

MINUTES OF THE ORDINARY MEETING OF WICKLOW COUNTY COUNCIL HELD IN THE COUNCIL CHAMBER, COUNTY BUILDINGS, WICKLOW ON MONDAY 2nd JULY 2018, COMMENCING 2PM

PRESENT:

COUNCILLOR P. VANCE, CATHAOIRLEACH, COUNCILLORS T. ANNESLEY, J. BEHAN, V. BLAKE, T. CULLEN, S. CULLEN, P. DORAN, G. DUNNE, P. FITZGERALD, T. FORTUNE, C. FOX, M. KAVANAGH, P. KENNEDY, N. LAWLESS, S. MATTHEWS, M. MCDONALD, G. MCLOUGHLIN, D. MITCHELL, M. MURPHY, D. NOLAN, O.O'BRIEN, M. O'CONNOR, G. O'NEILL, J. RUTTLE, J. RYAN, J. SNELL, B. THORNHILL, E. TIMMINS, G. WALSH AND I. WINTERS.

APOLOGIES: CLLR. S. BOURKE AND J. WHITMORE.

IN ATTENDANCE:

**MR. F. CURRAN, CHIEF EXECUTIVE
MR. S. QUIRKE, DIRECTOR OF SERVICES
MR. T. MURPHY, DIRECTOR OF SERVICES
MR. M. NICHOLSON, DIRECTOR OF SERVICES
MR. M. GEANEY, A/ DIRECTOR OF SERVICES
MR. J. LANE, DIRECTOR OF SERVICES
MR. B. GLEESON, HEAD OF FINANCE
MS. L. GALLAGHER, SENIOR EXECUTIVE OFFICER/MEETINGS ADMINISTRATOR
MR. M. FLYNN, SENIOR ENGINEER
MR. F. KEOGH, SENIOR ENGINEER
MS. D. CROMIE, FINANCIAL MANAGEMENT ACCOUNT
MS. C. FLOOD, SENIOR EXECUTIVE OFFICER
MS. H. DENNEHY, SENIOR EXECUTIVE OFFICER
MR. T. HUGHES, IT SUPPORT
MR. A. MCBRIDE, DEVELOPMENT OFFICER
MS. D. O'SHEA, DEVELOPMENT OFFICER**

At the outset of the meeting the Cathaoirleach Cllr. P. Vance congratulated Councillors M. Murphy, N. Lawless, T. Cullen and D. Nolan on their appointment as Cathaoirleach of Arklow, Greystones, Baltinglass and Wicklow Municipal Districts, respectively.

Votes of Sympathy

Elected Members passed a vote of sympathy to the family of the late Mr. Patrick (Patsy) O'Toole. A minutes silence was observed.

Announcement of impending resignation of Cllr. Michael O Connor

Cllr. M. O Connor asked for the opportunity to advise the Council that he is no longer in a position to continue his role as a Sinn Fein Councillor and while he has been honoured to have represented the people of County Wicklow, work life and family issues are having an impact on his ability to carry out Council work and that he will be resigning his seat taking effect around the 15th or 16th of August, 2018. He thanked his fellow elected members for their support.

The Cathaoirleach, Elected Member and the Chief Executive collectively wished Cllr Michael O Connor every success in the future and thanked him for his very valuable contribution during his time as an Elected Member of Wicklow County Council.

Suspension of Standing Orders

1. Cllr. J. Behan requested a suspension of standing orders to discuss the revaluation of commercial rates currently being carried out in the County advising that some businesses are extremely concerned in relation to increased valuations. The request was seconded by Cllr. V. Blake and it was agreed to discuss the matter at 4.30 p.m.

The Cathaoirleach advised that it was his intention to bring the matter of requests for suspension of standing orders to the protocol committee describing it as disturbing the amount of suspension requests being made which are normally reserved to discuss a matter of an emergency.

2. Cllr. B. Thornhill requested a suspension of standing orders to discuss the following motions: *'That Wicklow County Council notes the appointment of Mr. Drew Harris as the new commissioner of an Garda Siochana and we wish him well in this new position. In the interest of the state and its citizens that this Council would request that Mr. Harris would place at the State's disposal all relevant information that he may have to resolve the outstanding investigative issues relating to the Dublin/Monaghan bombings, 1974 and the Miami Showband massacre, 1975'*. Cllr. J. Behan seconded the request.

