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**Minutes of Proceedings at Meeting of Cork County Council held by Microsoft Teams on 8th February, 2021.**

**I LATHAIR**

**Comhairleoir Máire Léanacháin - Uí Foghlú, Méara Chontae**

**Comhairleoiri:** Ó Muineacháin B,Ó Dubhghaill, Ó Sé, Sean Pól, Ó Múrchú, Gearóid, Críod, Ní Mhuineacháin G, Ó Luanaigh, Ó Cochláin M, Uí Loinsigh, Ó Luasa, Ó hAodha, Padraig, Ó Múrchú, Gearóid, Ó Cinnéide, Ó Madaoin, Ó Sé T, Léineacháin Ui Foghlú, Ó Héigheartaigh, Ní hEachthigheirn, Uí Thuama, MacCarthaigh S, Mac Uaid, Ní Cheallaigh, Ó Cearbhaill, Ó Muirthile, Uí Chaochlaoich, Ó hAodha, Pól, Uí Chochláin G, Ó Colmáin, Ó Murchú, Caoimhín, , Ó Suilleabháin S, Uí Shuilleabháin, Máire, Ó Coileáin D, Ó Murchú PG, Uí Mhurchú Cáit, Ó Conaill, Mac Craith, Uí Daltún, Lombard, Uí Bhuachalla, Ó Conchubair L, Daltún Ó Suilleabháin, Ní Cheallacháin, Barra, Sheppard, Rasmussen, Ó Conchubair S, Ó Conchubair A, MacCarthaig N, Ó Flionn, Uí Bhriain, Ó Laoghaire, Dawson, De Róiste.

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**PRESENT**

 **Councillor Mary Linehan-Foley, County Mayor, presided.**

**Councillor:** Moynihan B, Doyle, O’Shea JP, Murphy Gerard, Creed, Moynihan G, Looney, Coughlan M, Lynch, Lucey, Hayes Pat, Murphy Gearóid, Kennedy, Madden, O’Shea T, Linehan – Foley, Hegarty, Ahern, Twomey, McCarthy S, Quaide, Kelly, Carroll, Hurley, Coakley, Hayes Paul, Coughlan G, Coleman, Murphy K, O’Sullivan M, O’Sullivan J, Collins D, Murphy P.G, Murphy Katie, O’Connell, McGrath, Dalton, Lombard, Buckley, O’Connor L, Dalton – O’Sullivan, O’Callaghan, Barry, Sheppard, Rasmussen, O’Connor S, O’Connor A, McCarthy N, O’Flynn, O’Brien, O’Leary, Dawson, Roche.

Chief Executive; Senior Executive Officer.

 **[a] CONFIRMATION OF MINUTES**

**1/1-2**

***Proposed by Cllr. Michael Hegarty***

***Seconded by Cllr. Noel McCarthy***

**RESOLVED:**

“That the minutes of the Meeting held on 25th January, 2021 be confirmed and signed by the Mayor.”

 **[b] VOTES OF SYMPATHY**

**2/1-2**

**TO:** Councillor Sean O’Donovan on the death of his father, John O’Donovan

**TO:** Senator Sharon Keogan on the death of her mother, Teresa Keogan

**TO:** The O’Sullivan Family on the death of Cara O’Sullivan

**TO:** Fiona Thurlby on the death of her husband, Anthony Thurlby

**TO:** To the O’Keeffe Family on the death of their mother Mary O’Keeffe

**TO:** Gérard Connolly on the death of his father, Cornelius (Neily) Connolly

**TO:** The O’Sullivan Family on the death of Matt O’Sullivan

 **[c] STATUTORY BUSINESS**

**3/1-2**

**Disposal of Property:**

**Section 183 of the Local Government Act 2001:**

# *Members noted the following disposals:*

**Municipal District of Carrigaline:**

**3(a)/1-2**

# *Disposal of ESB Substation Site at Ballea Waterworks, Carrigaline, Co. Cork*

In accordance with the provisions of Section 183 of the Local Government Act 2001, the disposal of the property as shown hereunder shall be carried out in accordance with the terms specified in the notice issued to members dated 29th January, 2021.

