

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY, 23RD JANUARY,

2 2003 AT 10.30 AM:

3

4

5

6 MR. GALLAGHER: Sir, before Mr. Dunlop resumes his evidence, I understand Ms.

7 McCrann has an application.

8

9 MS. McCRANN: I am obliged to you for taking this application at this time.

10 I appear on behalf of Frank Finnegan, instructed by Cogan Daly & Company

11 Solicitors and I am seeking representation on Mr. Finnegan's behalf. He has

12 been assisting the Tribunal and will be giving evidence I believe in the coming

13 weeks. I am seeking representation on his behalf.

14

15 CHAIRMAN: Yes, I'll accede to that application, limited representation. One

16 solicitor and one counsel.

17

18 MS. McCRANN: I am very much obliged to you. May it please you. I am very

19 much obliged to you.

20

21 MR. GALLAGHER: Mr. Dunlop, please.

22

23 CHAIRMAN: Ms. McCrann, if you wish at any point to be joined by silk, you can

24 renew the application and we'll look on it as --

25

26 Ms. McCRANN: Thank you very much, Mr. Chairman, thank you.

27

28

29

30

1 CONTINUATION OF DIRECT EXAMINATION OF MR. DUNLOP

2 BY MR. GALLAGHER:

3

4 Q 1 MR. GALLAGHER: Good morning Mr. Dunlop.

5 A Good morning.

6 Q 2 Mr. Dunlop, you were paid by Mr. O'Halloran, by Mr. Kilcoyne and by Professor

7 Darragh I think a total of 1,670 pounds by each, is that correct, at the

8 initial stages. That's June of 1997.

9 A In relation to the agreement in 1997, yes, that is correct.

10 Q 3 Perhaps just for the record, we can have some -- page 3779, page 3483, and page

11 3782. They are the three cheques that were paid to you at that time?

12 A Yes.

13 Q 4 And I think of the -- you may not be aware of this but of the sum of 1 --

14 sorry, I'll leave that.

15

16 I think that in July, 1997, you were contacted by Mr. O'Halloran, may I have

17 page 3490, who made you aware of a proposal by the consulting engineers

18 employed by Dun Laoghaire/Rathdown County Council and the NRA to compulsorily

19 acquire part of the lands for a water attenuation proposal connected with the

20 southeastern motorway.

21 A That is correct, yes.

22 Q 5 And you were asked, I think, to do what you could in relation to that by making

23 representation, is that correct? If you look at the final paragraph, he asked

24 you to say, asked you as follows, "I would ask you to look into that matter for

25 us in your own inimitable way because of the dire consequence it now imposes."

26 A That is correct.

27 Q 6 I think it's fair to say that Mr. O'Halloran and his partners were unhappy

28 because they felt that there were other larger holdings of land that could be

29 acquired or made available rather than their, as they saw it, rather limited

30 holding of 22 acres or thereabouts.

1 A Well, I think the circumstances, Mr. Gallagher, were that this matter arose,
2 not necessarily out of the blue but as far as Mr. O'Halloran and his colleagues
3 were concerned, it arose in the context of their efforts to have their -- the
4 land rezoned and they felt that they were being particularly penalised in the
5 number of acres that were being designated for a floodplain I think is what it
6 was envisaged.

7 Q 7 Yes.

8 A And as is evident from the content of that letter on the 3rd July 1997, Mr.
9 O'Halloran asked me to see what I could do about it or how I could in any
10 way --

11 Q 8 What did you do?

12 A Well, perhaps it's better if I say to you what I did not do. I did not make
13 any contact with any official of Dun Laoghaire/Rathdown Rathdown council. I do
14 recall talking to a number of councillors in the particular area but I don't
15 recall doing anything else.

16 Q 9 I see. When you say you talked to them, did you make representations to them
17 to --

18 A Well if you interpret talking to councillors about this matter and the effect
19 it would have on any proposal that there was or motion that there would be in
20 relation to having the land rezoned, obviously was going to have a negative
21 effect and if any of them had any information or could talk to any official in
22 relation to this matter, it would be inordinately helpful. I do recall having
23 a specific conversation with Councillor Betty Coffey about this matter but then
24 Mr. Brian O'Halloran was talking to Betty Coffey on an on going basis about a
25 variety of matters in relation to the land. As it turned out, as I recollect,
26 the matter was resolved by Mr. O'Halloran himself and professional engineering
27 advisers.

28 Q 10 Agreement was reached with the council in relation to the acquisition of a
29 smaller portion of land.

30 A Correct.

1 Q 11 But who else, apart from Councillor Betty Coffey did you approach?

2 A Well, I recall I would have mentioned this matter because obviously it was a
3 matter in relation to the Development Plan and zoning proposal would be Liam
4 Cosgrave, Tony Fox, Betty Coffey, Larry Butler, and I don't recall having any
5 other conversations or making any other representations to anybody about it.

6 Q 12 Well, did you ask all or any of those councillors to make representations on
7 your client's behalf to have the area of land reduced or to change the -- to
8 change the location of the proposed attenuation scheme?

9 A No, I did not.

10 Q 13 What was the purpose in talking to them about it?

11 A Well, the purpose in talking to them about it was, first of, all to bring it to
12 their attention, to highlight the difficulty that would result from the
13 acquisition of this land for floodplain in relation to the client, and if there
14 was any information that they could gather from officials in their daily
15 contact with officials about the matter. But as matters proceeded, it was
16 evident from correspondence and conversations with Brian O'Halloran that the
17 matter was being dealt with professionally.

18 Q 14 Yes. That wasn't until January, 1998.

19 A Yes, it took some time.

20 Q 15 So that you say you weren't asking to make representations but you were asking
21 them to try to find out information for you?

22 A Yes.

23 Q 16 Did they find information for you?

24 A I do recall Betty Coffey telling me that she'd a number of conversations with
25 the manager of Dun Laoghaire/Rathdown council and by using the phrase manager,
26 Mr. Gallagher, I am not saying the County Manager, it could well have been the
27 planning manager but the phrase is she had conversations with the manager in
28 relation to the matter and that it was their intention to go ahead with this
29 but there would be on going discussions with Brian O'Halloran and his
30 colleagues.

1 Q 17 Did any of the other councillors you name come back to you with information?

2 A Larry Butler.

3 Q 18 What did he tell you?

4 A Something similar.

5 Q 19 Did Councillor Cosgrave do anything for you, did he find out any information or

6 did he report back to you?

7 A I can recall telling Councillor Cosgrave in the same manner that I told you I

8 told the other councillors. I don't recall having any further conversation

9 with Liam Cosgrave about the matter.

10 Q 20 And how about Councillor Tony Fox?

11 A No.

12 Q 21 When you say no, do you mean --

13 A No, he did not come back to me.

14 Q 22 In August of 1997, on the 27th August -- sorry, 22nd August, Mr. O'Halloran

15 wrote to you and gave you three copies of a submission which he had handed in

16 to the county council area that morning, that's submission number 292 which is

17 on page 2128 please. If you now turn please to 3503. You see a letter from

18 Mr. O'Halloran to you confirming that he had handed in three copies of the

19 enclosed submission to the county council on that date and he went on as

20 follows: "At our meeting here on Wednesday last, we discussed that I should

21 prepare the briefing documents that you might distribute to the members with

22 whom you will be in contact during the next few weeks in order to put them into

23 the picture on the details of our submission."

24

25 Can you tell the Tribunal about what arrangements you made with Mr. O'Halloran

26 to prepare a briefing document and what the purpose of it was?

27 A The purpose of him giving me the document?

28 Q 23 Well --

29 A Is that --?

30 Q 24 Yes.

1 A Well, the purpose for which he gave me the document, the reason he gave me the
2 documents was for me to give it to key members of Dun Laoghaire/Rathdown
3 council in relation to brief, as briefing material in relation to any proposal
4 that there might be to have the land rezoned. This would have followed on,
5 Mr. Gallagher, advice by me to Mr. O'Halloran as indeed to any other such
6 client that any documentation from professional sources highlighting the
7 positive benefits of zoning any body of land should be made available to the
8 elected members. If it is made available to the officials, it doesn't
9 necessary follow that having been made available to the officials that it is
10 then transferred to the elected members so it is a briefing material to key
11 members of Dun Laoghaire/Rathdown council in relation to the proposed or any
12 proposed zoning of lands.

13 Q 25 I take it that it was your intention to deliver this briefing document to
14 members of the council?

15 A Yes.

16 Q 26 In order to -- well perhaps you'd tell the Tribunal why they were getting it.
17 Was it to give them ammunition that they could use or give them information
18 that they could use in their supporting the proposal?

19 A Well, I wouldn't disagree with any of those phrases that you use but I would
20 say to strengthen the case so the argument that might have to be made at any
21 meeting of Dun Laoghaire/Rathdown council in relation to these lands and that
22 the councillors would be briefed. I think I told you yesterday, Mr. Gallagher,
23 that Mr. O'Halloran actually went so far as to prepare briefing notes.

24 Q 27 Well if we can please have page 3504. Is that an extract from the submission
25 made by Mr. O'Halloran? Is that the -- are they or is that the briefing note
26 that you got?

27 A Yes.

28 Q 28 I see. In his letter to you of the 22nd, Mr. O'Halloran said that "at our
29 meeting you outlined the course of action you are now likely to follow. For my
30 part I offered to help out in any area where you might consider I could have an

1 input."

2

3 Now, could you tell the Tribunal the course of action that you outlined to him

4 which you were likely to follow?

5 A The course of action was to ensure that a motion was prepared, signed,

6 delivered, agenda'd, and councillors lobbied in relation to supporting any

7 motion might appear in relation to these lands, named councillors, I might add.

8 Q 29 Named by?

9 A By me.

10 Q 30 And what councillors did you name?

11 A Well the councillors involved in this particular attempt at rezoning are Liam

12 Cosgrave, Tony Fox, Betty Coffey, Larry Butler, and in contact with Liam

13 Cosgrave, Tony Fox and Betty Coffey, they would undertake to, in turn, lobby

14 their own colleagues in their own particular parties in relation to this

15 proposal or to this land rezoning.

16 Q 31 Did you express this in terms of a hope or in terms of an arrangement that you

17 had with those councillors?

18 A No, I didn't express it as a hope. I told Mr. O'Halloran that this was what I

19 would be doing. That is the strategy that I would be following. He listened

20 to that, I think as is evident from his letter, he asked me if there was

21 anything that he could do. He was in specific contact with Councillor Betty

22 Coffey. I am now aware that he may well have been in contact with other people

23 but as of that time, in relation to the preparation of the strategy for this

24 particular rezoning, I would have told Brian O'Halloran who I was going to

25 contact and what I would ask him to do, if necessary.

26 Q 32 But how could you represent to him or assure him that the councillors you have

27 named would, in turn, lobby or make contact with their colleagues, lobby is the

28 word in fact you used, lobby their own colleagues in their particular parties

29 in relation to this proposal?

30 A Because that is a matter that occurred before on occasions. You asked me

1 yesterday did I lobby councillors in Dublin County Council, I said yes I
2 lobbied all councillors in Dublin County Council, it doesn't necessarily follow
3 on every rezoning attempt all councillors are lobbied. Sometimes councillors
4 in a particular party will tell you -- sorry, did tell me that, look, I'll look
5 after lobbying or talking to people in my own group and as a result, because of
6 the nature of the relationship with those councillors, on occasion I did not
7 lobby any other councillors and that is the particular case in this instance.
8 I depended on Councillor Cosgrave and Councillor Fox, Councillor Butler and Mr.
9 O'Halloran depended on Councillor Coffey to do internal lobbying within their
10 own groupings.

11 Q 33 I see. Did you ask the three councillors that you have named, that's
12 Councillor Cosgrave, Councillor Fox and Councillor Butler to lobby on behalf of
13 this proposal?

14 A The specific answer to that question is no, I did not ask but in discussions
15 with them, this is what occurred, that they would talk to people in their own
16 parties.

17 Q 34 Are you saying that in discussing this proposal, they offered, without being
18 asked, to speak to persons in their own party?

19 A Well let me deal with that, maybe, individually then if that is more -- if this
20 is more helpful.

21 Q 35 Yes, please do.

22 A In the case of Betty Coffey, no, she would not have offered to do that.
23 Anything that Betty Coffey would do in relation to her own party would result
24 either from my discussion with her or Brian O'Halloran's discussion with her.
25 In other words, I would have said to her, Betty, if there's anything you can do
26 with the others, I'd be very grateful.

27 Q 36 Did you say that to her?

28 A Specifically -- I cannot specifically say to you that I did but I mean, I know
29 that Betty Coffey did speak to others in her political grouping in relation to
30 this matter and if you wish to take this further, Mr. Gallagher, I do believe

1 that Councillor Betty Coffey spoke to people in other parties, including Liam
2 Cosgrave, in relation to this particular proposal. In other words, what is
3 your attitude to this, what are you going to do about this? And would have
4 reported back as such to Brian O'Halloran in particular.

5

6 In the case of Liam Cosgrave, I don't believe I asked Liam Cosgrave to look
7 after others. I believe that because of the nature of the relationship with
8 Liam Cosgrave and because it had occurred before, I knew that Liam would speak
9 to various people in his own grouping. Tony Fox consistently said,
10 consistently said that he would speak to others in his party, in a variety of
11 words which I don't wish to be misinterpreted in any way and I don't mean it to
12 imply anything other than what it says and that is that, you know, I will look
13 after the others, the others being people in his own party. And to attempt to
14 assist you further, I do not recall having any conversations or making any
15 representations, writing to or discussing this proposal with, if one was to
16 look at the list of the councillors in Dun Laoghaire/Rathdown at that time, I
17 think the number of people that I would have spoken to in relation to it would
18 have been a handful because I believed that the efforts of Liam Cosgrave within
19 Fine Gael and the efforts of Tony Fox within Fianna Fail, combined with Betty
20 Coffey and Larry Butler would either guarantee or ensure that people would vote
21 for it on their recommendation.

22 Q 37 What did you understand Tony Fox to mean when he used the words "i will look
23 after the others"?

24 A In the context in which I said it to you, Mr. Gallagher, and given the caveat
25 that I entered into when I was saying it, I believe that he meant (pause) --
26 well I believe that he meant that, one, he was going to seek support among his
27 colleagues and, two, removing this particular case out of its isolation and
28 given that I have already said to you that he used that phrase on a number of
29 occasions to me, I took it to mean that he was in fact remunerating colleagues.

