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**MINUTES OF THE ORDINARY MEETING OF KERRY COUNTY COUNCIL  
HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE, TRALEE ON  
MONDAY, 15 FEBRUARY, 2010**

**MIONTUAIRISCÍ NA CRUINNITHE MHIOSIÚIL DE COMHAIRLE CONTAE  
CHIARRAÍ A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS AN  
CHONTAE, TRÁ LÍ, AR AN LUAN, 15 FEABHRA, 2010**

**PRESENT/I LÁTHAIR**

**Councillors/Comhairleoirí**

R. Beasley	J. Brassil	T. Buckley
M. Cahill	P. Connor-Scarteen	B. Cronin
P.J. Donovan	J. Finucane	S. Fitzgerald
T. Fleming	N. Foley	B. Griffin
D. Healy-Rae	M. Healy-Rae	P. Leahy
P. McCarthy	A. McEllistrim	M. Moloney
T. O'Brien	B. O'Connell	P. O'Donoghue
M. O'Shea	L. Purtill	J. Sheahan
A.J. Spring		

**IN ATTENDANCE/I LÁTHAIR**

Mr. J. O'Connor, Deputy Co Manager	Mr. J.D. Flynn, Director of Corp. Servs
Mr. M. McMahon, Director of Planning	Mr. O. Ring, Dir of Water & Env Servs
Mr. J. Breen, Dir. Hsg & Comm & Ent	Mr. C. O'Sullivan, Director of Roads
Mr. G. O'Brien, Meetings Adminr.	Mr. P. Corkery, Press & Comm.
Ms. D. Griffin, SO Corporate Affairs	Ms. M. Galvin, CO Corporate Affairs
Ms. O. O'Shea, CO Corporate Affairs	

The meeting commenced at 10.40 a.m.  
Mayor B. O'Connell took the Chair.

**10.02.15.01 Mayor's Report on CPG Meeting held on 9<sup>th</sup> February, 2010**

Mayor B. O'Connell read the following report into the record of the meeting.

**Item 1 Agenda for the February Council Meeting**

Mr. G. O'Brien, Meetings Administrator, briefed members on the agenda for the February Council meeting.

With regard to Item no. 7, To agree dates for special council meetings, it was noted that the Special Council meeting to receive a presentation on the River Basin District Plans which was to be held on 1<sup>st</sup> March, 2010, will not proceed on this date. It is now proposed to hold a special meeting to note the County Manager's report on the proposed construction of a natural gas fired power plant at Tarbert on this date. The Mayor and members of the CPG outlined the importance of this project to the county and the importance of all members making an effort to attend this meeting.

**Item 2 Presentations from Job Creation Agencies**

County Manager outlined that Job Creation Agencies will make presentations to Council meetings as follows:

## **February Ordinary Meeting 2010**

Shannon Development	-	March Council Meeting
Údarás na Gaeltachta	-	April Council Meeting
IDA	-	May Council Meeting
Enterprise Ireland	-	June Council Meeting

Presentations from FÁS and the Local Development groups will be held later in the year.

With regard to the Jobs Fair being organised by the CDB, the presenters for seminars are being organised and it is hoped the Jobs Fair will be held towards the end of March, 2010.

### **Item 3 Update on Kenmare Water Abstraction Order**

Mr. O. Ring, Director of Water Services, advised that a report to the elected members on the proposed Kenmare Water Abstraction has been drafted by the Consultants that were appointed at the behest of the elected members. A special meeting of the Environment SPC and Killorglin Electoral Area members is being arranged to review the report. An in committee briefing for all elected members will be held on Friday, 19<sup>th</sup> March, 2010. The Consultants will be attending both meetings. Consideration of the report will be listed on the agenda for the March Council meeting.

### **Item 4 County Development Board Update**

- a. Next meeting of the CDB is scheduled for 26<sup>th</sup> February, 2010.
- b. Items to be discussed at that meeting will include:
  - i. Tourism Promotion Proposal by South Kerry Development Partnership as part of Collabor8 Project.
  - ii. Update on Children's Services Committee for Kerry.
  - iii. Update from Community, Culture and Tourism SPC Chairman on recent SPC meeting.
  - iv. Update on Tralee/Killarney Linked Hub Social Strategy.
  - v. Information on Local Development Funds Allocations for County Kerry.
  - vi. Details of proposed seminar by KEAT on opportunities for recently unemployed jobs fair.
  - vii. Up to date Economic Indicators for County – unemployment figures, household budget survey, etc.

### **Item 5 Update from Chairs of SPCs**

Cllr. M. Cahill, Chair of the Tourism, Community & Culture SPC outlined his report from the recent SPC meeting. This report is listed on the agenda for the February Council Meeting.

Cllr. A.J. Spring, Chair of the Housing & Social Support SPC outlined his report from the recent SPC meeting. This report is listed on the agenda for the February Council Meeting.

It was noted that a meeting of the Transport SPC is being scheduled.

### **Item 6 Any Other Business**

CPG members agreed to honour the success of the Pobalscoil Inbhear Scéine Under-16 Boys Basketball Team in the All-Ireland Championship at the next Killorglin Electoral Area Committee meeting when it will be held in Kenmare.

Mr. J. O'Connor, Deputy County Manager, referred to the proposed special council meeting to note the County Manager's report on the proposed construction of a natural gas fired power plant at Tarbert and said this project is of great importance to County Kerry and he asked that elected members make every effort to attend this meeting.

#### **10.02.15.02 Confirmation of Minutes**

On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. N. Foley, it was resolved that the minutes of the January Ordinary Meeting of Kerry County Council held on 18<sup>th</sup> January, 2010, be confirmed.

#### **10.02.15.03 Material Contravention of the Kerry County Development Plan 2009-2015 and the Ballybunion Local Area Plan 2007**

On the PROPOSAL of Cllr. T. Fleming, SECONDED by Mayor B. O'Connell, it was unanimously agreed to defer consideration of this item to 11.15 a.m.

#### **10.02.15.04 Disposal of Land**

On the PROPOSAL of Cllr. J. Finucane, SECONDED by Cllr. P. McCarthy, it was agreed to approve the disposal, by way of long term lease, of a plot of land measuring 20m x 20m (0.1 acre) in total to B9 Power Limited, 4<sup>th</sup> Floor, Lapps Quay, Cork, for the construction of a landfill gas utilisation facility at the North Kerry Landfill site, in accordance with the terms of notice issued on 29<sup>th</sup> January, 2010, 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.

#### **10.02.15.05 Investment in Cork Swansea Ferry Service**

Report from Mr. J. O'Connor, Head of Finance, dated 8<sup>th</sup> February, 2010, regarding Cork-Swansea Ferry Service was noted.

On the PROPOSAL of Cllr. P. Connor-Scarteen, SECONDED by Cllr. M. Moloney, it was agreed to approve an investment of €50,000 in the Cork Swansea Ferry Service in accordance with Section 66 of the Local Government Act, 2001.

#### **10.02.15.06 Membership of the Strategic Policy Committees**

Mr. G. O'Brien, Meetings Administrator, outlined his report dated 9<sup>th</sup> February, 2010, in relation to the up to date position regarding the membership of the Strategic Policy Committees.

On the PROPOSAL of Cllr. J. Finucane, SECONDED by Cllr. A. McEllistrim, the updated membership of the Strategic Policy Committee was agreed.

#### **10.02.15.07 Dates for Council Meetings**

- (a) On the PROPOSAL of Cllr. J. Finucane, SECONDED by Cllr. S. Fitzgerald, it was agreed to hold a Special Council meeting to note the County Manager's Report on the proposed construction of 450 MW natural gas fired power plant at Tarbert in accordance with Section 37E of

## **February Ordinary Meeting 2010**

the Planning and Development (Strategic Infrastructure) Act 2006 and to consider the views, if any, the Council and/or any individual members may have on the proposal on Monday, 1<sup>st</sup> March, 2010 at 10.30 a.m.

- (b) On the PROPOSAL of Mayor B. O'Connell, SECONDED by Cllr. R. Beasley, it was agreed to hold a Special Roads Meeting on Friday, 26<sup>th</sup> March, 2010, at 2.00 p.m.
- (c) Mr. G. O'Brien, Meetings Administrator, requested elected members to note a provisional date in their diaries for a Special Council Meeting regarding the River Basin District Management Plans on Monday, 29<sup>th</sup> March, 2010, at 10.30 a.m. Confirmation and agreement of this date will be listed on the March Council meeting agenda.

### **10.02.15.08 Report from Cllr. M. Cahill, Chair of the Tourism, Community & Culture SPC**

It was unanimously agreed to note the report circulated from Cllr. M. Cahill, Chair of the Tourism, Community & Culture SPC.

### **10.02.15.09 Report from Cllr. A. J. Spring, Chair of the Housing & Social Support SPC**

It was unanimously agreed to note the report circulated from Cllr. A.J. Spring, Chair of the Housing & Social Support SPC.

### **10.02.15.10 Report on the Operations and Activities of the Association of County and City Councils**

It was unanimously agreed that this item would be deferred to the March Council meeting.

### **10.02.15.11 Summary of Proceedings at Conferences**

#### **(a) Irish Renewable Energy Summit 2010**

It was unanimously agreed to note Cllr. M. Healy-Rae's written report on this item which was circulated.

#### **(b) UCC 28<sup>th</sup> Annual Business Conference**

It was unanimously agreed to note Cllr. P. Leahy's written report on this item which was circulated.

### **10.02.15.12 Opening of Tenders**

- (a) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. S. Fitzgerald, it was agreed to approve the opening of Tenders for Disposal of Residual Waste from the waste transfer stations and An Daingean Civic Amenity Site to North Kerry Landfill on behalf of Kerry County Council – Closing date: Wednesday, 24<sup>th</sup> February, 2010 at 4.00 p.m.
- (b) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. P. McCarthy, it was agreed to approve the opening of Tenders for Collection & Recycling of Plastic Bottles & Paper from Bring Bank Network on behalf of Kerry County Council - Closing date: Wednesday, 3<sup>rd</sup> March, 2010 at 4.00 p.m.
- (c) On the PROPOSAL of Cllr. A. McEllistrim, SECONDED by Cllr. J. Finucane, it was agreed to approve the opening of Tenders for Desludging Sewerage Plants in North Kerry – Closing date: Wednesday, 3<sup>rd</sup> March, 2010, at 3.00 p.m.

- (d) On the PROPOSAL of Cllr. A. McEllistrim, SECONDED by Cllr. J. Finucane, it was agreed to approve the opening of Tenders for an Extension to a Local Authority house at Knockanish, The Spa, Tralee – Closing Date: Friday, 26<sup>th</sup> February, 2010 at 4.00 p.m.
- (e) On the PROPOSAL of Cllr. J. Finucane, SECONDED by Cllr. T. Buckley, it was agreed to approve the opening of Tenders for an Improvement Works in Lieu Scheme for a house at Ardculen, Ballyduff – Closing Date: Friday, 26<sup>th</sup> February, 2010 at 3.00 p.m.

### **10.02.15.13 Reception of Deputations**

#### **Residents of Carhooeragh, Kilmorna**

Cllr. R. Beasley requested that a deputation be received from the residents of Carhooeragh, Kilmorna, regarding the continuation of the use of the recycling facility by South West Bins in their area. On the PROPOSAL of Cllr. R. Beasley, SECONDED by Cllr. T. Buckley, it was agreed that this deputation would be received at the next Listowel Electoral Area Meeting.

