

**Minutes of September Monthly Meeting of
Westmeath County Council held at 3.00 p.m. Monday 18th September 2017
In Council Chambers, Áras an Chontae, Mullingar, Co. Westmeath**

Presiding: Cllr. J. Shaw.

Members present: Cllr. Ailish McManus, Cllr. F. Keena, Cllr. P. Hogan, Cllr. T. Farrell, Cllr. A. O'Rourke, Cllr. M. O'Brien, Cllr. F. McDermott, Cllr. P. Hill, Cllr. B. Collentine, Cllr. J. Shaw, Cllr. U. D'Arcy, Cllr. E. Wallace, Cllr. M. Dollard, Cllr. L. McDaniel, Cllr. K. Glynn, Cllr. S. Clarke.

Apologies: Cllr. J Dolan, Cllr. J Penrose, Cllr. A Duncan

Officers present: Mr. Pat Gallagher, Chief Executive.
Mr. Barry Kehoe, Director of Service.
Mr. Jimmy Dalton, Director of Service.
Mr. Dave Stuart, Chief Fire Officer.
Mr. Billy Coughlan, Meetings Administrator.
Ms. Amanda Nulty, Clerical Officer.

3:00 pm: An Cathaoirleach, Cllr. John Shaw opened the meeting.

1. Miontuairiscí.

(i) On the proposal of Cllr. Hill and seconded by Cllr. Glynn, the Members agreed to approve the minutes of July Monthly meeting of Westmeath County Council held in Council Chambers, Athlone Civic Offices, Church St., Athlone on Monday, 24th July 2017 at 3.00 p.m.

(ii) The Members noted minutes of CPG meeting of Westmeath County Council held in the Board Room, Áras an Chontae, Mullingar on Wednesday 19th July 2017 at 8.30 a.m.

(iii) The Members noted minutes of Mullingar Municipal District meeting of Westmeath County Council held in Council Chambers, Áras an Chontae, Mullingar on Monday, 10th July 2017 at 2.00pm

(iv) The members noted the minutes of the Athlone Municipal District Meeting held in Civic Centre, Church Street, Athlone on Monday, 3rd July 2017 at 3.00 p.m.

Cllr. Glynn sought an update on the Civil Defence. Chief Executive Mr Pat Gallagher advised an update will be provided by Director of Service Mr Martin Murray at the October meeting of Westmeath County Council.

2. Management Report.

The Members noted the Management Report as circulated.

3. Chief Executive Orders.

The Members noted the Chief Executive Orders as circulated.

4. Disposal of Land/Property

- (i) Proposed disposal of Plot of ground comprised in Folio 19246 Co. Westmeath at Lismacaffrey, Co. Westmeath, to Tony and Kathleen Boyce in accordance with the terms of Section 183 Notice of the Local Government Act 2001 circulated within the specified period.

An Cathaoirleach called for a vote by a show of hands and declared the disposal passed.

- (ii) Proposed disposal of 1.386 acres at Golden Island, Athlone and circa 0.259 acres at Creggan Upper, Athlone to Tony Diskin or his nominees in accordance with the terms of Section 183 Notice of the Local Government Act 2001 circulated within the specified period

In response to Cllr. McDermott's query regarding the quantity of land being disposed of, Director of Service Mr. Barry Kehoe advised a report was issued to the Members. He furthered it is fair and reasonable as the transfer would regularise arrangements that were made in the context of the development of the Golden Island Shopping Centre in the early 1990's and the subsequent construction of the Athlone Recycling Centre.

An Cathaoirleach called for a vote by a show of hands and declared the disposal passed.

- (iii) Proposed disposal of circa 0.015 acres to rear of 22 Ave Maria Park, Moate to Mark Dolan and Louise Kerr or their nominees in accordance with the terms of Section 183 Notice of the Local Government Act 2001 circulated within the specified period.

An Cathaoirleach called for a vote by a show of hands and declared the disposal passed.

5. To fill casual vacancy in the membership of Westmeath County Council arising from the resignation of Cllr. Avril Whitney.

On behalf of the Fianna Fáil Party, Cllr. Ken Glynn extending his gratitude to Cllr. Whitney for all her hard work and dedication and wished wish her well in the future. All Members joined with Cllr. Glynn in extending their appreciation to Avril Whitney and thanked her for her hard work, dedication and support to Westmeath County Council over the past number of years.