30 Q 38 Did he tell the names of the colleagues whom he was going to look after?

1 A No.

2 Q 39 Do you know the colleagues he looked after?

3 A I can't say that I do.

4 Q 40 Given that your role at this time was to ensure that there were sufficient

5 votes available to secure the rezoning of the land, wouldn't it be reasonable

6 for somebody to expect you to check with your contacts, the individuals to whom

7 you had spoken, to ask them what votes have you been able to obtain or what

8 support have you been able to obtain?

9 A I accept the logic of that question. I don't recall Tony Fox ever telling me

10 specifically of named individuals that he had looked after. This is a phrase

11 that he used to me on a number of occasions and it is a phrase that is

12 applicable to a system which worked. It worked on previous occasions. It's

13 not a question of my cross-examining Tony Fox and saying "who have you lobbied

14 and what guarantees have you got that you have their support?" I think I did

15 say to you sometime ago, maybe not in recent days but sometime ago that if a

16 particular councillor in a particular political party is proposing or

17 encouraging or monitoring or supporting, I should say, not monitoring, or

18 sponsoring a motion, that that in certain cases guarantees or did guarantee a

19 level of support because of the nature of that particular councillor, because

20 of the standing of that particular councillor.

21 Q 41 So far as this particular motion or attempt to rezone is concerned, that is an

22 attempt to rezone part of the Jackson Way lands and the other lands owned by

23 Messrs. Halloran etc, that's the 47.1 acres that are mentioned in the briefing

24 memo, did you establish at any stage before the vote who had committed

25 themselves to vote for or to vote against the proposal?

26 A Yes, in broad terms.

27 Q 42 And in order to do that, did you speak to Councillor Tony Fox?

28 A Yes.

29 Q 43 And did you ask him who he believed would vote in favour of the motion?

30 A Yes.

1 Q 44 And what did he tell you he believed would vote in favour of the motion? Would

2 you like to write that down?

3 A Could I have the list?

4 Q 45 Perhaps we'll give you the list of those who in fact voted --

5 A I'd like to see the members of the Dublin Dun Laoghaire/Rathdown council, if

6 you bear with me. (Document handed to witness).

7 Q 46 Can I have page 83 --

8

9 MR. O TUATHAIL: Mr. Chairman, I appear for Don Lydon and before Mr. Gallagher

10 asked a question of the witness and gives him the list from which to pick

11 persons, could he press him on his memory, his actual memory of the names.

12

13 MR. GALLAGHER: Well --

14

15 CHAIRMAN: Mr. Gallagher, what's your response?

16

17 MR. GALLAGHER: I have no difficulty in asking Mr. Dunlop in the first instance

18 to write down the names of those he can recall without looking at the list and

19 then perhaps he can have a list then and see if he --

20

21 Perhaps you mark that list one, Mr. Dunlop, for today's date, sorry, I don't

22 know what date it is but if you would please, if you can recall any names you

23 can recall without looking at the list.

24 A Now, are you asking me specifically, Mr. Gallagher, to write down the names of

25 the people that Tony Fox told me --

26 Q 47 Yes.

27 A -- would vote for this and subsequently you were going to ask me to --

28 Q 48 To look at the list to see if there's anything?

29 A -- Liam Cosgrave told me.

30 Q 49 I may do that also but what I want you to do at this stage is to, in response

1 to O Tuathail's request, to ask you to write it down from memory in the first
2 instance, that's the list of those who Tony Fox told you were going to vote in
3 favour of it and then to confirm or change or extend that after you have looked
4 at the list of councillors.

5 A But this is not a prescriptive matter. In other words, if I list from memory
6 as at this time, on this day the people that Tony Fox told me and we then look
7 at the list of people who voted and I am asked by you legitimately whether or
8 not, why did I not put a name on the list, I personally don't have any
9 difficult with that but I am just making the point for accuracy's sake. I will
10 write down as far as I can recall who Tony Fox told me was going to vote for
11 it.

12 Q 50 Yes, I accept that and I think that you have to rely on the discretion and the
13 good sense of the Tribunal to understand that sometimes people can have their
14 memories jogged by seeing --

15 A I don't have any --

16 Q 51 Unless the Tribunal has an alternative view or wishes to --

17

18 CHAIRMAN: That's right, all right.

19

20 Would you write down names as you remember them and if at a subsequent date
21 when you review the list you have some addition to make, then you'll have to
22 make it.

23

24 MR. GALLAGHER: We can show the list immediately after the list is written
25 down.

26

27 CHAIRMAN: The first thing we want is the list from memory.

28

29 (Witness writes list)

30

1 Q 52 Just so we have an identification mark on that, could you indicate what number

2 or letter you put on that?

3 A I put list one.

4 Q 53 Did you put today's date on it?

5 A No I haven't, what date is today?

6 Q 54 The 23rd January 2003.

7 A Can I just -- before I hand this over, Mr. Gallagher, may I just pause for a

8 minute?

9 Q 55 Certainly. (Pause) (List handed to Tribunal).

10 Did you speak with Councillor Liam Cosgrave concerning the voting intentions of

11 members of the council with whom he had contact?

12 A Yes, I did.

13 Q 56 This is prior to the vote.

14 A Yes, I did.

15 Q 57 And to be clear on this, what we are talking about is the votes on the 16th

16 December, 1997, is that correct? That was the --

17 A Yes, the date of the motion was the 16th --

18 Q 58 The date on which the motion was passed seeking the, or rezoning the O'Halloran

19 Darragh Kilcoyne lands and part of the Jackson Way Properties' lands.

20 A Yes, can I do a contextual exercise here for a moment, Mr. Gallagher, because I

21 very obviously followed the ruling of the Chairman in relation to making these

22 lists and what he said I can or can't do. These discussions in relation to

23 this land were not on a particular day at a particular time and that was the

24 conclusion to it. This was an ongoing exercise, you know. It just didn't mean

25 that one conversation took place and that was an end to it. It was an ongoing

26 issue because obviously people were, I don't mean to suggest there were other

27 forces at play but there were other considerations, let's call it that. There

28 were people in other parties who were making cases against it. There were

29 people who had spoken to the officials and the officials might have said well

30 look, it's not really a good thing, we have this question of the floodplain and

1 there may well have been other landowners saying look it, they shouldn't get it
2 because they happen to be on one side of the motorway.

3

4 So the point I am making is this is not a conversation that took place, solely,
5 isolatedly on a particular day. These were ongoing conversations and it could
6 mean that, for example, that Tony Fox, for example, could say to me that a
7 certain individual councillor was in favour. It doesn't necessarily follow
8 that that would actually occur on the actual day. Similarly with Liam
9 Cosgrave.

10 Q 59 What do you mean it wouldn't occur on the day --

11 A That he might not vote for, he might not be there to vote or whatever.

12

13 CHAIRMAN: Mr. Gallagher, I think it's only fair to people representing here
14 that they be told who are on that list, if their client is on the list, more
15 accurately. You can do that at the interim, we'll be rising in about half an
16 hour. Discreetly.

17

18 MR. GALLAGHER: I haven't looked at the list yet.

19

20 CHAIRMAN: It's only fair people who are here representing individuals should
21 know.

22

23 MR. GALLAGHER: I don't know whether there are individuals or not but I'm just
24 trying to establish from you what Councillor Fox told you about the people on
25 the list I haven't yet looked and their intention to support the rezoning of
26 the lands, the motions presumably which were voted on in December. Did he
27 indicate to you that he had solicited their support effectively on your behalf
28 and on behalf of the landowners?

29 A Yes.

30 Q 60 In other words, to -- correct me if I am wrong but he was saying to you I have

1 spoken to A, B and C and they are going to support you.

2 A Yes. I find myself in great difficulties about when you ask me a question of
3 what somebody said and I'm reluctant to put words into anybody's mouth but
4 obviously in personal relations with the people, you recall modes of speech or
5 whatever and Tony Fox was in the habit of saying if you mentioned a name to
6 him, he would say don't worry about him, that's fine, he'll be all right. He's
7 OK, I have spoken to him or, you know, he'll -- and on one particular occasion,
8 which does not refer to this particular developments because the councillor
9 concerned was no longer, it's not relevant -- would say he will do what I say
10 but it's not relevant to that module so when you ask me did Councillor Fox tell
11 me that he had spoken to councillors in his own party and asked for their
12 support or solicited their support, the answer to that question is yes, to the
13 best of my ability and recollection, I am telling you the type of language that
14 Tony Fox used in those circumstances.

15 Q 61 Did Councillor Liam Cosgrave say anything to you about the level of support you
16 were likely to have that he was aware of?

17 A Yes, he did.

18 Q 62 And did he tell you the names of councillors that he expected would support the
19 proposal?

20 A He -- he -- he told me in the case of one or two that they would support and in
21 the case of others that he wasn't sure, and I think the phrase used was dodgy.
22 They would be dodgy -- he wasn't sure whether they were going to actually
23 support on the day or not.

24 Q 63 Did he tell you that he had solicited or canvassed colleagues?

25 A Yes, he did.

26 Q 64 To support your proposal?

27 A Yes, he did.

28 Q 65 And did he give you the names of the colleagues he had canvassed?

29 A In discussions with Councillor Cosgrave on an ongoing basis, as with Councillor
30 Fox, their names would have been mentioned in support.

1 Q 66 Can you write down the names of whom Councillor Cosgrave said he had supported
2 or spoken to or canvassed?

3

4 MR. BURKE: Mr. Chairman, members of the Tribunal, David Burke, Junior
5 Counsel for Mr. Cosgrave, might I take this opportunity while the witness is
6 making out the list to make two enquiries? The first one is a more general
7 one, will any of these lists be circulated on a confidential or on any basis to
8 the legal representatives for the councillors here today? And, (b), and I ask
9 this as counsel for Mr. Cosgrave, will the list which is being drawn up at the
10 moment be circulated to Mr. Cosgrave's legal team on a confidential or any
11 other basis? Thank you.

12

13 MR. GALLAGHER: May I say, Sir, just suggest that I haven't seen the list,
14 obviously, nor has Mr. Burke, nor indeed has the Tribunal, and I can understand
15 the reason for Mr. Burke asking the question. I would respectfully suggest
16 that the Tribunal might consider deferring a decision until they see what, if
17 anything, appears on the list that is furnished by Mr. Dunlop.

18

19 MR. BURKE: I certainly have no difficulty with that, Mr. Chairman, I'm just
20 bringing it to you at the earliest possible moment.

21

22 (Witness writes list, list handed to Tribunal)

23

24 MR. GALLAGHER: You mentioned Councillor Larry Butler as somebody else you
25 would speak to and whose support you anticipated would be forthcoming, is that
26 correct?

27 A Yes.

28 Q 67 Did you ask Councillor Butler to canvass support for the proposal and if so,
29 what response did he give you?

30 A I recall having a meeting with Councillor Larry Butler in -- the name of the

1 hotel escapes me, Mr. Gallagher, but it's on the Merrion Road, on the way out
2 to Dun Laoghaire, at which I discussed the matter with him and he said that he
3 would -- yes, I did ask him and that he said he would talk to his colleagues.

4 Q 68 And did he talk to his colleagues or did he tell you that he had talked to his
5 colleagues?

6 A No, no, he told me that he would.

7 Q 69 Did he subsequently tell you that he had?

8 A I recall having a subsequent conversation with Councillor Butler which -- in
9 which he indicated to me that what he thought the level of support was. He --
10 I'm trying to report what Councillor Butler said to me but in talking to me he
11 spoke about another person, so I don't want to be appearing that I'm giving
12 evidence about that person, I am just saying what Larry Butler said to me was
13 that Betty was being a little bit difficult and was trying to run with the heir
14 and hunt with the hounds, and she was very anxious about it because it was
15 known that she had a personal family relationship with Brian O'Halloran and,
16 therefore, any support that she would be giving to it or attempting to get for
17 it would have to be done in circumstances where it would appear to be as very
18 very objective. In other words, that she was probably subjecting Brian
19 O'Halloran to a little more interrogation and examination in relation to the
20 proposal than she might normally have done.

21

22 But you asked me about Larry Butler. I recall a conversation in that context
23 with Larry Butler and I did meet Larry Butler on a number of occasions.

24

25 It's the Doyle Hotel on the Merrion road, I can't remember the name of it.

26 Q 70 The Tara Towers?

27 A The Tara Towers, yes. I also recall meeting Larry Butler in the environs of
28 Dun Laoghaire/Rathdown council. And now that I recall it, Mr. Gallagher, this
29 just struck me, I met Tony Fox in relation to this matter in the Marine Hotel
30 in Dun Laoghaire on a number of occasions.

1 Q 71 I did say that I would give you a copy of the list of the members of Dun
2 Laoghaire/Rathdown County Council who attended the meeting on the 16th December
3 1997. I cannot say that that's the entire complement of councillors but if we
4 go to page 3833 please -- no sorry, 833.

5

6 MR. O TUATHAIL: Mr. Chairman, again apologies, I don't wish to interrupt
7 Mr. Gallagher's examination, I appear for Senator Lydon. Before that display
8 comes up, could the attendance be shown to Mr. Dunlop on the list, separated
9 from and independent from the actual vote, any vote that took place?

10

11 MR. GALLAGHER: Certainly, what I am proposing to show is the minutes, the
12 attendance at the meeting, not how anybody voted at the meeting.

13

14 MR. O TUATHAIL: Right, yeah, no difficulty.

15

16 MR. GALLAGHER: Mr. Dunlop, you see the list of councillors who, according to
17 the minutes of a special meeting of the County Council held at the County Hall,
18 Dun Laoghaire on Tuesday, 16th December 1997 were present at that meeting.

19 A Yes.

20 Q 72 You have had an opportunity to look at that list.

21 A Mmm.

22 Q 73 Do you want to amend, change, add to or in any way qualify either of the two
23 lists that you have handed in to the Tribunal earlier?

