 1993 where a young man, a teenager, was drowned tragically in
26 the works?

27 A. Oh, I do remember that, yes.

28 Q. 717 You do remember that, do you?

29 A. Yes, yes.

15:15:10 30 Q. 718 Do you remember making an address to the Council on that issue?

15:15:14 1 A. I'm sure I would have.

2 Q. 719 Yes. I'd like you to look at a document now at page 2319 on screen.

3

4 It reads:

15:15:25 5

6 "Chairman, I thank you and the rest of the councillors for an opportunity under

7 the suspension of Standing Orders to raise the disastrous flooding crisis that

8 occurred in Baldoyle on Saturday morning last.

9

15:15:37 10 I know I speak for the Council and management in expressing our heartfelt

11 sympathy to the parents of this young man who was killed" isn't that right?

12 A. That's right.

13 Q. 720 Do you recollect these words and recollect that you made this oration or

14 announcement or statement or submission to the general body of the Council at a

15:16:02 15 meeting?

16 A. I can't recollect that, no. I remember the incident well because I visited the

17 family.

18 Q. 721 Yes. Well, do you remember going to the body of the members and making this

19 speech? Because it is attributed --

15:16:17 20 A. Well, I did raise it in the Council for my knowledge or it was raised in the

21 Council by management and I did speak on the matter I think.

22 Q. 722 Yes, if we look to page 2318.

23

24 You will see a proposition being advanced to propose the suspension of Standing

15:16:35 25 Orders so as to allow the elected members for the Baldoyle area discuss the

26 serious water flooding and its consequence in relation to the tragic loss of

27 life, isn't that so?

28 A. No. From what I remember. And my recollection is vague it happened so long

29 ago. The matter was raised by the Manager, I think. Following the drowning of

15:16:57 30 this young man. And I had already put in a question some time before that

- 15:17:03 1 asking the management to address the flooding matter in case such an event
2 would happen. And when it was raised by the Manager and I think we were
3 proposing a vote of sympathy. I remember speaking on it because I knew the
4 family.
- 15:17:23 5 Q. 723 Well, isn't all of that consistent with you following the course which is set
6 out in the document on screen? It purports to be signed by Michael J Cosgrave
7 and Liam Creaven for a start. And what it is proposing to the Chairman is the
8 suspension of the Standing Orders so as to allow this matter to be raised?
- 9 A. I never remember that.
- 15:17:45 10 Q. 724 You see this document was drafted by Mr. Liam Lawlor?
11 A. Uh-huh.
- 12 Q. 725 Yes. And this was an attempt to use the opportunity presented by the tragic
13 death of this young man as an opportunity to raise again before the Council the
14 question of addressing the Pennine rezoning motion. And that was an exercise
15 which was strategised by Mr. Liam Lawlor?
- 15:18:11 16 A. I cannot expect myself to raise this matter like that.
- 17 Q. 726 It would be a very cynical exercise to do it. But can you explain how it is
18 that this document here appears to be a draft of a question to be put by you to
19 the Chairman of the Council for discussion on foot of the suspension of
15:18:38 20 Standing Orders, when you say you do not know of this document's existence?
- 21 A. I to not know of this document's existence.
- 22 Q. 727 You don't?
23 A. No.
- 24 Q. 728 Do you know of any reason why somebody should draft a document for you,
15:18:51 25 expressed to be your statement on this issue and provide it to Mr. Frank
26 Dunlop, because it is from his file that this document is made available to the
27 Tribunal?
- 28 A. Well I have never -- to my knowledge I have never seen that letter. And it
29 wouldn't be my form to raise matters that way.
- 15:19:08 30 Q. 729 All right. You say that your -- you say that you did in fact make a request in

