

MINUTES OF ORDINARY COUNCIL MEETING HELD ON MONDAY, 17TH DECEMBER, 2018 AT 3.00 P.M.

Chair: Eamon Aylward.

Cllrs: John Brennan, Tomás Breathnach, Mary Hilda Cavanagh, Peter Cleere, Fidelis Doherty, Matt Doran, Michael Doyle, Pat Dunphy, David Fitzgerald, Ger Frisby, Pat Fitzpatrick, Breda Gardner, David Kennedy, Joe Malone, Andrew McGuinness, Michael McCarthy, Patrick McKee, Pat Millea, Malcolm Noonan, Melissa O'Neill, Patrick O' Neill & Maurice Shortall.

Officials: Colette Byrne, Tim Butler, Martin Prendiville, Sean McKeown, Mary J. Mulholland, Anne Maria Walsh, Frank Stafford & Nicolaas Louw.

1. Confirmation of Minutes

(a) **Minutes of Ordinary Meeting of Kilkenny County Council held on Monday 19th November, 2018**

Proposed by Cllr. Pat Fitzpatrick, seconded by Cllr. John Brennan and agreed:

"That the Minutes of Ordinary Meeting of Kilkenny County Council held on Monday, 19th November, 2018 as circulated with the Agenda be and are hereby approved".

(b) **Minutes of Statutory Budget Meeting of Kilkenny County Council held on Friday, 23rd November, 2018**

Proposed by Cllr. Patrick O'Neill, seconded by Cllr. Fidelis Doherty and agreed:

"That the Statutory Budget Meeting of Kilkenny County Council held on Friday, 23rd November, 2018 as circulated with the Agenda be and are hereby approved".

(c) **Minutes of SPC5: Environmental Protection, Water Services & Energy held on Wednesday, 23rd May, 2018**

Proposed by Cllr. Tomás Breathnach, seconded by Cllr. Maurice Shortall and agreed:

"That Minutes of SPC5: Environmental Protection, Water Services & Energy held on Wednesday, 23rd May, 2018 as circulated with the Agenda be and are hereby approved".

Cllr. Aylward extended votes of sympathy to the following:

- Fiona Deegan, on the death of her Father William Deegan.
- Kathleen Carroll on the death of her brother Michael Murphy.
- Ciaran Conroy, Civic Trust on the death of his Mother Mary Conroy.
- The family of the late Mr. Finbar Coughlan [*Retired Engineer, Kilkenny City*].
- The family of the late Mr. Paddy Purcell, Mooncoin [*uncle of Cllr. Eamon Aylward*].
- The family of the late Mr. Dick Tierney, Inistioge.
- The family of the late Mr. Michael O'Neill, Kilkenny City.
- The family of the late Mr. Joe Darcy, Rose Inn Street.
- The family of the late Ms. Mai Dunphy, Glenmore.
- The family of the late Mr. Jimmy Roche, Glenmore.

Cllr. Aylward congratulated all involved in Yulefest, Ballyhale Shamrocks, Graigue/Ballycallan and Dunamaggin hurling teams on winning the Leinster finals.

Cllr. Noonan congratulated Cartoon Saloon on being shortlisted for Academy Award for the short film at Late afternoon CS.

2. (a) **Housing & Other Disposal – Tithíocht & Díuscairt Eile**

- (i) It was proposed by Cllr. Andrew McGuinness seconded by Cllr. Maurice Shortall and agreed:

“That, in accordance with Section 183 of the Local Government Act, 2001, Kilkenny County Council approves of the disposal of its interest in a plot of ground at Purcellsinch, Dublin Road, Kilkenny, which measures approx. 0.17 ha., as identified on the attached map, to Dr Venkata Subbaiah Chetty Peteti & Madhuri Motamarri, Purcellsinch, Dublin Road, Kilkenny, for the sum of €5,000 (Five thousand euro) with the Purchaser being responsible for all legal costs associated with the sale, including those of Kilkenny County Council.” (Notice sent to members on the 3rd December, 2018).

