

**These Minutes have been edited for Data Protection purposes.
A paper copy of the unedited Minutes is available on request.**

**MINUTES OF THE ORDINARY MEETING OF KERRY COUNTY COUNCIL
HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE, TRALEE ON
MONDAY, 18 MAY 2009.**

**MIONTUAIRISCÍ NA CRUINNITHE MHIOSIÚIL DE COMHAIRLE CONTAE
CHIARRAÍ A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS AN
CHONTAE, TRÁ LÍ, AR AN LUAN , 18 BEALTAINÉ 2009.**

PRESENT/I LÁTHAIR

Councillors/Comhairleoirí

R. Beasley	J. Brassil	T. Buckley
M. Cahill	P. Connor-Scarteen	B. Cronin
T. Ferris	S. Fitzgerald	T. Fitzgerald
T. Fleming	N. Foley	D. Healy-Rae
M. Healy-Rae	D. Kiely	P. Leahy
B. MacGearailt	P. McCarthy	A. McEllistrim
C. Miller	T. O'Brien	B. O'Connell
J. O'Connor	P. O'Donoghue	M. O'Shea
L. Purtill	J. Sheahan	

IN ATTENDANCE/I LÁTHAIR

Mr. T. Curran, County Manager	Mr. J. O'Connor, Head of Finance
Mr. M. McMahon, Director of Planning	Mr. J.D. Flynn, Director of Corp. Servs.
Mr. O. Ring, Director of Water Servs	Mr. J. Breen, Director of Hsg & C&E
Ms. A. Haugh, Dir. of Env'l Servs.	Mr. C. O'Sullivan, Dir. of Roads
Mr. G. O'Brien, A/SEO Corp. Affairs	Mr. P. Corkery, Press & Comm.
Ms. B. Reidy, SSO Corporate Affairs	Ms. M. Galvin, CO Corporate Affairs
Ms. O. O'Shea, CO Corporate Affairs	

The meeting commenced at 10.45 a.m.

The Mayor Cllr. T. Fleming took the Chair.

At the outset, Mayor Fleming thanked members for being so well disciplined during his term in office. He wished all members success in the forthcoming Local and Town Council Elections and he wished Cllr. Ferris every success in the European Election. He thanked officials for their co-operation during the past twelve months and he said members and officials work as a good team for the county.

Cllr. M. Healy-Rae complimented the Mayor on his term in office and said that he was very fair and honourable regardless of politics. He added that there is a rumour in Bonane and Kenmare that Management know what is contained in the Malachy Walsh report in relation to the abstraction of water for the Kenmare area and it is also said that elected members are aware of what is in this report. He wanted to put it on record that he did not know what was

contained in the report and he asked Mr. O. Ring if he was aware of the contents of this report. This is a very important issue for the people of this area and it is rumoured that the contents of the report are being covered over until after the Local Elections. He called on Management to make a clear statement on whether this report has been submitted to Kerry County Council by Malachy Walsh & Partners. Deputations were received at Local Area Meetings from the residents of Kilgarvan and Bonane yet no clear answers have emerged to-date.

Cllr. P. Connor-Scarteen said that he received numerous representations from the people of Bonane in relation to the contents of this report and he said that if the report is available, Members should be informed of its contents. Water should not be extracted from the Sheen or Roughty Rivers as there are numerous lakes in the area which would be more suitable for water abstraction.

Cllr. D. Healy-Rae asked if consideration was being given to the abstraction of water from Carrig Lake. He understood this was not considered as it is too difficult to access and it is two miles up the hill.

In response, Mr. O. Ring said that a Preliminary Report on the Kenmare Water Supply was prepared a number of years ago. At that point it was identified that a supply source would be required to supplement the water supply for Kenmare. A report prepared was in favour of the abstraction of water from the Sheen Falls River. An Abstraction Order was made and there were a number of objections to it. Consultants were then asked to review every possible water source in the area including the lakes. This is a very extensive task and it proved to be very complicated. He confirmed that he had not received nor had he seen the report which is being prepared by the Consultants and none of the Management Team have seen this report. This is the revised report and he could not understand how members were saying that Management had seen it.

Cllr. M. Healy-Rae said that it seems suspicious that this report will be available in 3 or 4 weeks time. The pipes are already being laid in Kenmare and it is ridiculous that no water source has yet been identified. This it is unfair on the people of Kenmare. He asked the County Manager if he had any further information on this report.

Mr. T. Curran, County Manager said that he had absolutely no further information and he was not in the business of hiding reports from elected members. Once this report is available and considered by the Management Team, it will be presented to members for consideration.

Cllr. R. Beasley congratulated Mayor Fleming on his term as Mayor and said that he was very fair to all members. He stated that the people of Kerry have one opportunity to elect two MEPs from the county, that is Séan Kelly and Toiréasa Ferris and the people of Kerry should support these candidates.

The Mayor informed members that he would then take Item No. 3 on the Agenda.

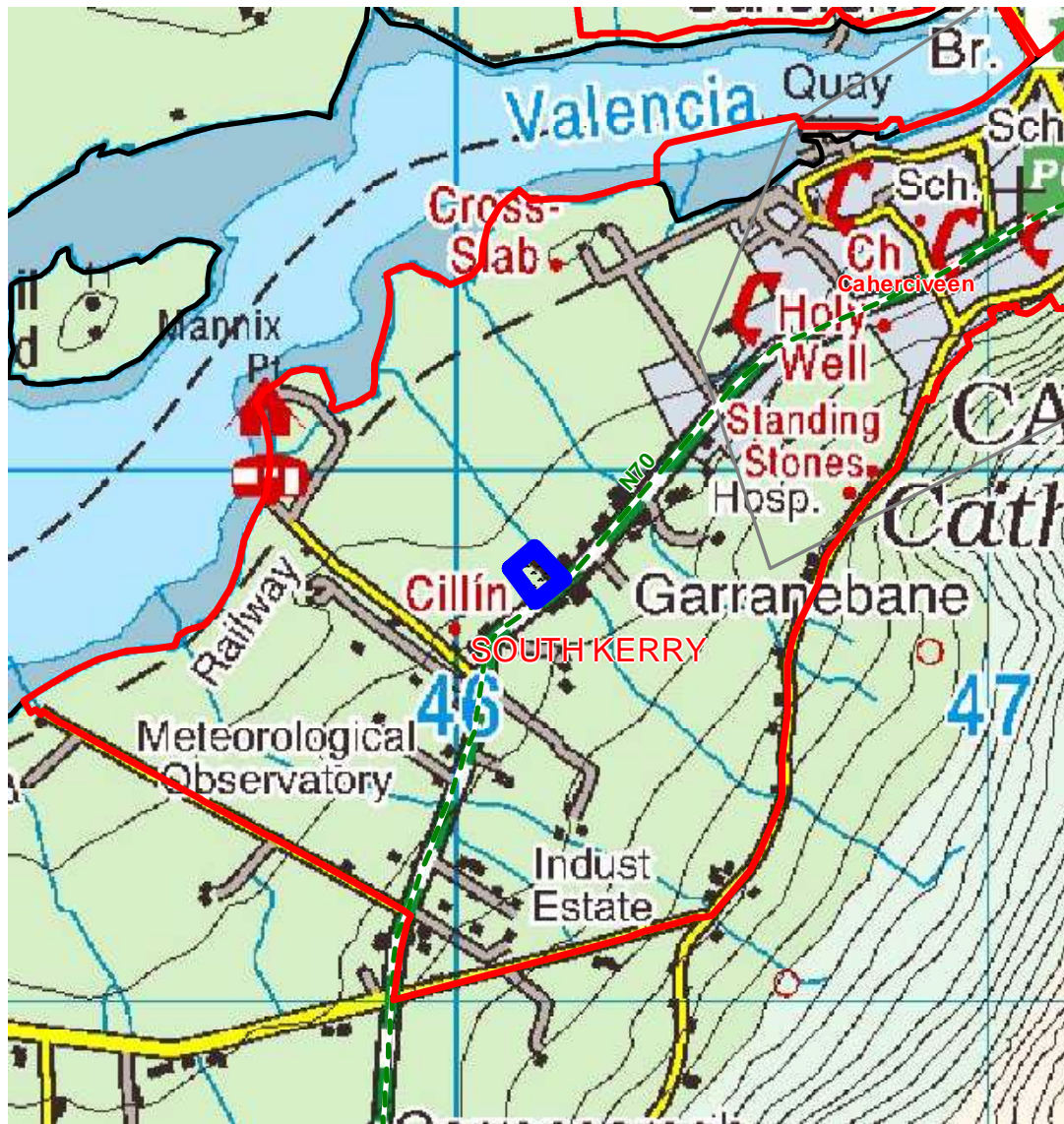
09.05.18.03 Material Contravention of the Kerry County Development Plan 2009 - 2015

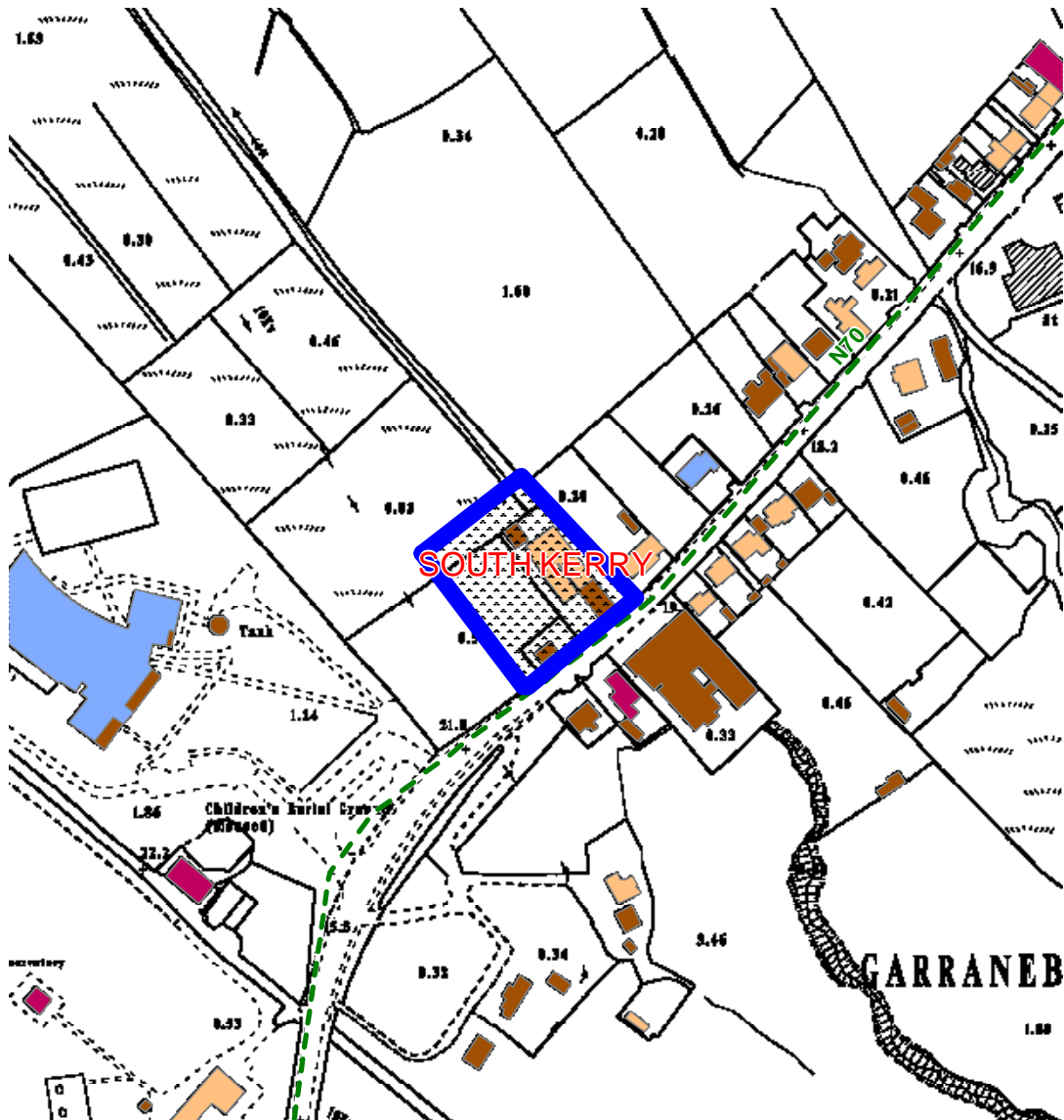
Mr. G. O'Brien referred members to the report on this Item which was circulated that morning and said he would read through the report to give members an opportunity to consider it. Mr. O'Brien then read the following report into the record of the Meeting.

