

South Tipperary County Council

Minutes of South Tipperary County Council Meeting held in The Council Chamber, County Hall on 5th July, 2010

In the Chair	Cllr. Sean McCarthy
Present	Cllrs. T. Acheson, L. Ahearn, S. Ambrose, M. Anglim, J. Brennan, S. Cooney Sheehan, J. Crosse, J. Crowe, J. Donovan, P. English, J. Fahey, M. Hanna Hourigan, D. Landy, D. Leahy, S. Lonergan, R. Molloy, M. Murphy, MI Murphy, J. O'Brien, E. O'Meara, D. Ryan, T. Wood.
Apologies	Cllr. MI Fitzgerald, S. Healy
In attendance	E. O'Connor, B. McEvoy, S. Keating, C. Curley, S. Carr, P. Slattery, A. Fennessey, D. Walsh
Meetings Administrator	Mr. John O'Mahoney
Minutes	On the proposal of Cllr. Darren Ryan and seconded by Cllr. Pat English the minutes of Council Meeting held on 14 th June, 2010 were adopted.
Conferences/ Seminars	<p>On the proposal of Cllr. Joe Brennan and seconded by Cllr. Marie Murphy, it was agreed that:-</p> <p>Cllr. Sylvia Cooney Sheehan be nominated to attend conference organised by Esperanza Enterprises on 26th – 28th July, 2010 at Maldron Hotel, Galway, Oranmore, Galway entitled "Health and Safety, Risk Assessment and Insurance in Local Government".</p> <p>Cllr Michael Murphy and Cllr Richie Molloy be nominated to attend conference organised by Esperanza Enterprises on 30th July – 1st August, 2010 at Maldron Hotel, Galway, Oranmore, Galway entitled "The need for urgent Local Authority and Health Service Reform".</p> <p>Cllr. Michael Fitzgerald and Cllr. Jimmy O'Brien be nominated to attend conference organised</p>

by Lough Ree Development Company on 8th – 11th July, 2010 at Lanesboro/Lough ree, Longford entitled “Lough Ree Environmental Summer School & Arts Festival”.

Cllr. Siobhan Ambrose be nominated to attend conference organised by Superior Training on 9th – 11th July, 2010 at West Cork Hotel, Skibereen, Co. Cork entitled “Local Government Roads & Transport Services”.

Cllr. Jimmy O’Brien, Cllr Liam Ahearn, Cllr John Crosse & Cllr Tom Acheson be nominated to attend conference organised by Celtic Conferences on 15th – 18th July, 2010 at The Celtic Ross Hotel, Rosscarbery, Co. Cork entitled “A practical guide to Media Skills for Councillors”.

Disposal of lands at Carrigane, Mitchelstown to James Condon

It was proposed by Cllr. Liam Ahearn
Seconded by Cllr. Marie Murphy
And resolved: -

“That in accordance with the provisions of Section 183 of the Local Government Act, 2001, we hereby approve of the disposal of 0.068 hectares (0.168 acres) at Carrigane, Mitchelstown, Co. Cork to James Condon, Carrigane, Mitchelstown, Co. Cork in accordance with the terms of the Notice under the above Section as circulated on the 15th June, 2010.

Disposal of lands at Carrigane, Mitchelstown to Catherine O’Brien

It was proposed by Cllr. Liam Ahearn
Seconded by Cllr. Marie Murphy
And Resolved: -

“That in accordance with the provisions of Section 183 of the local Government Act, 2001, we hereby approve of the disposal of 0.049 hectares (0.121 acres) at Carrigane, Mitchelstown, Co. Cork to Catherine O’Brien, Carrigane, Mitchelstown, Co. Cork in accordance with the terms of the Notice under the above Section as circulated on the 15th June, 2010.