(b) **Planning**

- (i) **Taking in Charge: The Weir View, Castlecomer Road.**

It was proposed by Cllr. Andrew McGuinness, seconded by Cllr. David Fitzgerald and agreed that:

“That the County Council of the County of Kilkenny, in exercise of the powers conferred on them by Section 11 of the Roads Act, 1993 and in compliance with Section 180 of the Planning & Development Act, 2000 as amended by Section 59 of the Planning & Development Act 2010, hereby declares the road listed in the Public Notice and listed below, to be a Public Road”.

ESTATE: The Weir View, Castlecomer Road, Kilkenny. (179 Units)

- (ii) **Taking in Charge: Lios na Si, Johnstown.**

It was proposed by Cllr. Michael McCarthy, seconded by Cllr. John Brennan and agreed that:

“That the County Council of the County of Kilkenny, in exercise of the powers conferred on them by Section 11 of the Roads Act, 1993 and in compliance with Section 180 of the Planning & Development Act, 2000 as amended by Section 59 of the Planning & Development Act 2010, hereby declares the road listed in the Public Notice and listed below, to be a Public Road”.

ESTATE: Lios na Si, Johnstown, Co. Kilkenny. (14 Units)

- (iii) **Taking in Charge: Bradog Way, Gowran.**

It was proposed by Cllr. Breda Gardner, seconded by Cllr. Maurice Shortall and agreed that:

“That the County Council of the County of Kilkenny, in exercise of the powers conferred on them by Section 11 of the Roads Act, 1993 and in compliance with Section 180 of the Planning & Development Act, 2000 as amended by Section 59 of the Planning & Development Act 2010, hereby declares the road listed in the Public Notice and listed below, to be a Public Road”.

ESTATE: Bradog Way, Gowran, Co. Kilkenny. (39 Units)

- (iv) **Taking in Charge: Nore Terrace, Maudlin Street.**

It was proposed by Cllr. Andrew McGuinness, seconded by Cllr. Malcolm Noonan and agreed that:

“That the County Council of the County of Kilkenny, in exercise of the powers conferred on them by Section 11 of the Roads Act, 1993 and in compliance with Section 180 of the Planning & Development Act, 2000 as amended by Section 59 of the Planning & Development Act 2010, hereby declares the road listed in the Public Notice and listed below, to be a Public Road”.

ESTATE: Nore Terrace, Maudlin Street, Kilkenny. (Units 3a to 12a)

(v) **Taking in Charge: Baronscourt, Bennettsbridge.**

It was proposed by Cllr. Patrick O'Neill, seconded by Cllr. David Fitzgerald and agreed that:

"That the County Council of the County of Kilkenny, in exercise of the powers conferred on them by Section 11 of the Roads Act, 1993 and in compliance with Section 180 of the Planning & Development Act, 2000 as amended by Section 59 of the Planning & Development Act 2010, hereby declares the road listed in the Public Notice and listed below, to be a Public Road".

ESTATE: Baronscourt, Bennettsbridge, Co. Kilkenny. (7 Units)

(vi) **Taking in Charge: Aylesbury, Ferrybank.**

It was proposed by Cllr. Fidelis Doherty, seconded by Cllr. Pat Dunphy and agreed that:

"That the County Council of the County of Kilkenny, in exercise of the powers conferred on them by Section 11 of the Roads Act, 1993 and in compliance with Section 180 of the Planning & Development Act, 2000 as amended by Section 59 of the Planning & Development Act 2010, hereby declares the road listed in the Public Notice and listed below, to be a Public Road".

ESTATE: TC68 - 50 Units – Aylesbury, Ferrybank, Co. Kilkenny

(vii) **Update on Regional Spatial & Economic Strategies [RSEs].**

Mr. Sean McKeown advised Members that the Regional Spatial & Economic Strategy has been published today 17th December. It will be on public display for a period of 10 weeks. The closing date for receipt of submissions is 8th March, 2019.