#### **Residents of Kilcox, Lisselton**

Cllr. R. Beasley requested that a deputation be received from the residents of Carhooeragh, Kilmorna, regarding the licensing of a site for the acceptance of 10,000 tonnes of rubble. On the PROPOSAL of Cllr. R. Beasley, SECONDED by Cllr. T. Buckley, it was agreed that this deputation would be received at the next Listowel Electoral Area Meeting.

### **10.02.15.14 Notices of Motion**

#### **1. Retention of Bus Éireann Bus Services in County Kerry**

##### **Pursuant to Notice duly given, Cllr. S. Fitzgerald PROPOSED:-**

"That Kerry County Council call on Bus Éireann not to reduce the bus service it provides to our towns around the County and to make known to the Minister for Transport that the service provided is vital to the whole rural transport system which he so often advocates as part of improving safety on our roads".

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. S. Fitzgerald requested that a letter issue to Bus Éireann requesting that they retain current services as Kerry is a rural county with no other public transport system available. People in the county need Bus Éireann services.

#### **2. Special Ceremony to commemorate Daniel O'Connell**

##### **Pursuant to Notice duly given, Cllr. L. Purtill PROPOSED:-**

"That Kerry County Council call on the Taoiseach and the Government to have a special ceremony at the restored Daniel O'Connell tomb in Glasnevin Cemetery on May 15th, the day he died."

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. L. Purtill said Daniel O'Connell was a proud Kerryman known as The Liberator and the Great Emancipator. He emancipated not alone Catholics but all Christian religions in Ireland. He campaigned strongly for the repeal of the Act

of Union and International figures like Ghandi and Martin Luther King used his example of peaceful protest to further their causes. It is fitting that the Irish Government would hold a special ceremony at the restored O'Connell Tomb in Glasnevin Cemetery on the anniversary of his death, 15<sup>th</sup> May. Should the Government not agree to hold this ceremony, Kerry County Council, in conjunction with Dublin Corporation, should arrange for this ceremony to take place.

Mayor B. O'Connell SECONDED this motion.

#### **4. Provision for an Emergency Fund**

**Pursuant to Notice duly given, Cllr. P. McCarthy PROPOSED:-**

"That Kerry County Council initiate a budget or fund which would build up over time to provide funding for emergencies such as the recent cold spell of weather."

**The following report issued:**

**In preparing our Budget Estimates for each financial year, the Council makes provision for attending to emergency situations, such as flooding, icy roads, RTAs etc. having regard to a reasonable expectancy of the likelihood of same occurring. Weather conditions in 2009 and early 2010 were exceptional with rainfall figures for the summer period in excess of 300% of normal and the recent severe cold weather being the worst experienced in almost 40 years.**

**The objective of this notice of motion is desirable. Unfortunately, though, at the Annual Budget time each year there are inevitably many more projects/works than can be funded. We can consider the intention of the motion further if any extra funding were to arise during the year, having regard to other competing needs at the time. We have a small contingency fund in place for a few years to help with any exceptional emergency bridge replacement. As well, the Roads Department is required in accordance with the Roads Grants conditions to retain some funds from the Roads Grants for any contingency purposes that may arise during the year.**

Cllr. P. McCarthy said the weather conditions over the Christmas and January period have been exceptional and drew severely on funding from the Roads Department and from Christmas and holiday time of staff. He said the reply to the notice of motion is reasonable, however, he asked that this item would form part of the Budget agenda each year so the emergency situations budget would be strengthened each year.

#### **10.02.15.03 Material Contravention of the Kerry County Development Plan 2009-2015 and the Ballybunion Local Area Plan 2007**

Mayor B. O'Connell said it was 11.15 a.m. and as agreed Item No. 3 on the agenda regarding a Material Contravention would now be dealt with.

Mr. G. O'Brien, Meetings Administrator, read the following report:-

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 to construct a one and a half storey style dwelling and connect to the public sewer at New Road, Ballybunion.

Planning Register No. 09/1381

Name of Applicant: (Name withheld for data protection purposes)

Address of Applicant: (Address withheld for data protection purposes)

Agent: (Name & Address withheld for data protection purposes)

Location of Proposed Development: New Road, Ballybunion

Date application lodged: 04/11/2009

Material Contravention procedure initiated with publication of prescribed notice in the Irish Examiner newspaper on 17<sup>th</sup> December 2009

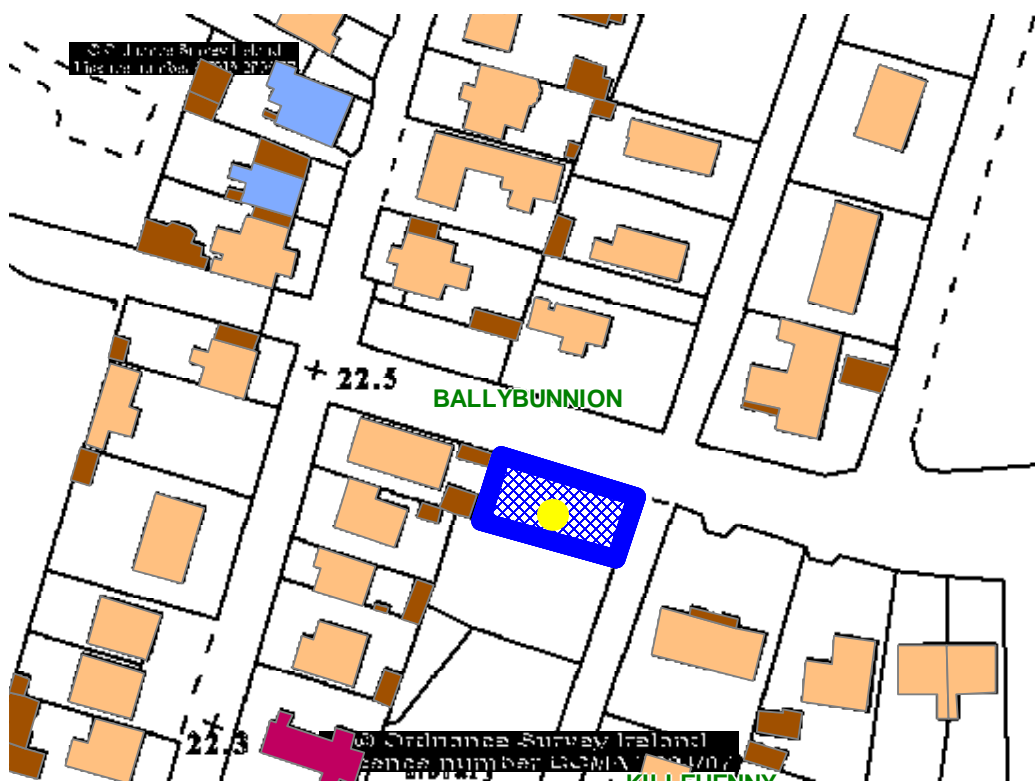
Decision due date: 19<sup>th</sup> February 2010

### **Proposal**

Permission to construct a one and a half storey style dwelling and connect to the public sewer.

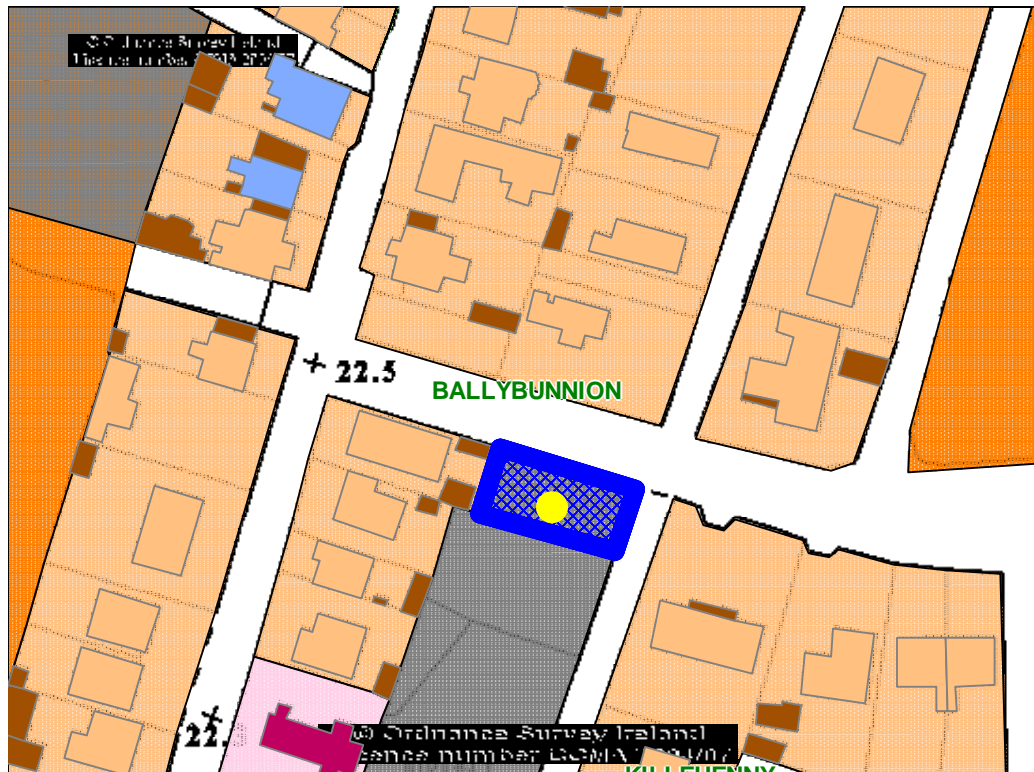
### **Description of Site and Surroundings**

The site is located on the New Road (Kit Ahern). The site is predominantly residential in nature. The site forms part of a larger parcel of undeveloped land.



### **Zoning and Designations**

The site is on lands zoned for car park in the Ballybunion LAP 2007-13



**Relevant Planning History**

Planning Register No. 98/1748

Application for Outline Planning Permission by Mr M Donovan for the erection of one dwelling.

Decision: Refused by Kerry County Council

Planning Register No. 00/3912

Application for Permission by Mr M Donovan for the erection of one dwelling.

Decision: Granted by Kerry County Council

Planning Register No. 05/1962

Application for Permission by Mr T Boyle for 2 semi detached dwellings.

Decision: Refused by Kerry County Council

Planning Register No. 08/2585

Application for Permission by Mr T Boyle for the construction of a one and half storey dwelling.

Decision: Refused by Kerry County Council

**Assessment of Current Application:**

**Appraisal:**

The proposal is for a traditional style storey and a half dwelling. The structure will face onto the main public road. There are first floor front windows and roof lights to the rear. There are no gable windows therefore there will be minimal overlooking of adjacent properties. There is a variety of dwelling style and sizes along the New Road and Sandhill road. The planning dept consider that this modest scale and design will integrate into the area. The proposal includes the provision of 2 number on site car parking spaces and an adequate amount of private open space located to the side and rear of the dwelling.



**Submissions/Observations**

None submitted

**Recommendation**

Grant planning permission subject to the following conditions:

**FIRST SCHEDULE**

Having regard to the location of the site within the development boundary of, to the availability of services and to any submissions received in relation to the application, 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 of the area or 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. The development shall be carried out entirely in accordance with the plans and particulars received by the Planning Authority on 4-11-09 except for any alterations or modifications specified in this decision.