Disposal of lands at Carrigane, Mitchelstown to Christopher Condon

It was proposed by Cllr. Liam Ahearn
Seconded by Cllr. Marie Murphy
And Resolved:-
"That in accordance with the provisions of Section 183 of the Local Government Act, 2001, we hereby approve of the disposal of 0.085 hectares (0.210 acres) at Carrigane, Mitchelstown, Co. Cork to Christopher Condon, Carrigane, Mitchelstown, Co. Cork in accordance with the terms of the Notice under the above Section as circulated on the 15th June, 2010".

Nomination of members to South Tipperary Development Company

It was proposed by Cllr. Joe Brennan
Seconded by Cllr. Mary Hanna Hourigan
And Resolved:-
"That Cllr. Marie Murphy and Cllr. Liam Ahearn be appointed to the South Tipperary Development Company".

Annual Financial Statement 2009

The Annual Financial Statement was presented to the members. As at 31st May, 2010, over €32 million of an annual expenditure budget of €81.8m has been spent or committed. This amounts to 39% of the overall budget. 40% or €33 million of the budgeted income of €81.8 million has been collected or accrued.

Capital expenditure: €13 million of the 2010 element of the Capital Programme has been committed and €9.7million receipted in the five months ended 31st May, 2010.

Approval to over-expenditure

It was Proposed by Councillor:
Seconded by Councillor:
And Resolved –

"That in accordance with Section 104 of the Local Government Act 2001 excess expenditure in respect of the financial year ended 31st December 2009 be and is hereby approved as follows:-

<u>Programme</u>	<u>Amount</u>
A01 Maintenance & Improvement of LA Housing	€150,000
A03 Housing Rent and Tenant Purchase Administration	€30,000

A07	RAS Programme	€370,000
B01	NP Road Maintenance & Improvement	€160,000
B05	Public Lighting	€70,000
B08	Road Safety and Promotion	€1,000
C02	Waste Water Treatment	€175,000
D05	Tourism Development and Promotion	€130,000
D06	Community & Enterprise Function	€5,000
D09	Economic Development & Promotion	€100,000
D12	Agency & Recoupable Services	€1,000
E01	Landfill Operation & Aftercare	€90,000
E04	Provision of Waste Collection Services	€105,000
E05	Litter Management	€8,000
E11	Operation of Fire Service	€450,000
E14	Agency & Recoupable Services	€35,000
F01	Leisure Facilities Operations	€180,000
F03	Outdoor Leisure Areas Operation	€12,000
F04	Community Sport and Recreational Development	€50,000
F05	Operation of Arts Programme	€100,000
H02	Profit & Loss Stores Account	€660,000
H03	Administration of Rates	€80,000
H05	Operation of Morgue and Coroner Expenses	€60,000
H11	Agency & Recoupable Services	€395,000
	Transfers to Capital in Excess of Budget Provision	€1,925,201

Current Financial Position

Ms. Eileen Drennan, Head of Finance referred to the report which had been circulated to the members before the meeting detailing the current financial situation within South Tipperary.

With regards to the Revenue side the main area's of concern are:

An estimated shortfall of income on budget for refuse charges of €250,000.

Expenditure and Income accrued for AFS 2009 which has not yet been paid/received is an issue and follow-up by sections is required Otherwise expenditure and income is generally slightly lower than expected.

With regards to Capital the account balance shows a deterioration of €3.5 million in the five months from January to May 2010. Ensuring that grants are claimed on a timely basis is given priority.

With regards to Revenue Collection Accounts the collection account percentages show a decrease. The reduction in the rents, refuse and loans collection percentages are all significant.

Members discussed the current financial position and the current pressures on finances of the Local Authorities.

It was noted that every effort is being made to examine ways of identifying possible areas of additional income or expenditure reduction to compensate for any shortfalls.

Extinguishment of the Public Right of Way on Level Crossing at Bishopswood, Dundrum

It was proposed by Councillor Jack Crowe
Seconded by Councillor Tom Wood
And Resolved: -

“That having regard to the report and recommendation dated 29th June, 2010, we the members of South Tipperary County Council, in exercise of the powers conferred on us by Section 73 of the Roads Act 1993 hereby make an Order Extinguishing a Public Right of Way at Bishopswood, Dundrum as specified in the Public Notice dated 29th April, 2010. The Extinguishment of the Right of Way shall come into effect when the Planning Conditions have been complied with and works have been completed to South Tipperary County Council satisfaction and all associated costs incurred by the Council in Extinguishing the Right of Way have been recovered”.

