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**MIONTUAIRISCÍ AN CRUINNIÚ DE COMHAIRLE CONTAE CHIARRAÍ  
A THIONÓLADH I SEOMRA NA COMHAIRLE, ÁRAS AN CHONTAE, TRÁ LÍ, AR  
AN LUAN, 17 NOLLAIG, 2018**

**MINUTES OF THE ORDINARY MEETING OF KERRY COUNTY COUNCIL HELD IN  
THE COUNCIL CHAMBER, ÁRAS AN CHONTAE, TRALEE ON MONDAY,  
17 DECEMBER, 2018**

**PRESENT/I LÁTHAIR**

**Councillors/Comhairleoirí**

T. Barry	R. Beasley	M. Cahill
P. Connor-Scarteen	B. Cronin	J.J. Culloty
P. Daly	J. Finucane	S. Fitzgerald
J.F. Flynn	N. Foley	M. Gleeson
D. Grady	J. Healy-Rae	M. Healy-Rae
N. Kelleher	M. Kennelly	S. Locke
J. Lucid	D. McCarthy	P. McCarthy
T. McEllistrim	J. Moloney	N. Moriarty
T. O'Brien	B. O'Connell	M. O'Shea
L. Purtil	D. Quigg	J. Sheahan
G. Spring		

**IN ATTENDANCE/I LÁTHAIR**

Mr. C. O'Sullivan, Deputy CE	Mr. J. Breen, Director Water Services
Mr. M. O'Donoghue, Director Housing	Mr. M. Scannell, Dir. Job Cr/Sust. ED
Mr. C. O'Connor, Director Corp. Servs.	Ms. A. McAllen, Head of Finance
Mr. L. Quinlan, Meetings Administrator	Mr. O. O'Shea, Press Officer
Ms. D. Griffin, SO Corporate Support	Ms. O. O'Shea, CO Corporate Support
Mr. D. Ginty, A/Senior Planner	Mr. G. O'Brien, A/SEO Environment
Mr. D. O'Malley, Snr. Exec. Planner	

**APOLOGIES/LEATH SCÉAL**

**Ms. M. Murrell, Chief Executive**

The meeting commenced at 12.15 p.m.

Cllr. N. Foley, Cathaoirleach, took the Chair.

**Jobs Announcement for Tralee**

The Cathaoirleach warmly welcomed the announcement this morning that pharmaceutical company, Central Pharma, is to create 100 new jobs in Tralee over the next five years, adding that this is wonderful news for the town, and for Kerry, and represents a significant employment and economic boost. The IDA Advance Technology Building, adjacent to the Institute of Technology Tralee at Dromtacker, will be home to the new jobs. The links which have been established between the company and I.T. Tralee are very important and have great potential. Kerry County Council has been working closely with the IDA and the government to attract a company to this facility and to help generate employment in Tralee. Tralee and Kerry offer companies wonderful facilities and a highly skilled workforce and today's announcement will further enhance the reputation of the town and county as great places to invest and do business. She acknowledged the work being done by the Chief Executive of the IDA,

Martin Shanahan, and the IDA Regional Manager, South West Region, Ray O'Connor and the focus which is being given to Kerry by the IDA. She wished Central Pharma well in the future and offered its new employees best wishes in the years ahead.

All members welcomed this announcement.

Cllr. T. O'Brien called on the IDA to continue its efforts to bring employment to Kerry.

Cllr. J. Finucane said the advance unit is an asset in the promotion and marketing of the area. He said it is important that this is used as a catalyst to attract other investors and called for another advanced facility to be developed in the technology park.

Cllr. D. Quigg supported Cllr. Finucane's comments and called for an advanced facility to be developed in South Kerry, in particular Caherciveen where there are vacant units.

Cllr. D. Grady said it is important that focus remains on providing employment in the county.

Cllr. R. Beasley expressed disappointment that 20 contract workers at Ballybunion Golf Club have been dismissed.

#### **17.12.18.01 Cathaoirleach's Report on CPG meeting held on 11 Dec 2018**

The Cathaoirleach's report on the CPG meeting held on 11 December 2018, which had been circulated, was noted by the Members.

#### **17.12.18.02 Confirmation of Minutes**

- a) On the PROPOSAL of Cllr. M. Gleeson, SECONDED by Cllr. B. Cronin, it was resolved that the minutes of the November Ordinary Meeting held on the 19<sup>th</sup> November 2018 be confirmed.
- b) On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. B. O'Connell, it was resolved that the minutes of the Special Meeting of Kerry County Council to appoint a Member of Kerry County Council to the Governing Body of the National University of Ireland, Cork, held on the 19<sup>th</sup> November 2018 be confirmed.

#### **17.12.18.03 Chief Executive's Report to Council**

The Chief Executive's report for the month of November 2018, which had been circulated, was noted by the Members.

Cllr. M. Gleeson welcomed the announcement at the recent Lough Leane meeting that there will be a clean up of the shores of the lakes in Killarney. He recommended that this would also be done at lakes in other Municipal Districts. He asked for an update on fountains that were to be provided in Killarney and also on the provision of free public water bottle refill stations. He acknowledged that the Council is trying to enhance the transfer stations, but asked that the increase on the cost of disposing of a bag of black refuse at the transfer station to €5 per bag from 1 January 2019 not proceed as this could result in additional littering along the county's roadsides.

Cllr. Grady supported Cllr. Gleeson's concerns regarding the increase on the cost of disposing of a bag of black refuse at the transfer station. He asked if Áras Phádraig in Killarney is now in the ownership of Kerry County Council.

Cllr. O'Shea asked if there has been an announcement regarding an Affordable Housing Scheme for Kerry.

Cllr. D. Quigg expressed concern at the slow progress in relation to the Rebuilding Ireland Programme, with the focus being on private developments and not enough Council housing being built when there is a significant housing waiting list. He expressed disappointment at the €1.3m provided for 134 projects under the rural grant schemes when Kerry Airport received a grant of €1.2m recently. Making an application under the rural grant scheme is a labour intensive process, with such small funding being available, and many small community groups do not have the resources available to make an application. This is leading to the shut down of rural Ireland, when every effort should be made to get more money into rural areas. He asked how much buy-in there is to the socio-economic plans in terms of structuring that funding.

Cllr. N. Moriarty referred to the Rural Regeneration Fund and asked that applications for two projects in South Kerry would be followed up.

Cllr. B. Cronin welcomed movement towards the development of a Masterplan for Áras Phádraig in Killarney and asked if, as part of the Masterplan, the Local Authority will examine the possibility of a public private partnership for the development of a multi-storey car park at this, or another, location, to address the chronic situation regarding parking in the town.

Cllr. P. Connor-Scarteen complimented the work done on securing funding for the county under various streams. He asked what towns within the Municipal Districts will get the free public wifi. He congratulated the Blackwater Women's Group on securing a Special Award in the Pride of Place Awards. He supported Cllr. Gleeson's comments regarding the increase on the cost of disposing of a bag of black refuse at the transfer station.

Cllr. M. Cahill asked when an announcement is expected from Fáilte Ireland regarding additional routes for inclusion in the Wild Atlantic Way. He referred to the allocation of €50,000 to the South & West Municipal District under the Community Support Fund, adding that he considered this to be insufficient for the largest Municipal District in the county, with a number of large towns and parishes seeking support from the fund, and asked that this allocation amount be reconsidered. He said he had previously called for an Art Competition to be organised to address derelict properties in towns and villages.

Cllr. S. Fitzgerald welcomed the allocation of €208,000 to the Dingle Way under the Outdoor Recreation Infrastructure Scheme 2018. There is an economic benefit to the community when people visit the area to walk the Dingle Way. An officer has been appointed to oversee the development of the Dingle Way, which has potential to be one of the most iconic walking routes in Europe. He also welcomed support provided to Other Voices. He asked that Kerry County Council work with St. James's Burial Ground Committee to make an application for funding for this burial ground which has great history. He asked that Kerry County Council would make an application for funding to enhance car parking at Green Street, Dingle.

Cllr. J. Healy-Rae said flooding occurred in Kenmare over the weekend and asked that Kerry County Council review what happened to ensure it does not happen again.

Cllr. P. Daly welcomed works carried out around Tralee and works to footpaths on Rock Street. He referred to parking in Killarney and said the area allocated to private bus companies at Lewis Road should be returned for public car parking. In relation to housing, he expressed disappointment in the response received from the Council regarding a housing applicant who has been out of trouble for years.

Mr. C. O'Sullivan, Deputy Chief Executive, said the refuse charges were addressed in Budget 2019 and, unfortunately, the increase is necessary due to increased charges to Kerry County Council for handling and disposing of recycled waste. In relation to Áras Pádraig, the legal process to transfer ownership to Kerry County Council is ongoing. The Masterplan will consider all options for the site including parking and the possible provision of a multi-storey car park on the site. Construction has started on the Rock Road car park which will provide an extra 10% in car parking capacity in 2019. The towns that will be provided with free public wifi have to be determined; when they are known the Municipal Districts will be advised. Flooding at Kenmare will be reviewed.

#### **17.12.18.04 Variation No. 4 of the Killarney Town Development Plan 2009-2015 (as extended)**

The Cathaoirleach reminded Councillors of their duties under the ethics legislation and in particular of their requirements under Part 15 (Ethics Framework) of the Local Government Act 2001 and the Code of Conduct for Councillors. Councillors should be aware that the onus for complying with the requirement of the Act and the Code of Conduct lies with each individual Councillor. Under the beneficial interest provision and should that provision apply, a Councillor must:

- (1) Disclose the nature of his/her interest or the fact of a connected person's interest at the meeting and before discussion or consideration of the matter commences and
- (2) Withdraw from the meeting for so long as the matter is being discussed or considered, and accordingly, he/she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.

There can be no discussions with people in the public gallery while the meeting is in progress.

Mr. M. Scannell, Director of Service, referred Elected Members to the Chief Executive's report on submissions received for proposed Material Alterations to the Proposed Variation No. 4 of the Killarney Town Development Plan 2009–2015 (as extended) which had been circulated and outlined the following:

#### **"1. Variation no.4 to the Killarney Town Development Plan 2009-2015**

A Planning Authority may at any time, for reasons stated, decide to make a variation of a Development Plan. The procedure for such a variation is set out in Section 13 of the Planning and Development Act 2000 as amended by Section 10 of the Planning and Development (Amendment) Act 2010.

The Killarney Town Development Plan 2009-2015 was adopted by the former Town Council on the 23<sup>rd</sup> March 2009. The Plan was extended in accordance with Section 11 of the Planning & Development Act 2000 (as inserted by Section 28 of the Electoral, Local Government and Planning and Development Act 2013).

#### **2. Public Consultation**

In accordance with Section 13(2) of the Planning and Development Act 2000 (as amended) Notice of the proposed Variation, SEA environmental Report, the Habitats

Directive Assessment/ Natura Impact Report and the Strategic Flood Risk Assessment were published in a local newspaper and invited observations and submissions. Copies of the proposed Variation and Environmental Reports were placed on display for public inspection from 3<sup>rd</sup> May to 15<sup>th</sup> June 2018 (both dates inclusive). An open day for members of the public was held in the Killarney Library on the 24<sup>th</sup> May 2018.

### **3. Statutory Bodies**

Under Section 13(2) and 20(1) of the Planning and Development Act 2000 (as amended) the Planning Authority is required to consult the prescribed authorities listed under Part 3 Section 13 of the Planning and Development Regulations 2001 (as amended) and those prescribed for SEA under the Planning & Development Regulations 2001, as amended.