24 A With one possible exception, Mr. Gallagher, only one.

25 Q 74 Well, will we hand the lists back to you?

26 A Would you hand me back the Tony Fox list?

27 Q 75 We'll hand it back to you and perhaps you might write a third list so that they
28 will --

29

30 CHAIRMAN: Write them out separately.

1

2 MR. GALLAGHER: In a separate list so that we can see the Tony Fox list. A
3 third list then.

4 A List 3, 23rd January -- additional name, I'll say, Mr. Gallagher, would that be
5 sufficient?

6 Q 76 Yes, additional name, well, you perhaps might mention Councillor Fox as I
7 understand it.

8 A In relation to names provided by Councillor Fox.

9 Q 77 Yes.

10 A Will that suffice?

11 Q 78 Yes. (Witness writes list, list handed to Tribunal)

12

13 MS. SMITH: Mr. Chairman, I apologise for the interruption. Mairead Smith on
14 behalf of Mr. Tony Fox, I'd also like to reiterate the application made by
15 Mr. Burke earlier on behalf of Mr. Cosgrave and I ask that that list also be
16 provided to Mr. Fox's legal advisors.

17

18 CHAIRMAN: Well, actually we are coming up to the break at this moment in time,
19 we are within about five or six minutes, I want to check who has
20 representation, I know it but I want to check it before issuing lists and I
21 think I'll rise now, get that checked and I'll come back and when we come back,
22 we'll issue the list to the councillors concerned, subject to this: That any
23 person who is marked as not having representation, the information conveyed to
24 the counsel concerned, the counsel who have representation is on a confidential
25 basis and must not be published.

26

27 MR. GALLAGHER: Well, I just ask that perhaps, I haven't had an opportunity of
28 looking at the lists, that it may be that I may wish to make a submission to
29 the Tribunal.

30

1 CHAIRMAN: Certainly. And it may be that we'll defer ruling until after the
2 break. The best thing to do is to rise now and deal with it after the break.

3

4 MR. GALLAGHER: Thank you.

5

6 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

7 AND RESUMED AS FOLLOWS:

8

9 CHAIRMAN: The following is the ruling of the Tribunal in relation to the lists
10 of name written down by Mr. Dunlop.

11

12 Those whose names were written down by Mr. Dunlop are entitled to be informed
13 of the fact, through their legal representatives, and to raise the matter in
14 cross-examination of Mr. Dunlop later, if they so wish.

15

16 They will be informed discreetly by a member of the Tribunal's legal team
17 during the luncheon recess. And if not present, by letter.

18

19 The legal representatives of Messrs. Tony Fox and Liam Cosgrave will be given
20 the entire lists relevant to their client -- sorry, the entire list relevant to
21 their client on the basis that any person named who does not have legal
22 representation will not be named publicly in cross-examination and will not be
23 contacted directly or indirectly, pending further order of the Tribunal.

24

25 This is to enable the Tribunal to inform such persons of the fact that their
26 name has been written down by Mr. Dunlop. That's the ruling.

27

28 MR. BURKE: Thank you, Mr. Chairman, that's understood.

29

30 MS. SMITH: Thank you, Mr. Chairman.

1

2 MR. GALLAGHER: Mr. Dunlop please.

3

4 CONTINUATION OF EXAMINATION OF MR. DUNLOP BY MR. GALLAGHER.

5

6 Q 79 Mr. Dunlop, before the break, you wrote out three lists, which I have now had

7 an opportunity of looking at, which have been the subject of the ruling you

8 have just heard. In the course of your evidence earlier, I asked you what you

9 understood Councillor Fox to mean when he is saying that -- when he said that,

10 and I quote: "I will look after the others." You, in response, said that you

11 understood that phrase to mean that he was in fact remunerating colleagues. Do

12 you know or have you any reason to believe that all or any of the persons named

13 on the list that you have furnished to the Tribunal were remunerated by

14 Councillor Fox in relation to the proposed rezoning of either of the parcels of

15 land in question?

16 A No. Mr. Gallagher, could I have those lists, a copy of the lists?

17 Q 80 Yes, indeed. I take it you have asked for the lists in order to assist you in

18 answering the questions that --

19 A I have said no, Mr. Gallagher, but on reflection, I just want to look at the

20 list and make absolutely certain.

21 Q 81 All right. (Document handed to witness)

22 A The answer is no.

23 Q 82 Have you any reason to believe that any of the other councillors that you have

24 mentioned here in evidence remunerated colleagues for their support in any

25 particular motion or in any particular matter?

26 A In this module?

27 Q 83 Yes.

28 A No.

29 Q 84 Does it follow, therefore, that so far as you are concerned, you do not know

30 and have no reason to believe that any of the persons named on the list -- and

1 I'm excluding the evidence that you have given in connection with Councillors
2 Cosgrave and Fox and persons whom you say you have personally paid -- but does
3 it follow that you have no knowledge of or reason to believe that money was
4 paid by any other councillor to any of the persons named on lists 1, 2, and 3?

5 A Yes, it does follow.

6 Q 85 And it also follows, I take it, that the extent of your knowledge is that you
7 were told by Councillors Cosgrave, Fox and Butler that they had spoken to and
8 were in a position to report to you on the proposed voting intentions or the
9 voting intentions of the councillors that you have identified on the lists.

10 A Yes.

11 Q 86 I see. If I may, I'll just go through the diaries as quickly as I can, your
12 diaries for the period leading up to the vote in Dun Laoghaire/Rathdown County
13 Council on the 16th December 1997. I will put the extracts on screen for you
14 so hopefully we'll get through those very quickly.

15

16 Your diaries in relation to Councillor Larry Butler, may I have page 3516
17 please for the 30th September, 1997? That indicates that you met Councillor
18 Butler on that occasion.

19 A Yes. That is correct. At 11 o'clock on Tuesday, 30th September, the entry in
20 the diary is that I met Larry Butler and the location is identified.

21 Q 87 The location in fact which has been obliterated I suggest inadvertently was
22 Tara Towers?

23 A Correct.

24 Q 88 Was that the meeting that you referred to --

25 A Yes.

26 Q 89 -- earlier. So the Tribunal can take it that the reference in the brief at
27 page 3516 for 11 o'clock is a reference to Tara Towers/L Butler.

28 A Correct.

29 Q 90 May I have the page number 3523 for the 18th October, 1997? Now I'm not so
30 sure that that is a reference to Councillor Butler, will you clarify that?

1 A No, that is a location outside of Dublin.

2 Q 91 It's an address of a house?

3 A Of a hotel.

4 Q 92 All right. So that isn't applicable. May I have 3523, the 24/11/97 please?

5 Sorry, 3532.

6 A What date, Mr. Gallagher?

7 Q 93 For the 24th of the 11th. The bottom of the page, the last entry for that

8 date, it shows 6.30, Larry Butler, DL or DR Town Hall.

9 A No, the 24th, Monday, 24th November 1997, 6.30/Dun Laoghaire Town Hall. That's

10 DL, Dun Laoghaire Town Hall.

11 Q 94 I see. Can you recall whether you discussed the Jackson Way O'Halloran lands

12 motion with him or the --

13 A Yes, I believe I did and that was the purpose of the meeting.

14

15 For clarification, Mr. Gallagher. I do believe at the meeting with Larry

16 Butler in the Tara Towers, the -- it doesn't matter now, the date, the one that

17 we have just referred to, I do believe that I did discuss on that occasion with

18 Larry Butler the possibility of him signing a motion and he refused.

19 Q 95 Did he give you a reason why he was refusing to sign it?

20 A Yes, he said he wasn't comfortable about it and he would prefer not to and he

21 would prefer if I got somebody else to do it.

22 Q 96 Did he tell you he would support it on that occasion?

23 A He -- not specifically, he said he would give me -- he would be very

24 supportive, which does not necessarily follow that he would support the actual

25 motion, he would be very supportive and he would do everything in his power to

26 help and to ensure that it was rezoned. But he did not sign the motion. I'm

27 sorry I should have said that to you earlier when I was talking about Larry

28 Butler but it's a bit difficult.

29 Q 97 Look at page 844 we see he did in fact vote for the motion in question. You

30 said that you had spoken with Betty Coffey in relation to this matter also?

1 A Yes.

2 Q 98 I just want to refer you to your diaries, if I may please. May I have page

3 2233. That's just that you had a meeting with Betty Coffey at 4 pm on that

4 date.

5 A The 24th of?

6 Q 99 Friday, 22nd November -- I beg your pardon, 22nd October 1997.

7 A 22nd October.

8 Q 100And that's 2233.

9 A Wednesday, 22nd October 1997, 1 pm, Betty Coffey.

10 Q 101And yes, you have on the 23rd, "ring Betty Coffey".

11 A Yes.

12 Q 102And on the 24th, you have an entry, "Betty C, 4 pm".

13 A Yes.

14 Q 103And you have "4.30 Tony Fox".

15 A Yes. I do recall, Mr. Gallagher, visiting Betty Coffey at her home in Dun

16 Laoghaire at least twice for discussions in relation to the lands at

17 Carrickmines.

18 Q 104And was that before the vote that was --

19 A Yes.

20 Q 105-- taken on the 16th December?

21 A Oh yes.

22 Q 106It appears you also had a meeting with Councillor Coffey on the 6th November

23 1997. May I have page 3530 please.

24 A The Thursday, the 6th November, that in fact -- Thursday, 6th November 1997,

25 that in fact, Mr. Gallagher, as I recollect it, was a Fianna Fail fund-raising

26 lunch at which the Taoiseach at the time, the current Taoiseach now as well, or

27 perhaps he wasn't the Taoiseach, sorry -- it was 1997 but that was a

28 fund-raising lunch in Dun Laoghaire at which Mr. Bertie Ahern was the guest

29 speaker and which I attended and which I paid for one or more tickets, the

30 amount escapes me but it's traceable -- it's a traceable amount.

1 Q 107Is the reference to B Coffey lunch a reference to a lunch organised by Betty

2 Coffey or a lunch at which you attended with Betty Coffey?

3 A No, a lunch organised by Betty Coffey. Betty Coffey's lunch, Fianna Fail

4 fund-raising lunch in Dun Laoghaire.

5 Q 108Just to return to Mr. Butler for the moment, the meeting on the 24/11/97 in Dun

6 Laoghaire Town Hall. Can you say what you discussed at that? I know you

7 discussed the lands but was there anything in particular spoke about at that

8 meeting?

9 A As I recall, the meeting took place by arrangement and it was to discuss his

10 support and any other support for the motion. I'm refraining and I haven't,

11 Mr. Gallagher, looked at the list that you briefly put up on the screen and I

12 cannot definitively say to you now whether Larry Butler voted for it or not, I

13 am subject to correction but I do know that obviously the meeting with Larry

14 Butler took place on the basis of his support. I think at one occasion, his

15 support was in question.

16 Q 109He did, in fact, vote for it.

17 A Well, fine.

18 Q 110Now, if I can turn to the diary entries relating to Councillor Liam Cosgrave,

19 may I have page 3510 please. The 16th September 1997. You had a meeting at

20 12.15 with Councillor Liam Cosgrave; is that correct?

21 A That's correct, that's in the diary.

22 Q 111Can you remember anything that was discussed at that meeting?

23 A I cannot specifically say to you where that meeting took place. There is only

24 one issue that I would be meeting Liam Cosgrave at 12.15 on that particular

25 date, given the circumstances and the probability and I will not say it any

26 stronger, and the probability is that that meeting was in relation to proposals

27 in relation to these lands.

28 Q 112You had a further meeting on the 21st October 1997, page 2233 please.

29

30

1 A The 21st. Yes.

2 Q 113That is a meeting at your offices?

3 A Yes.

4 Q 114Was that the meeting at which you say that money was handed over?

5 A No, no, there was no money handed over on that occasion.

6 Q 115I see.

7 A I have already given evidence in relation to the handing over of the money at

8 specific locations.

9 Q 116Sorry, it's at a later stage, yes.

10 A I am just -- perhaps you are wondering why I was pausing. Liam Cosgrave -- it

11 was rare for Liam Cosgrave to come to my offices, I hasten to add. He came on

12 a number of occasions but he wasn't a frequenter. I would say if he came

13 twice, maybe three times would be the maximum amount of times that he called to

14 my office. I always met him elsewhere. But again, in the circumstances of the

15 date and the timing and the proposal in relation to the lands in question,

16 there is no doubt that I would have been meeting Liam Cosgrave for specific

17 purposes in relation to those lands.

18 Q 117Was that a meeting at which motions were signed?

19 A Remind me again, Mr. Gallagher.

20 Q 118The four motions signed by Councillor Cosgrave and Betty Coffey were submitted

21 on the 28th October 1997.

22 A Yes, and I have already told you that Councillor Cosgrave signed the motions in

23 my office prior to the submission.

24 Q 119Do you think that was the day they were signed?

25 A I do and I believe I have already given evidence to that effect. I think I may

26 stop looking at my own diary because every time I look at diary it's confusing

27 with all of the names that are in it.

28 Q 120The entry for the 30th October 1997 on page 3527 which we have already dealt

29 with and then in relation to Councillor Fox, there's a reference in your diary

30 to meeting on the 23/9/97, and that's on page 3513, on the 23/10/97, page 2233;

1 on the --

2 A The entry in the diary for Tuesday, 23rd September 1997 is quite specific. It
3 says 11.45 Tony Fox at a location. I don't know if you have put that up on the
4 screen. And on the 23rd October in 1997, the reference is as stated "call Tony
5 Fox before 10 o'clock".

6 Q 121The reference of the 23rd September is Tony Fox at Mount Argus, is that right?

7 A Yes. It's not the church I hasten to add. There was a pub in the vicinity
8 that nominated --

9 Q 122I see. You have an entry for the 28th October 1997 on page 3527.

10 A Yes.

11 Q 123It's the Davenport Hotel. You also have an entry I should say for Councillor
12 Cosgrave for the 15/12/97 at page 2524.

13 A Yes, Mr. Gallagher, that is correct. But there is a question mark in front of
14 that. I think I have already -- I may well have already said to you that in
15 relation to that entry, it is a possibility that a meeting was set up -- I am
16 not sure whether it took place or not.

17 Q 124That is a meeting which -- well that day was the day before the --

18 A Yes.

19 Q 125-- the meeting of the council at which the vote was passed.

20 A Yes.

21 Q 126Can I refer you to a letter that was issued by Dun Laoghaire/Rathdown County
22 Council to each councillor issued on the 18th September 1997, page 4326 please,
23 4326.

