

Minutes of the Ennis Municipal District Meeting held on Tuesday September 10th, 2014, at 3.30 p.m. in the Council Chamber, Áras an Contae, New Road, Ennis, Co. Clare.

Present:

Councillors: J. Breen, T. Mc Namara, J. Flynn, P. Daly, A. Norton, M. Howard, P. Murphy, C. Collieran Molloy.

Officials: Gerard Dollard, Director of Services, Eamon O’Dea, Town Engineer, Gordon Daly, Senior Planner, Niall O Keeffe, Administrative Officer Housing, Catherine O’ Hara, Meetings Administrator.

In attendance: Superintendent Derek Smart.

Item No. 1 Minutes of Meeting of the Ennis Municipal District held on 14th July, 2014.

The Minutes of the meeting held on the 14th July 2014 were proposed by Cllr. J. Breen, seconded by Cllr. P. Daly and agreed. There were no arising matters.

Item No. 2 Attendance of Superintendent D. Smart to discuss antisocial issues

Superintendent D. Smart was welcomed to the meeting and gave a comprehensive overview of antisocial issues raised by the Members of Ennis Municipal District. A copy of the presentation is to be made available to the members. The key issues discussed include street begging, chuggers, CCTV, Street Traders, bail conditions and monitoring of same, comparative analysis of antisocial behaviour Ennis and similar sized towns, antisocial behaviour by different age groups and how each group can be dealt with, illegal encampments along roadsides, community initiatives – community text alert scheme, community watch scheme and community Gardai. Safety and perceptions of safety in Ennis, anti bullying programme in schools, need for sufficient evidence and reporting of incidents to Gardai, incidents of racism, drugs culture and appropriate sentencing.

Following a discussion it was agreed by the members to recommend to the full Council that the JPC subcommittee be established and to invite Dr Chris Mc Inerney University of Limerick to the October meeting to present the “Safety & safety perceptions in Ennis “survey results which was undertaken as part of the Ennis 2020 Planning Beyond Recession, A Framework for Ennis as a Hub for Development initiative. Dr Mc Inerney is also to present findings on research into “Branding” in Ennis.

Item No. 3 Extension of lease – Laurel Lodge

This matter was proposed by Cllr P. Daly, seconded by Cllr A. Norton and agreed.

Item No. 4 Section 183, Disposal of Property: Property at No. 33 Clancy Park Ennis

This matter was proposed by Cllr. M. Howard, seconded by Cllr A. Norton and agreed.

Item No. 5. Taking in Charge: (a) Clos na Manach, Quin and (b) Maigh Dara, Quin

On the recommendation of the Director of Services that Clare Co Council take in charge these estates, this matter was proposed by Cllr C. Colleran Molloy, seconded by Cllr J. Flynn.

Item No. 6. Update on the Preparation of the Draft Ennis & Environs Local Area Plan (LAP) 2015 – 2021.

Gordon Daly, Senior Planner advised that 78 pre-draft submissions were received which were both site specific and general in nature, all of which will be circulated to the members of Ennis Municipal District in advance of proposed workshops.

It was agreed that workshops would take place on Wednesday 24th September from 2 – 5 pm.

The workshop will deal with the broader vision for the draft LAP having regard to relevant strategies and plans such as Recreational Trails Strategy and River Fergus Amenity Scheme Report. The focus of this workshop is to consider the general / non site specific submissions received. It was noted that this is an entirely new plan which will be action focused.

It was also noted that the boundary for the draft LAP was an indicative boundary. It was noted that this and the issue of cycle trails and other matters will be discussed at the workshop in October along with how it links into the County Development Plan.

Item No. 7. Agree date to consider Agree date to consider Draft Budgetary Plan for the Ennis Municipal District 2015 in accordance with Statutory Instrument S.I. No 226 of 2014 – Local Government (financial & Audit Procedures) Regulations 2014 and Circular Fin 05/2014 Local Government (Financial and Audit Procedures) Regulations 2014 and associated budget related matters.

On the proposal of Cllr. T. Mc Namara, seconded by Cllr. J. Breen it was agreed that the date for this meeting would take place on October 7th 2014, at 2.30 p.m. in the Council Chamber of Clare Co. Council.