"Implementation of the Material Contravention Procedure under and in accordance with Section 34 of the Planning & Development Act, 2000 in relation to application for **permission** for (1) Demolition of an existing dwelling house, (2) Construction of 3 no. retail units (300 sq metres total gross floor area), (3) Amendments to the existing access and car parking layout (including the provision of additional car parking spaces), (4) The provision of 3 no. underground fuel storage tanks and amendments to the layout of the existing petrol forecourt including the provision of a new car service area and (5) All associated ancillary development works including landscaping, signage (including 2 no. freestanding signs), provision of refuse / recycling area and relocation of existing trolley bay at Walsh's Supervalu, Waterville Road, Garranebane, Cahersiveen.

Planning Register No.	08/2263
Name of Applicant:	Dermot Walsh
Address of Applicant:	Walsh's Supervalu, Waterville Road, Garranebane, Cahersiveen
Agent:	Tom Halley, McCutcheon Mulcahy, Planning Consultants, 6 Joyce House, Barrack Square, Ballincollig, Co. Cork.
Date application lodged:	08/10/2008
Dates further information received:	10/02/2009, 02/04/2009 and 09/04/2009.
Date Material Contravention Procedure Initiated	18/04/09 with publication of prescribed notice in The Irish Examiner newspaper.
Decision due date:	12/06/2009

Site Location Maps





Pre-Planning Consultation

Agent met with Area Planner and SEE Planning on 12/12/2007.

Proposal

The proposal is for the construction of 3 small retail units towards the rear of the site of existing Supervalu Supermarket, the demolition of a dwelling house and extension of car park, the provision of 3 new underground fuel storage tanks and upgrading of layout of existing petrol forecourt and ancillary site works.

Description of Site and Surroundings

The site is located at the southern end of Cahersiveen and adjoins the N70 National Secondary Road. There is a large Supervalu supermarket on the site with petrol canopy to the front and car park to the side. There is a hotel on the opposite side of the road and mostly residential development in the vicinity.

Zoning and Designations

The eastern portion of the site containing the existing supermarket and petrol forecourt is located in an area zoned Mixed Use (Residential/Commercial/Services) in the Cahersiveen Local Area Plan 2006 – 2012.

The western portion of the site containing the existing car park serving the supermarket, the dwelling house proposed to be demolished to make way for proposed car park extension and where it is proposed to construct the proposed 3 no. retail units is located in an area zoned Residential in the Cahersiveen Local Area Plan 2006 – 2012.

The zoning matrix included in the Cahersiveen Local Area Plan 2006 – 2012 states that, on lands zoned Residential, Shops would involve a use open to consideration while Car Parks are a use not permitted.

Therefore, a Material Contravention of the development plan is required in order for the proposed car park extension to be permitted.

Relevant Planning History

Planning Register No. 04/1898: Permission granted to Dermot Walsh to extend existing car park with new boundary fence, signage and ancillary services on the south western side of existing Supervalu Supermarket.

Planning Register No. 04/3822: Permission granted to Dermot Walsh to (1) demolish existing house, (2) Construct new extension for retail use on western and northern sides of the existing shop at ground floor level, new internal glazed lobby and toilets at front of shop, new room at front of shop for petrol pump attendant, new extension for staff facilities to store area (to rear of shop), internal alterations to existing stores area at basement level, (3) Erect new shop front and alter existing front elevation of building, install ventilation/refrigeration equipment on external steel platform and new foul sewer pumping station at the rear of the building.

Planning Register No. 05/959: Permission granted to Dan O' Mahony for demolition of existing dwelling and the construction of a new dwelling in its place along with associated site works.

Planning Register No. 07/25: Permission refused to Dermot Walsh to construct 2 no. retail units and 1 no. coffee shop, all with storage space at Walsh's Supervalu Supermarket.

Planning Register No. 07/438: Permission refused to Dermot Walsh for (A) New forecourt area consisting of revised pump layout, new underground fuel tanks, new car service area, new car wash, revised entry and exit to forecourt, new forecourt canopy, (B) Demolition of existing dwelling house, (C) New entrance/exit along with extended and revised car parking area to serve overall Supervalu Supermarket Development, (D) New signage and (E) All associated site works.

Reports

(1) Roads and Transportation Dept, Kerry County Council

- (a) The Roads Section would have concerns regarding the movement of traffic within the proposed development. Please submit a proposed lining and signage layout for traffic movements within the site for approval.
- (b) We request the applicant to submit a detailed drawing indicating a priority junction as an alternative to the proposed 4m diameter painted roundabout.
- (c) There are concerns relating to the location of the new proposed signage as it may obstruct sightlines at the designated exit. Please indicate a more satisfactory location.
- (d) The proposed parking located to the east of the forecourt is to be removed. Please submit a detailed drawing indicating this and the relocation of the remaining proposed disabled parking space.
- (e) The storm water layout indicates that the upper car park is the only section directed into an oil interceptor. Please submit a detailed drawing catering for all storm water to be directed through an oil interceptor.
- (f) Please produce sustainable urban drainage design for this development including surface/storm water runoff calculations to show that the receiving water course has sufficient hydraulic capacity.

(2) Water Services Dept, Kerry County Council

- (a) Please submit a layout plan of the existing and proposed water main including the size and type of pipe, sluice valves, scour valves and hydrants.
- (b) Please submit longitudinal sections and cross section of proposed foul sewer and storm water networks. The sections should show existing and proposed ground levels, invert levels, cover levels of manholes and manhole details.
- (c) Please submit the size and details of sump being used for foul sewer to include what retention time is available.
- (d) The size, type and specification of existing pumps.

The matters raised in the above reports were addressed in submissions received from the applicant on 10/02/2009, 02/04/2009 and 09/04/2009 in response to request for further information issued by the Planning Authority. These submissions were referred to the Roads and Water Services Departments and no further reports were received.

Submissions/Observations

- (1) Peter O' Connor, (Address withheld for data protection purposes) – received on 07/11/2008.

The following is a summary of planning issues raised.

- (a) Applicant has not submitted any proof that site is within his control.
- (b) No map submitted showing land owners full interest in property within the area.
- (c) Applicant has submitted no proof that he has purchased right-of-way to the rear of site.
- (d) Traffic and pedestrian safety concerns.
- (e) Land is zoned Residential.
- (f) No retail impact study submitted.
- (g) Traffic Safety Audit not submitted.
- (h) Cahersiveen Wastewater Treatment is over-loaded.
- (i) Noise nuisance in predominately residential area.
- (j) Traffic Impact Statement should have been submitted.
- (k) Road Safety Audit submitted is deficient.
- (l) Bulk, size and density of development not appropriate to site.
- (m) Demolition of existing house would seriously injure the visual amenities and character of the area.
- (n) Discharge of surface water and effluent treatment not shown.
- (o) Insufficient provision of open space and green area.
- (p) Proposed landscaping and signage will restrict sightlines at entrance.

The following is the Planning Dept response to the issues raised in the submission.

- (a) Considering the maps submitted with the application, the existing established retail unit on the site and the planning history on the site, the Planning Dept is satisfied that the applicant has sufficient legal interest in order to make the planning application.
- (b) Applicant's land holding map was submitted with the planning application.
- (c) Covering letter submitted with application contains a statement that applicant has purchased the right-of-way. No Third Party submission has been made to contradict this statement.
- (d) Roads Report raised traffic safety concerns which were addressed in further information submissions made by applicant.
- (e) Part of application site is zoned Residential. The zoning objective in the Development Plan states that car parking constitutes a use which is not permitted. Hence, the need for a Material Contravention of the development plan. Retail use is a use which is open to consideration on lands zoned Residential.
- (f) The scale of the proposed development would not warrant the carrying out of a Retail Impact Assessment.
- (g) Road Safety Audit was submitted with application.
- (h) Water Services Report does not disallow connection to public sewerage network.

- (i) Considering the established supermarket on the site and the layout of the proposed retail units to the rear of the site, it is considered that any additional nuisance generated on the site by the proposed development would be insignificant.
- (j) The scale of the proposed development and the location of the site within the development boundary of Cahersiveen would not warrant the carrying out of a Traffic Impact Assessment.
- (k) It is considered that the Road Safety Audit and the further information submitted by applicant adequately address traffic and pedestrian safety issues.
- (l) Considering existing and permitted development in the vicinity, it is considered that the design of the proposed retail units is appropriate for the site.
- (m) The house proposed to be demolished is not a Protected Structure and it is considered that the loss of this house would cause no negative visual impact.
- (n) Drainage details were submitted by applicant in response to request for further information.
- (o) Some landscaping works are proposed along the site boundaries. There is no specific requirement for open space for retail development.
- (p) Revised details for landscaping and signage submitted by applicant are designed so as not to interfere with sightlines at entrance to site.

Assessment

1. Traffic: It is considered that traffic and pedestrian safety issues have been addressed in further information submission received on 10/02/2009. Adequate additional on-site car parking is proposed in order to cater for additional 3 no. retail units.
2. Effluent disposal: Proposal to connect to public sewerage system. Existing pumps and sump are considered adequate to deal with additional effluent generated by proposed 3 no. retail units.
3. Surface water disposal: Existing discharge to watercourse to rear of site. Condition recommended that all surface water from paved areas on site shall be treated in oil interceptor prior to disposal.
4. Residential amenity: It is considered that the proposed development would not injure the residential amenities of any existing or permitted residential development in the vicinity.
5. Visual impact: It is considered that the design and layout of the proposed development would integrate with existing development in the vicinity.
6. Planning History: Under Planning Register No. 07/25, permission was refused to Dermot Walsh to construct 2 no. retail units and 1 no. coffee shop, all with storage space at Walsh's Supervalu Supermarket for the following 2 reasons:
 - (i) It is considered that the proposal would result in substandard development by reason of excessive site coverage,

inadequate provision of off-street car parking, overlooking of neighbouring lands, impinging on residential amenities and negative effect on land values. The proposed development would therefore seriously injure the amenities of property in the vicinity and set an unwanted precedent for similar such development and would, therefore, be contrary to the proper planning and sustainable development of the area.

- (ii) As a section of the site is zoned Residential H1 in the current Caherciveen Local Area Plan 2006-2012, it is considered that the proposed development would be contrary to Objective H1 of said plan which requires that such zoned lands "are reserved for residential development to serve existing and permitted demand". The proposed development would therefore be contrary to the zoning provisions as laid down in the Local Area Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

The current proposal is revised in order to address the first reason for refusal in that the application site is larger, provision of additional car parking is proposed and the design and layout of the proposed retail units has been amended.

The second reason for refusal can only be addressed by the passing of a Material Contravention Motion by Kerry County Council.

7. Miscellaneous:

Water & sewage contribution: 300 sqm @ EUR 27.75/sqm =
EUR 8,325

Amenity levy: 300sqm @ EUR 4.28/sqm = EUR 1,284

Recommendation

Grant planning permission subject to the following conditions:

FIRST SCHEDULE

Having regard to the location of the site in a serviced area within the development boundary of Cahersiveen and the existing pattern of development in the area, it is considered that, subject to compliance with the conditions set out in the Second Schedule, the proposed development would not seriously injure the amenities or depreciate the value of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

SECOND SCHEDULE

- (1) Proposed development shall be carried out in accordance with drawings and details received on 08/10/2008 and 10/02/2009 except for any modifications specified in this decision.

Reason: To regulate and control the use of the development.

- (2) Prior to the commencement of development the developer shall pay a contribution of **EUR 8,325** to Kerry County Council (Planning Authority) in respect of public water and sewerage infrastructure and facilities benefiting the development.

The amount of this contribution is calculated in accordance with the Council's prevailing Development Contribution Scheme and will be increased from January 1st 2010 and annually thereafter (unless previously discharged) in line with the Wholesale Price Index for Capital Goods, Building and Construction as published by the Central Statistics Office unless the Scheme is superseded by a further Development Contribution Scheme adopted by the Council.