- 15:19:21 1 similar terms?
- 2 A. I made --
- 3 Q. 730 Without being precise, isn't that right?
- 4 A. I'd have to examine the question. I'd have to go back and research it with the
- 15:19:29 5 Council that far back. But I had raised it before, I raised the matter of the
- 6 flooding and this drain with the Council. Because constituents had brought it
- 7 to my attention that it was dangerous.
- 8 Q. 731 Yes?
- 9 A. But it was within weeks after that that the tragedy occurred.
- 15:19:51 10 Q. 732 Yes.
- 11 A. But I raised it for constituents. And I do know that that stream very well.
- 12 And it was flooding. It had flooded on several occasions. And there was
- 13 always a danger as it was near schools and that, that children would certainly,
- 14 you know, fall into it.
- 15:20:04 15 Q. 733 That would appear to coincide exactly with what is contained within the draft
- 16 document that we're looking at.
- 17
- 18 Because if we look to page 2315.
- 19
- 15:20:19 20 You'll see this address expressed in the narrative here which reads:
- 21
- 22 "When I deferred my motion to discuss the lands between Baldoyle and
- 23 Portmarnock".
- 24
- 15:20:31 25 And firstly, may we be in agreement with this. That it was your motion that
- 26 deferred that discussion, isn't that right?
- 27 A. Right.
- 28 Q. 734 "which was approved by this Council on the blank of May. I did so for the
- 29 very reason that the flooding issue be discussed here today. I wrote to the
- 15:20:47 30 Manager after the Council approved the deferral to establish precisely what

15:20:54 1 action was proposed to avoid the risk of flooding in Baldoyle. Today the 14th
2 of June I have not had a reply".

3

4 And then there is provision for a quote from your letter.

15:21:06 5

6 And could I suggest that that again would tie in with the letter of the 12th of
7 May being, that is the letter to the Manager, being the letter that would be
8 quoted in the body of this oration or speech, isn't that right?

9 A. That's right. But I cannot recollect these letters at all.

15:21:23 10 Q. 735 You see, all of this correspondence, Mr. Cosgrave, is orchestrated
11 correspondence?

12 A. Not by me.

13 Q. 736 I haven't said that yet. It is orchestrated correspondence seeking by means of
14 every available opportunity to raise before the Council issues which were
15 determined on the 27th of April and to endeavour to undo that situation. Now,
16 the beneficiaries of any undoing of that situation were Mr. Dunlop and those
17 behind him promoting this project. But in each instance that this orchestrated
18 correspondence is considered. We see your name and that of Councillor Creaven
19 at the end of each document, isn't that right?

15:22:14 20 A. That's right.

21 Q. 737 So that if any one of these documents was sent out, let's say to the
22 Chairperson of the Council or to the Manager. And if the recipient of those
23 documents received them and responded, the responses would have been received
24 by you and/or Councillor Creaven, isn't that right?

15:22:35 25 A. Correct.

26 Q. 738 As a probability?

27 A. As a probability, yes, that's better.

28 Q. 739 So that the person who drafted these documents would have to realise that to be
29 the case. It's not a matter of somebody being able to wrongly attribute
15:22:49 30 documents to you because each of those documents that was written supposedly in

- 15:22:54 1 your name demanded a response and reply to be sent to you, isn't that right?
- 2 A. That's what the documents say.
- 3 Q. 740 So if somebody had falsified your names to these documents, that still wouldn't
- 4 get them over the hump. You would end up getting a reply to a document which
- 15:23:13 5 you hadn't sent and you would immediately address that matter, isn't that
- 6 right?
- 7 A. That's right.
- 8 Q. 741 That's right. And again, all of that would be memorable to you?
- 9 A. I don't remember these letters and I don't remember that.
- 15:23:25 10 Q. 742 Well that's precisely the point I'm getting to. That if this subterfuge was
- 11 going on it would be memorable to you?
- 12 A. I don't remember this subterfuge, which is so well put by yourself. And I
- 13 don't remember that. No recollection what so ...
- 14 Q. 743 But you have used the word "recollection" on a number of occasions throughout
- 15:23:48 15 the evidence that you've given. And could I suggest to you that it's not
- 16 really a matter of recollection. Because if this had happened, it would be an
- 17 unforgettable circumstance, isn't that right? It either happened or it didn't
- 18 happen?
- 19 A. I'm telling you that I do not recollect those letters or these memos at all
- 15:24:07 20 from that time.
- 21 Q. 744 Yes I know that --
- 22 A. And I cannot recollect responses or anything else about them.
- 23 Q. 745 Yes. Would you agree with me, Mr. Cosgrave, with this proposition? That if
- 24 you had wrote any of these letters, you would have remembered the fact that you
- 15:24:25 25 did so because of their content?
- 26 A. Probably would.
- 27 Q. 746 And therefore, it is your evidence that you did not write these letters, isn't
- 28 that so?
- 29 A. It's my evidence that I do not recollect them whatsoever.
- 15:24:39 30 Q. 747 Have you, allowing for the possibility that you did in fact write them all, but