**Reason: To regulate and control the layout of the development.**

2. (a) The use of the proposed dwelling shall be as a primary permanent all year round private residence
- (b) The proposed dwelling house for a period of 2 years from the date of initial occupation shall be for the sole use of the initial occupant-applicant unless or otherwise agreed with the planning authority.
- (c) Prior to the occupation of the dwelling, the occupants solicitor shall notify the planning authority of the name of the occupant, the date of occupation and confirm its proposed use as a permanent primary place of residence.
- (d) The proposed dwelling shall not be used as a holiday home or second home
- (e) This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

**Reason: In the interest of the proper planning and sustainable development of the area**

3. No part of any garage or other exempted structure shall be erected within 1.5metres of the centre of any divisional boundary or adjoining property on either side of the proposed dwelling house.

**Reason: To regulate and control the layout of the development.**

4. (a) Proposed dwelling house shall be in accordance with the design drawing received on 4-11-09
- (b) Roof shall be covered with slates or tiles which shall be either black, dark-grey or blue-black. The colour of the ridge tile shall match the colour of the roof.
- (c) All external finishes shall be neutral in colour, tone and texture. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for written agreement.

- (d) Stone work to the external walls shall be constructed of natural stone which shall be sourced locally.
- (e) The use of white uPVC shall not be permitted on windows, doors, fascias, soffits, guttering and dormers.

**Reason: To integrate the structure into the surrounding area.**

- 5. Finished Floor Level shall not be more than 300mm above existing ground level measured at the lowest point along the external walls of the dwelling house.

Within one month of the grant of permission, the applicant shall submit cross-sections through the site indicating the existing and proposed ground levels, public road level and the proposed finished floor level.

The levels shall be referenced to a clearly identifiable and easily located benchmark on public roadway. The location and value of this benchmark shall be shown on drawing.

**Reason: To integrate the structure into the surrounding area.**

- 6. The dwelling house shall be connected to the public water supply network.

**Reason: In the interest of public health**

- 7. Under no circumstances shall the applicant/developer cut or otherwise interfere with the public road for the purposes of connection to public services without a road opening licence.

**Reason: In order to protect public property.**

- 8. The proposed development shall be connected to the public sewer at the applicant's expense to the satisfaction of the Water Services Section of Kerry County Council. Full details of the sewer connection (including longitudinal sections and invert levels) shall be submitted to the Planning Authority within one month of the date of this decision.

**Reason: In the interest public health and to prevent pollution.**

- 9. (a) The existing roadside boundary wall shall be retained except for where its removal is necessary for the construction of an entrance with adequate sight lines.
- (b) Vehicular access to the site shall be located as shown on the Site Layout Map received on 4-11-09
- (c) The new wing walls shall be constructed in plastered block. Wing walls forming the entrance shall be erected to a height of not more than 1 metre over existing road level

**Reason: In the interest of visual amenity and traffic safety**

- 10. Formation of the entrance shall not cause surface water or seepage water to flow onto the road surface. No water from the proposed development shall be allowed to flow onto the public road surface, but shall be collected and diverted to discharge to existing watercourse or to a soak pit within the site.

**Reason: To avoid a traffic hazard and protect public property.**

- 11. Any external lighting shall be properly cowled and directed away from the public roadway, and shall also not be visible from any point more than 50 metres away from the light.

**Reason: In the interests of traffic safety and to control light pollution in the rural environment.**

12. The site shall be landscaped with suitable native Irish trees and hedges to the satisfaction of the Planning Authority, in the first planting season following completion of construction. As part of this the following (or suitable similar alternatives to be agreed with the planning authority within 4 weeks of the grant date of this permission), shall be adhered to.

- (a) Existing boundary screening shall be retained in full.
- (b) All new site boundaries shall be provided with thick native hedges. These hedgerows shall include such native species as holly, whitethorn and furze.
- (c) Existing hedges/ditches shall be suitably strengthened with native hedge species indigenous to the area.
- (d) A minimum of 10 heavy standard saplings/ semi-mature native trees of different varieties and, shall be planted in clusters and maintained within the proposed site.
- (e) Any trees or shrubs, which die or become diseased, shall be replaced with similar native species.

- Native Evergreens (Holly, Yew, Scots Pine).
- Native Deciduous (Oak, Elm, Ash, Birch, Hazel, Alder, Willow, Whitethorn, Blackthorn, Irish Whitebeam, Rowan).

Exotic species such as Cypress, Leylandii, Rhododendron and Laurel, shall not be used.

**Reason: In order to integrate the development into its setting and in the interests of biodiversity and the proper planning and sustainable development of the area**

13. Prior to the commencement of development the developer shall pay a contribution of **EUR 9549.00** 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 1<sup>st</sup> 2008 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.**

14. Prior to the commencement of development the developer shall pay a contribution of **EUR 515.00** to Kerry County Council (Planning Authority) in respect of community infrastructure, environmental amenities 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 1<sup>st</sup> 2008 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.**

Cllr. L. Purtill asked if the officials of Kerry County Council are in favour of this material contravention.

Mr. M. McMahon, Director of Planning, confirmed that the officials of Kerry County Council are in favour of this material contravention

Cllr. T. Fleming PROPOSED, in accordance with the provisions of Section 34(6)(a) of the Planning and Development Act 2000, that permission be granted to (Name & Address withheld for data protection purposes), to construct a one and a half storey style dwelling and connection to the public sewer at New Road, Ballybunion, Co. Kerry, in accordance with plans submitted on Planning Register No. 09/1381 which development would materially contravene the Kerry County Development Plan 2009-2015 and the Ballybunion Local Area Plan 2007.

Cllr. R. Beasley SECONDED this proposal.

A vote was taken which resulted as follows:

**For:** Cllrs. Beasley, Buckley, Cahill, Connor-Scarteen, Donovan, Finucane, Fitzgerald, Fleming, Foley, Griffin, D. Healy-Rae, M. Healy-Rae, McCarthy McEllistram, Moloney, O'Brien, Purtill, Sheahan, Spring, O'Connell **(20)**

**Against:** None **(0)**

**Not Voting:** None **(0)**

**Absent:** Cllrs. Brassil, Cronin, Ferris, Gleeson, Leahy, O'Donoghue, O'Shea **(7)**

Mayor O'Connell declared the resolution CARRIED.

#### **10.02.15.14 Notices of Motion, Continued**

Mayor O'Connell said Notice of Motion No. 5, No.19, No. 21 and No.28 would be taken together as they relate to similar issues.

#### **Road Repairs following recent Severe Weather Conditions**

##### **5. Pursuant to Notice duly given, Cllr. J. Brassil PROPOSED:-**

"That Kerry County Council would re-assess their method of dealing with pothole repair as the current methods are clearly not working".

##### **The following report issued:**

**Kerry County Council has estimated that the damage suffered on the National Roads Network as a result of the recent inclement weather is in the order of €7.8 million. The damage suffered on the Regional and Local Roads is estimated at €12 million. This has resulted in a lot of pavement failure and a proliferation of potholes. It is not possible to address all pot holes at the one time. Our priority has been to attend to the National Primary, Secondary and Regional Roads in the first instance, as well as important Local Roads. Putting delay set macadam into pot holes has been the first response, as a**

temporary measure. This is to help eliminate the immediate hazard that might exist. It would be our intention to revisit locations to complete a proper repair in time, subject to adequate funding being provided in grant allocations from the Department of Transport and when weather conditions are more favourable for carrying out these works.

**19. Pursuant to Notice duly given, Cllr. B. Cronin PROPOSED:-**

"In light of the terrible destruction of the rural road network after the severe frost with massive potholes everywhere, what is the estimated cost of repairs for each area and what is the planned timeframe to try and repair the damage done."

**28. Pursuant to Notice duly given, Cllr. D. Healy-Rae PROPOSED:-**

"To increase activity in every area on our roads following the devastation that has been wreaked upon them by the recent frost and snow spell, to ensure that all potholes and damage is repaired as soon as possible. In many places, the condition of roads are back to where they were 15 or 20 years ago."

**Mr. G. O'Brien said the following report is issued in relation to Notices of Motion No. 19 and No. 28:**

Over the past few weeks the Roads Department has been assessing the extent of damage to the Road Network across the County. It must be said that not all roads have suffered to the same extent. Recently improved roads fared better than most. Some sections of routes have been damaged. Other sections of the same route have escaped without serious damage. The following tables outline the estimated cost of repair for the National Roads per route and for the Non-National Roads per Area.

Route No	Preliminary Estimate of Cost of Pavement Repair for National Roads
N21	€12,800
N22	€248,000
N23	€128,000
N69	€384,000
N70	€3,970,000
N71	€1,924,000
N72	€634,500
N86	€480,000
<b>TOTALS</b>	<b>€7,781,300</b>

Engineering Area Non National Roads	Cost of Repair
Killarney	€2,021,250
Kenmare	€2,853,250
Killorglin	€983,950
Caherciveen	€937,000
Listowel	€3,156,929
Tralee West	€907,732
Tralee East	€970,000
Dingle	€215,000
<b>Total</b>	<b>€12,048,111</b>

This gives a total amount of €20m approximately. These details have been forwarded to the National Roads Authority and the Department of Transport. It is very difficult to give a timeframe as to when this amount of damage will be rectified. At the time of writing we have received an allocation of €665,000 from the NRA for weather Related Pavement Rehabilitation. If we utilise this with some of our Pavement Improvement allocation, we would spend something in the order of €2m on repair works on the National Network. However further monies will be required to address all the damage.

**21. Pursuant to Notice duly given, Cllr. P. Connor-Scarteen PROPOSED:-**

"That we the Members of Kerry County Council make an urgent appeal to the Minister for Transport and the National Roads Authority to allocate extra funding for Kerry's roads so that they can be brought up to a decent standard."

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. J. Brassil said the condition of roads is an issue for all elected members and the recent severe weather has resulted in an unusual set of circumstances. Given the level of damage to roads, he said he considered that filling potholes is a waste of resources and providing a permanent solution to the problem would be a better approach. He referred to the Abbeydorney/Lixnaw road and said 1km of this route has completely disintegrated. Temporary filling of potholes on that route would provide a solution only for a couple of days. A works programme to strengthen and re-surface that road should be entered into. There would be value for money in full strengthening and repair work on roads versus the cost of temporarily repairing badly damaged sections of road, for example works done on the entrance to Ardfert where the road was cut out, replaced and sealed is a better job. He suggested that for smaller sections of damaged road adequate warning signs advising motorists to slow down would be accepted by motorists until full repair works is done at a later stage. He said he understands that a Circular letter has been issued by the Minister for Transport indicating that 25% of the 2009 Road Allocation could be used immediately by Local Authorities under discretionary grants. This gives Kerry County Council adequate discretion to deal with the worst sections of roads in the county.

Cllr. B. Cronin said in living in the heart of rural Kerry he has never witnessed anything like the destruction of roads following the recent severe weather conditions where sections of roads have completely disintegrated. While many of the roads involved were in need of repair prior to the recent weather conditions, there are other roads where work was done not so long ago and the road has disintegrated, e.g. areas in Barleymount, Farranfore, Kilcummin, Barraduff, etc. Members of the public are frustrated because a substantial period of time has elapsed and the condition of some roads has not been addressed. The staff of the Roads Department must be praised as they had no Christmas break and now they must try and deal with the roads which are littered with potholes. Motorists must be considered as they are dealing with burst tyres and damage to the steering on their cars. He asked for clarification regarding claims for damage to cars and if Kerry County Council has received many claims. He asked if it is expected that the finance required will be forthcoming from the Department. He sought clarification as to what 25% of the 2009 Road Allocation referred to by Cllr. Brassil equates to.

