

**MINUTES OF SPECIAL MEETING OF WICKLOW COUNTY COUNCIL HELD IN  
THE COUNCIL CHAMBER, COUNTY BUILDINGS, WICKLOW ON MONDAY 28<sup>TH</sup>  
SEPTEMBER 2015, COMMENCING 2.00 P.M.**

**PRESENT:**

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

**IN ATTENDANCE:**

**MR. B. DOYLE, CHIEF EXECUTIVE  
MR. D. O'BRIEN, DIRECTOR OF SERVICES  
MR. S. QUIRKE, DIRECTOR OF SERVICES  
MR. J. LANE, DIRECTOR OF SERVICES  
MR. M. NICHOLSON, DIRECTOR OF SERVICES  
MR. T. MURPHY, DIRECTOR OF SERVICES  
MR. M. GEANEY, A/DIRECTOR OF SERVICES  
MS. L. GALLAGHER, SENIOR EXECUTIVE OFFICER/MEETINGS ADMINISTRATOR  
MS. B. KILKENNY, SENIOR ENGINEER  
MR. D. MARNANE, A/SENIOR ENGINEER  
MS. C. FLOOD, SENIOR EXECUTIVE OFFICER  
MS. D. CROMIE, FINANCIAL MANAGEMENT ACCOUNTANT  
MS. B. McCARTHY, FINANCIAL MANAGEMENT ACCOUNTANT  
MS. T. O'BRIEN, A/SENIOR EXECUTIVE OFFICER  
MS. H. DENNEHY, A/SENIOR EXECUTIVE OFFICER  
MS. J. CARROLL, ADMINISTRATIVE OFFICER  
MR. D. KEYES, ADMINISTRATIVE OFFICER  
MR. D. PORTER, MUNICIPAL DISTRICT ADMINISTRATOR**

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**Welcome to baby Caoimhe**

At the outset of the meeting the Cathaoirleach welcomed Cllr. Whitmore's new baby daughter Caoimhe.

**Votes of Sympathy**

Elected members passed a vote of sympathy to the families of the late Mrs Maisie Fitzpatrick mother of former Assistant County Manager, Hubert Fitzpatrick and Mr. William Whitmore, father of Councillor Jennifer Whitmore. Also to the Twomey family on the passing of Ms. Lucy Carthy who passed away in her 106<sup>th</sup> year.

**Votes of Congratulations**

Elected members passed a vote of congratulations to Arklow Tidy Towns on winning a bronze medal and on being the largest tidiest town in County Wicklow for 2015, and also to acknowledge the achievement of Straffan and Aughrim, and all tidy towns participants in County Wicklow. Elected members also requested that the achievement of the Wicklow U21 Hurlers in their All Ireland B success be recognised and acknowledged by the Council. It was agreed to refer this to

the protocol committee for consideration.

#### Circulation of leaflets in the Council Chamber

In response to Cllr. G. O Neill drawing attention to literature circulated in the chamber prior to the Council meeting and as the protocol in this matter, L. Gallagher advised that all literature for circulation should be made available to the Meetings Administrator for consideration/circulation.

#### **ITEM NO. 1**

**To consider the variation in the basic rate of Local Property Tax and the setting of the Local Adjustment Factor in accordance with the Finance (Local Property Tax) Act, 2012 (as amended) to apply for the period of one year from the next local property tax liability date 1<sup>st</sup> November, 2015.**

Elected members were circulated with letter dated 23<sup>rd</sup> September, 2015 from Ms. Loraine Lynch, Head of Finance enclosing Chief Executive's report dated 23<sup>rd</sup> September, 2015: Re: Local Property Tax, Report to Members on the matters to which Wicklow County Council shall have regard in relation to the setting of the Local Adjustment Factor.

Ms. L. Lynch, Head of Finance made a presentation to the elected members covering the framework and the factors which have to be considered in this matter viz:-

- Consideration of the variation of the basic rate must be done by the 30<sup>th</sup> September
- Following this district budget plans will be prepared
- Step 3 is the preparation of the Annual Budget
- Expenditure has to equal income - a balanced budget must be prepared
- Local property tax is critical to this process and it is the function of the elected members to vary the rate if they chose to do so either by plus or minus 15%.
- Estimated income and expenditure 2016
- Financial position of Wicklow County Council
- Estimated financial effect of varied rate
- Impact on service delivery plans of Wicklow County Council
- Requirements viz, pay agreements, accounting for deficit,
- Request for additional services across housing, roads, community etc.
- Feedback from public consultation
- Financial effects of the varied rate
- Property valuations and bands
- Increased activity under community involvements and community development

Elected members raised the following queries/sought clarification on a number of areas as follows:-

- Ø If the LPT is reduced by 15% what is the surplus figure remaining
- Ø Can the unspent budget for the remainder of 2016 be reallocated.