A workshop will be arranged for Members to consider the draft Strategy. A date for late January/early February will be agreed at the January CPG Meeting.

(c) **Draft County Kilkenny Waste Management Bye-Laws 2018.**

Mr. Sean McKeown presented his report on the draft Waste Management Bye-laws 2018. He advised the Members that this is a standard set of bye-laws being adopted by all local authorities. The Bye laws are designed to:

- Encourage segregation of Waste.
- Tackle dumping of illegal Waste.
- Cut out illegal Waste Collectors.
- Reduce need for court action by having a fixed penalty option.

Kilkenny County Council will be entitled to seek proof from householders where their waste has been disposed. The Bye-Laws were presented to the SPC5 on three occasions during the year - 23rd May, 2018, 19th September, 2018 and 14th December, 2018. The SPC has recommended the adoption of bye-laws. No submissions were received during the consultation period.

Contributions were received from Cllrs. D. Kennedy, MH Cavanagh, M. O'Neill, P. McKee, M. Noonan, B. Gardner, P. Dunphy, J. Brennan, F. Doherty, M. Shortall, P. Fitzpatrick, E. Aylward & T. Breathnach. The issues raised by Members are as follows:

- Non collection of waste in rural areas.
- Clarify existing routes and hours of operation.
- Not enforcing conditions of tenancy agreements in social houses.
- 27% not availing of a waste disposal service.
- Clarity on items that can be recycled.

- Increasing amount of illegal dumping.
- Guidelines on presentation of waste particularly for apartment blocks.
- Elimination of single use plastics.
- Provision of water receptacle on Parade.
- Increased awareness/education for schools, communities.
- Name & Shame Policy.
- Use of CCTV for detection of illegal dumping.
- National Database.
- Increased resources required to cover all incidents of illegal dumping, cost incurred in dealing with these incidents.
- Amnesty for scrap metal.

Cllr. Breathnach, Chairman of SPC5 thanked the Members for their contributions and advised that he will bring back to the SPC the issues raised by Members today.

Mr. Sean McKeown responded to all the issues raised by Members. He advised that a meeting will be held with the private waste collectors early in the New Year. The concerns of the Members will be discussed at that meeting. He requested Members to advise him in writing of issues that they wish to have raised with the Waste Collectors.

He advised them that:

- the Council has collected 63 tonnes of illegal waste so far in 2018 and that the costs associated with same are circa €84,000.
- 1,200 complaints have been received this year by the Environment Section and most of these relate to littering and illegal dumping.
- 90 Litter fines have been issued so far in 2018, and
- 10 cases were brought to court with 9 being successfully prosecuted.

It was noted that only a journalist present in court at the time of prosecution can name offenders in their report of court cases. The bye-laws will give the Council additional powers in dealing with illegal dumping. An extensive publicity campaign will be undertaken in 2019 to ensure awareness of the new bye laws among households and businesses.

Ms. Mulholland advised that in relation to social housing tenants, once the bye laws have been passed, the Council can then request proof from any person in rented accommodation where they dispose of their waste.

Mr. Tim Butler advised that the Kilkenny Municipal District is looking into the provision of a water receptacle on the Parade.

Mr. Sean McKeown recommended that the draft bye laws be approved by the Members.

It was proposed by Cllr. Tomás Breathnach, seconded by Cllr. Maurice Shortall and agreed that:

“That Kilkenny County Council adopts the County Kilkenny Waste Management Bye-laws, 2018 in accordance with the Report circulated to the Members.”

(d) **(i) Chief Executives Monthly Report**

Ms. Colette Byrne presented her Chief Executive Report for December 2018. Contributions/Queries were received from Cllrs. P. Cleere, E. Aylward, P. Dunphy, D. Kennedy, F. Doherty, P. Fitzpatrick, T. Breathnach, M. O'Neill, B. Gardner, M. Shortall, G. Frisby and M. Doyle in relation to the following:

- Acknowledgement of Irish Water Safety Award to Joan McLoughlin and Kilkenny People newspaper.
- Update on Flood Relief Schemes, clarify if warning systems are in place.