On the proposal of Cllr. P. Murphy, seconded by Cllr. P. Daly it was agreed to amend Standing Orders to change the monthly Ennis Municipal District Meeting to the first Tuesday of each month, excluding August effective immediately. The next meeting of the Ennis Municipal District will take place Tuesday October 7th 2014, at 3.30 p.m.

Item No 8. Notices of Motion.

Notice of Motion No. 1 submitted by Cllr M. Howard, seconded by Cllr J. Flynn and agreed

"This Council recognizes that the trafficking, exploitation and abuse of women and girls is taking place in Co Clare and throughout the country within and as a direct result of prostitution. This Council understands prostitution to be a form of men's violence against women that affects individuals, communities, and society as a whole and that human trafficking for sexual exploitation is a modern form of slavery and an abuse of human rights.

This Council calls on the Minister for Justice and Equality to implement the Justice Committees unanimous recommendations to introduce laws which make it an offence to pay for sex and is seeking such laws. This legislation must criminalise the demand for paid sex, decriminalize the seller and provide social supports for those wishing to exit prostitution. This Council recognises the need for this legislation to be enacted in this jurisdiction and will convey its views to the Minister for Justice and Equality."

On the proposal of Cllr M Howard, seconded by Cllr J Flynn it was agreed that the Minister for Justice & Equality would be written to requesting that new legislation be introduced to ensure that the promoters or procurers of sexual services were prosecuted as a matter of urgency. The current legislation does not provide adequate social support for women who are vulnerable as it criminalises the service provider only.

Notice of Motion No 2. submitted by Cllr J. Flynn and seconded by Cllr P. Murphy

"Utilising existing reports such as "Recreational Trails in Ennis and Environs Feb 2009 " and the " River Fergus Amenity Scheme preliminary report 1998" that Ennis Municipal District commission the preparation an Amenity, Recreational and Tourism Strategy utilising the potential of the Fergus River and the opportunity for recreational trails to further develop Ennis and it's Environs as an Active Hub for residents and visitors alike.

Gordon Daly, Senior Planner replied as follows:

The issues of amenity, recreation and tourism particularly in the context of the River Fergus will be dealt with in a comprehensive manner in the Ennis & Environs Local Area Plan 2015-2021. A Green Infrastructure Plan similar to the award winning one for Shannon is also being prepared. This will provide the platform to examine the potential of the issues raised in the motion. It is recommended that further consideration of how to proceed await the publication of the Draft Ennis Local Area Plan later in the year. Workshops to be held with the members of the Ennis MD for the preparation of the Draft LAP will also allow opportunity to consider this further.

Notice of Motion No 3. submitted by Cllr. C. Colleran Molloy, seconded by Cllr. J. Flynn.

" I am asking that this Council confirm that it has taken the Maigh Dara estate in Quin in charge, and when the works will be completed at Maigh Dara, in light of the high volume of estates in the County that are in the process of being taken in charge, please explain by what standards and how it is decided which estates in the County are prioritized."

Bernadette Haugh, Administrative Officer, replied as follows:

The Statutory Process in relation to Maigh Dara estate commenced with an advertisement in the Clare People on 22nd April 2014. Closing date for receipt of objections was 5th June 2014. A Report was sent to Irish Water on 29th April 2014. This estate was the subject of a report to the full Council in July 2014 and will be further discussed at the Ennis Municipal District meeting on 9th September 2014. The outstanding works within the estate are being progressed by the Area Engineer.

Clare County Council is dealing with over 180 estates in the County including Ennis Town, each at various stages of progression in relation to Receivers/Bondholders/Developers. The estates are progressed on the basis of the required information being received in order to progress to taking in charge. The Council has regard to the issues arising on each development in relation to level of completion, adequacy of waste water treatment facilities and standard of services generally in prioritising developments for taking in charge.