- 15:24:44 1 you simply have forgotten. Are you allowing for that possibility?
- 2 A. What I'm saying to you is this. I do not recollect them whatsoever. In my
3 opinion, I did not write them. If you've other evidence to the contrary, let
4 me know.
- 15:24:57 5 Q. 748 Well all the Tribunal has by way of evidence on this issue, Mr. Cosgrave, is
6 what it has brought to your attention?
- 7 A. Thank you.
- 8 Q. 749 So as to allow you to deal with the matter. And it's on that basis that you
9 are here today to deal with it?
- 15:25:11 10 A. Correct.
- 11 Q. 750 And the Tribunal will, of course, consider your responses carefully?
- 12 A. I know.
- 13 Q. 751 In reaching its conclusion. In short, these documents as far as you know, if
14 they are documents which were in the possession of Mr. Dunlop and that is how
15 the Tribunal has acquired them through a chain of events under which these
16 documents were discovered. You cannot account for why they are there, isn't
17 that right?
- 18 A. I have no recollection and I cannot account for them.
- 19 Q. 752 Yes.
- 15:25:48 20 A. Correct.
- 21 Q. 753 Now, you had a number of meetings with Mr. Dunlop in and around the time that
22 these issues were taking place. The letter of the 12th followed upon a meeting
23 on the 11th at which the drafts of those letters were approved by Mr. Gore
24 Grimes, Mr. Lawlor and Mr. Dunlop?
- 15:26:14 25 A. I wasn't at that meeting.
- 26 Q. 754 I'm not suggesting you were. The day before that, which was Monday the 10th,
27 was the date upon which it had been intended by the parties to the meeting on
28 the 8th that they would meet to settle or agree on the documentation in
29 question?
- 15:26:35 30 A. Right.

15:26:35 1 Q. 755 And on that date there was a meeting between yourself and Mr. Frank Dunlop and
2 Mr. Creaven?
3 A. Right.
4 Q. 756 Have you any recall as to what the matter that you were discussing with Mr.
15:26:49 5 Dunlop was at that meeting on that date.
6 A. I've no recall whatsoever.
7 Q. 757 Yes.
8 A. What we discussed on that date. It's so long ago. It's thirteen years ago.
9 Q. 758 Very good.
15:27:12 10
11 CHAIRMAN: Thank you very much
12 A. Thank you, Chairman. Thank you, Justices.
13
14
15:27:17 15
16 **THE WITNESS THEN WITHDREW.**
17
18
19
15:27:18 20 MR. O'NEILL: Mr. Creaven, please.
21
22
23
24 MR. DORE: I appear for Mr. Creaven.
15:27:27 25
26
27
28
29
30

MR. LIAM CREAVEN, HAVING BEEN SWORN, WAS QUESTIONED

BY MR. O'NEILL AS FOLLOWS:

- 15:27:27 1
- 2
- 3
- 4
- 15:27:51 5 CHAIRMAN: Good afternoon, Mr. Creaven.
- 6
- 7 JUDGE FAHERTY: Good afternoon, Mr. Creaven
- 8
- 9 MR. O'NEILL: Good afternoon Mr. Creaven.
- 15:27:58 10
- 11 The last witness, Mr. Cosgrave and yourself, share positions as councillors for
- 12 the Baldoyle area, isn't that right?
- 13 A. Correct.
- 14 Q. 759 At the time of this review in 1993?
- 15:28:10 15 A. Correct.
- 16 Q. 760 And it is apparent from all of the documentation which has been considered by
- 17 the Tribunal in the course of today's hearing and in the very recent past that
- 18 it is very rare that a document emanates and in relation to a matter in
- 19 Baldoyle which doesn't have the signature of both or sorry the involvement of
- 15:28:33 20 both of you involved, isn't that right?
- 21 A. Yes.
- 22 Q. 761 And it would appear that you work in harmony with the last witness,
- 23 Mr. Cosgrave, on matters dealing with your joint area in Baldoyle, isn't that
- 24 right?
- 15:28:51 25 A. That's right.
- 26 Q. 762 I think it would be remarkable and certainly we haven't seen an example of
- 27 there being any disagreement on any substantive issue between yourself and
- 28 Mr. Cosgrave?
- 29 A. Correct.
- 15:29:03 30 Q. 763 In relation to Baldoyle or the Pennine Holdings matter, isn't that correct?