- Acknowledge support of the Defence Forces in raising funds for the Mayor's Coal Fund and also the Mayor's Christmas Concert on 21st December, 2018.
- Acknowledged all the staff, emergency services who dealt with flooding on Saturday, 15th December.
- Clarify status on a number of minor flood works.
- Availability of sand bags.
- Cleaning of rivers/small streams/gulleys etc.
- Update on Thomastown Culvert.
- Congratulate Open Circle on their exhibition in the Medieval Mile Museum.
- Welcome the statistics for the LEO Office.
- Cost of connections with Irish Water.
- CLÁR Funding request - funding for first responders to be removed from this stream of funding.
- Provision of units for decongregation.
- Update on Disability Strategy, provide 20% of social houses for disability, Council "doesn't care" about disability.
- Welcome "Shop Local" campaign.
- Clarify Historic Structure Fund.
- Update on Pedestrian Bridge in Castlecomer.
- Publication of "Field Names" and Rhyme Rag and Mór bhileog Chill Chainnigh.
- Completion of road works N78 & N25.
- Request more funding for Low Cost Safety Measures.
- Abbey Quarter - status of projects in planning delays due to objections, legal costs being incurred with tax payers money. Why Kilkenny County Council is not proceeding to defend legal case on temporary car park.
- Town & Village Health check - process involved.

Ms. Mary Mulholland responded to the issues raised on Health Checks and proposals to provide accommodation for de-congregation of St. Patrick's.

Mr. Tim Butler updated the Members in relation to the issues of flooding across the County on Saturday, 15th December and the current position on the six Flood Relief Schemes. He confirmed that Kilkenny County Council will be recruiting two Engineers for the purpose of taking the schemes from planning/design to construction. Nationally €1bn in funding for works is available from the OPW under the CFRAM programme which is to be implemented over the next 10 years. He advised that it is the responsibility of the private landowners to maintain and clean streams within their holdings having consulted with the relevant agencies.

Ms. Colette Byrne advised that it is proposed by Irish Water to have a standard connection charge across the Country. The cost of bringing the service to the property will be assessed on a case by case basis.

Ms. Byrne advised that Kilkenny County Council provided a range of services for people with a disability across all Departments: Housing, Roads, Parks, Community etc. She advised that she has responded to Cllr. O'Neill's request on Disability Strategy and this will be re-circulated to the Members.

Ms. Byrne updated the Members on progress in the Abbey Quarter, on projects for Brewhouse, Mayfair and Public Realm Works will commence on site in early 2019 with a completion date in 2020. Change of use will be required for Mayfair for use as the City Library. The process involved allows for submissions and any member of the public can make a submission or observation.

In relation to the temporary car park a decision was taken following consideration of the costs involved in defending the legal case which is an issue relating to environmental legislation and EU legislation and the temporary use of this site as a car park for a period of five years. Based on recent experience it would take a number of years for a decision to be made if the Judicial Review was referred to the European Courts, the costs involved which would have to be funded from our own resources and the planning for a temporary car park is only for five years.

Mr. Sean McKeown responded to the queries raised on the Historic Structures Fund. This is a competitive national fund and application will be assessed with all other applications received and the final allocations will be made by the Department of Culture, Heritage and the Gaeltacht.

Cllr. Aylward requested Cllr. Melissa O'Neill to withdraw her remark on the Council not caring about disability. Cllr. Melissa O'Neill refused to withdraw the remark.

Cllr. Aylward advised that she would not be allowed to speak any further until she withdrew her remark.

