



COMHAIRLE CONTAE CHORCAÍ

Minutes of Proceedings at Special Meeting of Cork County Council held in the Council Chamber, County Hall, Cork on 16th June, 2017.

ILATHAIR

Comhairleoir S. MacCraith, Méara Chontae

Comhairleoiri Mac Seafraida, Daltúin, Ó Donnabháin, Ní Dheasmhumhnaigh, Ó Cainte, S. Ó Coileán, M. Ó Murchú, Ó hEarchaí, R. Mhic Cárthaigh, Lombard C. Ó Murchú, Ní Cochláin, G. Ní Mhuimhneacháin, Críod, Ó Gráda, Ó Luasaigh, Ó Riain, Ó Conbhuí, Ó Ceocháin, Sheppard, De Barra, Rasmussen, N. Ó Coileán, Léanacháin-Foghlú, Ní Bhrian, N. MacCárthaigh, Ó Floinn, Ó Dúghaill, Mhic Dháibhí, J. Uí Mhurchú, Ó Sé, G. Ó Murchú, G. Ó Murchú, B. Ó Muimhneacháin, Uí Mhaoláin, T. Ó Coileán, D. Ó Coileán, Ó Cearúill, S. Ó Suilleabháin, C. Ó Suilleabháin, P.G. Ó Murchú, Uí hEigearthaigh Ó hAodha, Ó hUrthuile.

PRESENT

Councillor S. McGrath, County Mayor presided.

Councillors Jeffers, D'Alton, Ó Donnabháin, Desmond, Canty, Collins, M. Murphy, Harris, R. McCarthy, Lombard, K. Murphy, G. Coughlan, G. Moynihan, Creed, O'Grady, Lucey, Ryan, Conway, Keohane, Sheppard, Barry, Ó Cadhla, Rasmussen, N. Collins, Linehan-Foley, O'Brien, N. McCarthy, O'Flynn, Doyle, Dawson, Murphy, O'Shea, G. Murphy, G. Murphy, B. Moynihan, M. Mullane, T. Collins, D. Collins, Carroll, J. O'Sullivan, C. O'Sullivan, P. G. Murphy, M. Hegarty, Hayes, Hurley.

Chief Executive, Divisional Manager, Director of Planning, Head of Finance, Senior Planner, Senior Executive Officer, Senior Executive Officer.

The Mayor thanked Members for attending the special meeting to discuss the Report of the Expert Advisory Group on Local Government Arrangements in Cork, and for facilitating the change of time of the Development Committee meeting. The Mayor said that Cork is at a crossroads in terms of local government arrangements, and that it was incumbent on Members to hold an open debate, and to give the report a full and thorough assessment. The Mayor said it was disappointing to hear that Cork City Council had accepted the report in the absence of a proper debate.

The Chief Executive thanked Members for attending the meeting and said that following publication of the Mackinnon report both Cork City and Cork County Councils were heading into a time of uncertainty with respect to policy making. The Chief Executive informed Members that a series of letters would issue to a range of external bodies during the week and that he would email Members a list of who the letters were sent. Communities groups in North Cork and West Cork were also written to seeking their consultation. The Chief Executive said that the letters essentially said that there were

numerous challenges faced in trying ensure that the growth of Cork is maximised and that we needed to minimise the complexities to ensure continued growth.

The Chief Executive said that it is the view of Cork County Council that given the many significant queries and uncertainties which remain in the relation to the report, it is totally premature to consider participation in an implementation phase at this time, and that the Smiddy Report on local government arrangement in Cork is a statutory report under Section 28 of the Local Government Act and this report still stands. The Chief Executive informed the Members that a document outlining Cork County Council's questions would to be sent today asking the Minister and the report's authors to respond to 42 questions surrounding the proposed boundary expansion. Clarification will also be sought on whether the report of the expert advisory group has gone through a rural proofing exercise as required in the Government's Action Plan for Rural Development and other Government Policy documents.

The Chief Executive said that Cork County Council cannot further consider the implementation of the Mackinnon report's recommendations, pending answers to the Council's questions. The Chief Executive provided Members with details of the Councils' 42 questions to be raised with Minister, as follows;

List of Issues /Concerns requiring clarification.