- 15:29:09 1 A. Correct.
- 2 Q. 764 And we have seen in the course of today's evidence an amount of documentation
3 which was generated in the context of motions which were being brought before
4 Dublin County Council for the purpose of seeking a variation of the Draft
15:29:29 5 Development Plan which had been put on public display in 1991, isn't that so?
- 6 A. Yes.
- 7 Q. 765 Yes. And if you require me to do so, obviously, I will open any individual
8 motion for you. But perhaps you might agree with me that everything that
9 Mr. Cosgrave did in relation to these motions, he did with your knowledge, your
15:29:58 10 approval, and jointly, isn't that so?
- 11 A. Yes.
- 12 Q. 766 There is no distinction that you wish to draw to the Tribunal between any act
13 which Mr. Cosgrave was engaged in, in relation to Baldoyle, and what he has
14 given evidence on directly here today to the Tribunal, isn't that so?
- 15:30:17 15 A. In relation to the motions.
- 16 Q. 767 In relation to the motions?
- 17 A. Yes.
- 18 Q. 768 Now, now, those motions would appear to show that you were a participant in the
19 bringing of the matter before the Council in the first instance for the purpose
15:30:37 20 of considering variation, isn't that right?
- 21 A. Uh-huh; yes.
- 22 Q. 769 And that the variations altered over time, there were three in effect separate
23 motions?
- 24 A. Yes.
- 15:30:53 25 Q. 770 One withdrawn on the 20th. One amended substantially by an amendment which was
26 going to be put, isn't that right?
- 27 A. Correct.
- 28 Q. 771 And in respect of all of those motions. Could I suggest to you that you signed
29 them at the specific request of Mr. Frank Dunlop?
- 15:31:13 30 A. Yes.

15:31:16 1 Q. 772 Now, in signing those motions can you indicate to the Tribunal whether or not
2 it is the case that you, as opposed to Mr. Cosgrave, conducted any detailed
3 evaluation of the wording of the motions themselves or of the maps that
4 accompanied any one of them before signing them?

15:31:44 5 A. I can't recall doing that.

6 Q. 773 Right. You may be aware that Mr. Dunlop said that the obtaining of the
7 signatures for these motions was not a matter which was proceeded by any
8 lengthy examination or indeed any examination of the detail of what was
9 contained within it. He merely asked you for your signature and you were happy
10 to give it to him?

11 A. I was.

12 Q. 774 Is that an accurate reflection of what took place?

13 A. That's correct, yes.

14 Q. 775 And I think that one of the motivating factors for this, from your point of
15 view, was that you considered Mr. Dunlop to be a friend of your's, is that
16 right?

17 A. Yes. And plus the fact that I was very pro-development. The development of
18 the Baldoyle Race Course.

19 Q. 776 Yes. I take it that if what Mr. Dunlop says is true in relation to these
20 motions and his role in relation to it. It is a matter of considerable shock
21 and surprise to you to know that the motions that you were signing were
22 strategised and drafted by Mr. Liam Lawlor for his purposes?

23 A. I had no idea, Mr. Lawlor was involved in any aspect of Baldoyle Race Course
24 whatsoever.

15:33:01 25 Q. 777 Yes. In relation to the series of letters which I put to Mr. Cosgrave a moment
26 ago, which were the draft and unsigned copies of letters?

27 A. Yes.

28 Q. 778 Dated the 12th of May of 1993 and the 2nd of June 1993. And the memorandum of
29 the 14th of June 1993, which dealt with the suspension of Standing Orders and
15:33:37 30 that matter?