Ms. L. Gallagher, Meetings Administrator referred the elected members to paragraphs 41 and 14 of Standing Orders as follows:-

41: For the elected members to consider the suspension of standing orders, if there is not full agreement, at least 2/3s of the Elected Members present vote in favour'.

14: No notice of motion should be set down on the agenda for any meeting unless such notice of motion shall be delivered to the meeting's administrator at least one calendar month before the date of the meeting.

The Meetings Administrator advised that Cllr. Thornhill's motion falls within paragraph 14 of standing orders and should be submitted as a motion in this manner as do other elected members. Following a brief discussion on the matter the request was put to a vote which was defeated by a margin of 8 votes for, 19 against, 2 not present and 3 abstaining viz:-

FOR (8)	CLLRS. J. BEHAN, T. CULLEN, T. FORTUNE, M. KAVANAGH, O. O'BRIEN, G. O'NEILL, J. SNELL AND B. THORNHILL.
AGAINST (19)	CLLRS. T. ANNESLEY, V. BLAKE, S. CULLEN, P. DORAN, G. DUNNE, P. FITZGERALD, C. FOX, P. KENNEDY, S. MATTHEWS, G. MCLOUGHLIN D. MITCHELL, M. MURPHY, D. NOLAN, J. RUTTLE, J. RYAN, E. TIMMINS, P. VANCE, G. WALSH AND I. WINTERS.
NOT PRESENT (2)	CLLRS. S. BOURKE AND J. WHITMORE.
ABSTAINING (3)	CLLRS. N. LAWLESS, M. MCDONALD AND M. O'CONNOR.

ITEM NO 1

To consider the disposal of land at Convent Road, Wicklow Town in the townland of Corporation Lands, Wicklow Town , Co. Wicklow to the Dominican Sisters.

It was proposed by Cllr. G. Dunne, seconded by Cllr. S. Cullen and agreed to dispose of land at Convent Road, Wicklow Town in the townland of Corporation Lands, Wicklow Town, Co. Wicklow to the Dominican Sisters as set out in the statutory notice circulated.

ITEM NO 2

To consider the disposal of the freehold interest in the property known as 34 Wolfe Tone Square North, Bray, Co. Wicklow to Mr. Thomas O'Reilly, the personal representative in the estate of Mrs. Margaret O'Reilly deceased.

It was proposed by Cllr. P. Vance, seconded by Cllr. C. Fox and agreed to dispose of the freehold interest in the property known as 34 Wolfe Tone Square North, Bray, Co. Wicklow to Mr. Thomas O'Reilly, the personal representative in the estate of Mrs. Margaret O'Reilly deceased as set out in the statutory notice circulated.

ITEM NO 3

To consider report in accordance with Section 179 of the Planning and Development Act, 2000 as amended; Part 8 of the Planning and Development Regulations, 2001 as amended: in respect of N11 Parallel Service Road at Kilmacanogue – Planning Register Reference 18/382.

Elected members were circulated with report of the Chief Executive RE: Wicklow County Council, Transportation, Water and Emergency Services, Section 179 of the Planning and Development Act, 2000, Proposed Development – Part V111, Planning and Development Regulations, 2001, as amended: Planning Register Reference 18/382, N11 Parallel Service Road at Kilmacanogue. Mr. Michael Flynn, Senior Engineer gave a presentation to the meeting outlining the proposals and background to the scheme.

Following a discussion wherein Mr. M. Flynn responded to the issues raised, the matter was put to a vote and following a roll call it was agreed by a margin of 27 for and 5 not present to proceed with the development as set out in the Chief Executive's report circulated, viz:-

FOR (27)	CLLRS. T. ANNESLEY, J. BEHAN, V. BLAKE, G. DUNNE, M. O'CONNOR, S. CULLEN, T. CULLEN, P. DORAN, P. FITZGERALD, T. FORTUNE, C. FOX, M. KAVANAGH, N. LAWLESS, S. MATTHEWS, M. MCDONALD, G. MCLOUHGLIN, D. MITCHELL, M. MURPHY, D. NOLAN, O. O'BRIEN, G. O'NEILL, J. RUTTLE, J. RYAN, B. THORNHILL, E. TIMMINS, P. VANCE AND G. WALSH.
NOT PRESENT (5)	CLLRS. S. BOURKE, P. KENNEDY, J. SNELL, J. WHITMORE AND I. WINTERS.

ITEM NO 4

To consider Section 85 agreement with Dun Laoghaire Rathdown County Council regarding the M11/N11 (Junction 4 – M50 to Junction 14 – Coyne's Cross) project.