Reason: It is considered appropriate that the Developer should contribute towards the cost of public infrastructure and facilities benefiting the development, as provided for in the Councils prevailing Development Contribution Scheme, made in accordance with Section 48 of the 2000 Planning and Development Act and that the level of contribution payable should increase at a rate in the manner specified in that Scheme.

- (3) Prior to the commencement of development the developer shall pay a contribution of **€ 1,284** to Kerry county Council (Planning Authority) in respect of amenity facilities.

The amount of this contribution is calculated in accordance with the Council's prevailing Development Contribution Scheme and will be increased from January 1st 2010 and annually thereafter (unless previously discharged) in line with the Wholesale Price Index for Capital Goods, Building and Construction as published by the Central Statistics Office unless the Scheme is superseded by a further Development Contribution Scheme adopted by the Council.

Reason: It is considered appropriate that the Developer should contribute towards the cost of public infrastructure and facilities benefiting the development, as provided for in the Councils prevailing Development Contribution Scheme, made in accordance with Section 48 of the 2000 Planning and Development Act and that the level of contribution payable should increase at a rate in the manner specified in that Scheme.

- (4) Prior to the commencement of any works on site, the developer shall carry out an evaluation and quantification of all construction, demolition and excavation waste (including hazardous waste) likely to arise during all phases of development/construction and shall develop a waste management and disposal plan for all such wastes arising. A copy of this plan shall be submitted to the Planning Authority for agreement and approval prior to Commencement Notice stage.

Reason: In the interests of orderly development.

- (5) Under no circumstances shall the applicant\developer cut or otherwise interfere with the public road for the without a road opening licence.

Reason: In order to protect public property.

- (6) (a) The extended car parking area shall be finished in dense bitumen macadam or other bituminous surfacing material to be agreed in writing by the Roads Dept, Kerry County Council.
(b) All parking spaces shall be delineated with standard road marking material.

Reason: In the interests of orderly development.

- (7) (a) The proposed development shall be connected to the public water supply network by metered connections.
(b) Surface water from all paved areas shall be treated in an adequately designed and maintained oil interceptor prior to disposal. Prior to commencement of development, developer shall submit a revised surface water drainage layout and details of oil interceptor for the written agreement of the Planning Authority.
(c) No surface water shall be permitted to enter the public foul sewer network.

Reason: In the interests of orderly development.

- (8) (a) All landscaping works shall be carried out in accordance with details received on 10/02/2009 within one year of completion of proposed retail units.
(b) All boundary treatment shall be carried out in accordance with plans and particulars received on 10/02/2009.

Reason: In the interests of visual amenity.

Signed:

Michael Lynch SEE

Joan McCarthy, SEO

Paul Stack, SE

Date:

Cllr. P. O'Donoghue PROPOSED "That we the Members of Kerry County Council hereby resolve, in accordance with Section 34 of the Planning & Development Act, 2000, in relation to application for permission for (1) Demolition of an existing dwelling house, (2) Construction of 3 no. retail units (300 sq. metres total gross floor area), (3) Amendments to the existing access and car parking layout (including the provision of additional car parking spaces), (4) The provision of 3 no. underground fuel storage tanks and amendments to the layout of the existing petrol forecourt including the provision of a new car service area and (5) All associated ancillary development works including landscaping, signage (including 2 no. freestanding signs), provision of refuse/recycling area and relocation of existing trolley bay at Walsh's Supervalu, Waterville Road, Garranebane, Caherciveen."

In conclusion, Cllr. O'Donoghue said that the views expressed in the submission by Mr. O'Connor of (Address withheld for data protection purposes) are not shared by the people of the area who welcome this development which will create jobs.

Cllr. M. Healy-Rae SECONDED this proposal and said this is a very welcome development and it is what the people of the area want. He thanked Management and Planners for their assistance with this application.

A vote was taken on this proposal which resulted as follows:

A vote was taken which resulted as follows:

For: Cllrs. Beasley, Brassil, Buckley, P. Connor-Scarteen, Cronin, Ferris, S. Fitzgerald, T. Fitzgerald, Foley, D. Healy-Rae, M. Healy-Rae, Kiely, Leahy, MacGearailt, McCarthy, McEllistrim, Miller, O'Brien, O'Connor, O'Donoghue, O'Shea, Purtill, Fleming **(23)**

Against: None **(0)**

Not Voting: None **(0)**

The Mayor declared the resolution CARRIED.

Refusal of permission in Castleisland

Cllr. B. Cronin referred to the Material Contravention procedure and said that following recent job losses there was a joint meeting of Kerry County Council and the County Development Board held in the Randles Court Hotel, Killarney to create a jobs forum. All the major players in the county were present and Kerry County Council also sent a delegation to the US in an effort to generate employment for the county. The impression being given is that Kerry County Council is a lead player in attracting jobs to the county. However, 6 weeks later, the Council failed to bring forward a Material Contravention for Walsh Colour Print in Castleisland, similar to that previously passed for Ahern's Garage and the Kerry Co-op Store in Castleisland, both of which are retail and across the road from the proposed development by Walsh's. There was no

difficulty in putting forward a Material Contravention for Walsh's Supervalu. Both he and the people of Castleisland are shocked that a Material Contravention procedure was not initiated for the development proposed by Walsh Colour Print and he asked why was there one set of planning rules for the developments across the road from Walsh Colour Print and another set of rules for Tony Walsh.

Cllr. D. Healy-Rae asked how Cllr. Cronin blocked 100 jobs in Killarney a few weeks previously.

Cllr. B. Cronin said that Cllr. Danny Healy-Rae is sending out letters in Oireachtas envelopes by the hundreds. He responded to Cllr. D. Healy-Rae by saying "You are a liar my friend. You sent them to my own son - I have them".

Cllr. D. Healy-Rae said that he was not a liar.

Mr. J.D. Flynn, Director of Corporate Services cautioned members that they did not have parliamentary privilege in the Council Chambers and they should be aware of this when making statements.

Cllr. B. Cronin said that he was seeking clarity.

Mayor T. Fleming called on Mr. McMahon to reply to Cllr. Cronin's query.

In response, Mr. M. McMahon said that each planning application is dealt with on its merits. Pre-planning meetings were held with Mr. Walsh at which time it was outlined to him what type and size of development would be acceptable. No other planning applicant has received more pre-planning time and he himself held a 40 minute pre-planning meeting with Mr. Walsh. At that meeting, it was again clearly stated the type and size of development that would be acceptable. However, the application submitted was not in accordance with what was agreed and the Planning Department was not in favour of the development proposed in the application. Mr. Walsh was informed that the Castleisland Local Area Plan will be up for review in May or June of this year if he wanted to hold his application until such time as the Plan was reviewed. A previous application for an out of town development was rejected by members. Mr. Walsh got full advice and plenty of time from the Planning Department prior to submitting his application.

Cllr. B. Cronin asked what was the difference between the Kerry Co-op retail development across the road and Mr. Walsh's application.

In response, Mr. M. McMahon said they were not similar developments.

Ballingar Bridge

The Mayor informed the meeting that the replacement of Ballingar Bridge was raised at the CPG Meeting and he had agreed that members would be allowed to raise this matter at the start of the meeting.

Cllr. D. Kiely thanked the Mayor for allowing him the opportunity to raise this matter. He informed the meeting that an allocation of €600,000 for Ballingar Bridge was withdrawn. Over 200 people attended a public meeting the previous Tuesday night and they were outraged at the withdrawal of this funding. There was unanimous agreement that the money from the insurance claim should be used to purchase a Bailey Bridge. He was appalled that this bridge has not yet been restored and said that if it was in any other part of the county, it would be restored long ago. He requested clarification on the plans the Roads Department have to progress this project. He received a copy of a letter sent to Kerry County Council by the Department of Transport which was received 2 weeks ago advising Management not to proceed to tender for Ballingar Bridge. He added that Management feel that this tender could be lower than anticipated in the present economic climate. If Management consider that the Bailey Bridge would be an adequate solution, he would be satisfied to proceed on this basis. He PROPOSED that Kerry County Council would match the money received from the insurance claim and that an application would then be made to the Department for matching funding and he believed that this would be forthcoming. He added that he would be putting forward this proposal to the Taoiseach at a meeting later that day. He said that the people of this area are outraged that the bridge has not been replaced and he wanted clarification relating to funding for the bridge.

Cllr. R. Beasley said that this situation has been ongoing for the past 2½ years and 200 families are affected. This Government has failed the people of Ballyhorgan. A sum of €600,000 was allocated for a replacement bridge and then it was reduced to €25,000. It is not possible for Kerry County Council to fund a replacement bridge and this is a matter for the Government and they must take responsibility for it. He called on Mr. C. O'Sullivan, Director of Roads to comment and he added that a few representatives from Ballyhorgan were present at the meeting. If this issue is not resolved in the very near future, the residents will go to Dublin to picket Dáil Éireann in July.

Cllr. L. Purtill said that this is an appalling situation which should not have been allowed to happen. He asked what was the lifespan of a Bailey Bridge and how much did the Council expect to receive from the insurance claim. He also asked when a new bridge will be erected as the lack of a bridge is causing huge inconvenience to the people of this area.

Cllr. P. Leahy said that the people of Ballyhorgan are frustrated and feel let down by the Council. He asked what is the position regarding the insurance claim and how much did the Council expect would be received from it. He suggested that when the money is received from the insurance claim, the Council should proceed immediately to provide a replacement bridge.

Cllr. J. Brassil said that this situation arose because a 40 tonne lorry went over a bridge with a 12 tonne weight restriction. At the outset he was confident that the bridge would be replaced because of the good economic times. He believed it would be better to seek a permanent solution. However, the economic climate declined drastically and he believed that the funding

allocated in 2009 would substantially complete the bridge and the remainder of the funding would be provided in 2010. A practical solution would be to replace like with like. He believed that the money received from the insurance claim would substantially provide for the purchase of a Bailey Bridge which would be adequate for the present. It will be 4 years before a bridge will be constructed with the funding being made available at the present time. He said that a bridge should be provided and members could then pursue a more permanent solution when funding becomes available. He PROPOSED that Kerry County Council would proceed with the erection of a Bailey Bridge with money received from the insurance claim.

Cllr. R. Beasley SECONDED this proposal.

Cllr. T. Buckley said that he attended the recent public meeting and farmers have been hugely inconvenienced due to the lack of a bridge at this location. The people of this area are demanding that a bridge is provided this year and they feel badly let down. The following is a reply to a recent Dáil question posed by Deputy Jimmy Deenihan on this issue.

"It is open to Kerry County Council, if it wishes, to re-prioritise the expenditure of the €3.1m which is available for Specific Improvement Works in 2009 and to submit an alternative programme to the Department of Transport which could allow construction work to start on the bridge. This is a matter for the Council to decide in the first instance and the Department of Transport Officials are available to assist the Council in reviewing its Roads Programme if the Council requests".

Cllr. Buckley added that this issue must be resolved in 2009 as the people of the area are losing patience.

Cllr. R. Beasley said that members had a difficult task to persuade angry residents not to attend the Council Meeting in large numbers today. Instead they sent two representatives who were present in the public gallery.

Cllr. D. Healy-Rae supported the people of Ballyhorgan in their plight to have their bridge replaced. In August 1986 there was a terrible flood and at that time, emergency funding was provided to replace bridges damaged by the flood. It is a ridiculous situation that 2 years after a bridge collapsed, a new bridge has not been provided. A temporary solution would be a good idea in the current economic climate.

Cllr. J. O'Connor suggested that it should be possible to lease a Bailey Bridge from another local authority. There is a fabulous new bridge in Linnane in Galway and he understood a Bailey Bridge was available and the Council could lease it.

Cllr. T. Fitzgerald supported the previous speakers and said that all members are in favour of the proposal to provide a bridge at this location.