(ii) **Audit Committee Report on AFS & Audit Report 2017**

Mr. Tim Butler advised that the Audit Committee has reviewed the Annual Financial Statement for 2017 and the Auditors Report. The committee has also met with the Local Government Auditor. Based on their deliberations, the committee has requested that three items be brought to the attention of the Council. These are listed in the report circulated. Mr. Butler confirmed that the Executive will be considering these three areas for 2019. The report is circulated for noting by the Members and for information purposes.

3. (i) **Correspondence**

Ms. Anne Maria Walsh reminded the Elected Members to complete the survey e-mailed to Members recently in relation to the work of the Elected Member. The survey can be completed online or hard copy is available also. Latest date is 18th January, 2019.

4. **Business Adjourned From a Previous Meeting**

None.

5. (i) **Schedule of Meetings from July, 2018 to October, 2018**

It was proposed by Cllr. Patrick O'Neill seconded by Cllr. Pat Fitzpatrick and agreed.

Ms. Mary Mulholland advised the Council that the 100th Anniversary of the First Dáil will take place on 21st January, 2019 the same day as the January Council Meeting. It is intended to have a flag raising ceremony in County Hall to mark this occasion. It will also afford an opportunity to mark the Women's Suffragette Movement.

Contributions were received by Cllrs. P. Dunphy, P. Fitzpatrick, F. Doherty, M. Noonan and D. Kennedy in relation to the following:

- Kilkenny's connection with the First Dáil.
- Chairperson of Suffragettes - Moya Bligh from Kilkenny.
- First Meeting of Suffragettes in Town Hall, Kilkenny.

Ms. Mulholland advised that contributions from Members will be incorporated into the event on 21st January, 2019.

6. **Consideration of Reports and Recommendations of Committees of the Council**

Proposed by Cllr. Tomás Breathnach, seconded by Cllr. Maurice Shortall that report taken as read and noted:

"That the Chairman's Report of SPC5: Environmental Protection, Water Services & Energy held on Wednesday, 23rd May, 2018 as circulated with the Agenda be noted and hereby approved".

7. **Other Business set forth in the Notice convening the Meeting–**

None.

8. **Conferences – Request for approval to Attend**

Schedule of Conferences circulated with the Agenda was proposed by Cllr. Maurice Shortall seconded by Cllr. Fidelis Doherty and agreed.

9. **Matters Arising from Minutes**

None.

10. **Any Other Business**

- (i) Cllr. Joe Malone advised that a Suicide Awareness Event will be held early in the New Year and all Members are invited to attend.
- (ii) Cllr. Pat Fitzpatrick extended an invitation to all Members to the Wellie Race in Castlecomer on 1st January, 2019.

11. **Notices of Motion**

None.

12. **Notices of Motion from other local authorities seeking support of Kilkenny County Council**

It was proposed by Cllr. Pat Fitzpatrick seconded by Cllr. David Kennedy and agreed that the following Notice of Motion 36 (18) be taken as read and noted:

36(18) Donegal County Council

"The First Dáil Éireann assembly constituted and mandated by the electorate in the 1918 General Election. Mindful and supportive of national intentions to mark this historical occasion, that Donegal County Council now:

- (i) *Initiate and organise a comprehensive programme of celebration and commemoration of the First Dáil within the county in 2019;*
- (ii) *Invite nearest next of kin of family members of the first TDs representing the Donegal Constituencies to an event in the Plenary Council Headquarters Lifford;*
- (iii) *Promote and sponsor a first and second level historical schools project on the First Dáil within all schools in the county.*
- (iv) *That the Minister for Education & Skills in light of the recent decision to revisit the proposal to make history an optional subject in the Junior Certificate, acts immediately to ensure that the subject is reinstated as a mandatory subject at the Junior Certificate level."*

Ms. Colette Byrne thanked all staff and in particular Mr. Tim Butler for the work undertaken on Saturday following the recent heavy rain.

Cllr. Eamon Aylward wished all Members, staff and all citizens a very enjoyable and safe Christmas and a Happy New Year.

He appealed to all to take care on the roads during the festive season.

That concluded the business of the meeting.

CATHAOIRLEACH

DATE