Elected members were circulated with report on the proposed section 85 agreement regarding the M11/N11 (Junction 4 – M50 to Junction 14 – Coyne's Cross) project of Mr. Michael Geaney, A/Director of Services, with Dun Laoghaire Rathdown County Council regarding M11/N11 (Junction 4 – M50 to Junction 14 – Coyne's Cross) project on 27th June, 2018. Following a brief discussion on the matter it was proposed by Cllr. J. Ryan, seconded by Cllr. J. Behan and agreed that the Council enter into a Section 85 Agreement with Dun Laoghaire/Rathdown County Council as set out in report circulated to the elected Members.

URGENT BUSINESS

Rebuilding Ireland Home Loan, 2018 (Paragraph 16 Standing Orders)

L. Gallagher, Meetings Administrator advised that the elected members had been circulated, prior to the commencement of the meeting, with letter dated the 29th of June, 2018 of Ms. Deborah Cromie, Financial Management Accountant, requesting the Council, subject to the approval of the Department of Housing, Planning, Community and Local Government, to sanction the borrowing of the sum of €10m in respect of the Rebuilding Ireland Home Initiative. The Meetings Administrator explained that as this matter had not been listed on the agenda, and as the Council is not scheduled to meet again until the 3rd of September, it is proposed to consider this matter by way of Urgent Business set out in paragraph 16 of standing orders Motion for purpose of dealing with urgent business: viz:- *Notwithstanding any other provisions of these standing orders, a motion may be proposed without notice for the purpose of dealing with urgent business related to a function of the local authority, subject to the requirement that not less than a majority of members present vote in favour.* Following a roll call on the matter it was agreed by a margin of 27 votes for and 5 not present to consider the Item under urgent business viz:-

FOR (27)	CLLRS. T. ANNESLEY, J. BEHAN, V. BLAKE, G. DUNNE, M. O'CONNOR, S. CULLEN, T. CULLEN, , P. FITZGERALD, T. FORTUNE, C. FOX, M. KAVANAGH, P. KENNEDY, N. LAWLESS, S. MATTHEWS, M. MCDONALD, G. MCLOUHGLIN, D. MITCHELL, M. MURPHY, D. NOLAN, O. O'BRIEN, G. O'NEILL, J. RYAN, B. THORNHILL, E. TIMMINS, P. VANCE, G. WALSH AND I. WINTERS.
NOT PRESENT (5)	CLLRS. S. BOURKE, P. DORAN, J. RUTTLE, J. SNELL AND J. WHITMORE.

It was then proposed by Cllr. J. Ryan, seconded by Cllr. J. Behan and agreed that Wicklow County Council, subject to the approval of the Department of Housing, Planning and Local Government sanction the borrowing of the sum of €10 million in respect of Rebuilding Ireland Home Initiative.

ITEM NO 5

The Kildare Wicklow Education Training Board (KWETB).

The Chief Executive advised that the elected members had been circulated with the advice of the Council's Law Agent dated the 25th of June, 2018, advising that the Council proceed with caution in discussion the matter as there is an ongoing Garda Investigation. He outlined the salient points contained within the Law Agent's Advice as follows:-

- It is important to realise that the primacy in our system of law is given to the criminal process. The reason is because of the importance of a fair trial and the risk to the criminal process that can occur if there is unrestrained public controversy and debate about an issue in advance of a criminal trial.
- The most important feature of a criminal trial is the swearing-in of an impartial jury. Adverse pre-trial publicity can result in a trial being delayed for a significant period of time until the publicity has died down and in extreme cases can result in a trial never occurring. It is very important that a jury can be sworn in who have an open mind in relation to a matter.
- The avoidance of controversial debate and publicity that might affect persons from becoming members of a Jury and the possibility of a number of persons connected with the Council may be involved in proceedings. In those circumstances circumspection and prudence are required when it comes to doing anything that could interfere with the integrity of the criminal process and obstructing an ongoing investigation.

- An official or a Member who has any involvement with the KWETB may well feel constrained at a Council meeting if they remain silent and they are in somewhat of an invidious position at such a meeting as they will not be in a position to debate the matter or defend their position at this time.
- It is legitimate of course for the Council to ask the KWETB for updates.

