

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

**MINUTES OF THE ORDINARY MEETING OF KERRY COUNTY COUNCIL
HELD IN THE COUNCIL CHAMBER, ÁRAS AN CHONTAE, TRALEE ON
MONDAY, 19 DECEMBER, 2011**

**MIONTUAIRISCÍ NA CRUINNITHE MHIOSIÚIL DE COMHAIRLE CONTAE
CHIARRAÍ A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS AN
CHONTAE, TRÁ LÍ, AR AN LUAN, 19 NOLLAG, 2011**

PRESENT/I LÁTHAIR

Councillors/Comhairleoirí

R. Beasley	J. Brassil	T. Buckley
M. Cahill	P. Connor-Scarteen	J.J. Culloty
B. Cronin	P.J. Donovan	T. Ferris
J. Finucane	S. Fitzgerald	N. Foley
M. Gleeson	M. Griffin	D. Healy-Rae
J. Healy-Rae	P. Leahy	P. McCarthy
A. McEllistrim	B. Moynihan-Cronin	T. O'Brien
B. O'Connell	P. O'Donoghue	M. O'Shea
L. Purtill	J. Sheahan	G. Wharton-Slattery

IN ATTENDANCE/I LÁTHAIR

Mr. T. Curran, County Manager	Mr. J.D. Flynn, Dir of Corp. Servs
Mr. O. Ring, Dir Water & Env. Servs.	Mr. M. McMahon, Dir. Of Planning
Mr. C. O'Sullivan, Director of Roads	Ms. A. McAllen, A/Head of Finance
Mr. J. Breen, Dir. Hsg. & Comm & Ent.	Mr. G. O'Brien, Mtgs. Administrator
Ms. J. McCarthy, SEO Planning	Mr. P. Stack, SE, Planning
Mr. L. Quinlan, SEO, Housing	Mr. L. Brosnan, AO Planning
Ms. B. Reidy, SSO Corporate Affairs	Mr. P. Corkery, Press & Comm. Off.
Ms. M. Galvin, Co Corporate Affairs	

The meeting commenced at 12.10 pm.

Mayor T. Buckley took the Chair.

Chuir an Mhéara fáilte mór roimh Tara Talbot, Rós Trá Lí 2011 chuig an cruinniú. He said since her selection as Rose of Tralee back in August, Tara has been a fantastic ambassador for both the Rose of Tralee Festival and the County of Kerry and he was in no doubt that this will continue during 2012.

Tara's visit to Kerry County Council marked the first formal visit by a Rose of Tralee to the Council Chambers and it is appropriate, given that Kerry County Council became a major supporter of the Festival in 2011. The reason for this is clear. The Council sees the Rose of Tralee Festival as an event that benefits the county as a whole, not just Tralee.

It is estimated that the Festival brings an additional €15m into the county's economy every year. And that is before you take into account the invaluable free publicity that Kerry gets on television screens and in newspapers and magazines, nationally and internationally.

The importance of the support of the corporate sector in Kerry is crucial in ensuring the continued growth of the Festival and he hoped that Kerry County Council would continue our relationship with the Rose of Tralee Festival into the future.

The Festival also gives us advantages, with established Festival Centres around the world giving us a ready-made global network.

It is up to us to take advantage of that network and use it to benefit the county. For example, The Gathering in 2013 has a huge potential for the country and we can use our established Festival Centres to steal a march on other counties and boost visitor numbers to Kerry.

In conclusion the Mayor again welcomed Tara, Anthony O'Gara and the other Rose of Tralee representatives present at the meeting. Kerry County Council and the Rose of Tralee Executive have a positive working relationship and he hoped that we would be able to continue this into the future, to benefit both the Rose of Tralee Festival and this county.

The Mayor then called on Ms. Talbot to address the meeting.

Ms. Talbot thanked the Mayor and Members for inviting her to Kerry County Council and for making her feel so welcome. She said she was honoured to be in the Council and to work for the Rose of Tralee Festival. She thanked the Council for their invaluable support for the Festival. She spent the last few months travelling around Kerry and the country and she found the people to be very welcoming and friendly. She wished all present a very happy Christmas.

11.12.19.01 Mayor's Report on CPG Meeting held on 13th December, 2011

Cllr. P. Connor-Scarteen read the following report into the record of the meeting.

"In the absence of the Mayor Cllr. P. Connor-Scarteen Chaired the meeting.

Item 1 Agenda for the December Council Meeting

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

In relation to Item No. 8 – Approval of lands for submission to the Land Aggregation Scheme – Mr. J. Breen briefed the meeting on this item and said it would be dealt with at the December meeting.

Mr. G. O'Brien said there are a number of Notices of Motion on the December Agenda relating to the landfill and Transfer Stations. The response to these will be that it would be more appropriate to consider these at the Budget Meeting.

It was agreed that members would be informed of this at the start of the Notice of Motions.

Mr. J.D. Flynn reminded members that the Annual Mass would be held at 10.30am on the day of the December meeting. This would be followed by light refreshments in the Canteen and the December meeting will commence at 12 noon. Lunch would be at 2.30pm in the Conference Room and it is hoped the meeting will resume at 3.15pm approximately.

Cllr. Brendan Cronin asked if the Director of Roads Transportation and Safety was going to issue a statement to Councillors on the discontinuation of the Local Improvement Scheme.

In response Mr. O'Sullivan stated that the Council had not received any formal notification from the Department of Transport, Tourism and Sport but the Minister had issued a Press Release, which was available on the Department's website, in which it is proposed to discontinue the scheme.

Following a discussion on this issue it was agreed that a letter would issue to the Minister for Transport to impress on him that the potential savings from the abolition of the LIS is small. Also the LIS is the only means some rural residents have of getting their road improved. Members called on Minister Varadkar to reverse this decision.

The Chair of the Transport SPC gave a brief report on the issues discussed at the Transport SPC meeting on Monday 12th December. The Committee considered a report from the Director of Services on the challenges facing the Council in the preparation of the Budget for 2012.

Mr. C. O'Sullivan, Director of Roads outlined that the briefing paper presented to the members set out the reduction in available funding for the Council, particularly in the Local Government Fund and in recent announcements from Government. He stated that the recently published Infrastructure and Capital Investment Programme for the period 2012 to 2016 showed a substantial reduction in funding for National Roads. He also outlined the cut in current expenditure announced in the Budget for the Department of Transport, Tourism and Sport and whilst the indications from the Department were that the level of grant aid for road improvement schemes will be reduced slightly in 2012, the availability of funding after 2012 is expected to be substantially reduced.

A full report on the SPC meeting will be brought to the January Council Meeting.

Item 2 Budget 2012

Ms. Angela McAllen, A/Head of Finance informed the meeting that work continues on the preparation of the 2012 Budget. Notification of the Local Government Fund allocation 2012 was received and there is a reduction of 8% or €1.6m on the 2011 allocation. This allocation is net of pension related deductions and last year there was an income of €2.6m from that levy so there is a decrease there also. Legislation on the Household Levy was published that day and she hoped the projected income figures would be realized. This will be a particularly difficult Budget. It is intended to post the Budget Tables to members next week in anticipation of the Budget Meeting to be held on Monday 9th January, 2012.

Item 3 County Development Board Update

Mr. John Breen, DOS, updated the CPG as follows:-

A meeting of the County Development Board took place on 25th November last at which the various subgroups of the County Development Board reported on progress made. This reporting meeting was a recommendation of the CDB review carried out in 2010.

The Economic Subgroup reported on progress in the areas of:-

- Farmers Markets Development
- Local Food Producer Support & Marketing
- Development of Sustainable Energy Proposals

The Social, Health and Community Group updated on:-

- Community Communications Project being spearheaded by the Community and Voluntary Forum.
- Childcare Planning and Provision of the future by the Kerry County Childcare Committee.
- A presentation on young peoples needs in our County by the Comhairle na nOg.
- The Chairman updated on the Joint Policing Committee and that all 4 Chairs would attend the next County JPC meeting.

The Social Inclusion Measures Group updated on:-

- Integration of Immigrants Project
- The RAPID Programme
- Kerry Integrated Traveller Strategy

All noted the impact of proposed budgetary cuts on the continued level of Social Inclusion Measures.

The Culture, Recreation and Heritage Group updated on:-

- The work of the Kerry Recreation and Sports Partnership with a particular focus on their campaign for 2012 of "Get Kerry Walking".
- The intention to host an initial meeting of a Foraim Gaeilge to discuss all aspects of our Irish language and culture in the County.

- An update on our applications and the €7.5m U2 Music Network Education Programme.

Item 4 Update from Chairs of SPC's

Cllr. B. Cronin said there was a recent meeting of the Environment and Water Services SPC and a report would be presented at the January meeting.

Cllr. M. Cahill said there was no meeting of the Community, Cultural and Tourism SPC recently.

Cllr. P. Connor-Scarteen said he had already dealt with the Budget aspect of the Roads and Transportation meeting. The concept of 'Adopt a Road Scheme' was introduced. This is in place in the US and in some counties such as Cavan. A business agrees to adopt a road and to make a contribution to the upkeep of the road or to hire people to clean it. A pilot project for Killarney or Dingle is proposed.

Mr. C. O'Sullivan said it will be necessary to develop a policy around this Scheme to set out what level of signage will be permitted etc. Also is someone adopts a road no other business will be allowed to place advertising signs on the road".

Cllr. B. Cronin said he raised the termination of funding for LIS at the CPG meeting at which time he requested clarification on it. There are still 150 roads remaining on the priority list to be improved. People were told their road would be improved but now the Scheme is discontinued. This was a hugely important Scheme which allowed many minor roads to be improved. He acknowledged that funding for the Scheme was reduced last year but there was no need to terminate the Scheme. He called on the Minister for Transport, Tourism and Sport to review this decision.

Cllr. D. Healy-Rae deplored the decision to terminate funding for the Local Improvement Scheme. This is a further attack on rural communities. It is very unfair to deprive them of this Scheme which allowed this category of road to be improved. This Scheme allowed roads to be improved in emergency cases to allow a doctor or nurse to travel to patients who are ill. He called on the Government to allow this Scheme to continue.

Cllr. M. Gleeson said he lived on a road that benefitted from an LIS. As a result of improvements carried out to roads under this Scheme lives were transformed. It is wrong to terminate this very valuable Scheme. He supported Cllr. Cronin's call on the Minister to review this decision.

Cllr. M. O'Shea said Fianna Fáil always respected rural communities and maintained this Scheme. He asked if there was any possibility of support in the Budget for the maintenance of private roads to ensure they are passable.

Cllr. M. Cahill asked how many LIS roads are in the county. He estimated it was approximately 500. He would like to see some scheme in place to cater for this category of road. He called on the Minister for Environment to introduce funding to at least fill potholes on these roads until the economy improves. For each road improved under this Scheme at least 15 or up to 20 households benefit from it. The discontinuation of this Scheme is also a loss to Council staff as it provided up to two month's work each year.

Cllr. R. Beasley supported the sentiments expressed by Cllr. Cronin and said a lot of good work was done under this Scheme. A lot of people depend on this Scheme to improve their roads and this will be a major loss to them.

Cllr. P. Connor-Scarteen said the CPG agreed with the views expressed by Cllr. Cronin. It is regrettable that this Scheme was discontinued. In 2011 just fourteen roads were improved but at least some funding was provided.

In response Mr. C. O'Sullivan, Director of Roads and Transportation said he had no further update from the Department on this Scheme. The only source of information was a Press Release on the 7th December. Substantial work was done under this Scheme over the past few years and there are still 150 roads on the priority list with a value of €4m. This issue will be discussed further at the Budget Meeting.

Cllr. B. Cronin PROPOSED that a letter would issue to the Minister for Transport, Tourism and Sport calling on him not to terminate this Scheme.

Cllr. M. Gleeson SECONDED this proposal and it was agreed to issue a letter to the Minister.

Mayor Buckley welcomed former councillors Danny Kissane and Michael Connor-Scarteen to the meeting.

11.12.19.02 Confirmation of Minutes

On the PROPOSAL of Cllr. M. Gleeson, SECONDED by Cllr. J. Finucane it was agreed that the Minutes of the November Ordinary Meeting of Kerry County Council held on 21 November 2011 be confirmed.

11.12.19.03 Taking in Charge of Estates

Mr. M. McMahon, Director of Planning, referred members to his report dated 15 December, 2011 on this item which was circulated. Section 180 of the Planning and Development Act 2000 (as amended) puts the onus on a planning authority, when requested, to take in charge housing estates that have been completed. This section requires the planning authority to use the statutory provisions of the Roads Act to give statutory effect to a decision to take an estate in charge. Once the order is made the planning authority shall also take in charge any open spaces, car parks, sewers, watermain, or drains within the attendant grounds of the development. Notice of our intention to declare the roadways listed on the Agenda as public roadways

was published in 'The Kerryman' newspaper on 19th October 2011. No written objection or submission was received by the closing date. He recommended that the Council make an Order in accordance with Section 11 of the Roads Act, 1993, to declare as a public roadway, each roadway outlined in the report circulated and identified on the maps circulated.

Cllr. B. Cronin requested clarification that these are not private roads but are roads in housing estates.

Mr. McMahon said the Planning and Development Act 2000 requires the Planning Authority to use the 1993 Roads Act to declare roads in housing estates to be public roads. He confirmed that these roads are all in housing estates.

Cllr. T. Ferris said it is a condition of planning that when a house is purchased the roads are to be completed. She was aware of a case where the Solicitor is refusing to sign off for a mortgage. She called on the Planning Department to draft a letter which would satisfy the Solicitors requirements who is refusing to release the mortgage. She understood the Bond should be enough to carry out any outstanding works.

Cllr. J. Brassil said when an application is received to have an estate taken in charge a list of outstanding works is drawn up by the Estates Unit and also by the Water Services Department. This is very confusing for the applicants. He asked that one Department would co-ordinate the response from both Departments. It is taking nine or twelve months before the initial list of works is carried out and by that time additional works are required. A number of developers are getting estates ready to be taken over as they want to get the Bond released.

Cllr. M. O'Shea said the delay in taking in charge estates is leading to ghost estates. He understood the Planning Department had difficulties with AIB in getting Bonds released. If these estates are not finished and taken over they could be taken over by NAMA. He called on the Minister for Finance to ensure that Bonds are released by Financial Institutions.

Mr. M. McMahon said he did not realise correspondence was issuing to developers from other Departments as this work should be co-ordinated by his Department. There are instances where the sewerage treatment system is not up to standard and there are powers to issue notices to deal with this under the Water Services Act. Difficulties have been encountered in drawing down Bonds. Bonds to the value of €400,000 have been drawn down and now the challenge will be to get the works carried out. When a Bond is drawn down it is then the responsibility of the Council to carry out the works. He said he is dealing with the issue of the Financial Institutions and expected this situation to improve in the near future.

Cllr. J. Healy-Rae asked why it takes so long to draw down a Bond.

Mr. McMahon said the Bond holder has rights to carry out the work in the first instance. This work can be done under the supervision of the Council and this is acceptable. The position can be complicated where a Receiver is appointed. Every effort is made to be reasonable with a developer and the people living on the estate.

(a) Montanagay, Abbeydorney

On the PROPOSAL of Cllr. T. Ferris, SECONDED by Cllr. N. Foley it was agreed, having regard to Section 180 of the Planning and Development Act 2000 in relation to the taking in charge of estates, to make an Order declaring the road from its junction with the Regional Road R-557 to all terminal points within the estate The Cloisters, Montanagay, Abbeydorney to be a public road pursuant to Section 11 of the Roads Act 1993. (Total length of road to be Taken in Charge – 765m).

(b) Killeen, Oakpark, Tralee

On the PROPOSAL of Cllr. N. Foley, SECONDED by Cllr. J. Finucane it was agreed, having regard to Section 180 of the Planning and Development Act 2000 in relation to the taking in charge of estates, to make an Order declaring the road from its junction with the L-10652-0 to all terminal points within the estate Chestnut Drive, Killeen, Tralee to be a public road pursuant to Section 11 of the Roads Act 1993 (Total length of road to be Taken in Charge – 112m).

(c) Millbrook Village, Milltown

On the PROPOSAL of Cllr. M. O'Shea, SECONDED by Cllr. P. Connor-Scarteen it was agreed, having regard to Section 180 of the Planning and Development Act 2000 in relation to the taking in charge of estates, to make an Order declaring the road from its junction with R-563 to all terminal points within the estate Millbrook Village, Milltown to be a public road pursuant to Section 11 of the Roads Act 1993 (Total length of road to be Taken in Charge – 679m).

(d) Laharn, Faha, Killarney

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. M. Gleeson it was agreed, having regard to Section 180 of the Planning and Development Act 2000 in relation to the taking in charge of estates, to make an Order declaring the road from its junction with the L-7041-0 to all terminal points within the estate Oak Grove, Laharn, Faha, Killarney to be a public road pursuant to Section 11 of the Roads Act 1993 (Total length to be Taken in Charge – 129m).

(e) Faha East, Beaufort, Killarney

On the PROPOSAL of Cllr. D. Healy-Rae, SECONDED by Cllr. P.J. Donovan it was agreed, having regard to Section 180 of the Planning and Development Act 2000 in relation to the taking in charge of estates, to make an Order declaring the road from its junction with the L-3025-17 to all terminal points within the estate Meadow Vale, Faha East, Beaufort, Killarney to be a public road pursuant to Section 11 of the Roads Act 1993 (Total length of road to be Taken in Charge – 417m).

(f) Lackabane, Killarney

On the PROPOSAL of Cllr.B. Cronin, SECONDED by Cllr. M. Gleeson it was agreed, having regard to Section 180 of the Planning and Development Act 2000 in relation to the taking in charge of estates, to make an Order declaring the road from its junction with the N72 to all terminal points within the estate Lackabane, Killarney to be a public road pursuant to Section 11 of the Roads Act 1993 (Total length of road to be Taken in Charge – 1,470m).