**SITUATION:** Disposal of ESB Substation Site at Ballea Waterworks, Carrigaline, Co. Cork

# CONSIDERATION: €1.00

**3(b)/1-2**

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# *Disposal of land at Mount Rivers, Carrigaline, Co. Cork*

In accordance with the provisions of Section 183 of the Local Government Act 2001, the disposal of the property as shown hereunder shall be carried out in accordance with the terms specified in the notice issued to members dated 29th January, 2021.

**SITUATION:** Disposal of land at Mount Rivers, Carrigaline, Co. Cork

**AREA:** 1.4076 hectares (3.478) acres

# CONSIDERATION: Nil – In exchange for lands measuring 0.745 hectares (1.8297 acres) at Mount Rivers, Carrigaline and the development of this site as a Car Park (at no cost to the Council.)

**Municipal District of Fermoy:**

**3(c)/1-2**

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# *Disposal of Old Fire Station, Fermoy, Co. Cork.*

In accordance with the provisions of Section 183 of the Local Government Act 2001, the disposal of the property as shown hereunder shall be carried out in accordance with the terms specified in the notice issued to members dated 29th January, 2021.

**SITUATION:** Disposal of Old Fire Station, Fermoy, Co. Cork

**AREA:** As outlined on Folio CK125681F

# CONSIDERATION: €45,000

**3(d)/1-2**

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# *Disposal of land at Colaiste an Chraoibhin, Fermoy, Co. Cork.*

In accordance with the provisions of Section 183 of the Local Government Act 2001, the disposal of the property as shown hereunder shall be carried out in accordance with the terms specified in the notice issued to members dated 29th January, 2021.

**SITUATION:** Disposal of land at Colaiste an Chraoibhin, Fermoy, Co. Cork

**AREA:** 0.689 hectares (1.703 acres) which is part of Folio CK9646

# CONSIDERATION: €100.00 (nominal fee)

**Municipal District of Kanturk/Mallow:**

**3(e)/1-2**

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# *Grant of 2 No. Wayleaves at Forrest View, Mallow, Co. Cork*

In accordance with the provisions of Section 183 of the Local Government Act 2001, the disposal of the property as shown hereunder shall be carried out in accordance with the terms specified in the notice issued to members dated 29th January, 2021.

**SITUATION:** Grant of 2 No. Wayleaves at Forrest View, Mallow, Co. Cork

# CONSIDERATION: €1.00

**4/1-2**

**Part 8 Manager’s Reports**

**Section 179(3) of The Planning & Development Act 2000 (As Amended)**

Part 8 – Enhancement of public realm at the Charleville Library including; Re – Landscaped plaza area “Bruce Place” new pedestrian footpath at rear of library, connection between the main street through to an additional new entrance to town park, paving, seating soft landscaping, drainage, memorial planting and urban trees, new art installation, lighting, new courtesy crossing with new road surface and all relevant construction site works to the public area.

***Proposed by Councillor Ian Doyle***

***Seconded by Councillor Pat Hayes***

**5/1-2**

**Nomination to the Board Crawford Art Gallery:**

Councillor Susan McCarthy was nominated to be appointed to the Crawford Art Gallery Board. The nomination is for a 3-year term*.*

***Proposed by Councillor Mary Linehan Foley***

***Seconded by Councillor John Paul O’Shea***

 **[f] REPORTS AND RECOMMENDATIONS OF OFFICERS**

**6/1-2**

**Report of legal advices received regarding the ministerial direction issued pursuant to section 31 of the planning & development act 2000, as amended:**

# *Report on legal advices sought by the Chief Executive, at the request of Council, in the matter of the Ministerial Direction received from Minister Peter Burke, Minister for Local Government and Planning, on the 23rd December 2020 regarding Variation No 2 of the Cork County Development Plan 2014.*

The Mayor informed Members that the Chief Executive had circulated a report on legal advice sought by him, at the request of Council, in the matter of the Ministerial Direction received from Minister Peter Burke, Minister for Local Government and Planning, on the 23rd December 2020 regarding Variation No. 2 of the County Development Plan 2014.

The Chief Executive outlined the contents of the report and referred to the Council Meeting held on the 11th January 2021 when Members noted formally, and considered the effect of, the Ministerial Direction issued in relation to Variation No. 2 of the County Development Plan and resolved to request the Chief Executive to obtain legal advice on the matter.

On foot of the receipt of those advices, the County Mayor called a Special Meeting of Council for Friday 5th February 2021 for consideration of the matter in committee, and Members were briefed in full on the legal advices obtained.