24

25 We'll try 3765. That is not the number on my brief. That's the same document.

26

27 I'll summarise what the document said. There's obviously some error in the
28 numbering. It is a letter from Dun Laoghaire/Rathdown County Council to each
29 council member. It's dated 18th September 1997 and it advises them that the
30 first scheduled meeting to deal with representations, objections, following the

1 public display would be held on Tuesday, 14th October and notices of motion
2 should be lodged by the 30th September, 1997. And that is a document which you
3 produced to the Tribunal and it indicates that that was faxed, presumably to
4 you, on the 9th September 199 -- sorry on the 16th September 1997.

5

6 Perhaps I can hand you a copy. The number on this one is 4325. Would you try
7 4325 please. Yes. You see at the top, it is -- it has been faxed on the 16th
8 September, 1977.

9 A Yes.

10 Q 127 To somebody and you had that in your possession and you produced it to the
11 Tribunal. Now, there's also a document on the file, 3765 please. That's
12 another circular letter from Dun Laoghaire/Rathdown County Council from the
13 secretariat signed by Mr. Drumgoole, Assistant County Manager, dated 18th
14 September 1997 to each member of the council and re Dun Laoghaire/Rathdown
15 County Development Plan 1997.

16

17 Again you furnished that to the Tribunal.

18 A Yes.

19 Q 128 And the notes at the top indicate that the circular was faxed out by Dun
20 Laoghaire/Rathdown County Council and there is a further reference to the firm
21 of Egan Cosgrave --

22 A I don't see that, Mr. Gallagher.

23 Q 129 It's above that again. Do you see that?

24 A Yes, I do.

25 Q 130 That's a document you produced to the Tribunal.

26 A Yes.

27 Q 131 Can you say how that document came into your possession?

28 A It was faxed to me.

29 Q 132 By whom?

30 A By Liam Cosgrave.

1 Q 133 In what circumstances, at whose request was it faxed to you?

2 A I believe it was faxed to me by Liam Cosgrave on the basis that he was
3 providing me with information in relation to what was required vis-a-vis
4 motions or meetings that were going to take place in relation to the
5 Development Plan. I haven't look at the letter, the contents of the letter,
6 but it was faxed to me by Liam for the purposes of providing me with the
7 information contained.

8 Q 134 Did he provide you with any other information that he had obtained from Dun
9 Laoghaire/Rathdown County Council as a councillor?

10 A Not that I recollect, other than on one other occasion I do believe he gave me
11 a copy of an agenda which would have been circulated by the officials to the
12 members in relation to a meeting, an upcoming meeting which would have
13 contained the matters on the agenda, including motions for debate.

14 Q 135 And was that an agenda at which the Jackson Way O'Halloran lands were being
15 considered?

16 A That, I cannot say specifically.

17 Q 136 It may or may not?

18 A It may or may not but I cannot say specifically.

19 Q 137 Now you will see that in this circular letter of the 18th September, 1997, the
20 council secretariat, assistant manager, Mr. Drumgoole was informing councillors
21 to the final date for receipt of motions would remain as the 30th September
22 1997. There is another document, if I may have page 4323.

23

24 Sorry, again I'm afraid there's an incorrect reference there. Do you have a
25 different reference? Perhaps page 175. I'll arrange to give you a hard copy.

26 Obviously the numbering on my brief is not as -- I'll hand you a hard copy of
27 the document, again, it's a copy of a circular letter from the Assistant County
28 Manager in Dun Laoghaire dated 5th September to each member of the council, and
29 this was furnished by you in discovery to the Tribunal. And you will see again
30 that it was faxed, apparently from --

1

2 JUDGE FAHERTY: Mr. Gallagher, excuse me, can you try 3764? It may not be the
3 document you are referring to but --

4

5 MR. GALLAGHER: Thank you. Yes, that's the document. If you can scroll it
6 down just a little, please.

7

8 A little more -- that is the document -- the name is obliterated on that.

9 Perhaps I can show you a hard copy.

10 A I have it.

11 Q 138 You have the hard copy. It's a hard copy of the document on the screen and you
12 will see that the name Egan Cosgrave appears on the copy you have, isn't that
13 right?

14 A I have two copies, Mr. Gallagher, pages number 175 and 176. On 175 the name
15 Egan Cosgrave and a telephone number is on the top and on page 176, the names
16 are obliterated.

17 Q 139 I see. Did you receive that document by fax from Mr. Cosgrave?

18 A Yes, I did. And might I bring your attention, Mr. Gallagher, to the number
19 written in handwriting under the headline?

20 Q 140 Yes. 6614577?

21 A That is the fax number of my office and that is not my handwriting.

22 Q 141 Do you say you received this document from Councillor Cosgrave.

23 A Yes.

24 Q 142 Now, on the 22nd September 1997, Mr. O'Halloran wrote to you, page 3514 and he
25 said, "Dear Frank, I see you are now aware there is a suggestion that perhaps
26 two motions might be submitted for our lands at Carrickmines. One for
27 residential, A or A1 and a second one for industrial, E or E1. Highlighting in
28 this regard that a business park use would be particularly appropriate at the
29 location of the lands."

30

1 How did you become aware, who informed you that perhaps two motions might be
2 submitted for the lands? Two apparently conflicting and contradictory motions,
3 if you like.

4 A I'm reading Mr. O'Halloran's letter when he says "I see you are now aware",
5 maybe I'm wrong but it implies there was previous correspondence in relation to
6 this matter but -- or else it was a matter of discussion, but the fact that he
7 says "I see" would intimate to me there was previous correspondence. I believe
8 I became aware of this in discussions with Mr. Kennedy -- sorry, I beg your
9 pardon. I believe I became aware of this as a result of discussions with a
10 variety of people, including councillors, and possibly Mr. Kennedy. The
11 reason -- it may well have been, and as a matter of probability, it probably is
12 the case -- that in discussions with councillors, as I indicated to you
13 previously, on another day, that options were considered as to what might or
14 might not run with the officials at the council. And while I cannot say for
15 certain that I instigated the strategy of putting two motions or two -- as you
16 say contradictory motions forward, nonetheless, that is what was done.

17

18 The reason I mention Mr. Kennedy's name is I do recall a discussion with
19 Mr. Kennedy at some stage during this period at which he seemed to be aware of
20 what the proposals were in relation to the O'Halloran lands but I do not
21 believe that he was the instigator of that. I believe it was something that
22 arose in discussions with elected representatives, both by me and by Mr.
23 O'Halloran himself, who obviously can speak for himself also, in relation to
24 this matter but in accordance with the strategy that I outlined to you
25 previously, that all options were considered; that if on one occasion if it was
26 a business park which had the attraction of job potential etc. and there were
27 significant complaints about the fact that there was not, there were no
28 employment prospects being attracted to the Dun Laoghaire/Rathdown area and
29 they were all going elsewhere and if not, then residential.

30 Q 143 The position at the time this letter was written was that a submission, a

1 representation number 292 from Brian Meehan & Associates had been submitted on
2 behalf of Messrs. O'Halloran and his partners on the one hand and Jackson Way
3 on the other hand, seeking the rezoning of 19.09 hectares of land from
4 agricultural to industrial or residential.

5 A Mmm.

6 Q 144And that had been lodged with Dun Laoghaire/Rathdown County Council and
7 presumably you and everybody else knew that that was the position.

8 A Yes.

9 Q 145But what Mr. O'Halloran was now saying to you was that you had become aware
10 that there was a suggestion that implies to me, reads that somebody other than
11 yourself was suggesting that two motions be put down. Now, what I'm asking is
12 who suggested that two motions be put down? Who devised that strategy or
13 suggested that strategy?

14 A Yes. I accept again the logic of what you outlined and the probability is you
15 are correct. Who devised the strategy. I have already said to you it could
16 well have been me in consultation with locally elected representatives or it
17 could indeed have been one or a number of locally elected representatives for
18 the area. I cannot specifically answer you the question and say who devised
19 the strategy but there was a strategy and however contradictory it might appear
20 that is what the strategy was.

21

22 Might I just say something else?

23 Q 146Yes.

24 A You said something a moment ago in your question in relation to the submission
25 being made to Dun Laoghaire/Rathdown County Council in relation to what the
26 purposes of the rezoning for the lands was, while again I don't wish to appear
27 to be highlighting contradictions in what took place or takes place in local
28 authorities in the Dublin area, it doesn't necessarily follow that if a
29 submission is made by a professional on behalf of a client to any council, Dun
30 Laoghaire/Rathdown, Fingal or otherwise, with the objective of achieving a

1 zoning, it's what is in the actual motion that is voted upon by the members
2 that is of importance and however contradictory or strange it might appear, and
3 I fully accept that it does, that on occasion, and indeed it may be many
4 occasions, the motions that are put forward in relation to zonings might not or
5 does not necessarily follow that they accord with the actual intentions of the
6 submission.

7 Q 147 Yes. Perhaps some clarification can be gained from the letter which Mr.
8 O'Halloran wrote to you on the 7th September 1997 at page 325 -- sorry, 3521
9 please. In that letter, Mr. O'Halloran was expressing concern about the
10 attenuation area which he considered was a serious threat and he reminds you
11 that it must not be forgotten members of the council are in a position to lobby
12 the planners to partially or totally abandon that proposal because it is within
13 their power to do so. And he refers to letters which he had written to Dermot
14 Drumgoole on the 3rd October and he then goes on to say, later in the letter,
15 "There also remains one further dilemma concerning what to show on the map that
16 will be attached to the motion which you are arranging on our behalf and which
17 must be submitted by October the 28th. I have been advised that two motions
18 should be put down to get over the problem and are as follows:

19

20 1. It show all the lands similar to the map attached to the submission made
21 presumably on the 22nd August 1997. That's representation number 292.

22

23 2. To eliminate from that all of the land that is now the subject of the
24 likely acquisition by the council for the specific purpose of storm water
25 attenuation. This seems to be an ingenious approach and if you agree to it, I
26 think we should follow it."

27

28 Can you assist the Tribunal in relation to that and in relation to who had
29 advised Mr. O'Halloran?

30 A Yes, I hasten to add this is the first time I have seen this letter for quite a

1 significant amount of time, for many years. But it appears to suggest that he
2 had been advised and certainly if he was writing to me, I didn't advise him in
3 relation to that two motions should be put down so he is in effect asking if I
4 agree with the ingenious approach and whether we should follow it.

5

6 I cannot tell you, Mr. Gallagher, who advised him.

7 Q 148Right. Perhaps we can have page 2236. On the 24th October 1997, that was some
8 four days before the motions had to be lodged, he again writes to you in
9 relation to the motion "which you are arranging on our behalf".

10

11 He adds, "There are a few steps that I would like to take you through which
12 will confirm the line of approach being taken by us and the relevance of the
13 maps and text drafts which I am now sending to you. 1, in the leading up to
14 our rezoning submission to Dun Laoghaire/Rathdown County Council, I had several
15 off the record meetings with the council's senior planners.

16

17 My last meeting was held for the purpose of finding out in the event of our
18 motion coming before the council for debate what rezoning the planners would
19 support on our lands should they be asked that question. It was suggested to
20 me our rezoning submission should be in respect of two separate zonings in
21 order to keep our options open, for residential A or A1 or industrial E or E1.

22

23 Therefore, the rezoning submission, that's 292, made by us on August 22nd
24 requested either of these two use ages. However, a motion can only be put down
25 for one usage, therefore in order to retain the flexibility suggested by the
26 planners we must now put down two separate motions."

27

28 That suggests that the strategy was suggested to Mr. O'Halloran prior to the
29 22nd August 1997 and was suggested by council planners at order the record
30 meetings.

1 A That letter seemed to support that, yes.

2 Q 149Did he tell you that he had met planners and, if so, did he name them to you?

3 A My recollection, apart from anything that he wrote to me, my recollection in
4 conversations with Brian O'Halloran was that he mentioned one name that, you
5 know, that sticks in my mind. I don't recollect him mentioning more than one.

6 Q 150Perhaps you'd write down that name. If you would. You might date it today's
7 date and mark it number 4 please. (Paper marked by witness)

8

9 Now, the letter went on to suggest as follows: "We have been advised we should
10 put down one motion for the original portion of 47.1 acres and the second for
11 the reduced area of 36.85 acres. When you relate that to the earlier stated
12 need to put down separate motions for flexibility of zoning, this will result
13 in four motions, and as follows:

14 Motion one, residential A1 for land area 47.1 acres; motion two, residential A1
15 for land area 36.85; Motion 3 industrial E for land area 47.1 acres, and;
16 motion 4 industrial E for land area 36.85 acres. In respect of each motion I
17 am sending you a map to which I have affixed a suggested text. I am also
18 sending you a second copy of each in case you have a need for those and should
19 you require further copies, please get in touch with me."

20

21 And the maps which accompanied that appeared to be those which we have already
22 looked at which we have already identified which were attached to the motions,
23 that is 3745, 3746.

24 A May I draw your attention, Mr. Gallagher, to the opening letter of that
25 paragraph again that you have just outlined, which is off screen now? He says
26 something to the effect which will confirm or agree the steps being taken by us
27 or the strategy being taken by us.

28 Q 151Yes.

29 A Which would seem to suggest that notwithstanding the fact that he had meetings
30 with planners or senior planners and they may well have been the people who

1 proposed this strategy or proposed what would be done, it would indicate at
2 least at first reading by me that, you know, a discussion would have taken
3 place between us in relation to that previously, maybe I'm wrong but --

4 Q 152 We'll put that up on screen just if we may, page 2236. And the paragraph you
5 refer to is as follows: "Dear Frank, In relation to the motion which you are
6 arranging on our behalf, there a few steps that I would like to take you
7 through which will confirm the line of approach being taken by us and the
8 relevance of the maps and text drafts which I am now sending to you."

9 A Yes, which will confirm the line of approach being taken by us. Now he wasn't,
10 with respect, Mr. Gallagher, I don't think he was suggesting the "us" meaning
11 his colleagues solely, by that I mean Mr. Kilcoyne and Dr. Austin Darragh, I
12 think he may well have been including me in that.

13 Q 153 I see. He in fact sent you the draft motions and he also sent you the maps to
14 be attached?

15 A Yes, he did.

16 Q 154 And as you have already told us, you arranged with Councillor Liam Cosgrave
17 that he would sign each of the motions.