- 15:33:39 1 A. Yeah.
- 2 Q. 779 Have you any recollection of ever seeing any of that documentation prior to it
3 being provided to you by the Tribunal as part of the brief in this Module of
4 the inquiry?
- 15:33:50 5 A. No, no recollection whatsoever.
- 6 Q. 780 Is it possible that this documentation had been signed by you, that you may
7 have signed it at the request of Mr. Dunlop?
- 8 A. I doubt it. Today was really the first day I saw on the screen the two, the
9 documentation you are referring to and both Councillor Cosgrave's name and my
15:34:23 10 name without being signed by either of us.
- 11 Q. 781 Yes?
- 12 A. That's the first time I recollect seeing that documentation.
- 13 Q. 782 Yes. The existence of that documentation, Mr. Creaven. If it was in fact
14 drafted at the time by Mr. Lawlor and Mr. Dunlop as Mr. Dunlop says it was. If
15:34:52 15 that documentation was drafted at the time. Now, I haven't put the question to
16 you?
- 17 A. Okay.
- 18 Q. 783 I'm just putting the groundwork for them.
19
- 15:35:00 20 If it was drafted and if a reply to the letter was also drafted.
- 21 A. I ...
- 22 Q. 784 If it was all drafted?
- 23 A. Are you asking me if a letter was drafted by Mr. Dunlop and Mr. Lawlor and a
24 reply to that letter.
- 15:35:21 25 Q. 785 Was also drafted by them?
- 26 A. Yes.
- 27 Q. 786 Would that indicate to you that both of those gentlemen through others were
28 controlling the affairs of Dublin County Council?
- 29 A. I never --
- 15:35:34 30 Q. 787 Using your name and that of Mr. Cosgrave?

15:35:42 1 A. Well as I said, I wasn't aware it happened.

2 Q. 788 Yes?

3 A. So I didn't have any opinion. I couldn't be forming an opinion on something

4 that I didn't know about or see. And now you're asking me to give you an

15:35:54 5 opinion as if I had seen it then. I can't honestly. But I would agree that I

6 would be somewhat taken aback.

7 Q. 789 Yes. I mean, one of the issues that this Tribunal, unfortunately, has to

8 determine?

9 A. Yeah.

15:36:08 10 Q. 790 Is why it is that such documentation should have been generated in the first

11 instance?

12 A. Yes.

13 Q. 791 Do you understand?

14 A. I can't answer that.

15:36:16 15 Q. 792 And obviously it will look at every reasonable explanation that is advanced as

16 to why such documentation should be in existence?

17 A. Yes.

18 Q. 793 Well, I think you would agree with me that on the face of the document itself.

19 If one took it at its face value?

15:36:34 20 A. Yes.

21 Q. 794 It would mean that the persons who felt that they could draft a letter in your

22 name?

23 A. Yes.

24 Q. 795 And felt they could draft a letter in response to that were people who believed

15:36:45 25 that they could control you in every aspect of your Council activity, isn't

26 that so? That's the only thinking that they could have had if they drafted

27 such letters.

28

29 MR. DORE: Chairman, I suggest that's conjecture.

15:37:00 30

15:37:00 1 CHAIRMAN: Sorry?
2
3 MR. DORE: That's conjecture.
4
15:37:02 5 CHAIRMAN: Oh, yes. Well it's been suggested as if -- if Mr. Creaven was to
6 accept for a moment that all of this drafting took place.
7
8 Now, he says in fairness, he has no memory and my understanding is that he is
9 taken aback at that suggestion.
15:37:21 10
11 But if all of this drafting did take place by Mr. Dunlop and/or Mr. Lawlor as
12 Mr. Dunlop suggests.
13 A. Did Mr. Dunlop say that he did that and that he signed my name or?
14
15:37:34 15 CHAIRMAN: No, no. But that he drafted the letters as we've seen on the
16 screen
17 A. Yes.
18
19 CHAIRMAN: And I think you were able to follow them on the small screen down
15:37:42 20 there and Mr. Dunlop's evidence was that your signatures were procured and that
21 this correspondence was sent to the addresses as suggested
22 A. The chairperson and....
23
24 CHAIRMAN: And what Mr O'Neill is suggesting to you is that if all that did
15:38:00 25 take place, if it all took place
26 A. Yeah.
27
28 CHAIRMAN: That would suggest that Mr. Dunlop was exercising a significant
29 degree of control
15:38:09 30 A. If it took place.

15:38:11 1
2 CHAIRMAN: Of the Council affairs, if it did
3 A. If it did.
4
15:38:15 5 CHAIRMAN: If it did
6 A. And fair play. 'If' isn't it.
7
8 CHAIRMAN: And Mr. O'Neill is asking you, would you agree that if all that
9 took place, that that's what it would suggest? A degree of control, very
10 significant control being exercised by Mr. Dunlop?
11 A. I find, you know, you're putting me in an awful position. You're saying if it
12 happened.
13
14 CHAIRMAN: If
15:38:38 15 A. And I have to say then ...
16
17 CHAIRMAN: We're not asking you to tell us if this isn't your position. We're
18 not asking you to tell us yes, it did happen
19 A. But --
15:38:48 20
21 CHAIRMAN: And that there was that degree of control. We're saying if it
22 happened.
23 A. If.
24
15:38:55 25 CHAIRMAN: It would suggest. It's not a trick question
26 A. It sounds it to me.
27
28 CHAIRMAN: Oh, no, it's not a trick question. We're just saying if it did
29 happen, as Mr. Dunlop suggests it did, then it does suggest a degree of control
15:39:10 30 of the Council by Mr. Dunlop. It seems to suggest that.