Cllr. P. Connor-Scarteen sought clarification regarding the Council's policy on claims for cars damaged by potholes. He called on Oireachtas Members to put more pressure on the Government regarding funding required. He asked how much funding has been received from the NRA for repair work required to be done as a result of the recent severe weather conditions. The road from Loo Bridge onto Kilgarvan to Kenmare and onto Castlecove is in a desperate state. In March the Cork Swansea Ferry will be reinstated and the Ring of Kerry, which is in a terrible state, must be repaired in order for tourists to travel it. Tourists may not return again if their cars are damaged. He queried the level of funding required for the Dingle area as it appears low.

Cllr. D. Healy-Rae said wet weather is not conducive to repairing potholes. On many of the stretches of road that are in a bad state the water table froze and expanded and the road surface broke. On days when the weather is not suitable for filling potholes, the roads staff should drain wet areas and lower the water tables so the roads will not be damaged. Roads have been ruined around the county and there is a huge job to be done. He said he has been asked by people if it is necessary to salt roads when the road is dry.

Cllr. M. Moloney said in Kilcummin the residents are filling potholes and she asked if they would be liable in the event of an accident or damage to cars.

Mr. C. O'Sullivan, Director of Roads & Transportation, said he appreciated the frustrations of the members and issues that are being raised. The condition of the road was compounded mostly by the levels of rainfall in 2009. In terms of the type of repairs undertaken, in the first instance potholes are repaired temporarily. It is acknowledged that this does not represent best value for money, however, road safety for road users must be taken into account. While there is the issue of damage to a car, there is the risk that a driver would have to go across the road to avoid a pothole and as a result cause an accident. Permanent repair work is weather contingent and dependent on the existing structure of the road. With regard to funding, the NRA announced grant allocations for repairs to the national road network and whilst some additional funding has been granted (€65,000 for national primary roads and €600,000 for national secondary roads) funding for maintenance has been substantially reduced. A detailed report on funding will be provided for the Special Roads Meeting. There is in excess of €12m damage to non-national roads. Details of the 2010 Grant Allocations are awaited from the Department of Transport. It is understood that consideration is being given to suspending the Restoration Improvement Programme and funding being allocated to the Local Authority to repair the roads.

The system for salting roads is operated in accordance with NRA guidelines. If temperatures are falling salting of roads is undertaken in advance and if there is rainfall the salting prevents freezing over and formation of black ice.

With regard to the issue of individuals carrying out their own repairs to potholes, under the Roads Act it is illegal for any third party to carry out works without the prior approval of the Local Authority. Kerry County Council will not grant approval to anybody to carry out work without adequate public liability of €6m being in place. Anybody doing this work without approval of the Local Authority is responsible and liable in the event of an accident or damage to a car.

Cllr. B. Cronin said the Minister for Transport made a statement that the calculations for funding required by Local Authorities for road repairs are overestimated. He asked if the amounts quoted are the full levels of funding that Kerry County Council needs.

Mr. C. O'Sullivan, Director of Roads & Transportation, said the cost of repairs listed has been determined by each Area Engineer and the figures listed are correct. With regard to the amounts quoted for the An Daingean area, on the eastern half of the county there are more roads on bog roads which require increased funding.

## **6. Staff Numbers in Engineering Areas**

### **Pursuant to Notice duly given, Cllr. M. Healy-Rae PROPOSED:-**

"In view of the reduction in staff numbers in the different engineering areas over the years, Kerry County Council should explore avenues of creating more employment within our Local Authority, notwithstanding Government policy, to do what is, after all, one of our most basic commitments to the public that is keeping a proper, safe network of roads and I believe to do that, we need more people working on our roads."

### **The following report issued:**

**There are a number of factors influencing the staffing level in the Roads Engineering Areas. Factors such as work design and organisation, technology, the nature and scale of the works and roads funding have down through the years affected staffing levels and the actual numbers of staff employed by the Council areas has always fluctuated. In addition, in more recent times, the manner in which roads grants are administered by Central Government has seen a more seasonal nature to the roads programme with a peak in activity levels between March and September. This has had a resultant impact on employment with a greater emphasis on seasonal workers.**

**The most critical factor however is the level of funding available for the roads programme. This above all other factors ultimately dictates the staffing levels.**

**Over the past two years as with all other areas of the economy the Council has seen a significant reduction in available funds for the roads programme. This has resulted in a reduction in the need for seasonal staff. In addition there have been a number of retirements which have not been replaced.**

**While there is a moratorium on recruitment in place in the public sector, and this is certainly a consideration, this has not been the primary factor in the recent contraction in staffing levels.**

**The Council is conscious of the needs of our public roads network. We must also remain conscious of the extensive range of other roles, responsibilities and services the Council is obliged to provide. Members will be aware of the full range of work programmes adopted as part of the recent budgetary process against a very difficult and uncertain economic outlook.**

**Regrettably, therefore, there is no prospect in the short term of any increase in staffing levels in the Roads engineering areas.**



Cllr. M. Healy-Rae said he wished to give the following example with regard to the staffing numbers in the different engineering areas. In the Caherciveen engineering area in 1982 there were 86 full time members of staff plus 34 temporary workers giving a total complement of 120 people. He said he believes that in 2010 the figure is down to 15 full time members of staff. This shows the near impossible position that our area engineers are put in trying to ensure that our roads are kept free of water, hedges cut back and in general maintenance being kept up to a high standard. Instead they are struggling as in the past it was easy to keep everything in order when you had enough people working for the Council. He said he believes now more than ever before, despite cutbacks and despite what Government policy may be, avenues to create more employment should be explored within Local Authority to do what is after all one of our most basic commitments to the public, that is keeping a proper, safe network of roads under the people and to do that there is a need for more people working on our roads. This Government policy must be reconsidered and people should not be left to stay at home when there is plenty work to be done like addressing water flow onto the roads which is ruining the roads. The "section man" was a very important employee in the past who insured the road they were in charge of was maintained and gullies were kept free. This is a national issue that must be addressed.

Cllr. D. Healy-Rae said that it is his understanding that the County Manager has discretion to replace a staff member and he sought clarification on this matter.

Cllr. P. McCarthy said there is a lot of merit in this motion and providing work for people which would remove them from the social welfare system. This is a matter to be considered by Government. He said he appreciated that the roads staff made exceptional efforts to keep roads open during the severe weather conditions, and asked the Director of Roads and Transportation when it is hoped to have all roads repaired. Once roads are back to pre-Christmas level, he PROPOSED that every road in the county should be pothole filled, repaired and skirted twice per year.

Mr. J.D. Flynn, Director of Corporate Services, said in relation to staffing in 1982, there were 41 employees in Caherciveen working 52 weeks. This is according to the payroll books. 49 staff were employed temporarily during the summer. There were 28 temporary staff at the end of the year. Adding these figures together equates to 118 but it is not factual to say there were 118 permanent staff. It should also be noted that many procedures have become mechanised since then.

Mr. C. O'Sullivan, Director of Roads and Transportation said currently there are 21 full time staff in the Caherciveen engineering area. It would be highly desirable to have more staff, but there must be a balance between staffing, plant and material needs with the funding that is available. The Roadworks Programme is presented to elected members annually and delivered on the basis of funding available. The roads have not been badly neglected. With regard to rainfall in 2009, the annual rainfall was 2,175mm of rain. The 30 year average is 1,430mm. Rainfall in 2009 was 50% greater than the 30 year average. In July, 2009, there was rainfall of four times greater than the 30 year average. Heavy rainfall and severe weather are compounding the problem with the roads. With regard to

Cllr. McCarthy's query as to when it is hoped to have all roads repaired, he said he cannot advise members fully until the road grants are announced. This will be addressed at the Special Roads Meeting.

Cllr. J. Finucane asked if there is a full embargo on employment in the Local Authorities.

Mr. J.D. Flynn, Director of Corporate Services, said generally speaking there is.

Cllr. J. Finucane said the staff embargo is Government policy and until that changes the staffing situation will not change.

Cllr. D. Healy-Rae asked if the County Manager has discretion to ask for an employee to be replaced.

Mr. J. O'Connor, Deputy County Manager, said if an employee to be replaced it requires the specific sanction of the Department of Finance through the Department of the Environment. The moratorium on staff numbers is one issue. The fundamental issue is the availability of funds. Every Local Authority is under a clear direction to operate within its budget.

Cllr. M. Healy-Rae welcomed the clarification on the staffing numbers in the Caherciveen area. This area is now dealing with dwindling numbers.

Mr. J.D. Flynn, Director of Corporate Services, said, for the record, at any period during 1982 there was 41 permanent employees. For a period of between 1-3 months during the summer, there was an additional 49 temporary staff bringing the number of staff to 90. Between October and December, 28 staff were employed temporarily bringing the number of staff to 69. There was 41 permanent employees during 1982.

Cllr. M. Healy-Rae asked if Kerry County Council has a policy whereby if an employee passes away, they are not replaced. He asked if the status quo with regard to employee numbers should be retained.

Cllr. J. Finucane said Local Authority funding has been reduced. Government sanction and funding is required to address this issue.

## **7. List of plant hire and haulage contractors employed by Kerry County Council**

### **Pursuant to Notice duly given, Cllr. B. Cronin PROPOSED:-**

"That the Elected Members of this Council be provided with a full list of all plant hire and haulage contractors employed by Kerry County Council from January 1<sup>st</sup> 2009 to December 31<sup>st</sup> 2009 and the full amounts paid to each contractor."

### **The following report issued:**

<b>PRIVATE - PLANT/EQUIPMENT HIRE AND HAULAGE SERVICES 2009</b>				
<b>Supplier No.</b>	<b>Name</b>	<b>Name</b>	<b>Address</b>	<b>Euro 2009</b>
78941	Adams of Tralee		Mile Height, Tralee	7,399.35
170709	Barraduff Motors Ltd	T/A Murphy Motors	Barraduff, Killarney	2,158.97
397236	(Name & Address withheld for data protection purposes)			58,116.10

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Supplier No.	Name	Name	Address	Euro 2009
1443	(Name & Address withheld for data protection purposes)			69,654.27
142759	Browne & Sons Ltd	Nicholas	Ballinskelligs	59,023.16
157233	(Name & Address withheld for data protection purposes)			64,846.95
177692	Casey Hire & Sales Ltd	Dermot	Upper Quarters town, Mallow	5,873.31
125572	(Name & Address withheld for data protection purposes)			37,122.90
171519	(Name & Address withheld for data protection purposes)			3,122.61
155167	Clancy Plant Hire Ltd		Knockanure, Listowel	424,816.27
315608	(Name & Address withheld for data protection purposes)			118,794.60
176168	(Name & Address withheld for data protection purposes)			13,500.01
219967	Counihan Plant Hire	Denis	Aghadoe, Killarney	22,087.53
179109	Crean & McHugh Ltd t/a CMP		Mounthawk, Tralee	2,250.00
259745	(Name & Address withheld for data protection purposes)			9,926.20
175658	Cronin & Sons Ltd	Michael	Currow, Farranfore	98,348.76
172279	CTO Environmental Solutions Ltd		Midleton, Cork	6,129.00
178544	Cunnanes Forklift Hire Ltd		Foynes, Co Limerick	3,778.65
455297	(Name & Address withheld for data protection purposes)			19,210.64
173687	(Name & Address withheld for data protection purposes)			6,864.00
107175/ 216268/ 176067	(Name & Address withheld for data protection purposes)			35,717.33
3544	Dillon Waste Ltd		The Kerries, Tralee	457,538.65
148378	(Name & Address withheld for data protection purposes)			31,656.15
309289	Farran Plant Hire Ltd		Farran, Castleisland	204,303.53
61488	(Name & Address withheld for data protection purposes)			149,265.23
173682	(Name & Address withheld for data protection purposes)			11,574.00
179115	Frayden Haulage Ltd		Knocknaskeha, Killarney	4,761.31
101668/ 138037	(Name & Address withheld for data protection purposes)			34,490.36
178464	Griffin & Sons, Agricultural Contracting Ltd		Cool, Emlaghmore	39,539.11
310467	(Name & Address withheld for data protection purposes)			8,618.88
172129	(Name & Address withheld for data protection purposes)			65,264.02
110025	(Name & Address withheld for data protection purposes)			287,502.70
265502	(Name & Address withheld for data protection purposes)			51,303.14
109666	(Name & Address withheld for data protection purposes)			58,699.44
7184	Keating & Sons Ltd	Joe C	Valentia Road, Caherciveen	16,955.50
166114	Kelliher Crane & Hoist Ltd		87 Spa Road, Tralee	5,057.50
175456	(Name & Address withheld for data protection purposes)			2,840.76
119984	(Name & Address withheld for data protection purposes)			69,779.80
423251 + 177147	Kerry Plant & Tool Hire Ltd		Woodlands Ind. Est Killarney	18,855.10
491842	Killarney Waste Disposal		Aughacurreen, Killarney	305,162.82
107133	Kingdom Fast Hire Ltd		John Joe Sheehy Rd, Tralee	67,780.03
147872	(Name & Address withheld for data protection purposes)			23,270.00