(g) Melrose Grove, Killorglin

On the PROPOSAL of Cllr. M. Cahill, SECONDED by Cllr. P.J. Donovan it was agreed, having regard to Section 180 of the Planning and Development Act 2000 in relation to the taking in charge of estates, to make an Order declaring the road from its junction with the N70 to all terminal points within the estate Melrose Grove, Killorglin to be a public road pursuant to Section 11 of the Roads Act 1993 (Total length of road to be Taken in Charge – 250m).

(h) Kilcaragh, Lixnaw

On the PROPOSAL of Cllr. R. Beasley, SECONDED by Cllr. P. Leahy it was agreed, having regard to Section 180 of the Planning and Development Act 2000 in relation to the taking in charge of estates, to make an Order declaring the road from its junction with the L-1029 to all terminal points within the estate The Paddocks, Kilcaragh, Lixnaw to be a public road pursuant to Section 11 of the Roads Act 1993 (Total length of road to be Taken in Charge – 1,510m).

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

Cllr. M. Cahill declared in accordance with Section 177 of the Local Government Act, 2001 he had a beneficial interest in the land the subject of this Part VIII report and he would leave the meeting while the item was being considered.

Cllr. Cahill then left the meeting.

Cllr. D. Healy-Rae asked if this development could be moved a bit away from the house across the road as the residents are very concerned about it.

Mr. O. Ring, Director of Environment and Water Services said that this proposal relates to the upgrading of Rossbeigh Sewerage Scheme. The existing tank is not satisfactory. A new constructed wetlands system is treating waste from Rossbeigh. It is proposed to upgrade this tank and he was satisfied that there would not be any adverse impact on people living in the vicinity. The tank will be under ground and there will be no visual impact. He recommended the adoption of the recommendation in the report, i.e. to proceed with the development. It is hoped to commence construction of the new tank early in 2012.

Cllr. PJ Donovan asked if the new tank would be in front of the house across the road.

Mr. Ring confirmed that it would and said that it has taken a long time to progress this Part VIII because of the difficulty in getting a suitable site. This is an SAC and it is in everyone's interest that this development proceeds. This is the only site available and it is in the border of an SAC in a heritage area. He said he was confident that this development would have no adverse impact on the person living across the road.

On the PROPOSAL of Cllr. M. Gleeson, SECONDED by Cllr. S. Fitzgerald it was agreed to note the Manager's Report in accordance with Section 179(3) of the Planning and Development Act 2000, Part VIII of the Planning and Development Regulations 2001 and Articles 17 to 19 of the Planning and Development Regulations 2006 in respect of the construction of primary holding tanks, pumping station and associated site works in the townland of Rossbehy, Rossbeigh, Co. Kerry.

Cllr. M. Cahill then returned to the meeting.

11.12.19.05 Material Contravention of the County Development Plan 2009 – 2015 and the Tralee/Killarney Hub Settlements Local Area Plan 2006-2012.

The following report was circulated to the members in advance of the meeting.

“Development Description

To construct a Community Enterprise Centre and associated siteworks at Furies, Co Kerry. Planning ref 11/801

The Material Contravention Procedure in this case was initiated with publication of the prescribed notice in the Irish Examiner newspaper on 8th November 2011, pursuant to Section 34 of the Planning and Development Act, 2000 as amended by Section 23 of the Planning and Development (amendment) Act 2010.

Note: No objections in relation to the proposed development have been received.

The attached report and recommendation, dated 12th December 2011 , has been prepared to facilitate your consideration of this matter.

In accordance with the terms of this report and recommendation, it is considered that the proposed development is in accordance with the proper planning and sustainable development of the area, is in compliance with Ministerial Guidelines and in accordance with the Regional Planning Guidelines, and **a grant of permission is, therefore, recommended, subject to the conditions listed therein.**(13 no.).

Michael McMahon, Director of Planning.

Implementation of the Material Contravention Procedure under and in accordance with Section 34 of the Planning & Development Act, 2000 as amended by Section 23 of the Planning and Development (Amendment) Act, 2010 in relation to application for permission to construct a Community Enterprise Centre and associated site works at Firies, Co Kerry.

Planning Register No. 11/801

Name of Applicant: Firies Rural Development Association

Address of Applicant: Mr David Gleeson, Chairman, (Address withheld for data protection purposes).

Agent: Michael O' Connor MIEI, (Address withheld for data protection purposes)

Date application lodged: 28/09/2011
Material Contravention Procedure initiated with publication of prescribed notice in Irish Examiner newspaper on 08/11/2011.

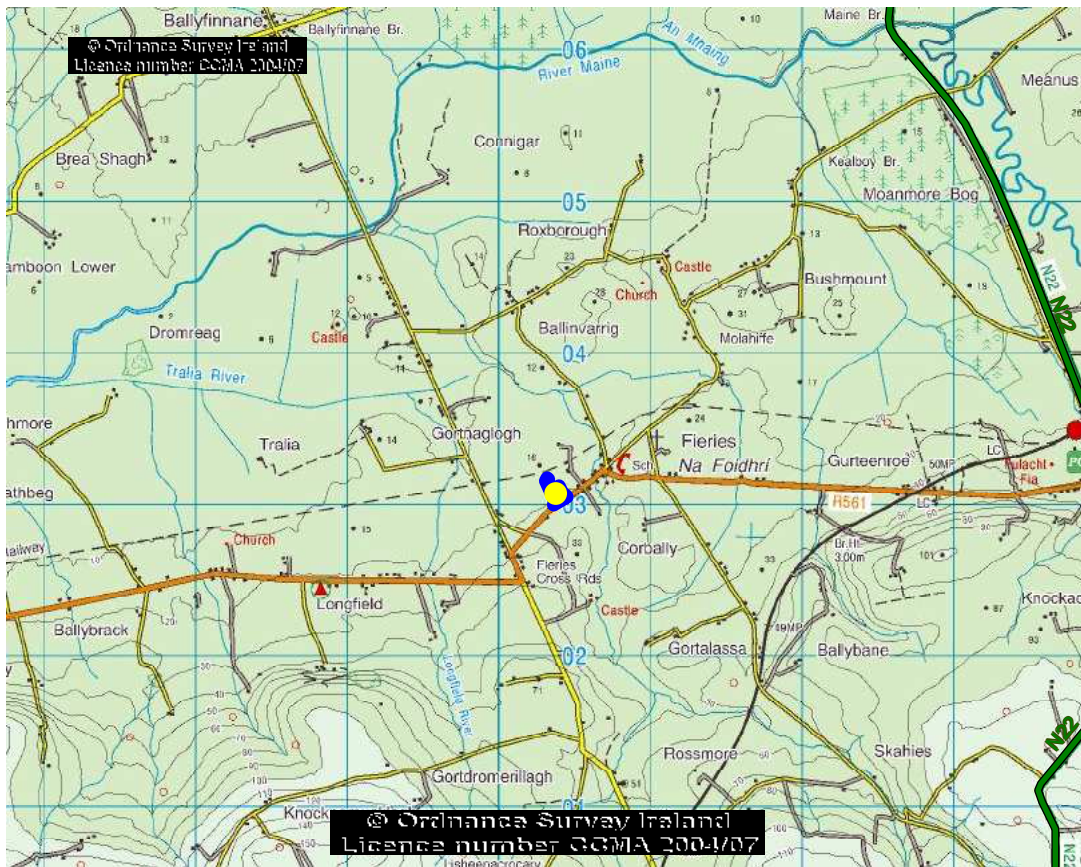
Date further information received: None

Decision due date: 11/01/2012

Proposal

Construct a single-storey structure with a total floor area of 357 square metres sub-divided into three enterprise units and associated access road, parking area and site development works. The applicant is a community based organisation and the purpose of the proposed development is to provide infrastructure to create employment opportunities in the community. The units would be suitable for a variety of uses but are designed with food production in mind. The intention is for the facility to be owned and managed by the applicant who would lease the units to small-scale food production businesses.

Site Location Map



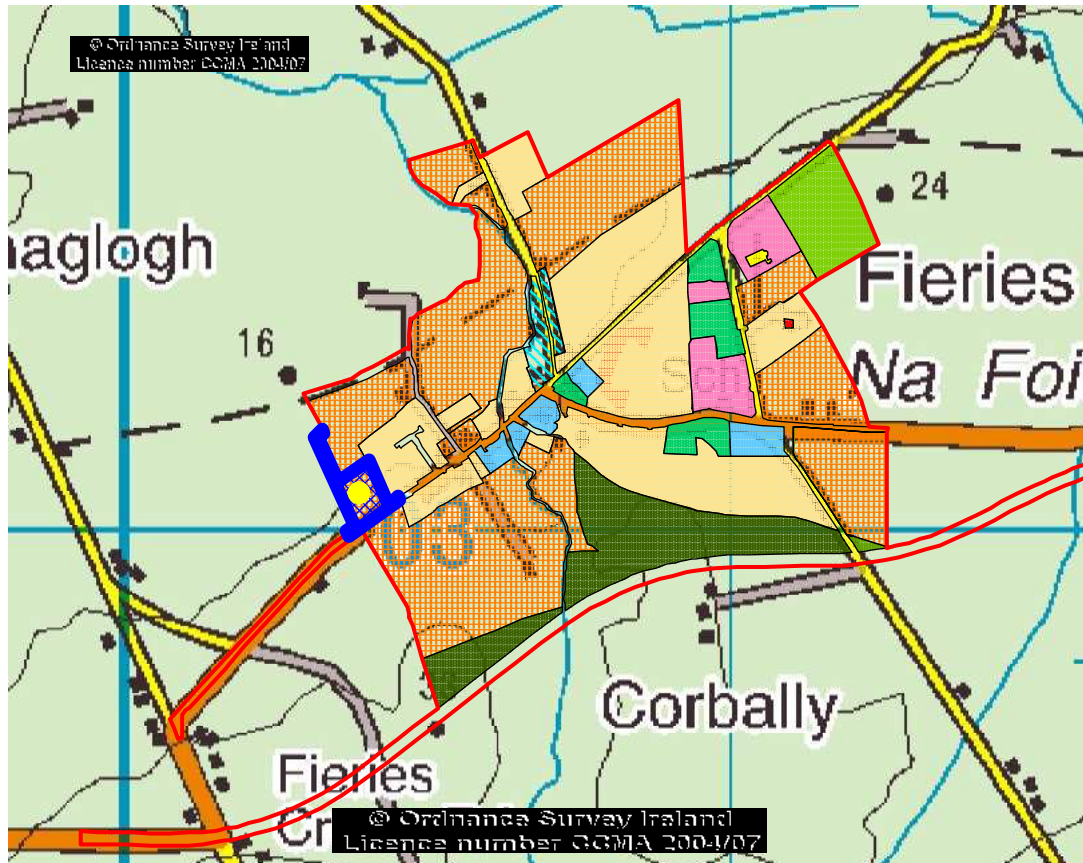
It is stated that a pre-planning discussion took place between agent and Area Planner in August 2011.

The proposed development is located on the western edge of Firies village adjoining the R561 Regional Road to Castlemaine. The proposed site consists of a green field site close to and west of residential housing development made up of a mix of single storey with attic accommodation and dormer detached dwellings at the public roadside and two storey semi-detached dwellings to rear. The site is bounded by a mature hedgerow to public roadside and falls in ground level towards the rear of the site. The site area is .63ha.

Zoning and Designations

Tralee/Killarney Hub Settlements Local Area Plan 2006-2012

The proposed site is located on lands zoned Residential (proposed) in the Fieries Village LAP which is part of the Tralee/Killarney Hub Settlements Local Area Plan 2006-2012.



Policy in relation to lands with Residential Zoning

The residential zonings are intended to provide for the full range of housing types required to meet demand and changing demographics. It is intended that higher densities, subject to good design, will be accommodated closer to the town centre, while lower density development shall be provided at the periphery of the town.

The range of additional uses open to consideration within the residential zoning include community, social and medical facilities as well as neighbourhood shops, restaurants and public houses where it can be demonstrated that there is a need for such facilities and that it will not affect the predominantly residential nature of the area.

The following specific development objectives contained in the Fieries LAP apply to the proposed development.

T-5 (in relation to development along the R561 Road)

The building line of development of lands adjacent to the road shall allow for the provision of pavements 2.5 metres in width on either side of the road and for tree and other plantings.

T-7 (in relation to development of backlands)

Reserve new access points to facilitate orderly in-depth development.

Relevant Planning History

The proposed site was part of larger sites subject of the following planning applications:

Planning Register No. 07/264

John Hartigan applied for outline planning permission to construct a crèche and 70 dwelling houses and planning permission for all roads and site development works. Application was withdrawn.

Planning Register No. 07/3221

John Hartigan applied for outline planning permission to construct 23 dwelling houses and planning permission for all roads and site development works. Application was withdrawn.

Planning Register No. 08/2750

John Hartigan applied for outline planning permission to construct 15 dwelling houses and planning permission for all roads and site development works. Application was refused because the proposal to pump effluent from the development to the public foul sewer was considered to be an unsustainable form of development.

Reports

- (1) Water Services Dept., Kerry County Council – received on 25/10/2011.
Conditions recommended in relation to connection of proposed development to public water and wastewater services.
- (2) Roads Dept, Kerry County Council – received on 02/11/2011
Report recommends conditions to be attached to any grant of permission in relation to works along R561 regional road and the construction of site development works.

Submissions/Observations

None

Assessment

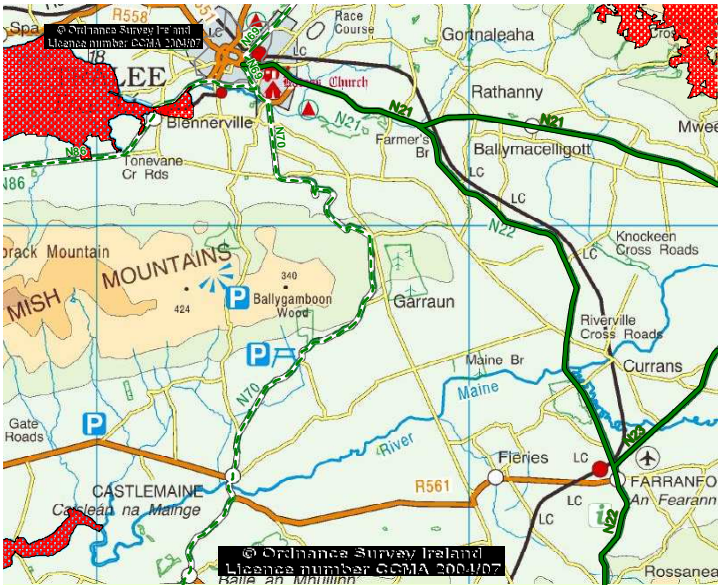
1. Traffic: It is considered that adequate sightlines are achievable at the proposed entrance given that the entrance is located within the 50kph speed limit zone. Report on file from KCC Roads Dept is positive and recommends a number of conditions to be attached to any grant of permission in relation to works along R561 regional road and the construction of site development works.
2. Effluent disposal: The site is served by public sewerage and report on file from KCC Water Services Dept recommends conditions in relation to connection of proposed development to public water and wastewater services to be attached to a grant of permission.
3. Surface water disposal: To existing open drain located inside western boundary of site.
4. Residential amenity: It is considered that the proposed enterprise units would not cause negative impact on amenities of residential development in the vicinity subject to compliance with conditions to be recommended in relation to the use and hours of operation of the units
5. Visual impact: It is considered that the design and scale of the structure would not be out of keeping with its village periphery location and would integrate with the existing roadside residential development to the east of the site.
6. Planning History: Previous planning application for residential development on the site was refused because of proposal to pump effluent to public sewerage network. Current proposal includes for a gravity connection from enterprise units to the public foul sewer.
7. Submissions: No third party submissions were made in relation to this application.
8. Ministerial Guidelines: It is considered that the proposed development would not contravene Ministerial Guidelines under Section 28 of the Planning and Development Act.
9. Regional Planning Guidelines: It is considered that the proposed development would not contravene Regional Planning Guidelines.
10. Zoning: The application site is located in an area zoned Residential (proposed) in the Tralee/Killarney Hub Settlements Local Area Plan 2006-2012, hence the need to implement the Material Contravention Procedure in order to grant permission for a Community Enterprise Centre. The following points are noted.
 - (a) Given the low level of planning applications in Fieries for residential development in recent years, it is considered that adequate lands are zoned Residential (proposed) if the current application site at the edge of the development boundary of the village is developed as a Community Enterprise Centre..
 - (b) Suitably zoned lands, adequate to cater for the proposed Community Enterprise Centre, are not available in Fieries.
 - (c) The proposed Community Enterprise Centre would not be incompatible with the existing residential development on adjacent lands.
11. Fieries LAP Objectives. The design and layout of the proposed development would comply with the following objectives:
 - (a) T-5 (in relation to development along the R561 Road)
 - (b) T-7 (in relation to development of backlands)

12. Development Contributions: As applicant is a voluntary organisation, the application was deemed to fall within the ambit of Article 157 of the Planning and Development Regulations 2001. Under the terms of the Kerry County Council General Development Contribution Scheme which was adopted on 21/03/2011, projects which fall under the ambit of Article 157 are exempt from the payment of Development Contributions.
13. Bond. As the overall development is to be owned and managed by the applicant with the individual enterprise units leased to local businesses, a bond to secure the completion of the development will not be required.