Mr. C. O'Sullivan said that his Department are also very disappointed that funding for Ballingar Bridge was withdrawn. He recognised the local inconvenience arising from the collapse of the bridge 2 years ago. The estimated design cost of a new bridge is €1.23m of which €959,000 is for the bridge element. The balance is for the approach road and ancillaries. On receipt of news from the Department, Consultants were asked to examine the option of providing a replacement Bailey Bridge. As a result of works by the OPW on flood relief, the bank seatings for the bridge would have to be replaced anyway and the level of the bridge raised. The estimated cost of a new Bailey Bridge is between €550,000 and €600,000. He added that he has been in further negotiations with the Department of Transport who have indicated that funding for Specific Improvement Works cannot be increased but they will look favourably on any request to transfer funding from another Specific Improvement project to Ballingar Bridge. The Department cannot commit to funding in 2010 at present but they are in discussions with the Department of Finance in relation to 2010 funding for their Department and they hope to have an indication of this funding within the next 2 - 3 weeks. The Council is in discussions with the insurers for the haulage company that caused the collapse of the old bridge and it is anticipated that resolution will be achieved in approximately 3 months and they have admitted liability. The Department will reconsider the position in relation to allowing the Council to go to tender when we confirm the level of funding from the insurance claim and if we request a transfer of funding from another Specific Improvement Grant project. He said that he was optimistic that the Council would be able to overcome the issues and it is intended to make a proposition to the Department when he completed the review of our Roadworks Programme with regard to the transfer of funding. Since last Friday, he had been in contact with the Department and he had given them an indication of the level of funding that would be available from the insurance claim and he had also discussed the re-allocation of funding from the Specific Improvement Grant Programme for this work. The leasing of a Bailey Bridge would cost €200,000 plus €1,100 per week which is very expensive.

Cllr. R. Beasley asked when the Council knows the exact amount of money they will receive from the insurance company, will they be in a position to go to tender?

In response, Mr. C. O'Sullivan said the Council could not go to tender until we get a commitment from the Department in relation to the shortfall.

Cllr. J. Brassil said that he accepted the genuine efforts of the Roads Department to resolve this situation. However, the Department of Transport are in severe financial difficulty and have withdrawn the grant and he did not believe that 2010 would be any better. He could not envisage a situation whereby the Department would match funding for the bridge. He acknowledged that the OPW are requiring that the foundations would be raised but added that the existing foundations are suitable for a temporary solution. He suggested that the Council would take control of this situation and find a solution in 2009.

Cllr. T. Fitzgerald asked when did Kerry County Council submit the claim to the insurance company? If the bridge collapsed 2½ years ago, the claim should be settled by now.

Cllr. P. Leahy expressed his disappointment with the response and asked if there has been any offer of a settlement from the insurance company? He did not see any prospect of a Bailey Bridge being provided in 2009 and he called on the Council to take out a loan to ensure that a bridge is provided at Ballingar in 2009.

Cllr. J. O'Connor said that he believed that Galway County Council would be prepared to facilitate the leasing of a Bailey Bridge.

Cllr. J. Brassil said that this is a basic right for the people of this area. It should not take three months before the insurance claim is settled. The person involved has been prosecuted and there should be a concerted effort to resolve this issue in the very near future. The period of three months mentioned by Mr. O'Sullivan should be reduced to 3 weeks. If necessary, the Council should borrow or use capital funding until the insurance money is received. When the road in Sleah Head collapsed, it was resolved over a weekend and he believed that the Council could resolve this issue very quickly. There is a clear direction from Councillors and the people of the area that they want this done. The people of this area would be quite happy to use a weight restricted bridge if that was the solution identified.

Cllr. T. Buckley expressed his disappointment with the reply and said that it is vital that the insurance claim is settled as soon as possible.

Cllr. R. Beasley said that this issue has been ongoing for the past 2½ years and he called on Kerry County Council to take a pro-active approach to resolving this problem. He suggested that the Council would take out a loan to provide a bridge in the short-term. He was anxious that the representatives of the community present would return home with positive news.

Cllr. N. Foley said she understood the frustration of the people of Ballyhorgan as they have not had a bridge for the past 2½ years. Kerry County Council has a duty of care to the people of this area and the consensus of the Council is that a bridge must be provided in 2009. The Council has resolved similar situations in the past and if the Council fails to do so, it will be a dereliction of our duty.

Cllr. L. Purtill said that it is wrong to see farmers inconvenienced in this way and members are getting very frustrated as they feel they are not making any progress. He understood that a sum of approximately €200,000 would be available from the insurance claim.

Cllr. N. Foley said that she was shocked that 2½ years later, negotiations are still ongoing with the insurance company. She supported Cllr. Brassil's proposal. She agreed that the economic situation could be worse in 2010 and

said this is all the more reason to proceed in 2009 to eliminate the hardship for this community.

Cllr. D. Kiely said that the cost of a new Bailey Bridge would be approximately €0.5m. He asked did the insurance company not have to pay this amount to put back what was destroyed. He understood that this was the case. The Department have indicated that as soon as the litigation process has concluded, Kerry County Council should get in touch with them with a view to re-prioritising works under the Specific Improvement Works Programme. He would be meeting the Taoiseach later that day and he would ask him to meet the shortfall. €0.5m is not a major investment and the loss of this bridge has proved to be a huge inconvenience for this community. It is unacceptable that it has taken 2½ years to make a settlement with the insurance company. He PROPOSED that the shortfall in funding would be provided from 'own resources'.

Mr. C. O'Sullivan informed members that he understood that our Risk Assessor and Insurance Loss Adjustor have been appointed. The life expectancy of a Bailey Bridge is approximately 15 years and the old bridge was in place a long time. He would make every effort to finalise the settlement with the insurance company sooner rather than later. A Consultant carried out an assessment of the works required for the provision of a new bridge and there are serious concerns. On that basis, the bank seating will have to be replaced and the level of the bridge raised. His Department will consider the Linnane Bridge, if appropriate. He was pressurising the Department for funding for this bridge and he had submitted a funding proposal to them. They have indicated that they cannot commit to funding for 2010 for a period of approximately 3 weeks. However, once they have an indication of funding for 2010 from the Department of Finance, they can then decide and make a commitment for 2010.

Cllr. J. Brassil said that the members want a solution in 2009 and that is what the end result must be.

Cllr. P. Leahy again suggested that the Council take out a loan to provide this bridge.

Mr. J. O'Connor, Head of Finance said that there would be no prospect of Department sanction for the raising of the loan for that type of programme.

Cllr. R. Beasley asked if members would have a response in June from the Roads Department in relation to the provision of a bridge at Ballingar.

In response, Mr. C. O'Sullivan said that the Department have indicated that they should be in a position to give a commitment in approximately 3 weeks.

Tributes to Outgoing Councillors

Cllr. M. Healy-Rae paid tribute to Cllrs. B. MacGearailt and C. Miller who are not seeking re-election. These are highly respected politicians who have worked diligently on behalf of their constituents. He wished them success in the future.

09.05.18.01 Mayor's Report on the Corporate Policy Group Meeting held on 12th May 2009

Mayor T. Fleming read the following report into the record of the meeting:

Item 1 Agenda for the May Council Meeting

Ms. B. Reidy, SSO Corporate Services, briefed members on the agenda for the May Council meeting.

Item 2 Move Europe Award

Mr. T. Curran, County Manager, said Move Europe is a European campaign for the improvement of lifestyle-related Workplace Health Promotion (WHP).

WHP is a modern corporate strategy which aims to prevent ill health at the workplace, to enhance health potential and to improve well-being at work. WHP takes on a broader dimension than traditional occupational safety and health. The new understanding encompasses both physical and mental well-being, the quality of life and learning.

Healthy employees represent a key resource for the future competitiveness and performance of organisations, so health should become an integral part of the corporate policy and culture.

The Project identifies models of good practice and disseminates these results throughout Europe. The Department of Health and Children, the Health Service Executive and the Work Research Centre supports the Irish campaign and encourage Irish companies to get involved.

Kerry Local Authorities decided to get involved in this project. A questionnaire was completed to assess the quality of Kerry Local Authorities lifestyle-related health promotion programmes. More than 50 other Irish organisations took part in the Move Europe Project. A two stage selection process was used to select the three Irish representatives at the 6th European Conference on Promoting Workplace Health "Healthy Work - Healthy Lifestyle - Healthy Business" and Kerry County Council was the only Irish organisation selected to represent Ireland.

Each participating country presented Models of Good Practice at this Conference which was held in Perugia, Italy on the 27th and 28th April, 2009. Following the presentations Kerry Local Authorities were presented with a

Certificate – Partner of Excellence 2009 – for outstanding commitment to Workplace Health Management in recognition of their commitment to staff well being. The Certificate was presented jointly by the Department of Medical Surgery Speciality and Public Health University of Perugia and the European Network for Workplace Health Promotion.

Item 3 County Development Board

Mr. J. Breen, Director of Housing and Community & Enterprise, said the County Development Board has finalised its priority actions which have been submitted to the Department for approval. The Kerry Integrated Traveller Strategy and the establishment of a Children's services Committee will be developed before the next County Development Board meeting.

Mr. Breen thanked elected members who gave time and commitment to the County Development Board and said the work they contributed has given better integration of services for the County Development Board.

Item 4 Update from Chairs of SPCs

The meeting noted that a report from the Chair of the Environment & Water SPC will be presented to the May Council meeting.

Item 5 Any Other Business

CPG members expressed best wishes to Cllr. Colin Miller who is not running in the Local Elections 2009 and thanked him for his service to Kerry County Council.

Cllr. Miller thanked CPG members for their comments and thanked management and staff of Kerry County Council for their help and co-operation over his years of service.

CPG members expressed thanks to their fellow elected members and to the management and staff of Kerry County Council for their help and co-operation.

Mr. T. Curran, County Manager, thanked the Mayor and Chairs of the SPCs for their commitment to the CPG and Kerry County Council over their term in office."

In conclusion, Mayor Fleming said that the members of the CPG paid tributes to Cllr. C. Miller for his work on the Corporate Policy Group. Cllr. Miller was very co-operative and helpful at all times. Members also paid tribute to long-standing Cllr. Breandán MacGearailt who first came into the Council in 1985. He has given 25 years service to Kerry County Council and this is a remarkable record. He has represented the people of his constituency to the

best of his ability and he was a member of several Committees and also Údarás na Gaeltachta. He wished Breandán success in the future.

Cllr. M. Healy-Rae stated that Deputy Jackie Healy-Rae had asked him to pay tribute to Cllr. Breandán MacGearailt who has had a long and distinguished career.

Cllr. P. O'Donoghue said that on behalf of the Fianna Fáil Party, he wanted to acknowledge the contribution of both Cllr. Breandán MacGearailt and Cllr. C. Miller to Kerry County Council. Cllr. MacGearailt has had a long and distinguished career and provided a great service to the county and also his Electoral Area. Cllr. Miller has worked very hard during his term in Kerry County Council since 2004 and the people of his area are very sorry that he is not seeking re-election. He thanked both Councillors for their contribution to the Council.

Cllr. B. Cronin paid tribute to Cllr. Breandán MacGearailt who worked very hard on behalf of his constituents. In 1997 his father was defeated for the position of Chairman at the AGM and Breandán turned the tables and gave him a new lease of life. He also wished Cllr. Colin Miller success in the future. He added that he was disappointed that Cllr. Miller's area has now been removed from the Killarney Electoral Area and he said that both Councillors could be proud of their record.

Cllr. S. Fitzgerald paid tribute to Cllr. Colin Miller and he thanked Cllr. Breandán MacGearailt for his assistance on planning matters etc and said that he was always very helpful to him. Cllr. MacGearailt has a lot of work done on behalf of Corca Dhuibhne in the area of road, planning etc.

Cllr. B. O'Connell concurred with the sentiments expressed and the tributes paid to both councillors.

Cllr. J. O'Connor wished both councillors well in the future and said that he served with Cllr. Breandán MacGearailt on a Strategic Policy Committee and he had given excellent advice to members. He also wished Cllr. Colin Miller success in the future.

Cllr. D. Healy-Rae concurred with the sentiments and tributes paid to Cllrs. Breandán MacGearailt and Colin Miller and said that he was glad to have had the opportunity to work with them. Cllr. MacGearailt was a thorough gentleman and he was very co-operative and helpful to him. He had worked with Cllr. Miller on many issues in the Killarney Electoral Area and he wished them both success in the future.