18 A Correct.

19

20 CHAIRMAN: It's just gone one o'clock, will we rise for lunch?

21

22 MR. GALLAGHER: That's fine.

23

24 CHAIRMAN: We'll sit again about ten past two.

25

26 MR. GALLAGHER: Thank you.

27 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

28

29

30

1 THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

2

3 MR. GALLAGHER: Mr. Dunlop, please.

4

5 CONTINUATION OF DIRECT EXAMINATION OF MR. DUNLOP

6 BY MR. GALLAGHER:

7

8 Q.155MR. GALLAGHER: Mr. Dunlop, I think that on the 25th November 1997

9 Mr. O'Halloran wrote to you and forwarded to you some notes about the rezoning

10 of the land, which were described as "Points to support the submission to

11 rezone the lands". May I have page 2377, please, and the following pages?

12

13 The letter on screen, Mr. Dunlop, is dated 25th November 1977. It is addressed

14 to you by Mr. O'Halloran and it refers to an enclosure, six copies of which he

15 sent to you. And he set out in that document, three-page document, the various

16 points in support of the mission to rezone the lands.

17 A. Yes.

18 Q.156Do you remember that?

19 A. Yes, I do.

20 Q.157Do you recall whether you gave that document to any councillors or can you

21 recall what you did with it?

22 A. Yes. To the best of my recollection, Mr. Gallagher, I gave some copies to

23 Mr. Fox and some copies to Mr. Cosgrave.

24 Q.158I see. Tell me, had both committed themselves to supporting the proposal

25 before they received this document?

26 A. Yes.

27 Q.159Now, the motion was listed, various motions were listed on 16th December 1977.

28 May I have page 2408, please?

29 This is a document which appears to have been generated by Dun

30 Laoghaire/Rathdown County Council and which sets out the motions, four motions,

1 in relation to the lands in question. That is the lands the subject of
2 representation number 292, and the report of the Council on that.

3

4 I don't know whether you have ever seen that before, or not?

5 A. I don't think I have, Mr. Gallagher. I don't believe I have in fact.

6 Q.160Can I take you on to the meetings of the minute on the -- held on 16th December

7 1997 at 2411? You will see on screen the minutes of the special meeting of Dun

8 Laoghaire/Rathdown County Council held on 16th December 1997 at 5 p.m.

9 The councillors present on that occasion were the following: D Boylan, F

10 Buckley, L Butler, E Coffey, B Connolly, R Conroy, LT Cosgrave, J Dillon-Byrne,

11 W Dockrell, E Fitzgerald, P Fitzgerald, T Fox, E Gilmore, L Gordon, R Green, P

12 Hand, H Keogh, D Lohan, D Lowry, D Lydon, P Madigan, D Marren, T Matthews, S

13 Misteil, O Mitchell, D O'Callahan, and F Smith.

14

15 An Cathaoirleach Councillor D Marren presided.

16

17 The officials present were Mr. K O'Sullivan County Manager, D Drumgoole,

18 Assistant County Manager, M Hodgins Senior Administrative Officer, Mr. P Tuck

19 Administrative Officer, Mr. W Murray County Planning Officer, Mr. R Cremmins

20 Senior Planner, Mr. D Irvine Executive Planner, Mr. C Ryan Assistant Planner,

21 Mr. D Daly, Chief Draughtsman Technician, Mr. F Rogers, Executive Draughtsman

22 Technician, and Ms. J Delahunty, Senior Staff Officer."

23

24 And as you will see from the minutes and numbers of representations and motions

25 arising from those were considered, including the Farrington Group

26 representation and other lands at Glenamuck.

27

28 And if we go on to page 2420 we come to deal with the representation 292

29 Carrickmines Great.

30 A. Mr. Gallagher, could I have a piece of paper, I want to write a note to you.

1 Q.161 Yes. (Paper handed to witness).

2 A. Could you revert, Mr. Gallagher, to the list of attendance at that meeting,
3 something has just struck me with the names.

4 Q.162 Yes, that is on page 2411.

5 A. This is --

6 Q.163 Would you, perhaps, hand that to the Tribunal in the first instance, please?

7 A. This, Mr. Gallagher, is a note in relation to somebody who I spoke to in
8 relation to this development who I didn't allude to earlier on and whose name
9 has not been mentioned heretofore.

10 Q.164 I see. Will you explain what you mean by -- that somebody that you spoke to?

11 A. I am conscious of the fact that you asked me earlier in the day, earlier this
12 morning, people I spoke to or made representations to or lobbied.

13 Q.165 Yes.

14 A. In relation to these lands and this particular councillor, who I am not quite
15 certain of his party designation as of now but I do believe that the
16 designation that I have given in the note is correct, but that because of a
17 connection, a family connection, I met him and I raised the matter with him.

18 Q.166 I see. Do I take it that you did not offer him or indeed he did not seek any
19 monies in respect of that?

20 A. Absolutely not.

21 Q.167 Now, the minutes of the meeting which are to be found on page 842, in fact,
22 they are on screen, perhaps, at a different page, read as follows:

23 "The following report and recommendation by the manager which had been
24 circulated was noted".

25 Were you present at the meeting?

26 A. No, I was not.

27 Q.168 The minutes continue:

28 "Summary: Request a rezoning of 47 acres from agriculture B to industrial E/E
29 1 or residential A/A1.

30

1 Report: Consideration of zoning for development of these lands is premature as
2 the lands are affected by the southeastern motorway order and lie outside the
3 area to be served by Sandyford high level water scheme.

4 Recommendation: No change."

5

6 Did you know that the manager was going to recommend that there be no changing
7 in the zoning of the lands before that meeting?

8 A. I believe I did. I believe that I think I suggested -- I said, sorry, earlier
9 today that one of the documents that I received from Liam Cosgrave was a
10 document in relation to an agenda. I think that agenda contained not only the
11 motions but also the recommendation of the manager. This would probably have
12 been less than a week prior to the actual meeting, but I do believe I knew that
13 that was the attitude of the manager.

14 Q.169 Well, I referred you earlier to a document which is to be found at page 2408.

15 Can you look at that document.

16 Just note from the -- I note from the file path at the bottom of that document
17 which was received by the Council, by the Tribunal rather, from Dun
18 Laoghaire/Rathdown County Council that that document was typed on 9/12/1997.

19 Can you see that?

20 A. Yes, I do.

21 Q.170 So, that this document which contains the manager's recommendation, report and
22 recommendation was typed certainly on the 9/12/1997, that is some week or
23 thereabouts before the meeting was held.

24 A. Yes. Could I also in that context, Mr. Gallagher, refer you to my diary 1997
25 where there are two references, one on Tuesday 9/12/1997 --

26 Q.171 Bear with me until I get the diary sorry, did you say 9th December?

27 A. Tuesday, 9th December 1997.

28 Q.172 Yes.

29 A. On top of the diary date.

30 Q.173 Yes.

1 A. And day there is the words "Dun R. (5 to 8)" I believe that relates to a
2 meeting in Dun Laoghaire Rathdown County Council from five to eight o'clock on
3 that day. And similarly on Tuesday, 16th December, which was the day the
4 actual vote took place, "Dun/Rathdown 5 to 8" I believe, I know that that is a
5 meeting, a note to myself that the meeting was taking place on that day was the
6 previous one.

7 Q.174 You also have a note, similar note for Thursday 11th.

8 A. Thursday 11th, I had missed that. Thursday 11th, I don't see that. I beg your
9 pardon, yes. Thursday 11, yes.

10 So those are dates which I believed or made those notes in my diary as a memo
11 to myself that meetings relating to the Development Plan and the possibilities
12 that the motions listed would come up.

13 Q.175 Yes.

14 A. I am just reminded of that by the date that you just --

15 Q.176 What I was interested in was your evidence that you knew prior to the special
16 meeting of 16th December 1997 that the manager was going to recommend against
17 the passing of the motions to rezone the lands in question. And I am asking
18 you whether it is possible or probable that the information in question came to
19 you through this document, which is on screen before you, and which appears to
20 have been generated by Dun Laoghaire/Rathdown County Council on 9th December
21 1997?

22 A. I don't believe, Mr. Gallagher, that I have ever seen that document.

23 Notwithstanding that it is possible, it is possible, or the alternative is that
24 I was told.

25 Q.177 You were told what the contents were?

26 A. Exactly. I was told what the attitude of the manager would be as a result of
27 this document being put into circulation.

28 Q.178 Can you recall who told you what the attitude of the manager would be?

29 A. No, I cannot, no.

30 Q.179 All right. So, the manager recommended, according to the minutes, that there

1 would be no change and the minutes then go on to refer to item 9.6 A
2 Carrickmines Great.
3 It was proposed by Councillor B Coffey and seconded by Councillor L Cosgrave as
4 follows:
5 "That Dun Laoghaire/Rathdown County Council hereby resolves that the lands
6 which are located at Carrickmines Great and which are outlined in red and
7 coloured yellow on the attached map comprising approximately 36.5 acres is
8 zoned E industrial in the Development Plan, in order to provide for high
9 quality development, which would have the beneficial effect of creating many
10 new jobs in the Dun Laoghaire/Rathdown area."
11
12 The minutes continue:
13 "Councillor E Fitzgerald declared an interest in this site and left the chamber
14 for the duration of the discussion and voting."
15
16 The following report and recommendation of the manager was read:
17 "It is considered that these lands will in the medium to long-term be suitable
18 to be zoned for industrial purpose. Until the southeastern motorway is in
19 place and adequate access to the land can be provided it would be premature to
20 zone the land.
21 In addition, the lands are outside the area of the proposed Sandyford high
22 level water supply catchment and could not presently be serviced. Even if
23 these restrictions did not apply the lands subject of the motion do not have
24 direct access to the existing road system which would in any event be
25 inadequate to cater for the development of the lands at present.
26 The only present access is agriculture access to Golf Lane. The southeastern
27 motorway scheme makes provision for an agricultural access under the proposed
28 motorway which would not be suitable for access to residential or industrial
29 lands. The medium to long-term access to these lands available for development
30 should be from the Glenamuck Road via the roundabout to the north of the

1 interchange suitably redesigned and enlarged. It is considered that the
2 proposed zoning is premature (a) the southeastern motorway is in place, (b)
3 adequate access can be provided to the lands from upgraded local road network
4 and, (c) a public water supply can be provided.

5

6 In addition, the land subject to motions 9C and 9D do not make provision for
7 the land required for the flood attenuation measures associated with the
8 proposed southeastern motorway which had been included in the southeastern
9 motorway scheme.

10

11 A roll call vote was taken which resulted as follows:

12 For the motion that I have just read: Councillors D Boylan, L Butler, B Coffey,
13 R Conroy, LT Cosgrave, W Dockrell, T Fox, R Green, P Hand, D Lowry, D Lydon, P
14 Madigan, T Matthews.

15 Against the motion (11): Councillors F Buckley, B Connolly, JD Dillon Byrne, P
16 Fitzgerald, E Gilmore, L Gordon, H Keogh, L Lohan, D Marren, S Misteil, D
17 O'Callahan. Abstentions: Nil.

18

19 An Cathaoirleach Councillor D Marren declared the motion passed.

20

21 The minutes then record that matters in relation to 9.6 B, 9.6 C, 9.6 D, they
22 are the other motions proposed by Councillors Cosgrave and Coffey were not
23 moved."

24

25 I take it that there was general pleasure among our clients; the fact that this
26 motion had been successfully passed.

27 A. Yes.

28 Q.180 Can you tell the Tribunal what happened to the two motions that had been signed
29 by Councillors Cosgrave and Fox in relation to the 88 acres of the Jackson Way
30 lands?

1 I know they finally came before the meeting of the Council on the 21st January
2 1998 and they were not moved?

3 A. Then you say, Mr. Gallagher, what happened to them?

4 Q.181 Yes, can you say what steps were being taken by you, what steps, if any, were
5 being taken by you at the time to secure the passing of those two motions which
6 related exclusively to the Jackson Way lands?

7 A. I don't think any extra steps than the steps that I would have already outlined
8 to you.

9 My recollection, while you were outlining that I was going to say those motions
10 weren't taken till January, but then you said it yourself, my recollection is
11 that is the case. They were postponed or they weren't reached at this
12 particular meeting. I think that is accurate. I think the minutes may well
13 show that. And that they were postponed to a later meeting and at that later
14 meeting they were withdrawn.

15 Q.182 Did you discuss the withdrawal of those motions with Councillor Cosgrave or
16 with Councillor Fox?

17 A. Yes, I did.

18 Q.183 Did you do so having consulted with Mr. Kennedy?

19 A. No. Mr. Cosgrave and Mr. Fox told me that they had no chance.

20 Q.184 I see. When did they tell you that?

21 A. I think in early January. I think there was a discussion between Mr. Fox and
22 Mr. Cosgrave individually and myself after this meeting on the 16th and there
23 was subsequent meetings or subsequent discussions with Councillor Cosgrave. I
24 do believe that it was Councillor Cosgrave who told me that, notwithstanding,
25 anything that I might be told by anybody else from another party, namely, Tony
26 Fox or whatever, that really he didn't believe that these -- given the attitude
27 of the managers that he did not believe that these motions would succeed, which
28 was good advice.

29 Q.185 Did you go back to Mr. Kennedy with that information?

30 A. I don't have a specific recollection of going back to Mr. Kennedy with that,

1 but I think it would be extraordinary if I was to suggest to you that I did not
2 speak to Mr. Kennedy in relation to this, after all part of his land had been
3 zoned in the context of the lands above, northwest of the motorway in
4 conjunction with the O'Halloran lands, so it was -- it is inconceivable to me
5 that I would not have discussed that matter with Mr. Kennedy.

6

7 And I don't mean to suggest to you, I want to say to you that without any
8 inference to the contrary about anything else, I found Mr. Kennedy to be a
9 realist and he always seemed to be in possession of information other than
10 information he would have received from me. He was able to confirm on many
11 occasions that what I was telling him was the case. And I believe that when I
12 told him that there wasn't much hope of any of these lands being zoned he
13 accepted that.

14 Q.186 Are you saying that he had another source or sources of information?

15 A. I have always believed that Mr. Kennedy had other sources of information, yes.

16 Q.187 Did you find them to be knowledgeable about what might emerge were
17 deliberations by politicians or by officials or by employees of the council
18 otherwise?

19 A. I don't think I ever found him any more knowledgeable than I was or indeed
20 anybody else might be in relation to any considerations that politicians might
21 have about any given body, but I do believe that he did show on a number of
22 occasions a level of knowledge about the internal workings of the Council and
23 the attitude of certain -- the Council itself and the attitude of officials.