### **4. Submissions Received**

There were 63 number of submissions received during the public consultation period relating to the draft proposed Variation no.4.

The Chief Executive's Report and recommendations on submissions were presented and considered at the County Council Meeting held on the 17<sup>th</sup> September 2018. The proposed material alterations/amendments were approved by the Elected Members and were out for public consultation between Thursday, 4<sup>th</sup> October and Monday, 5<sup>th</sup> November 2018.

The material alterations were advertised in the Kerry's Eye newspaper on Thursday 4<sup>th</sup> October 2018. 13 no. submissions on the proposed material alterations were received during the consultation period.

### **5. Environmental Assessments**

#### **5.1 Strategic Environment Assessment (SEA)**

Further to the SEA of the material alterations of the proposed variation no. 4 to the Killarney Town Development Plan 2009-2015, as detailed in the SEA ER Addendum report; the proposed modifications to the material alterations have been assessed. Two potential significant effects on the environment were identified from the proposed material alterations. One proposed material alteration (No 27) was mitigated via the addition of a new objective. This objective and the addition of a second new objective from the appropriate assessment of the material alterations mitigated effects identified. Proposed material alteration no 28 was also identified as having a possible significant effect on environment. It is recommended that the proposed change to zoning in the material alteration reverts back to G3 (Landscape Protection).

On adoption of the proposed variation no. 4, an SEA Statement will be produced which will summarise the SEA of the proposed variation no.4 of the Killarney Town Development Plan 2009-2015 in accordance with the Planning and Development 2001 Regulations, as amended.

#### **5.2 Habitats Directive Assessment (HDA)**

A HDA is an assessment of the potential for impact on Natura 2000 sites which are nature conservation sites of international importance. A Combined HDA was undertaken for the proposed 4th Variation of the Killarney Town Development Plan 2009-2015 (as extended) and the proposed Tralee Municipal District Local Area Plan 2018-2024. This approach facilitated the assessment of potential cumulative and in combination effects. The HDA reports prepared by the Environmental Assessment Unit are adopted as those of Kerry County Council.

### **5.2.1 HDA recommendations**

The HDA Addendum report dated September 2018 which incorporated an assessment of the proposed material alterations to the MDLAP and 4<sup>th</sup> Variation, recommended the following in respect of Material Alteration No 27 to the proposed 4<sup>th</sup> Variation:- that either (a) the land use zoning revert back to a G3 Landscape Protection Zoning as outlined in the draft variation or (b) that the following 'mitigation' be included as a development objective for the lands in question.

*'A Natura Impact Statement, incorporating a Lesser Horseshoe Bat survey and impact assessment is required to be undertaken by a suitably qualified individual, in support of any development proposal for the lands in question. Proposals which would either directly or indirectly result in the loss of functionally linked habitat of importance to the Killarney National Park McGillycuddy Reeks and Caragh River Catchment SAC will not be permitted'*

The CE report on the submissions received for the proposed material alterations to the 4<sup>th</sup> Variation to the Killarney Town Development Plan recommends inclusion of the above development objective as a suitable mitigation measure.

### **5.2.2 HDA Determination**

The proposed land use plan, as recommended in the CE Report and incorporating the recommended Material Alterations, in combination with other plans or projects, is not likely to adversely affect the integrity of a European site.

### **5.2.3 Reasons for Determination**

- The land use plan together with the Kerry County Development Plan 2015-2021 (as varied) and the Killarney Town Development Plan 2009-2015 (as varied and extended) contain policies and objectives safeguarding nature conservation interests.
- The relatively benign nature of the proposed land use plans from a Habitats Directive Assessment point of view
- The development related land use zonings are generally removed from Natura 2000 sites and the proposed development of same as set out in the plan is not likely to either directly or indirectly impact on Natura 2000 sites.
- Proposals for development within 'Existing Residential/Town/Village Centre Area/Built Up Areas' (R2/M2/M4 land use zonings) will be considered taking into account potential for impact on sites of nature conservation importance. This is expressly stated within the land use zoning provisions
- Policies and objectives contained within the plan will either:- not lead to development, are intended to protect the natural environment, including biodiversity, are intended to conserve or enhance the natural, built or historic environment and are unlikely to have an effect on a Natura 2000 site, will positively steer development away from Natura 2000 sites and associated sensitive areas, positively make provision to ensure that implementation will not have a significant effect or adverse effect on the integrity of a Natura 2000 site, and or have been formulated using a caveat or conditional approach requiring, where necessary, a case by case environmental assessment / HDA.

Mr. M. Scannell, Director of Service, said Mr. D. Ginty, A/Senior Planner, would outline the submissions received.

Mr. D. Ginty, A/Senior Planner, referred Elected Members to the Chief Executive's report on submissions/observations received in relation to Material Alterations to

proposed Variation No. 5 of the Tralee Town Development Plan 2009-2015 (as extended) and outlined the submissions received.

6. Additions to the text of the Killarney Town Development Plan 2009-2015 and proposed variation no. 4 are in **bold italics** with deletions in ~~strikethrough~~.

**Written Submission No.1**                      **Dept of Housing, Planning & Local Government**

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**Submission:** The Department acknowledges the large body of work that the Council have had to undertake in the preparation of Municipal District Plans and Variations. Kerry County Council is to be commended in appropriately executing the Department's recommendations. The Council is reminded that the Killarney Town Development Plan will need to be holistically revisited after the Regional Spatial & Economic Strategy has been prepared.

**Response:** Submission noted and welcome.

**Recommendation:** No amendment to proposed variation.

**Written Submission No.2:**                      **Environmental Protection Agency**

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**Submission:** The submission states that Kerry County Council should ensure that the findings and recommendations of the SEA and Habitat Directive Assessments are fully incorporated, as appropriate, into the amended Plan and Variation prior to their adoption.

**Response:** The Planning Authority welcomes the submission. The SEA and Habitat Directive Assessments conclude that there are no significant effects on the environment.

**Recommendation:** No amendment.

**Written Submission No.3:**                      **Transport Infrastructure Ireland (TII)**

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**Submission:** The submission relates to a number of the proposed Amendments; Amendment 24; regarding the multi-storey carparking facilities at Mission road/beech Road. The TII recommends that all development proposals are appropriately assessed to ascertain the implications of traffic generation on the national road network and junctions.

Amendment 27; regarding the zoning of lands as C6 north of the N22 at Park. TII states that it is critical that the operational efficiency, carrying capacity and safety of the existing national routes are protected. TII requests that the Council have regard to the Retail Planning Guidelines 2012 which has an explicit presumption against large out of town retail centres located adjacent or close to national roads.

Amendment 28; regarding the R4 zoning along the N22.

The TII requests that a road safety audit be carried out in order to limit the proliferation of entrances in this 60kmh zone. TII recommends that this zoning be reviewed to ensure compliance with official policy.

**Response:** Kerry County Council will ensure that all developments comply with the Spatial Planning and National Roads Guidelines (2012) and in particular sections 2.5, 2.7 and 2.11. A full traffic impact assessment will be undertaken to ascertain the implications of traffic generation, resulting from any development proposal under the zoning matrix. Out of town retail developments cannot be permitted on lands zoned C6 Industrial/enterprise.

**Recommendation:**                      No amendment to the proposed variation.

#### **Written Submission No.4**

**Con Duggan**

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##### **Submission:**

The submission relates to Amendment no 25, which is a site located on Ross Road where it is proposed to amend the zoning from R2 to G1 Open Space. It is stated that the site is in private ownership which has not been taken in charge by the Council. It is suggested that the site be partially zoned as an open space and residential to accommodate 2 dwellings.

**Response** Given the planning history of the site it is considered that the partial use of this site for residential use would seriously injure the amenities of the area. It is considered that the amenity qualities of a smaller open space area would be inferior in both quantitative and qualitative terms.

**Recommendation:** No amendment to the proposed variation.

Cllr. M. Healy-Rae asked if Kerry County Council is going to take this area in charge and make it a green area, to which the Director of Service, replied that given the fact the open space is in private ownership this was not within our taking in charge policy.

#### **Written Submission No.5      Diarmuid Mangan**

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**Submission:** The submission relates to Amendment no 22, which welcomes the changing of zoning from S1(educational)/M4 to R1 at Rookery Road.

**Response:** Submission noted.

**Recommendation:** No amendment to proposed variation.

#### **Written Submission No.6:    GVA Planning**

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**Submission:** The submission is made on behalf of Tesco Ireland Ltd. The submission relates to Amendment no 24, which relates to multi storey parking facilities at Mission Rd/Beech Rd. The submission welcomes the amendment and further requests that the Local Authority carefully consider whether it would be more appropriate to remove the opportunity site designation from the Mission Road/Beech Road site.

**Response:** A number of opportunity sites have been identified, the development of which are of prime importance to the further economic regeneration and urban fabric enhancement of the town. It is proposed to designate the Mission Road site as an opportunity site in order to sustainably develop this town centre brownfield site for commercial and residential use. The opportunity site designation further incentivises the redevelopment by providing a reduction in any development contributions associated with all development.

**Recommendation:** No amendment to proposed variation.

#### **Written Submission No.7      Michael O'Connor**

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**Submission:** The submission relates to a site on Upper Park Road. It states that planning permission has been granted on the site for a residential development (16/695). It is requested that the proposed G3 zoning reflect the permitted open space area.

**Response:** The submission does not relate to a specific material alteration. It should be noted that the G3 zoning takes the open space into consideration.

**Recommendation:** No amendment to proposed variation.

#### **Written Submission No.8:    Thomas & Susan Tong**

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**Submission:** The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

**Response;** Submission noted.

**Recommendation:** No amendment to proposed variation.

**Written Submission No.9: John & Frances Carroll**

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**Submission:** The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

**Response;** Submission noted.

**Recommendation:** No amendment to proposed variation.

**Written Submission No.10: Margaret McAuliffe**

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**Submission:** The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

**Response;** Submission noted.

**Recommendation:** No amendment to proposed variation.

**Written Submission No.11: Gerry & Cauty Coakley**

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**Submission:** The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

**Response;** Submission noted.

**Recommendation:** No amendment to proposed variation.

**Written Submission No.12: Noel Ryan & Others**

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**Submission:** The submission relates to Amendment no 25, which welcomes the changing of zoning from R2 to G1 at Ross Road.

**Response;** Submission noted.

**Recommendation:** No amendment to proposed variation.

Cllr. N. Kelleher referred to a letter received from the Rickard family in relation to lands that were de-zoned and asked for confirmation that all documents requested by the family will be provided to them and a meeting arranged with them when this process is complete. Kerry County Council will require the goodwill of the family to purchase land for a proposed route through their land. He expressed his sympathies to the Rickard family on their recent loss.

The Cathaoirleach also asked for clarification regarding the letter received from the Rickard family.

Cllr. D. Grady supported the request from the Rickard family and asked that the information requested be provided.

Cllr. M. Gleeson said he had proposed the changed of zoning from R2 to G1 at Ross Road at the last meeting and PROPOSED the recommendation on submission no. 12. He said he would leave the meeting while Submission No. 13 was being considered.

Cllr. B. Cronin SECONDED this proposal.

Cllr. Gleeson left the meeting.