Schedule

Extent of Level Crossing XC128 at Bishopswood, Dundrum on Road Number L5220-0

(a) Burncourt Regional Water Supply Scheme

Members referred to a report which had been circulated prior to the meeting detailing proposed intake works at Hopskinrea and proposed Water Treatment Plant and Reservoir at Cullenagh and agreed to proceed with the works.

(b) Clonmel Rural Water Supply Scheme

Members referred to a report which had been circulated prior to the meeting detailing the proposed construction of a pump house and storage tank at Templetny, Kilsheelan and agreed to proceed with the works.

**Visit by
President Mary
MacAleese to
Emly**

Members were informed that the president will visit Emly to unveil a plaque marking their national tidy town's win. The visit will take place on Saturday 4th September, 2010 at 12 noon and all members are invited to attend.

**Fix time and
date for Joint
Policing
Committee
Meeting**

It was agreed that the next meeting of the Joint Policing Committee would be held at 9.30am on Monday 6th September, 2010.

**Fix time and
date for
September
monthly
meeting**

It was agreed that the September Monthly Council Meeting would be held at 11.30am on Monday 6th September, 2010.

**County
Managers
Orders**

County Managers Orders for the month of June were noted.

**Public Light at
Cluen, Bansha**

The following Notice of Motion was not moved in the absence of Cllr. Seamus Healy: -

"That a public light be erected on the roadway near the home of Mr. John Joe Walsh at Cluen, Bansha".

**Issuing and
Amending of
Waste
Licence/Permits**

The Council considered the following Notice of Motion in the name of Cllr. Sylvia Cooney Sheehan: -

"That this Council would have interaction with the Members and Officials of Carrick-on-Suir Town Council before the issuing or amending of Waste License permits to any Company/Companies operating within the Town Boundaries".

The requirement for waste disposal and recovery activities to hold an authorisation is provided for in the Waste Management Act 1996, as amended. There are 3 types of authorisation, as follows:

- (1) a waste licence which is issued by the Environmental Protection Agency (EPA);
- (2) a waste facility permit (formerly called a waste permit) which is issued by a local authority; and
- (3) a certificate of registration, which is also issued by a local authority (or, in the case of a local authority's own activity, by the EPA).

There are thresholds of environmental significance set out in the Waste Management (Facility Permit and Registration) Regulations 2007, as amended, which determine the appropriate level of authorisation. These relate principally to the type and annual intake of waste at the activity in question.

Any application for a waste licence must be made to the EPA which assesses the application as per the relevant statutory procedure.

In respect of an activity requiring a waste facility permit (or, indeed, a certificate of registration), application must be made to South Tipperary County Council which is the waste management authority for the entire administrative county of South Tipperary. The 2007 regulations set out the statutory procedure for the assessment of an application for a new waste facility permit and, where appropriate, for the review of an existing waste (facility) permit. In either case, once the Environment Section of South Tipperary County Council is satisfied that the application received is valid and has complied with the requirements of the regulations, a copy is forwarded to the Town Clerk and Town Engineer of Carrick-on-Suir Town Council for his observations and comments on the application. In particular, in the former case, the Town Clerk is requested to comment on whether the activity, which is the subject of the application for a new waste facility permit, is planning compliant. The Environment Section takes cognisance of the comments of the Town Clerk and Town Engineer in its assessment of, and preparation

of recommendation, on the application.

The assessment of the application is an executive function and the regulations do not provide for the referral of the application to the members of South Tipperary County Council nor to the members of Carrick-on-Suir Town Council. However, the members are welcome to avail of the public consultation process, as set out in the regulations, to make a submission on the application. When making its decision on the application the Council will have regard to any such submission. In the event that the members of Carrick-on-Suir Town Council request a specific interaction in relation to any particular application, staff from the Environment Section of the Council will be happy to facilitate such a request.