Notice of Motion no. 4 submitted by Cllr A. Norton seconded by Cllr J Breen and agreed

“That Clare County Council write to The Clare County GAA Board in relation to the lack of wheelchair accessible toilets and the current Wheelchair viewing area in Cusack Park Ennis ;

With specific reference to:

- Why there is no wheelchair accessible toilet facilities in the grounds
- Is the current wheelchair viewing area up to required Health and safety standards
- Outline proposals for bringing current deficiencies in basic facilities up to an acceptable standard- including a provision for a weather protected area, adequate viewing of the pitch area - not hindered by fencing .
- Put in place a structure whereby wheelchair users have a genuine formal access to avail of match tickets and parking permits to games both within the County and the Country. The current "system " is not acceptable - especially as there is no wheelchair access to Clare GAA headquarters in Clare Abbey Clarecastle when applying for tickets”

Following a discussion it was agreed to request a detailed response to the issues raised from Clare GAA.

Notice of Motion No 5 submitted by Cllr T. MC Namara, seconded by Cllr. P. Murphy

“That Ennis Municipal district calls on Clare County Council to freeze commercial rates at their current level in the old Ennis Town Council Area for the next 3 years to give stability to businesses in order for them to grow and expand.”

Noleen Fitzgerald, Financial Accountant, replied as follows:

The Local Government Reform Act 2014 (the Act) provides that there will be one rating authority for the county. The setting of the rate (Annual Rate on Valuation (ARV)) for the county is a reserved function of the elected members of the county council and will be dealt with as part of the budgetary process for each coming year.

Section 29 of the Act provides for the harmonisation of commercial rates between former town council rating authorities and the new restructured county. The legislation provides that the harmonisation of rates may take place over a number of years, to a maximum of 10 years. An adjustment mechanism is provided to phase in increases and decreases which will be known as the Base Year Adjustment (BYA) process.

As required by the regulations the effect of the BYA in every case will be to neutralise any increase or decrease in rates due in 2015 that would otherwise occur as a result of the rate struck by the members for the amalgamated authority as a whole i.e. ratepayers will pay no more or no less in rates in 2015 than they did in 2014, with the exception that the rates payable in former town commissioners areas will reduce to the county rate.

The decision on the new ARV and the amount by which the BYA is amended in each subsequent year is a decision for the elected members of the county council as a reserved function.

On the proposal of Cllr T. Mc Namara, seconded by Cllr. A. Norton it was agreed that the members of the Ennis Municipal District recommend that Clare Co Council would freeze the rates for the next 3 years with a view to supporting local businesses.

On the proposal of Cllr J. Flynn, seconded by Cllr P. Murphy it was agreed that in relation to vacant property that a sliding scale over three years , 50: 25:10% (year 3) be made available to support local economy and encourage new business.

It was agreed that both of these matters would be discussed at the October Budget Meeting of the Ennis Municipal District.

Notice of Motion No. 6 submitted by Cllr P. Murphy seconded by Cllr. J. Flynn

- (I) In a bid to curtail illegal encampments I am requesting that bye-laws are introduced across the Ennis Municipal District, including all access and service roads associated with the N85 Ennis Bypass.

Barry Keating, A/Administrative Officer, replied as follows:

Clare County Council has a number of bye laws in place throughout the County to regulate parking.

The introduction of bye-laws is not the solution for dealing with illegal encampments, the penalty for breach of a bye-law is a fixed charge notice. This would ultimately prove ineffective for dealing with the issue of illegal encampments and in most circumstances would be unenforceable.

There are various pieces of legislation that deal with the removal of illegally parked caravans

- (1) Section 69 of the Roads Act, 1993 makes it an offence to place or retain a temporary dwelling on a national road, motorway, busway, protected road or any other prescribed road or prescribed class, subclass or type of road. An authorised person may remove the temporary dwelling from the roads outlined previous. An authorised person is defined as a person authorised in writing by a Roads Authority for the purposes of this section or a member of the Garda Síochána.
- (2) Section 10 of the Housing (Miscellaneous Provisions) Act 1992 as amended by the Housing (Traveller Accommodation) Act 1998 and the Housing (Miscellaneous Provisions) Act 2002 authorises a housing authority to remove or request the removal of temporary dwellings within a one mile radius of any site provided, managed or controlled by a housing authority or any other traveller accommodation if;
- (a) there is a nuisance or obstruction to occupants of that site or occupants of any other dwelling within a one mile radius, or
 - (b) a risk is created to quality of water, sanitary, electrical or other services, or
 - (c) the temporary dwellings obstruct or interfere with the use of or enjoyment by any person of any public or private amenity or facility or maintenance thereof within a one mile radius.