**Written Submission No.13: Joan Ryan**

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**Submission:** The submission is made on behalf of Joan Ryan and others. The submission relates to Amendment no.28, which amends the zoning of lands from G3 (Landscape Protection) to R4 Strategic Residential Reserve. The submission requests

that these sites be rezoned as R1 Proposed Residential. It states that the material amendment contained a clerical error, and this should be rectified.

**Response:** These sites are located on the N22 National Primary Road in a mature sylvan setting. The proposed Amendment no.28, amends the zoning of lands from G3 (Landscape Protection) to R4 Strategic Residential Reserve.

**Recommendation:** No amendment to proposed variation.

Cllr. N. Kelleher referred to submission No. 13 and said what he proposed at the last meeting was that these lands would be zoned as they were before, i.e. R1. He PROPOSED that these lands be zoned R1.

Cllr. J.J. Culloty SECONDED this proposal.

Cllr. M. Healy-Rae supported the proposal.

Cllr. Gleeson returned to the meeting.

Mr. M. Scannell said all statutory processes and all public notices have been conformed with in relation to the development of this plan. There were two periods of statutory public consultation. Consideration is confined, at today's meeting, only to matters that were materially altered, i.e. changes/amendments made at the September Ordinary Meeting of Kerry County Council. Outside of the process of the review of the Development Plan, management will meet with landowners. As part of the development process, we are precluded from considering anything outside the material alterations.

Mr. D. Ginty advised members that the change proposed (i.e. from R4 to R1) is consistent with Section 13(5)(c) of the Planning & Development Act and therefore acceptable. He referred members to Pages 10-11 of the report and outlined:

**Recommendations arising from the Habitats Directive Assessment / Natura Impact Report Addendum Report & SEA Environmental Report Addendum;**

It is concluded that provided the following recommendation in relation to proposed Material Alteration No 27 to the proposed Variation to the Killarney Town Plan, is adhered to that there will be no adverse impact on the integrity of Natura 2000 sites arising from Variation Number 4 to the Killarney Town Development Plan 2009-2015 (Variation number 4) or from the Killarney Municipal District Local Area Plan 2018-2024.

It is recommended in the HDA that the following 'mitigation' be included as development objectives for the lands in question.

<b>Natural Environment</b>	
<b>Objective No:</b>	<b>It is an objective of the Council to;</b>
KY-PK-1;	Ensure that a Natura Impact Statement, incorporating a Lesser Horseshoe Bat survey and impact assessment is required to be undertaken by a suitably qualified individual, in support of any development proposal for the lands in question. Proposals which would either directly or indirectly result in the loss of functionally linked habitat of importance to the Killarney National Park McGillicuddy Reeks and Caragh River Catchment SAC will not be permitted

In addition, the SEA of Material Alteration No 27 to the proposed Variation to the Killarney Town Plan, recommends the following new objective:

<b>Natural Environment</b>	
<b>Objective No:</b>	<b>It is an objective of the Council to;</b>
KY-PK-2;	Ensure that any proposal to develop the site should include a: <ul style="list-style-type: none"> <li>• Landscape and visual impact assessments,</li> <li>• Traffic Impact Assessment addressing any impacts on the existing N22/Killarney by-pass from the proposed development,</li> <li>• An Ecological Impact Assessment, and</li> <li>• An assessment under Article 6 of the Habitats Directive as outlined in Objective no KY-PK-1.</li> </ul>

**Summary of the Proposed Modifications to the amendments/material alterations;**

**Modification 1:**

Include the following objective in section 2.8;

<b>Natural Environment</b>	
<b>Objective No:</b>	<b>It is an objective of the Council to;</b>
KY-PK-1;	Ensure that a Natura Impact Statement, incorporating a Lesser Horseshoe Bat survey and impact assessment is required to be undertaken by a suitably qualified individual, in support of any development proposal for the lands in question. Proposals which would either directly or indirectly result in the loss of functionally linked habitat of importance to the Killarney National Park McGillycuddy Reeks and Caragh River Catchment SAC will not be permitted

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. M. Gleeson, Modification 1 was unanimously agreed.

**Modification 2:**

Include the following objective in section 2.8;

<b>Natural Environment</b>	
<b>Objective No:</b>	<b>It is an objective of the Council to;</b>
KY-PK-2;	Ensure that any proposal to develop the site should include a: <ul style="list-style-type: none"> <li>• Landscape and visual impact assessments,</li> <li>• Traffic Impact Assessment addressing any impacts on the existing N22/Killarney by-pass from the proposed development,</li> <li>• An Ecological Impact Assessment, and</li> <li>• An assessment under Article 6 of the Habitats Directive as outlined in Objective no; KY-PK-1.</li> </ul>

On the PROPOSAL of Cllr. B. O’Connell, SECONDED by Cllr. J.J. Culloty, Modification 2 was unanimously agreed.

### **Modification 3:**

On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. N. Kelleher, Modification 3 was unanimously agreed.

Mr. L. Quinlan, Meetings Administrator, said a vote would now be taken on the following:

“On the PROPOSAL of Cllr. B. Cronin, SECONDED by Cllr. N. Kelleher, that this Council hereby resolves that Variation No. 4 of the Killarney Town Development Plan 2009-2015 (as extended) be made as amended by the Material Alterations and to include the change from R4 to R1 in relation to Submission No. 13.”

The result of the vote was as follows:

**For:** Cllrs. Barry, Beasley, Cahill, Connor-Scarteen Cronin, Culloty, Daly, Flynn, Gleeson, Grady, J. Healy-Rae, M. Healy-Rae, Kelleher, Kennelly, Locke, Lucid, D. McCarthy, McEllistrim, Moloney, Moriarty, O'Brien, O'Connell, O'Shea, Purtill, Quigg, Sheahan, Spring, Foley **(28)**

**Against:** **(0)**

**Not Voting:** **(0)**

**Absent:** Cllr. Ferris, Finucane, Fitzgerald, P. McCarthy, Thornton **(5)**

Mr. L. Quinlan, Meetings Administrator, declared the resolution CARRIED.

### **17.12.18.05 Update on Renewable Energy Policy**

Mr. D. Ginty, A/Senior Planner, made a presentation to the Elected Members which included the following:

- Local Authorities have been advised not to review their development plan policies and objectives until the completion of a focused review of the Wind Energy Development Guidelines 2006.
- 13 June 2017 - Press release issued by Minister.
- Guidelines subject to a Strategic Environmental Assessment.
  - Department aim to complete SEA and finalise guidelines in early 2018.
  - Set back 4 times turbine height, mandatory min distance, 500m.
  - 43dB(A) being the maximum noise limit permitted.
  - Turbine shut down to eliminate shadow flicker.
- Nov 2018, Minister in response to a PQ; guidelines to be published in the coming weeks.
- Kerry County Council commitment given in Nov 2017 that a review of the Landscape Character Assessment was to commence in order to:
  - Inform a revised Renewable Energy Strategy; once Wind Energy Guidelines published.
  - Kerry County Council's LCA to be finalised in coming weeks.
  - The absence of the guidelines places KCC in a difficult position.
- **Renewable Energy Strategy**
  - A progress update will be presented at Municipal District level during Jan/Feb on development of this policy.
  - It is hoped to have the Renewable Energy Strategy finalised for March 2019.
  - If the Wind Energy Guidelines are published by March 2019, Kerry County Council can commence the statutory process to vary the County Development Plan.
  - If the Guidelines are not published by March 2019, Kerry County Council will be ready to commence the process immediately once published.

- **National Policy**
  - It is necessary to take a balanced view, adhere to National policy and guidelines in preparation of policy.
  - Designate areas based on assessment and analysis.
    - as opposed to a crude mandatory separation distance.
    - Mandatory separation distance of 1km or greater?
    - The Minister intervened pursuant to Section 31 in a number of Local Authorities where they had proceeded to vary their County Development Plan
- **Renewable Energy Strategy (RES)**  
In preparing a RES taking cognisance of:
  - Turbines constructed, including the cumulative impact.
  - Turbines permitted, not yet constructed.
  - Changes in turbine technology.
  - Tourist routes.
  - Natura Sites (SAC / SPA's)
  - Archaeological landscapes.
  - Location and suitability of supporting infrastructure.
  - National Policy.
  - Separation distances outlined in the guidelines (or draft approach).
Reasonable strategy.
  - One that best serves the entire community.

Cllr. J.J. Culloty moved **Notice of Motion No. 11.**

**Pursuant to notice duly given Cllr. J.J. Culloty PROPOSED:**

It was agreed at a previous meeting of this Council, not to allow any new planning for wind turbines until 80% of previous planning was constructed. I ask this Council to provide the following:- A) Details of this Meeting, B) How many turbines in total, are completed in this County, C) How many are at construction stage, D) How many are at planning stage, E) How many are granted planning, and not at construction stage.

**The following reply issued:**

As of the 1<sup>st</sup> of December 2018:

- (A) Objective EP-12 as contained in Chapter 7 of the Kerry County Development Plan 2015 -2021 reads as follows:  
*Not to permit the development of windfarms in areas designated "open to consideration" in the Tralee and Listowel Municipal Districts until 80% of the turbines with permissions in those area, on the date of adoption of the plan, have either been erected or the relevant permission has expired or a combination of both and the cumulative affect of all permitted turbines in the vicinity of the proposal has been fully assessed and monitored.*  
This policy was included by the elected members at a special planning meeting to consider the Chief Executives report on submission received in relation to the published material alterations on the 12<sup>th</sup> of January 2015.
- (B) 317 turbines have been constructed.
- (C) 38 turbines are under construction.
- (D) 18 turbines are, at present, awaiting a decision from An Bord Pleanála or subject to a Judicial Review in the Supreme Court. (10 An Bord Pleanála, 8 Supreme Court)
- (E) 73 turbines have planning permission but have not been constructed.

At the adoption of the current County Development Plan in Feb 2015:

- 200 approx were constructed.
- 195 turbines had permission but were not constructed.
- 125 turbines have permission in these MD's.
- 108 turbines have been constructed. (October 2018)
- 80% therefore, has been exceeded.

Since the adoption of the County Development Plan in Feb 2015 the following wind energy development have been permitted in Kerry:

Ref No.	Location	Number	KCC decision	ABP decision
14-13	Ballyhorgan	10	Refused	Granted
PA044	Grousemount	38	N/A	Granted (SI)
14-571	Kilmorna	3	Granted	Granted
15-341	Causeway	1	Granted	Granted
17-300	Gneeveguilla	12	14 Refused	12 Granted

Cllr. J.J. Culloty said there must be a balance regarding renewable energy. There is a place for turbines but what is happening now is totally unacceptable. It was previously unanimously agreed to begin the process of inserting into our County Development Plan a minimum set back distance of 10 times the height of turbines from dwelling houses. "Crude distances" were referred to in the presentation; the turbines are crude. He referred to a letter from an An Bord Pleanála and quoted:

*"Having considered the submitted information, I am not in a position undertake an extensive in-depth analysis of the wider debate as regards the alleged impact of wind turbines on human health nor do I consider it to be within the remit of the Board to engage in such an exercise. Whilst I would acknowledge the concerns raised by various third parties with regard to the alleged impact of wind turbines , with particular reference to noise (including infrasound and low frequency sound) and shadow flicker, on human health, the current national planning guidelines with regard to wind energy development do not specifically address the matter whilst the recently published targeted review of same expressly states that any such impacts are beyond the remit the guidelines. Accordingly, it is my opinion that the Board is restricted to considering the subject proposal in the context of the applicable current guidance and in this respect he submitted information serves to clarify that the development as proposed generally complies (subject to mitigation) with the applicable limit values and thus will not give rise to any overt loss of amenity. The wider debate as regards the alleged health impact of wind turbines is not a matter for the Board and I do not propose to comment further on same."*

Cllr. Culloty said this is an extraordinary statement for the board to make. Despite the fact an An Bord Pleanála inspector recommends to refuse planning and the board then granted that planning.