He said that the legal advice is that there are clear, substantial and weighty grounds to challenge the Direction of the Minister by way of Judicial Review proceedings and supports the process followed by Council on Variation No. 2.

In terms of the current status of Variation No.2, he said that Council should note that the Ministerial Direction took immediate effect on the 23rd December 2020 and said variation is deleted from the County Development Plan. Members should also note that section 31(2) of 2000 Act as amended, states:

*“(2) Where the Minister issues a direction under this section the planning authority, not withstanding anything contained in Chapter I or II of this Part, shall comply with that direction and the chief executive or elected members shall not exercise a power or perform a function conferred on them by this Act in a manner that contravenes the direction so issued.”*

The Direction requiring the deletion of Variation No. 2 has legal effect unless it is otherwise determined in Judicial Review proceedings. Thus, the inclusion of Variation No. 2 in the forthcoming Draft County Development Plan would not be lawful, even if the Council were to pursue a Judicial Review.

The Chief Executive reiterated the importance of protecting legal privilege. A full debate on this matter took place at the Special Meeting of Council in committee on the 5th February 2021 so as to safeguard same. He said that while Members will wish to express their views on this matter is this meeting, he was advising Members that should any further detailed consideration of the legal arguments on this matter be sought then it would be appropriate to do so in committee while retaining Council’s decision on the matter to be made in public session.

The Chief Executive also outlined to Members that in respect of the Briefing Note that was provided to members, the legal advices are legally privileged and confidential. They are the property of Cork County Council and are being furnished to individuals as members of the Council.

He said that the contents of the documentation may not be disclosed by members to any person, other than a person to whom it has also been furnished by Cork County Council, under any circumstances and if a member fails to comply with the requirement then he or she will be guilty of breach of confidence and Cork County Council will hold him or her personally liable for that breach of confidence and any loss or damage which Cork County Council suffers as a result.

During this discussion the Members made the following points:

* Members said they had no other choice but to seek a Judicial Review on the basis of legal advice sought
* Legal advice sought showed there was clear and substantial grounds to challenge the decision by OPR & Minister Burke
* Members said they did not wish to lose the development to another county
* Said that sustainability of developments was important
* Balance needed between regulators and local democracy
* Described the planning process as strong and robust
* Outlined the huge benefits it would have for job creation, tourist attraction & economic development
* Members said it was beyond the issue of retail centre & the Ministerial Direction was undermining local democracy
* Members raised concern over diminishing powers of local authorities
* Member said the role of Elected Members was suffering a continuous erosion of power
* Member said the Regulator is interfering with Council’s business
* Described the Minister’s direction as unconstitutional and unacceptable
* Said the real emergency is climate change and this is a priority
* Some Member had reservations on the legal challenge e.g. cost, time and compliance with guidelines
* Advised that the Council should explore other avenues for financial and legal support
* Council should explore other ways to resolve the issue
* Planning Regulator would become planning czar if decision wasn’t overturned in court
* Said Ireland was out of step with the rest of the EU in terms of local powers and autonomy
* Said it had far reaching implications for other local authorities
* Requested regular updates on progress and cost of the Judicial Review

The Chief Executive said that the determination of costs would be part of the Judicial Review process and that Cork County Council would seek to have its costs covered by the state as the matters that arise are important matters of public law. He said that a Judicial Review was the only step open to Cork County Council. There was no provision in the process for mediation.

He advised that the matter would be *sub-judice* once the process of seeking a Judicial Review has begun and he will not be able to give detailed disclosure of the Council’s legal position during the Judicial Review process. He said that application for leave for a Judicial Review must be made to the High Court within three months of the 23rd December 2020 and said that the Council’s legal team will endeavour to advance the case as fast as possible because of the substantive matters to be addressed.