The Chief Executive also advised that he had received correspondence from the Solicitor for the KWETB who confirmed that they were acting on behalf of the KWETB in relation to an ongoing Garda investigation and various matters relating to procurement of financial issues. The KWETB is fully co-operating with same and as it is a live investigation it is not appropriate to comment further on it. The correspondence also advised that if Elected Members of Wicklow County Council have any information that might be of assistance to the Gardai they should contact the Detective Superintendent Gerry Walsh at 01-6663700.

Cllr. Gail Dunne excused himself from the discussion and left the chamber.

Elected Members expressed the following views:-

- Update on matters requested. There are several Wicklow County Councillors on the Board of the KWETB. Issues of procurement have been raised and concern expressed that no answers have been forthcoming.
- Given that the matter has progressed into a Garda investigation it should not be compromised. The Minister for Education and Skills urged to publish the report.
- This matter has been the subject of national television, Prime Time Investigates and the Public Accounts Committee, questions have been asked in the Dail, view expressed that there should therefore be no restrictions in discussing this matter in the Council chamber of Wicklow County Council
- Matter relates to transparency and accountability.
- Call for a 'root and branch' audit of all matters of governance within the KWETB and call for Wicklow County Council to write to the newly appointed CE and request this commence forthwith.
- Proposal put forward that the Council write to the Minister for Education and Skills and ask that the Department publish the Thorn Report.
- Cllr. T. Fortune's call for an independent investigation of the process where the Elected Members were nominated to the KWETB in 2014 while seconded by Cllr. J. Behan was not agreed by all.

L. Gallagher, Meetings Administrator advised that at the request of the Elected Members the Council had written to the Minister on two occasions the 6th of December, 2017 and on the 19th of June, 2017. A response had been received from the Department of Education and Skills on the 21st of February 2018 advising that the Council will be aware *'that Mr. Richard Thorn was appointed by the Minister for Education and Skills, under Section 40 of the ETB Act, 2013 to carry out an investigation into the performance of KWETB board of its functions particularly in relation to public procurement and propriety matters. As the process of the investigation and reporting is still underway, it would be inappropriate for the Minister to comment further at this juncture.'*

L. Gallagher also advised that the Council had written to the CE of the KWETB, Dr. Deirdre Keyes, on the 21st of June, 2018, advising that the matter would be discussed at Council meeting of the 2nd of July, 2018, and inviting Dr. Keyes to attend. The response received from the KWETB is that the CE is currently on leave and to convey her apologies.

At the conclusion of the discussion it was agreed that the Council would write to the Minister for Education and Skills and request again that the Department publish the final draft of the report of Mr. Richard Thorn and that same be provided to Wicklow County Council.

ITEM NO 6

Wicklow County Development Plan 2016 – 2022: Policy RT-17: No Fry Zone.

Elected Members were circulated with advice of the Law Agent dated the 25th of June, 2018 in this matter. The Chief Executive advised that the rationale behind the planning decision was explained at the last meeting and the policies contained within the County Development Plan in relation to neighbourhood centres etc. He referred to the legal opinion which was circulated which commented on Section 44 of the Planning and Development Act, 2000 which related to permissions which no longer conform to the County Development Plan which does not apply in this case. He advised that he understood there to be an application to An Bord Pleanala for leave to appeal and that there was no information yet as to whether or not there is an appeal from a prescribed body.

Elected members expressed the following views following which the discussion concluded.

- It is not fair to say that the Wexford decision sets a precedent
- View expressed that the permission should have been refused by the Council, and then the applicant could have appealed it to An Bord Pleanala thereby allowing the Board to make the decision.
- Reference made to the article in the recent Countywise newsletter and that an award had been collected on behalf of Wicklow County Council. Call for the Executive to revoke the planning decision.

ITEM NO 7

To consider draft policy document: Reserved functions that may be performed under S131 (A) (1) (B), Part 2 of the Local Government Act, 2001 in respect of Municipal Districts.

Elected members were circulated with letter dated the 27th of June, 2018 from L. Gallagher, SEO, Enterprise and Corporate Services Section enclosing copy of draft policy to be considered by the Council.

Mr. F. Curran, Chief Executive advised that this matter had emanated from a proposal from Cllr. S. Matthews, requesting that S179 reports in relation to local authority own development be considered by the Municipal Districts. He referred to the set of reserved functions contained within Part 2 of the Local Government Act, 2001, which may be carried out by the Plenary Council or the Municipal District Councils, and the legislation providing for the carrying out of these functions. He advised that a draft policy document had been prepared and was considered by the Corporate Policing Group and is now before the elected members for consideration.