Cllr. N. Kelleher moved **Notice of Motion No. 18.**

**Pursuant to notice duly given Cllr. N. Kelleher PROPOSED:**

As per the Planning and Development (Amendment) Act 2018 (Commencement) Order 2018 we request that the CE commence a variation of the County Development Plan to include a set back distance of 10 times the height of wind turbines from any residential development and to extend the 80% rule in place in North Kerry to the entire County.

Cllr. J. Moloney moved **Notice of Motion No. 19.**

**Pursuant to notice duly given Cllr. J. Moloney PROPOSED:**

As per the Planning and Development (Amendment) Act 2018 (Commencement) Order 2018 we request that the CE commence a variation of the County Development Plan to include a set back distance of 10 times the height of wind turbines from any residential development and to extend the 80% rule in place in North Kerry to the entire County.

Cllr. J.J. Culloty moved **Notice of Motion No. 33.**

**Pursuant to notice duly given Cllr. J.J. Culloty PROPOSED:**

As per the Planning and Development (Amendment) Act 2018 (Commencement) Order 2018 we request that the CE commence a variation of the County Development Plan to include a set back distance of 10 times the height of wind turbines from any residential development and to extend the 80% rule in place in North Kerry to the entire County.

**The following reply issued:**

In the interests of clarity the recently commenced Section 16 of the Planning & Development Act 2018 as amended provides for the following;

Request to manager to report on proposal by members of planning authority to vary development plan. This provision amends section 13 of the Principal Act (variation of development plan) by inserting a new subsection which gives a new power to the elected members to request the Chief Executive (by resolution of at least three-quarters of the members) to prepare a report (within 4 weeks of the resolution) on a proposal by them to initiate a process to bring about a variation of the county development plan. The Exact wording is as follows.

“(1A) (a) The members of a planning authority may at any time, for stated reasons, submit a resolution to the manager of the planning authority requesting him or her to prepare a report on a proposal by them to initiate a process to consider the variation of the development plan which for the time being is in force where three quarters of the members of that authority have approved such a resolution.

(b) The manager of a planning authority shall submit a report further to a request under paragraph (a) to the elected members within four weeks of the adoption of the resolution.”.

The substantial issue of the variation of the County Development Plan is dealt with as an item on today’s agenda.

Cllr. N. Kelleher agreed with Cllr. Culloty’ comments and said two weeks ago Deputy John Brassil asked a Parliamentary Question about the publication date for these guidelines. Several publication dates have been given and not met. Local Authorities were stopped two years ago from varying their County Development Plan. Rural communities across the county are having monstrosities of constructions impeding on their homes. There is a place for wind farms but they are being built now in places that are not suitable for them. He asked that a commitment be given to start this process.

### **Suspension of Standing Orders**

The Cathaoirleach indicated that it was 1.30pm and it would be necessary to suspend Standing Orders.

On the PROPOSAL of Cllr. N. Kelleher, **SECONDED** by Cllr. M. Gleeson it was agreed to suspend Standing Orders to finalise consideration of this agenda item.

Cllr. J. Moloney said this was the first notice of motion he had listed on a Council agenda in 2014. We have not moved on since this. We are the planning body in the county. An Bord Pleanála are overturning Kerry County Council decisions. The Landscape Character Assessment is promised for a long time. It is a document that is mentioned by An Bord Pleanála in their decisions. We are responsible for the Landscape Character Assessment. We are waiting for 4½ years for this. This fits into the Renewable Energy Policy. A strategy “that best serves the entire community” is

quoted in the presentation; these planning decisions are costing communities as they try and fight these applications. This could affect any part of the county. We should proceed, and let the Minister know we are the Planning Authority. We have a flawed policy that is not supporting communities at present.

Cllr. M. Gleeson said this is a huge issue. We talk about the betterment of the rural communities. What Cllr. Moloney says is correct as it is causing hardship on communities who want to fight these applications. This is also dividing communities. Meetings in communities are putting people in a difficult position. When we do anything to diminish any community we are harming the tourism of the county. Ireland's real stance is being clarified internationally; saying we are a pathetic disgrace. One of the most efficient is bog (peatland). The wind farms are desecrating our bogs; undoing what we should be preserving. He proposed, in supported the motions, that we have more than our bit done and it is time we shouted stop.

Cllr. P. Daly said there have been contradictions in this policy for years. All the profits of these companies are leaving this county. If you wanted to build a school or house it must be set into the landscape. It says avoid tourist areas. Those priorities were for the benefit of tourists rather than the residents of the county.

Cllr. B. Cronin supported the notices of motion and said this this was discussed many times before, e.g. Caherciveen-Dromid area and trying to relay the problems they were encountering. He supported the members that have spoken. What started out as 50m-60m wind turbines that would be able to be accommodated in certain areas, 150m are now being proposed in areas. Until you stand beside one of these turbines it is difficult to appreciate the scale of the development. He referred to a video which illustrates the effect of the turbine blade flicker on a household. There is not recommendation by An Bord Pleanála or Kerry County Council's policies regarding this. When a person is applying to build a house they must erect site poles, however, these are not requested for wind turbines. There must be appropriate decisions in any further applications to keep back from a residential house. There is an element of duty in drawing up a development plan; we must also consider the people that are affected by these developments for rest of their lives. We must have respect and relay the concerns of families and the consequences of what is happening on their lives and their children's lives. Homes are becoming worthless. It is also splitting communities. Companies are tying landowners into contracts.

Cllr. M. Healy-Rae said she is glad that Deputy Healy-Rae raised this in the Dáil. Several dates have been given and each one of those dates have been missed; which shows the disregard the Department have for this issue. There are suitable areas for turbines but anything close to a person's home is not acceptable. Lives are being destroyed; it cannot be underestimated. It is sad for communities that they are being divided over this and funding for a judicial review was being raised. That would have been avoided if the guidelines were in place. While Kerry County Council did refuse planning they are hamstrung by An Bord Pleanála granting permission and by the Department not issuing the Guidelines.

Cllr. B. Cronin asked Cllr. M. Healy-Rae to confirm if she is a connected person to a firm that works on turbine developments.

Cllr. J. Healy-Rae said the Elected Members are not voting or deciding on anything at today's meeting. He said he is a Director of Healy-Rae Plant Hire, a company that, on occasion, has been sub-contracted to development works. He said if he had a conflict

of interest he would not be in the Council Chamber. He said he never directly benefitted from a wind turbine development. He said when contracted to a quarry the lorry driver will be told where to make the delivery. He said Healy-Rae Plant Hire does not have shares or a holding in any turbine development.

Cllr. R. Beasley said he supports Green Energy but have to condemn the height of these turbines which is excessive. This is affecting North Kerry significantly as it is saturated with turbines. There is no difficulty in getting planning. These companies give a token contribution to the community but the bulk of the money is leaving the county. In addition the condition of the roads is affected because of the construction of these developments. He supported the Notices of Motion.

Cllr. N. Kelleher said he had a motion before Council that under the Planning & Development Act 2018 requires  $\frac{3}{4}$  support from Elected Members and he asked for a vote on his Notice of Motion.

Mr. C. O'Sullivan, Deputy Chief Executive, said he fully acknowledged the frustration the Members have expressed in relation to the development of the draft guidelines; a frustration that is shared by management. He said as outlined by the A/Senior Planner, management have given commitments in the past to commence a variation of the County Development Plan and Renewable Energy Policy. The Chief Executive cannot commence a variation which is contrary to national policy. We have, however, given an outline in today's presentation regarding our commitment, but contingent on getting the guidelines from the Department. We have also given a commitment previously regarding the Landscape Character Assessment. There is substantial work done regarding that and it will feed into the whole process of the variation and the Energy Guidelines. Our hands are tied but we will give a commitment regarding commencing the variation dependent on the Guidelines being published.

Mr. M. Scannell, Director of Service, said as the Deputy Chief Executive said the executive want the Guidelines published in order to implement a revision of the County Development Plan. In relation to the particular Notice of Motion, there was not disrespect meant in the reply given. The last two lines state "The substantial issue of the variation of the County Development Plan is dealt with as an item on today's agenda." What we are undertaking to do is to do the substantial work in the preparation of the variation for the County Development Plan. That work will be complete for the March Council meeting. That will allow us, if we get the green light from the Department to commence immediately the variation of the County Development Plan as soon as we will be in a position to do it. The Landscape Character Assessment is nearly complete and that, with the proposed Guidelines, will secure a progressive and fair system for the consideration of the wind farm applications that will be brought forward before the Planning Authority. It will also allow An Bord Pleanála to consider and be limited by the County Development Plan in those areas.

Cllr. J.J. Culloty said he wanted a vote as provided for under the 2018 Act to insert into the County Development Plan a minimum set back distance of 10 times the height of turbines from dwelling houses. He commented that the Department and the Board have no problem disregarding us and Kerry County Council's Planners, and this needed to be addressed.

Cllr. N. Kelleher said to be clear on the process, we have been told the Minister said the Guidelines will be published in the New Year and he would be delighted for the Minister to answer us and the members are sick of waiting for something for people

we care for. He said he was unhappy in relation to the response he got in relation to his Notice of Motion. He PROPOSED that Kerry County Council should proceed to vary the County Development Plan and let the Minister intervene as he sees fit.

Cllr. J. Moloney SECONDED this proposal.

Mr. C. O'Sullivan, Deputy Chief Executive, said there is no malice intended in what was outlined regarding the statutory process and the executive's position. The statutory requirement is that the variation process can only be commenced by the Chief Executive. We are bound also in terms of statutory provision. These are the facts. A commitment was given by the executive regarding progressing the variation and preparing the Landscape Character Assessment; a commitment to have it prepared by March subject to the Guidelines being published. He acknowledged the frustration with previous commitments given and they not being honoured but the executive has to work within statutory confines and are bound by statutory provisions.

Mr. M. Scannell, Director of Service, committed to ensuring the required resources of the Planning Department would be put in place to ensure we have a draft policy ready to be put on public display by the end of March. The Members have the authority under the new legislation to vote to get a report from the executive, with a  $\frac{3}{4}$  majority required.

Mr. C. O'Sullivan, Deputy Chief Executive, clarified that this legislation does not provide for the Members to instruct the Chief Executive to commence a variation of the County Development Plan.

Cllr. J.J. Culloty said it was unanimously agreed that Kerry County Council insert into the County Development Plan a minimum set back distance of 10 times the height of turbines from dwelling houses.

Mr. C. O'Sullivan, Deputy Chief Executive, said the Chief Executive cannot do what is not provided for in law.

Cllr. M. Gleeson asked does the law pre-date this present Council. He asked if there is a conflict between the law that is there and our powers in directing the Chief Executive to carry out the will of the Members.

Mr. C. O'Sullivan, Deputy Chief Executive, confirmed there was no conflict in relation to the commencement of the process of the variation of the County Development Plan and Section 140 of the Local Government Act 2001.