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Supplier No.	Name	Name	Address	Euro 2009
175677	(Name & Address withheld for data protection purposes)			9,600.00
197860	(Name & Address withheld for data protection purposes)			196,902.90
172382	(Name & Address withheld for data protection purposes)			43,083.20
110167	(Name & Address withheld for data protection purposes)			3,110.70
177245	Lynch Civil Engineering Ltd	Michael	Headford, Killarney	45,809.18
125163	(Name & Address withheld for data protection purposes)			19,908.40
117238	(Name & Address withheld for data protection purposes)			18,092.79
239856	(Name & Address withheld for data protection purposes)			355,983.06
30759	(Name & Address withheld for data protection purposes)			17,539.51
282506	(Name & Address withheld for data protection purposes)			55,813.14
174862	(Name & Address withheld for data protection purposes)			29,613.98
369237	North Kerry Tool Hire Ltd		Bridge Street, Listowel	3,495.96
264844	O'Brien Plant Hire Ltd	William	Bishopstown, Cork	2,400.00
206183	O Connors Hardware & Farm Supplies Ltd		Duagh, Listowel	5,589.09
110583	(Name & Address withheld for data protection purposes)			101,077.43
173839	(Name & Address withheld for data protection purposes)			5,460.49
174692	(Name & Address withheld for data protection purposes)			10,286.13
177752	O Driscoll Plant Hire Ltd	Dan & John	Tinnies, Valentia	17,130.37
428489	O Dwyer Plant Hire T/A Sandmore Ltd	Joe	Camp Cross, Tralee	318,546.84
170061	(Name & Address withheld for data protection purposes)			76,083.32
245332	O Grainne Teo	Michael	Ballyguin, Brandon	12,681.57
155293	AOK Plant Ltd T/A O Keefe Plant Hire		Abbeyfeale	6,251.74
174589	(Name & Address withheld for data protection purposes)			14,435.44
452848	O Shea (Parcest Ltd)	Sean	Glenbeg, Caherdaniel	20,653.63
234870	(Name & Address withheld for data protection purposes)			58,204.54
102798	(Name & Address withheld for data protection purposes)			66,326.07
10589	(Name & Address withheld for data protection purposes)			21,279.12
176561	(Name & Address withheld for data protection purposes)			54,622.77
445522	(Name & Address withheld for data protection purposes)			16,039.52
119942	(Name & Address withheld for data protection purposes)			15,880.92
167356	(Name & Address withheld for data protection purposes)			22,350.00
434808	Randals Ltd	T & A	Kilgarvan	21,391.80
149333	(Name & Address withheld for data protection purposes)			19,603.90
198489	(Name & Address withheld for data protection purposes)			4,840.00
272140	(Name & Address withheld for data protection purposes)			70,712.74
104082	Roughy Plant Hire Ltd		Sandymount, Kilgarvan	13,524.66
173962	(Name & Address withheld for data protection purposes)			253,705.61
117558	(Name & Address withheld for data protection purposes)			6,605.70
102190	(Name & Address withheld for data protection purposes)			189,366.51
175761	South West Bins on Wheels Ltd		Kilmona, Kerry	3,490.49
173470	(Name & Address withheld for data protection purposes)			8,583.84
120903	(Name & Address withheld for data protection purposes)			39,404.25
172747	(Name & Address withheld for data protection purposes)			17,329.52
34835	Collector General	Reverse Charge VAT (Approx)		471,635.00
	Miscellaneous Payments under (€2,000) (26 Suppliers)			21,509.66
	Total Payments 2009			5,768,914.13

Cllr. B. Cronin said he tables this notice of motion annually. He said there are two figures quoted for payments to waste contractors who are competitors with the Local Authority. He asked for clarification of the work these contractors are doing for Kerry County Council. He said there are excellent plant hire firms in the county who are unable to get their machinery engaged by Kerry County Council. They tender for plant and machinery hire and are not successful. He said he has a query on plant hire rates which is currently with the Freedom of Information Commissioner. He said it has been brought to his attention that in South Kerry a number of long-established reputable contractors have recently been removed from the plant hire list and he sought clarification on this matter. He welcomed that in 2009 the total cost of plant hire is €5,768,914.13, a figure which is substantially reduced on previous years. In 2008 the cost of plant hire was over €8m and in 2009 the cost was over €10m.

Mr. J. O'Connor, Deputy County Manager, said with regard to the figures queried by Cllr. Cronin in relation to waste contractors, these figures relate to (1) payment for the transfer of waste from the Transfer Stations to the North Kerry Landfill and (2) the transfer of dry recyclables. These contracts are subject to public tender and currently going through the tender process.

Cllr. P. O'Donoghue sought clarification regarding the figure relating to "Collector General - Reverse Charge on VAT" and asked how this arises. He commended Cllr. Cronin for tabling this motion every year as it let people know how public money is being spent. He said some bigger plant hire companies are benefitting more. Small operators in South Kerry are being dispensed with to the benefit of bigger providers of plant hire services. This is a serious concern for Council. Kerry County Council must operate fairly and impartially in the manner in which contracts are being awarded to plant hire companies.

Cllr. P.J. Donovan said small operators in Caherciveen are being left go. The local engineer should have the power to get the best value for money. Councillors should not get involved with engineers regarding the hire of machinery.

Mr. J. O'Connor, Deputy County Manager, referred to Cllr. O'Donoghue's query regarding the "Collector General - Reverse Charge on VAT". Previously Kerry County Council paid VAT to the sub-contractor and the sub-contractor paid Revenue. This process changed effective from 1<sup>st</sup> September, 2008, when under the Finance Act 2008 the main contractor, being Kerry County Council when hiring plant, became liable to charge the VAT to the job and remit it to the Revenue Commissioner. The sum paid under "Collector General - Reverse Charge on VAT" represents the VAT Kerry County Council paid on contracts on behalf of the sub-contractors to the Revenue Commissioners. There was a reduction of 33.5% on the final 2008 figure for plant and machinery hire which is driven by the reduction in roads grants. The less expenditure Kerry County Council has the less need there is for the hire of machinery.

Mr. C. O'Sullivan, Director of Roads and Transportation, said with regard to plant hire practices there are two issues: (1) there is less locally generated funding and less funding is available from Central Government and (2) with the downturn in the economy there is a greater number of suppliers available and there is substantial competition in the market. Kerry County Council has to comply with

National Procurement Guidelines and achieving better value for money has been raised by the Local Government Auditor. The primary factors are the hire rate, suitability of plant for the job, compliance with health and safety requirements and reliability of the equipment. Through Kerry County Council's own emphasis there has been greater compliance with health and safety requirements. There is an onus on Kerry County Council to achieve greater value for money, therefore, if there is a lower hire rate available there is an obligation to hire that plant.

Cllr. B. Cronin thanked Cllr. O'Donoghue and Cllr. Donovan for their comments regarding plant hire. He said there is a concern that Councillors are contacting the area engineers regarding plant hire. He said he is awaiting a response from the Freedom of Information Commissioner regarding his FOI request on plant hire rates. He said one contractor on the plant hire list has contacted other contractors to object to his FOI request. He referred to the payment of €3,490.49 to South West Bins. He asked for clarification that this company was taken to court recently by Kerry County Council and if Kerry County Council is employing a contractor that is not operating to proper standards.

Cllr. P. O'Donoghue said of the 85 contractors paid for plant and machinery hire 13 contractors were paid six figure sums. He asked where is the equity and fairness in that and the attempt to spread the work.

Mr. J. O'Connor, Deputy County Manager, said with regard to the hire of South West Bins, it is not the practice of Kerry County Council to deal with contractors who are not in compliance and this is being rectified.

Mr. J.D. Flynn, Director of Corporate Services, referred to Cllr. Cronin's Freedom of Information request and said he, as Director of Corporate Services, deals with appeals to Freedom of Information requests and he said Cllr. Cronin's Freedom of Information appeal is currently before the Freedom of Information Commissioner. He said since he commenced work with Local Authorities the rates on a tender are regarded as sacrosanct and should not be released. He said it has also been made clear to him that, as the client receiving tenders, rates are not released. It is a matter for the Freedom of Information Commissioner, who has other powers, to determine if the plant hire rates sought in the Freedom of Information request will be released.

Cllr. B. Cronin said the Freedom of Information appeal has been submitted to the Freedom of Information Commissioner. He asked if the Director of Corporate Services considers that the public and taxpayer are entitled to know the plant hire rates that were paid in years past.

Mr. J.D. Flynn, Director of Corporate Services, said the issue is that the rates of three years ago are practically the same as those that are applying today.

Mr. C. O'Sullivan, Director of Roads and Transportation, said with regard to the contractors being paid six figure sums, these contracts relate to major operators with a big extent of plant available. That is the nature of the plant hire business.

Cllr. P. O'Donoghue said he is aware of plant operators who have only one machine and they have been removed from the plant hire list. He objected to this and said Kerry County Council must make every effort to hire the small operator.

**8. Removal of Eircom Pole at Mountain Stage, Glenbeigh**

**Pursuant to Notice duly given, Cllr. PJ Donovan PROPOSED:-**

"That Kerry County Council immediately write to the NRA for an update on the moving of the dangerous Eircom pole at Mountain Stage, Glenbeigh".

**The following report issued:**

**This issue was previously raised at the September 2009 Council Meeting and it was resolved to write to Eircom requesting that they relocate their infrastructure.**

**It is the Council's position that the setting back of the pole is not a matter for the NRA or Kerry County Council as neither body carried out road widening works at this location.**

Cllr. P.J. Donovan said the exposed Eircom pole at Mountain Stage is highly dangerous. He asked who is responsible for the removal of this pole. The reply says neither Kerry County Council nor the NRA carried out road widening at this location. Road widening was carried out. If Eircom is responsible for this a request should issue requiring the removal of this pole.