Cllr. Ken Glynn proposed Mr Brian Crum to be co-opted to Westmeath County Council. This was seconded by Cllr. Liam McDaniel. Mr. B. Coughlan confirmed that he had received the necessary written confirmation from the Fianna Fáil party of Mr. Crum's nomination as a member of that party. As there were no further nominations, An Cathaoirleach Cllr. Shaw declared Mr Brian Crum co-opted to Westmeath County Council.

All Members congratulated and welcomed Cllr. Crum on being co-opted to Westmeath County Council and offered their full support to him during his term in office. The Chief Executive , Mr. Pat Gallagher, extended the staff's welcome to Cllr. Crum and assured him of the support of the Executive in his work as an Elected Member.

Cllr. Crum thanked everyone for their kind wishes and stated that he was honoured as a member of Fianna Fail to have the opportunity to represent the people of Westmeath. Cllr. Crum thanked his family for their support and extended his appreciation to Avril Whitney and wished her all the best in the future.

6. To appoint 1 member to the Transportation and Planning SPC.

Cllr. Ken Glynn proposed Cllr. Brian Crum to be elected as a Member of the Transportation and Planning SPC. This was seconded by Cllr. O'Rourke.

As there were no other nominations the Cathaoirleach declared Cllr. Brian Crum elected.

7. To appoint 1 member to the Board of Mullingar Integrated Arts Centre.

Cllr. Ken Glynn proposed Cllr. Brian Crum to be elected as a Member of the Mullingar Integrated Arts Centre. This was seconded by Cllr. Keena.

Cllr. Sorca Clarke proposed Cllr. Una D'Arcy to be elected as a Member of the Mullingar Integrated Arts Centre. This was seconded by Cllr. Hogan.

As there were two nominations for one position An Cathaoirleach, Cllr. Shaw called for a vote by a show of hands and declared Cllr. Brian Crum elected as a Member to the Board of Mullingar Integrated Arts Centre.

8. To appoint 1 member to Longford and Westmeath Education and Training Board.

Cllr. Frank McDermott proposed Cllr. Emily Wallace to be elected as a Member of the Mullingar Integrated Arts Centre. This was seconded by Cllr. Keena.

Cllr. O'Brien proposed Cllr. McManus to be elected as a Member of the Mullingar Integrated Arts Centre. This was seconded by Cllr. Clarke.

As there were two nominations for one position An Cathaoirleach, Cllr. Shaw called for a vote by a show of hands and declared Cllr. Emily Wallace elected as a Member to the Board of Longford and Westmeath Education and Training Board.

15.30 pm: On the proposal of An Cathaoirleach Cllr. John Shaw, the meeting was adjourned for a period of fifteen minutes.

15.45 pm: Meeting resumed.

9. To consider the making of Road Traffic (Special Speed Limit) (County of Westmeath) Bye Laws 2017

Director of Services, Mr Barry Kehoe provided the Members with an overview of the Special Speed limit Bye Laws for County Westmeath 2017.

The Members overwhelmingly welcomed the new Speed Limits particularly the reduction in speed limits in the vicinity of schools and on unimproved sections of national secondary road.

On the proposal of Cllr. Farrell and seconded by Cllr. Dollard the Members unanimously agreed the making of Road Traffic (Special Speed Limit) (County of Westmeath) Bye Laws 2017

10. To consider variation of the basic rate of Local Property Tax under section 20 of the Finance (Local Property Tax) Act 2012 (as amended)

Mr. Jimmy Dalton, Head of Finance, presented the report from the Chief Executive circulated to the Members and gave an outline of the content of the report.

The report strongly recommended that the basic rate of LPT is not subjected to any reduction in 2018 in order to maintain the current funding available to the General Municipal Allocation (GMA). The report further recommended that in order to augment this funding Members should consider increasing the basic rate of LPT by 10% for 2018.

16.00 pm: On the proposal of An Cathaoirleach Cllr. John Shaw, the meeting was adjourned for a period of ten minutes.

16.10 pm: Meeting resumed.

Cllr. O'Brien proposed not to vary the current basic rate of Local Property Tax. This was seconded by Cllr. Glynn.

Cllr. Hogan proposed that the basic rate of Local Property Tax be reduced by 15% and Cllr. D'Arcy seconded this proposal.

As there were 2 proposals in respect of the variation of the basic rate of Local Property Tax the Cathaoirleach called for a vote by a show of hands and declared the proposal '**Not to vary the basic rate of Local Property Tax for 2018**' carried.

11. To note Chief Executive's Report on Local Improvement Schemes

Director of Service, Mr Barry Kehoe provided the Members with an overview of the report.