Cllr. P. McCarthy said that he wished to be associated with the tributes paid to Cllrs. MacGearailt and Miller. They were excellent councillors who represented the people of their constituencies very well. He wished them both success in the future.

Cllr. T. O'Brien said that he wished to be associated with the tributes paid to Cllrs. MacGearailt and Miller and said that it was a pleasure to work with him.

Cllr. T. Ferris said that she wished to concur with the sentiments and tributes paid to both Councillors. She served on the Kerry Education Service with Cllr. MacGearailt who had done excellent work as Chairman of the Board. She also worked with Cllr. Miller on the Housing SPC and she wished him success in the future.

Cllr. J. Brassil concurred with the sentiments and tributes paid to both councillors and wished them well in the future. He thanked Cllr. MacGearailt for the benefit of his experience and guidance since he became a member of Kerry County Council.

Cllr. M. O'Shea wished both councillors well in the future and said they were great friends and tremendous workers.

Cllr. N. Foley said she wished to be associated with the good wishes to both councillors. She acknowledged the huge contribution made by Cllr. Breandán MacGearailt, including his work with Kerry Education Service over the years. He was a very dedicated politician and very passionate and his record will speak for itself in the annals of history. She also paid tribute to Cllr. Miller who will continue in the political field and she wished them both success in the future.

Cllr. T. Buckley said that he wished to be associated with the remarks and good wishes paid to both councillors.

Mr. T. Curran, County Manager said that this is the last formal meeting of the current Council and he would like to take the opportunity to thank the Mayor and previous Mayors for their support and their excellent work done for the people of the county. There were many robust debates at Council meetings and members made difficult decisions for the betterment of the county. He wished the members seeking re-election the best of luck and he looked forward to seeing them back again. He wished Cllr. Toiréasa Ferris success in her European campaign. He thanked Cllr. Breandán MacGearailt and Cllr. Colin Miller for their work in Kerry County Council and he wished them well in their retirement. Cllr. Breandán had served on Kerry County Council for 25 years and he has been a diligent worker for the people of the Gaeltacht. He succeeded in securing a lot of funding from the Minister for the Gaeltacht for his area. He thanked him for his co-operation down through the years and wished him well in his retirement.

Cllr. B. MacGearailt thanked the Mayor and the Manager, who were always helpful to him since he became a members of the Council. He thanked everyone for their help, work and co-operation. He thanked the members who were always doing their best for their constituents. He thanked the staff of the Council for their co-operation. He enjoyed his visit to the US at which time he led the parade in New York. This gave him an opportunity to promote the county on TV and in the newspapers. He was anxious to do that to thank the

people who went before us. He also went to Quebec to meet people who did tremendous work for those who came from Ireland during the famine. He wished all members success in the forthcoming Local Elections and said that it would be nice to have an MEP from the county.

Cllr. C. Miller thanked members for their kind remarks and said that he enjoyed his term in the Council. He thanked the County Manager, the Directors of Service and all the staff for their excellent co-operation. He thanked his colleagues on the Council who were always very helpful and co-operative. He wished all members success in the forthcoming elections and he wished Cllr. Ferris success in the European Election. In conclusion, he said that he looked forward to meeting with members again in the future and he thanked everyone for their assistance over the past 5 years.

Cllr. P. Leahy said that he wished to be associated with the remarks and tributes paid to both Councillors.

Cllr. P. Connor-Scarteen wished Cllr. MacGearailt and Cllr. Miller success in the future.

09.05.18.02 Confirmation of Minutes

- (a) On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. P. O'Donoghue, it was resolved that the Minutes of the Budget Meeting of Kerry County Council held on 5th December 2008 would be confirmed.
- (b) On the PROPOSAL of Cllr. M. Healy-Rae SECONDED by Cllr. B. Cronin, it was resolved that the Minutes of the Adjourned Budget Meeting of Kerry County Council held on 8th December 2008 would be confirmed.
- (c) On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. P. O'Donoghue, it was resolved that the Minutes of the Adjourned Budget Meeting of Kerry County Council held on 15th December 2008 would be confirmed.
- (d) On the PROPOSAL of Cllr. N. Foley, SECONDED by Cllr. M. Healy-Rae, it was resolved that the Minutes of the Special Planning Meeting of Kerry County Council held on 6th April 2009 would be confirmed.
- (e) Cllr. T. Ferris referred to Page 7 of the Minutes of the April Ordinary Meeting and to a comment she made in relation to the fact that visibility at this junction in Abbeydorney is an issue. She did not want to pre-empt any court case and said that what she meant was that in her experience visibility is as much an issue at this location as speed. It was agreed that Cllr. Ferris's comments would be noted in the Minutes of the May Meeting. On the PROPOSAL of Cllr. T. Ferris, SECONDED by Cllr. T. Buckley, it was resolved that the Minutes of the April Ordinary Meeting of Kerry County Council held on 20th April 2009 would be confirmed.

Cllr. T. Ferris said that at the April Meeting the issue of staffing was discussed and she since received a letter from the IFA regarding the carrying out of inspections by Council staff on farms. She requested clarification on the Council's role in this area.

Mr. T. Curran, County Manager said that this relates to the new Nitrates Directive and discussions in relation to the involvement of Council staff on farm inspections are ongoing. The Environment Department presently carry out investigations on farms based on complaints. The EPA Inspectors believe that local authorities should carry out inspections on farms in relation to the Nitrate Directives but this is not a Directive.

Cllr. T. Ferris asked if the Council was only carrying out inspections on receipt of complaints at present.

In response, Mr. T. Curran, County Manager said that this was mostly the case.

Cllr. T. Ferris PROPOSED that the Council would not support the carrying out of inspections on farms by Council staff when the Department are already doing these inspections.

Cllr. J. O'Connor said that at a recent meeting of the South West River Basin District Advisory Committee, a similar proposal was agreed.

09.05.18.04 Disposal of Property

On the PROPOSAL of Cllr. P. Connor-Scarteen, SECONDED by Cllr. M. Healy-Rae, it was agreed to dispose of a plot of land comprising 1.16 acres approximately at Dromneavane, Kenmare to Cara (Ireland) Housing Association Ltd., Cara House, 8 Lower Mallow Street, Limerick in accordance with the terms of notice issued on 7th May 2009, pursuant to Section 183 of the Local Government Act, 2001, Section 211 of the Planning & Development Act, 2000 and Article 206 of the Planning & Development Regulations 2001.

09.05.18.05 Report in Accordance with Section 179(3) of the Planning and Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations, 2001 and Articles 17 to 19 of the Planning & Development Regulations 2006

Mr. J. Breen, Director of Housing and Community & Enterprise referred members to his report dated 18th May 2009 on this item which was circulated and he briefed them in detail on the report.

- (a) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. J. O'Connor, it was agreed to note the report on the proposed development and the Manager's Report thereon in accordance with Section 179(3) of the Planning and Development Act, 2000, Part VIII of

the Local Government (Planning & Development) Regulations, 2001 and Articles 17 to 19 of the Planning & Development Regulations, 2006 in respect of the construction of 12 semi-detached single storey houses and associated site works at Ardmoniel, Killorglin.

Cllr. J. O'Connor requested that a woodchip boiler would be considered as a pilot project for the development at Ardmoniel.

In response, Mr. J. Breen said that he would consult with the Department of the Environment on this issue as their approval would be required for it.

- (b) On the PROPOSAL of Cllr. T. Ferris, SECONDED by Cllr. T. Buckley, it was agreed to note the report on the proposed development and the Manager's Report thereon in accordance with Section 179(3) of the Planning and Development Act, 2000, Part VIII of the Local Government (Planning & Development) Regulations, 2001 and Articles 17 to 19 of the Planning & Development Regulations, 2006 in respect of the construction of a single rural cottage with associated site works at Baile Uí Bhaothín, Baile an Fheirtéaraigh.

09.05.18.06 Approval for the Incurring of Overdraft Accommodation

Mr. J. O'Connor, Head of Finance referred members to his report dated 12th May 2009 on this item which was circulated and he briefed them in detail on the report. In conclusion, he advised members that he did not expect to be in overdraft for the full period and the incurring of overdraft was subject to sanction by the Department.

On the PROPOSAL of Cllr. T. Fleming, SECONDED by Cllr. B. Cronin, it was unanimously agreed to approve the incurring of overdraft accommodation of €12.5m for the six months ending 31st December 2009.

09.05.18.07 Report of the Local Government Auditor on the Council's Accounts for the Financial Year Ended 31st December 2007

Mr. J. O'Connor, Head of Finance, referred members to his report dated 12th May 2009 which was circulated. He added that he had also circulated the report of the Local Government Auditor on the Accounts of the Council for the year ended 31st December 2007 together with a copy of the certified Audit Opinion from the Annual Financial Statement. The Auditor's Report states:

"Kerry County Council continues to maintain a sound working financial position. A financial review prepared by the Head of Finance is included at the front of the AFS. The review provides a clear assessment of the Council's results for the year and financial position at the close of the year, as reflected in the AFS.

No invalid or unfounded payments or unaccounted for receipts or any other significant financial issue of material impact were found during the audit and the Lead Auditor was satisfied with the Council's compliance with the required accounting regulations as per her Audit Opinion - copy attached. Work was underway on any matters mentioned by the Auditors in the course of their audit and the management's response included in the report indicates the steps being taken." Mr. O'Connor informed members that the Auditor accepted in full the figures he presented to Members in April 2008 in the AFS.

In conclusion, he acknowledged the work of members and thanked them for their support, courtesy and diligence, especially in the course of the Budget. He wished Cllr. Miller and Cllr. MacGearailt success in the future and he also wished all other members success in the forthcoming elections.

Cllr. P. O'Donoghue said that he understood that members must approve any charges introduced by the Council. The people of Caherciveen are being charged €3 per lift for the brown bin and he had no recollection of members approving this charge.

Mr. J. O'Connor, Head of Finance said that under the Protection of the Environment Act, 2003, it is no longer necessary to have Council approval for refuse charges as this is now an executive function. There is also a brown bin collection in Listowel and it was agreed that a universal charge of €3 per brown bin lift for 2009 would be introduced and he felt that this was a modest charge.

Cllr. P. O'Donoghue said that it was discourteous to members not to have informed them of this charge. Members were unaware of it and there were many opportunities at Budget Meetings to inform them of the charge. If this was highlighted, members may have taken a different view on other charges. He stated that this charge should be withdrawn.

Mr. J. O'Connor, Head of Finance said that this was a minor charge and at the Budget Meeting he indicated that a review of the refuse service would be undertaken in 2009. A charge of €3 per lift for the brown bin is very reasonable when the other charges are twice or three times that. This is offering exceptional value.

Cllr. P. O'Donoghue said that it was not fair or reasonable to introduce it mid-year and he objected to this way of doing business.

Mayor T. Fleming said members should be kept informed of any new charges being introduced, in particular, when members had gone through the Budget in such detail. He complimented Mr. O'Connor and his staff on the Audit Report and said that it is a testament to the control systems in place by his Department.

09.05.18.08 Kerry Local Authorities Annual Report 2008

Mr. J.D. Flynn, Director of Corporate Services referred members to the Draft Kerry Local Authorities Annual Report 2008 which was circulated and said that it is now before Council for formal adoption.

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. P. O'Donoghue, it was unanimously agreed to adopt the Kerry Local Authorities Annual Report 2008.

Use of Oireachtas Envelopes

Cllr. B. Cronin said that the warning issued by Mr. Flynn earlier that morning was directed at him. He then presented to the meeting three Oireachtas envelopes with letters enclosed. The first one which he produced was addressed to his son and he read the letter into the record of the meeting:

"Just a note to let you know that on behalf of myself and my father, Jackie Healy-Rae, I attended the Revision Court of the Register of Electors this morning and I ensured that your claim to be on the new list for 2009 was accepted.

You are now entitled to vote in next years Local Elections of which I will be a candidate.

If I can be of any assistance to you in the future please contact me."

He added that this letter was sent in an Oireachtas envelope.

Cllr. D. Healy-Rae said that Cllr. Cronin would not smear him two weeks before the Local Election and he stated that he works closely with Deputy Jackie Healy-Rae.

Cllr. Cronin then produced a second letter which was received in an Oireachtas envelope which reads as follows:

"I am delighted that due to numerous representations and notices of motion I have made that the taking over process of your Estate by Kerry County Council is finally progressing and that I will be formally proposing the taking of charge of this Estate at the March Meeting.