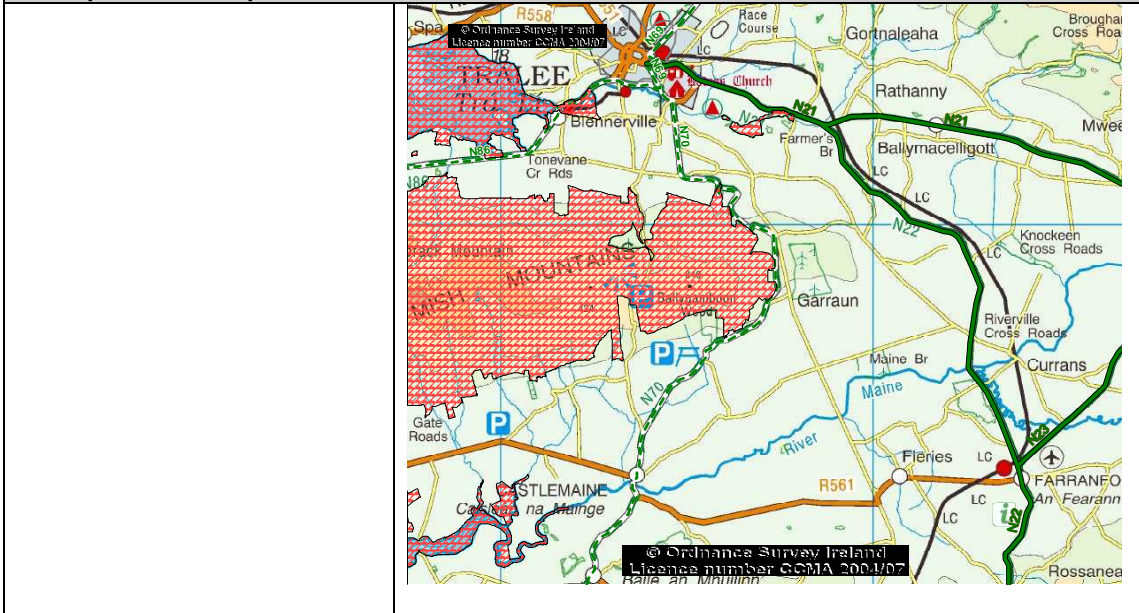
Appropriate Assessment Screening Report

Planning Reference Number:	11/801
Description of the proposed development (including a brief outline of its nature and size):	CONSTRUCT A COMMUNITY ENTERPRISE CETNRE AND ASSOCIATED SITE WORKS
Is the proposed development directly connected with or necessary to the nature conservation management of a Natura 2000 site	No

1. Proposed development site location relative to that of Natura 2000 Sites

<p>Description of the development site location, relative to Natura 2000 sites, having particular regard to Natura 2000 sites located within 15Km of the proposed site or within the same water catchment as the proposed site</p>	<p>Tralee Bay Complex SPA located 12.9km NW of proposed. Castlemaine Harbour SPA located 10.2 west of proposed. Stacks to Mullaghareirk Mts. West Limerick Hills & Mount Eagle SPA located 11.8km NE of proposed.</p>  <p>Castlemaine Harbour SAC located 5km south of proposed Slieve Mish Mts. SAC located 5.7km NW of proposed. Tralee Bay & Magharees Peninsula West to Cloghane SAC located 13.2km NW of proposed.</p>
--	---

1. Proposed development site location relative to that of Natura 2000 Sites



2. Specialist reports, advice and recommendations received (if any)

Brief overview of specialist reports, advice, and recommendations received from NPWS / Heritage Officer / other Specialists (where appropriate)

None received.

3. Consideration of the potential for significant impacts on Natura 2000 sites, having particular regard to potential significance indicators and to qualifying interests and conservation objectives for Natura 2000 sites. In line with the precautionary principle, where doubt exists, it should be assumed that effects could be significant.

Potential significance indicators include:	
<ul style="list-style-type: none"> Reduction / erosion / fragmentation of key habitat(s) 	Not likely
<ul style="list-style-type: none"> Disturbance / mortality / harm of key species (e.g. noise or light pollution, trampling, general disturbance) 	Not likely
<ul style="list-style-type: none"> Alteration of key environmental conditions (e.g. water quality, water supply, air quality) 	Not likely
<ul style="list-style-type: none"> Facilitation of the introduction / spread of exotic invasive species within Natura 2000 sites 	Not likely
<ul style="list-style-type: none"> Interference with the movement of key species within, between or in the vicinity of Natura 2000 sites 	Not likely
<ul style="list-style-type: none"> Interference with the movement of mobile dune and intertidal Natura 2000 habitats 	Not likely
<ul style="list-style-type: none"> Other potential impacts 	

3. Consideration of the potential for significant impacts on Natura 2000 sites, having particular regard to potential significance indicators and to qualifying interests and conservation objectives for Natura 2000 sites. In line with the precautionary principle, where doubt exists, it should be assumed that effects could be significant.	
<ul style="list-style-type: none"> Interactive / cumulative / in combination impacts including potential climate change impacts and those with other plans and projects 	Not likely

4. Conclusion (a, b, c or d)	
	AA not required.
(b) There is no likely potential for significant effects to Natura 2000 sites ¹	

Recommendation

Grant planning permission for the following reason and subject to the following conditions:

FIRST SCHEDULE

Having regard to the nature, extent and location of the proposed development and the availability of public services, it is considered that, subject to compliance with the conditions set out in the Second Schedule, the proposed development would not be visually obtrusive, would be acceptable in terms of traffic safety and convenience, would not seriously injure the amenities of the area or be otherwise contrary to 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 28/09/2011 except for any alterations or modifications specified in this decision.

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

(2) The use of each unit shall be for food production or for light industrial use, the details of which shall be agreed in writing with the Planning Authority prior to occupation. No form of retail use shall be permitted on the site.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the use is appropriate to the location and nature of the development.

(3) The hours of operation of the proposed Community Enterprise Centre shall be restricted to between 0700 – 1900 hours, Monday to Saturday inclusive.

Reason: In the interests of residential amenity.

(4) Proposed Community Enterprise Centre shall remain as an integral development in the one ownership and none of the enterprise units shall be disposed of separately.

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

(5) Prior to commencement of development, a management scheme providing adequate measures relating to the future management and maintenance of necessary services, landscaping, waste storage and disposal, car parking and communal areas in a satisfactory manner shall be submitted to the planning authority for agreement.

Reason: To ensure orderly management of the development.

(6) (a) Proposed Community Enterprise Centre shall be in accordance with the design drawing received on 28/09/2011.

(b) The colour of the roof covering 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.

Reason: To integrate the structure into the surrounding area.

(7)(a) The development shall be connected to the public water supply network and public sewerage network to the satisfaction of Water Services Dept, Kerry County Council.

(b) The water and waste water services on site shall be provided in accordance with the standards set out in the Dept of Environment, Heritage and Local Government document 'Recommendations for Site Development Works in Housing Areas'.

(c) A Waterfit Mark 7 boundary box or other similar box, which shall be approved by Water Services Dept, Kerry County Council prior to installation, shall be provided in lieu of a stopcock box on the individual water service line to each unit.

(d) A fire hydrant shall be installed as part of the development, details of which shall be approved by Water Services Dept, Kerry County Council prior to installation.

Reason: In the interest of public health and proper provision of services.

- (8) (a) The parallel parking arrangement adjacent to the R561 Road shall be extended further to the east by a distance to be agreed with the Killorglin Area Roads Engineer. The initial build out immediately to the east of the entrance shall be retained for a suitable distance to allow adequate sight lines to be achieved and safe entrance/exit from the development. Prior to commencement of development, a new Site Layout Drawing showing the above revisions shall be submitted to the Killorglin Area Roads Engineer for written agreement.
- (b) The proposed parallel parking area shall be finished in 45mm of Rolled Asphalt Surface Course on 55mm Dense Macadam Binder Course on 300mm of Clause 804 on 500mm of Class 6F2 on good ground.
- (c) The developer shall construct a 2.5m wide concrete footpath adjacent to the R561 Road. Public lighting to ESB standards shall be constructed along the footpath. This work shall include the under grounding of all ESB cables. An adequately designed kerb and gully drainage system shall be constructed adjacent to the R561 Road which shall discharge to the developments storm water system. The details of the construction of both the footpath and drainage system shall be agreed on site with the Killorglin Area Roads Engineer.
- (d) Works adjacent to the public road shall not affect the surface water drainage regime of the public road.
- (e) No surface water from the development shall be permitted to flow on to the public road.
- (f) All works adjacent to or on the public road shall require a Roads Opening Licence approved by the Killorglin Area Roads Engineer. The approval of the licence shall be subject to the developer/contractor possessing the adequate level of insurances which indemnifies Kerry County Council. The developer/contractor shall submit a company safety statement along with a site specific safety plan and site specific hazard assessment report. The site specific safety plan shall include a traffic management plan.
- (g) Wheel washes shall be installed on site during the construction phase to prevent construction vehicles and plant from depositing debris and dirt on the public road.
- (h) Footpaths within the development shall be a minimum of 2 metres wide constructed in 150mm of reinforced concrete edged with a 225mm precast concrete kerb of similar approved by the Killorglin Area Roads Engineer.
- (i) All roads and parking areas within the development shall be finished with 75mm Dense Bitumen Macadam Wearing Course / Asphalt on 300mm Clause 804 crushed limestone on selected hardcore on good ground.

Reason: In the interests of traffic safety and to protect public property.

(9) On completion of the development, the developer shall submit a report to the planning authority, prepared by a third party consulting engineer, certifying the quality of all site development works. The consulting engineer shall have Professional Indemnity Insurance and evidence of same shall be submitted with the report.

Reason: To ensure a satisfactory standard of development.

(10) No display or storage of goods, produce, waste, plant, packaging or crates, machinery or equipment shall be stacked or stored on the site at any time except within the proposed enterprise centre.

Reason: In the interests of the amenities of the area.

(11) All service cables associated with the proposed development shall be run underground within the site.

Reason: In the interests of the amenities of the area.

(12) Signage for the development shall be erected in accordance with details received on 28/09/2011. No other advertising signage shall be erected on the site, except for those signs which are exempted development, without a prior grant of planning permission.

Reason: In the interests of the amenities of the area.

(13) Boundary treatments and landscaping of the site shall be carried out in accordance with details received on 28/09/2011. All landscaping works shall be carried out within one year of occupation of the enterprise units.

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.”

Mr. M. McMahon informed the meeting that the Planning Department have no difficulty with the fact that this land is zoned residential in Furies Local Area Plan. The Material Contravention procedure in this case was initiated with publication of the prescribed notice in the Irish Examiner newspaper on the 8th November, 2011. No objections to the proposed development were received and it is recommended that permission would be granted in this instance subject to conditions listed in the report previously circulated.

Cllr. B. Cronin PROPOSED in accordance to the provisions of section 34(6)(a) of the Planning and Development Act, 2000, as amended by Section 23 of the Planning and Development Act 2010, we the Members of Kerry County Council hereby resolve to grant permission to Furies Rural Development Association for the construction of a Community Enterprise Centre and associated site works at Furies, Co. Kerry in accordance with plans submitted on Planning Register No. 11/801 which development would materially contravene the Kerry County Development Plan 2009 – 2015 and the Tralee/Killarney Hub Settlements Local Area Plan 2006 to 2012 (in respect of the village of Furies).

Cllr. M. Gleeson SECONDED this proposal.

A vote was taken which resulted as follows:

For: Cllrs. Beasley, Brassil, Connor-Scarteen, Culloty, Cronin, Donovan, Ferris, Fitzgerald, Foley, Gleeson, Griffin, D. Healy-Rae, J. Healy-Rae, Leahy, McCarthy, McEllistrim, Moynihan-Cronin, O'Connell, O'Shea, Purtill, Buckley **(21)**

Against: None **(0)**

Not Voting: None **(0)**

The Mayor declared the resolution CARRIED.

11.12.19.06 Draft Dingle Functional Area Local Area Plan

Mr. M. McMahon said that this is the first Area Plan to be considered following the adoption of the Core Strategy. The Draft Dingle Functional Area Local Area Plan 2012 – 2018 relates to the Dingle Peninsula with the exception of Castlegregory. The Draft Plan will be published early in the New Year and a report on submissions received will be brought to a future Council meeting.

On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. M. O'Shea it was agreed to note the Draft Dingle Functional Area Local Area Plan 2012 – 2018.

Cllr. M. O'Shea asked what the proposed reduction in the amount of land zoned in Dingle West is.

Mr. M. McMahon said that approximately 261 acres will be de zoned and 144 of this are in the town of Dingle.

11.12.19.07 Update on Housing Adaptation Grants Scheme

Mr. J. Breen, Director of Housing and Community and Enterprise referred members to his report dated 19th December, 2011 on this item which was circulated. He briefed them on the report.

Cllr. M. Gleeson welcomed the report and said the allocation for these grants is most welcome in these very difficult economic times. These grants have transformed houses and the lives of the recipients. All members are aware of people who have benefited from these grants. The large number of grants processed highlights how efficient local authorities are in approving and processing these applications. He complimented the engineering staff who showed extraordinary care in dealing with these applications.

On behalf of the Fianna Fáil party Cllr. J. Brassil acknowledged the excellent work done by the Housing Department on the grant schemes under the stewardship of Mr. Liam Quinlan. Staff are very helpful to councillors with queries for their clients. Mr. Breen and all the staff are very sympathetic to applicants. There is great credit due to the Housing Department for the

efficient way they process these applications. He said he hoped that the allocation received in 2012 would be similar to 2011. Work carried out as a result of these grants is of benefit to local trades people and brings money into the economy and it is not a massive cost to the Government as a result. He expressed his disappointment at the huge decrease in the Capital Allocation for Housing over the last number of years.

Cllr. P. Connor-Scarteen welcomed the report and thanked Mr. J. Breen, Mr. L. Quinlan and all the staff of the Housing Department for the excellent service they provide. These grants improve the quality of the lives of the applicants and the 2011 allocation was the second highest in the country. Because of the large volume of applications consideration should be given to allocating additional staff to this area. This work is welcome for local trades people.

Cllr. D. Healy-Rae acknowledged the improvements to people's lives who receive grants under these Schemes. Houses were adapted and insulated to allow people to live in comfort. He complimented all the staff in the Housing Department, under the Directorship of Mr. John Breen, involved in the processing of applications under these schemes. He hoped that the grant allocation provided in 2011 would be maintained in 2012.

Cllr. T. Ferris said the Housing Grant Schemes are one of the great achievements of this local authority. These grants allow people to continue to live at home and it results in millions of euros being spent in the local economy. She thanked Liam Quinlan for his patience and said it must be very frustrating for the staff in his Department to be dealing with representations from councillors when they should be processing grant applications. She fully appreciated that it better to process the grant applications than to spend time replying to councillors. She had to leave the meeting for a while and for this reason wanted to raise the issue of the Land Aggregation Scheme. While she was not familiar with lands in other towns or villages she was familiar with the lands in Ardfert and said they are of huge strategic importance. No commitment has been given by Government that the local authority will get first refusal on these lands if they go into the Land Aggregation Scheme or that the land would be offered to Community Groups. She was opposed to the surrender of lands to the Government under the Land Aggregation Scheme and she wanted her opposition noted.

Cllr. B. Moynihan-Cronin said she wanted to be associated with the words of appreciation to Mr. Liam Quinlan and the staff in the Housing Department. There are huge demands for the various grant schemes and she asked that additional staff would be allocated for the processing of grant applications. She was aware of one applicant who could not wait for the Investigating Officer to visit and had to proceed with the work. Applicants should be advised that the processing of the application will take a certain length of time and that they should not proceed with the work until approval is received. She asked that additional staff would be allocated to that Department as the need arises. When an application is being acknowledged a time frame should be given for a visit by the Investigating Officer.

Cllr. B. Cronin welcomed the detailed report and said it is important that members thank all involved in the administration of the grants from Mr. John Breen, Director to Liam Quinlan, the administrative and engineering staff. These grant schemes are vital for the applicants and huge improvements were carried out to homes around the county. Many homes have been adapted to make them more accessible and upgraded to allow the applicant to remain at home. In conclusion he said that he hoped funding for these Schemes would not be reduced in 2012.

Cllr. P. Leahy welcomed the report and thanked all the staff involved in the administration of these grant Schemes. He hoped that funding for these Schemes would be maintained.

Mayor T. Buckley welcomed the report and said the importance of these grant Schemes to the people of Kerry cannot be under estimated and he hoped that funding would be continue to be made available for them.

Mr. J. Breen, Director of Housing thanked the members for their compliments to the staff of the Housing Department.

11.12.19.08 Approval of lands for submission to the Land Aggregation Scheme

Mr. J. Breen, Director of Housing and Community and Enterprise read the following report into the record of the meeting.

"Land Aggregation Scheme – Approval of Lands for Submission"

Kerry County Council Housing Directorate has an extensive portfolio of land, much of which was purchased in the last number of years at the behest of the Department of the Environment given the capital funding which was available for the development of Housing Schemes. As you are aware, the capital fund has diminished to the extent that a number of years ago we were receiving close on €21m for the entire County capital development, this reduced in the past year to €2.5m.

Given this reduction in the capital allocation and given the purchase of the land within the last number of years, we are facing a difficulty with regard to servicing of the interest on these loans. This matter has been brought to the attention of the Department of the Environment on a number of occasions and the impending impact on the revenue budgets of Local Authorities generally has been a cause of concern.

Traditionally when a Local Authority acquired land for a housing development it was entitled to roll up the interest for a maximum period of 7 years during which time the proposed housing development would have taken place, the capital would have been received for the development of the Scheme and the interest charge rolled up would also have been discharged as part of this capital development. Given the paucity of the capital development funds at this time this is not occurring and accordingly, the cost of servicing these

loans is beginning to hit the revenue account of Kerry County Council as the maturity date of the loans arises.

The present loans which we hold in respect of lands amount to some €20.489m on our books at this point in time. Already we have €3m of loans for land purchases hitting the revenue account in terms of having to pay the interest cost of the land loans where development has not taken place. A further €4.9m of loans is due to mature in mid-2012 and thus the interest costs will be a charge on the revenue account.