Cathaoirleach, Cllr. John Shaw suggested the Members review this scheme for 2018 at SPC level.

Cllr. Hogan asked how much money has Westmeath County Council expended on the scheme and Cllr. Keena asked if applicants can avail of the lower contribution rate retrospectively.

Mr. Barry Kehoe advised the Members that he would forward the level of expenditure incurred by Westmeath County Council on the Local Improvement Scheme to date and that retrospective assistance cannot be facilitated.

On the proposal of Cllr. Tom Farrell and seconded by Cllr. Paul Hogan, the Members resolved to place this item on the agenda for the next Planning and Transportation SPC meeting.

12. To consider Chief Executive's Report on the Part 8 Planning Process for Athlone Flood Alleviation Scheme – Flood Cell 3 –The Quay Athlone.

The Chief Executive, Mr. Pat Gallagher presented his report as circulated to the Members on the Part 8 Planning Process for Athlone Flood Alleviation Scheme – Flood Cell 3 –The Quay Athlone.

The Members welcomed the report.

In response to Cllr. O'Rourke, Mr. Barry Kehoe advised the Scheme will not reduce access to the river anywhere in Athlone. He furthered that the scheme will not impact areas downstream on the river as the scheme will not reduce the capacity of the river channel through the town and the volume of water displaced will be negligible compared to the volumes flowing through under flood conditions.

In response to Cllr.'s Keena and Farrell, Mr Barry Kehoe advised that the ground investigation is due to be completed over the following weeks. There may be a delay if the ground conditions dictate more complex sub surface works including sheet piles. However, it is hoped that the OPW can commence the scheme in mid October.

On the proposal of Cllr. O'Brien and seconded by Cllr. O'Rourke the Members approved the Part 8 Planning Process for Athlone Flood Alleviation Scheme – Flood Cell 3 –The Quay Athlone.

13. To consider Chief Executive's Report on the Part 8 Planning Process for the extension of Athlone Fire Station.

The Chief Executive, Mr. Pat Gallagher presented his report as circulated to the Members on the Part 8 Planning Process for the extension of Athlone Fire Station.

Cllr. Hogan stressed the importance of communications with neighbouring properties, particularly on training days.

On the proposal of Cllr. Farrell and seconded by Cllr. Hogan the Members approved the Part 8 Planning Process for the extension of Athlone Fire Station.

14. (i) To consider the taking in charge of the following housing estates:

- a. Drumaconn, Athlone
- b. Crofton Court, Moate
- c. Canal Walk, Athlone

On the proposal of Cllr. Hogan and seconded by Cllr. Farrell the Members approved the taking in charge of Drumaconn, Athlone, Crofton Court, Moate and Canal Walk, Athlone housing estates.

(ii) To commence the taking in charge process for the following housing estate:

- d. The Orchard, Athlone

On the proposal of Cllr. Farrell and seconded by Cllr. Hogan the Members approved to commence the taking in charge of The Orchard, Athlone.

In response to Cllr. Keena, Mr Barry Kehoe advised all residences of the effected estates will receive correspondence regarding the taking in charge process.

15. Motions:

Deferred Motions:

(i) Cllr. John Shaw and Cllr. Paddy Hill:

That Westmeath County Council make the following variations to the County Development Plan 2014-2020

11.8 Local Housing Need Policy P-LHN1

It is a policy of Westmeath Co Council to permit residential development in areas outside of the development boundaries of the settlement hierarchy subject to the following circumstances

1. Persons who are actively engaged in Agriculture, horticulture, forestry, bloodstock and peat industry. No change
2. Members of farm families seeking to build on the family farm. No change

3. *Landowners for this purpose being defined as persons who own the land 5 years prior to the date of planning application.*
4. Persons employed locally whose employment would provide a service to the local community. No change
5. Persons who have personal, family or economic ties within the area including returning emigrants. No Change
6. Persons who wish to return to farming and who buy or inherit a substantial farm holding which is kept intact as an established farm unit, will be considered by the council to be farmers and will be open to consideration for a rural house as farmers. Where there is already a house on the holding refurbishment or replacement of this house is the preferred option. No Change

The local area for the purpose of this policy is defined as the area generally within a 10km radius of the applicant's family home.