I would like to take this opportunity to ask you for your No. 1 Vote for the upcoming County Council Election in June and I assure you of my assistance at all times."

Cllr. Cronin said that this has been ongoing since 2004 and he objected to the misuse of taxpayers' money.

Cllr. J. Brassil called on the Mayor to suspend the meeting.

Cllr. D. Healy-Rae said that he works jointly with Deputy Jackie Healy-Rae and Cllr. Cronin was trying to smear him. He never misused Dáil envelopes and if there was one letter from him in the envelope; there was also a second from Deputy Healy-Rae.

Cllr. B. Cronin again presented the three envelopes to the meeting and asked if he could do anything about it. He objected to the use of Oireachtas envelopes by Cllr. Danny Healy-Rae.

Cllr. D. Healy-Rae stated that there are slanderous letters being sent out in the Killarney Electoral Area relating to the Healy-Rae family.

In response to the query by Cllr. Cronin, Mr. J.D. Flynn, Director of Corporate Services said that the use of Oireachtas envelopes is a matter for the Dáil and the Standards in Public Office Commission in the first instance.

Cllr. D. Healy-Rae said that he never misused Dáil envelopes. He asked how the letters circulating in the Killarney area in an attempt to smear him prior to the election are being paid for. He added that he was not stating that Cllr. Cronin sent these letters. He said that Cllr. Cronin has been at him for the past 5½ years and he did not know what Cllr. Cronin had against him. He again stated that he never misused Dáil envelopes and that Cllr. Cronin had called him a liar but he had never lied.

09.05.18.09 Making of a Traffic Management Plan for Kenmare

Cllr. P. Connor-Scarteen said that he had a Notice of Motion relating to this topic.

Mr. G. O'Brien informed him that the Motion could be taken in conjunction with this Item.

8 Kenmare Traffic Management Plan

Pursuant to notice duly given Cllr. P. Connor-Scarteen PROPOSED:

"That a one-way system remains on Main Street, Kenmare as requested by the rate payers and residents. That the Council implement a two-way traffic flow on Shelbourne Street on a trial basis. In the interest of safety, a pedestrian crossing would be required on Shelbourne Street if it is to be two-way".

Mr. G. O'Brien, A/SEO read the following report:

"At the request of the members of the Killorglin Electoral Area, the Council prepared a Revised Traffic Management Plan for Kenmare for the implementation of a two-way traffic flow system on Shelbourne Street and Main Street. The proposals would result in the loss of approximately 38 on-street car parking spaces. The Plan was put on public display and submissions invited, in accordance with the statutory provisions of Section 38

of the Road Traffic Act, 1994. A report on the submissions received is on the Agenda of the May Council meeting for consideration by the Members and the introduction of two-way traffic on Shelbourne Street is recommended with the retention of the one-way traffic system on Main Street.”

Mr. C. O’Sullivan referred members to his report dated 11th May, 2009 on this item which was circulated and said that the following are the modifications to the Kenmare Traffic Management Plan recommended following the public consultation phase:

- Shelbourne Street only should be converted to a two-way system.
- Main Street should remain as a one way street with the majority of the on street car parking retained, apart from the removal of approximately four spaces at the Main Street/Shelbourne Street junction to facilitate safe traffic flow with the proposed mini-roundabout.

Mr. O’Sullivan informed the meeting that if Main Street reverts to a two-way system approximately 38 to 40 car parking spaces would be lost. These car parking spaces are badly needed and Kenmare cannot afford to lose them.

Cllr. M. Healy-Rae thanked Mr. O’Sullivan for his report and for meeting with the business people of Kenmare. In the past he submitted a notice of motion calling for Shelbourne Street to be two-way and to ensure that there would be some flexibility but this did not happen. He accepted that members would adopt the new Traffic Management Plan for Kenmare but asked that this would be on a trial basis only. He asked that the system being implemented would be reviewed in October. In conclusion he PROPOSED that the Traffic Management Plan for Kenmare as presented be adopted.

Cllr. P. Connor-Scarteen SECONDED this proposal and it was unanimously agreed.

09.05.18.10 Provision of Traffic Calming Measures at Abbeydorney Village

Mr. C. O’Sullivan, Director of Roads and Transportation, referred members to his report dated 10th May 2009 on this item which was circulated and he briefed them in detail on his report. He advised members that the traffic calming measures proposed were advertised in the local press on the 26th March 2009 and put on public display in Kerry County Council’s Roads & Transportation Department for one month. The closing date for receipt of observations or submissions was 5pm on Monday 27th April 2009. No observations or submissions were received on the proposed Traffic Calming Measures by the prescribed closing date.

Cllr. T. Ferris PROPOSED that the recommendations in the report be adopted on a provisional basis on the understanding that the visibility at the junction would be improved.

Cllr. P. McCarthy SECONDED this proposal.

In response Mr. C. O'Sullivan said that the report recommends that the line at the junction would be moved forward. When these measures are in place their impact would be assessed to establish if other measures are required.

Cllr. J. Brassil welcomed the measures proposed in the report but said that many local people feel that the only solution is the provision of traffic lights. While he was not convinced of this he asked if the Roads Department had investigated fully the possibility of having traffic lights at this location.

In response Mr. C. O'Sullivan said that the traffic calming measures outlined in the report were developed in accordance with NRA Guidelines for Traffic Calming Measures in Towns and Villages and the Gardaí have endorsed these measures. The Gardaí have accepted that speed is the primary issue on this road and they intend to pursue motorists to ensure that speed limits are observed.

Cllr. J. Brassil requested that the green light on the Ardfert road that is 200yds further on from the junction would be changed to a flashing amber light.

Mr. C. O'Sullivan said that this green light is located 170m from the junction and from the speed surveys 85% of motorists travel within the legal speed limit. However speeding in excess of the legal speed limit was primarily noted on the Tralee and Ballyduff approaches. It is now intended to implement the measures outlined in the report and to monitor their impact.

Cllr. P. McCarthy said that occasionally a motorist makes a mistake and this causes an accident. Local people feel that occasionally a motorist feels that they can maintain their speed to pass the junction before the green light turns red.

Cllr. T. Ferris said that aside from speed visibility is also an issue at this junction. A motorist must nose out at the junction to get a clear view of the road. She added that she believed that traffic lights are the only solution at this location and visibility at the junction is more of an issue than speed.

Mr. C. O'Sullivan said that the proposed measures are outlined in the report and it is hoped that these will address the issue of visibility at the junction. According to Garda records on accidents at this location the green light is not a contributing factor.

09.05.18.11 Housing Capital Allocation 2009

Mr. J. Breen, Director of Housing referred members to his report dated 11th May 2009 on this item, which was circulated, and he briefed them on the report. He stated that the allocation for the main Housing Programme for 2009 is €9m which is a significant reduction on previous years and will impact on our Social Housing Programme. He referred to the Leasing Arrangements and said that a €20m fund is available to commence a project for leasing available newly constructed vacant properties. However, he had serious reservations regarding this scheme as follows:-

- The Local Authority enters a 10 or 15 year lease and has no asset to show at the end of the term.
- Tenants aspire to purchase their properties and thus leasing will result in a lot of turnover and transition in the developments.
- Many developments are only partially completed and are unsuitable, in their present state, for occupation.
- The Local Authority is responsible for all maintenance during the lease period.

Cllr. J. O'Connor referred to the leasing arrangements and concurred with the reservations expressed by Mr. Breen. If the local authority enters into a 10 year leasing agreement what happens the tenant at the end of the 10 year lease. He asked if Kerry County Council must comply with this scheme as it is a national scheme and he asked if the Housing Department would continue to acquire houses under Part V in the current economic climate.

Cllr. T. Ferris also referred to the Leasing Arrangements and said that it is an absolute disgrace that €20m is being used to lease houses from developers while at the end of the lease the local authority will not have an asset. She expressed concern that the Government would use tax payer's money for the purpose of this scheme. At a recent Housing SPC meeting members were advised that in future the local authority would have to justify to the Department why they were proposing to build houses prior to getting approval. The Government is forcing local authorities to purchase houses from developers because no one else will buy them. She then referred to the Housing Adaptation Grants and said that the allocation is totally inadequate to meet the demand. Many people in nursing homes and hospital cannot come home until their homes are adapted. This is a very serious issue for all local authorities. She again expressed her total opposition to the Leasing Arrangements as outlined in the report and said that it will be of no benefit to the people on the housing waiting lists.

Cllr. D. Healy-Rae concurred with the sentiments expressed by Cllr. Ferris and said that this report was considered at a recent Housing SPC meeting. This is an opportune time for the Government and local authorities to purchase houses as house prices have fallen. There are almost 1,000 housing applicants in Killarney town and it is at crisis point. Councillors have been informed that over the next two or three years no houses will be built and he asked what impact this would have on the people on the housing waiting list. The funding for Housing Adaptation Grants is inadequate. Many older people are applying for grants for small jobs and he was aware of four applicants who have terminal illness and time is not on their side. In an effort to facilitate more applicants he suggested that rather than paying 95% of the cost of the works the Council would allocate grants of 50% of the cost of the works.

Cllr. P. McCarthy said that he was appalled that tax payer's money is being used to support banks. It would be more appropriate that local authorities would purchase vacant houses as they would at least have an asset. All available Government funds are being used to support the banks. He

PROPOSED that a letter be forwarded to the Minister for the Environment expressing the concern of members in relation to the proposed Leasing Scheme. He also asked that letters be forwarded to all Kerry Oireachtas members calling on them to raise this matter in the Dáil and to report to Council on any progress made.

Cllr. R. Beasley concurred with the sentiments expressed by Cllr. Ferris. Any reduction in funding for the Housing Adaptation Grants Scheme is disgraceful and is an attack on our elderly, disadvantaged and sick. He believed that three or four bedroomed houses will be purchased for €70,000 to €90,000 shortly. The country cannot be forced to bail out developers. He had submitted a notice of motion regarding proposals by Government not to pay the Christmas Bonus to social welfare recipients and he said it is extremely unfair of the Government to target the less well off in this way. He PROPOSED that a letter be forwarded to Government outlining members concerns on this issue.

Cllr. B. MacGearailt said that legislation is in place in relation to funding made available to bankers and developers and they will have to pay it back otherwise their properties and homes will be taken over by NAMA. If properties are leased tenants should have the option of renting to buy. Cllr. MacGearailt said that there is a major difficulty with the standard of some local authority houses where windows, doors and the storage heating need to be replaced. He asked if a scheme could be introduced where a tenant could take out a Credit Union loan to carry out these works and the repayments would be credited to them.

Cllr. T. Fleming said that the Government should amend the proposed Leasing Scheme. He referred to the Housing Adaptation Grant and asked if terminal illness is included in the category from whom applications would be accepted.

In response Mr. J. Breen confirmed that the Housing Department will accept applications from terminally ill applicants but he cautioned that funding is extremely limited.

Cllr. M. O'Shea expressed his opposition to the proposed Leasing Scheme and said that developers will benefit hugely from this Scheme. He asked if the Government were considering a change in this Scheme as he has spoken to the Minister and asked him to amend the Scheme.

Cllr. J. Brassil asked what the difference between the Minister's proposals and houses provided by the Housing Agency was. The Housing Agency does not allow tenants to purchase houses. Given the vacant housing stock in the country it is an ideal opportunity for local authorities to purchase unoccupied houses. In the last three months the number of vacant properties throughout the country is alarming especially in the newer estates in towns and villages. In one estate he recently visited just 10 of the 40 houses were occupied. Every avenue should be explored with a view to providing people with accommodation even if it is temporary.

Suspension of Standing Orders

The Mayor informed the meeting that it was 1.30pm and it would be necessary to suspend Standing Orders.

On the PROPOSAL of Cllr. T. Ferris, SECONDED by Cllr. R. Beasley it was agreed to suspend Standing Orders to allow the meeting to continue.

09.05.18.12 Report from Cllr. B. O'Connell, Chair of the Environment and Water Services SPC

It was unanimously agreed to note the report circulated from Cllr. B. O'Connell, Chair of the Environment and Water Services SPC.