A further €1.6m of loans will reach maturity in mid-2013. The Council has already agreed to the approval of €10.7m in loans to be submitted to the Land Aggregation Scheme and these cannot be submitted to the Department of Environment, Community and Local Government until we reach the maturity date of the loans.

Solutions

At this point we must consider how the interest on these loans is going to be met by Kerry County Council and indeed this is being considered at national level, wherein a recent Circular which was received from the Housing Finance Agency indicating that in conjunction with the Department of the Environment, Community and Local Government, agreement has been reached to allow Local Authorities, if interested, to convert these loans into annuities repayable over a maximum period of 25 years at an interest rate of 2.6%. Otherwise the option of transferring these loans into the Land Aggregation Scheme, whereby they would be fully redeemed and the land would be transferred to the State, must be considered. If we are to retain the lands the costs of servicing the loan interest payments must be met from the revenue budget until such time as development occurs on the land and the interest payments can be removed.

Having considered the matter it is felt that it is financially prudent to request the Members of the Council to consider making an application to transfer these land loans to the State under the terms of the Land Aggregation Scheme whereby the Local Authority will have its land loans and interest repaid in full and thus the impact on the revenue budget is protected. These lands will transfer to the State and in accordance with the terms of the Land Aggregation Scheme may be available to the Local Authority at a future date for development purposes.

Given the land loans which have matured to date, a provision of €177,000 to cover land loan interest must be made in the 2012 budget projections to cover this cost arising. This interest cost relates to 2 portions of land. As outlined, this figure will increase substantially over the coming years to a figure close on €500,000 by 2013 if all the present lands reach loan maturity date.

There is a cost, and a substantially increasing cost, of holding these lands presently. Particularly in holding these lands at a time that the Capital Investment Programme for housing is diminishing and with national policy focused on Leasing and the Rental Accommodation Scheme for the foreseeable future.

Immediate Issues

The immediate issue facing us is to consider those land loans which are maturing in 2012 and which would thus immediately impact on the revenue budget for next year. These are as follows:-

Gortamullen, Kenmare

8.32 acres of land which loan has matured in May 2011. It is proposed to forward this land under the LAG Scheme subject to retention of sufficient land for construction of a Fire Station and Depot at a future date.

Ardfert

8.99 acres located at the rear of the Medical Centre.

Spunkane, Waterville

3.85 acres located to the rear of the existing Kerry County Council development.

Sneem

3.81 acres located at Seaview, Sneem in the townland of Inchinaleega West.

Milltown

2 no. portions of land. 0.89 acres at Miles Lane and 0.64 acres at Bridewell Lane.

Knocknagoshel

0.44 acres in the village of Knocknagoshel.

As outlined, the Council is requested to approve the inclusion of the above lands in the Land Aggregation Scheme. Should the Council so approve, the lands will be forwarded to the Department for redemption once the maturity date has arisen. It is then a matter for the DoECLG to consider acceptance of the proposals and redemption of the loans."

Cllr. J. Healy-Rae said that his Notice of Motion No. 12 refers to this topic and he wished to move it.

12 Proposal to sell off Landbanks

Pursuant to Notice duly given Cllr. J. Healy-Rae PROPOSED:

"To discuss Kerry County Council's proposal to sell off landbanks that are vital for building local authority housing".

The following report issued:

A comprehensive report on this matter is before the Members as an item on the agenda. The consideration of the interest costs of these lands and its impact on the Council's revenue budget at a time of severely diminished capital funding is a matter of concern.

Cllr. J. Healy-Rae said that he was very concerned that lands purchased for housing could eventually be sold by the Department. He asked if the Department would fund the servicing of these loans and allow the land to remain in the ownership of the local authority. He could not see the land being retained by the Department but rather that they would sell it. There are many vacant houses in Sneem, Kenmare and Waterville but these are not in the ownership of Kerry County Council so they will not be available for social housing. He believed that if the members of the Council agreed to submit lands for inclusion in the Land Aggregation Scheme they would regret this decision in time as he believed the land will be sold for far less than what it was purchased. The land owned by the Council in Kenmare is very valuable and while it may not be worth as much now as when it was purchased it will be valuable in 15 years time.

Cllr. P. Connor-Scarteen declared in accordance with Section 177 of the Local Government Act 2001 that he could have a possible beneficial interest in one of the portions of land as his father was involved in it.

Cllr. Connor-Scarteen then left the meeting.

Cllr. D. Healy-Rae concurred with the sentiments expressed by Cllr. J. Healy-Rae and said it would make more sense if the Department provided the money to service these loans. This land is vital for these areas and the vacant houses are not in the ownership of the Council. In the past he requested the Housing Department to rent houses in vacant estates and he was informed that this was not possible as they were not planning compliant.

Cllr. J. Healy-Rae asked if the Council has to pay €½m by 2013 How much would it cost if the loan was spread over 25 years.

Cllr. M. O'Shea declared in accordance with Section 177 of the Local Government Act 2001 that he was involved in one of the portions of land in Milltown and for this reason he would leave the meeting while the item was being discussed.

Cllr. O'Shea then left the meeting.

Cllr. M. Cahill moved Notice of Motion No. 14.

14. Measures to address the Housing Waiting List Crisis in the County

Pursuant to Notice duly given Cllr. M. Cahill PROPOSED:

"What measures do Kerry County Council propose to take to address the housing waiting list crisis in the County".

The following report issued:

Kerry County Council presently has 1,484 qualified applicants on its housing list with a further 273 applications on hand awaiting assessment. The available housing options, as directed by National Housing Policy for the future will be decided through a combination of the Rental Accommodation Scheme, the Social Leasing Scheme, developments by Voluntary Housing Bodies and through casual vacancies.

Whilst the Capital Development Programme has diminished due necessarily to the situation with the National finances, the alternative rental and leasing options are being actively pursued by this Council. Kerry County Council has transferred 712 households on to the RAS Scheme since its commencement. An additional 79 transfers were made in respect of voluntary housing clients. In the current year we anticipate we will meet our annual target of 160 transfers. While the Leasing Scheme has not, to date, provided the units required at a sufficient rate, as Members have been previously advised, this slow pace of delivery is due in the main to difficulties with the build quality of available units along with severe restrictions by the lending agencies being placed on those willing to lease. We are working to overcome these difficulties to ensure a more progressive rate of leased units for 2012. Any details of units available for leasing which Members are aware of should be forwarded to the Housing Directorate and we will follow up on all approaches.

We are continuing to house applicants through casual vacancies arising and to date in 2011, we have allocated 90 homes to those needing accommodation. It must also be remembered that the majority of households who apply and are deemed qualified for social housing are entitled to receive rent supplement from the State and are housed in generally good quality accommodation. In fact, some anomalies are arising where qualified applicants are sometimes not inclined to accept the offer of a home from the Housing Authority as their contribution to the rental cost will increase. This matter is being addressed at national level and recent budgetary changes will seek to align the rent supplement with our Differential Rent Scheme ahead of the proposed introduction of the Housing Assistance Payment in 2013 to be administered by Housing Authorities which will eventually replace the Rent Supplement Scheme currently operated by the Department of Social Protection.

Cllr. Cahill said that members were informed that the solution for social housing will be the Long Term Leasing Initiative. However no contract has yet been signed under this Initiative. He expressed his disappointment that the Long Term Leasing Initiative had not progressed even though he was aware of the difficulties encountered with it. The RAS Scheme was also intended to meet social housing needs but most of the people in this scheme are in Tralee. He would prefer to err on the side of caution and he could not see why this land should be given up when it will be needed in the future. If this

land is submitted to the Land Aggregation Scheme the Council will not have land to meet future demand.

Cllr. B. Moynihan-Cronin concurred with the sentiments expressed by previous speakers and said the Council is in uncharted waters. No houses will be built in the next few years but this land may be needed later on. The inclusion of the lands mentioned in the report in the Land Aggregation Scheme will reduce expenditure by €500,000 and this money could be needed for grants etc. She asked, before a decision is taken on this issue, that clarification would be sought from the Minister whether the local authority would get first refusal on this land in the future. She did not want to see a developer being offered the land at a knock down price, however members must be realistic as the Council cannot afford to keep all this land and to service the loans.

Cllr. J. Brassil said he would be concerned at agreeing the submission of land under the Land Aggregation Scheme at a time when there is a great need for housing in the County. Before taking a decision he would like to see details of the housing waiting list for each of the areas mentioned in the report and how the Council plans to deal with these applications. There are two portions of land mentioned in the report in Milltown and he asked how many people are on the housing waiting list there and how many RAS properties are in Milltown. He was concerned that this land would be sold for a knock down price and he would much prefer to see Kerry County Council owing it. He had a vague recollection that lands were promised for a playground in Milltown and he asked were one of the portions of land mentioned in the report in Milltown intended for this purpose. Without all the information he felt he could not support the submission of lands under the Land Aggregation Scheme. He suggested that the item should be deferred to the January Meeting until further information is provided to members.

Cllr. B. Cronin said that this issue presents a serious dilemma for members. He fully understood the financial burden that Kerry County Council is facing if these loans are retained, however he was concerned there is a reference to the fact that the land 'may' be available to the Council in the future but it does not say that it 'would' be available. If the local authority was given first refusal on this land in the future he would have no difficulty with it. He was concerned that the land maybe sold to a developer at a knock down price. When a new Council is elected following the next Local Elections it is possible that they would be seeking to acquire land for the construction of houses. He would also be in favour of offering this land to local Communities but the difficulty with that is the Council would still be carrying the financial burden. There is reference in the report to the provision of €177,000 to cover land loan interest for 2012 in the Budget and this relates to two portions of land. He asked which two portions it refers to. He understands that Kerry County Council owns 20 acres of land in Farranfore and he asked if this would also be submitted to the Land Aggregation Scheme. In conclusion he asked if a guarantee could be given that if the land the subject of the report is submitted for inclusion in the Land Aggregation Scheme that Kerry County Council would be given first refusal on these lands in the future.

Cllr. M. Gleeson said that Kerry County Council has an extensive land bank throughout the County but now at the behest of the Department it is proposed to submit some of this land for inclusion in the Land Aggregation Scheme. He asked what does this say about the long term planning for social housing and the awareness of the real needs of the people of Kerry over the next 15 years by the Department. He believed that the Housing Leasing Initiative was designed for large cities who have enormous surplus of housing. There is up to 4,000 people on the housing waiting list in Kerry and over what number of years will they have a realistic chance of being re housed? Many estates in the county are not suitable for inclusion in the Long Term Leasing Initiative. It would be more appropriate to identify the needs of Kerry over the next number of years and to identify suitable solutions. He did not want to see money wasted and it would be more appropriate to give clarity to local authorities on what access they will have to this land in the future or will the land be offered to developers. These are legitimate questions that need to be answered. It is imperative that the Department would be advised of the concerns of members regarding the very lengthy housing waiting lists in the county and while he acknowledged that the land is not required immediately it will be required in the future. The Long Term Leasing Initiative has been a total failure for rural Ireland.

Cllr. S. Fitzgerald said that this is a very difficult decision for the members as the Council cannot afford the interest repayments on all the land in their ownership at present. He pointed out that there is some land that will never be used in the next 20 years i.e. the lands on the Connor Pass Road in Dingle. This land is worthless and planning permission would never be granted on it. There are 148 people on the housing waiting list in Dingle and while he was concerned to ensure that they are catered for he acknowledged that 50% of houses in the area are vacant. He asked that qualified applicants would be catered for under the RAS Scheme as it seems to be very popular. In conclusion he asked, if possible, that vacant houses and apartments would be used to cater for those on the housing waiting list.

Mr. J. Breen said that the repayments on annuity loans set out on the report are based on 25 year loans and these will cost €177,000 per annum. If these lands are not transferred to the Land Aggregation Scheme a further €219,000 will be required in 2013. That is on the basis of converting those loans to annuity loans. According to Departmental policy the RAS Scheme and Long Term Leasing Initiative are the way forward to cater for the needs of social housing applicants. Almost 800 people have been transferred to the RAS Scheme since its introduction. In the past 12 months 77 people have been housed as vacant houses became available. In the past year 170 people have been housed under the RAS scheme. While there are substantial numbers on the housing waiting list many are in good quality housing and there is no urgency to house them. A situation has arisen whereby those on Rent Supplement have refused houses because it is costing them less at present. He pointed out that over the last 12 months in excess of 230 families were housed. A very stark choice is now facing the Council in that the financial burden of meeting the repayments on these loans is not sustainable and is having a major impact on the revenue budget. Under the Land

Aggregation Scheme the guidelines state that the land maybe available to the local authority in future. It is also important to point out that many people on the housing waiting list qualify for Rent Supplement and they are happy with their present accommodation. People included in the RAS Scheme are deemed to be adequately housed. He would not like councillors to think that the housing needs of the people of Kerry are not being met as this is not the case.

Mr. T. Curran, County Manager said that this is a very difficult situation and we are the victim of our own success. In the past if we did not have a land bank we would not receive capital funding. Much of this land was bought at peak prices and in good faith. However, the Government cannot now give us capital funding to construct group housing which would allow us to recoup the capital cost of this land. We have very little discretion in our Budget as most of our costs are fixed. The Department is offering us an opportunity to reduce our costs. This land can be retained at the cost of reduced funding for grants for the elderly etc. The cost of loan repayments could be taken from the own recourses allocation for roads or from Councillors Allocations. He said while he would like to think local authorities would be offered first refusal on the land included in the Land Aggregation Scheme confirmation of this has not been received from the Department. He did not think that too many people would be looking to require this land in the short term. The numbers of people on the housing waiting lists for towns and villages can be given to members but he pointed out that many people are only on the waiting list to ensure they continue to get Rent Supplement. He suggested that further consideration of this item could be deferred to the Budget Meeting. If members do not agree to transfer the land the amount of the loan repayments will have to be identified in the Budget. His advice reluctantly is that in order to reduce the revenue demand it would be prudent to avail of the opportunity given by Government and to take a chance that the land will be available in the future. He said it is unlikely that capital funding for the construction of housing will be provided in the next 5 years. He asked members if they wanted to retain the land and pay the interest in the interim. His strong advice is to put the land in the Land Aggregation Scheme to reduce the financial burden on the Council. Many community groups are looking for land in good faith but this will result in a cost to Kerry County Council which we cannot afford. He agreed that the land referred to by Cllr. Fitzgerald in Dingle will never be developed. He also pointed out that it is likely that land for housing will be available in the future at a much lower cost.

Cllr. M. Gleeson asked that the Department would be called on to look favourably on Community Groups who wish to acquire this land.

Cllr. D. Healy-Rae said that he understood the dilemma facing the executive. He asked if there was any more suitable land available for the provision of housing in Dingle.

The County Manager said that the report outlines the land where the loans have to be converted to annuity loans in 2012 and 2013. If all councillors did not want land in their area submitted under the Land Aggregation Scheme a similar list will have to be presented to members next year.

Cllr. J. Brassil said members are willing to work with the executive on this issue. However, it would be helpful if the land mentioned on the report could be matched with the housing waiting list for that area. It would also be helpful to know if the Council owns other land in these areas. If members want to retain this land it will be necessary to look at the entire Budget not just cuts in the Roads Budget etc. It would be more appropriate to deal with this issue in the context of the Budget.

Cllr. J. Healy-Rae said if there is other land in the county similar to the land in Dingle that will not be used it should be submitted for inclusion in the Land Aggregation Scheme immediately.

The County Manager pointed out that this was not an option.

Cllr. J. Healy-Rae said that he feels that land submitted under this Scheme will inevitably be sold by the Department.

Cllr. G. Wharton-Slattery PROPOSED that members would make a decision on this issue at that meeting.

Cllr. B. Moynihan-Cronin said that she would have similar concerns as those expressed by previous speakers however a decision must be made. In her opinion the decision should be made in advance of the Budget Meeting.

Cllr. P. J. Donovan requested that additional information on the housing waiting lists in each of the areas would be provided to members at the Budget Meeting.

Mr. J. Breen said of those on the housing waiting list in Kenmare a substantial number are on Rent Supplement and they are not looking for housing. It would require substantial work to gather all this information and this will take some time. He pointed out that people apply for housing based on where the Council owns land. It is better to use the RAS Scheme and the Long Term Leasing Initiative to cater for the needs of housing applicants as funding is being made available by Central Government for these schemes. A substantial number of people on the housing waiting lists are on it for no other reason than to qualify for Rent Supplement. If the land is given to Community Groups it must still be paid for and the Department are of the view that it is our land and our decision as to whether Community Groups get the land or not. He suggested that the land should be submitted under the Land Aggregation Scheme and that the Department should then be requested to make the land available to Community Groups.

Cllr. M. Gleeson asked if any indication was received from the Department as to whether funding would be provided for the construction of local authority housing over the next few years.

In response Mr. J. Breen said that he understood that funding will not be provided in the next 5 years for this purpose.

Cllr. B. Moynihan-Cronin said all members are concerned for those on the housing waiting list. It is important to point out that the decision of members on this issue would not be the cause of housing applicants not being housed.

Cllr. J. Healy-Rae asked why the council could not advertise the land for sale.

In response Mr. Breen said that the State is prepared to pay the cost of the land to the local authority.

Cllr. J. Brassil said that he had indicated that he was not comfortable to make a decision at that time without the additional information he requested and he PROPOSED that a decision would be deferred to the Budget Meeting when this information is presented to members. In the light of that information he would have no difficulty in making a decision.

Cllr. P. J. Donovan SECONDED this proposal.

Cllr. B. Cronin said the Council is faced with a huge financial dilemma. No group housing will be constructed in the next number of years yet the interest on these loans will have to be paid. A sum of €396,000 will be required for loan repayments for 2012. This is a huge sum of money and when councillors propose that the land would not be submitted for inclusion in the Land Aggregation Scheme will they identify how the loan repayments will be met.