Cllr. M. Cahill said he has raised this issue previously and this pole is exceptionally dangerous. He said his understanding is that it is Kerry County Council's responsibility to move this pole. He said he spoke to an Eircom employee that was working at this area at the time and he was assured it is a matter for Kerry County Council to remove this pole. He said he has passed on this information to Kerry County Council in the past. He expressed disappointment that this pole has not been moved as it is in a very dangerous location. He said he cannot understand why Kerry County Council does not remove this pole. It is time that Kerry County Council made a decision and removed this pole.

Mr. C. O'Sullivan, Director of Roads and Transportation, said the road was not widened by Kerry County Council at this location. Kerry County Council does not erect infrastructure for Eircom. He said he does not know whether the pole was erected at that location by Eircom or if the boundary wall of the adjoining property was moved in and the pole left exposed. Kerry County Council cannot move Eircom infrastructure as Kerry County Council would then become liable. Eircom is responsible for moving this pole. If the adjoining landowner moved their boundary wall it is a matter for the landowner to address this issue with Eircom. In situations where Kerry County Council has done road widening and a pole is required to be moved Eircom has quoted prices from €14,000 to €20,000 to move a pole.

Cllr. P.J. Donovan said Kerry County Council should insist that Eircom move this pole.

Cllr. R. Beasley said there is a health and safety issue at this location and whether the responsibility is on Kerry County Council or Eircom the removal of this pole should be addressed.

Cllr. M. Cahill said instead of writing to Eircom seeking a meeting with them regarding this particular case, the facts should be checked with the people that worked on that job at the time. There was a discussion regarding this job at the time and an Eircom employee confirmed it to me that it is a matter for Kerry County Council to move this pole.

Cllr. D. Healy-Rae asked did Kerry County Council carry out works at this location that left this pole exposed.

Mr. C. O'Sullivan, Director of Roads and Transportation, said Kerry County Council did not carry out work at this location resulting in this pole being left exposed.

#### **9. Casual Trading in Kenmare and Killorglin**

**Pursuant to Notice duly given, Cllr. P. Connor-Scarteen PROPOSED:-**

"That Kerry Council commit to resolving the casual trading difficulties which currently exist in Kenmare and Killorglin and that a designated casual trading area be put in place in both towns as soon as possible in 2010."

**The following report issued:**

**The Council has existing bye-laws in place with regard to casual trading i.e. Casual Trading Bye-Laws 1997. In relation to Kenmare and Killorglin, the Council owns the Charter Rights/Ancient Market Rights and the Council is currently in the process of extinguishing these rights with a view to formalising the Casual Trading Act and permits. The Council has been through some advance public consultation with the existing traders in both towns. Meetings have been held with these groups and the Members of the Killorglin Electoral Area. This process, as you will appreciate, is ongoing in advance of the formal legal process. It is the Council's intention to have the matter progressed to a stage that a controlled designated trading area with licensed traders will be in place in 2010, following a satisfactory consultation with all parties involved. The Council also intends to review the existing Casual Trading Bye-Laws.**

Cllr. P. Connor-Scarteen said this issue has been raised previously and was to be resolved by September, 2009. There are two suitable locations available, i.e. the Fairfield in Killorglin and the Square in Kenmare. The business people have been very patient on this matter and extra parking will be available when it is finalised. Regulation of casual trading is required as soon as possible and he said he hoped this would be achieved in Kenmare and Killorglin in 2010.

Cllr. M. Cahill said a lot of progress has been made in Killorglin and the traders in Killorglin are satisfied with progress that has been made there.

Mr. J.D. Flynn, Director of Corporate Services and Killorglin Area Manager, said good progress has been achieved with casual trading in Killorglin. Casual Trading is a very complex legal area. He said he is satisfied Kerry County Council has the powers available to it to resolve issues with casual trading in Killorglin and Kenmare.

#### **10. Reinstatement of grant to Community Service Projects**

**Pursuant to Notice duly given, Cllr. R. Beasley PROPOSED:-**

"That this Council call on the Government to immediately reinstate the full grant to all Community Service Projects that were removed in recent contracts."

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**



Cllr. R. Beasley said the cut in the grant for Community Service Projects equates to a loss in funding throughout the county of over €400,000. There are 20 projects in Kerry with over 100 equivalent full-time people employed. This was the entire non-wage grant plus a cut in the Manager's grant. The non-wage grant is needed for heat, light, rent, etc. All these projects had to go through a vigorous process before being granted funding in the first place and only got the funding if the services being provided were deemed necessary. The CSPs were expecting a cut in their budget but nothing to the crippling scale which has taken place. This will cause major difficulty to the future of the services now on offer.

Once again the most vulnerable and disadvantaged in society are affected. If the CSP projects were set up and developed as being necessary to the community, why now cut them back and undo all the good work they have provided. Services to the elderly, i.e. respite care, Meals on Wheels, Rural Transport, etc., will cease and community centres will close. All these services are in local communities with people employed in their local communities. These cuts will result in a loss of valuable skills as well as services. Most projects will not withstand the cutbacks and the staff will end up at the Social Welfare Offices already crowded around the country. And as for those members of society who rely on services provided by these projects, they will once again be forgotten.

Mayor B. O'Connell SECONDED this motion.

#### **11. Submissions on Planning Files by State Agencies**

**Pursuant to Notice duly given, Cllr. M. O'Shea PROPOSED:-**

"To ask the Director of Planning, when State Agencies are lodging or making an observation or objection to an individual planning file, are they obliged to pay the normal fee to Kerry County Council / An Bord Pleanála."

**The following report issued:**

**Article 28 of the 2001 Planning Regulations requires that in the case of a valid application, the Planning Authority must give notice to certain prescribed bodies of the application. The prescribed fee for third party submissions does not apply to prescribed bodies.**

Cllr. M. O'Shea asked how many prescribed bodies there are and who they are.

Mr. M. McMahon, Director of Planning said the number of prescribed bodies involved depends on the individual application. There is a series of prescribed bodies, for example, the HSA, NRA, Fisheries Board, Heritage Council, An Taisce and it depends on the application as to which of the prescribed bodies are notified of the application.

Cllr. M. O'Shea said he believes the current system is grossly unfair and gives an unfair advantage to the most powerful bodies in the state. The Minister for the Environment should be requested to review this policy and introduce a system which is fair and equitable. The current system is costing Local Authorities and An Bord Pleanála a lot of revenue each year with regard to objections/observations lodged on applications. As a result of such objections a lot of productive applications have been refused which may have paid dividend to the county. If An Bord Pleanála upholds the decision of Kerry County Council to grant an application that has been appealed by a third party, the third party who lodged the objection should pay all incurred costs. There is also an issue with

regard to observations/objections on applications being submitted under false names. State agencies should pay the same costs as an ordinary citizen to make objections/observations on planning applications.

Cllr. P. O'Donoghue SECONDED this motion.

## 12. National Strategy for Radon Testing

### **Pursuant to Notice duly given, Cllr. M. Moloney PROPOSED:-**

"In light of the recent report indicating the high level of radon in every County and the level in Kerry is of major concern, that Kerry County Council would call on the Minister to put in place a national strategy to combat exposure of householders to the gas and that a grant be made available to help householders deal with the cost of carrying out remediation works."

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. M. Moloney said each year over 200 people in Ireland die from Lung Cancer caused by exposure to Radon Gas. This type of cancer can be prevented. Media reports indicating excessive level of Radon in Kerry is very worrying and a national strategy is required to combat exposure of householders to radon gas. Deaths from exposure to radon are second only to cigarette smoking in the number of lung cancer deaths it causes and many of these deaths are preventable. Every house in Ireland should be tested for levels of Radon Gas. The test costs €50 and while this is a very small price to pay to find out if there is Radon Gas in a house, in some cases it is beyond people's means. All assistance possible should be made available to people who want to take steps to address the problem in their own home.

In 2008 the Radiological Protection Institute of Ireland recommended a programme of free radon measurements in all high radon areas, and that a grant system is put in place to provide assistance to householders to deal with the problem. This would be of particular assistance for families on low incomes. She said she believes that Environment Minister John Gormley should put such a scheme in place as soon as possible and that it is imperative that a National Strategy be set up to combat the problem without further delay.

She PROPOSED that Kerry County Council call on the Minister to introduce a National Strategy for Radon Testing and to make grant aid available to help householders carry out works to remedy the problem. She also PROPOSED that Kerry County Council carry out tests on its stock of houses as soon as possible to ensure that tenants are not being exposed to Radon Gas.

Mayor B. O'Connell supported this motion. He said high levels of radon have been recorded in Castleisland which have resulted in tragic circumstances in the area. People must take responsibility for radon testing in their own homes. There was a very slow uptake of the grant that was available previously. People do not understand the danger of radon gas. People must take cognisance of the fact that this is a stealth killer.

Mr. J. Breen, Director of Housing and Community & Enterprise, said there is an amount of information available on radon and a map showing areas most affected by radon. Kerry County Council has an ongoing programme of radon testing in relation to its housing stock, including Castleisland where no house has been recorded as over the radon limit. Kerry County Council is putting in

remediation measures on two dwellings that have recorded radon levels over the limit. It is important that premises are properly ventilated. Kerry County Council conducts radon checks before purchasing and leasing houses.

### **13. Broadband in Castleisland under the MANs Scheme**

#### **Pursuant to Notice duly given, Cllr. T. Fleming PROPOSED:-**

"That Kerry County Council request Mr Eamonn Ryan, TD, Minister for Communications to activate the broadband system provided in Castleisland town under the Metropolitan Area Network Scheme. The fibre optic networks have been installed and lying idle with approximately 3 years."

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. T. Fleming said ducting for broadband optic fibre was installed a number of years ago and it is now lying unused. There is a great need, domestically and commercially, for broadband to be provided. The provision of broadband would assist in attracting industry to Castleisland and maintaining existing jobs. There had been co-operation from Kerry County Council regarding laying the fibre and it must now be advanced to give this area opportunities equal to other parts of the county. The provision of broadband should be progressed under the MANs Scheme.

Mayor B. O'Connell SECONDED this motion.

Mr. J. Breen, Director of Housing and Community & Enterprise, said as members are aware Kerry County Council was involved in managing the broadband fibre in Tralee, Killarney and Castleisland on time and on budget. The broadband fibre was extended to the Area Office in Castleisland. Kerry County Council sought funding to extend the broadband fibre around Castleisland, however, this funding is not forthcoming. A response has not been received to Kerry County Council's request for funding to provide a wireless system. These proposals are with the Department of Communications for consideration. It is vital for the economic development of the county that the rollout of broadband is progressed and this requires funding to be in place. The company, 3G, is rolling out the National Broadband Scheme which is due to be completed by the end of September 2010. However, this is dependent on the necessary infrastructure being available.

### **14. Criteria for Tendering for Public Projects**

#### **Pursuant to Notice duly given, Cllr. M. Cahill PROPOSED:-**

"That Kerry County Council request the Department of Finance to change the criteria whereby only contractors with a turnover of in excess of €7.5m per annum can tender for public projects such as Garda Stations, Fire Stations, schools, extensions as the current system is grossly unfair and is a form of discrimination."

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. M. Cahill said the current criteria being applied cannot be allowed continue in the current climate as they automatically exclude every contractor in this county. Under the current criteria contractors cannot tender for an extension to a public building even if they had originally constructed the building. These criteria

give a monopoly to major developers and takes jobs out of the county. He requested that a letter issue to the Department of Finance requesting a review of the criteria applying to tenders for public projects.

Cllr. D. Healy-Rae **SECONDED** this motion. The current criteria allow contractors outside of the county to get preference over local contractors and this is detrimental to the county. There are also many contracts that local contractors cannot tender for because of the limits from previous years.