24 Q.188 I see. Well, was that an exceptional level of knowledge or was it just
25 something that might arise from curiosity?

26 A. The only answer I can give to you in that context, Mr. Gallagher, is that if
27 you compare or contrast it with the level of knowledge other clients of mine
28 might have or might not have in relation to their own particular body of land I
29 think it was an increased level of knowledge. It was a higher level of
30 knowledge.

1 Q.189 Was it an exceptional level of knowledge in your experience?

2 A. Sorry, I couldn't remember the word that you had used. Yes, I would say it was
3 exceptional yes.

4 Q.190 Sorry, just bear with me for a moment, please.

5

6 I wonder are you right in your recollection, Mr. Dunlop, that both motions were
7 not moved at the meeting on the 21st January?

8 A. I may well be, Mr. Gallagher, I am --

9 Q.191 May I have --

10 A. Sorry --

11 Q.192 May I have the minutes page 868, please, to 891/

12 A. Can I just say to you, Mr. Gallagher, you did say in your questioning to me
13 when you said that the meeting took place on 21st January the motions were
14 withdrawn. I am sorry, I don't mean to accuse you of leading me or saying
15 something to me, I may well be correct, the fact of matters still obtain that
16 is there was little if any hope that the motions would be passed, which they
17 weren't.

18 Q.193 I may have inadvertently misled you, because I know from my own records and
19 notes here that one of the motions was not moved, I may have indeed said that
20 both motions were not moved. But Mr. Quinn reminds me that, in fact, one of
21 the motions was moved and I, therefore, ask to go to the minutes of page 68 --
22 sorry, 872 to 874 are the two pages that I am looking for.

23 You see at the bottom of page 872, if we can scroll it just a little,

24 Carrickmines Great/Jackson Way properties representation number 94?

25 A. Yes.

26 Q.194 The following motion in the name of Cosgrave and T Fox was not moved.

27 Then the next page goes on to representation number 94 again proposed by

28 Councillor Cosgrave and seconded by Councillor T Fox that Dun

29 Laoghaoire/Rathdown County Council hereby resolves that the lands at

30 Carrickmines Great coloured red on the attached map comprising about 88 acres

1 and which have been signed for identification purpose for the proposer and
2 seconder of this motion be zoned D industrial in the Development Plan to
3 provide for a high quality job creation centre for Dun Laoghaire/Rathdown. The
4 following report of the manager was read.

5 Report: The line of the southeastern motorway is regarded as the appropriate
6 boundary to the development area in this location. South of the motorway the
7 ground rises rapidly to the high amenity lands of the Carrickmines golf course.
8 No services are available or proposed for the area. In addition, it is not
9 clear how development access can be provided to this site.

10 At a special meeting of the County Council held on 16th December 1997 a motion
11 to rezone part of the site north of the motorway from B agriculture to E
12 industrial was passed.

13 Recommendation: No change of lands south of the motorway."

14

15 Then the voting is set out in the next page."The motion was put and a roll call
16 vote was called for which resulted as follows: For (10). And the following
17 voted for the motion: D Boylan, B Coffey, R Conroy, LT Cosgrave, W Dockrell, T
18 Fox, P Hand, D Lowry, D Lydon, T Matthews.

19 The following councillors voted against the motion: Councillors F Buckley, B
20 Connolly, J Dillon-Byrne, M Elliott, P Fitzgerald, E Fitzgerald, L Gordon, R
21 Green, H Keogh, S Misteil, O Mitchell, F Smith.

22

23 There are no abstentions and the Cathaoirleach Councillor Marren declared the
24 motion defeated."

25

26 Can you recall any discussion with Mr. Kennedy in or about that time and in
27 particular did you speak to him, the agreement that you say you had, that you
28 would be paid the equivalent of one commercial acre of land in the event of the
29 lands being successfully rezoned?

30 A. Yes, I recall a conversation with Mr. Kennedy along the following lines, in

1 general terms, again entering the caveat without putting words into people's
2 mouth.

3

4 You will recall that I arrived at an agreement with Mr. Kennedy initially for a
5 success fee of 250,000 pounds in relation to Jackson Way and that subsequently
6 I renegotiated that with him for the value of one commercial acre, zoned
7 commercial acre.

8 As I say I recall a conversation with Mr. Kennedy on the basis of which I
9 attempted to make the case to him that part of the lands were zoned and
10 consequently there might be a pro rata valuation or a pro rata fee. It is on
11 occasions like that that you discover, Mr. Gallagher, how commercially minded
12 and tough some of your clients might be and the answer was no.

13 Q.195 Was there -- when did that discussion take place, can you recall?

14 A. Well, I believe that discussion took place between the vote on 16th December
15 and some time prior to the vote on whatever date that is in January, the 22nd
16 or is it the 21st?

17 Q.196 Can I refer you to a document page 3750. That is a document headed "Dun
18 Laoghaire/Rathdown Council". It sets out the names of the members of the
19 council, Fianna Fáil members, Fine Gael members, Labour members, Democratic
20 Left members, Progressive, Green Party and non-party with the addresses and
21 telephone numbers blanked out. That has been done by the Tribunal. Have you
22 seen that document before?

23 A. Yes, that is my document.

24 Q.197 I see. You have indicated, marked a number of names on the left-hand side, for
25 example, you, the seven Fianna Fáil councillors have been marked with an
26 asterisk, four of the Fine Gael councillors have likewise been marked.

27 Can you assist the Tribunal by explaining what that was all about?

28 A. I can't see the full document, there is part of it knocked off.

29 Q.198 We go onto the next page.

30 A. That is fine. I believe that this is a document that I had in my possession

1 prior to the vote at which I was listing or marking potential people who would
2 vote in favour, and subsequently I believe that that is the document on which I
3 wrote the notation on the side, on the right-hand side of the page, dated
4 16/12/97, giving the vote.

5 Q.199Right.

6 A. And it is on top. Again there is something missing there, Mr. Gallagher, and
7 it looks to me like a date. It says "JW, OH, AD, G Kil; 9/ --" Something, I
8 don't know if that is a date.

9 Q.200I will get the original document.

10 A. Because if it is a date of 9th December 1997 or it may be just a time.

11 Q.201The original in fact shows "9/6"?

12 A. Maybe --

13 Q.202This is a document that you discovered to the Tribunal?

14 A. Yes, I believe I discovered this to the Tribunal.

15 Q.203I am giving the original as furnished to the Tribunal.

16

17 MR. REDMOND: Mr. Chairman, if I can be of assistance to the Tribunal I have
18 the original document here.

19 A. I don't know what that notation means.

20

21 Q.204MR. GALLAGHER: I will, perhaps, hand you the original of that document which
22 is page 3750 in the brief.

23 A. Yes, it is missing here. It may well refer to the actual number of the motion
24 on the agenda.

25 Q.205Indeed, yes. 9.6 is the --

26 A. Yes, that is what it is. Yes.

27 Q.206Can you explain the circumstances in which that document came into being? Did
28 you create that? Did you type it up or have it typed up? It is a document
29 which --

30 A. No, I don't think I had that typed up. I think -- again, perhaps, can I have

1 the original again?

2 Q.207Yes.

3 A. If I see the typeface I will be able to tell you properly. Yes, that is the

4 document I prepared in my office.

5 Q.208In the document you set out the names of the various councillors indicating

6 their party affiliation or allegiance you gave their home telephone number and

7 in some cases a work telephone and in some cases their mobile telephone

8 numbers?

9 A. Mmm.

10 Q.209On whose behalf or at whose request did you prepare this document?

11 A. I don't believe I prepared that document on behalf of anybody or on anybody's

12 request. I believe that that document was prepared by me or on my instructions

13 in my office for my own usage. It is likely, Mr. Gallagher, however, that if

14 you recall Mr. O'Halloran, if I remember correctly, requested a list of the

15 names and addresses -- or the names and party designations or, perhaps, even

16 only the names of councillors in Dun Laoghaire/Rathdown County Council by

17 letter to me at some stage during the course of this Development Plan and I

18 think I forwarded that to him in its pristine form without any notations or any

19 asterisks or references.

20 Q.210The notes that you made which appear to be dated the 16th of the 12th, were

21 they intended to indicate to you or show those who had voted for the motion?

22 A. I believe that note was made following a telephone conversation from Liam

23 Cosgrave.

24 Q.211When did you receive that telephone conversation?

25 A. I believe either the evening of the vote or the following morning.

26 Q.212Are you telling the Tribunal that in the course of or as a result of that

27 telephone call you marked off, put asterisk, against the names of those who

28 voted for the motion?

29 A. No, I beg your pardon, Mr. Gallagher, that is why I was very careful when I

30 answered you first. I prepared this list. I believe the asterisks in front of

1 the names predate the notation in relation to the actual vote, and I believe
2 the asterisks are in front of names that I and others believed would be
3 supporters or could be supporters of the motion.

4 Q.213 All right.

5 A. It is that list, it is that that I then used to make the notation. I obviously
6 had this list in my possession for the purposes of the notation.

7 Q.214 Perhaps I can hand that back to you again.

8 Do I understand you correctly to say that you had the list which was typed up
9 some time before the 16th December 1997, that you put the asterisk before the
10 names of the councillors whom you thought would support the motion before the
11 16th December 1997, and that either on the night of the 16th December 1997 or
12 on the following morning you received a telephone call from Councillor Cosgrave
13 and in the course of that telephone call you recorded on the right-hand side of
14 the page, the first page of that two-page document, the results of the vote
15 recording that seven Fianna Fáil councillors, four Fine Gael councillors and
16 two independent, totalling 13 had voted for and 11 had vote against?

17 A. Yes. And I draw your attention, Mr. Gallagher, to the second page which I
18 hadn't alluded to while it was on screen. And at the bottom it says "also
19 contact" and it names an individual whose name I do believe has not been
20 mentioned here before and it gives his home telephone number, which in my view
21 in evidence here is that -- confirms that that document was prepared in advance
22 of the vote as you have outlined.

23

24 CHAIRMAN: Mr. Gallagher, it might be a convenient moment to break for five
25 minutes.

26

27 MR. GALLAGHER: if you wish. Thank you.

28

29 The Tribunal resumed as follows after the short adjournment:

30

1 Q.215Mr. Dunlop, I want to refer you again to your diary, an entry in your diary for
2 16th December 1997 has not been circulated -- sorry, I beg your pardon, has not
3 been circulated. I am terribly sorry I misstated the date because it has been
4 obliterated from the copy given to me.

5 A. I know the feeling. I don't have a copy.

6 Q.216Do we have the orange diary, please, for 1998?

7 Mr. Dunlop, that is a photocopy of an excerpt from your diary for Friday, 16th
8 February -- I beg your pardon. Friday, 16th January 1998.

9 A. Yes.

10 Q.217Now, the motion in relation to the Jackson Way lands was dealt with on the 21st
11 January 1998, the following Wednesday apparently. The entry in your diary for
12 Friday, 16th January 1998 reads as follows: "Ring Betty Coffey and Liam C and T
13 Fox" is that correct?

14 A. That is correct.

15 Q.218Can you tell the Tribunal what that entry relates to and what the purpose of
16 telephoning the three individuals were?

17 A. In the context of the timing and the date and the vote or the, the proposal for
18 the 21st December it is probable that those telephone calls were made to elicit
19 information as to the support for the Jackson Way lands agenda'd for the 21st.

20 Q.219Can you recall anything specific about either of those or any of those
21 conversations?

22 A. Specifically, no, but I would wish to refer you to -- refer back,
23 Mr. Gallagher, to what I said earlier, that I think I did say that on advice
24 from Liam Cosgrave and Tony Fox, I didn't mention Betty Coffey in that context,
25 that both of them would have told me that there was virtually no hope for the
26 lands in question to be zoned, that the support didn't exist, and it is
27 probable, indeed likely, that during the course -- if those telephone -- if
28 those calls did take place, this is obviously a note to myself in my diary,
29 ring them, I wasn't ringing them about anything else. I have no reason to
30 believe that I was ringing them about anything else. If those calls were made

1 or if I met those individuals in this period, it was in relation to the Jackson
2 Way lands and the proposal for the vote on that, on the 21st.
3 Q.220Right. May I have page 4322, please? I am afraid the numbering is not -- the
4 document in question, Mr. Dunlop, is -- appears to be a document prepared by
5 Dun Laoghaire/Rathdown County Council in relation to item 104.

6

7 JUDGE FAHERTY: 3756, Mr. Gallagher.

8

9 MR. GALLAGHER: I beg your pardon?

10

11 JUDGE FAHERTY: 3756.

12

13 MR. GALLAGHER: Thank you, Judge, that is the document. You see that
14 document, Mr. Dunlop?

15 A. Yes, I do.

16 Q.221That is a document that you furnished to the Tribunal as part of your
17 discovery?

18 A. Mmm.

19 Q.222Can you recall seeing that document before?

20 A. Yes, I do.

21 Q.223Can you tell the Tribunal the circumstances in which you obtained it and what
22 its relevance is?

23 A. This is the special meeting of the council on 21st January 1998, the balance of
24 the lands that were not arrived at or dealt with on 16th December 1997, and
25 they relate to the motions for the Jackson Way Properties, together with the
26 report and recommendations of the manager. It is date 21st January, however, I
27 am not -- I believe that the date of the 21st January refers to the date of the
28 meeting.

29 Q.224That's right.

30 A. But I believe that that document may well have been in circulation prior to the

1 meeting and that it would have been available to the elected members on the
2 basis of an agenda for the meeting and in that regard one of the members gave
3 it to me.

4 Q.225 Who gave it to you?

5 A. Do you have the original document, Mr. Gallagher?

6 Q.226 I am afraid I don't have it here.

7 A. The reason I am just saying, I don't specifically --

8 Q.227 It is in your discovery?

9 A. I gave it to the Tribunal, yes.

10

11 MR. REDMOND: Mr. Chairman, again I can confirm the original document is
12 available.

13

14 MR. GALLAGHER: Perhaps we can hand you the original.

15 A. Yes, I discovered this document to the Tribunal, unless there is a specific
16 notation on it telling me where I got the document I cannot specifically tell
17 you now -- that is not the original, that is the photocopy, and there is
18 something missing from the top of it.