Cllr. D. Healy-Rae said the land at Gortamullen, Kenmare mentioned in the report is the only land owned by the Council in Kenmare and this also applies in Sneem. He acknowledged that there are many vacant houses in Sneem and Kenmare but said they do not comply with planning. For this reason he could not support the proposal to submit these lands for inclusion in the Land Aggregation Scheme.

It was agreed that this matter would be deferred to the Budget Meeting.

The Mayor informed the meeting that it was 2:30pm and the meeting would adjourn for lunch until 3pm.

The meeting resumed at 3:05pm.

Mr. G. O'Brien, Meetings Administrator informed the meeting that Item 14 would then be taken.

Cllr. M. O'Shea then returned to the meeting.

11.12.19.14 Presentation on Broadband availability in Kerry

Mr. B. Looney, Head of IT said that Kerry needs Broadband from a general economic point of view. It is a key business infrastructure which is essential for enterprise development. It allows individuals and SME's to make full use of the web, conduct business electronically and to use Cloud Computing. Broadband improves competitiveness of existing industries and reduces our peripheral status; Dingle is as close electronically to Dubai as to Dublin. Kerry also needs broadband from a tourism point of view, particularly with the growing use of smart phones, tourist apps and on-demand location-aware information services. It is also necessary for education as ICT is playing a growing role in both in school and at home education components. Broadband is essential for future community services i.e. monitored security and cloud CCTV services, eWelfare, wHealth/telemedicine. While the County Council has no direct role in the provision of broadband services, we are the notional owners of the three MAN's in Killarney, Listowel and Tralee (with a spur to Castleisland). The Council and Manager are active in Enterprise development and we have an enabling role to play infrastructure development through the planning process (CDP). The Council can also feed back into and influence central Government. The reason for the presentation is that councillors received complaints from citizens and businesses because they have either no Broadband service or the Broadband service is unreliable/inconsistent or the speed is unsatisfactory. The difficulty in Kerry, in relation to the provision of broadband, is as follows:

- Topology – mountainous terrain, peninsulas
- Population Density – rural dwellings
- Backhaul – links to isolated towns/capacity
- Costs for delivery of service
- Reliability and Speeds
- Planning and Infrastructure (Fibre, Copper, Masts)
- Not just a problem in rural areas as there can be a problem off the MAN'S in our towns too.

The Community and Voluntary Forum undertook a survey in May /June 2011 and the results concluded:

- The lack of reliable Broadband coverage in many areas
- Speeds are below those in other parts of the country
- There is a reliance of small private operators.

However the survey did not pinpoint:

- exact locations where Broadband was unavailable or erratic.
- The service provider in each case
- The contracted service level in each case
- The actual services quality statistics

Mr. Looney then briefed members on Broadband technologies and speeds available together with the providers of each of the services. He informed the meeting that fibre based MAN's in Killarney, Listowel and Tralee (including a link to Castleisland) were completed in February 2008. Tralee and Killarney MAN's have a large number of customers active making them amongst the most successful of the Phase II MAN's in the Country. The following are the users of these services:

Tralee MAN

- Institute of Technology Tralee (North and South), Mercy Secondary
- FÁS, Garda, Kerry County Council (Rathass)
- HSE Kerry General Hospital; HSE Offices Edward Street; Bon Secours
- Kerry Group; ESB Tralee; Kerry Technology Park; Imagine (WiMax backhaul)

Killarney MAN

- Department of Justice; Department of Arts and Heritage
- HSE – Columbanus Hospital, Fáilte Ireland
- Monex, Quality Hotel, Smart/Digiweb, Gleneagle Hotel

Castleisland MAN

- Kerry County Council, KerNet

Listowel MAN

- Go Safe

Mr. Looney said that a further number of potential customers are also awaiting connection to these MAN's. In December 2008 "3" were announced as preferred provider under the National Broadband Scheme with a mandate to provide –

- Affordable, scalable broadband services, to electoral divisions deemed to be without adequate broadband services
- 3 broadband services to all residences and business that fall within the NBS coverage area

The following is 3's broadband level of service by 1st July, 2010

- Minimum download speed 1.6Mbps
- Minimum upload speed 1.2Mbps
- Maximum contention ratio 22:1

Mr. Looney then displayed a map which showed the National Broadband Scheme coverage plan by DED. He displayed a map showing the National Broadband Scheme actual coverage map which falls far short of the original plan. Mr. Looney briefed the meeting on the various ISPs available. He informed the meeting that Kerry County Council proposed to undertake a detailed Online Survey in early 2012. He asked councillors to encourage business and citizen participation in the survey. It is hoped that this survey will be aided by Broadband vendor/ISP participation. The survey will require users to select their precise area on the map, and select their service provider

and package. The results of the survey will be formulated and presented to Council and other stake holders. It is intended to use the information from the survey to lobby Government and Vendors. He believed that this survey was likely to show infrastructural deficits in the County. It is hoped that as a result of the survey there will be a change in policy.

Cllr. B. Moynihan-Cronin said there is a major problem arising from an inadequate Broadband service in the Muckross area in Killarney. Many of the tourism businesses in this area rely on it. She understood that an exchange at Molly Darcy's was not enabled and it would cost just €10,000 to connect this exchange which would result in a huge improvement in the quality of broadband in the area. The company in question should be contacted and asked why this exchange has not been enabled.

Cllr. P. Connor-Scarteen then returned to the meeting.

Mr. B. Looney said there is a mini exchange in this area that has not been upgraded. Eircom owns this exchange and he understood it is unlikely to be upgraded in the near future. It maybe worth writing to Eircom to point out that there are a lot of customers in this area interested in improved broadband and they may consider upgrading it.

Cllr. JJ. Culloty welcomed the proposed survey and said it should identify that there are pockets in the County that do not have an adequate service. He said councillors would be willing to help and he hoped it would improve the availability of an adequate broadband service in Kerry.

Cllr. M. Cahill welcomed the presentation and said there were complaints during the Irish Open in Killarney last year about the quality of broadband available. He was advised by those involved in the hotel industry that they also received complaints. It should be pointed out that the importance of conferences to this industry cannot be understated and for this reason it is vital that high speed broadband is available. He asked if there were any updates on Second Generation broadband.

Cllr. M. O'Shea welcomed the presentation and said he understood Universal Broadband was to be rolled out. However a recent meeting of the South West Regional Authority was informed that this would not happen. Niall Quinn's Company has been canvassing rural areas and he asked if this Company could be utilised to provide Broadband in remote areas.

Cllr. P. McCarthy asked Mr. Looney if he was working with the IT Tralee as they may be of assistance in carrying out the survey.

Mr. Looney said that he was available to discuss the survey with anyone including staff in the IT. It is intended to carry out this survey online and assistance is required from the vendors if the survey is to be a success. Niall Quinn's Company is called Q Sat and they are selling satellite Broadband. This method does address areas where no Broadband is available at present. It is possible that the Government would fund the provision of Broadband in

these areas by this means in time however, it is more expensive. He then referred to the Universal Programme and said that Programme did not take off.

Mr. J.D. Flynn, Director of Corporate Services, said that he understood members were in agreement that the survey should proceed.

This was unanimously agreed.

11.12.19.09 Takeover of Group Water Supply Scheme

Mr. O. Ring, Director of Environment and Water Services referred members to report dated 2nd December, 2011 on this item which was circulated. He briefed them on the report.

On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. R. Beasley it was agreed to approve the takeover of the Banemore No. 2 Group Water Supply Scheme in accordance with Section 95 of the Water Services Act 2007.

11.12.19.10 Report on the operations and activities of LAMA

It was agreed to note Cllr. P. Leahy's written report on the Local Authority Members Association which was circulated.

11.12.19.11 Change in the membership of the Kerry County Enterprise Board

Mr. G. O'Brien referred members to his report dated 13 December 2011 on this item which was circulated and he briefed them on the report.

It was agreed to note that Cllr. A. McEllistrim would replace Cllr. N. Foley on the Kerry County Enterprise Board from January 2012.

11.12.19.12 Dates for the next round of Electoral Area Meetings

- (a) On the PROPOSAL of Cllr. P. McCarthy, SECONDED by Cllr. G. Wharton Slattery it was agreed that the next Tralee Electoral Area Meeting would be held on Monday 6 February 2012 at 11.00am in the Council Chamber, County Buildings, Tralee.
- (b) On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. J.J. Culloty it was agreed that the next Killarney Electoral Area Meeting would be held on Thursday 9 February 2012 at 10.00am in the Town Hall, Killarney.
- (c) On the PROPOSAL of Cllr. R. Beasley, SECONDED by Cllr. T. Buckley it was agreed that the next Listowel Electoral Area Meeting would be held on Monday 13 February 2012 at 10.00am in Áras an Phiarsaigh, Listowel.

- (d) On the PROPOSAL of Cllr. P. Connor-Scarteen, SECONDED by Cllr. M. Cahill it was agreed that the next Killorglin Electoral Area Meeting would be held on Friday 17 February 2012 at 10.30am in Caherciveen.
- (e) On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. M. O'Shea it was agreed that the next Dingle Electoral Area Meeting would be held on Wednesday 22 February 2012 at 10.30am in Brandon.

11.12.19.13 Report by Cllr. P. McCarthy, Chair of the Economic, Planning and Development SPC

Cllr. P. McCarthy read the following report into the record of the meeting.

"A meeting of the Planning & Economic Development SPC was held on the 16th December 2011. The following major issues were discussed.

(1) Quarries

Members were advised that Section 261A of the Planning & Development Act 2000 commenced on the 15th November 2011. A Notice to that effect was published in the 'Kerryman' newspaper on the 7th December 2011 and interested parties have until the 27th January 2012 to make a submission on any quarry in this area.

The Planning Authority has **9 months** to examine every quarry in the county and either:-

- (a) *issue a Notice stating that an application for substitute consent be made to An Bord Pleanala,*
- (b) *issue a Notice that the Council intends to issue an Enforcement Notice, or,*
- (c) *decide that no further action is necessary on behalf of the owner/operator.*

Decisions/determinations made by the Council can be appealed to An Bord Pleanala.

(2) New Planning Regulations

Members were briefed on the provisions of the Planning & Development (Amendment) Regulations 2011 (SI 454 of 2011).

Projects affected are:-

- (1) The restructuring of rural land holdings
- (2) The use of uncultivated land or semi-natural areas for agriculture
- (3) Drainage of wetlands.

The first two categories have now been removed from the planning process and are to be dealt with by a consent system to be operated by the Department of Agriculture (SI 456 of 2011). The drainage and reclamation of 'wetlands' is retained within the Planning system.

The exemption relating to 'wetlands' is being reduced from 20ha to 0.1 (that is the area above which a planning application is required). Also the threshold for mandatory EIA for such works is reduced to 2ha.

The Members expressed concern regarding the definition of 'wetlands' as included in the Guidance Document issued to Planning Authorities and also the fact that such 'wetlands' are not identified on any maps available to local authorities or the general public. They requested that these matters be brought to the attention of the Department.

(3) Material Contravention

It was agreed that where more than one Material Contravention arises in respect of the development of a particular site that a fee of €1,000 be charged to defray the costs in view of the benefits accruing to the applicant."

Cllr. M. O'Shea referred to the Planning and Development (Amendment) Regulations 2010 and said they are detrimental for farming. The critical issue will be the interpretation of the term 'wetland' as he believed it would apply to all land including good agricultural land. He was surprised that farming organisations and MEP's were not highlighting this issue.

Cllr. B. Cronin then moved Notice of Motion No. 3 as it relates to this topic.

3. Report on unauthorised quarrying in the County

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

"To ask for a detailed report on all unauthorised quarrying in the County over the past 12 months. Where investigations or enforcement actions have taken place, please clarify the location of any such quarries and if Kerry County Council have purchased any material from these operators".

The following report issued:

In March 2011 the Council were presented with a report in relation to unauthorised quarries in the County. That report highlighted difficulties that had arisen regarding the enforcement of planning conditions attached to quarries registered under Section 261 of the Planning & Development Act 2000. The report also highlighted that new legislation in the form of the Planning & Development (Amendment) Act 2010 to deal with this lacuna in the law and also to address difficulties arising from a European Court of Justice ruling on retention applications had been passed by the Oireachtas but had not yet commenced.

The relevant sections of the legislation were commenced on 15th November, 2011. A Notice to this effect appeared in “The Kerryman” newspaper on 7th December, 2011. This places an obligation on a Planning Authority to inspect all quarries in its area over the next 9 months and to establish their status in the light of this legislation. Some quarry owners will be required to apply for “Substitute Consent” to An Bord Pleanála to regularise their operations. However, others may not meet the criteria for substitute consent and will be subject to enforcement proceedings by this Authority.

The legislation also deals with the non-enforceability of conditions attached to quarry registrations and has also removed the 7 year limit which normally applies to the taking of enforcement proceedings.

Having regard to the above the following table sets out details of enforcement action taken by the Council over the last 12 months.

December Ordinary Meeting 2011

Planning Ref.	Name of Quarry Owner	Address of Quarry	Registered under Section 261 Y/N	Enforcement Action during 2011?	Comment	Did KCC purchase material from this operator?
U 032-07	(Name withheld for data protection purposes)	(Address withheld for data protection purposes)	Y Plan Reg. No. 06/2419 also refers	Yes. Site monitored. Very little activity on site.	Referred to Co. Solicitor for Section 160 legal proceedings July 2009. Proceedings deferred pending review under Plan & Dev. Act 2010.	NO
U036-07	(Name withheld for data protection purposes)	(Address withheld for data protection purposes)	N	Yes	Enforcement Notice July 2011. Referred to Co. Solicitor for Section 160 legal proceedings Oct. 2011.	NO
U180-06	(Name withheld for data protection purposes)	(Address withheld for data protection purposes)	N	Yes	Enforcement Notice served Jan. 2011. Quarry closed but not reinstated	NO
U203-02	(Name withheld for data protection purposes)	(Address withheld for data protection purposes)	N/A PI Ref 05/4169	Yes	Enforcement Notice served June 2011	YES
U264-10	(Name withheld for data protection purposes)	(Address withheld for data protection purposes)	N	Yes	Enforcement Notice served May 2011	NO

December Ordinary Meeting 2011

U301-08	(Name withheld for data protection purposes)	(Address withheld for data protection purposes)	N	Yes	Referred to Co. Solicitor for Section 160 legal proceedings Nov. 2011	NO
U241-07	(Name withheld for data protection purposes)	(Address withheld for data protection purposes)	N	Yes	Referred to Co. Solicitor. Quarrying ceased. File closed Oct. 2011	NO
U091-10	(Name withheld for data protection purposes)	(Address withheld for data protection purposes)	N	Yes	Enforcement Notice served Oct. 2011	NO
U254-08	T & A Randles Ltd.	(Address withheld for data protection purposes)	Y	No	Quarrying within registered area. Quarrying of unauthorised area has ceased.	YES
U383-00	(Name withheld for data protection purposes)	(Address withheld for data protection purposes)	N	No	Unauthorised quarry. Currently being reviewed in light of changes introduced in Plan & Dev. Act 2010	NO

December Ordinary Meeting 2011

Cllr. B. Cronin said that there were a number of loopholes that prevented the taking of enforcement action to ensure that conditions are adhered to. Quarries are necessary for the materials they produce and he fully supported properly run quarries. There are difficulties where quarries do not adhere to the conditions imposed. This is a concern for adjacent home owners as some quarries work late into the night in the summer months. There are also issues for adjacent farmers as a quarry can encroach on their land. Sometimes the road network servicing a quarry is not maintained. He did not think it was appropriate that Kerry County Council would purchase material from a quarry that was not complaint as the Council is the policing body. He noted from the report that the Council purchased material from two quarries at a time when enforcement issues were being addressed. In one case in Coolcashlagh South West residents complained to the Council that a stream was being diverted. He asked if these complaints are being investigated. He welcomed the removal of the seven year limit which applied to the taking of enforcement proceedings as this is very important. He said that he is in favour of quarrying which has proper planning and where neighbours can live with the development. He asked why the Council was purchasing material from two quarries that were not compliant.

Cllr. D. Healy-Rae also expressed concern regarding the new Planning and Development Regulations which require farmers to apply for permission to improve their land. This law was enacted by two Ministers who refused to allow a debate on it in the Dáil. This will impact seriously on farmers who want to carry out improvement works to their land which they deem necessary. Under this legislation they are now being denied that right. On Radio Kerry Teagasc announced that land in excess of 5ha only would require permission but the Planning Department says that this is incorrect and that anything in excess of 0.01ha will require permission. He asked if Kerry County Council will be carrying out inspections under this legislation. He pointed out that these provisions apply to all bogland. In conclusion he said this was unfortunate and unnecessary legislation.

Mr. M. McMahon said over the years no part of Planning Enforcement was more difficult than dealing with quarries and many cases ended up in the High Court. The Planning & Development Act 2000 introduced Section 261 which required all quarries to be registered with the planning authority when that section was enacted in 2004. In time it emerged that Section 261 was inappropriately worded and this was addressed in the Planning and Development Act 2010. To enable the planning authority to deal with the issue of quarries it was necessary to remove the seven year exemption clause. The European Court of Justice declared that it was inappropriate for Ireland to be granting retention where no EIS was done. Section 261(a) is giving an opportunity to quarry owners who have not regularised their position to apply to An Bord Pleanála for substitute consent. Such an application must be accompanied by a remedial EIS. All quarries must be inspected and a determination must be made on what action, if any, the quarry owners must take. Any quarry owner who failed to register under the Planning and Development Act 2000 will not be afforded the opportunity to do so now. A

dedicated unit has been established to do this work over the next 9 months. Any decision made by the planning authority can be appealed to An Bord Pleanála. The planning authority's initial decision on quarries must be made within a nine month period. A report outlining the enforcement action taken was circulated to members. He referred to Planning Ref: U203-02 (name withheld for data protection purposes) and said that permission was granted for this quarry in 2005 but certain conditions were not complied with. For this reason an Enforcement Notice was served. A system is in place when a quarry does not comply with planning conditions they are advised that the Council will no longer purchase material from them and if they do not comply they are taken off the list of suppliers. In the case of T & A Randles unauthorised development extended beyond the area registered and this unauthorised section was subsequently closed off. Quarrying is now taking place only in the area permitted. The area beyond the permitted area will now be assessed and a decision will be taken on whether the owner can apply for substitute consent or not. He referred to Cllr. Cronin's query regarding complaints about a quarry in Coolcashlagh and he confirmed that this complaint is being investigated.