In this case the Housing Authority can serve notices on the occupier. If they fail to comply with the terms of the order, the council can proceed to the District Court. In practice, most illegal occupiers leave before the court case is called.

- (3) Also, under Section 10 of the Housing (Miscellaneous Provisions) Act 1992 as amended by the Housing (Traveller Accommodation) Act 1998, where, without lawful authority, a person erects, places occupies or otherwise retains a temporary dwelling in a public place within a distance of 5 miles from any site provided, managed or controlled by a housing authority and the temporary dwelling could, in the opinion of the authority, appropriately be

accommodated on that site, the authority may serve a notice on the person requiring him, within a specified period, to remove the said dwelling to the said site.

- (4) Section 24 of the Housing (Miscellaneous Provisions) Act 2002 amended the Criminal Justice (Public Order) 1994 Act by the insertion of Part IIA. Under Section 19C(1) it is an offence for a person to enter and occupy any land without the consent of the owner and it is also an offence to bring onto or place any object on any land where such entry or occupation is likely to
- (a) substantially damage the land
 - (b) substantially and prejudicially affect any amenity in respect of the land
 - (c) prevent the persons entitled to use of the land or amenity from making reasonable use of the land or amenity,
 - (d) render the land unsanitary or unsafe.

Under Section 19C(3)(B) a member of the Garda Síochána has the power to direct a person to leave the land concerned and to remove any object that belongs to the person. Under Section 19D where a person fails to comply with such a request under Section 19(3) from a member of the Garda Síochána, that person is guilty of an offence

Under Section 19E a member of the Garda Síochána may arrest without warrant any person who fails to comply with the request to leave the land and remove any object under Section 19(3)(B) and further under Section 19F a member of the Garda Síochána may remove any objects which he believes were brought onto the land in contravention of Section 19(3)(B).

When the Council becomes aware of illegal encampments of caravans, the Council establishes who the owners or occupiers are and what accommodation is available to them elsewhere. The Council also establishes which legislation is applicable. The majority of complaints relate to the illegal encampments of travellers on public property, often in scenic areas.

In these cases, the Council contacts the local Garda Station advising them of the situation and requesting the removal of the caravans under the Housing (Miscellaneous Provisions) Act 2002 as described at Number (4) above. The Council also forwards a written statement to the local Garda Station.

The access/accommodation roads continue to be a problematic area in respect to temporary dwellings. The Local Authority's power to deal with same is governed by the various pieces of legislation indicated above. Until such time as the legislators widen the definition and areas contained in Section 69 of the Roads Act, 1993, unfortunately this problem will continue to arise.

In certain locations where concentrations of illegally parked caravans and camper-vans have occurred, the Council will examine the options available to prevent illegal parking in these areas in future.

Notice of Motion No. 7 submitted by Cllr P. Daly, seconded by Cllr M. Howard.

"I call on the Clare branch of Comhaltas to mount a major campaign in bringing Fleadh Cheoil na hÉireann to Ennis in 2016"

The elected members discussed the need to engage in a strong campaign to secure Fleadh Cheoil na hÉireann for Ennis in 2016. The benefit to the town of Ennis and County Clare of hosting Fleadh Cheoil na hÉireann in 2016 was acknowledged and the members were anxious that every effort

would be made to secure what is the most significant traditional music festival for County Clare and Ennis for the centenary year of 2016.

Following a discussion it was agreed to contact Comhaltas Co Clare and advise that, in light of the near successful bids by Ennis and County Clare in recent years, that the elected members of Ennis Municipal District would welcome the opportunity to work again, in partnership with Comhaltas to secure Fleadh Cheoil na hÉireann for Ennis for 2016.

Notice of Motion No. 8 submitted by Cllr. J. Flynn, seconded by Cllr T. Mc Namara.

“That Ennis Municipal District Committee propose a " Rates for Recovery " stimulus plan for the district by utilising a model which has been adopted by a number of councils nationwide, eg in Kilkenny .

This involves a sliding 3 year rates rebate (eg , year 1 of 50%; year 2 of 25% ; year 3 of 10%) scheme which would apply to new or expanding businesses utilising qualifying commercial premises that meet certain agreed criteria such as having been vacant for at least 6 months ,etc.”