19

20 Okay, well, there is either something missing from the top of this document --
21 -- notwithstanding any of that I provided this document to the Tribunal at an
22 earlier stage from documentation that I had in my possession. There is no --
23 -- only one way that I would have received this document, that is from an
24 elected member. I would not have received this from an official and I
25 certainly did not receive it from my client. As a consequence given the name
26 on the document in relation to the proposal of the motion I can only say it
27 must have been one from or other of those.

28

29 MR. GALLAGHER: The names that are on the document are Councillors Liam
30 Cosgrave and Tony Fox.

1 A. Yes.

2 Q.228Are you saying that it must have come from one of those?

3 A. Given the consistency that I have -- given the consistency of the provision of
4 documentation that I have outlined already I have to say that it is either one
5 of those, but I am not going to speculate as to the likelihood of which one it
6 was because I cannot be certain.

7 Q.229All right.

8 A. Can I ask you something, Mr. Gallagher? Those notations on that document they
9 are not my notations, that is not my hand writing. Were there -- they are not
10 mine. I don't believe those are my notations. However, I do believe that the
11 paragraphs "report and recommendation" encircled or within the square that was
12 carried out by me, those notations --

13 Q.230If seems to suggest -- the notes at the top of the document appear to be the
14 names of councillors?

15 A. I know what the notation means, Mr. Gallagher.

16 Q.231What does --

17 A. My interpretation of the notation as I look at it now is that in another hand,
18 other than mine, somebody has written down the names of councillors and after
19 it they have written either "A" which I interpret to mean "against" or "F" for
20 "for" And that this was -- this notation was provided by somebody else
21 prior -- sorry, it cannot be prior.

22 Q.232Well, will you, please, read for the Tribunal so far as you can what the
23 handwritten notes on the screen are?

24 A. I fail to decipher the first one. The second one is "Hand F, Lowry F, Marren
25 A, Mitchell A" the first one it has now struck me is "Elliott".

26 Q.233Is the first one Elliott?

27 A. Elliott Mary, Councillor A, against; Hand, and I am now interpreting, Pat, Fine
28 Gael, for; Lowry Donal, Fine Gael, for; Marren Donal, Fine Gael, against;
29 Mitchell Olivia, Fine Gael, against and is my interpretation of that.

30 Q.234The Christian name of the individual councillors is not shown?

1 A. No, that is what I am saying, I am interpreting the names.

2 Q.235As written it seems to be Elliott with the letter A, presumably, against?

3 A. Yes.

4 Q.236Hand with the letter F behind it presumably for, Lowry F, for; Marren A

5 against; and Mitchell A; against. Is that so?

6 A. Correct.

7 Q.237Tell me, are all of those councillors associated with one political party?

8 A. No, Mary Elliott, Fine Gael, Pat Hand, Fine Gael, Donal Lowry -- sorry, I beg

9 your pardon. They are. Mary Elliott, Fine Gael, Pat Hand Fine Gael, Donal

10 Lowry Fine Gael, Donal Marren Fine Gael, Olivia Mitchell, Fine Gael.

11 Q.238That seems to suggest that whoever gave you this document had been in contact

12 with those five members of Fine Gael?

13 A. Well, a point has struck me, Mr. Gallagher, again I said to you earlier while

14 the date on the document was the 21st January, and that referred to the date of

15 the meeting I believe that this document was in circulation prior to the

16 meeting and that the likelihood was that I had it in my possession prior to the

17 meeting. However, as I look at the document now it appears to me that this

18 document came into my possession from somebody who noted the document either at

19 the time of the meeting or shortly thereafter and then gave me the document, or

20 the document was in my possession and the person who put the notes on it in

21 relation to the votes put it on the document that I had.

22 Q.239Now, if we look at page 874 if we may, please, this is the result of the vote

23 on the motion which was proposed by Councillor Liam Cosgrave and seconded by

24 Councillor Tony Fox proposing the rezoning of 88 acres of the Jackson Way lands

25 from agricultural to E industrial.

26

27 We see that among the councillors who voted for the motion on that occasion

28 were Councillors P Hand of Fine Gael and Councillors D Lowry of Fine Gael. And

29 among those who voted against the motion were councillors M Elliott of Fine

30 Gael, councillor D Marren of Fine Gael and councillor Olivia Mitchell of Fine

1 Gael.

2 A. Correct.

3 Q.240The 16A, I suggest, might indicate the number of people, the number of voters

4 or councillors who were expected to vote against the motion?

5 A. Yes, I accept the logic of that question, Mr. Gallagher. It could also be a

6 note that was appended post the vote.

7 Q.241Well, is that 16A in your handwriting?

8 A. No, no, no. None of that notation on the top right-hand section of the

9 document that you have handed to me is in my handwriting.

10 Q.242When do you think you received this document into your possession?

11 I thought you told the Tribunal that you had received it you thought prior to

12 the vote on the 21st January 1998?

13 A. Yes, what I said was, and the probability exists, that I had this document in

14 my possession prior to the meeting of the 21st, given that it was in

15 circulation prior to that. And the only explanation I can give to you,

16 Mr. Gallagher, is that either the person who gave it to me subsequently in my

17 presence noted the people who voted for and against in a particular party.

18 I would not be making notes about who voted for or against from one political

19 party only.

20

21 I believe that this notation on this document was obviously carried out by a

22 person of the same political disposition as the people who are named. I did

23 not make those notes. I cannot give you an explanation as to how the document

24 with the notes, because it is the document that I discovered, came into my

25 possession. But, nonetheless, I have only one source for such document and

26 that is elected members, so it has to be an elected member.

27 Q.243Can I point out to you that there are a number of Fine Gael councillors who

28 voted for that motion whose names don't appear on handwriting in that document?

29 A. Correct.

30 Q.244They would include Councillors Liam Cosgrave and William Dockrell?

1 A. Yes.

2 Q.245 If one was writing out the names of Fine Gael councillors who voted for and
3 against one would expect, would they not, the names of all councillors
4 concerned would be included?

5 A. Yes.

6 Q.246 Does it not, therefore, follow that it is more likely than not that the
7 notation on this document, the notes were made prior to the 16th -- sorry,
8 prior to the 21st January 1998 or prior to that date?

9 A. That is conceivable, yes.

10 Q.247 Well, apart from being conceivable is it not more likely --

11 A. Sorry, yes, it is -- is it more likely or likely? It is likely given that I
12 cannot give you a definitive specific explanation as to how the document came
13 into my possession and given that it is not my handwriting. But given your
14 question, yes, it is likely that it is a list of people that might vote for,
15 but the same argument applies, Mr. Gallagher, that if that was the case, and
16 while I cannot from the witness box now give you the explanation for what I am
17 going to say now, if that was the case then other names would have been on the
18 list. Why, for example, are the names of, you know, why is, you know, LT
19 Cosgrave and W Dockrell's name not on the list given that they voted for, and
20 given that one certainly of those two names was a definitive vote for prior to
21 the vote?

22 Q.248 Well, one possibility that occurs to me is that this document was given to you
23 on or certainly before the vote, and that it was given to you by somebody who
24 had done a review or an estimation or an assessment of the likely outcome of
25 the vote, had established how five members of Fine Gael were going to vote and
26 had come to the conclusion that there would be a total of 16 votes against.
27 And having written all of that on the document it was then given to you.

28 A. That is a distinct possibility, but I wish to again enter the caveat that I
29 find it difficult to see or to envisage a situation where people could, with
30 authority, tell me that there were going to be 16 against. I think it is more

1 likely that that notation was made at the time of the vote with the specific
2 16A listed.

3 Q.249 You see, I find that -- I can't reconcile that with your suggestion that it was
4 given into your possession before the vote.

5 A. Mr. Gallagher, I don't have any difficulty about confronting the contradiction
6 of what -- or the apparent contradiction in what I am saying.

7 What I wish to make absolutely clear is that that is not my handwriting and,
8 secondly, that I find it difficult, given what I know in relation to the
9 operations of the council and the councillors that that would have been
10 prepared in advance, particularly in circumstances with the 16A attached. I
11 can see how it would have been done at the time of the vote or shortly
12 thereafter, and it looks to me, as I have said to you already, that there seems
13 to be something missing from the top of the page. There is something above
14 Elliott A for example. There are two lines that I can see above Elliott A that
15 could mean that there is something else attached.

16 Q.250 Sorry, could I have the original because I am afraid I cannot see --

17 A. Mine is a copy as well.

18 Q.251 Mr. Dunlop, the document that you have handed to me now through the Registrar,
19 and which as I understand it is the original document that you have, I suggest
20 that that is clearly a copy?

21 A. Correct, so there is no misunderstanding of language. It is the original
22 document that I submitted to the Tribunal but that in itself is a copy.

23 Q.252 Indeed. And insofar as the Tribunal is concerned, and indeed as far as I am
24 concerned, the -- if there was something written on this document above the
25 word "Elliott" I find it impossible to say. Perhaps we can hand it to the
26 Tribunal.

27

28 Can the Tribunal take it, Mr. Dunlop, that you don't have any more original
29 or -- you know what I mean a first copy?

30 A. No. The Tribunal, Mr. Gallagher, has any documentation that I ever had in my

1 possession in relation to these matters.

2 Q.253 Can the Tribunal also take it that you do not recognise the handwriting on that
3 document?

4 A. No, I don't. I have to say I do not recognise the handwriting. Are you
5 leaving this matter, Mr. Gallagher? Are you departing from this particular
6 document?

7 Q.254 Is there any --

8 A. I just want to -- so there is no misunderstanding, I have said to you that in
9 all likelihood I was in receipt of that document between the 16th December 1997
10 and the 21st January 1998 and I believe that that document was prepared prior
11 to the date that is appended to the 21st January 1998. I -- that is point
12 number one.

13 I have been in receipt of significant numbers of documents in relation to
14 matters for agenda in various councils so I find it inconceivable that I would
15 not have been in receipt of that document prior to the meeting.

16

17 The second point, to repeat what I said, was that I do not recognise the
18 handwriting, it is not my handwriting, and that I find it difficult to believe
19 that that listing listed on the top right-hand of the document was prepared
20 prior to the meeting.

21

22 Unless I was making myself very opaque I just want to make that clear. I just
23 make it clear. I do accept I had possession of that document, as I had
24 possession of agendas for meetings in the wider Dublin County Council many
25 times in the past supplied to me by elected members.

26 Q.255 Were you at that meeting of the 21st January 1998?

27 A. No, I was not. I attended no meeting of Dun Laoghaire/Rathdown Council
28 subsequent to the establishment of Dun Laoghaire/Rathdown Council as a separate
29 entity.

30 Q.256 So, it follows that if somebody wrote 16A, somebody other than yourself wrote

1 16A on that document, as they did, that that was written after the council
2 meeting and not at the council meeting?

3 A. Mr. Gallagher, there is no doubt about it, if somebody other than myself -- I
4 did not write it. That is why I raise this issue again with you. I did not
5 write it. It is not my handwriting. And I find it difficult to believe -- no
6 matter how skillful you might wish to suggest that I or others are in relation
7 to being able to tell what way the vote would go, I find it difficult to
8 believe that anybody could have made that note prior to the meeting.

9 Q.257You have given evidence that you, from time to time, received documents issued
10 by Dun Laoghaire County Council from Senator Cosgrave, isn't that right?

11 A. That's correct, yes. I gave evidence this morning that I received documents by
12 fax from Egan Cosgrave, and I do believe that on other occasions I was handed
13 documents by Councillor Cosgrave.

14 Q.258Do I take it from your evidence that you have no recollection of receiving this
15 document by fax from Councillor Cosgrave or having been handed that document by
16 Councillor Cosgrave?

17 A. No, and the reason I believe that Mr. Gallagher is because it is a copy that I
18 have in my possession.

19 Q.259Do you ever recall receiving documents that had been issued by Dun Laoghaire
20 County Council from Councillor Fox?

21 A. I don't believe that I -- no, I cannot answer that specifically. I may well
22 have done, the likelihood is that I could have, but I cannot say I did not
23 specifically.

24

25 I had met Councillor Fox who had in his possession documentation for the
26 purpose of the meeting, any meeting I had with him which he referred to or
27 showed me in relation to specifically what the attitude of the officials in the
28 council would be to any particular motion, but I cannot say specifically to you
29 that he ever handed me any such documentation or sent me any such
30 documentation.

1 Q.260I want to go back to the meeting of the 16th December, if I may for a moment.

2 Following that meeting on the 18th December 1997 Mr. Brian O'Halloran wrote to

3 Dr Darragh and in the course of that letter bringing him up-to-date as to what

4 had happened at the meeting, that the motion had been passed etc, and he says,

5 "The voting on our motion was 15/11, because one member called a roll call on

6 that vote it ended up 13/11".

7 Do you recall anything of that nature?

8 A. He wrote to me?

9 Q.261No, he wrote to Dr Darragh?

10 A. Sorry.

11 Q.262The original vote on the motion, that is the motion that was passed, motion

12 signed by Councillors Coffey and Cosgrave. The original voting was 15/11,

13 somebody called for a roll call vote and it would appear that some of those who

14 were voting for the motion changed their minds or did not vote when it was a

15 roll call vote?

16 A. I have a vague recollection of this. I can only go by what I specifically know

17 and what is specifically recorded in the vote, unless somebody is going to tell

18 me who the two were that changed their vote I have absolutely no idea or any

19 recollection of it or having any involvement in it.

20 Q.263I am afraid I can't tell you, I am asking you for information, I am afraid. It

21 appears that there were no abstentions. However, the vote as recorded shows

22 that 24 individuals voted in total; 13 for and 11 against. And of those who

23 did not vote or who are not recorded as voting there were three who were

24 recorded as having attended the meeting who don't appear to have either voted

25 or abstained.

26 A. Can you refer me again to the attendance list on the voting on the 16th?

27 Q.264Yes, it is page 833, please, and 844.

28 Those who appear to have been present but who did not vote seem to me to be

29 councillors F Smith, O Mitchell and D Fitzgerald. That is again subject to

30 correction. Do you have any knowledge or recollection of a change such as is

1 suggested in the letter?

2 A. Sorry, Mr. Gallagher, something else has just struck me as I cross-reference

3 to -- no, I am afraid I don't and I am surprised that if it were the case that

4 a roll -- if a hand-held vote, which I presume is what occurred, if what

5 Mr. O'Halloran is saying is correct, and Mr. O'Halloran I believe -- I don't

6 believe heard that from me. But if a show of hands was taken and then a roll

7 call vote was taken that both would be recorded. In other words, that if a

8 hand-held vote was taken that would be recorded and then the call for roll call

9 vote would be recorded and then the roll call vote would be given.