The regulations also enable a local authority to amend a waste facility permit without initiating a review of the permit. An amendment may update the conditions attached to the waste facility permit to take account of scientific or technological progress. It may also facilitate the application of new, or the amending of existing procedures and conditions to the waste facility permit as are deemed necessary by the local authority for the operation of the facility in accordance with new or revised requirements. An amendment may also be made to otherwise facilitate the operation of the waste facility permit. There is no provision for public consultation in the event of any such technical amendments being made.

Members expressed their dissatisfaction and concern that they are not consulted prior to an amendment to a Waste permit.

Denis Holland, Senior Engineer informed the members that currently there is no provision for consultation with members when amendments are made to a Waste permit.

Following discussions members agreed to write to the Minister for Environment asking that

provision be made for consultation with members prior to any amendment being made to a waste permit.

Water problems on the northern side of the Frank Drohan Road

The Council considered the following Notice of Motion in the name of Cllr. Pat English: -

“That South Tipperary County Council, in conjunction with Clonmel Borough, resolve the ongoing water problems being experienced over the past number of years by residents who live in the area to the northern side of the Frank Drohan Road”.

The areas north of the Frank Drohan Road are supplied by the Monroe borehole supply which is a pumped supply.

This scheme has experienced several mechanical and electrical failures in the past few months that have happened without warning, and these were corrected as soon as practicable. The supply has been operating above capacity due to the requirement to supply sufficient water to the Clonmel Borough area and this can cause malfunctions. Warning systems have been installed to alert staff to failures in the system but due to the lack of adequate storage, any supply failure is going to affect the supply very quickly. Groundwater supplies have also reduced recently due to dry weather.

The Council in conjunction with Clonmel Borough Council have assessed this problem and have undertaken the following actions to improve the supplies.

The implementation of a third borehole in this area to augment the supply is being progressed.

Leak detection works have been undertaken in estates which have not been taken in charge and this has identified leaks which have been repaired over the last two weeks. Consultation is also taking place with Developers. Leaks have

also been repaired in other parts of the network.

In an effort to reduce the rate of reoccurrences of these leaks a design for pressure stabilization will be put in place in the next 2 weeks in conjunction with further leak repairs.

The supply design on the Cashel Road is being reassessed in an effort to provide a more uniform supply regime to all the separate housing schemes. Consultation is also taking place with industries in the area in relation to their supply requirements.

Water conservation works are taking place in Clonmel Borough, including the fitting of district meters which will assist in better management of the supply and also provide information for an application for funding for mains replacement.

The final solution is the Clonmel Major Water Supply Scheme which provides for abstraction of water from the River Suir which is currently at planning stage.

An interim solution for a storage reservoir for north of Clonmel was included in the Needs Assessment but was not approved for funding. Discussions have taken place with the Department on this issue and it has been agreed that a further submission can be made for this project.

Members stressed the urgency of ensuring that works to improve the supply situation are expedited in view of the current serious issues around water supply and quality.

Illegal dumping at the recycling centre at Waller's Lot, Cashel

The Council considered the following Notice of Motion in the name of Cllr. Tom Wood:

“That Management take immediate steps to resolve the despicable illegal dumping at the temporary halting site adjacent to

the recycling centre at Waller's Lot, Cashel and be seen to take legal action against those responsible for the dreadful dumping".

The Housing Section has had ongoing discussions with the residents of the temporary halting site as part of our overall efforts to address the situation. Residents have been advised of the serious nature of illegal dumping offences and associated penalties if convicted. The Housing section is liaising with the Environment Section to determine if sufficient evidence is available to warrant a prosecution. The site in question continues to be monitored to determine whether illegal dumping is ongoing and whether such evidence is available. A number of members spoke of the need for legal action to be taken where possible.