Cllr. N. Lawless proposed a reduction of 15% to the LPT for 2016. This was seconded by Cllr. Mary McDonald.

- Ø Reference made to County Wicklow's income from general purpose grants not being comparable with other local authorities, and query as changes in this regard?
- Ø It was agreed last year to offset €1m from the deficit, whereas only €300,000 has been offset?
- Ø Query as to what correspondence had issued to pursue income from central government grants
- Ø Explanation requested for the reduction in provision for homelessness

- Ø Opposition to the property tax expressed, call put forward to reduce the property tax by 15% and make a case to government via the TDs for County Wicklow.
- Ø Reference made to the public consultation process and that this needs to be reviewed.
- Ø Query as to how the Council can make a case to the department if the Council reduces its own source of funding by €2.5m – view expressed that this would undermine any business case to the department for additional funding
- Ø If the proposal is to take €2.5m from the revenue, what services will be reduced in order to make this cut.
- Ø View expressed that a cut in property tax equates to a cut in services
- Ø View expressed that it would be difficult to seek additional funding from central government if the LPT is cut.

Councillor D. Mitchell put forward a proposal not to reduce the basic rate of the property tax and that a fund be formed to be used for certain specified purposes with the extra €2.5m available. He listed a number of indicative areas where the fund could be spent. This proposal was seconded by Cllr. I. Winters.

- Ø Reference made to recycling centres being success stories for County Wicklow and award winners and the proposed cut by central government for these services will put the service in the future in jeopardy. Clarification sought if pressure was being applied by the private waste collection industry to have recycling centres closed down because of direct competition.
- Ø View expressed that income in 2016 will improve and that the bleak scenarios being put forward at present may not come to pass.
- Ø View expressed that the reality is that many people are trying to recover from the recession and that any assistance to reduce the financial burden is helpful.
- Ø Call for another meeting with the 5 TDs of County Wicklow to take place in this matter.
- Ø Reference made to funding required to keep Arklow swimming pool open as well as additional staff required from the new library and other areas, such as Christmas lights, which may be put at risk in the absence of funding.
- Ø Additional cost of €200,000 for staffing in the housing section, to provide for housing building in County Wicklow needs to be met and to implement the housing programme with grants from central government.
- Ø If the council wants to provide services for the people of County Wicklow, additional funding needs to be raised.

In responding to the individual queries raised, Ms. L. Lynch, Head of Finance advised that the surplus from the NPPR funding was used to reduce the deficit in 2014 and there were overspends with regards to the unifications of Town Councils and amalgamation with the County Council and setting up of municipal districts. She advised that the LPT is replacing funding from central government and that the Council continues to put the case to the Department with regard to additional funding. She explained that if the Council retains the basic rate of LPT this will result in €2.5m of funding for the budget. In conclusion Ms. Lynch advised that the reality is that if the Council retains the rate for 2015, cuts will have to be made to services.

The Cathaoirleach invited Cllr. Lawless to speak as the proposer of the first motion. Cllr. N. Lawless referred to the LPT as an unjust tax and advised that she was standing by the proposal.

The Cathaoirleach invited Cllr. D. Mitchell to respond as the proposer of the second motion. Cllr. D. Mitchell proposed that the property tax remain at 100%, in that it was essential to provide services for everyone in society. He referred to an example list of funding initiatives to allocate the €2.5m additional funding to services such as homelessness, economic development, recycling centres, library staff, playground maintenance and funding to each municipal district area. He said that he did not wish to see the funding go into a black hole.

In response to the Cathaoirleach advising that the first vote was with regard to the reduction of the LPT, elected members asked for some indication as to where the cuts were going to take place prior to voting on the proposal. In response, Cllr. N. Lawless advised that it was the remit of the executive to advise in relation to this matter.