To date the following areas have been identified as areas for further discussion and clarification and require a Departmental response to the specifics questions raised in each of these areas;

(A) Legal Process

1. Council need to get a clear understanding of the status of the two reports now published in relation to local government arrangements in Cork, those being:
 - a. The report of the Cork Local Government Committee established on 15th January 2015 under Section 28 of the Local Government Act 1991 and;
 - b. The report of the Expert Advisory Group on Local Government Arrangements in Cork established on 9th June, 2017.
2. Considering the aforementioned two reports, what process is required to be put in place for the purpose of extending a boundary of the City Council.
3. Considering the fact that the recommendations provide for Members of the new local government structures provided for in the report should take office following the local elections scheduled for 2019, in essence providing for all elements of the report being put in place concurrently, what is the statutory process governing same and what legislative changes across the suite of local government functions require amending legislation?.
4. **As an over-riding general principle, the Government is committed to the "rural proofing" of all national policies so as to ensure that policy makers are aware of the likely impact of policy proposals on the economic, social, cultural and environmental well-being of rural communities. This is provided for in the Government's Action Plan for Rural Development and other Government policy documents. In the circumstances, Council wishes to be briefed on the outcome of any "rural proofing" exercise undertaken on the Report of the Expert Advisory Group.**
5. **In the event that the Report has not been subjected to a "rural proofing" exercise, Council wishes to be advised of the process for same and what input will be provided for Council to same.**
6. The Report proposes the establishment on a statutory basis of the Cork Economic Development and Planning Board (CEDPB). The process for appointment of Members to this Board would appear to indicate that it is not directly accountable to any local electorate.

Considering also that some of the members of which would not have been elected at all, Council wishes to know if the Department is satisfied that there would not be constitutional issues concerning the standard of local democracy in Cork as compared with the rest of the country. In addition, considering the role to be undertaken by this Board, Council wishes to know if the possible transfer of functions to such a Board is contrary to the principle of subsidiarity as enshrined in Article 5 of the Treaty on European Union, which principle seeks to ensure that decisions are taken as closely as possible to the Citizen.

(B) Strategic Concerns/Issues:

1. The Report did not address the key County Council proposals for delivering for all of Cork. A specific proposal was made to the Expert Advisory Group and the report does not address this in any way. The report appears to have ignored the concept of combined local government arrangements. Council is seriously concerned that a report on local government arrangements in Cork would be finalised and accepted in such circumstances. The business case for excluding an evaluation of the Council's proposals is required.
2. The Council considers that the report does not appear to adequately address generally the Terms of Reference provided to the Expert Advisory Group, particularly, in the following areas:
 - The strength and effectiveness generally of Local Government in Cork, including in the use of resources, the organisation of functions and operations, and the provision of services; and
 - Implications of the Group's proposals or recommendations including anticipated costs and benefits (including potential savings and efficiency improvements).

There is no detail whatsoever in the report that would satisfy the Council that the impacts and implications from a cost benefit analysis viewpoint were addressed. The Council requires clarification in relation to the rationale used by the Group in how they reached their conclusions and recommendations in such circumstances.

3. The recommendations will result in there continuing to be separate strategic policy and investment plans for those business areas which fall outside the remit of the proposed CEDPB. How will this work effectively?.
4. The areas that fall outside the remit of the proposed CEDPB are potentially the areas that will be most negatively impacted. This is a serious concern and a combined city and county authority to set overall strategic priorities for all of Cork could avoid this. The result will be a divided Cork, one that is extremely strong with considerable national focus, and the other (the remaining county) being a completely different and weakened authority. What checks and balances have been identified in the report to address this issue?.
5. No details have been provided in the Report relating to the Divisional Structures within the County Council and how these are to be impacted on. Equally there is a complete lack of proposals relating to the restructuring of the existing Municipal Districts and how these would work in the future, particularly considering the fact that the geographical remit of the CEDPB covers elements of the area of 8 no. Municipal Districts in the County. In addition there is no mention of the envisaged white paper (July 2017) on possible Town Councils etc. and what this could add to the mix. This entire area needs clarification as the current structures of Cork County Council are unique to the country and are effective from a political and management perspective.
6. The Report concentrates almost entirely on growing Metro Cork. The Report contains no evidence of any proposals relating to the development of County Towns and rural villages and

how these might be supported and enhanced based on significantly decreased income levels. How is this issue to be addressed?