Cllr. B. Cronin asked if adjoining residents have a right to make a submission if an application for substitute consent is made to An Bord Pleanála.

In response Mr. McMahon said that the Notice that appeared in 'The Kerryman' newspaper on the 7 December 2011 indicated that an individual can make a submission and the closing date is 27 January, 2012.

Cllr. D. Healy-Rae said a number of people operating quarries legally have indicated because of the standard required of them and because of the expense involved they will not be continuing in business. This could result in an increase in costs to the Council.

11.12.19.14 Opening of Tenders

On the PROPOSAL of Cllr. P. Connor-Scarteen, SECONDED by Cllr. P. O'Donoghue it was agreed to approve the opening of tenders for Knightstown Harbour Marina Development (Pre-Qualification Process): Closing Date – Tuesday 20 December, 2011 at 4.00pm.

11.12.19.16 Notices of Motion

1. Eradication of Ragwort

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

"That the Council would, in the preparation of the Book of Estimates for 2012, make financial provision for a comprehensive programme of Ragwort (Buachallán Buí) eradication along the roadsides in the County. Its continued proliferation, in breach of the Noxious Weeds Act, is a health hazard to animals and a disrespect to the Law of the Land".

The following report issued:

Kerry County Council maintains 4,717 km of roads in the County, including 430km of national roads, 530 km of regional roads and 3,757 km of local roads.

The maintenance budgets for both the National and the Non-National Roads have been falling dramatically since 2008 and in the case of National Secondary Maintenance, the 2011 allocation was a 10 year low - with a continuing downward trend.

In 2008, the National Roads Authority, recognising the provisions of the Noxious Weeds Act, allocated separately the sum of €150,572, on top of our normal maintenance allocation, for the control of Ragwort. However, this allocation was suspended indefinitely in 2009.

The occurrence of Ragwort is an issue countrywide. Ragwort is poisonous to herbivores, when grazed or consumed in hay or silage. Landowners are continuously reminded of their obligation under the 1936 Act by the Government and agencies such as Teagasc. Where herbicides are used for the control of Ragwort, up to mid March is the most appropriate period of year for treatment.

The Area Staff carry out a limited programme of spraying on areas of roadside where Ragwort proliferates.

The National Roads Authority has published their Guidelines on "The Management of Noxious Weeds and Non-Native Invasive Plant Species on National Roads". This is a very informative and comprehensive document and the Area Engineers will refer to this when formulating their maintenance programs for 2012.

Cllr. M. Gleeson read the following into the record of the meeting:

"It is shameful that Local Authorities all over the country annually flaunt the law by allowing Ragwort to thrive unchecked along roadsides. It is even more of a disgrace that the NRA along the dual carriageways, especially the one from Naas into Dublin, allow the weed to proliferate.

Ragwort, better known in my part of the country as 'Geosatán' is a very poisonous plant and has killed animals including a horse belonging to my parents. We are in receipt of regular lectures from Ministers about the consequences of disobeying the Law. To have the State directly itself and indirectly through Local Authorities blatantly ignoring the Law is shameful and grossly hypocritical.

Let this county set an example in 2012 and ensure that the weed is not allowed to flower."

Cllr. Gleeson said the report states 'Landowners are continuously reminded of their obligation under the 1936 Act by the Government and agencies such as Teagasc' yet the State is not adhering to the Law. He added that a wonderful job was done on controlling this weed on the N22 two years ago and it is important that this plant is not allowed to flower otherwise the seeds will spread.

Cllr. G. Wharton Slattery **SECONDED** the motion.

2. Review of Tendering Process

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

"That Kerry County Council engages upon a more transparent tendering process whereby particulars of prices for tenders, where the tender eventually accepted is for a sum in excess of €50,000, would be published in the Council website excluding by necessity the names of those who submitted the tenders. This would result in a more transparent tendering process in the interest of all concerned".

The following report issued:

Kerry County Council currently advertises all tenders in excess of €25,000 for supplies and services and in excess of €50,000 for works, (which are the national guidelines) on the National eTenders website, www.eTenders.gov.ie. All tenders are received via the Corporate Services Section and strict procedures are adhered to with regard to opening of tenders, the evaluation process and informing successful and unsuccessful Tenderers. Unsuccessful tenderers receive a breakdown on the number of marks awarded under the various headings for the Award Criteria and also those of the successful Tenderer. They are also informed of the number of tenders received and their ranking. For tenders exceeding the EU thresholds, a standstill period commences on the date after issuing the successful and unsuccessful letters/emails/faxes.

A review of procedures in early January 2012 will ensure that all successful tenderers are published on the 'Contract Awards' page of the www.etenders.gov.ie website which outlines the successful tenderer's name and value of the contract. It is our intention to set up a new page on the Kerry County Council website linking it directly to the www.etenders.gov.ie website. In relation to the releasing of prices of unsuccessful tenderers (names excluded), on the basis of the information available to us at present we are of the view that it would not be possible to publish the details of the unsuccessful tenderers, however we intend to seek legal advice for absolute clarity on the matter.

Cllr. P. O'Donoghue said a more transparent system is required as the public need to have confidence in it. He was not advocating that the tenderer's names would be published but rather the details of each tender. The reason the lowest tender was not awarded the contract

should also be stated. He was not suggesting that proper procedures were not followed but the public and councillors have a right to this information. He welcomed proposals to publish the name and value of tenders from January 2012. Cllr. O'Donoghue referred to the sale of the Refuse Collection Service and said members were informed that there would be no changes to the routes prior to 2013. Within a week of the sale of the service customers received a letter advising them the service would be fortnightly. He expressed his disappointment that Management did not advise members of this change. In a rural area customers brought one bin to a collection point but now they must bring both bins. In conclusion he said Management owed members an explanation on why this happened.

Mr. J.D. Flynn, Director of Corporate Services informed the meeting that the Office of the Information Commission has advised as follows:

"In relation to the identity of the unsuccessful tenders, I would draw a distinction between this and the information about the company to whom the contract has been awarded. While any possible harm to the successful company would be likely to be outweighed by the benefits of being awarded the contract, the unsuccessful companies are not in this position; they are not being paid public money. My finding is that release of the identities of the unsuccessful tenderers would not enhance the public interest in openness and transparency in public expenditure."

Cllr. O'Donoghue said he was not talking about the identity of the tenderer only the price.

Ms. A. McAllen said in relation to the criteria she would like to get legal advice as it would be necessary to comply with competition law and she wanted to ensure the Council would not be exposed to a legal challenge. She said she would revert to the members on this issue in due course.

5. Reinstatement of Funding for the Kerry Network for People with Disabilities Office

Pursuant to Notice duly given Cllr. P. Connor-Scarteen PROPOSED:
"That Kerry County Council support the Kerry Network Office for people with disabilities and call upon the HSE and Department of Justice and Equality to reinstate funding for the running of such centres".

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

Cllr. P. Connor-Scarteen said he was opposed to the closure of the Kerry Network Office for People with Disabilities on the 31st December. In Kerry five people work in this office under North and East Kerry Partnership. They provide an excellent service for people with disabilities and mental illness. It costs €900,000 to run this service

countrywide per annum with €550,000 of this spent in the Head office in Dublin. This leaves just €350,000 for the rest of the country to cover the cost of rent, salaries etc. He called on the Department of Justice, Equality and Defence to restore this funding.

Cllr. G. Wharton Slattery supported the motion and said the people around the country are being penalised for what happened in the Dublin office. She believed the Kerry Network can continue if they get support from other agencies. This office has done a lot of very good work in the area of mental health. She asked that a letter would issue to the Minister for Health calling on him to use some of the budget for mental health to fund these offices.

Mr. G. O'Brien informed the meeting that Notice of Motion Nos. 6, 8, 17 and 23 would be taken together.

6. New legislation on Septic Tanks

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

"To ask the Director of Environmental Service to explain in detail the "fine print" of the new Septic Tank Legislation which will affect over 40,000 families in the County and also which EPA guidelines will be applied under the Act".

The following report issued:

Details of the legislation as proposed have already been presented to each of the Electoral Area Meetings. The Water Services (Amendment Bill) 2011 is currently going through the Oireachtas but the details of how the legislation will actually affect septic tank owners must await the making of Regulations by the Minister. It is proposed to brief the Members on the details of the Regulations when they become available.

Cllr. T. Ferris requested a copy of the report presented at the Electoral Area Meetings as outlined in the report.

Mr. O'Brien undertook to forward a copy of this report to Cllr. Ferris.

Cllr. M. O'Shea said this legislation will cause major difficulties in Kerry and Clare as these counties have the most septic tanks. This is unfair on the people of rural Ireland. People are already under huge pressure financially with mortgages, the Household Charge and now this charge. No one condones pollution of drinking water but he wanted equality. The Government funds public sewerage schemes but no grants are available to rural dwellers. Pre 1963 there was no requirement to apply for planning permission. Permissions granted between 1975 and 1990 had to meet the requirements of SR6 which set out the standard for a septic tank and soak pit. Following this a percolation area was required with a septic tank. It is rumoured that the Minister will require the standard that applied from 2000 to 2009, i.e. mechanical system and polishing system

for all septic tanks regardless of how the present system is working. There are a lot of unanswered questions i.e. what happens if the site is not big enough. It is said that it will cost up to €17,000 to install a mechanical system and polishing system and to reinstate lawns etc. Will planning permission be required for this work? Will those living close to an SAC have to do an EIS? Will Council employees carry out the inspections? He asked if the income from the €50 Registration Fee and €200 fee for re-inspection would cover the real cost of inspections. A person who does not comply with a notice to upgrade their system could be fined €5,000. It is said there are 44,000 septic tanks in Kerry and the registration fee for these will amount to €2m. There is no appeal system if the owner feels aggrieved. The only recourse open to them is to appeal to the District Court. He called for the introduction of some form of Grant Scheme to assist home owners who have to upgrade their system. These people applied for permission and complied with the conditions of planning at the time and these new requirements are very unreasonable. He pointed out that in excess of 50% of towns and small villages do not have an adequate sewerage schemes. It is up to the members to defend rural dwellers and to seek the introduction of a grant. He PROPOSED that Kerry County Council would condemn this Bill until all people are treated fairly.

Cllr. J. J. Culloty SECONDED this proposal.

8. Funding for private wastewater systems for domestic dwellings

Pursuant to Notice duly given Cllr. J.J. Culloty PROPOSED:

“That this Council notes that €1.5bn will be invested in the next 4 years in water and wastewater services and that a proportion of this should be provided for private wastewater systems for domestic dwellings”.

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

Cllr. J.J. Culloty called on the Minister to put a Grant Scheme in place to assist home owners in upgrading their present system. He believed the majority of septic tanks are not causing pollution. The cost involved in installing a mechanical system with a polisher can be exorbitant, up to €17,000. Every public sewerage scheme is funded from public funds and it is not reasonable that a private individual would have to pay the full cost themselves. It should be possible to identify those causing pollution and to provide grant aid for them. A recent article in a newspaper said that a study carried out by Fingal County Council in 2005 showed there was pollution in the sea in Portrane. As a result a further study was carried out at a cost of €10m and this was rejected by the members of Fingal County Council. Tests taken from the sea at Portrane in 2012 again failed to meet the Bathing Waters standard and this issue has not been addressed. Yet it is now proposed to target rural areas where there is no proof of pollution. At a recent public meeting in Scartaglin on this issue there was real fear among the people in

attendance at the financial implications for them. Rural Ireland is being discriminated against, Post Offices are closing, schools will be closed, the community nursing facility in Gneeveguilla was closed over night without any explanation to the people that availed of the services there.

17. Funding for Grants to upgrade Septic Tanks

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

“That this Council again request the Minister for the Environment, Community & Local Government to provide grant aid to assist house owners where substantial works are required to upgrade septic tank/percolation areas”.

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

Cllr. B. Cronin said there is a lot of fear and anger among people in rural areas regarding proposals for septic tank inspections etc. At the recent public meeting in Scartaglin these were aired and ironically there is no proper sewerage scheme in Scartaglin. Public schemes should be funded and put in place before septic tanks are targeted. The European Court of Justice made a ruling on this issue 3½ years ago when Minister Gormley was in Government. He PROPOSED that the Minister would introduce a grant scheme to assist home owners with the cost of upgrading their treatment system. This scheme should be introduced immediately as the proposed regulations are likely to be passed by the Oireachtas shortly. The only county exempt from these regulations is Cavan who addressed this issue in 2004. Apparently they have a system that is acceptable and this should be used as a template for the rest of the country. The Farm Waste Management Scheme resulted in huge improvements to water quality. A grant scheme will be necessary where substantial works are required. It is questionable if a property owner was taken to Court under the provisions of this legislation that they could be fined when they complied with the conditions of their planning permission.

23. Proposed Septic Tank Inspections

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

“To ask Kerry County Council if they are aware of the anger and anxiety of the people in rural Kerry towards the proposed private septic tank inspections as they resent the thought of officials trodding on their private property and they also highlight the glaring unfairness of the fact that Kerry County Council's Environment Section does not have its own house in order as many public sewerage systems are not properly dealing with the disposal of sewerage and indeed many urban areas and villages don't have any public sewerage systems thus resulting in serious pollution. This proposal as it stands is another attack on rural Kerry and indeed Ireland”.

The following report issued:

Management of Kerry County Council are aware of the concern of the public in relation to this matter. However, the proposed septic tank registration and inspection regime are a necessary result of a European Court of Justice ruling which was concerned with the protection of the environment and particularly, the protection of ground water. Ireland faces the certain prospect of heavy fines if it does not comply with the ruling.

The Water Services (Amendment Bill) 2011 is currently going through the Oireachtas but the details of how the legislation will actually affect septic tank owners must await the making of Regulations by the Minister. It is proposed to brief the Members on the details of the Regulations when they become available.

Cllr. D. Healy-Rae said this is a very serious problem for people living in rural areas especially when the local authorities are the biggest polluters. The sewerage scheme in Kilgarvan was provided in 1925 for 20 houses and it has not been upgraded since. Members were asked to adopt a new Development Levy Scheme and he voted for it because he wanted the Kilgarvan Sewerage Scheme and others upgraded. It is unfair to target rural dwellers at a time when many public schemes are totally inadequate. Kilgarvan and Scartaglin do not have any treatment system. He would have no difficulty if there was pollution of a river and it was traced to a house then remedial works would have to be carried out. He said this proposal should be deferred until the economic climate improves.

Cllr. T. Ferris said she voted against the Development Levy Scheme. This issue was discussed in the Dáil recently at which time her colleague proposed 47 amendments. These included that a grant scheme would be put in place, no registration fee would apply and guidelines to be in place when planning is granted. The vast majority of T.D.'s voted against the amendments. Now that the regulations are being considered in Committee there is an opportunity to put these amendments forward for inclusion. All Oireachtas members should be contacted to lobby them to ensure these amendments are included. The vast amount of property is in wetlands and it could cost €17,000 to provide the necessary upgrade. If the works are not carried out by the owner the local authority will be authorised to do the work and recover the cost. There is provision for fines of up to €5,000 and the Fines Bill being introduced next Spring will allow fines to be deducted from the source of income. We must ensure that this legislation is not passed. She said Kerry County Council has a database of septic tanks from permissions granted. Another cause for concern is that a person with certain qualifications can pay a fee of €1,000 to be included on the list of inspectors. A similar system was put in place for planning in the past and it was problematic. She understood that Minister Hogan has indicated privately that the Guidelines will not be too strict. However, no matter what reassurances Minister Hogan gives they are no good unless they are included in legislation.

Cllr. M. Cahill said this is a huge problem and the public feel very aggrieved. In some instances buildings were erected over septic tanks. In response to a recent Parliamentary Question on this issue Minister Hogan did not rule out grant aid.

Cllr. P. Connor-Scarteen concurred with the sentiments expressed by previous speakers. He agreed it is imperative to have good quality water and the EU legislation leaves the Government with no choice but to introduce some measures. However people with septic tanks are very fearful and more detail on proposals should be made available. He agreed that some form of grant scheme should be introduced and he called on the Government to be fair.

Cllr. P. O'Donoghue said some sites cannot comply and cannot be rectified. Will the home owners be asked to move out of their home? The practical application of these regulations will be very difficult. He questioned the rights of anyone to dig trial holes in private property if they do not have the permission of the owner. He PROPOSED that the members call on the Minister to halt the progress of the legislation until proper grant aid is in place.

Cllr. M. O'Shea SECONDED this proposal.

Cllr. G. Wharton Slattery said if a database of septic tanks is in place this should be brought to the attention of the Department.

In response Mr. O. Ring, Director of Environment and Water Services said that local authorities are not the biggest polluters in the country. Septic tanks are causing pollution. It is the RAIA that said it could cost €17,000 to install a mechanical system with a polishing system and not the Department.

Cllr. T. Ferris then moved Notice of Motion No. 7 on behalf of Cllr. R. Beasley.

7. Loss of Beds in Listowel Community Hospital

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

"That Kerry County Council is alarmed by the news that Listowel Community Hospital could be losing anything from 8 to 16 beds because of the recruitment embargo and retirements and calls on the Fine Gael and Labour Government to end the assault on our frontline health services in Kerry which are having a devastating impact on our most vulnerable citizens".