15:39:16 1 A. Then you would be coming to a wrong conclusion.
2
3 CHAIRMAN: Your evidence, as I understand it, is that these things didn't
4 happen
15:39:26 5 A. Precisely.
6
7 CHAIRMAN: So therefore, there wasn't that degree of control
8 A. Right.
9
15:39:31 10 CHAIRMAN: And the proposition that was put to you. If it did happen
11 A. If.
12
13 CHAIRMAN: You say that you don't believe it did happen>
14 A. Yes.
15:39:38 15
16 CHAIRMAN: But if it did, then it would suggest a degree of control, which
17 would surprise you?
18 A. Yes.
19
15:39:45 20 CHAIRMAN: Isn't that right? I think that's ...
21
22 MR. O'NEILL: Really what I was hoping to establish, if I could, through you,
23 Mr. Creaven, was whether or not there is any other or any explanation that
24 occurs to you which might account for the existence of this documentation.
15:40:03 25 Because we do have the documentation
26 A. Yes.
27 Q. 796 You appreciate that?
28 A. Yes.
29 Q. 797 The documentation on its face suggests a certain scenario. An orchestrated
15:40:14 30 exchange of prearranged correspondence. The answer being drafted at the same

15:40:20 1 time as the question being answered?

2 A. Uh-huh.

3 Q. 798 All of that documentation is available to us. It hasn't been generated by the

4 Tribunal in any way.

15:40:31 5

6 The Tribunal has to view this documentation and say

7 A. Okay.

8 Q. 799 And say how did this come into existence. What is its purpose. Who knows of

9 it and why.

15:40:41 10

11 Now, a number of scenarios can arise. One of them could be that Mr. Dunlop

12 drafted this documentation without your knowledge, right?

13 A. Uh-huh.

14 Q. 800 That he endeavoured to, in some way, get it on to the files of the Council

15:40:56 15 without ever involving you at all?

16 A. Uh-huh.

17 Q. 801 Perhaps by forging your name on the document or something of that nature. That

18 would be one avenue of approach, right? Another one would be the one which he

19 offers to the Tribunal. Namely, that he drafted the documentation and he went

15:41:12 20 to you with it, that he put the documentation in front of you. And that he

21 required your signature and that you signed it.

22

23 Now, that one you reject absolutely. You say --

24 A. I have no recollection whatsoever of that situation.

15:41:24 25 Q. 802 Right. So it's in respect of trying to establish whether there is other -- any

26 other avenue?

27 A. Yes.

28 Q. 803 Which would explain the existence of that documentation that I'm asking you the

29 questions that I am. It's not to trap you in any situation. It is merely to

15:41:45 30 try and see whether there is any other logical reasonable possible explanation?

- 15:41:47 1 A. I understand.
- 2 Q. 804 For the existence of this document?
- 3 A. I understand.
- 4 Q. 805 Do you understand?
- 15:41:52 5 A. I understand.
- 6 Q. 806 Do you know of any reason which -- or reason why such documentation might have
- 7 been generated?
- 8 A. No.
- 9 Q. 807 That thank you, Mr. Creaven. Sorry, just one moment. Thank you.
- 15:42:15 10
- 11 CHAIRMAN: Do you remember, Mr. Creaven.
- 12
- 13 CHAIRMAN: Sorry, I should have ask you, do you wish to ask your client?
- 14
- 15:42:26 15 **^WITNESS WAS CROSS-EXAMINED BY MR ROBERT DORE AS FOLLOWS:**
- 16
- 17
- 18 Q. 808 It has been suggested that you work in harmony with Mr. Cosgrave, there's
- 19 nothing sinister in that, is there
- 15:42:33 20 A. No.
- 21 Q. 809 You were both pro-development?
- 22 A. Yes.
- 23 Q. 810 In relation to the documents referred to the 12th of May 1993. 2nd of June
- 24 1993 and memorandum of the 14th of June 1993. For clarification purposes. Had
- 15:42:44 25 you any hand, act or part in the drafting of these documents?
- 26 A. No.
- 27 Q. 811 Did you sign those documents to the best of your recollection? These are
- 28 documents that it is suggested were drafted by Mr. Dunlop?
- 29 A. No, no, no,.
- 15:42:58 30 Q. 812 You have no recollection of signing those documents?