Joint Meeting with the County Development Board

Cllr. P. McCarthy referred to the joint meeting with the County Development Board which was held in Killarney last February and said at that time it was agreed that every six months a similar meeting would be held. He wanted to ensure that this is recorded in the record of the meeting and that the new Council would be aware of it.

09.05.18.13 Summary of proceedings at conferences

- (d) It was agreed to note the report from Cllr. Kiely on Comhairle Contae Mhuineacháin Comhdhála maidir leis an nGaeilge I Cúil Seannach, Co. Mhuineacháin ar an 19 agus an 20 Márta 09 which was circulated.
- (e) It was agreed to note the report from Cllr. B. MacGearailt on the ACCC Conference held in Kilkenny on the 2nd and 3rd April 2009 which was circulated.
- (h) It was agreed to note the report from Cllr. J. Brassil on the Third Sector Forum Seminar held in Cork from 30th April to 2nd May, 2009 which was circulated.

09.05.18.14 Opening of Tenders

- (a) On the PROPOSED OF Cllr. B. MacGearailt, SECONDED by Cllr. J. O'Connor it was agreed to approve the opening of tenders for the Supply, Installation & Testing of tanks to accommodate Slow Sand Filters at Ballinskelligs for water services.
- (b) On the PROPOSAL of Cllr. J. O'Connor, SECONDED by Cllr. J. Sheahan it was agreed to approve the opening of tenders for the Supply, Installation & Testing of tanks to accommodate Slow Sand Filters at Sneem & Kilgarvan for water services.
- (c) On the PROPOSAL of Cllr. B. MacGearailt, SECONDED by Cllr. M. O'Shea it was agreed to approve the opening of tenders for the Supply,

Installation & Testing of tanks to accommodate Slow Sand Filters at Ceann Trá, Baile Mór & Baile Breac for water services.

- (d) On the PROPOSED of Cllr. M. O'Shea, SECONDED by Cllr. B. MacGearailt it was agreed to approve the opening of tenders for the Supply, Installation & Testing of tanks to accommodate Slow Sand Filters at Annascaul & Aughascasla for water services.
- (e) On the PROPOSAL of Cllr. T. Fleming, SECONDED by Cllr. J. Sheahan it was agreed to approve the opening of tenders for the Construction of a Single Rural Cottage at Rusheen Beg, Glenflesk.
- (f) On the PROPOSAL of Cllr. M. O'Shea, SECONDED by Cllr. B. MacGearailt it was agreed to approve the opening of tenders for the 2009 General Bituminous Overlay Requirements.
- (g) On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. T. Buckley it was agreed to approve the opening of tenders for the Supply and Installation of Hydro-Electric Generation Plant and Flow Control System at Lissardboola Reservoir, Tralee.
- (h) On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. M. O'Shea it was agreed to approve the opening of any tenders that may arise up to the July 2009 Council Meeting.

09.05.18.15 Reception of Deputations

- (a) Cllr. M. Healy-Rae requested that a deputation be received from the Residents from Ballinahown Bridge to Cúm an Easpaig Pass regarding the condition of the road.

It was agreed that this deputation would be received at the next Killorglin Electoral Area Meeting.

- (b) Cllr. P. O'Donoghue requested that a deputation be received from the Cois Uisce Residents' Association, Rusheen, Caherciveen regarding the taking in charge of the estate.

It was agreed that this deputation would be received at the next Killorglin Electoral Area Meeting.

09.05.18.16 Notices of Motion

- 2. Strengthening and blacktopping of the N69 from Kerry Ingredients to Upper Church Street, Listowel.**

Pursuant to notice duly given Cllr. T. Buckley PROPOSED:

"That Kerry County Council make a submission to the NRA to be allowed use the discretionary fund allocation on strengthening and blacktopping the N69 from Kerry Ingredients to Upper Church Street, Listowel."

Mr. G. O'Brien, A/SEO read the following report:

"As was outlined in the 2009 Roadworks Programme presented to Council on the 23rd March 2009, the level of funding provided for National Secondary Pavement Improvement works is the lowest allocation in over 10 years, with €2.25 million allocated for specific projects on the N70 and the N72 and a sum of €500,000 was allocated for pavement surfacing works. The NRA specified in Circular 02/2009 that this funding was to be used to limit deterioration to national road pavements in the County, addressing only those areas that require essential repairs and to ensure an adequate skid resistance surface on the network, in agreement with the NRA Inspector.

Having regard to the particularly poor condition of the N69 from Kerry Ingredients to Upper Church Street, Listowel, the Council made a submission to the NRA to use a substantial amount of the €500,000 funding allocation on this particular stretch of national road.

The NRA responded on the 2nd April requesting that the Council review the skid resistance surveys for the County and if, following an assessment of the condition of the network generally, we can confirm that there is sufficient in our allocations to allow essential resurfacing works and repairs to be undertaken generally, any residual funding can be expended in Listowel.

Following a meeting with NRA officials last week, we have received approval in principal for the expenditure of €300,000 on this section of the N69, subject to a detailed design and procurement documentation being submitted to the NRA. It is proposed to have the works commenced before the end of August."

Cllr. T. Buckley thanked Mr. C. O'Sullivan, Director of Roads and Transportation for his assistance on this matter.

It was then agreed to note all notices of motion and that replies would be circulated to members.

1 Appointment of a Harbour Master for South West Kerry

Pursuant to notice duly given Cllr. P. O'Donoghue PROPOSED:

"That Kerry County Council, in accordance with commitments previously given, proceed with the appointment of a Harbour Master for the South West Kerry area and also advise of the up-to-date position in relation to Bye-Laws for Piers and Harbours".

REPLY:

Kerry County Council in association with a number of seaboard counties has been involved at National level in the development of Harbour Bye-Laws. Whilst local authorities have the power to develop and adopt bye-laws, this National Steering Committee under the CCMA was established to ensure

broad consistency nationally with such Bye-Laws and to examine the implications for local authorities in their implementation.

The development and the adoption of the Bye-Laws requires detailed surveying and mapping of the areas to which the Bye-Laws will apply and a review of enforcement procedures. This is a considerable volume of work and will have financial and resource implications for local authorities. These issues were raised by the CCMA with the Department of the Marine at the time but were not resolved.

There are approximately 70 piers and harbours along our coastline, the majority of which have a low level of activity and with limited potential to generate additional income. Due to the peripheral nature of these piers and harbours in Kerry, there are significant resource implications for the Council particularly in the enforcement of Bye-Laws.

The surveying and mapping of all these locations is on-going but is extremely time consuming, particularly with the limited resources available.

Traditionally the Council has used Harbour Constables to manage the piers and harbours under its jurisdiction. These Harbour Constables had limited powers and duties and the salary attached to the position reflected this.

Having regard to current Directives by the Department of Finance on staffing in local authorities and the current economic difficulties, we will not be in a position to appoint any Harbour Masters in the county. Furthermore, the delegation of enforcement powers to staff will have to be considered in the context of available of resources and the prioritization of work programmes.

3. Upgrading of the Shanbally Group Water Scheme

Pursuant to notice duly given Cllr. D. Kiely PROPOSED:

"What is the position regarding funding for water schemes for the coming year and in particular, the upgrading of the Shanbally Group Water Scheme."

REPLY:

The position with regard to Water Supply Schemes in general in the County is that approximately €50m has been included in the Water Services Investment Programme 2007-2009 for the provision of water schemes at Caherciveen, Waterville, Kenmare, Kerry Central Regional and Killorglin-Mid Kerry. Work has already been completed in Caherciveen. Works are on-going on the ground in Waterville and Kenmare, with planning at an advanced stage in the Central Regional Scheme and Killorglin-Mid Kerry.

An allocation of approximately €1.8m has been indicated by the Department of Environment, Heritage and Local Government for works on Group Water Schemes in 2009. However, because of the underpayment by the Department of grants in previous years, there is now no money available in

2009. Accordingly, it is unlikely that any works will take place on Group Schemes in 2009.

In 2008, Kerry County Council was notified of a grant of €800,000 for the Small Scheme Programme. However, at the end of 2008 only €480,000 was paid by the DoEHLG to Kerry County Council and this left a shortfall of €320,000. Further necessary works were completed at the end of 2008 and in early 2009. The result is that the 2009 indicative grant of €675,000 for Small Schemes in 2009 is already fully expended and it is unlikely that any works will be done in 2009.

The loss of these programmes of work has a significant impact on the funding for the Water Services maintenance crews and the maintenance budget.

Clár Funding has also ceased for new schemes which will result in many proposed schemes being unviable.

Shanbally, near Abbeyfeale, is the only district in Kerry which is served by a water supply from outside the county - the Council pays an annual charge to Limerick County Council for this service.

An allocation of €35,000 from the Council's own Development Levy monies has now been made to allow the laying of an 80mm diameter, 300m long extension to the existing mains network at Shanbally. This will enable the servicing of this area by the Brosna Regional Water Supply Scheme which will also eliminate the need for the use / purchase of water from Limerick, and will also eliminate the need for the existing pumping station at Shanbally. It is planned that the job will go ahead in the coming weeks.

4. Dental treatment for Medical Card holders

Pursuant to notice duly given Cllr. M. Gleeson PROPOSED:

"That this Council calls on the HSE/Department of Health and the Irish Dental Association to resolve the long-standing impasse which has resulted in many dentists declining to treat Medical Card holders who have legal entitlement to dental care".

REPLY:

This is a matter for consideration by the Members.

5. Cut in the Christmas Bonus for Social Welfare recipients

Pursuant to notice duly given Cllr. R. Beasley PROPOSED:

"That the Council call on the Government to rescind the disgraceful cut of the Christmas Bonus for pensioners and all Social Welfare recipients".

REPLY:

This is a matter for consideration by the Members.

6. Meeting with the Department of Agriculture, Fisheries and Food

Pursuant to notice duly given Cllr. S. Fitzgerald PROPOSED:

"That Kerry County Council request the Department of Agriculture, Fisheries and Food to meet with the representatives from State and private REPs agricultural planners with a view to changing the unworkable 15th May closing deadline in which farmers' REPs plans have to be submitted".

REPLY:

This is a matter for consideration by the Members.

7. Rates on new businesses

Pursuant to notice duly given Cllr. B. Cronin PROPOSED:

"To ask Kerry County Council not to charge rates on new businesses for the first year of operation in an effort to promote and encourage people to utilise small vacant shop units in our towns and villages".

REPLY:

Rates must be assessed in accordance with the current law on rates and valuation, and rates are payable in accordance with those requirements. The legislation does not provide for the type of relief mentioned in this Notice of Motion, and it is not open to the Council to introduce a policy in contravention of the legislation on this matter. However, the Council is open to consider individual cases on their particular merits having regard to trading accounts, turnover, etc., and any applications in this regard should be submitted to the Council's Revenue Department with the necessary details.

9. Removal of house and commercial plans from the Kerry County Council website

Pursuant to notice duly given Cllr. M. O'Shea PROPOSED:

"To ask that the Director of Planning immediately remove all individual house and commercial plans currently displayed on the Kerry County Council Planning website to avoid risk to the security and safety of homeowners and businesses".

REPLY:

While on-line access to planning files is not a statutory requirement, the document imaging and geographical information systems that may be accessed through Kerry County Council's website play a significant role in delivering an improved development management service. Specifically, they offer the possibility of giving applicants, agents, prescribed bodies, members of the public and public representatives an increased level of access and allows information availability on a 24 hour basis. This service is especially important to those residing at a distance from County Buildings. The service has been available since 2002 and very positive feedback has been received.

A change in policy/procedures by the Planning Department to remove documentation from the Planning website, which forms part of the prescribed file, would result in an inaccurate and incomplete representation of the planning application as received and thereby would offer a significantly lower level of service to our customers. It is to be noted that floor plans and all documentation made available on the planning site are for viewing purposes only and hard copies cannot be downloaded.

10 Private Housing Estates

Pursuant to notice duly given Cllr. J. O'Connor PROPOSED:

"That there should be a clear definition in relation to private housing estates where the developer hasn't fulfilled all the terms of the planning conditions. In some estates, public lighting has not been provided. There should be guidelines as to maximum amounts that companies can charge for their annual services in maintaining estates. Guidelines should be set out where developers go bankrupt or where all houses in developments haven't been sold".