(C) Boundary Extension;

1. It is unclear as to what group/person will ultimately determine the precise boundary extension. Reference is made to the role of the Implementation Oversight Group as having a role in determining the final boundary. The Oversight Group is to be chaired by a member of the Expert Advisory Group and also includes four Local Government Chief Executives. Council wishes to be advised as to how the role of this Group would relate to any Boundary Committee if one were required to be established, and the Local Electoral Area Boundary Commission which is expected to be established before year end.
2. In addition to the aforementioned point, the Report does not outline if any level of consultation is proposed to take place with stakeholders relating to determining the precise boundary line to be drawn. Equally it does not identify what stakeholders are to be consulted. Council requires to be advised on what, if any, proposals are provided for in this regard.
3. Significant rural areas have been identified for inclusion in the revised City boundary. Council wishes to have the case relating to these inclusions clarified and outlined.
4. Business/community groups/public representatives have already raised both concerns and objections relating to the boundary extension. It is unclear as to what process will be deployed to both listen to and consider these concerns and objections. Council requires clarity on how this will be provided for.
5. The boundary extension will impact on both the City and County Development Plans, as well as other strategic plans currently in place. It is unclear as to how these issues are to be addressed. In addition several significant projects currently being implemented will potentially be impacted upon. In an interim period between the current status quo and the proposed new governance and management structures being in place, Council wishes to receive the Department's clear guidance on how such projects, and any strategic policy changes that might be required, are to be treated in the interim and who will have autonomy over same?. It is important that the delivery focus and positive impact of these is not lost in the interim.
6. It is apparent that the extension as proposed will drive inefficiencies and diseconomies of scale locally instead of improvements. The report does not address this issue. How is this to be addressed?.
7. It is the Council's view that any proposed revised boundary arrangements can only be implemented once the management structure (including staff transfer), financial structures and transitional arrangements (assets and liabilities transfer etc.) are put in place and finalised. The recommendations make specific reference to having the Members of the new local government structures taking office after the 2019 local elections but goes on to say "although it is recognised that some of the logistical implications (such as staff transfers) may require a longer time period". This does not appear to be an optimum outcome for local government arrangements in Cork and Council wishes to be advised on what is the Department's thinking on how such a scenario could be provided for such that there is no diminution in the capacity of Cork local government to perform its functions.

(D) Cork Economic Development & Planning Board (CEDPB):

1. Authority for strategic development and growth are transferring to the CEDPB under the Report. As a consequence the policy direction, infrastructure investment planning and prioritisation and the needs and potential of county towns is transferred to another grouping. Council has a serious concern regarding the relative roles of Cork County Council and the CEDPB in relation to the future development of all towns that come within the remit of the CEDPB and wishes to receive clarity on the level of autonomy that will be reserved for the County Council and how this will interact with the role of the CEDPB.
2. Council is concerned that there is a lack of democratic accountability of the CEDPB to both Councils, specifically considering the statement that the County Development Plan will have to conform with the Metropolitan Area Plan to be developed by the CEDPB. Council seeks clarity on how this is to be addressed?.
3. What is the timeframe for the establishment of the CEDPB and how will the group be accountable, and to whom?.
4. There is significant uncertainty regarding the specific roles, remit, powers and functions of the CEDPB. The report makes reference to the Board being charged with strategic planning for economic development, housing provision and strategic infrastructure. It also says it will determine priorities for key developments and infrastructure projects in a range of areas. Furthermore, the report says that the Board will play a role, in association with the proposed new Planning Regulator, in ensuring that planning policies and decisions of the two local authorities are consistent with the Cork Metropolitan Area Plan. The language and terminology used in the report to describe the role of the CEDPB presents a role and functions that are highly significant. In such circumstances, considering the significant impact this can have on the reserved and executive functions currently performed by the Council, Council wishes to receive full clarity on the specific role, remit, powers and functions of the CEDPB and those that would remain with Cork County Council in the areas referred to.
5. How are the external members of the CEDPB to be selected and, in the context of them not having voting rights, what safeguards will be put in place in order to address perceived conflicts of interest.
6. Will the CEDPB require an annual finance budget to include among other items an administrative back up team. If this is the case, how and by whom, is this funding to be provided?.
7. It is unclear as to how the CEDPB can operate effectively in the context of two separate authorities who operate their own Planning, Tourism and Economic SPC's. How will the work of the CEDPB interact with the SPC's of both Councils and, who will effectively decide on priorities and what obligations can be placed on either Local Authority to provide the necessary funding for those priorities?.
8. How will the CEDPB interact with the Regional Assembly and each elected council and in what context will those interactions take place?.
9. In view of the significant uncertainty that the acceptance of the Report has placed on future responsibility for strategic planning and development of the proposed extended City Council area and, the entire CASP area in view of the proposed role of the CEDPB, Council has serious concerns over the region's ability to engage in the NPF/RSES processes while this process is ongoing and the competitive advantage which this hands to competing regions. Likewise, in the process for developing the NPF, the Council has serious concerns regarding the relative importance that will be given to the views of the Council and Executive of Cork County Council with regard to the future planning and development of the Metropolitan Area