Assessment Unit at St. Patrick's Hospital

The Council considered the following Notice of Motion in the name of Cllr. Tom Wood:

"That South Tipperary County Council calls on the Health Service Executive to fully support the wonderful assessment unit at St. Patrick's Hospital, Cashel and guarantee its existence and further development for years to come".

Members complimented the outstanding facility at Cashel and stressed the importance that such a facility remain in Cashel.

Members unanimously supported the motion and agreed to write to the Mr. Seamus Moore, Health Service Executive and the Minister for Health for reassurance that the assessment unit at St. Patrick's hospital would not be downgraded.

Quarries in South Tipperary

The Council considered the following Notice of Motion in the name of Cllr. Tom Wood: -

"That in view of the recent government policy statement on quarries, the Manager would advise the members as to the

number of fully compliant quarries operating in South Tipperary and the number operating without full planning permission”.

In considering the current planning status of quarries in operation, the Planning Authority must have regard to the Planning and Development Act 2000-2009 and must assess matters including:

- if operations commenced prior to 1964,
- Section 261 Registered Quarries,
- if the development has planning permission,
- the definition of unauthorised development
- as well as the statute of limitations which can prevent prosecution where a quarry has been in operation for more than 7yrs.

The *Planning and Development Bill published in 2009* has been amended considerably in the recently published *Planning and Development (Amendment) Bill 2009 – (Select Committee)* to take account of the issues arising from the provisions contained in the Principal Act (Planning and Development Act 2000) and the “landmark” EU judgement against Ireland (EU Ref C215/06) which determined that Ireland has not appropriately transposed EIA Directives.

The **Bill and Amendment Bill** seek to provide Planning Authorities with a legal framework to address planning enforcement matters as they relate to quarries and propose that:

1. Within 7 months after the coming into operation of the Amended Section 261, the Planning Authority will examine **every quarry** within its administrative area to determine certain matters including: **area covered; when the quarry commenced;** whether an

Appropriate Assessment (AA) and/or EIS is required, and depending on the size, environmental effects and planning status of a quarry the operator or landowner will be appropriately notified and may be compelled to apply for retention permission to the Planning Authority or An Bord Pleanala and in certain cases will be required to cease operations.

2. The **Amendments of Section 261** of the Principal Act seek to further clarify legal questions around the enforcement of conditions imposed under Section 261, and
3. The further **Amendment of Part 10 of the Principal Act** seeks to provide the mechanism by which the Planning Authority can require an operator to apply for a substitute consent in the case of developments that would require the submission of **remedial** environmental impact statement or **remedial** Natura impact statement (AA) – positively addressing the legal issues arising from the European Court of Justice decision (C215/06).

The extent of the new legislation currently being Drafted points to the complexity of the issues surrounding quarry developments. As a result of these complex issues, and pending their resolution by enactment of the Bill and Amendment Bill, at this time the Planning Authority cannot say with any degree of accuracy how many quarries are fully compliant with legislation and how many are planning compliant.

The economic climate has resulted in reduced activity and at this time the Planning Authority cannot confirm the number of quarries currently in operation.

Surveys carried out by the Planning Authority approx. 4 years ago indicated that at that time

there were approx 140 quarries (including small operations such as private farm-based extractions). A total of 52 quarries were registered in 2006, under the Section 261 Registration process.

On the basis of the provisions of the proposed legislation, the Planning Department will be required to survey and investigate all quarries in the County and examine any associated enforcement issues. As the time lines indicated are short, Planning staff will have to be re-allocated from other duties to undertake the work.

In anticipation of the forthcoming new legislation the Planning Department has commenced desk-top research on quarrying activities and it is estimated that 24 of the 52 quarries registered under Section 261 have planning compliance issues. The provisions of the **Bill and Amendment Bill** will provide a framework for the systematic assessment of all quarries in the County and the proposed changes to the definition of unauthorised development will clarify the enforcement powers available to the Planning Authority in regard to same. The Planning Authority will then have full details of how many quarries are actually in operation and full details of planning compliance in each case.

It was agreed to circulate a copy of the reply to the Notice of Motion to all the members.