L. Gallagher, Meetings Administrator gave a presentation on the draft policy document covering the following areas:-

- Proposed policy and what it relates to
- Reserved functions set out in Part 2 of Schedule 14A and the circumstances in relation to whether they are exercisable by either the Plenary Council or by the Municipal Districts
- What guidance the Circular letters provide

- The provisions of Regulation 5 (1) of SI. No. 231 of 2014
- The provisions of Regulation 5 (2) of SI. No. 231 of 2014
- Resolution of differences – Regulation 4 (2) SI No. 231 of 2014 (inconsistency or unnecessary duplication)
- Resolution of differences – Regulation 8 (1) SI no. 231 of 2014
- Resolution of differences – Regulations 4 (3) SI No. 231 of 2014
- Prohibition on the exercise and performance of reserved functions (Reg 9 (1) and (2) S.I. No. 231 of 2014
- Exercise and performance of reserved functions generally.
- Proposed policy for the carrying out of reserved functions under Part 2 by the Municipal District
- Proposed policy – functions to be considered by the Plenary Council in relation to Part 2 reserved functions
- Appendix 1, Appendix 2 and Appendix 3.

At the conclusion of the presentation the elected members expressed the view that there is a general consensus that as many of the reserved functions as possible be carried out at Municipal District Level. It was agreed that the draft policy be considered by the 5 Municipal Districts and come back before the elected members at the September or October Council meeting.

Suspension of Standing Orders:

Cllr. J. Behan requested a suspension of standing orders to discuss the process of rates revaluations currently underway in Bray and other parts of the County. Early indications suggest proposed increases of 100% in the valuations currently being proposed by the valuations office. Cllr. Behan said that he had received concerns from persons selected for revaluation and asked if the Council could intervene in this situation by way of assistance, especially small businesses. In response Mr. B. Gleeson, Head of Finance advised that the revaluation office are analysing data and that the proposed valuation certificates will not issue until the first quarter of 2019. He suggested to Cllr. Behan if he could provide him with the information he had in relation to the specific case he was referring to he would have it examined.

ITEM NO 8

To consider the Chief Executive's Monthly Management Report June, 2018.

Cllr. P. Vance, Cathaoirleach noted the Chief Executive's Monthly Management Report June, 2018 but stressed that this was a highly important document and as such, the report needs to be higher up on the agenda going forward.

ITEM NO 9

To receive a presentation: Wicklow County Council Tourism Strategy.

Ms. C. Flood, Senior Executive Officer and Mr. Pat O'Suilleabhan, Chairman of Wicklow County Tourism Ltd. gave a presentation covering the following areas which was noted by the members.

- Tourism Opportunities in County Wicklow
- Vision
- Statement of Tourism Strategy Goals
- Priority Actions
- Accommodation
- Key Towns as Visitor Hubs
- Masterplan for Glendalough
- Grow Thematic Experiences

- A Common Narrative
- Marketing
- Marketing Channels
- County Wicklow Tourism Strategy and Marketing Plan
- Other Wicklow County Council Supported Projects
- Working with our Neighbours: Wexford and Waterford
- Members of County Wicklow Tourism Development Group

ITEM NO 10

To receive a presentation: County Wicklow Local Sports Partnership

Mr. Andrew McBride, Sports Coordinator gave a presentation to the Elected Members covering the following areas:-

Wicklow Local Sports Partnership

- Board Representatives
- Our Aim
- School Programmes
- Primary School Tug of War
- Schools Basketball
- European Week of Sport
- Introduction to Dance
- Schools Programmes
- Bike Week 2018
- Other Adult Programmes and events
- Disability programmes
- Wicklow Parkruns
- Operation Transformation 2018
- Training and Education
- Health Ireland Round 1
- Health Ireland Round 2
- Wicklow LSP in Action

Correspondence: L. Gallagher advised that the elected members had been circulated with Decision to issue Direction relating to the Arklow and Environs Local Area Plan 2018 to 2024 received by the Chief Executive from the Department of Housing Planning and Local Government and dated the 22nd of June, 2018.

THIS CONCLUDED THE BUSINESS OF THE MEETING

**CLLR. PAT VANCE
CATHOAIRLEACH
WICKLOW COUNTY COUNCIL**

**MS. LORRAINE GALLAGHER
SENIOR EXECUTIVE OFFICER/
MEETINGS ADMINISTRATOR**