that is proposed to be transferred to the City Council, considering the fact that the City Council is now deemed to be the governing body for this area to 2040 and beyond. Council requires absolute clarity on its role in this and confirmation that its remit and responsibilities will not be negatively impacted as a result of the uncertainty now caused by the acceptance of the report.

10. The new CEDPB chair will have a five year term and be responsible for prioritising with board members and seeking infrastructural investment in the CASP area. The role is established and positioned as a significant leader for this area. Council wishes to know how this role will impact on the roles of the Mayor of Cork County and that of the Chief Executive of the Council.
11. As currently provided for in the Report, the CMAP will be a new statutory plan for the current CASP area. This appears to introduce a third statutory development plan for the Cork County and Cork City areas of remit. In this regard, the Council wishes to be advised on what is the expected content of CMAP, how will it be prepared and what level of public consultation be involved, who will statutorily adopt the CMAP and what role/engagement/appeal process will both local authorities have in relation to same?. There is also a concern that the number of plans may diminish further citizen engagement and, generally add to public confusion relating to the issues and how, and by whom, they are being addressed.

(E) Financial Issues/Compensation;

1. While the Council recognises that the report makes provision for a Financial Reciprocation Payment, the Report only allows for this payment to be paid annually for a ten year period with a review after five years. This is completely unacceptable to the Council as the level of compensation that is determined by the Council to be paid will be required to be paid indefinitely and until any further structural changes might be made the local authority boundaries. Council requires the Department to confirm that this will be provided for in legislation.
2. The report presents some concerns over the City's capacity to make compensatory payments over even the initial period of 5 years. The report specifically states that "an initial review of capacity for payment and payments actually made" should take place within 5 years. This statement in the report is a cause of serious concern and Council wishes to know that same is provided for and that the report was accepted on this basis?
3. Allied to this aforementioned point, what will happen if the City does not have the financial ability to ensure the compensation payment in any given year?. Council requires confirmation that full payment to be provided for in legislation and, in the event of this not being made then a state guarantee is required by Council such that any shortfall will be immediately paid when due.
4. There will ultimately be a negative impact upon the public purse following increased costs of implementation of the proposals compared to the current arrangements and the implied inefficiency of the move. How will these costs be met?.
5. The Financial Reciprocation Payment makes no provision for a form of a "Future Financial Benefits Payment" to the County Council from future developmental income from contributions, rates, LPT etc. from future development in the area that is due to be transferred to the City Council. Aside from the fact that this Council will have already invested in much of this area so as to provide for its future development. The area is a substantial part of the current Metropolitan Cork and it is expected that close on 80% of all future development in Cork is likely to occur in the extended city boundary areas. The Council will not accept a

scenario whereby in ceding a significant portion of the prime developable land in Cork to the City Council, that the Council will not derive benefit from development that will occur in this area. Council therefore requires the Department to confirm that provision will be made for this type of “Future Financial Benefits Payment”.