Noeleen Fitzgerald, Financial Accountant, replied as follows:

The total Commercial Rates income in the 2014 budget is €42.5m, and is used to fund the general provision of services throughout the county.

Kilkenny County Council does not operate any scheme for vacant properties.

Commercial Rates Legislation does not facilitate the rebate or reduced level of rates without Ministerial approval. The consideration by this council of the implementation of a " Rates for Recovery" stimulus plan as a grant scheme would have to be done in the context of the Budget process and take into consideration for example the impact of any such scheme on both established businesses in the district, the impact of relocation of business from other districts and any budgetary implications.

Notice of Motion No 9. submitted by Cllr C. Collieran Molloy, seconded by Cllr P. Murphy.

“That the Ennis Municipal District examine, and remedy if determined appropriate, the intersection between Monanoe Road [aka Mine Road] and Noughaval Roads in Doora, as to it constituting a dangerous "blind" junction posing a hidden hazard to road users, especially in light of the heavier use of Noughaval Road due to the Motorway exit through Doora to Quin”.

Eamon O’ Dea, Senior Executive Engineer, replied as follows:

The junction has been raised previously by Councillors and while the traffic on the L4114 Doora to Lynch’s Cross Road has increased however the prioitisation of this junction for improvement works has not significantly changed.

Recent traffic count on the L4114 is 1800 vehicles per day with 3% HGVs (Survey south of Lynch’s Cross) and I noted at a recent spot count between 0855 and 0910 that there were two turning movements from the L4114 onto the L8174 Monanoe Road and no traffic from the L8174 onto the L4114.

The means of funding improvements at junctions is either by Low Cost Safety Schemes funded by the Department of Transport or via Discretionary Maintenance Works. Priority in the Low Cost Safety Schemes is given the sites where accident data and injury accident sites get higher priority over material damage site.

It is unlikely that this junction will meet the criteria set out by the Department of Transport for the Low Cost Safety Scheme and the available Discretionary Maintenance Funding is

required for footpath and road maintenance works. We will discuss the hedge cutting and verge trimming with landowners to try and improve the sightlines.

Notice of Motion No 10. submitted by Cllr T. MC Namara, seconded by Cllr P. Daly

“I call on Ennis Municipal District to provide the infrastructure which will enable residences in the Roslevin area of the Tulla Road to connect to the public waste water system.”

Carmel Greene, Senior Executive Officer, replied as follows:

The taking in charge of any estate or water services infrastructure or provision of new or improved wastewater infrastructure can only be done with the prior approval of Irish Water.

Notice of Motion No. 11 submitted by Cllr P. Murphy, seconded by Cllr J. Breen.

“I am requesting that the flooding/water logging problem that arises following heavy rainfall outside the Roughan residence at Kilcross, Fountain is alleviated in advance of the coming winter. When this occurs the road to Maurices Mills can be impassable.

Eamon O’Dea, Senior Executive Officer, replied as follows:

The Council will examine the existing overflow culvert at this location where the Ballygriffey River crosses under the Maurices Mills Road. The Ballygriffey River enters a swallow hole at the Southern side of the road and rises again on the northern side of the road and an overflow culvert is provided at a higher level. Any alteration to the existing system will require an evaluation of the river flow including consideration of the effect of any alteration and consent of the OPW.

Notice of Motion No. 12 submitted by Cllr P. Daly, seconded by Cllr P. Murphy.

“I call on the Office of Public Works to allocate funding towards the serious flooding issue at Clareabbey, Kildysart Cross”

Tom Tiernan, Senior Engineer, replied as follows:

The area referred to is one of the areas to be dealt with through the Ennis South Flood Relief Scheme for which planning approval was confirmed by An Bord Pleanála in the spring of 2013. The OPW was consulted during the course of preparation of the aforementioned application to An Bord Pleanála and is supportive of the Council’s objective to implement the Ennis South Flood Relief Scheme. The Council has sought funding from the OPW to facilitate construction of the scheme and in this context has been responding to a no. of clarifications raised by them – most recently within the past month. While I am optimistic that the scheme will be funded I would hope that the above notice of motion will be beneficial in accelerating the provision of the required funding.

Item No. 9 – Correspondence. None.

The meeting then concluded.