Councillor Gearóid Murphy proposed, seconded by Councillor Michael Hegarty the following resolution**:**

 *“That Council resolves to support the recommendation of the Special Meeting of Council held in committee on Friday 5th February 2021 to seek a judicial review of the Ministerial Direction received from Minister Peter Burke, Minister for Local Government and Planning, on 23rd December 2020 regarding Variation No 2 of the Cork County Development Plan 2014, that was issued by the Minister pursuant to Section 31 of the Planning and Development Act 2000, as amended”*

The Mayor called for a vote to be taken which resulted as follows:-

**FOR:** Councillors: Coleman, Murphy Kevin, O’Sullivan J, O’Sullivan M, Collins D, Murphy P.G, Murphy Katie, McGrath, Lombard, Buckley, O’Connor L, Dalton O’Sullivan, O’Callaghan, Barry, Sheppard, Rasmussen, O’Connor S, McCarthy N, O’Flynn, O’Leary, Dawson, Roche, Moynihan B, Doyle, O’Shea J.P, Murphy Gerard, Creed, Moynihan G, Looney, Coughlan M, Lynch, Lucey, Hayes Pat, Murphy Gearóid, Kennedy, Madden, O’Shea T, Hegarty, Ahern, Twomey, McCarthy S, Kelly, Carroll, Hurley, Coakley, Hayes Paul

**[46]**

**AGAINST:** Councillors: Coughlan G, O’Connell, D’Alton, O’Connor A, O’Brien, Quaide

 **[6]**

**ABSTAIN:**

**[0]**

The Senior Executive Officer declared the results as follows: 46 For, 6 Against and 0 Abstentions.

The Mayor declared the resolution passed.

**7/1-2**

**Report on Civic Amenity Site Charges 2021:**

# Members were circulated with a report from Mr. Louis Duffy, Director of Services, Environment, Climate Change and Emergency Services on Civic Amenity Site (CAS) charges 2021.

During this discussion the Members made the following points:

* Members were reluctant to increase charges for Civic Amenity Sites
* Huge concerns over how to tackle €3m in losses accrued annually in operating CASs
* Expressed concerns that if prices were to increase it would lead to further illegal dumping
* Some members were opposed to an increase in the entry fees
* Acknowledged the importance of CAS facilities which offered value for money and great service
* Some Members requested a full review of CAS operations be undertaken before introducing increases in charges
* Members expressed the importance of finding at least €900,000 in additional income to keep operating as agreed at the budget meeting, but the challenge was how to do this
* Flagged a concern regarding charges for Green Waste and charging for trailers coming to the sites
* Suggested incentives such as ‘deposit’ scheme to promote recycling
* Advised that some private operators provided a cheaper service
* Members spoke on how the pay by weight system had been working well previously
* Members said the Polluter Pays Principle was key to waste disposal
* National review of CAS network is needed and standardisation of charges
* Said the bundle of charges presented to the meeting needed more review and analysis

The Chief Executive advised that several suggestions that had been made would not raise the required income to fund the shortfall. He informed Members that if the entrance fees were not increased or some form of increased charges for materials introduced, he would have no option but to use his executive power to introduce the charges or to adjust the General Municipal Allocations. This is because €900,000 additional income must be raised in 2021 to offset against the cost of operating the CASs.

The Director of Services said that two options had been proposed at the Special Meeting of Council on 5th February and that these options had been prepared, costed and circulated to members. One option was based on an increase to general gate fees and the other proposed no increase in gate fees but set out increases for waste materials brought to the CASs.

The Mayor informed Member that there were two proposals brought to the floor as follows:

Proposed by Councillor Seamus McGrath, seconded by Councillor Gillian Coughlan:

*“That this Council resolves that there will be no increase in the entry fee to Cork County Council’s Civic Amenity Sites in 2021 and that there be a review of the internal charges on materials brought to the sites for disposal or recycling to make up the balance in required funding.”*

An amended proposal was put forward by Councillor Alan O’Connor, seconded by Councillor Noel McCarthy.

*“That this Council resolves that there will be an increase of €1 on general gate fees for Cork County Council’s Civic Amenity Sites and an increase of €1 for the disposal of standard and large bags of refuse and approves the increases in the costs of other materials as set out in the report of the Director of Services to Council dated 8th February 2021.*

The Mayor called for a vote to be taken on the amended proposal which resulted as follows:-

**FOR:** Councillors: Coleman, Murphy Kevin, O’Sullivan J, O’Sullivan M, Collins D, Murphy Katie, Lombard, O’Connor L, Barry, Sheppard, Rasmussen, O’Connor A, McCarthy N, Dawson, Roche, O’Shea J.P, Murphy Gerard, Creed, Coughlan M, Lynch, Lucey, Kennedy, Madden, O’Shea T, Hegarty, Coakley

**[26]**

**AGAINST:** Councillors: Coughlan G, Murphy P.G, Buckley, O’Callaghan, O’Flynn, O’Brien, O’Leary, Doyle, Moynihan G, Looney, Hayes Pat, Ahern, Kelly, Hayes Paul

 **[14]**

**ABSTAIN:** Councillor: D’Alton, Dalton O’Sullivan, Linehan-Foley

**[3]**

The Senior Executive Officer declared the results as follows: 26 For, 14 Against and 3 Abstentions. The Mayor declared the resolution passed.