6. This proposed boundary extension essentially creates a situation whereby this Council will be forced to move from a predictable and sustainable funding model (vis a vis rates, LPT etc.) to an unstable funding model (a €40m. approx compensatory payment which will be reviewed in 5 years time). Particularly, relevant is the fact that the higher cost of service delivery in the city, plus the increased costs in the early years, could see the city experience financial difficulties which could force down the annual compensatory amount, and indeed it might be eliminated altogether. The task for the county in leading strategic investment - and growing and developing the network of county towns - is seriously hampered by the fact that it's financial model is inherently unstable. It effectively compromises the Council to deliver upon one of its core objectives which is to strategically invest in the county. This matter must be addressed satisfactorily for the Council by Government by providing for a financial model which ensures future capacity to grow services across the remaining County so as to ensure that we do not end up with significant inequity in community and business enablement across the County and City of Cork. The Department's proposals to ensure this for Cork County taking account of the aforementioned points need to be made clear to the Council.

(F) Implementation Oversight Body:

1. The report states that this Group is to consist of 3 members. At the Launch of the Plan it was mentioned that the group would consist of 5 Members, they being the Chair of the Group who was a member of the Expert Advisory Group, the Chief Executive of Cork County Council and Cork City Council and, the Chief Executives of Waterford and Limerick County Councils requires clarity on the Membership and the respective roles of each Member.
2. The Report sets out various significant roles for this Body. The roles appear to range from being a group that is intended to draw up and oversee an implementation plan, to being an arbitration group. Council wishes to be advised of the full terms of reference for this Group so that there is clarity on its role and function in these areas. This is particularly required considering the fact that mention was made at the launch of the report that this Group might also be charged with bringing amendments to the recommendations in the Report if it is felt that more optimum arrangements were worthy of consideration. Will they require admin support and who will provide the budget for same if required?.
3. The report also states that this Group that would be charged with overseeing the establishment of the new CEDPB, and with making preliminary preparations for adopting a new Cork Metropolitan Area Plan. This appears to put a Group of 3 in a position to potentially take on a major role in developing plans and policies for the proposed CASP area of Cork. Positioning this Group in such a manner is a serious cause of concern to Council and Council requires absolute clarity on what the specific role of this Group is in relation to the establishment of the CEDPB and in the functions to be performed by the CEDPB.
4. This Group appears to be charged with having an input to all matters of a transition nature and all matters that will require due diligence in the event of the proposals for an extension of the City Council boundary being progressed in accordance with the Report. In such circumstances, the Group may require considerable supports such as administrative, legal, financial and strategic planning supports. In this regard it is noted that there was no mention of the Group having among its members representation from the Department of Housing, Planning and Local Government. Council wishes to know if the Group requires such supports,

who will make the necessary arrangements and who will provide the budget for same if required?.

5. The question as to who this Group reports to does not appear to be addressed in the Report. Neither does its relationship with an Local Electoral Area Boundary Commission which is expected to be established before year end and, with the elected Membership of the Council's of both authorities. Council wishes to receive full clarity on this including, in the event that this Group is established to progress the recommendations in the Report, who does the Group report to?.
6. Dedicated transition teams will be required in each local authority to develop and implement an implementation plan. Will the group be required to approve this plan and the implementation timeframes contained therein. Who will fund this plan and these specific teams?.