In response to a query from Cllr. Quigg, Mr. C. O'Sullivan, Deputy Chief Executive, said that the legislation has been clarified on a number of occasions to the Members regarding the legal position in planning laws. It is quite clear in legislation.

The Cathaoirleach said the Minister has indicated the Guidelines will be published in January 2019. In anticipation of that we could move along as has been outlined.

Mr. L. Quinlan, Meetings Administrator, said a vote would now be taken on the following:

“On the PROPOSAL of Cllr. N. Kelleher, SECONDED by Cllr. J. Moloney, that this Council hereby resolves, in accordance with Section 13(1A) of the Planning & Development Acts 2018, for the Chief Executive to prepare a report on the proposal contained in Notice of Motion Nos. 18, 19 & 33 to initiate a process to consider the variation of the County Development Plan.”

The result of the vote was as follows:

**For:** Cllrs. Barry, Beasley, Cahill, Connor-Scarteen Cronin, Culloty, Daly, Flynn, Gleeson, Grady, J. Healy-Rae, M. Healy-Rae, Kelleher, Kennelly, Locke, Lucid, D. McCarthy, Moloney, Moriarty, O’Connell, O’Shea, Quigg, Sheahan, Spring, Foley **(25)**

**Against: (0)**

**Not Voting: (0)**

**Absent:** Cllr. Ferris, Finucane, Fitzgerald, P. McCarthy, McEllistram, O’Brien, Purtill, Thornton **(8)**

Mr. L. Quinlan, Meetings Administrator, said the  $\frac{3}{4}$  majority was achieved and declared the resolution CARRIED.

### **Lunch break**

The meeting adjourned for lunch at 2.10 p.m. The meeting resumed at 2.45 p.m.

### **17.12.18.06 Raising of a loan for Housing Mortgage Loans**

Report dated 10 December 2018 from Ms. A. McAllen, Head of Finance, which had been circulated was noted.

On the PROPOSAL of Cllr. M. Gleeson, SECONDED by Cllr. N. Moriarty, it was agreed to approve the raising of a loan of €5m from the Housing Finance Agency for Housing Mortgage Loans.

### **17.12.18.07 Report of the Local Government Auditor**

On the PROPOSAL of Cllr. T. O’Brien, SECONDED by Cllr. N. Kelleher, it was agreed to note the report of the Local Government Auditor on the Council’s Accounts for the Financial year ended 31 December 2017 which was circulated together with a Report from the Audit Committee on the Statutory Audit Report for the year ending 31 December 2017.

### **17.12.18.08 Update on National Planning Framework & Regional Spatial Strategy**

Mr. M. Scannell, Director of Service, made a presentation to the Elected Members, which included the following. He said the strategy will be on public display from 18 January to 8 March 2019. A report will be presented to the Elected Members at the February meeting and this will be an opportunity for the Elected Members to make additions/deletions on the strategy.

- Details of the RSES process to date
- RSES Issues Paper – 96 submissions received. 4 no. Stakeholder Consultation Workshops in April 2018 (Physical Infrastructure /Environment, Marine and Heritage /Economic / Social & Community)

- Details of Key Interactions - working in partnership to develop the RSES; Interactions with DoHPLG and other two Regional Assemblies, NTA & Transport Infrastructure Ireland, DBEI & Development Agencies, Meetings with other Departments/Agencies, and Elected Members in sub-regional SPA Committees and Members Workshops
- Next Steps include SRA Meeting to consider Draft RSES for adoption followed by a Public Consultation for statutory period of not less than 10 weeks. Target Date for Adoption of Southern Region RSES is May 2019.
- The Southern Region's Strategy is to build a strong, resilient, sustainable region.

Cllr. M. O'Shea moved **Notice of Motion No. 9.**

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

To ask when will Kerry County Council debate or give us insight to their proposal for the National Planning Framework 2020 to 2040 that may have detrimental effects going forward for rural habitation.

**The following reply issued:**

Kerry County Council has to date debated on three occasions the emerging and finalised NPF at full council meetings. As part of the public consultation process in the preparation of the National Planning Framework Kerry County Council made detailed submissions in March 2017 prior to the publication of the draft NPF, and again in November 2017 in response to the published Draft NPF. Both submissions were brought before and approved by the elected members at the time.

Similarly, the finalised NPF was presented to members earlier this year. The NPF with the National Development Plan has set the context for the regional assembly to develop the draft Regional Spatial and Economic Strategy, which is, at present, on public display. This is the subject of an agenda item on today's meeting.

The detailed policy in relation to rural housing is contained in the County Development Plan which continues to be informed primarily by the Ministerial guidelines; Sustainable Rural Housing, Guidelines For Planning Authorities.

A review of the County Development Plan (including policy with respect to rural housing) will commence within 13 weeks of the adoption of the Regional Spatial and Economic Strategy and will take cognisance of the Ministerial guidelines, National and Regional Policy.

Cllr. O'Shea said the RSES is a very important document for Kerry. The access corridor is very important from an economic point of view. He asked if a debate will be held on the strategy at full Council. This document have an impact on planning in rural Ireland. He asked that the CEO of the Southern Regional Assembly be invited to attend a Council meeting to hear the views of the Members on this strategy.

Cllr. S. Fitzgerald said as the present Chair of the Southern Regional Assembly he welcomed the Regional Spatial Strategy. This document has been developed over the last three years and he thanked his fellow Members who served on the regional assembly during its creation. It is a very aspirational document and will have to meet national guidelines set by Government. It is important that the County Development Plan will feed into this strategy and vice versa. The strategy looks at how Government and other state agencies, along with Local Authorities, can drive the economy over the next number of years. Brexit could have an effect on it. This document portrays the strengths of rural Ireland on which we can build. During the public consultation phase other ideas could be incorporated into it before its final adoption.

Cllr. J.F. Flynn SECONDED Cllr. O'Shea's motion. The attendance of the Southern Regional Assembly Chief Executive at a meeting with Members is vital. People from local areas who are trying to get planning are not always in a position where they have a site available to them through their family. "Local area" seems to be only within a one mile radius. There are 23 vacant houses on one street in Killorglin, we need to do something to ensure property owners do not leave buildings vacant. There is a similar situation in Caherciveen. It is not attractive in a tourism town on the Ring of Kerry. A scheme must be put in place to get property owners to refurbish these properties and make them available for renting.

Cllr. M. Healy-Rae moved **Notice of Motion No. 27.**

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

To ask Kerry County Council and the Planning Section to advise local applicants who cannot get planning permission in areas under urban generated pressure, where in the County of Kerry will these people be considered for planning permission.

**The following reply issued:**

In areas designated as a Rural Area Under Strong Urban Influence Objective RS-7 of the County Development Plan 2015-2021 applies:

Ensure that favourable consideration is given to individual one – off house developments for immediate family developments for immediate family members (sons, daughters or favoured niece/nephew) on family farms and land holdings; subject to compliance with normal planning criteria and environmental protection considerations.

This objective is consistent with The Sustainable Rural Housing Guidelines for Planning Authorities, which are issued by the Minister. The Council must have regard to the County Development Plan, and the policy of the Minister in making a decision on a planning application.

In order to comply with the above policy and Ministerial guidelines, the Planning Authority must ensure that that an applicant is an immediate family member before permission for a new house can be granted.

Each application is assessed on its own merits and Objective RS-7 is interpreted and implemented by the Planning Dept in accordance with the Ministerial guidelines and the understanding and spirit of the objective as adopted.

Where an applicant who satisfies these objectives is refused permission in the family landholding, the decision and reasons for refusal may be appealed to An Bord Pleanála in the first instance.

Alternatively, where these reasons cannot be overcome, Kerry County Council offers a pre-planning service where the applicant can meet with the relevant staff of the planning department in the context of a pre-planning meeting to discuss an alternative location in the family landholding.

Cllr. M. Healy-Rae said if these people are not able to get planning in the parish they are born and reared in where does Kerry County Council suggest they go. Where a person wants to buy a site in their parish even then they cannot get planning permission. There is a problem and a flaw with this system. She referred to an EU ruling which deems these practices to be inappropriate and asked for an update on the working group that was to be set up to consider this ruling.

Mr. M. Scannell, Director of Service, said with regard to rural housing, the vast majority of permissions that are granted within the county are for one off rural houses. This has been consistently the case. Planning permission has been granted for 1,146 single rural dwellings in the five year period between 2013-2018. In that same period 178

single rural dwellings have been refused planning permission, i.e. 87% of applications granted in respect of rural dwellings. There remains significant one off rural housing being granted planning permission within the county. There are areas within the County Development Plan that are under urban pressure. There are restrictions in relation to those. If there are individual problem areas planning staff will meet with applicants and try to resolve problems. There will be some cases where we will not be able to grant planning in an area under urban pressure.

Cllr. J.F. Flynn said he understands the reply but to be fair the majority of people that would be going for planning would be fairly sure they would meet the County Development Plan requirements. He asked how many pre-planning meetings have been held and said many people have been told they are wasting their time and they would not get planning.

Cllr. B. Cronin said valid arguments are made in the notice of motion, referring to a case he was aware of where a person whose 'roots' are within a half mile radius of the site they wish to build on was told that they should consider living in a town/village.

Mr. M. Scannell, Director of Service, said the policy is quite clear. The purchase of sites under strong urban pressure is not allowed. In relation to the dwellings constructed in rural areas the figure are: Killarney 74%, Tralee 66%, Listowel 87% and South & West 80%. The vast majority of dwellings built in this county continue to be built as single one off houses. There are strong national guidelines regarding areas under strong urban influence. We cannot accommodate applicants outside of the permitted categories. They have to look for alternatives outside of these areas.

Cllr. J.F. Flynn said this is very unfair on people who are not lucky enough to be a farmer's son/daughter. He said he would like to see an amendment to the County Development Plan to allow a person to build within their own townland.

Cllr. M. Healy-Rae SECONDED this proposal.

Mr. M. Scannell, Director of Service, said we are restricted in relation to what we can do regarding policy relating to areas under urban pressure. There are strict policies regarding the County Development Plan. We can accommodate most people within the County Development Plan. We have accommodated significant numbers of people. We will continue to work with individuals to secure a good outcome.

Cllr. M. Healy-Rae asked what discussions have taken place, between Kerry County Council and the Department, in relation to this issue.

Cllr. J.F. Flynn said the members are having a different experience to the executive. The majority of people are not even submitting applications following pre-planning discussions. He asked if the County Development Plan could be changed to give these people some hope of getting planning.

Mr. C. O'Sullivan, Deputy Chief Executive, said there are Ministerial Guidelines in place which we have to comply with. County Development Plan and Local Area Plans, when presented to the Members for adoption, have regard to those guidelines. Notwithstanding that the evidence is quite clear given the figures, where over 80% of permissions granted in the county are in rural areas. The vast majority of applications are in rural areas and Sustainable Rural Guidelines must be complied with.

Cllr. J. Healy-Rae said the EU ruling surely shows that these clauses are discriminatory.

Mr. M. Scannell, Director of Service, advised that a motion by the Elected Members cannot change the County Development Plan. The executive must initiate the process. We are limited by Ministerial Guidelines which we can incorporate into the plan. This is the law in the country if lands are under intense urban pressure.

Cllr. J.F. Flynn asked can we make a request from the Members that the Chief Executive look at amending the County Development Plan.