15:43:00 1 A. None, whatsoever.

2 Q. 813 Would it be fair to say that Frank Dunlop in some way controlled you?

3 A. I don't think so, that wouldn't be fair.

4

15:43:09 5 CHAIRMAN: I was just going to ask you, Mr. Creaven. Do you recall, I know

6 you were -- you knew and you were quite friendly almost with Mr. Dunlop

7 A. Yes.

8

9 CHAIRMAN: And I know in other Modules you've described how he would have

15:43:24 10 lobbied you or talked to you?

11 A. Yes.

12

13 CHAIRMAN: About other projects that he was involved?

14 A. Yes.

15:43:32 15

16 CHAIRMAN: Can you remember specifically in relation to this Module if

17 A. He didn't have any need

18

19 CHAIRMAN: If he approached you on this one

15:43:41 20 A. He didn't need. I was pro-development of Baldoyle day one, irrespective of who

21 owned it.

22

23 CHAIRMAN: Yes. But leave that aside. Do you remember if in fact he did talk

24 to you about Baldoyle

15:43:52 25 A. Oh, I'm sure he did.

26

27 CHAIRMAN: Do you --

28 A. I can't recollect the conversations. I'm sure he would have.

29

15:43:59 30 CHAIRMAN: And do you remember the great difference about Baldoyle as compared

15:44:04 1 to Mr. Dunlop's other projects, was that he had himself an interest?

2 A. That never occurred to me. I knew that he had an interest in it.

3

4 CHAIRMAN: Well, do you remember if he spoke to you or lobbied you on the

15:44:18 5 basis that I'm an owner or I've an interest?

6 A. Oh, yes. He was very forthcoming on that.

7

8 CHAIRMAN: And so you remember that?

9 A. I do, yeah.

15:44:30 10

11 CHAIRMAN: All right.

12

13 JUDGE KEYS: There is just one point.

14

15:44:37 15 To clarify one point. When you say you have no recollection of signing the

16 documents. Are you saying that -- when you say that you have no recollection

17 of that. Could mean, and I'm putting this proposition forward to you. That

18 you did sign them but you have no recollection of signing them?

19 A. No, that's not what I meant.

15:44:56 20

21 CHAIRMAN: Well, what do you mean when you say that?

22 A. I mean that I have no recollection of signing them in spite --

23

24 JUDGE KEYS: You see the point I'm making

15:45:06 25 A. How can I answer the question other than I did.

26

27 JUDGE KEYS: That's just what I'm trying to clarify with you. In fairness to

28 the evidence that you are giving, so that it can be absolutely clarified for me

29 and for my colleagues. That when you say that you have no recollection of

15:45:17 30 signing them. Do you mean by that that you did not sign them or you could have

15:45:21 1 signed them but you have no recollection signing them?
2 A. Gee, I cannot recall signing these documents. If I did recall I would tell
3 you.
4
15:45:40 5 JUDGE KEYS: Yes. I see. That's as far as you can go
6 A. That's as far as I can go.
7
8 JUDGE KEYS: Thank you very much.
9
15:45:47 10
11 MR DORE: Just by way of clarification. Do you believe that you signed those
12 documents no.
13 Q. 814 Just one other question, Mr. Creaven. Did you receive any payment from anybody
14 in relation to the lands, the subject matter of this Module?
15:45:58 15 A. No, definitely not.
16
17 CHAIRMAN: All right. Thank you very much, Mr. Creaven
18 A. Thank you.
19
15:46:02 20
21
22 **THE WITNESS THEN WITHDREW.**
23
24 CHAIRMAN: Half ten tomorrow?
15:46:05 25
26 MR. O'NEILL: Yes. Half past ten. The first witness is Councillor Ridge, has
27 indicated that she is not available initially tomorrow but will be available
28 later in the morning.
29
15:46:19 30 CHAIRMAN: All right. Thank you.

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15:48:45 5
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THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,

THURSDAY, 14TH DECEMBER, 2006, AT 10.30 A.M.