At the request of Cllr. P. Kennedy, Cllr. D. Mitchell's proposal was circulated to the elected members which was read to the meeting by Cllr. I. Winters:-

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Sample of projects	Sa Bhaile – Bray	30,000
	Sonas – Wicklow	80,000
Housing Adaptation Grant (DPG)		250,000
Economic Development		300,000
Recycling Centres		300,000
Libraries	Arklow staff	200,000
	Book fund	100,000
Community Grants		300,000
Playgrounds		160,000
Rates incentive scheme		250,000
 Sub Total		 1,970,000
 Municipal District Local Property Tax Fund*		
Bray		130,000
Arklow, Baltinglass, Greystones and Wicklow 4 X 100,000*		400,000
 Total		 2,500,000

\*Proposed areas of spend for municipal district local property tax fund to be decided by each of the municipal districts.

Footpath repairs, road safety measures, street lighting, public realm enhancement projects for towns and villages

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In response to a query from Cllr. P. Kavanagh as to the irregularity of the proposal, Cllr. I. Winters provided the clarification that the list was a suggestion of how the money could be ring fenced for spending by the elected members in areas as they see fit and that it would not simply go into a black hole and that budget would be decided on budget day.

#### Time extension of the meeting

On the proposal of Cllr. J. Behan, seconded by Cllr. J. Whitmore it was agreed to extend the meeting to 5.30 p.m.

Following a brief discussion on the matter the proposal put forward by Cllr. N. Lawless and seconded by Cllr. Mary McDonald, to reduce the basic rate of local property tax by 15% was then put to a vote and following a roll call was defeated by a margin of 8 for, 22 against and 2 abstaining viz:-

**FOR: CLLRS J. BEHAN, J. BRADY, P. KAVANAGH, N LAWLESS, M. MCDONALD, O O BRIEN, G. O NEILL, AND J. SNELL (8)**

**AGAINST: CLLRS. T. ANNESLEY, V. BLAKE, S. BOURKE, P. CASEY, S. CULLEN, P. DORAN, P. FITZGERALD, C. FOX, P. KENNEDY, S. MATTHEWS, G. MCLOUGHLIN, D. MITCHELL, M.**

**MURPHY, D. NOLAN, J. RUTTLE, J. RYAN, B. THORNHILL, E. TIMMINS, P. VANCE, G. WALSH, J. WHITMORE AND I. WINTERS (22)**

**ABSTAINING: CLLRS. T. CULLEN AND T. FORTUNE (2)**

Following a brief discussion on the matter Cllr. D Mitchell put forward the motion to the basic rate of Local property tax not be varied which was seconded by Cllr. I. Winters

In response to a request for the Chief Executive to comment on the legality of the proposal the Cathaoirleach advised that the Chief Executive was not required to do so as the proposal was as set out which was to retain the LPT at the basic rate which had been proposed and seconded and the list was not included in the proposal being put forward.

The proposal to retain the basic rate of local property tax was then put to a vote and following a roll call was passed by a margin of 22 votes for, 8 against and 2 abstaining viz:-

**FOR: CLLRS. T. ANNESLEY, V. BLAKE, S. BOURKE, P. CASEY, S. CULLEN, P. DORAN, P. FITZGERALD, C. FOX, P. KENNEDY, S. MATTHEWS, G. MCLOUGHLIN, D. MITCHELL, M. MURPHY, D. NOLAN, J. RUTTLE, J. RYAN, B. THORNHILL, E. TIMMINS, P. VANCE, G. WALSH, J. WHITMORE AND I. WINTERS (22)**

**AGAINST: CLLRS J. BEHAN, J. BRADY, P. KAVANAGH, N LAWLESS, M. MCDONALD, O O BRIEN, G. O NEILL, AND J. SNELL (8)**

**ABSTAINING: CLLRS. T. CULLEN AND T. FORTUNE (2)**

## **ITEM NO. 2**

**That Wicklow Count Council considers a motion to welcome refugee families to the county and to notify government that the county is willing to play its full part in the national effort to mitigate the humanitarian disaster**

The Cathaoirleach put forward the following proposal which was seconded by Cllr. J. Snell.