***Extension of Time:***

Proposed by Councillor Paul Hayes

Seconded by Councillor Pat Hayes

 **[g] CORRESPONDENCE FROM GOVERNMENT DEPARTMENTS**

**Department of Housing, Local Government & Heritage: 8(a)/1-2**

**Multi-Annual Rural Water Programme:**

# Members noted correspondence dated 26th January 2021 in response to Council’s letter dated 20th January 2021in relation to Multi-Annual Rural Water Programme.

**8(b)/1-2**

**Vacant Homes Officers:**

# Members noted correspondence dated 26th January 2021 in response to Council’s letter dated 14th October 2020 in relation to the role of Vacant Homes Officers.

**9/1-2**

**Department of Justice:**

# Members noted correspondence dated 26th January 2021 in response to Council’s letter dated 15th December 2020 in relation to the proceeds of crime.

During this discussion the Members made the following points:

* Members said they were dissatisfied with the response
* Physical cash seized should be paid into a dedicated fund for community and addiction services

***Members agreed to write to back to Minister for Justice, Helen McEntee stating that fiscal cash seized should be paid into a fund for community and addiction services.***

**[h] NOTICE OF MOTIONS**

**10/1-2**

**Cllr. Ben Dalton O’Sullivan:**

*“That Cork County Council would adopt a county wide policy where every playground would have communications boards installed and consideration would be given to install ASD friendly play equipment at each county playground.”*

***Deferred to Meeting of 22nd February, 2021***

**11/1-2**

**Cllr. William O’Leary:**

*“That the Housing Directorate would provide a report regarding the role Garda Vetting plays in the housing allocation process.”*

***Deferred to Meeting of 22nd February, 2021***

**12/1-2**

**Cllr. Danny Collins:**

*“I am calling on this Council to support my motion that we write to the government and request that they implement mandatory quarantine to all people from countries all over the world coming into Ireland. This would mean everyone would have to quarantine in a hotel which would be kept in a high security system to get this country into a zero Covid Country.”*

***Deferred to Meeting of 22nd February, 2021***

**13/1-2**

**Cllr. Marcia Dalton:**

*“To ask Minister to amend the Environment Protection Agency Act 1992 to include “shipping” as an activity licensable under the Act. This would require all ports above a certain size throughout Ireland to operate in accordance with an Industrial Emissions licence.”*

***Deferred to Meeting of 22nd February, 2021***

**14/1-2**

**Cllr. Danielle Twomey:**

*“That this Council will write to the Minister for Finance, requesting that the banks be instructed to implement an immediate mortgage break for all customers on the PUP payment and out of work due to current restrictions.”*

***Deferred to Meeting of 22nd February, 2021***

**[k] VOTES OF CONGRATULATIONS**

**15/1-2**

**TO:** An Garda Siochana on bringing joy & hope for their Jerusalema dance challenge

**TO:** James Sugrue on signing with the professional golf agency Sport Yard

 **[l] ANY OTHER BUSINESS**

**16(a)/1-2**

**Mayor’s Community Awards:**

Member were reminded that the closing date for nominations for the Mayor’s Community Awards is February 10th, 2021.

**16(b)/1-2**

**Vaccination Centre:**

During this discussion the Members made the following points:

* Members praised the idea of local Covid 19 Vaccination Centres
* Members asked if Cork County Council were asked to assist in vaccination programme

The Chief Executive informed Members that Cork County Council has not been asked to provide any facility. He said the assistance that could be given by the local authority sector was discussed at a national level and a decision was to be made

**16(c)/1-2**

**Community Forum:**

# The Mayor informed Members that she is a Member of the Community Forum Committee and would discuss vaccination centres further on the MS Teams meeting of the forum on Friday 12th February 2021.

**~ This concluded the business of the Meeting ~**