REPLY:

In relation to Housing Estates, developers are required to carry out the site development works in accordance with the National Guidelines on Site Development Works and the terms of the Planning Permission associated with the Development.

The newly formed Housing Estates Section within Kerry County Council will in future monitor site works in housing estates and also address issues where there is non-compliance in relation to the above standards. This is happening at present in relation to a number of estates in Kerry.

In relation to management companies, the Local Authority has no remit in this area but the Law Reform Commission is examining the issue of legislation pertaining to management companies and hopefully this will address the annual charges and incomplete developments.

11 7 Year occupancy clause

Pursuant to notice duly given Cllr. J. Sheahan PROPOSED:

"That Kerry County Council adopt a more sympathetic approach towards people burdened by the 7 year occupancy clause on planning permissions on houses on which they no longer service loans or mortgages".

REPLY:

It is National Policy to insert the 7 year occupancy clause in certain planning permissions relating to one-off rural houses where a permission is being granted solely to the applicant on the basis of the applicants ties to the area and need to live in that area.

However it is accepted by the Planning Authority that circumstances may arise, which are both genuine and can be shown to be genuine, when it would be appropriate that the Planning Authority remove or alter this occupancy clause in the context of a new application.

The Planning Authority regularly reviews such applications and will do so in a fair, consistent and practical fashion in relation to one-off, as constructed, houses in the countryside.

12 Imported meat products

Pursuant to notice duly given Cllr. B. MacGearailt PROPOSED:

"What guarantees can the Department of Agriculture and Food give to the general public regarding imported meats and meat products".

REPLY:

This is a matter for consideration by the Members.

13 Speed Limit at Pike Hill, Killarney

Pursuant to notice duly given Cllr. D. Healy-Rae PROPOSED:

"That (a) Kerry County Council ask the NRA to reduce the speed limit from outside the Lissivigeen Roundabout to the bottom of Pike Hill to assist motorists exiting from Coolcashlagh Junction and (b) that a footpath be provided on left hand side of the N22 from bottom of Pike Hill to Coolcashlagh Junction".

REPLY:

The reduction of the speed limit on this section of the N22 National Primary Route may be considered during the next speed limit review which is provisionally scheduled to commence at the end of this year.

The National Roads Authority (NRA) currently has no funding programme in place for construction of new footpaths on National Primary Routes. The only funding being provided by the NRA for footpath works at present is provided through the National Primary Maintenance allocation and this is a very limited sum provided to maintain the existing footpath network.

14 Funding for Housing Aid for the Elderly Scheme

Pursuant to notice duly given Cllr. D. Kiely PROPOSED:

"What is the position regarding funding for Housing Aid for the Elderly Grants for the coming year?"

REPLY:

We have very recently been advised by the DoEHLG of an allocation of €2.95m under the Housing Adaptation Grants Scheme for Older Persons and People with a Disability. This is made up of an exchequer grant of €2.226m and matching own resources funding of €0.724m. Already this year, we have utilised approximately €2.2m of this overall total allocation. Considering that much of this expenditure relates to grants allocated in 2008 and consequent claims for payment being made this year, there is very little scope for allocating any new grants other than emergency cases. Therefore, in respect of the Housing Adaptation Grants Scheme for People with a Disability or Mobility Aids Grant Scheme we will only be able to process applications in respect of persons who are terminally ill or fully/mainly dependant on family or carer; or where alterations/adaptations would facilitate discharge from hospital or alleviate the need for hospitalisation in the future. In respect of the Housing Aid for Older Persons Grant Scheme the only applications which we will be able to process will be from applicants who require essential repairs or improvement works as a matter of urgency, e.g. individuals in hospital who require the works to be completed in order to facilitate the continuance of their care in their own home or to facilitate their direct return home. Unfortunately, due to the limited availability of funding we will be unable to process any other grant applications under these grant schemes which fall outside these categories.

15 Provision of signage identifying each Townland

Pursuant to notice duly given Cllr. M. Gleeson PROPOSED:

"That the Council would state if it has abandoned the implementation of its

commitment to put in place appropriate signage identifying each Townland".

REPLY:

CLÁR and Foras na Gaeilge jointly operate a Bilingual Townland Signage Scheme on the basis of a three way equal funding split between CLÁR, Foras Na Gaeilge and the local community, which is subject to a maximum of €6,000 per Parish/Area. This scheme is co-ordinated through the County Development Board.

In 2008, only one application was received for funding under the scheme from Comharchuman Forbartha Chorca Dhuibhne Teo. The scheme will be advertised again this year and the funding of any applications received will be subject to the approval of the Department of Community Rural and Gaeltacht Affairs.

The Council has no funding under its Roads budget to erect signage in each of the townlands.

16 Electronic Voting Machines

Pursuant to notice duly given Cllr. R. Beasley PROPOSED:

"To call on the Government to sack Minister Cullen for the disgraceful behaviour and waste of taxpayers' money in relation to the storage for the last number of years of the electronic voting machines".

REPLY:

This is a matter for consideration by the Members.

17 Processing of Medical Card applications

Pursuant to notice duly given Cllr. S. Fitzgerald PROPOSED:

"That Kerry County Council call on the Department of Health to allow all medical card applications from County Kerry be processed in Tralee as was the situation up until recently".

REPLY:

A similar Notice of Motion was raised at an earlier meeting and the following is the response received from the Department of Health & Children dated 29/04/2009:

"The Health Act 2004 provided for the Health Service Executive and under the Act, the Executive is required to manage and deliver, or arrange to be delivered on its behalf, health and personal social services.

Responsibility for the centralisation of services rests with the Executive. A copy of your correspondence has been referred to the Chief Executive Officer of the HSE who will arrange for the matters raised to be investigated and a reply issued directly to you."

18 Charge for the 999 call-out of the Fire Service

Pursuant to notice duly given Cllr. B. Cronin PROPOSED:

"That there be no charges levied for the 999 call-out of emergency Fire Services as this charge could result in loss of life".

REPLY:

There is no charge for 999 call-outs of the emergency Fire Services to domestic house fires. This policy is to ensure that people with domestic house fires will not incur any charge and will not hesitate to immediately contact the Fire Service by dialing 999.

However, charges are imposed for other call outs such as chimney fires and commercial fires etc. This policy has been effective in reducing expenditure, particularly from chimney fires where the Fire Service in the past was effectively being used as a "chimney sweeping" service. Householders are advised to keep chimneys clean by sweeping effectively at least once per annum.

In addition, most insurance policies now cover the cost of fire brigade call outs.

There is no evidence to suggest that the current charging policy has any adverse implications for human safety whatsoever.

19 Reconstruction of the Milltown to Fossa Road

Pursuant to notice duly given Cllr. M. O'Shea PROPOSED:

"To ask the Director of Roads & Transportation for the reconstruction of the Milltown to Fossa Road known as the R561".

REPLY:

A sum of €357,000 has been allocated by the Department of Transport for work on two projects on the regional road R563. The first project involves continuation of the improvements that have commenced at Crohane, Fossa, the second project is a bituminous overlay outside Milltown. These works will be commencing in the coming months.

20 Opening up of the entrance to Pinewood Estate

Pursuant to notice duly given Cllr. J. Sheahan PROPOSED:

"That Kerry County Council ask the NRA to open up the entrance to Pinewood Estate".

REPLY:

The road adjacent to Pinewood Estate is the R876 Regional Road and the Regional Road Safety Engineer previously undertook a review of the proposal to open up the entrance to Pinewood Estate. The recommendation of the review was that the entrance should remain closed for road safety reasons as the opening of the entrance would compromise pedestrian safety on the regional road footpath and could also lead to an increased risk of rear end accidents between the Park Road Roundabout and the proposed junction, owing to the proximity of both junctions. The current access to and from the estate off the Department of Justice Road is a safer access.

21 Waiting list for orthodontic treatment

Pursuant to notice duly given Cllr. J. O'Connor PROPOSED:

"That we contact the HSE to find out what is the state of the waiting list for orthodontic treatment in Kerry at present".

REPLY:

This is a matter for consideration by the Members.

22 Removal of overhead power lines in Waterville Village

Pursuant to notice duly given Cllr. P. Connor-Scarteen PROPOSED:

"That Kerry County Council work in conjunction with Eircom and remove the overhead power lines in Waterville Village and put them underground for safety and aesthetic reasons".

REPLY:

The undergrounding of existing overhead power and telecom lines was previously carried out with funding under a Department of Environment, Heritage and Local Governments Urban and Village Renewal Programme and some matching funding from the Local Authority. The last programme was for the period 2000 to 2006. The Council has no indication at present from the Department on the announcement of a new Urban and Village Scheme.

23 Availability of funding for strategic roads in the Gaeltacht

Pursuant to notice duly given Cllr. B. MacGearailt PROPOSED:

"What monies will be available this year from the Community, Rural and Gaeltacht Affairs Department for strategic roads in the Gaeltacht".

REPLY:

To date Kerry County Council has not received any notification of an allocation of funding from the Department of Community, Rural and Gaeltacht Affairs for works on the strategic roads in the Gaeltacht.

24 Access to public roads following the resurfacing of roads

Pursuant to notice duly given Cllr. D. Healy-Rae PROPOSED:

"That Kerry County Council ensure that when they trunk and resurface roads that (a) surface water is not deflected into private property and (b) ensure that people can access public roads safely following the raising of same when they are newly trunked and resurfaced".

REPLY:

In conducting road works, every effort is made not to interfere with the drainage regime that existed prior to the works commencing. Equally, when road levels are raised, entrances are graded back so that property users can safely enter and exit their properties.

25 Electronic tagging of sheep

Pursuant to notice duly given Cllrs. J. O'Connor & S. Fitzgerald PROPOSED:

"To call on the Minister for Agriculture not to implement the proposed electronic tagging system for sheep in view of the difficulties facing farmers in these recessionary times".

REPLY:

This is a matter for consideration by the Members.

09.0518.17 Conferences and Seminars

- (a) On the PROPOSAL of Cllr. M. O'Shea, SECONDED by Cllr. J. Sheahan it was agreed to approve the attendance of Mayor T. Fleming at the International Government Convention 2009 held in Killarney from 3rd to 6th March, 2009.

- (b) On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. M. O'Shea it was agreed to approve the attendance of Cllr. N. Foley at the 17th Colmcille Winter School held in Co. Donegal on the 24th and 25th February, 2006.
- (c) On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. J. Sheahan it was agreed to authorise the attendance of Cllr. B. MacGearailt at the Supporting Family Carers Seminar to be held in Castlebellingham, Co. Louth on the 29th - 31st May, 2009.

09.05.18.18 Correspondence General

It was agreed to note the following items of correspondence which were circulated:

1. Letter dated 29th April, 2009 from the HSE in relation to the centralisation of HSE Services
2. Letter dated 29th April, 2009 from the Department of Health & Children in relation to the centralisation of HSE Services
3. Letter dated 6th May, 2009 from the Office of the Minister for Justice, Equality and Law Reform in relation to sniffer dogs for An Garda Síochána in Kerry.
4. Letter dated 14th April, 2009 from Carlow County Council in relation to a resolution adopted by that Authority calling on the Government to remove the Statutory Audit requirement for Companies with an annual income of less than €50,000.
5. Letter dated 14th April, 2009 from Killarney Town Council in relation to a resolution adopted by that Authority calling on the Government to have a 'National Carers Day'.
6. Letter dated 17th April, 2009 from the Galway County Council in relation to a resolution adopted by that Authority regarding the condition of houses in private housing estates.
7. Letter dated 20th April, 2009 from Tralee Town Council in relation to a resolution adopted by the Authority calling on the Minister for Education to prioritise Blennerville National School for funding for the provision of a new school.
8. Letter dated 22nd April, 2009 from Monaghan Town Council in relation to a resolution adopted by that Authority calling on the Department of Environment, Heritage and Local Government to ensure that the decision not to notify vehicle owners when their NCT is due is reversed.
9. E-mail dated 7th May, 2009 from Galway County Council in relation to a resolution adopted by that Authority in relation to the requirement for a second on farm inspection by local authorities in accordance with the Nitrates Directive.

The meeting concluded at 1.40pm.

Gerard O'Brien
A/SEO Corporate Affairs

Mayor of Kerry