*'That Wicklow County Council considers a motion to welcome refugee families to the county and to notify government that the county is willing to play its full part in the national effort to mitigate the humanitarian disaster'*

The Cathaoirleach referred to the efforts by refugees fleeing into Europe to escape what he described as horrible conditions and that he felt it was important to highlight this matter on the agenda to give elected members the opportunity to send a welcome out to the refugees from Syria and other countries and to signal to the Authorities that Wicklow will open its doors and be part of the process.

The elected members expressed support for the motion, however in doing so, concern was expressed at the lack of provision of accommodation for the homeless and asked that the Department be requested to provide grant aid to commence a proper building programme.

Cllr. T. Cullen proposed an amendment that *'the Department of the Environment Community and Local Government allocate an additional €50m to house people in the Wicklow County Council area in the forthcoming estimates'*. This proposal was seconded by Cllr. T. Fortune.

Following a brief discussion on the matter it was agreed that the proposal put forward by Cllr. J. Ryan, seconded by Cllr. J. Snell be amended to include *'the provision of adequate funding for persons to be housed.'*

### **ITEM NO. 3**

#### **Update – The Barracuda**

The Cathaoirleach, absented himself from discussion in this matter by leaving the chamber and Cllr. P. Fitzgerald, leas Cathaoirleach assumed the Chair.

The following documentation was circulated to the elected members:-

1. Report on Barracuda –Sea life leases dated 23<sup>rd</sup> September, 2015 of Mr. Des O Brien, Director of Services
2. Appendices 1 – 13 of the report
3. Copies of questions received from Councillors J. Brady, T. Cullen, T. Fortune, S. Matthews and P. Kavanagh
4. Response to questions raised in relation to the Barracuda by Carol O Farrell, BL.

The leas cathaoirleach advised in accordance with resolution passed by the elected members that Senior Council had been briefed with further papers and has indicated that she will not be in a position to deal with the matter before the 12<sup>th</sup> of October. He asked if the elected members wished to proceed with discussion or await response to further information requests.

Following a brief discussion on whether to discuss the matter or not it was agreed to proceed with the discussion.

- Cllr. T. Fortune referred to the motion he had put forward previously, seconded by Cllr. P. Kavanagh and asked if this motion was to be put to the meeting.
- Cllr. J. Brady proposed that the files in relation to the matter be made available for the elected members to look at which was seconded by Cllr. N. Lawless.
- Cllr. P. Kavanagh advised that she had two sections of the Local Government Act, 2001 which she wished to ask questions on.
- In response to the question from Cllr. T. Cullen to be provided with a copy of the notice of disposal for the 250 year lease the CE advised that it was included at appendix 10 of the report.

Mr. Des O Brien, Director of services advised that there had been a lot of questions from elected members and reports in the press which appeared to show a lack of understanding of what had transpired and that he had prepared a presentation to give a background in the matter and to put context on the matter from 1991 up to 2004. He gave a presentation to the meeting based on the information contained in the report of the 23<sup>rd</sup> of September, 2015, previously circulated..

In signing the deed of variation and endorsement in 2004, he recalled taking legal advice at the time and the unequivocal advice received at that time was that the disposal motion held strong and the legitimate expectation on the part of the lessees to rely on the disposal motion at the time. In relation to the query as to the time period of 250 years, D. O Brien advised that correspondence showed that initially a time period of 999 years was sought and in terms of value, it did not make a difference whether it was 150 or 250 years. In signing the 2004 lease for a time period of 250, he advised that he was satisfied with this on the basis that a short term lease clearly meant 65 years and not being a long term lease and that a time period of 250 years seemed reasonable. He reiterated the entitlement of the lessees to buy out the ground rent on the property under law and that the Council could not constrain this.

The Leas Cathaoirleach referred to the time limit of the meeting and suggested that any further questions in relation to the matter be submitted to the Meetings Administrator by the following Wednesday the 30<sup>th</sup> of September, so that they can be dealt with for the meeting of the 6<sup>th</sup> of October.

Cllr. J. Behan referred to the time sensitivity of the issue and asked where the Council stood in the process of the selling of the freehold and was there an opportunity to have this process reversed.

In relation to making available the files to the elected members, the Meetings Administrator advised that the same procedure following in relation to the Three Trout files and the Baltinglass files would be applied.

**THIS CONCLUDED THE BUSINESS OF THE MEETING**

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**CLLR. JOHN RYAN  
CATHAOIRLEACH  
WICKLOW COUNTY COUNCIL**

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