11.20 Areas of High Amenity

P-AHA2

To restrict development not related to farm practices and tourism in all high amenity areas with the exception of housing for the immediate family (son/ daughter) of established residents living on landholdings, who demonstrate a housing need and have long term intrinsic links with the area. *The entire landholding will be demonstrated to have been in the resident's ownership 5 years prior to the date of application.*

Response by the Chief Executive on the motion in the name of Councillor John Shaw and Councillor Paddy Hill, seeking Westmeath County Council make variations to the County Development Plan 2014-2020:

The County Development Plan is a complex document, which outlines a broad strategic Vision for the development of the County. This vision is to be realised through the implementation of policies and objectives that, working together, will contribute to the realisation of the desired outcome.

A significant and fundamental policy area is that of housing. The Plan contains policies and objectives for both urban and rural areas, which are designed to ensure that the County has a strong network of towns and villages as well as a vibrant and sustainable countryside. A key challenge for the Council is to ensure that the appropriate policy framework is in place to facilitate a range of housing types for the people who wish to live in this County and to get the correct balance between urban and rural housing development. Housing provision is a particularly problematic issue in the current set of circumstances, where there is a recovering economy generating significant demand, for which supply is simply not forthcoming. However, rural housing is being provided and in this regard, the Council has

granted 194 rural houses this year to date and refused 21 giving a grant rate of some 90%. Three of these 21 refusals were in areas of high amenity.

The proposed variation to local housing need policy could have significant implications for both urban and rural areas and for the people who live in both. It is advised that such a variation should emerge from a detailed analysis of the issues that are causing difficulties in the delivery of new housing and should be considered in the context of the overall housing policy of the Council. In this context, the Council is advised to refer this motion to the Council's Rural Housing Subcommittee for consideration.

The Members are also advised that the Department of Housing, Planning and Local Government has by Circular Letter PL2 2017 dated 31 May 2017 advised that planning authorities defer amending their rural housing policy / local housing need criteria in existing statutory development plans either by way of the cyclical review or variation. This pause is required to allow the Department to deal with concerns raised by the European Commission that the 2005 Guidelines on Sustainable Rural Housing may be in breach of Article 43 of the Treaty on the Functioning of the European Union regarding freedom of movement of citizens. The Department has indicated that changes may be made to the above Guidelines in the second half of 2017 and that the National Planning Framework will further assist in informing this revision, in terms of outlining the overall policy approach for development in rural Ireland reflecting on the inter-relationships between urban and rural locations including access to employment, housing, services and recreation.

Given the intention of this motion, it is incumbent on me to advise you that the passing of a resolution to this effect would be 'ultra vires' ie. outside of your statutory powers. I give this advice based on recent legal consideration of Section 13 of the Planning and Development Act 2000 as amended, and the separation therein between executive and reserved functions. The advice is that the commencement of the process to vary a development plan is an executive function. The Members are also precluded from directing the Chief Executive to commence such a process by Section 52 of the Local Government Reform Act 2014 which amended Section 140 of the Planning and Development Act as follows:

'a resolution under this section (S140) does not apply or extend:-

(e) to any act or thing to be done or effected in the performance of the executive functions of a Local Authority in respect of its functions as a Planning Authority under the Planning and Development Act 2000...'

The Members might also note that the formal review of the County Development Plan will be commencing in early 2018 leading to the adoption of a new plan for the period 2020 to 2026. The Members are advised that this review, informed by the deliberations of the Rural Housing Subcommittee and with the benefit of revised National Rural Housing Guidelines and the National Planning Framework, is the context in which a fundamental policy such as this should be considered.

(ii) Cllr. Tom Farrell:

“That Westmeath County Council would set out in detail its policy “on local needs” for adjudicating on “one off” planning applications together with a view from the Executive on inconsistencies with adjoining counties”.

Response by the Chief Executive on the motion in the name of Councillor Tom Farrell:

“The County Development Plan is a complex document, which outlines a broad strategic Vision for the development of the County. This vision is to be realised through the implementation of policies and objectives that, working together, will contribute to the realisation of the desired outcome.

A significant and fundamental policy area is that of housing. The Plan contains policies and objectives for both urban and rural areas, which are designed to ensure that the County has a strong network of towns and villages as well as a vibrant and sustainable countryside.

In this regard, Rural Housing Policy as set out in Chapter 11 of the Development Plan is attached.

There will inevitably be inconsistencies with adjoining counties, primarily because different circumstances and development pressures will be apparent in each. Westmeath is in a unique position, having two of the strongest towns in the Irish Midlands in Mullingar and Athlone, each of which has a population of approximately 20,000 people. All of the other towns and villages are small in comparison and the eastern half of the county is under the influence of the greater Dublin area. Furthermore, there are significant differences in development pressure across the County particularly between the more isolated rural areas and those in the vicinity of the larger towns.