#### **17.12.18.09 Report from Cllr. J. Finucane on the Economic SPC Meeting**

Report from Cllr. J. Finucane on the meeting of the Economic Development & Enterprise SPC held on 12 December 2018 was noted.

Mr. M. Scannell, Director of Service, said over the coming days Kerry County Council, in association with key stakeholders, is launching a survey of the skills of people in Kerry which will assist in targeting investment and employment for the county. The online survey is being targeted at everyone living in Kerry, as well as those thinking about relocating to the county, those planning to set up a business in Kerry, and graduates planning to work in the county.

The Cathaoirleach welcomed the launch of this survey as it will assist business that are considering investment in the county.

#### **17.12.18.10 Summary of proceedings at events**

It was agreed to note the following reports on proceedings at events on behalf of the Kerry County Council delegates that attended, in accordance with Section 142(5)(f) of the Local Government Act 2001:

- (a) Seminar on the theme "Priorities for Implementing Project Ireland 2040" held in Dublin on 31 May 2018 by Cllr. G. Spring.
- (b) LAMA Autumn Seminar 2018 held in Castleisland, Co. Kerry, from 27-29 September 2018 by Cllr. B. O'Connell.

#### **17.12.18.11 Approval for the Opening of Tenders**

- a) On the PROPOSAL of Cllr. J.F. Flynn, SECONDED by Cllr. D. Quigg, it was agreed to approve the opening of tenders for Extension at 18 Riverside Close, Abbeydorney – Closing date: Tuesday, 3 December 2018 at 3.00 p.m.
- b) On the PROPOSAL of Cllr. J.F. Flynn, SECONDED by Cllr. D. Quigg, it was agreed to approve the opening of tenders for Procurement of a Telephony System – Closing date: Friday, 14 December 2018 at 3.00 p.m.
- c) On the PROPOSAL of Cllr. J.F. Flynn, SECONDED by Cllr. D. Quigg, it was agreed to approve the opening of tenders for Leachate Removal Services from North Kerry Landfill to Tralee Wastewater Treatment Plant on behalf of Kerry County Council - Closing Date: Tuesday, 18 December 2018 at 4.00 p.m.
- d) On the PROPOSAL of Cllr. J.F. Flynn, SECONDED by Cllr. D. Quigg, it was agreed to approve the opening of tenders for N69 Listowel Bypass Utility Survey Contract - Closing Date: Thursday, 3 January 2019 at 4.00 p.m.

- e) On the PROPOSAL of Cllr. J.F. Flynn, SECONDED by Cllr. D. Quigg, it was agreed to approve the opening of tenders for Employers Representative Services on the N70 Killorglin Town Scheme – Closing Date: Friday, 4th January 2019 at 4.00 p.m.
- f) On the PROPOSAL of Cllr. J.F. Flynn, SECONDED by Cllr. D. Quigg, it was agreed to approve the opening of tenders for the construction of 28 no. housing units, Associated Siteworks and Site Services at Balloonagh, Tralee – Closing Date: Monday, 21 January 2019 at 3.00 p.m.
- g) On the PROPOSAL of Cllr. J.F. Flynn, SECONDED by Cllr. D. Quigg, it was agreed to approve the opening of tenders for the construction of 6 no. apartments along with all associated siteworks at Pinewood, Killarney – Closing Date: Friday, 18 January 2019 at 3.00 p.m.

### **Emergency Motion**

Cllr. J. Sheahan moved the following Emergency Motion.

“To ask Kerry County Council to liaise with the Transport Infrastructure Ireland with a view to finalising the purchase of the lands required to bypass the Stagmount Bends at Stagmount, Rathmore. Just last Thursday a vehicle overturned at this location and the occupants required treatment in hospital.”

Cllr. J. Sheahan wished those involved in the accident last Thursday a speedy recovery. He said these bends must be bypassed as they have been the scene of many accidents. He asked that Kerry County Council liaise with Transport Infrastructure Ireland and do everything possible to CPO the lands and progress this project. Funding has been promised for this project and it is up to Kerry County Council to progress this project.

Cllr. J.J. Culloty SECONDED this motion and said it is vital that this project, on which a lot of preparatory work has been done, would progress.

Mr. C. O’Sullivan, Deputy Chief Executive, said a Part 8 has been adopted in relation to this project. Currently lands for the works are being identified and it is hoped this project will be included in funding commitments from the Transport Infrastructure Ireland in 2019.

### **17.12.18.12 Notices of Motion**

#### **1. Rattling Manhole Covers**

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

That Uisce Éireann and its Agent/s would eradicate the impasse or difficulty that is resulting in manhole covers being allowed to rattle and clatter for months on end to the considerable inconvenience of nearby residents and visitors.

##### **The following reply issued:**

Irish Water has recently made specific funding available for the repair of old / rattling manhole covers. The Council’s Water Services department is currently preparing a list of such locations, and the repairs will be done by specialist contractors. Every effort will be made to expedite the works, as such ‘rattles’ can be of considerable annoyance.

Cllr. D. McCarthy SECONDED this motion.

Cllr. M. Gleeson welcomed the reply and the introduction of funding to address this matter.

## **2. “On the Spot Fines” for Anti-social Behaviour**

### **Pursuant to notice duly given Cllr. M. Cahill PROPOSED:**

That Kerry County Council make Anti-Social Behaviour subject to “On The Spot Fines” similar to Kerry County Council's Playground Bye-Laws in respect of persons who take part in behaviour that causes offence to other persons in Public Places, Public Parks, Beaches, Green areas and all Local Authority Housing Estates. This sort of behaviour should not be tolerated, and the Council needs to get tough by introducing/amending/strengthening the Bye Laws as a matter of priority as this will help both the Council and the Gardaí deal with such incidents in the future.

### **The following reply issued:**

Part 19 of the Local Government Act 2001 gives a Local Authority power to make bye-laws. Relevant existing bye-laws can be reviewed in the first instance having regard to the areas identified in the notice of motion and can be further considered through the relevant SPCs as part of their work programme.

Cllr. M. Cahill welcomed consideration of this matter by the SPCs.

Cllr. D. Grady **SECONDED** this motion and said the issues raised in this notice of motion must be addressed by way of Kerry County Council and the Gardaí working together.

## **3. County Kerry Village Sewerage Schemes**

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

To specify the villages in Kerry that have no proper sewage treatment plants and to clarify what stage applications to Irish Water are at for the provision of proper sewage treatment plants.

### **The following reply issued:**

Irish Water is the Water Authority responsible for the provision of all Water Services across the country. It is responsible for the operation and maintenance of County Kerry's 25 largest Sewerage Schemes under Licence from the EPA. In addition, Irish Water is responsible, under EPA Certificates of Authorisation, for the operation and maintenance of 22 smaller County Kerry Village Sewerage Schemes (serving population equivalents of less than 500 pop).

Many of the existing smaller wastewater treatment facilities in the county, are in need of substantial upgrading or complete replacement. While the facilities in question are required to meet only approximately 10% of the wastewater treatment needs of the county, they are of critical economic and environmental importance to the communities they serve.

Kerry County Council has made submissions to Irish Water seeking investment in the upgrading of these schemes. Recently and further to consideration by the members at the July 2018 Council meeting, Kerry County Council forwarded a submission to Irish Water in regard to their Draft Investment Plan 2020 – 2024. Kerry County Council highlighted in this submission the requirement to upgrade the Waste Water Infrastructure of the County and the particular need for investment in waste water infrastructure in unsewered villages.

Some progress is being made under various Irish Water Improvement Programmes to upgrade these facilities. Irish Water's is presently prioritising the upgrading of existing Sewerage Schemes to meet the regulatory requirements of the EPA, however, resources are finite and the deficit will not be fully addressed in the short to medium term.

Kerry County Council will continue to highlight the requirement for investment in Waste Water Infrastructure in settlements, with Irish Water through the formal submission mechanisms that exist. Irish Water's current position is that it has no funding stream to provide wastewater services to these settlements.

Cllr. B. Cronin asked why a list of villages that do not have a proper sewerage system was not provided. He added that the EPA has indicated that residential developments must have a proper sewerage scheme.

Cllr. J.J. Culloty **SECONDED** this motion and said a plan must be put in place for the provision of sewerage schemes across the county. An assessment must be carried out to determine the priority areas and have information ready when funding becomes available.

## **5. Pension Schemes for employees of Contractors**

### **Pursuant to notice duly given Cllr. P. Daly PROPOSED:**

That this Council will ensure that all contractors who have contracts with Kerry County Council have pension schemes in place for their workers.

### **The following reply issued:**

In accordance with the provisions of the national Procedural Agreement on the Use of Contractors, all Contractors engaged by Kerry County Council are required to provide valid documentary evidence that their company is fully compliant with employment regulations governing pensions, sick pay and wage entitlements. In relation to sick pay and pension schemes, Contractors engaged are required to provide confirmation that any/all employees that will be involved in works on our behalf are members of, or have been offered membership of, those schemes. Confirmation of compliance also indicates that valid documentary evidence has been provided by the Contractor that where it is intended that work will be sub-contracted to other parties, those sub-contractors to be engaged are themselves fully compliant as above.

To clarify, Kerry County Council does not require documentary evidence from the sub-contractor (we have no contractual agreement with them) but we require confirmation from the Contractor whom we have engaged that they will in turn ensure compliance themselves.

Cllr. P. Daly said it is unfortunate that there is a tolerance in the county for zero hour contracts and companies who will not allow unions. The requirement to provide valid documentary evidence is not sufficient to address this.

Cllr. D. Quigg **SECONDED** this motion.

## **6. St. Vincent de Paul Textile Recycling Bins**

### **Pursuant to notice duly given Cllr. S. Locke PROPOSED:**

That this Council would not go and charge S.V.P (St. Vincent de Paul) for the textile recycling bins that are installed around the County because they can't compete with the large private companies.

### **The following reply issued:**

Kerry County Council does not charge for the provision of textile recycling bins in public carparks or adjacent to Bottle Banks. There are currently 96 Bottle Bank Sites located around the County and we have textile recycling bins co-located at the majority of these sites. The placement of textile recycling bins in car parks and adjacent to Bottle Banks is done in agreement with the Operations and Environment Departments. Regrettably,

it is our experience that where textile recycling bins are either located on their own or adjacent to Bottle Banks, there is an increase in the level of illegal dumping at these locations.

Textile recycling bins provided at our Civic Amenity Sites are done so on the basis of a competitive tender competition. This ensures that we are compliant from a procurement perspective as we cannot offer this service to the Charity Sector alone. This generates an income stream for the Council which is offset against the operational costs of the sites.

Members will be aware that we recently had to increase charges in Budget 2019 to offset our management and operational costs.

Cllr. S. Locke said illegal dumping is a problem at textile banks that are not being managed and when this happens those bins should be removed immediately. In relation to St. Vincent de Paul, Tralee, they empty their textile banks on a weekly basis. He said St. Vincent de Paul cannot compete with private companies in a tendering system and he asked that an exception be made for St. Vincent de Paul.

Cllr. D. Grady **SECONDED** this motion.

## **7. Locations of Defibrillators in Kerry**

### **Pursuant to notice duly given Cllr. G. Spring PROPOSED:**

That Kerry County Council write to Google to request that they consider the facilitation of, through use of Google Maps and with the assistance of Local Government at Kerry County Council, the creation of a map identifying the locations of all defibrillators in Kerry. This map would be the first search result on Google's search engine results page when appropriate criteria/key search words (eg. Defibrillator and Town name) are entered.