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

9. Extracting Fluoride from Public Water Supply

Pursuant to Notice duly given Cllr. T. Ferris PROPOSED:

“That this Council calls on the Department to cease the practice of adding flouride to our public water supply”.

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

Cllr. T. Ferris said she tabled this motion on behalf of the members for the Tralee Electoral Area. It is said there is a link between cancer and fluoride in water. It is also said it impacts on the need for hip replacements. She called on the Department to cease the practice of adding fluoride to public water supplies from an economic and health point of view.

Cllr. G. Wharton Slattery said people have no control over what is going into their body when fluoride is added to public water supplies. She asked who is monitoring the addition of fluoride to public water supplies. She asked that consideration would be given to reducing the level of fluoride in public water.

Mr. O. Ring said Kerry County Council adds fluoride to water supplies on behalf of the HSE. The amount added is strictly controlled and it is a low dosage. Ten years ago the then Minister for Health, Mr. Micheál Martin set up a Forum on fluoridation and they recommended that fluoridation would be continued at a lower level. At that time eminent people debated this issue in public for 18 months and then made their recommendation.

Cllr. T. Ferris said three years ago a Forum in Northern Ireland recommended that fluoridation be discontinued.

Mr. G. O'Brien said with the co-operation of the members it would be more appropriate to deal with Motions 10, 11 and 28 at the Budget Meeting.

Cllr. D. Healy-Rae said he had serious concerns for consumers on this issue. Much of the waste collected in Kerry is going to Limerick which he understood is almost full. If waste has to be transferred further up the country it will result in increased cost to the customer. He asked that every effort would be made to be more competitive in the cost per tonne at Muingaminnane to ensure that waste collected in Kerry is disposed of in Kerry.

13. Provision of improved sight line at Glounanea Junction, Mastergeeha, Kilcummin, Killarney.

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

“That Kerry County Council carry out works to improve sight line at Glounanea Junction, Mastergeeha, Kilcummin, Killarney”.

The following report issued:

The above motion was previously moved at the November 2010 Killarney Electoral Area Meeting, at which the following response was given:-

“Lining and signing works were carried out at the Glounanea junction in 2009 under the Junction Improvement Programme. Land will need to be acquired to facilitate further improvement works. Kerry County Council intends discussing this matter with the landowner concerned”.

The estimated cost of further improvement works to this junction is approximately €30,000. Having regard to the extent of the works involved and the increased demand on Own Resources funding, particularly due to the 2010 Department of Transport Memorandum on Grants for Regional and Local Roads, funding would have to be provided by the Department of Transport under the Low Cost Safety Improvement Works Scheme. Projects considered for funding under this grant are prioritised in accordance with NRA guidelines and having regard to the accident history, analysis of the nature of the recorded accidents and the volume and nature of traffic using the road. The accident database has been examined and the location does not meet the criteria for a Low Cost Safety Improvement Scheme. Given the extent of the Regional and Local Road network in the County, there are a number of locations that do have a relatively high number of recorded vehicular accidents and priority has to be given to these locations in accordance with the NRA guidelines.

Cllr. J. Sheahan expressed his disappointment with the reply as this is a very dangerous junction leading onto a very busy road. He called on the Roads Department to resolve this issue before there is a serious accident.

Cllr. J.J. Culloty SECONDED the motion.

15. Erection of Irish version of Placenames in Kerry

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

“That this Council demands that prior to the erection of the Irish version of placenames including Townland names, the NRA and An Brainse Logainmneacha would determine the spelling that is generally used by local residents. It is grossly offensive to residents to have an imposed and often meaningless spelling used”.

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

Cllr. Gleeson read the following into the record of the meeting:

“Táimse ag éirí tuirseach de bheith ag caint faoin bhfaidbh seo agus tá Daoine anseo ag éirí bréan de bheith ag éisteacht liom a bheith ag gearán faoi. Act níl an dara rabhadh agam.

We are each one of us proud of our family surname and insist on its correct spelling. We have a similar entitlement to have the townland of our birth or where we reside spelled correctly. That townland is part of what we are and its topography helped to mould and define us. Sigerson Clifford had enough pride in his native place to write a very special song to celebrate its physical and historical traits.

The people of Achill, itself a Gaeltacht consider the integrity of the Ireland's Bailte Fearainn that they recently published a Book and Cassette minutely detailing the proper name of its Townlands and individual history of each and its historically correct spelling.”

Cllr. Gleeson said Achadh Dá Eo, field of the two Yew trees, is the correct spelling of Aghadoe in the Roll Book. Its meaning gives it definition. A sign recently erected spelt it Achadh Deo or ‘field forever’ and this is incorrect and is an abuse of the people of this area. Mágh Inish means ‘plain by the water’ and two years ago the Area Engineer put up a sign ‘Mágh Inish’ but recently this sign was removed and replaced by sign that says ‘Maighnis’ which has no meaning. He called for the removal of this sign and also the incorrect one at Aghadoe. These signs are an insult to the people of these areas and one business man said it is affecting his business. He asked that a project would be undertaken in Kerry, similar to that in Achill Island, where the proper spelling of all townlands would be recorded.

Cllr. D. Healy-Rae SECONDED the motion.

Cllr. J.J. Culloty moved Notice of Motion No. 16 on behalf of Cllr. O'Donoghue.

16. RAS Scheme

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

"That Kerry County Council report as to how many houses have been allocated under the RAS Scheme during the current year and to specify the number of houses so allocated in each Electoral Area".

The following report issued:

Kerry County Council has to date transferred 791 qualifying applicants onto the RAS Scheme since its introduction in 2006. This scheme applies to those in receipt of a rent supplement payment for a period of 18 months or more. In the current year we anticipate we will meet our annual target of 160 transfers.

By virtue of the qualifying criteria for the RAS Scheme, our efforts have, to date, concentrated on those geographic areas with the highest number of existing recipients of rent supplement for 18 months or longer. The number of RAS transfers per Electoral Area is as follows:

Electoral Area	RAS Transfers	No. of Rent Supplement Recipients +18 Months
Tralee	96	680
Listowel	13	99
Killarney	21	236
Killorglin	10	89
Dingle	3	52
Total	143	1156

19. Funding for the completion of the Eastern Relief Road in Kenmare

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

"That Kerry County Council requests funding from the National Roads Authority and the Department of Transport, Tourism and Sport to complete the Eastern Relief Road in Kenmare".

The following report issued:

This scheme is included in the submission to the Department of Transport, Tourism and Sport for continued funding for in 2012, under the Regional and Local Road Specific Improvement Scheme.

Cllr. P. Connor-Scarteen said it is essential that funding is allocated for this road in 2012. €300,000 was allocated a few months ago and the remainder of the funding is required to complete it. There is a lot of congestion at Droumnevene and when the new hospital is complete it will add further to the congestion.

Mr. G. O'Brien, Meetings Administrator informed the meeting that Motions 21 and 29 would be taken together.

21. Illegal Shooting of Deer in Kerry

Pursuant to Notice duly given Cllr. J.J. Culloty PROPOSED:

"That this Council would call on the Minister for Arts, Heritage & the Gaeltacht to redeploy staff to assist with the control of illegal shooting of deer in Kerry. It is imperative that deer numbers are controlled and managed. At present, due to the shortage of staff on the ground, there are serious safety concerns for residents".

29. Control of Deer in Kerry

Pursuant to Notice duly given Cllrs. P. O'Donoghue and M. O'Shea PROPOSED:

"That Kerry County Council ask the National Park & Wildlife Service to carry out a census to evaluate the correct amount of stag deer in Kerry and to cull off what are surplus to requirement as they are causing destruction and torment to landowners in many parts of the County".

The following report issued:

Please find attached for your information, copy correspondence received from the NPWS and the Wild Deer Association of Ireland on this matter following a motion by Cllr. Patrick Connor-Scarteen on the issue in March 2011.



Mr Gerard O'Brien
Kerry County Council,
County Buildings,
Tralee,
Co. Kerry.

Ref. DG/MAR 11/21

May 25th 2011

Dear Mr O'Brien,

Thank you for your letter dated April 14th 2011 regarding Kerry County Council's resolution. At the outset it is important to note that the Wild Deer Association of Ireland (WDAI) sympathise and regularly offer advice and support to landowners who suffer genuine crop-damage from deer. However it is unknown whether there are too many or too few wild deer in Ireland as no national deer census have ever been undertaken.

What we do know is there are hotspots of over population and areas where deer numbers have been decimated or are under serious treat. Also there are areas where deer are now seen where they have never been seen before, along with increased incidents of road traffic accidents involving deer. Again it is not clear if this is due to increased habitat from forestry plantations which allow deer to spread or from over hunting, or illegal poaching of wild deer which causes deer to flee to new areas, bringing them into conflict with motorists and landowners.

Regarding policies, surveys and future plans regarding wild deer, we can confirm the following:

1. A recent deer survey undertaken by Coillte Teoranta on their properties, show high levels of crop damage in Co. Wicklow from wild deer with low levels of damage in Co. Kerry.

1

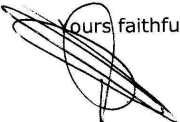


Chairman: Pat Scully, Portlaoise, Co. Laois; Hon. Secretary: Damien Hannigan; Midleton, Co. Cork;
Treasurer: Tom Grace, Thurles, Co. Tipperary.

2. The WDAI recently undertook a national survey of those involved in Deer Management and Forest Managers, the survey received an excellent response from all areas including Co Kerry. Some of the findings were 88% of Deer Stalkers and 58% of Foresters had seen a reduction in deer numbers, 81% of Deer Stalkers and 73% of Forest Managers had seen an increase in illegal poaching of wild deer.
3. In 2009 the WDAI launched a joint initiative with the IFA, which offers a free service to landowners giving advice and assistance on Deer Management.
4. Deer Awareness Ireland is a joint campaign launched by the WDAI to identify, Deer Road Traffic Accident (RTA's) hotspots, along with educating road users, road planners and County Councils on the corrective actions required to reduce Deer RTA's.
5. In the absence of any national policy on wild deer management, the WDAI recently met with senior officials from the Department of the Environment and NPWS, following an invitation from the then Minister for the Environment, John Gormley TD. The meeting was very productive and covered a number of important issues such as the need for a National Deer Management Strategy to oversee the management of wild deer, the dramatic increase in the illegal poaching of wild deer, the introduction of a tagging system to enable us provide reliable data on deer numbers, education and training for landowners and those involved in deer management. A follow up meeting is been planned with the new minister, Jimmy Deenihan TD to progress these matters further.
6. Following the introduction of an open season for female Red Deer in Co Kerry in 2005 due to increasing deer numbers, there is now a growing concern amongst organisations such as the WDAI and local NPWS staff that Red Deer numbers are at a dangerously low level, outside the National Park and the current open season needs to be urgently reviewed by the Minister. These concerns do not apply to the Sika Deer herd in Co Kerry.
7. During the 2010/11 Open Season to hunt deer, over 35,000 deer were culled legally in Ireland by members of the WDAI and licenced hunters. Which is an 80% increase over the last 5 years, however the number of hunters has also increased by over 60% in the same period. It is not clear if the increased cull is due to the increased number of hunters or an increase in the deer population.

December Ordinary Meeting 2011

Deer are an important part of our heritage and a national asset protected under the Wildlife Acts, with regard to the Red Deer in Co. Kerry they are also of international importance. It is important wild deer are managed at a sustainable level relevant to the local habitat however there should be, cause of great concern for all, is that we may very well be shooting deer now, faster than they can actually reproduce.

Yours faithfully

Damien Hannigan

Hon. Secretary

Wild Deer Association of Ireland



Comhshaoil, Oidhreacht agus Rialtas Áitiúil
Environment, Heritage and Local Government



*Mr. Gerard O'Brien,
Riarthóir Cruinnithe/Meetings Administrator,
Corporate Services,
Kerry County Council,
County Buildings,
Tralee, Co. Kerry.*

Your Ref: DG/MAR 11/21 on all correspondence

Dear Gerard,

*Please find enclosed information requested regarding the deer situation
in Co. Kerry. Please accept my apologies for the delay in replying as I
have only recently returned from annual leave.*

Regards,

FRANK MCMAHON
District Conservation Officer
National Parks & Wildlife Service
Muckross House, Killarney National Park,
Killarney, Co. Kerry.



13th May 2011

Reference Number – MAR 11/21

In relation to your correspondence of 14th April, 2011 the following are my responses:

Three types of deer roam in the wild in Co. Kerry, Red deer; Sika deer and to a lesser extent Fallow Deer. All deer species are protected under the Wildlife Act, 1976 and 2000. National Parks and Wildlife Service are responsible for enforcing the Wildlife Act but not for deer management outside of their own properties.

Section 25 (Open Seasons Order) of the Wildlife Act defines the period during the year which deer may be shot. Seasons have been defined for each species of deer to protect females when they have dependant offspring at foot and males when they are at their worst physical condition. Red males in Kerry may not be shot, whereas red females may be shot from 1st November to 28th February. Male Sika and Fallow deer may be shot between the 1st September and 31st December while female Sika and Fallow may be shot between 1st November and 28th February.

Under Section 29 (1) of the Wildlife Act hunters may hunt deer during the open season provided they –

- Obtain a hunting licence from NPWS.*
- Have permission to hunt from the landowner or sporting rights owner.*
- Have a licensed suitable firearm.*

Currently there are approximately 3,350 hunters licensed to hunt deer in Ireland. 85% of shooters shoot 10 deer or less per annum. About 23,000 deer are reported shot per annum and of these approximately 56% are female and 44% are male.

Deer can have an impact both physically e.g. Browsing/grazing, bark stripping, trampling, etc. and ecologically e.g. loss of diversity, reduction/elimination of field layer, suppression of seedling growth, etc. The Wildlife Act recognises the potential for crop and property damage by protected species such as deer. In these circumstances the landowner can apply to National Parks and Wildlife Services to cull deer outside the open season. This is called a Section 42 licence. Crop and property damage needs to be proved and demonstrated to local NPWS Conservation Rangers before a Section 42 licence can be approved.

Killarney National Park undertakes several methods in relation to deer control and deer surveying. In excess of 100 deer, predominately Sika, are shot within the Park boundaries per year. It is Park policy to continue to cull deer within its property in an effort to reduce grazing animals and

encourage woodland regeneration. The Park has also initiated deer exclusion zones through fencing in order to encourage woodland regeneration. Surveying deer is extremely difficult given the shy nature of the animals and the increased amount of land under forestry which provides good seclusion. In Killarney National Park three methods of deer survey are carried out –

- (i) Vantage Point Counts – is useful for surveying open areas. The recorder uses an elevated point and with binoculars counts all deer seen recording details of species, sex and where possible age class. The disadvantage of this method is that it is useful only in open landscapes and the results are specific to the count days and the areas being surveyed. It does not give a precise population figure.
- (ii) Faecal Pellet Count – This method can be used in both open and wooded landscapes. It involves counting deer droppings within a transect and through a formulae determining the density of deer within a particular habitat. This method involves low labour and equipment costs and gives a good picture of deer pressure/density on a particular habitat. It does not give an exact total population count.
- (iii) Linear Mountain Counts – Involves up to a dozen Park staff walking in a straight line at intervals of 500 metres apart across the mountains from the Parks southern boundary to the northern boundary. All deer that pass between the counters are recorded noting species, sex and age class where possible. The disadvantage of this method is that it is useful only in open landscapes and the results are specific to the count days and the areas been surveyed. It does not give a precise population figure.

Cllr. J.J. Culloty called for an inter agency approach to this issue and asked that a census would be carried out to establish the number of deer in Kerry. Following this a comprehensive strategy should be prepared for the control of the numbers of deer. The Red Deer is primarily in Killarney and the Red Deer stags are generally not shot in Kerry. However by poaching the best deer the gene pool is diluted. He understood four or five deer were shot in the National Park recently and this is both inhumane and dangerous. There is a problem with deer wandering onto the public road or onto farmland and for this reason the deer numbers must be controlled. He called on the Minister to redeploy staff with expertise in deer management to deal with this very urgent issued. He suggested that a tagging system could also be considered.

Cllr. D. Healy-Rae said he has raised the problem with deer on the public road for a number of years in particular in relation to the Kilgarvan and Molls Gap roads. The safety of road users is being compromised. The stag deer are very formidable and they have caused extensive damage to gardens and to farm land. They also damage fences. Surplus deer should be removed to another area.

Cllr. P. Connor-Scarteen supported Cllr. Culloty's motion. He moved a motion regarding deer a few months ago and the detailed replies received were circulated. He said he was opposed to the mindless killing of deer as happened recently where the deer were shot and their heads removed and sold. A management strategy is required to address this problem as there were a number of accidents because of deer on the roads and also a lot of damage to crops, gardens and fences. He asked that Minister Deenihan would be contacted to get his support in addressing this problem.

22. Support for the most vulnerable in our society

Pursuant to Notice duly given Cllr. T. Ferris PROPOSED:

"That this Council calls on the Government to cease its attack on those most vulnerable in our society".

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

Cllr. T. Ferris requested that the motion would be sent to the Taoiseach calling on him not to continue with the attacks on the most vulnerable in our society.

24. Parking Facilities in Kerry General Hospital

Pursuant to Notice duly given Cllr. J. Healy-Rae PROPOSED:

"To ask the HSE to please accommodate student nurses and doctors in Kerry General Hospital who have to pay full whack for parking facilities".

Mr. G. O'Brien, Meetings Administrator said that this is a matter for

consideration by Members.

Cllr. J. Healy-Rae said that student nurses and doctors must pay full car parking charges at Kerry General Hospital and this is very expensive. They should be allowed park in the staff car park.

25. Improvement of Sight Lines at Ballinalane, Ballyhar.

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

“That this Council carry out works to improve sight lines at Ballinalane, Ballyhar, Killarney”.