**15. Road Safety Issues at Kennedy's Cross on the N70 Milltown to Killorglin Road**

**Pursuant to Notice duly given, Cllr. B. Griffin PROPOSED:-**

"That Kerry County Council would address road safety issues at Kennedy's Cross on the N70 Milltown to Killorglin Road."

**The following report issued:**

**Kerry County Council received €273,500 in our 2010 National Roads Allocation for Accident Remedial Measures at 9 locations on the National Secondary Road Network. Unfortunately, this junction did not receive any allocation.**

**Kerry County Council will again submit this location to the NRA for consideration for funding in 2011.**

Cllr. B. Griffin expressed disappointment that this location was not included in the 2010 national roads allocation. This issue was raised previously and is an issue of continued concern to residents in the area and users of that road. He requested that a letter issue to the NRA regarding this issue, expressing disappointment at the failure to include this location in the 2010 allocation and that the matter be retained on the NRA agenda for funding.

Cllr. S. Fitzgerald said this matter has been raised previously and he supported the request to issue a letter to the NRA to make a case for funding for this area.

**16. Use of Private Houses in Estates to address the Housing List**

**Pursuant to Notice duly given, Cllr. D. Healy-Rae PROPOSED:-**

"How does Kerry County Council and Killarney Town Council Housing Section propose to cater for the massive amount of applicants on the housing list who wish to be housed in the Killarney area. I propose that Kerry County Council, with assistance from the Department of Environment, approach owners of private houses in estates in Killarney, Barraduff, Gneeveguilla and Kilgarvan with a view to purchasing same."

**The following report issued:**

**An allocation of €5m for social housing construction/acquisition under the Social Housing Investment Programme has recently been advised by the DoEHLG. This is a reduction of €4m compared to the 2009 allocation and a reduction of €10.5m compared to the 2008 allocation. There are five group housing schemes in the County nearing completion (consisting of 52 units in total) and it is unlikely at this stage that the DoEHLG will approve further schemes to go to construction in the current year. Therefore, the funding available will be utilised to complete these five schemes together with eight single rural dwellings which are under construction as well as a similar**

number of single rural dwellings anticipated to start in the current year. The balance of the limited funding available will go towards meeting Part V commitments whereby the Housing Department agreed to acquire units within private housing developments as well as a limited number of additional acquisitions. At present it is not anticipated that many 'Part V' units will be acquired in the current year due to the downturn in construction activity. Giving the remaining funding available at this stage of the year, it is anticipated that between 10 to 15 additional dwellings may be acquired throughout the County (i.e. not associated with Part V). Naturally in deciding on the specific purchases, we will take into account the relevant factors such as demand in the general area for social housing and value for money. Also a full examination of technical and planning issues are fully considered before a decision on any individual purchase is made. We have been advised by the DoEHLG that the Social Housing Leasing Initiative is expected to provide the main delivery mechanism for social housing over the next three years and that separate national funding of €25m has been set aside to pay for annual leasing payments and we are considering a number proposals in that regard. This is in addition to the existing provisions and funding under the Rental Accommodation Scheme for which the sum of €2.705m has been made available to Kerry County Council in 2010.

Cllr. D. Healy-Rae said while it is unlikely Kerry County Council will get more funding a request for further funding should be submitted given the value for money that is available at present in the property market. In relation to the amount of applicants waiting for housing in Killarney, he said he believes the areas listed in his notice of motion have many vacant houses available and while the properties must comply with planning before purchasing, this is the time to purchase houses and reduce the waiting list for housing. He requested that a letter issue to the Minister for the Environment on this matter. Kerry County Council should identify the cost of these houses and if they represent value for money Kerry County Council should proceed with purchasing them.

Cllr. M. Cahill SECONDED this motion.

## **18. Reclaiming Bonds from Contractors**

**Pursuant to Notice duly given, Cllr. J. Brassil PROPOSED:-**

"Would Kerry County Council explain the exact procedures they follow when reclaiming bonds from contractors who fail to fulfil their conditions of planning on developments."

**The following report issued:**

**Permissions for residential/commercial developments are subject to a condition which requires that an acceptable security is provided by way of an insurance bond, cash deposit or otherwise, so as to secure the satisfactory completion of the infrastructure. A condition is also attached which requires that the lodgement of the security should be coupled with an agreement that would empower the Planning Authority to realise the amount of the security at an appropriate time and apply it to meet the cost of completing the specified works.**

**An arrangement between the Planning Authority and the developer may also apply to permit the security for the satisfactory completion of the**

**development to be related to a particular phase or phases of a development which allows the scheme to progress while at the same time facilitating the developer by reducing the bond required for the overall development.**

**In the event of a Contractor failing to fulfil conditions of planning, the initial step in the process is to contact the Developer to discuss his plans for completion of the outstanding works. If full co-operation is not received, the Enforcement Section would issue an Enforcement Notice and set enforcement proceedings in train. If at this stage, after a given period, no progress is made on the outstanding works, a management decision is taken to call in the Bond and the Bond holder is then contacted and a formal claim is made to the bank or financial institution.**

Cllr. J. Brassil said there is a large number of unfinished estates in the county some of which the Council has no means of pursuing the completion of works. In one estate in Listowel, the developer has been asked to complete works and as these works have not been carried out enforcement proceedings have been issued. He asked for a definition of "after a given period". In the case of the estate in Listowel a period of two years has expired. He said he would consider 2-3 months a more appropriate period of time. He said he would like to see more immediate action in cases where bonds are in place. If a developer is not completing the works Kerry County Council should draw down the bond and complete the works itself. Because of the value for money that is now available a lot of very good work could be done with the money available from the bonds to complete estates to a satisfactory level.

Cllr. B. Cronin said he supported the sentiments expressed on this issue and said this matter has been raised at many area meetings with regard to unfinished estates and the timeframe for enforcement proceedings. The frustration of the people who have bought into developments is an issue, e.g. no public lighting provided in a development. Tighter timeframes must apply to enforcement proceedings and at every stage of development a qualified engineer should sign off the compliant completion of works.

Mr. M. McMahon, Director of Planning, said at Kerry County Council's Budget Meeting details were provided regarding the establishment of a unit within the Planning Department to deal with the issue of unfinished estates. A considerable amount of work has been identified as a priority. It is intended that the timeframes to progress enforcement proceedings will be shortened considerably.

## **20. Rural Social Scheme**

### **Pursuant to Notice duly given, Cllr. M. Healy-Rae PROPOSED:-**

"That Kerry County Council write to the Minister of Community, Rural and Gaeltacht Affairs to lift the embargo on the recruitment to the rural social scheme and also write to the Minister for Enterprise, Trade and Employment to replace workers when they retire from the job initiative scheme. Now is the time to expand these schemes when there is so much unemployment and still so much work to be done".

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. M. Healy-Rae said participants on these schemes are not being replaced, yet there is much work to be done and the Rural Social Scheme is very important. The work that has been done through this scheme is appreciated and the RSS can undertake schemes that the Council is unable to do. In the interest of keeping people employed it would be better to have these schemes available. He requested that a letter issue to the Minister complimenting him on the RSS Scheme, appreciating the great work done on this scheme and asking that the numbers participating on the scheme be increased.

## **22. Increase of Interest Rates by Financial Institutions**

**Pursuant to Notice duly given, Cllr. R. Beasley PROPOSED:-**

"That this Council call on the Government not to allow any financial institution to impose further hardship by increasing interest rates."

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. R. Beasley said interest rate increases will impose further hardship on people.

Cllr. J. Finucane SECONDED this motion. The Government bank has the right to control interest rates. It is critical that low levels of interest rates are maintained.

## **23. Assistance to pay Motor Tax**

**Pursuant to Notice duly given, Cllr. M. O'Shea PROPOSED:-**

"To ask the Director of Roads does a reduction of any type exist for car tax for persons claiming inability to pay full amount."

**The following report issued:**

**There is no reduction in motor tax for persons claiming inability to pay the full amount. If motorists are using their vehicles on the public roads they are obliged to pay the full rate of tax for their vehicle. Motorists have the option to apply for a licence for 3 months, 6 months or twelve months.**

Cllr. M. O'Shea asked if financial assistance can be obtained from HSE or Social Welfare Departments.

Mr. G. O'Brien, Meetings Administrator, said he was unaware of such a system and individuals should contact the HSE or Social Welfare Department to determine this.

## **24. Survey of Structural Damage to Bridges following recent severe weather**

**Pursuant to Notice duly given, Cllr. M. Moloney PROPOSED:-**

"If Kerry County Council would advise if following the major damage to the road structure following the recent bad weather, if any survey has been carried out to ascertain if any likewise structural damage has been caused to bridges in Kerry, especially Barraduff Bridge which is awaiting major repair works"

**The following report issued:**

**The Roads Department is not aware of any structural damage to bridges as a result of the recent bad weather nor has any evidence been forthcoming from the recent survey of the road network determining damage to the road**

**pavement. There is no structural damage to Barraduff Bridge. The improvement works envisaged for this structure consist of widening of the existing bridge and approach roads. An allocation of €850,000 has been received from the NRA in the current year for this project.**

Cllr. M. Moloney welcomed the provision of funding for Barraduff Bridge and asked for an indication as to when work on Barraduff Bridge will be carried out.

Mr. C. O'Sullivan, Director of Roads and Transportation, said works on Barraduff Bridge will be undertaken by the NRA and it is hoped these works will go to tender during Summer 2010. The Part VIII for these works is complete and design work is ongoing at present. He said when funding was allocated for this bridge last year he indicated to Council that there was a substantial amount of design work to be done and Kerry County Council was not in a position to spend the full allocation at that time.

Cllr. J. Sheahan asked if land has been purchased to accommodate these works.

Mr. C. O'Sullivan, Director of Roads and Transportation, confirmed that land has been purchased to accommodate these works.

## **25. Tendering system for provision and maintenance of Public Lighting Systems**

**Pursuant to Notice duly given, Cllr. T. Fleming PROPOSED:-**

"That Kerry County Council review the tendering system for provision and maintenance of public lighting systems in the County and procure the keenest rates on the market."

**The following report issued:**

**The maintenance of the public lighting stock, which was previously carried out by the ESB, has been taken over by Airtricity. This current contract expires in December 2010. It is our intention to tender for the maintenance of the lighting stock this year, with a view to having a new contract in place by January 2011.**

**In relation to the provision of energy, Kerry County Council has already, where possible, procured the keenest rates and as is our policy with all our energy requirements, will continue to seek the keenest rates using the expertise of our Energy Officer.**

Cllr. T. Fleming welcomed the report and said there is an array of companies entering the energy market and providing rates which are substantially reduced. Management should pursue all companies available for the most competitive rates. Consideration should also be given to engaging private contractors for maintenance works.

Mayor B. O'Connell **SECONDED** this motion.

## **27. Local Improvement Schemes**

**Pursuant to Notice duly given, Cllr. B. Griffin PROPOSED:-**

"That Kerry County Council would appeal to the Minister for Local Government to address the situation where one interested party can halt progress on work



schemes such as the Local Improvement Scheme against the wishes of an infinite number of parties in favour of a scheme, as a more democratic and balanced system would be fairer."

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. B. Griffin said in cases where there are large numbers of parties with an interest, e.g. with a Local Improvement Scheme proposal, one individual can hold up the process and prevent the job being carried out. A more balanced system is required whereby a certain percentage of the parties involved would have to oppose a job before it could be stopped. He requested that a letter issue to the relevant body at national level to re-examine this system which needs to be changed.