### **The following reply issued:**

The Community Department are currently working with the National Ambulance Service and Kerry's PPN to register the location of all defibrillators in the County. This information, once collated and verified will then be used to create a location map for all defibrillators.

Cllr. G. Spring said if the locations of defibrillators were to appear first in a search result it would be of benefit to all communities.

Cllr. B. Cronin **SECONDED** this motion.

## **8. Beef without the label of the country of origin**

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

That Kerry County Council express alarm from a health and safety point of view of the availability of beef without the label of the country of origin which can lead to the abuse of beef coming from outside the EU, where standards are less than from Irish and European produce.

**Mr. L. Quinlan stated this is a matter for consideration by the members.**

Cllr. D. McCarthy **SECONDED** this motion.

## **12. Speed Limit in Glenflesk Village**

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

To ask Kerry County Council when will the speed be reduced in Glenflesk Village and what is going to be done to improve the safety of the pedestrian crossing following a fatality at this location now over a year ago.

### **The following reply issued:**

As members will be aware, the Council is currently preparing Road Traffic Special Speed Limit Bye-Laws for the county as a whole. Following a recent public consultation on these bye-laws, further amendments to speed limits were proposed on the national road network which have been referred to Transport Infrastructure Ireland for consent as required by statute. The Bye-Laws will thereafter be brought to the elected members for consideration and adoption as a reserved function.

Cllr. M. Healy-Rae asked that the improvements be made to this pedestrian crossing as a matter of priority. She asked when the Speed Limit Bye-Laws will be presented to Council.

Cllr. N. Kelleher SECONDED this motion.

Mr. C. O'Sullivan, Deputy Chief Executive, said within the draft Speed Limit Bye-Laws there is a proposal to reduce the speed limit at Glenflesk. This is part of a county-wide process. Following receipt of submissions on the draft bye-laws a case has been made to Transport Infrastructure Ireland for variations at a number of locations. On receipt of the response from Transport Infrastructure Ireland the Draft Speed Limit Bye-Laws will be brought to Council as early as possible in 2019. While acknowledging the concerns regarding the safety of the pedestrian crossing, there is an ongoing investigation and the outcome of that investigation is awaited in order to take into account any recommendations.

## **13. Charging Points for Electric Vehicles**

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

Will Kerry County Council initiate a programme of providing charging points around the County for electric vehicles which are going to become much more popular in years to come.

### **The following reply issued:**

The Council has previously facilitated energy suppliers in the installation of charging points around the County for electric vehicles. As previously agreed with the members, a review will be carried out on the provision of additional charging points in our car parks, as part of the review of car parking bye-laws, to be completed in 2019, and in conjunction with any proposals by the ESB on expanding the number of charging points.

Cllr. S. Fitzgerald said it is important that infrastructure for charging points is installed in Kerry County Council car parks.

Cllr. N. Kelleher SECONDED this motion.

## **14. Kilcummin Sewage Scheme**

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

To ask Kerry County Council when in 2019 can we expect works to commence on the Kilcummin Sewage Scheme.

**The following reply issued:**

Irish Water have advised that it is continuing to finalise the design and other work necessary to tender the construction contract for this project and they intend to issue this tender in early 2019 with a view to starting construction later in 2019.

Cllr. J. Sheahan welcomed the response and said he hopes this timescale will be met.

Cllr. B. Cronin SECONDED this motion and said it is critically important that this work progresses.

**15. Taking In Charge of Housing Estates**

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

How many historic estates have Kerry County Council taken over since the law changed directing Local Authorities to do so, how many estates have they taken over in the last 2 years in total.

**The following reply issued:**

Since the introduction of legislation in 2008 regarding the taking in charge of Housing Estates, Kerry County Council (including the former Town Councils of Tralee, Killarney and Listowel) has taken 147 estates in charge. 35 estates have been taken in charge in the last 2 years.

The Housing Estates Unit manage an active taking in charge programme. The Council currently has 48 taking in charge applications on hand. Many of the remaining estates are historic estates where there is no bond in place. The formal approval of Irish Water is required before proceeding to commence the formal taking in charge process in accordance with the MOU agreed in 2015. In many cases, site resolution plans are also required to be prepared.

Cllr. J. Healy-Rae asked that a letter issue to the Minister for Housing, Planning & Local Government to re-instate funding for a national Taking in Charge Initiative for Residential Estates.

Cllr. M. Healy-Rae SECONDED this motion.

**16. Chimney Cleaning Advertising Campaign**

**Pursuant to notice duly given Cllr. D. McCarthy PROPOSED:**

To ask Kerry County Council to consider running an advertising campaign to encourage people to clean their chimneys on the lead up to Christmas.

**The following reply issued:**

Kerry County Council is currently running a campaign on this very important issue and recommend that people clean their chimneys on a regular basis and particularly in the lead up to Christmas.

Cllr. D. Grady SECONDED this motion.

**17. Ambulance Service in Kerry**

**Pursuant to notice duly given Cllr. D. Grady PROPOSED:**

That we the members can no longer accept the Ambulance Service that we are getting from the HSE, excluding Ambulance staff. That we email our 5 TD's requesting they meet with the Minister for Health to relay to him our disgraceful Ambulance Service in Kerry.

**Mr. L. Quinlan stated this is a matter for resolution by the members.**

Cllr. D. Grady said the ambulance staff in Kerry are doing a wonderful job. However, it is not acceptable that the ambulance service in Kerry is left short of an ambulance by virtue of an ambulance being deployed from Kerry to Cork and then being deployed to another county, rather than returning to Kerry.

Cllr. J.J. Culloty SECONDED this motion.

## **20. VAT Rate on Health Food Supplements**

**Pursuant to notice duly given Cllr. N. Moriarty PROPOSED:**

That we write to the Minister for Finance and Revenue Authorities stating our opposition to the imposition of a 23% VAT rate on Health Food Supplements. This will not secure extra revenue for the state but rather close small local health food shops and put even more business the way of online conglomerates costing jobs and rates for local authorities.

**Mr. L. Quinlan stated this is a matter for resolution by the members.**

Cllr. N. Moriarty said the introduction of this VAT rate will result in the closure of Health Stores in the county.

Cllr. J.J. Culloty SECONDED this motion.

## **21. Direct Provision**

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

That this Council would once again support my motion calling on Government to ensure that no person would have to endure the privation of Direct Provision for longer than six months. It is a Dickensian system that diminishes the dignity of people and has long-lasting consequences for their overall psycho-physiological wellbeing.

**Mr. L. Quinlan stated this is a matter for resolution by the members.**

Cllr. M. Gleeson said in recent months the gift of Irish Citizenship has been bestowed on many people, however, for some of these people, even following their grant of citizenship, they must return to live in Direct Provision. While it is understandable that Direct Provision should have come into existence to deal with an influx of asylum seekers and others in distress, for many, a stay of six months has become a year, three years, six years and even 8 years. Confined as a family unit to one room, adults and children have endured physical and psychological stress. While there have been improvements in the areas of work and income there is more that needs to be done and done urgently. Ireland is a wealthy country by international standards and we could most definitely make the resources available to allow the future of migrants, refugees and asylum seekers to be determined speedily. Failure to do so is both disrespectful and inhuman.

Cllr. D. Grady SECONDED this motion.

## **22. Housing Report**

**Pursuant to notice duly given Cllr. M. Cahill PROPOSED:**

That Kerry County Council give a detailed report with regard to the Housing crisis in Kerry and the progress that has been made in regards to new acquisitions and the repair of Council Houses, what is the number of vacant Local Authority Houses in

Kerry, how many were renovated and reallocated in each of the past 5 years and how many properties were purchased and allocated to qualified Housing applicants during the same period.

**The following reply issued:**

Regular reports are provided to the Council on the overall Housing function and the delivery programme. In addition, full details of the current position across all aspects of the Programme were provided and discussed as part of the recent Budget process. A primary focus in the current delivery programme is the provision of additional social housing units under capital programmes supported by the DHPLG. In particular the construction element of the programme is critical. The DHPLG notified LAs including Kerry County Council of our programme target in early 2018 – these targets were subsequently re-calibrated and the final programme targets for the period 2017-2021 were notified in April 2018. The revised Kerry County Council target for the programme is 1770 units (excluding HAP and RAS).

Apart from the metropolitan areas of Dublin and Cork, and Kildare County Council these are the highest targets assigned to any Local Authority in the Country. These are very challenging targets and the Council is currently working across all streams to meet these targets.

For 2018, the construction target for Kerry County Council was 65 units and this target will be met. A further 9 new units were provided through AHB construction projects. In addition, 34 units have been provided through Turney projects.

A total of 53 new purchases will be completed or substantially completed by year end.

A total of 120 units of vacant dwellings will have been returned to social housing stock in 2018 in addition to the 148 completed in 2017.

The Council's Void management programme has been very active over the last number of years. Performance targets have been set and management reporting tools have been developed to monitor Voids turnaround times. Given the level of expenditure in this area, the need to achieve value for money in repairs to our vacant stock is essential. Procurement is carried out by advertising mini-tenders. Obtaining the most competitive prices from competent contractors ensures that the output achieved from our housing expenditure budget will be maximised.

In relation to the acquisitions programme, this in most cases involves the purchase of older vacant houses, under the Buy and Renew Scheme, at a lower cost, which subsequently requires a substantial amount of remedial works to bring the property up to the required standard. This involves a comprehensive survey and assessment of the property before detailed scope of works can be prepared for procurement of contractors to complete the required works.

From 2014 to end of Q3 2018, Kerry County Council has renovated and reallocated a total of 542 properties and has acquired an additional 188 houses.

Of the acquired stock, 49 were vacant at the end of Q3 2018, a substantial number of which were vacant properties acquired under the Buy and Renew scheme which provides for the purchase of units requiring more substantial works to be completed. A limited number of acquired properties were also acquired to facilitate regeneration projects.

Excluding properties with outstanding Insurance Claims currently being processed and other stock with legal issues, at the end of September there were 110 Units vacant units at various stage of within the process.

The Voids programme continues to be a key part of our delivery programme with an annual expenditure of up to €2M. As outlined to Members previously and at Budget time, this area is under review nationally and it is expected that current national approaches will result in a shift in emphasis to a more structured Planned Maintenance

approach. At local level, the implications, analysis of options and funding approaches in respect of this approach will need to be reviewed for 2019. Any change in the current funding approach could initially have a negative impact on programme outputs including turnaround of vacant units.

Cllr. M. Cahill welcomed the detailed report and asked that maximum funding be drawn down for the construction and repair of housing stock.

### **23. Closure of the Draft Salmon Fishery at the Cashen River**

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

Kerry County Council should be alarmed by the decision of the IFI to close the Draft Salmon Fishery at the Cashen River. A traditional Fishery that has been there for generations, this is another attack on rural Ireland which cannot be allowed. This cannot be allowed to happen.

#### **Mr. L. Quinlan stated this is a matter for resolution by the members.**

Cllr. Beasley said the closure of the Draft Salmon Fishery will have an affect on many families in this area. He asked that a letter issue calling for the reversal of this decision.

Cllr. J. Lucid SECONDED this motion.

Cllr. J. Moloney supported this motion.