It is proposed that the County development plans of adjoining counties would be examined and a report on their rural housing policies would be brought before a future meeting of the planning SPC for consideration in the context of the review of the County Development Plan.”

Cllr’s Dollard, Shaw & Hill were extremely disappointed with the response and legal advice obtained by the Chief Executive, on the basis that it would seem to indicate that the powers of Local Authority Members are being diminished.

In response, Chief Executive Mr. Pat Gallagher advised the Members they may seek a second legal opinion [under section 132 of the Local Government Act 2001 as amended] if they so wish.

Regarding Cllr. Farrell’s Motion, the Chief Executive advised that it would be possible to compare the rural housing policies in Westmeath CDP with neighbouring counties and bring a report to the Planning and Transportation SPC for consideration.

The Chief Executive advised the Members that a review of the County Development Plan will commence in early 2018, leading to the adoption of a new plan for 2020 – 2026, and that the best time to consider planning policy would be as part of this review.

Cllr. John Shaw stated the Members will not wait two years to make this change to the County Development Plan. Cllr. Hill supported Cllr. Shaw's views and further stated that he was not happy with the response from the Executive and asserted that the Members are not in breach of national policy or regional policy as they are asking for a simple change to their own policy.

Cllr. Hogan stated that the making of a County Development Plan and the making of a variation to the plan is a Reserved Function and the passing of a resolution to this effect would be intra vires. He further asserted that the Members are acting within their powers under the relevant legislation.

Cllr. Hogan requested a special meeting with Westmeath County Council solicitors so the Members can be further advised as to their powers relating to changes to the County Development Plan.

On the proposal of Cllr. Shaw and seconded by Cllr. Clarke the Members adopted both motions and resolved to seek a second legal opinion on the matter. It was further agreed that the Chief Executive would liaise with An Cathaoirleach and Cllr. Hogan to clarify the terms of the request for the second legal opinion.

16. Recommendation(s) from Corporate Policy Group:

- a) On the proposal of Cllr. Hogan and seconded by Cllr. Farrell the Members unanimously agreed that that the Mayor of Athlone Municipal District confer an address of recognition to the local delegates of the European People's Festival for winning the prestigious Fair Play Award, at the Luan Gallery, Athlone on 30th September 2017.
- b) On the proposal of Cllr. Wallace and seconded by Cllr. Keena the Members unanimously agreed that a Civic Reception be granted to the Members and Management of Westmeath Camogie Team on winning the All Ireland Premier Junior Camogie Championship.
- c) On the proposal of Cllr. Glynn and seconded by Cllr. Farrell the Members unanimously agreed on the following Budget Meeting dates:
 - Preliminary Budget Meeting Monday 20th November at 10am
 - Statutory Budget Meeting Monday 27th November at 10am.

17. To receive reports and recommendations from SPC Chairpersons

Chairman of the Housing, Community, Corporate and Cultural SPC, Cllr. Ken Glynn advised the Members on a recommendation regarding community led projects under Rural Support Schemes.

Cllr. John Shaw noted the short notice of the recommendation. Cllr. Glynn advised the SPC meeting was held on the morning of 18th of September prior to the Council Meeting and apologised for the limited amount of time the Members had to consider the recommendation.

On the proposal of Cllr. Glynn and seconded by Cllr. Keena the Members unanimously approved the recommendation.

18. Correspondence

Vote of Sympathy

On the proposal of Cllr. Dollard, the Members unanimously agreed to extend a vote of sympathy as a mark of respect to the Rickard family on the death of Mr. James Rickard (RIP), who was employed for 48 years with Westmeath County Council as a driver and general services supervisor.

Vote of Congratulations

On the proposal of Cllr. Wallace & seconded by Cllr. Keena the Members unanimously agreed to extend a vote of congratulations to the Westmeath Junior Camogie Team on winning the 2017 All Ireland Premier Junior Camogie title.

19. Aon Gnó Eile

Conferences:

Mr. Billy Coughlan, Meetings Administrator, advised the Members in relation to the conference document which had been circulated to them for approval.

On the proposal of Cllr. McDermott, seconded by Cllr. Glynn, the Members approved the Conference attendance document as circulated.

Picnic in the Park Event:

Cllr. Emily Wallace extended her congratulations to Murty Hanly and all the staff of Westmeath County Council on the success of the 'Picnic in the Park' event held in Mullingar Town Park September 17th 2017.

This concluded the business of the meeting

Cathaoirleach

Date