10 So, I am at a loss to understand how at a meeting of the Dun Laoghaire/Rathdown

11 County Council a vote is taken by hand, by a show of hands, I should say, and

12 would not be recorded, I find that surprising, and then the fact that somebody

13 would call for a roll call vote would not be recorded and then the roll call

14 vote would take place.

15 Q.265It doesn't appear that if there was a show of hands followed by a roll call

16 vote that does not appear anywhere in the minutes that I have read in relation

17 to this meeting or any other meeting. It appears that where a roll call vote

18 was sought that fact was recorded and the result is set out.

19 A. My recollection again, for what it is worth, is that where there was a show of

20 hands the result would be recorded in the minutes as follows, a show of hands

21 the motion was passed, or on a show of hands the motion was passed or defeated

22 as may be.

23

24 Can I draw your attention to something again for clarification purpose? You

25 will recall the document I have in my possession which belongs to the Tribunal,

26 it is original document Dun Laoghaire/Rathdown Council listing the names and

27 telephone numbers of all councillors by party designation.

28 Q.266Yes.

29 A. And there is an asterisk in front of 13 names.

30 Q.267That's correct.

1 A. It strikes me now, Mr. Gallagher, that while I said to you that those asterisks
2 may well have been appended at the time when we were considering who might be
3 supportive, it strikes me now that the more logical explanation for that is
4 that those asterisks were appended at the time that the vote took place.

5 Q.268 Well, you weren't present at that meeting.

6 A. No, but I am saying that it was reported to me.

7 Q.269 Who reported it to you?

8 A. Liam Cosgrave I said, I told you rang me either that evening. And again may I
9 say I believe it to be that evening because I do recall attempting to contact
10 Mr. Brian O'Halloran that evening to give him the news, by the time I got him
11 the following morning he had already got it from Betty Coffey.

12 Q.270 May I have page 3750, please?

13 On the right-hand side of the page there we see the document that you have
14 before you. You see down at the right-hand side you have made notes about the
15 voting pattern?

16 A. Yes.

17 Q.271 Now, are you suggesting that that original document was marked by somebody
18 who --

19 A. No, what I am saying to you, Mr. Gallagher, is I am offering you an option in
20 relation to the appending of the asterisks to the names. It may well be that I
21 appended those asterisks at the time I was told the result of the vote or
22 subsequently.

23 Q.272 Right.

24 A. And the reason I am saying that to you is that while it is conceivable that I
25 would make marks of some identification for my own purpose against the names of
26 councillors prior to a vote given the accuracy of it consistent with the result
27 of the rota as outlined in the minutes of the meeting, it is more likely that
28 that was done at the time. Similarly, might I say to you, that you will note
29 that under the title "FG6" which means "Fine Gael six" there is a name Tom Hand
30 and it is scratched out.

1 Q.273Yes.

2 A. The "Tom" is scratched out and "Pat" is put in.

3 Q.274Yes.

4 A. So that obviously, that list, and I am saying these things to you in an
5 endeavour to be as accurate as possible, that list probably, therefore, was
6 compiled while Mr. Tom Hand was still alive. His son Pat took his seat by
7 agreement in Fine Gael.

8

9 So, therefore, if the list contains Tom Hand's name and a telephone number
10 which I believe is his -- no, I don't think that is Tom Hand's telephone
11 number, it may well be Pat Hand's number, but therefore the list was prepared
12 while Tom Hand was alive so that predates the document. That dates the
13 compilation of the document.

14 Q.275Who wrote the word "Pat"?

15 A. That is in my handwriting.

16 Q.276Is the name "Donal Lowry" in your handwriting?

17 A. Yes, it is.

18 Q.277And the other alterations on the next page, Colm Breathnach rather than Colin,

19 C-O-L-I-N?

20 A. Yes, as is the word "Senate" and the notes on the bottom of the page which are

21 of no relevance to this module or the Inquiry, they are just notes to myself.

22 Q.278In summary, Mr. Dunlop, you are saying that you believe that you put asterisks

23 in front of the names of individuals who voted in favour of the motion, is that

24 correct?

25 A. I am offering that as an alternate explanation.

26 Q.279I understand it is the alternate, what I want is what you believe happened.

27 A. Yes, I believe that it is more likely, distinctly likely, that the asterisks in

28 relation to the names refer to those people who voted for the motion on the

29 16th December 1997 as noted in the box on the right-hand corner as well.

30 Q.280And that they were inserted on the document by you after that vote?

1 A. On a telephone call from Liam Cosgrave.

2 Q.281 Yes. It is clear that you received a total of 30,000 pounds from Brian

3 O'Halloran and his associates -- sorry I shouldn't use "associates" because

4 that is capable -- and his partners. 10,000 pounds each from Professor Darragh

5 and 10,000 pounds from Mr. Kilcoyne, and you received a cheque, I think, on

6 17th December from Brian O'Halloran for 10,000 pounds?

7 A. That is correct.

8 Q.282 One thing I just want to get your explanation for, please, if I may. You say

9 that you had an agreement with Liam Cosgrave that you would pay him 5,000

10 pounds for the signing of the Jackson Way motions, they were the motions that

11 were dealt with at the meeting of the council on the 25th -- sorry 21st January

12 1998, and you say that you had an agreement with him also that you would pay

13 him 2,000 pounds in respect of the O'Halloran, Darragh, Kilcoyne motion; is

14 that correct?

15 A. No, what I said to you --

16 Q.283 Looking at your --

17 A. No, no, no, what I said to you, Mr. Gallagher, was and, please correct me if I

18 am wrong, but that I agreed to give Liam Cosgrave 5,000 pounds, that I met Liam

19 Cosgrave on a specific date and I gave him 2 500 pounds and I met Liam Cosgrave

20 again on another specific date and I gave him the balance. On that same date,

21 the second date, I gave Mr. Cosgrave 2,000 pounds in relation to the O'Halloran

22 lands.

23 Q.284 Yes.

24 A. That is what I said.

25 Q.285 Yes, indeed. You gave him the 4,500 pounds on the 23rd December in Buswells

26 Hotel?

27 A. Yes. No, Mr. Gallagher, I am sorry now, to be very clear you said in your

28 question that I had an agreement with him to pay him 5,000 pounds plus 2,000

29 pounds for O'Halloran lands, they are two separate issues arrived at on two

30 separate occasions.

1 Q.286I appreciate they are separate matters.

2 A. No, but the agreement in relation to them are two separate occasions. I agreed
3 to pay Liam Cosgrave 5,000 pounds. I paid him two and a half, I paid him two
4 and a half on the second date. On the second date I gave him 2,000 in relation
5 to the O'Halloran lands.

6 Q.287All right. Now, so that on the second date you gave him a total of four and a
7 half thousand pounds?

8 A. Correct.

9 Q.288Now, the 2,000 pounds which related to the O'Halloran lands I take it was paid
10 pursuant to an agreement to do so?

11 A. Yes.

12 Q.289What I want to know is when that agreement was made?

13 A. I met Liam Cosgrave shortly after the vote of the 16th December. I am not
14 referring to my diary because I don't know if there is a reference to it in the
15 diary.

16

17 I met him subsequent to the meeting of the 16th December. He did not ask me
18 for 2,000 pounds. We did, however, discuss the success of the O'Halloran
19 lands. He did in how ever brief a form outline how helpful he had been. I
20 told him that -- and I may have told him this on a prior occasion, but I told
21 him that in relation to the Jackson Way lands I was not in receipt of monies in
22 advance, however, in relation to the O'Halloran lands that I had received a
23 down payment, and I do believe that I told him what my success fee was going to
24 be.

25

26 I repeat again that he did not ask me for money, did not ask me for a specific
27 sum of money, but in the conversation that took place I offered him 2,000
28 pounds. Now, this is a matter, Mr. Gallagher, that you have -- the Tribunal, I
29 should say, has written to me about on a prior occasion and I have written back
30 to you. And what I have said, without reference to that correspondence because

1 I don't believe -- I may well have it but I don't believe -- I did not say that
2 Mr. Cosgrave asked me for money on that occasion. I did not say that he asked
3 me for a specific sum of money on that occasion. I said I gave him the money
4 shortly after. I believe the correspondence will show that I said "within a
5 week" and meeting took place, the vote took place on the 16th December 1997 and
6 I met Liam on the 23rd December 1997 and those are the circumstances in which
7 the matter arose.

8 Q.290The letter in question, in fact, is a letter from your solicitors of the 13th
9 September 2001 and it is in response --

10 A. 2001?

11 Q.291Pardon.

12 A. 2001?

13 Q.2922001, yes. It is in response to a letter of 26th June from the Tribunal where
14 the Tribunal asked as follows:

15 "Your client has indicated that he paid Liam Cosgrave the sum of 2,000 pounds
16 in respect of his support for this development. The Sole Member would now be
17 obliged if your client would confirm the following:

- 18 (a) The date of the making of sum payment to Cosgrave.
19 (b) The manner in which such payment was made.
20 (c) Whether such payment was requested by Mr. Cosgrave."

21

22 And the response from your solicitors was as follows:

23 "My client's response to the three queries posed in the letter of reply is as
24 follows:

25 (a) The date of the making of a payment in the sum of 2,000 pounds to Liam
26 Cosgrave.

27 To the best of my client's recollection and belief the payment in question
28 would have been made to Mr. Cosgrave within a week approximately of the passing
29 of the relevant motion.

30

1 (b) The manner in which such payment was made, to the best of my client's
2 recollection and belief, the payment to Mr. Cosgrave was made by way of cash.

3

4 (c) Whether such payment was requested by Mr. Cosgrave.

5

6 You are referred inter alia to the introduction to the narrative statement made
7 by Mr. Dunlop dated 9th October 2000. Our client cannot recall that the
8 payment of 2,000 pounds was expressly requested by Mr. Cosgrave. The payment
9 to Mr. Cosgrave was, as has already been stated in Mr. Dunlop's narrative
10 statement, paid to Mr. Cosgrave in respect of his support for this development
11 as a result of our client's relationship with Mr. Cosgrave our client was aware
12 that Mr. Cosgrave required to receive payment in respect of his support for
13 such motions/developments. Yours sincerely."

14

15 That is the reply to which you have referred me.

16

17 Now, my understanding of what you had said was that -- what you had earlier
18 said in evidence was that Mr. Cosgrave did not ask you for money

19 A. Yes, I don't believe he did.

20 Q.293 And your reply through your solicitor was that you cannot recall that the
21 payment was expressly requested by Mr. Cosgrave.

22 A. Yes.

23 Q.294 Is there some inconsistency in those answers?

24 A. Well, I don't believe there is, Mr. Gallagher, but I mean I am -- I think, as I
25 have shown on a number of occasions, I am quite willing to confront
26 inconsistencies if they exist, but I cannot tell you on oath, and I will not
27 tell you on oath, in relation to this payment that Mr. Cosgrave asked me for
28 it. I will not do that. I did give Mr. Cosgrave money, the money in this
29 particular instance and I gave Mr. Cosgrave money on previous occasions as I
30 outlined in my evidence in relation to specific developments.

1

2 I am adamant with respect to the Chairman and the Tribunal, I am adamant. I am
3 adamant that these monies were given, but I am also adamant that I do not want
4 to suggest or to state that a specific sum of money was specifically questioned
5 for this specific development.

6

7 I have outlined the circumstances to the best of my ability with due regard to
8 the people concerned, including myself. However, I do go on to say through my
9 solicitors, I went on to say that:

10 "The payment to Mr. Cosgrave was as already been stated in Mr. Dunlop's
11 narrative statement paid to Mr. Cosgrave in respect of his support for this
12 development."

13

14 The money was not being given to Mr. Cosgrave for his support of anything else
15 or any putative development or any notional development.

16

17 And "as a result of our client's relationship with Mr. Cosgrave" is something I
18 think is important to point out, I had a very good relationship with
19 Mr. Cosgrave. I understand -- I don't understand, I know Mr. Cosgrave has said
20 in another forum that he regarded me as a friend, notwithstanding the fact that
21 he went on to say some other matters, but I mean the fact of the matter is I
22 would mutually regard that as mutual friendship. I regarded Mr. Cosgrave to
23 be, and I think the evidence I have given already is such that he was a very
24 helpful, informative and cooperative individual with whom I had many meetings
25 and enjoyed many social occasions, but as a result of that relationship our
26 clients were aware that Mr. Cosgrave required to seek payment in respect of his
27 support for such motions and developments.

28 Q.295 Does it follow from all of that that Mr. Cosgrave did not discuss with you and
29 you did not discuss with Mr. Cosgrave the question of payment of monies for
30 this motion before the vote?

1 A. That is correct.

2 Q.296 And as I understand your evidence a discussion about money arose after the vote
3 but before the 23rd December, is that correct?

4 A. Correct.

5 Q.297 And that you gave him on the 23rd December a sum of 2,000 pounds in addition to
6 the 2 and a half thousand pounds.

7

8 MR. O'HIGGINS: Mr. Chairman, I am terribly sorry to interrupt Mr. Gallagher,
9 it is only a point of information because we are confused and unclear. I
10 thought we may have misheard this. I thought that the letter which
11 Mr. Gallagher read out specifically said that Mr. Cosgrave on the 23rd had not
12 asked for money, I am not sure about that. But if I am correct about that well
13 then Mr. Gallagher's present question seems to be incorrectly premised. It may
14 be my error.

15

16 MR. GALLAGHER: The letter says "our client cannot recall that the payment of
17 2,000 pounds was expressly requested by Mr. Cosgrave".

18

19 MR. O'HIGGINS: So there does not appear to be any evidence offered by the
20 witness that my client was looking for money.

21

22 MR. GALLAGHER: I never suggested that. I never suggest anything of that
23 nature.

24

25 CHAIRMAN: Gentlemen, I think we should leave this over until tomorrow
26 morning and perhaps it will be clarified then.

27

28 MR. GALLAGHER: Thank you.

29

30 CHAIRMAN: 10.30 tomorrow morning.

00072

1

2 THE TRIBUNAL ADJOURNED UNTIL FRIDAY, 24TH JANUARY 2003

3 AT 10.30 AM

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