Cllr. J. Sheahan SECONDED this motion.

Cllr. D. Healy-Rae supported this motion and said he is aware of many roads which have been precluded from the Local Improvement Scheme because of one person objecting to the proposed works. This is undemocratic and is to be deplored. When there is no requirement for the acquisition of land and a public right-of-way exists it is not fair that one person can prevent improvement works.

Mr. C. O'Sullivan, Director of Roads and Transportation, said this issue has arisen on occasion. One of the difficulties for the Local Authority is the fact that a private road is involved and unless agreement is in place with all parties there would be exposure for the Local Authorities. He said Kerry County Council would welcome any change in this system.

## **29. Functional Area Rule for Housing Applicants**

**Pursuant to Notice duly given, Cllr. M. O'Shea/P. O'Donoghue PROPOSED:-**

"To ask the Director of Housing to introduce the Functional Area Rule for Housing applicants countywide to ensure the available housing stock for the local indigenous applicants in their respective communities."

**The following report issued:**

**Local Authority housing is allocated in accordance with our adopted Scheme of Letting Priorities which was made under Section 11 of the 1988 Housing Act. In order to be included in the Assessment of Housing Need, a long-term need to reside in the particular area must be established and each application is assessed in detail by our Housing Investigation Officers. In the case of Kerry County Council, no specific Functional Area Rule exists as applicants for social housing in Kerry County Council's functional area may be residing in a Town Council functional area due to the lack of available private rented accommodation in the County area or some other genuine reason. Each application is assessed in detail by our Housing Investigation Officers in order to determine eligibility. Under the Housing (Miscellaneous Provisions) Act 2009, new powers have been introduced for Elected Members to make allocation schemes (a) setting out the order of priority for the allocation by Managers of local authority housing, rental accommodation such as RAS and voluntary and cooperative housing provided with Exchequer funding, and (b) reserving a proportion of dwellings for particular classes of household and forms of tenure. However, this Section of the Act has not as yet commenced**

**and we have been advised that detailed guidelines will be made available from the DoEHLG on commencement. As with other housing policy areas requiring determination in accordance with this Act, it is intended to consider this proposed allocations scheme in full consultation with the Housing SPC before forwarding for consideration and ultimate adoption by the Council.**

Cllr. M. O'Shea said there are 240 applicants for housing in the An Daingean area. An Area Functional rule should be introduced for housing applicants. Many people are on the waiting lists for many years and have been overlooked. People are coming onto the housing waiting list through the RAS Programme. There should be a three year period before people get on the housing list. Many people who are in financial difficulties are coming onto the housing waiting list. An Area Functional system should be introduced in order that local indigenous people get priority. This matter should be debated by the SPC and brought back to Council. A fairer, equitable system should be introduced.

Mr. J. Breen, Director of Housing and Community & Enterprise, said the Housing (Miscellaneous Provisions) Act 2009 will introduce provisions with regard to Allocation Schemes. The need for housing is determined by a long-term housing need and this applies in terms of all housing applicants.

### **30. Programme of Works with Local Development Companies**

**Pursuant to Notice duly given, Cllr. M. Cahill/T. Fleming PROPOSED:-**

"That Kerry County Council, in conjunction with the local development companies, co-ordinate a programme of works that would be of benefit to Kerry County Council, the specific communities and the County at large."

**Mr. G. O'Brien, Meetings Administrator, said this is a matter for consideration by the Members.**

Cllr. T. Fleming said Kerry County Council should work in conjunction with the local development companies to produce projects that would benefit the county.

### **31. Audit of Urban Laneways**

**Pursuant to Notice duly given, Cllr. D. Healy-Rae/M. Healy-Rae PROPOSED:-**

"That Kerry County Council carry out an audit of all urban laneways in our towns and villages with a view to putting them on a cleaning programme and providing proper lighting where needed."

**The following report issued:**

**The lighting and street cleaning budgets are funded from Kerry County Council's own scarce resources. There are no additional resources available in these budgets to carry out such an audit. The level of service of street cleaning at present is determined by our budget allocation. There is no increase in the street cleaning allocation, therefore it is not possible to put every laneway on a street cleaning programme. If the Councillors are aware of a particular littering problem, they might make both the Roads Section and the Environmental Section aware of it so that it could be investigated.**

**Equally there are no extra resources in our Public Lighting budget to install any additional lighting on any roadways around the County.**

Cllr. D. Healy-Rae said many of laneways are the source of anti-social behaviour at night. An audit of laneways should be carried out and lighting provided where required.

#### **10.02.15.15 Correspondence – Conferences and Seminars**

- (a) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. B. Cronin, it was agreed to authorise the attendance of Cllrs. J. Sheahan, B. O'Connell, B. Cronin, T. O'Brien, J. Brassil, P.J. Donovan and M. O'Shea at the Association of County and City Councils Annual Conference to be held in Co. Tipperary, from 4<sup>th</sup>–5<sup>th</sup> March, 2010.

Cllr. J. Sheahan was nominated to report to Council on this conference.

- (b) On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. T. Buckley, it was agreed to authorise the attendance of Cllrs. L. Purtill, S. Fitzgerald, B. O'Connell, P. O'Donoghue, T. Fleming and M. Cahill at the 18<sup>th</sup> Annual Kerry Environmental Recognition Conference to be held in Tralee from 4<sup>th</sup>–7<sup>th</sup> March, 2010.

Cllr. L. Purtill was nominated to report to Council on this conference.

- (c) On the PROPOSAL of Cllr. M. Healy-Rae, SECONDED by Cllr. S. Fitzgerald, it was agreed to authorise the attendance of Cllrs. S. Fitzgerald, B. O'Connell, P. O'Donoghue, T. O'Brien, T. Buckley, L. Purtill, B. Griffin, P.J. Donovan, T. Fleming and J. Finucane at the Training Seminar for Elected Members on the theme "The Local Government Housing Service" to be held in Killarney from 18<sup>th</sup>–20<sup>th</sup> March, 2010.

Cllr. S. Fitzgerald was nominated to report to Council on this conference.

- (d) On the PROPOSAL of Cllr. T. Buckley, SECONDED by Cllr. P. Leahy, it was agreed to authorise the attendance of Cllrs. J. Finucane, L. Purtill, S. Fitzgerald, J. Sheahan, B. O'Connell, P. McCarthy, T. Buckley, P. Leahy, T. Fleming, M. Healy-Rae, D. Healy-Rae, B. Cronin, A.J. Spring, M. Cahill and T. Fleming at the Local Authority Members Association (LAMA) Annual Conference on the theme "Councillors Role in Changing Climate" to be held in Sligo from 9<sup>th</sup>–10<sup>th</sup> April, 2010.

Cllr. J. Finucane was nominated to report to Council on this conference.

- (e) On the PROPOSAL of Mayor B. O'Connell, SECONDED by Cllr. J. Sheahan, it was agreed to authorise the attendance of Cllr. T. Fleming at a meeting regarding Cork/Swansea Ferry held in Cork on 29<sup>th</sup> July, 2008.

- (f) On the PROPOSAL of Cllr. J. Sheahan, SECONDED by Mayor B. O'Connell, it was agreed to authorise the attendance of Cllr. T. Fleming at the Kerryman's Association Annual Dinner held in London on 24<sup>th</sup> October, 2008.

- (g) On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. B. Cronin, it was agreed to authorise the attendance of Cllr. T. Fleming at the Fire Service Awards held in Dublin on 20<sup>th</sup> November, 2008.

#### **10.02.15.16 Correspondence General**

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

1. Letter dated 14<sup>th</sup> January, 2010, from the National Roads Authority regarding the M50 Barrier-free tolling system.

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2. Letter dated 14<sup>th</sup> January, 2010, from the Road Safety Authority regarding concerns in relation to vehicle central locking systems.
3. Letter dated 20<sup>th</sup> January, 2010, from the National Roads Authority regarding traffic calming measures.
4. Letter dated 22<sup>nd</sup> January, 2010, from the Minister for Agriculture, Fisheries and Food regarding the extension of Brandon Pier.
5. Letter dated 25<sup>th</sup> January, 2010, from the Minister for Transport regarding funding for R569 Kilgarvan Road to the Killarney Road N71.
6. Letter dated 27<sup>th</sup> January, 2010, from the Tánaiste and Minister for Enterprise, Trade and Employment regarding the introduction of a bond system for small businesses.
7. Letter dated 28<sup>th</sup> January, 2010, from the Minister for Transport regarding additional funding for repairs to roads affected by the recent bad weather.
8. Letter dated 4<sup>th</sup> February, 2010, from the Road Safety Authority regarding renewal reminders for Driving Licences and Learner Permits.
9. Letter dated 4<sup>th</sup> February, 2010, from the Road Safety Authority regarding the provision of a commercial vehicle test centre in the environs of Killarney.
10. Letter dated 13<sup>th</sup> January, 2010, from Limerick County Council requesting the Minister for the Environment, Heritage and Local Government to reverse the decision to give the National Roads Authority the management of regional and local roads investment.
11. Letter dated 14<sup>th</sup> January, 2010, from Offaly County Council calling on the Tánaiste and Minister for Enterprise, Trade and Employment to establish Unemployment Centres.
12. Letter dated 15<sup>th</sup> January, 2010, from Killarney Town Council calling on the Tánaiste and Minister for Enterprise, Trade and Employment to ensure the retention of the minimum wage.
13. Letter dated 19<sup>th</sup> January, 2010, from Limerick County Council requesting the Minister for the Environment, Heritage and Local Government to lift the embargo on the employment of outdoor staff in order to protect the investment in the county road network.
14. Letter dated 19<sup>th</sup> January, 2010, from Limerick County Council:
  - (a) calling on the Government to establish a single authority to manage and maintain the country's waterways
  - (b) calling on the Minister for the Environment, Heritage and Local Government to nominate one agency to take control of rivers nationally.
15. Letter dated 28<sup>th</sup> January, 2010, from Galway County Council calling on all Local Authorities to lobby the Minister for Transport for additional funding to address the condition of roads.
16. Letter dated 3<sup>rd</sup> February, 2010, from Limerick County Council calling on the Government to establish a Shannon River Basin Authority.
17. Letter dated 3<sup>rd</sup> February, 2010, from County Roscommon VEC regarding the proposal of the McCarthy Report to reduce the number of VECs from 33 to 22.

## **Votes of Sympathy**

The following Votes of Sympathy were noted from the Vote of Sympathy book.

- (a) Vote of Sympathy to be expressed to the family of the late Maura Spillane.
- (b) Vote of Sympathy to be expressed to the family of the late J.P. McElligott.

**Vote of Congratulations**

Mayor B. O'Connell PROPOSED a vote of congratulations to the Castlegregory Football Team on their success in the All-Ireland Junior Football Championship Final.

Cllr. S. Fitzgerald SECONDED this proposal and congratulated Mr. J.D. Flynn and his colleagues for bringing the Castlegregory football team to this level.

Cllr. M. O'Shea also congratulated the Castlegregory football team and management and PROPOSED that a civic reception be held to honour their achievement.

Mr. G. O'Brien, Meetings Administrator, said the proposal to host a civic reception will be considered at the March CPG meeting.

Cllr. B. Griffin said he wished to be associated with this vote of congratulations and said it is a great achievement for a small club.

The meeting concluded at 1.10 p.m.

**Gerard O'Brien**  
**Meetings Administrator**

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**Mayor of Kerry**