During a discussion Members made the following points:-

- Thanked the Chief Executive and his staff for the preparation of the Council's response.
- The Mackinnon Report is arrogant and undemocratic.
- Cork County Council does not reject the report but also does not accept the report
- The Council accepts that an extension is required, however it is scale of proposed extension that is questionable
- The report proposes one of the most significant changes since the foundation of the State, yet there was no consultation.
- It is a missed opportunity that offers nothing to counter balance the Dublin area.
- The report is based on conjecture and opinion, and reflects poorly on the expert advisory group.
- The economic impact on peripheral rural areas will be huge, which will create a two tier Cork
- The report is nothing more than a land grab or cash grab.
- Consultation and keeping people up to date is what local government is all about.
- The Alf Smiddy report rightly consulted with the public
- Shocked and appalled there the Mackinnon report had no consultation with the public.
- No cognisance has been taken of the client.
- Members cannot accept the logic of report as it will decimate parts of Cork
- The report will divide rural parishes and communities with established traditions that stretch back hundreds of years.
- The expert group has no concept of how rural Ireland operates.
- People are successfully engaging with the Municipal District system.
- Yet the report proposes to disband the Municipal District system.
- People will become disengaged.
- The role of the Members will be diminished.
- Last year 40% of the Council's income was generated from rates
- What happens if we lose one third of our rates base.
- Will the Council continue to be able to provide the same level of services
- This is a dictat that we must not accept
- We need to be constructive and balanced in our approach and response
- We have to do what is right for all of County Cork
- It is important that we progress the negotiating process.
- Both the city and county will stagnate if we do not move forward.
- We need to be clear that other cities are make huge strives promoting themselves as an alternative to Dublin

- There is a real danger that Limerick or Belfast will pass Cork out.
- The Council is correct to seek further details and clarification
- The timeframe for implementation of the report needs to be clarified
- Some Members said that they were coming from a minority position in welcoming the recommendations on of the Mackinnon Report and that it was important to respect the opinion of other councillors.
- Some Members welcomed the move away from a unitary authority an amalgamation of Cork City and Cork County Councils.
- The status quo is not sustainable and the city boundary needs to move.
- Sinn Fein made the only electoral party submission on the Alf Smiddy Cork Local Government Review and proposed an enhanced system of a Regional Authority with a dual Metropolitan and County Council with a Strategic Authority above the two Councils, with responsibility for Regional Strategic Planning, Economic Development, Environment, and for developing joint City and County Strategies.
- Members should speak with caution as their comments will be on record.
- Cork County Council has protected the greenbelt area for decades and urban sprawl similar to that seen in Dublin is a great danger.
- The City and County need to agree on a revised boundary line
- Members were not being critical of individuals within Cork City Council.
- The City is not in a good economical position.
- The proposed boundary change will benefit the City at the County's cost.
- The report was a selective academic exercise and is no more than a discussion document.
- Cork as a strong county needs a strong city and vice versa.
- There is a need for a plebiscite and a judicial review.
- We needs to seek clarity what parts of the report would require legislation.
- The Minister has left it open and there is scope for negotiation.
- Members expressed concerns for Council staff.
- Have management sought the views and opinions from union officials and shop stewards.
- Have City and County Officials formally met to discuss the report.
- The report shows the Machiavellian input of University College Cork that is an unbiased observer.
- It is clear that the Minister rushed the report.
- Members need to begin lobbying their respective T.D's
- Members agreed there is need to meet with the Minister and the authors of the report

The Mayor thanked Members for their common sense approach and questions. The Mayor said Members should be aware of the proposed Cork Economic Development and Planning Board which raises very serious concerns regarding the future governance of Cork, and that the Board's powers over strategic matters will be extensive.

The Chief Executive thanked Members for their comments and welcome that Members were supportive of the wording of the document to be sent to the Minister. The Chief thanked staff for their diligent working preparing the Council's response to the Mackinnon Report. The Chief Executive advised Members that page 85 of the report was of critical importance as it refers to the extension of the City Council boundary on the basis that the boundary proposal is accompanied with the proposal to establish a Cork Economic Development and Planning Board. However, changes proposed will require primary legislation to be passed in the Dáil.

The Chief Executive said that he would like to dampen any concerns the Members raised in relation to staff as it will be a long process and that communications would issue to all staff as matters develop over time. The Chief Executive confirmed that since the launch of the report he has not met formally with the Cork City Council's Chief Executive.

Members agreed to write to the Minister and the Expert Advisory Group requesting a meeting to discuss the report of the Expert Advisory Group on Local Government Arrangements in Cork.

Members agreed to postpone the Development Committee meeting until 11.30am on Friday 23rd June, 2017, and that the Council's Annual Meeting would commence at the later time of 12.30pm on 23rd June 2017

This concluded the business of the Meeting.