### **24. Housing for Returning Emigrants**

#### **Pursuant to notice duly given Cllr. P. Daly PROPOSED:**

That this Council will set aside a number of houses for returning emigrants through the Safe Home Scheme, who have lived in England or the USA for many years, are over 57 years and who currently reside in Council or Trust Accommodation.

#### **The following reply issued:**

There are some Units provided through Approved Housing Body Schemes in Kerry that were specifically purchased/built for Returning Emigrants.

When vacancies arise in these units the allocations are made by Kerry County Council in conjunction with Safe Home Ireland. There are currently 19 persons on our Housing List who are classified as returning emigrants with a need for one bedroom units. The oldest application dates back to 2014. Kerry Emigrants Association is due to complete 4 new units of accommodation in Castleisland this month.

Kerry County Council are in contact with Safe Home Ireland with regard to the allocation of these units. Safe Home Ireland wrote to all persons on their list that had expressed an interest in Housing in Kerry.

Only one person agreed to be considered for one of these units. Safe Home also wrote to the same list of persons in respect of an Approved Housing Development in Killarney and four have reverted. There are a number of Approved Housing Developments being delivered in Tralee over the next 2 years, specifically for elderly and consideration will be given to facilitating some Returning Emigrants as part of our nomination process.

Cllr. P. Daly said it is important that people who have spent many years away from home know that there is accommodation available for them when they return home.

Cllr. D. Quigg SECONDED this motion.

## **28. Works Project for Ballydowney, Killarney**

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

To ask Kerry County Council for an update on the Works Project for Ballydowney, Killarney.

### **The following reply issued:**

A feasibility report on the need for the scheme and options to address identified safety issues was completed this year and submitted to Transport Infrastructure Ireland for approval. Subject to the approval of the feasibility report, the detailed design of a preferred option will be done in 2019 and submitted for funding.

Cllr. J. Sheahan said he hopes this matter will progress in 2019 as this area has been the scene of many accidents.

Cllr. B. Cronin SECONDED this motion, adding that it is critically important that this project proceeds in 2019.

## **29. Bond Claims**

### **Pursuant to notice duly given Cllr. J. Healy-Rae PROPOSED:**

How many bonds have Kerry County Council called in from banks in the last 4 years and how many have been paid to the Council and how many has this money been spent on.

### **The following reply issued:**

Kerry County Council has submitted 32 Bond Claims in the period 2015-2018. The total cost of these claims amounted to €1,603,031. These claims have been based on estimated costs and works outstanding at the time. Works carried out in the interim period would reduce the amounts outstanding. As regards the 32 claims submitted, 8 have been paid to date, totalling €151,696. It should also be noted that in the period 2015-2018, a further 17 no. bonds totalling €667,315 have been paid up. These bonds would have been claimed prior to 2015.

In the period 2015-2018, Bond monies totalling €812,337 have been spent on carrying out works on 40 estates. In addition to this, a sum of €362,652 received under the National Taking in Charge Initiative in 2016 was spent on 17 housing estates.

Kerry County Council continues to pursue the non-payment of and resolution of bond claims outstanding. The Council's Housing Estates Unit has been very proactive in addressing issues identified in Unfinished Housing Estates over the last number of years. Many of the more problematical Estates have now been dealt with which has greatly improved the quality of life for the residents who reside in them.

Processes and procedures are in place to minimise against the risk of financial exposure to this Local Authority. Where bonds are in place, the Council ensures that a valid costed claim is submitted before the Bond expires. These are monitored and reviewed on a regular basis.

Where no Bond or only a partial Bond is in place, enforcement action under the relevant planning legislation is pursued. Good progress is being made in resolving outstanding Bond claims with our larger Bond holders. We expect to finalise a substantial number of the AIB Claims over the coming months, having agreed a resolution process with them. Liberty Insurance have been extremely proactive in addressing bond claims over the last number of years. They have engaged contractors to complete outstanding works on estates where they hold the bond. Kerry County Council will continue to pursue all outstanding claims.

Cllr. J. Healy-Rae said in a number of estates, where the construction company is no longer operating, there may be small issues which could be addressed by using the bond. He asked that Kerry County Council try to resolve the issues in such estates.

Cllr. M. Healy-Rae **SECONDED** this motion.

**30. Transport Subsidy for the haulage of hay and straw  
Pursuant to notice duly given Cllr. D. McCarthy PROPOSED:**

To ask Kerry County Council to ask the relevant Minister to reintroduce the transport subsidy for the haulage of hay and straw.

**Mr. L. Quinlan stated this is a matter for resolution by the members.**

Cllr. D. McCarthy said problems in securing feed are being experienced again this year, with significant costs to buying it in.

Cllr. D. Grady **SECONDED** this motion.

**31. Planning Development Levies  
Pursuant to notice duly given Cllr. B. Cronin PROPOSED:**

To ask for details of the total amounts of money collected by Kerry County Council from Planning Development Levies since January 2016, for each Municipal District and to clarify what work was this money spent on.

**The following reply issued:**

From January 2016 to 31 December 2017, Kerry County Council collected a total of €3.415m for development levies. This does not include levies for water which are transferred to Irish Water. Development Contributions associated with water and wastewater infrastructure are determined and collected by Irish Water post January 1st, 2014. As development contributions are collected on a countywide basis in accordance with the Development Contribution Scheme, a breakdown for each Municipal District is not available.

The Capital Programme 2019-2021 as presented to the Members in November 2018 provides for expenditure over the 3 years of €305.79m and covers a wide range of capital projects across the organisation. A number of these projects/schemes will be fully grant funded e.g. Housing and Roads Capital Programmes, however a large number of these capital projects across the range of services require own resource co-funding. For the 2019-2021 capital programme the own resource matched funding requirement is estimated at €17.16m.

Development Contribution funds on hand and expected future contributions will contribute to this funding requirement and will be applied as capital plans and projects/schemes come to fruition. It is expected that development levies will fund car parking provision and improvement at various locations across the County in accordance with the Car Parking Strategy being developed. Additional car parking facilities are being advanced for Dingle, Killorglin and Killarney and development contributions will co-fund these works. The Council is advancing a footpath improvement programme across the County and it is expected that Roads Development levies will assist in funding this programme. Roads Development levies will also be utilised for the advancement of key road improvement projects such as the Dingle Relief Road and the Tralee Ring Road. The own resource element required for projects recently announced under Urban and Rural Regeneration and Development Funds will be met in part through the application of development levy funding. It is

expected that this request will continue as further projects are advanced for funding through these programmes.

Provision and improvement of amenities, development of strategic lands, Smart Travel projects and further cycleway development such as those planned for Fenit, Kenmare and Killarney will also be funded through development contributions. The Council's significant Greenway programme is expected to require an own resource contribution, again funding from development levies will be utilised to assist in the advancement of this programme. Street and public realm enhancement improvements planned for Tralee, Killarney and Rathmore will be funded, in part, with Infrastructural levies and also further playground provision and improvement across the County. In summary, development contributions provide a critical source of income to this Council and enable the provision of a wide range of infrastructural improvements and enhancements for the benefit of the citizens of the County. They support the own resource requirements which are vital for the advancement of key amenity, carparking, roads, playgrounds, greenways and footpath projects and every effort will be made to continue to maximise collection of this important income source.

Cllr. B. Cronin welcomed the comprehensive report and asked if projects have been identified to benefit from the funding.

Ms. A. McAllen, Head of Finance, said a total of €3.415m was collected across the county and spent across each Municipal District. The Capital Programme 2019-2021 presented at the Budget meeting outlines a number of projects for funding by development levies, e.g. car parking in various locations across the county and footpath programmes. Development levies may not be spent in the year they are collected. The own resources element under URDF may be met via this funding, particularly for Category B projects. This is a critical source of income for capital projects.

### **32. CS MDF (Councillors Allocation)**

Cathaoirleach N. Foley moved Notice of Motion No. 32 on behalf of Cllr. Kelleher.

#### **Pursuant to notice duly given Cllr. N. Kelleher PROPOSED:**

That provision is made in the Budget for 2020 to increase CS MDF (Councillors Allocation).

#### **The following reply issued:**

The budgetary process is governed by regulations and guidance issued under the auspices of the Local Government Act 2001, as amended by the Local Government Reform Act 2014, for consideration by the Members.

Presentation of a balanced Budget for adoption by Members forms part of a three-stage process, which includes the adoption of the LPT rate and consideration of the Municipal District Allocation. The Budget provides for ongoing service delivery as well as providing for the Council's financial liabilities and obligations. The allocation of resources in the Council Budget reflects the financing of areas to enable the organisation to respond effectively to meet the many challenges and achieve targets of adopted plans by this Council. Any adjustment to the Council budget must be considered as part of that process.

In addition, any increase in expenditure must be matched by an increase in income and Kerry County Council is required under the Local Government Acts to manage its Budget resources continuously throughout the year to ensure a balanced position despite competing demands and unanticipated financial requirements during the financial year.

The consideration of Budget 2020 will take place in September 2019.

### 17.12.18.13 Correspondence – Conferences and Seminars

- a) On the PROPOSAL of Cllr. S. Fitzgerald, SECONDED by Cllr. D. Quigg, it was agreed to authorise the attendance of Cllrs. R. Beasley, J. Lucid, P. McCarthy, L. Purtill, T. McEllistrim, M. Cahill, J. Moloney, B. O’Connell, N. Kelleher, S. Fitzgerald, J. Finucane and J. Sheahan at the “Finance Act 2018” Conference to be held in Carlingford, Co. Louth, from 11-13 January 2019.
- b) No members expressed interest in attending the “Understanding the Asylum Process in Ireland” Conference to be held in Clonakilty, Cork, from 18-20 January 2019.
- c) No members expressed interest in attending the “Retirement Entitlements and Taxation Benefits for Councillors” Conference to be held in Clonakilty, Cork, from 25-27 January 2019.
- d) On the PROPOSAL of Cllr. N. Foley, SECONDED by Cllr. D. Quigg, it was agreed to approve the attendance of Cllr. D. Grady at the “Politics needs Women Conference” held in Dublin on 14 December 2018.

### 17.12.18.14 Correspondence General

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

Date	From	Description
21-Nov-18	Irish Water	Response to a resolution from Kerry County Council regarding connecting Gleann na Greine, Rathmore, to the public water main.
27-Nov-18	Minister for Disabilities, Department for Health	Response to a resolution from Kerry County Council regarding Make Way Day.
28-Nov-18	HSE	Response to a resolution from Kerry County Council regarding the free flu vaccine.
30-Nov-18	Data Protection Commission	Response to a resolution from Kerry County Council regarding community based CCTV systems.
10-Dec-18	Minister for Agriculture, Food & the Marine	Response to a resolution from Kerry County Council regarding farm payments
11-Dec-18	Minister for Rural and Community Development	Response to a resolution from Kerry County Council regarding funding for Pobal & Tusla.
12-Dec-18	Irish Water	Response to a resolution from Kerry County Council regarding replacement of the water mains in Callinafercy.
4-Dec-18	Donegal County Council	Resolution adopted by Donegal County Council regarding the first Dáil Éireann.

### 17.12.18.15 Any Other Business

#### Letter of Thanks

Cllr. J.F. Flynn asked that a letter issue to Con Cremin, Talbot Grove, acknowledging the work he has done there over the past 22 years and wishing him well in his new post in Cork. Cllr. D. Grady supported this request.

The meeting concluded at 4.30 p.m.

**Liam Quinlan**

**Meetings Administrator**

**Cathaoirleach of Kerry County Council**