The following report issued:

The above motion was previously moved at the February 2011 Killarney Electoral Area Meeting, at which the following response was given:-

“The main obstruction to the sight line at the Ballinalane Junction, Ballyhar is the structure at the northern corner. The landowner concerned will be contacted and if the land necessary can be acquired by agreement then the location may be suitable for submission to the National Roads Authority under the Regional and Local Road Safety Programme”.

Subsequently, the land owner was consulted and is amenable to selling the lands required. However, having regard to the extent of the works involved, including extensive accommodation works, and the increased demand on Own Resources funding, particularly due to the 2010 Department of Transport Memorandum on Grants for Regional and Local Roads, funding would have to be provided by the Department of Transport under the Low Cost Safety Improvement Works Scheme. Projects considered for funding under this grant are prioritised in accordance with NRA guidelines and having regard to the accident history, analysis of the nature of the recorded accidents and the volume and nature of traffic using the road. The accident database has been examined and the location does not meet the criteria for a Low Cost Safety Improvement Scheme. Given the extent of the Regional and Local Road network in the County, there are a number of locations that do have a relatively high number of recorded vehicular accidents and priority has to be given to these locations in accordance with the NRA guidelines.

Cllr. J. Sheahan called on the Roads Department to pursue this issue until it is resolved as it is very dangerous for locals who use this junction daily.

Cllr. B. Cronin said this is a very blind junction. He complimented Ms. B. Mulryan, Area Engineer who made extensive efforts to resolve this issue. In order for progress to be achieved there must be co-operation from the

adjoining landowners. A wall is being removed and an old shed will have to be rebuilt but if the junction is to be improved it will have to be realigned. However the Council must be careful when spending public money and he could not justify the spending of public money on private property.

26. CPO for the access road to the proposed Pier at Cromane

Pursuant to Notice duly given Cllr. M. Cahill PROPOSED:

“That Kerry County Council give a detailed report in relation to the CPO of lands for the access road to the proposed pier at Cromane”.

The following report issued:

An Bord Pleanála granted approval for the construction of the pier and an access road in November 2005 (Planning Reference PL 08.EF2015), in accordance with Section 226 of the Planning & Development Act 2000.

Subsequently difficulties were identified with the horizontal alignment of this route, particularly to allow for the turning movements of long vehicles associated with the activities at the proposed pier. The route was re-designed and all affected landowners were consulted. The length of the revised route was approximately 900m. Having regard to the provisions of Article 80 (Part 8) of the Planning & Development Regulations, 2001 it was considered that the proposed road was sub-threshold and that the alignment was in substantial compliance with the route for which approval was previously granted by An Bord Pleanála.

There are 14 reputed landowners of the lands required for the construction of the road and agreement was reached with 12 of the landowners for the provision of lands for the construction of the road in accordance with this alignment. However, two landowners would not agree to the sale of a portion of their lands for the road and a decision was made to instigate the CPO process, to acquire the necessary lands.

An application was submitted to An Bord Pleanála on the 12th February, 2008, following the serving and publication of all statutory notices. Two objections were received by the Board and on the basis of the objections received, the Board decided to hold an Oral Hearing on the 13th August 2008. The Board made an order in relation to this Compulsory Purchase Order on the 1st April 2009, in which it determined that in the absence of statutory approval, for what was a slightly altered route, it did not consider it appropriate to confirm the Order. A detailed report was presented to Council at the April 2009 meeting on the Board's decision.

As a consequence of this decision, the Council sought planning approval for the proposed access road in accordance with the requirements of Section 179 of the Planning and Development Act, 2000 and Part 8 of the Planning and Development Regulations, 2001.

Planning was approved by Council in January 2010.

Unfortunately, grant aid for Fishery Harbour and Coastal Infrastructure has reduced significantly since 2009 and the Council has experienced difficulties in recovering outstanding monies for which commitments had previously been given in respect of a number of Harbour projects, including Cromane Pier, Renard Pier and Knightstown Harbour. This obviously impacts significantly on the Council's ability to fund capital projects from our own resources. Furthermore, there are restrictions on the Council in relation to borrowing requirements having regard to Department of Finance guidelines. In relation to the limited funding made available under the Fishery Harbour and Coastal Infrastructure Development Programme 2010 and 2011, the Department was only willing to commit grant aid for projects costing up to €150,000 and will only commit to projects where the works can be commenced, completed and paid for within the year in which the grant is allocated. It has been our priority over the past 3 years to seek the recovery of the outstanding monies initially with no success to date.

Having regard to the statutory provisions of Section 217(6) of the Planning and Development Act, 2000 where a Compulsory Purchase Order is approved by either the local authority or An Bord Pleanála, the local authority is required to serve a notice to treat for the lands within 18 months of the Order becoming operative. This exposes the local authority to a substantial financial risk to fund the acquisition of the lands within a reasonable timeframe of a CPO being approved and therefore the Council would require prior approval from the Department of Agriculture, Food and the Marine on the provision of funding.

Having regard to the above constraints, the Council is not in a position to proceed with a CPO to acquire the lands for the access road without a guarantee from the Department of Agriculture, Food and the Marine on available funding.

Cllr. Cahill said his motion relates to the CPO for the access road and Kerry County Council did not apply for funding for it. He asked that an application for funding in 2012 would be submitted.

Mr. C. O'Sullivan, Director of Roads said that monies in respect of work carried out at Knightstown and Inch are still outstanding. If the CPO procedure commences the land must be acquired within 18 months. He could not undertake this course of action unless a commitment was received from the Department that funding would be allocated for it. The maximum grant available per project is €150,000 and this is not adequate for this project. It is estimated Cromane Pier will cost several million euro.

Cllr. Cahill asked that the land would be acquired and that funding would be sought for it.

Mr. C. O'Sullivan said the CPO would have to be undertaken first and as the Council is owed in excess of €3m for works it is a priority to recover this before any further works are undertaken.

Cllr. M. Cahill suggested that legal proceedings should be taken against the Department to recover outstanding monies.

Cllr. D. Healy-Rae supported the motion and the request that an application for funding to acquire the land would be submitted.

Mr. C. O'Sullivan said a sum of €1m is outstanding for works at Inch. The total cost of works at Knightstown is €5m and it was hoped to get grant aid of 75%. A total of €1.650m was received from all Departments. They refused to pay the balance because the Foreshore Licence was not finalised.

Cllr. M. Cahill asked if legal advice was sought.

Mr. O'Sullivan said even if grant aid was available the Council would have to pay 25% of the costs and there is no provision for this in the Budget.

27. Restriction on Election Posters.

Pursuant to Notice duly given Cllrs. P. Connor-Scarteen and S. Fitzgerald PROPOSED:

"That the Environment SPC of Kerry County Council explore the idea and come up with proposals on banning or limiting the use of posters at election time on poles etc".

The following report issued:

This matter has been raised at the Environment SPC which requested that the Council write to the Minister of Environment, Community and Local Government to outline the concerns of the SPC and to request that the matter be dealt with at national level. It was noted that an example of good practice was to be found in Killarney where election posters are not erected within the town, by voluntary agreement. This is a practice which could be copied in all towns in the County. This matter can be considered further by the Environment SPC.

Cllr. P. Connor-Scarteen said he hoped the Environment SPC would come up with reasonable proposals on this issue. Sean Gallagher did not use any posters in the recent Presidential Election nor did Cllr. Gleeson for the Local Elections in 2009. Some towns have reached agreement that no election posters would be put up. He would like to see a similar agreement for Kenmare town. This would benefit the environment. He asked that this issue would be addressed seriously prior to the next Local Elections.

Cllr. S. Fitzgerald supported the motion.

In response Mr. J.D. Flynn, Director of Corporate Services said that the primary legislation governing the holding of Elections is the Electoral Acts where statutory provision is made to allow election posters to be put in place. Therefore the Council does not have the power to ban election posters. Cork County Council is also considering this matter and is considering restricting posters to one location in each town.

Cllr. D. Healy-Rae opposed the motion and proposed that the status quo remain.

30. Trading Rights in Fairfield, Killorglin.

Pursuant to Notice duly given Cllrs. M. Cahill and J.J. Culloty PROPOSED:

“That Kerry County Council give a detailed up-to-date report in relation to the extinguishing of trading rights in the Fairfield in Killorglin”.

The following report issued:

The Council initiated the process for the extinguishment of the market rights and prepared draft Bye-Laws for the control, regulation, supervision and administration of a proposed casual trading area in the Fairfield, Killorglin, earlier this year.

In accordance with the provisions of Section 8 of the Casual Trading Act, 1995, a person aggrieved by the proposal to extinguish the market rights can appeal such a proposal to the District Court. An appeal against the Council’s proposal was made by an individual who is directly affected by the proposal. The subject of the appeal raised a number of complex legal issues, which the Council has sought to resolve outside of court. Over the past six months we had a number of meetings with the appellant and his solicitor, at which we put forward a number of options in response to the issues raised. Unfortunately, we have been unable to reach an agreement on an acceptable solution.

Given the frustrations expressed by the members in progressing the matter and the difficulties in getting agreement, a final decision will be made on the best course of action to be taken early in the New Year. A revised notice for the extinguishment of the market rights and draft Bye-Laws will be presented to the next meeting of the Killorglin Electoral Area Committee.

Cllr. M. Cahill said he was aware there are issues with one of the traders and he called on Management to resolve it as soon as possible.

Cllr. J.J. Culloty supported the motion.

31. Amendment of the 2010 Planning & Development Act

Pursuant to Notice duly given by Each Member of the Killorglin EA Members Electoral Area PROPOSED:

"That the Members of the Killorglin Electoral Area would seek a resolution of the full Council requesting that the Minister for the Environment, Community and Local Government would amend the 2010 Planning & Development Act so as to ensure that all applications for extensions of time for one-off houses are granted".

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

Cllr. M. Cahill said 80% of all applications for extension of time for one-off houses are refused even though permission was previously granted. It was not intended that the 2010 Planning Act would be used like this but rather it was intended to give people additional time. He requested that the motion would be forwarded to the Minister for Environment, Community and Local Government for consideration.

Cllr. J. J. Culloty supported the motion.

11.12.19.17 Correspondence - Conferences and Seminars

- (b) On the PROPOSAL of Cllr. P. Connor-Scarteen, SECONDED by Cllr. J. Sheahan, it was agreed to authorise the attendance of Cllrs. B. Cronin, J. Brassil, J. Healy-Rae, D. Healy-Rae and J. Sheahan at 'The Role of the Council in Encouraging & Supporting the Development of Enterprise through Tourism & Sport' to be held in the Abbey Court Hotel, Nenagh, Co. Tipperary from 27 January –29 January, 2012.

Cllr. B. Cronin was nominated to report back to Council on this Conference.

- (c) On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. G. Wharton Slattery, it was agreed to authorise the attendance of Cllrs. L. Purtill, S. Fitzgerald, B. Cronin, J. Brassil, P. Leahy, P. McCarthy, J. Healy-Rae, D. Healy-Rae, T. Buckley, M. Gleeson, P. Connor-Scarteen and J. Sheahan at the AMAI Spring Seminar 2012 on the theme 'Local Government – Renewal & Development' to be held in the Kilmore Hotel, Dublin Road, Cavan on the 10 February – 11 February, 2012.

Cllr. J. Brassil was nominated to report back to Council on this Seminar.

- (d) On the PROPOSAL of Cllr. M. Gleeson, SECONDED by Cllr. S. Fitzgerald, it was agreed to authorise the attendance of Cllrs. B. Cronin, J. Brassil, P. McCarthy, J. Healy-Rae, D. Healy-Rae, G. Wharton Slattery and J.J. Culloty at the Waterford County Council Conference on the theme 'Mental Health & Suicide Awareness -

Supports & Developments in Mental Health Care' to be held in The Park Hotel, Dungarvan, Waterford from 24 February – 26 February, 2012.

Cllr. B. Moynihan-Cronin was nominated to report back to Council on this Conference.

- (e) On the PROPOSAL of Cllr. G. Wharton Slattery, SECONDED by Cllr. S. Fitzgerald, it was agreed to authorise the attendance of Cllrs. L. Purtill, S. Fitzgerald, P. Leahy, J. Healy-Rae, D. Healy-Rae and T. Buckley at the Colmcille Winter School on the theme "Can the Tourist Industry Lead the Economic Recovery in Ireland?" to be held in Colmcille Heritage Centre, Gartan, Churchill, Donegal from 24 February – 26 February, 2012.

Cllr. L. Purtill was nominated to report back to Council on this Winter School.

- (f) On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. M. Gleeson, it was agreed to authorise the attendance of Cllrs. B. Cronin, J. Brassil, P. McCarthy, J. Healy-Rae, D. Healy-Rae, G. Wharton Slattery and J.J. Culloty at the Mid-West Regional Authority 17th Annual Conference on the theme "Economic Development in the Regions: The Way Forward" to be held in the Falls Hotel, Ennistymon, Co. Clare on the 16 February and 17 February, 2012.

Cllr. P. McCarthy was nominated to report back to Council on this Conference.

11.12.19.18 Correspondence General

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

1.	Letter dated 14 November, 2011 from the Office of the Minister for Environment, Community and Local Government regarding commercial rates.
2.	Letter dated 16 November, 2011 from the HSE regarding the opening of the third ward at the new West Kerry Community Hospital in Dingle.
3.	Letter dated 17 November, 2011 from the Minister for Agriculture, Food and the Marine regarding funding for repair work to Kenmare Pier.
4.	Letter dated 18 November, 2011 from the Department of Social Protection regarding the Tús – Community Work Placement Initiative.

5.	Letter dated 24 November, 2011 from the Office of the Minister for Housing and Planning regarding the income cap for Social Housing.
6.	Letter dated 25 November, 2011 from the Office of the Minister for Agriculture, Food and the Marine regarding Regulations for certain categories of farm development.
7.	Letter dated 7 December, 2011 from the HSE regarding a review of Southdoc Services in Killarney.
7.	E-mail dated 16 November, 2011 from South Tipperary County Council regarding a resolution adopted by that authority calling on the Minister for Environment, Community and Local Government to amend the Valuation Act, 2011.
8.	Letter dated 25 November, 2011 from Monaghan Town Council regarding a resolution adopted by that authority calling on the Minister for Finance to reconsider the proposed VAT increase on central heating fuels, petrol and diesel.
9.	E-mail dated 30 November, 2011 from Sligo County Council regarding a resolution adopted by that authority calling on the Government to compel the banks to reduce the rate of interest on arrears' charged on loans advanced.
10.	Letter dated 2 December, 2011 from Donegal County Council regarding a resolution adopted by that authority calling for the restoration of the 200 Special Needs Assistants.

Votes of Sympathy

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

- (a) Cllrs. P. Connor-Scarteen and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Mary O'Connor.
- (b) Cllrs. P. Connor-Scarteen and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Kathleen Foley.
- (c) Cllrs. B. Cronin and M. O'Shea proposed that a vote of sympathy would be extended to the family of the late Mairead Healy.
- (d) Cllrs. B. Cronin, M. O'Shea, D. Healy-Rae and J. Healy-Rae proposed that a vote of sympathy would be extended to the family of the late Julia Kelliher.
- (e) Cllrs. B. Cronin and M. O'Shea proposed that a vote of sympathy would be extended to the family of the late Mairead Healy.

- (f) Cllrs. M. O'Shea, B. Cronin, D. Healy-Rae and J. Healy-Rae proposed that a vote of sympathy would be extended to the family of the late Stephanie O'Sullivan.
- (g) Cllrs. M. Gleeson and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Muiris Ó Rócháin.
- (h) Cllrs. M. Gleeson and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Dr. Jim Brosnan.
- (i) Cllrs. M. Gleeson, B. Cronin, B. Moynihan-Cronin, G. Wharton Slattery, D. Healy-Rae and J. Healy-Rae proposed that a vote of sympathy would be extended to the family of the late Jerry O'Mahoney.
- (j) Cllrs. T. Ferris and R. Beasley proposed that a vote of sympathy would be extended to the family of the late Anto O'Halloran.
- (k) Cllrs. P. Leahy and G. Wharton Slattery proposed that a vote of sympathy would be extended to the family of the late Mai O'Connell.
- (l) Cllrs. P. Leahy and G. Wharton Slattery proposed that a vote of sympathy would be extended to the family of the late Con Shine.
- (m) Cllrs. D. Healy-Rae, J. Healy-Rae, P. Connor-Scarteen and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Nell Harrington.
- (n) Cllrs. J. Healy-Rae, D. Healy-Rae, P. Connor-Scarteen and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Marlene Egan.
- (o) Cllrs. D. Healy-Rae and J. Healy-Rae proposed that a vote of sympathy would be extended to the family of the late Con Counihan.
- (p) Cllrs. D. Healy-Rae and J. Healy-Rae proposed that a vote of sympathy would be extended to the family of the late Margaret Brosnan.
- (q) Cllrs. D. Healy-Rae and J. Healy-Rae proposed that a vote of sympathy would be extended to the family of the late Pat Casey.
- (r) Cllrs. D. Healy-Rae and J. Healy-Rae proposed that a vote of sympathy would be extended to the family of the late Nora Casey.
- (s) Cllrs. P. Connor-Scarteen and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Patricia Dignam.
- (t) Cllrs. P. Connor-Scarteen and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Denis O'Carroll.
- (u) Cllrs. P. Connor-Scarteen and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Sheila O'Connell.
- (v) Cllrs. P. Connor-Scarteen and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Patrick Joseph O'Sullivan.
- (w) Cllrs. P. Connor-Scarteen and S. Fitzgerald proposed that a vote of sympathy would be extended to the family of the late Michael Culloty.

December Ordinary Meeting 2011

- (x) Cllrs. S. Fitzgerald and P. Connor Scarteen proposed that a vote of sympathy would be extended to the family of the late Michael Francis O'Sullivan.

The meeting concluded at 17.50pm.

Gerard O'Brien

Meetings Administrator

Mayor of Kerry