**Disbandment of
the Health
Service
Executive**

The Council considered the following Notice of Motion in the name of Cllr. Seamus Healy and Cllr. Pat English:-

“That South Tipperary County Council call on the government and Minister for Health to disband the dysfunctional Health Service Executive and that this motion be circulated to all other Local Authorities”.

After much discussion between the members
It was proposed by Cllr. Joe Brennan
Seconded by Cllr. Marie Murphy that the motion

be amended by addition of wording as follows: -

“That South Tipperary County Council call on the government and Minister for Health to disband the dysfunctional Health Service Executive and that the motion be circulated to all other local authorities but that such a call be deferred until the report on the delivery of services at South Tipperary General Hospital is completed”.

A vote was taken on the amendment as follows: -

Comhairleoir	For	Against	Absent	Abstain
1.Acheson Tom		✓		
2.Ahearne Liam		✓		
3.Ambrose, Siobhan	✓			
4.Anglim, Michael	✓			
5.Brennan Joe	✓			
6.Cooney Sheehan, Sylvia				✓
7.Crosse, John	✓			
8.Crowe, Jack	✓			
9.Donovan, Joe	✓			
10.English, Pat		✓		
11.Fahey, John	✓			
12.Fitzgerald, Michael			✓	
13.Hanna Hourigan Mary		✓		
14.Healy, Seamus			✓	
16.Landy, Denis		✓		
17.Leahy, Denis		✓		
18.Lonergan, Seanie		✓		
20.Molloy, Richie	✓			

21.Murphy, Marie	✓			
22.Murphy, Michael	✓			
23.O'Brien, Jimmy			✓	
24.O'Meara, Eddie	✓			
25.Ryan, Darren		✓		
26.Wood, Tom		✓		
19.McCarthy, Sean	✓			
Totals	12	9	3	1

The amendment was carried by 12 votes to 9.

**Presentation
Convent,
Ballingarry**

The Council considered the following Notice of Motion in the name of Cllr. Sylvia Cooney Sheehan: -

“That this Council would open talks with the Department of Education to pursue the possibility of purchasing the extremely derelict Presentation Convent Ballingarry and use it to create a very much needed car park for the school next door while preserving the Chapel. This should be done under the guidelines of Health and Safety for the Children attending the school”.

Speaking on this motion Mr. Billy McEvoy, Director of Services advised the members that this was a matter for the Board of Management of Ballingarry Presentation Convent and members agreed that the motion should be referred to the Board of Management who would be free to liaise with South Tipperary County Council on relevant issues.

**Invitation to
Queen Elizabeth
to visit South
Tipperary**

The Council considered the following Notice of Motion in the name of Cllr. Joe Brennan: -

“That South Tipperary County Council issues an invitation to Queen Elizabeth to visit South Tipperary on her pending state

visit particularly the Tudor Manor in Carrick on Suir”.

A brief discussion took place among members particularly with regard to security and financial implications of such a visit and it was decided the discussion may be premature and to revert back to it if it is officially announced that the Queen is visiting Ireland.

**Resolutions
from other Local
Authorities**

Donegal County Council

“That the Council call on the Government not to introduce V.A.T. charges on Council services until January 1st, 2011”.

In response to queries raised, Ms. Eileen Drennan, Head of Finance confirmed that South Tipperary Local Authorities are liable for V.A.T. charges in instances where the Local Authorities are in direct competition with other operators such as Refuse Collection.

Following discussion, it was agreed that the application of VAT was necessary in order to protect the overall financial position of the Council.

Roscommon County Council

“That Roscommon County Council make a submission to the Department of Environment, Heritage and Local Government requesting that a derogation be put in place to amend the criteria for exemption from rates on Child Care Centres to include private operators in line with the zero rate payment on similar community operated Child Care Centres to ensure that inequalities will not continue to exist in the early Childhood Care and Education Sector”.

Limerick County Council

“That, Limerick County Council calls on the Minister for Finance to amend the legislation requiring Rating Authorities to demand rates from owners or subsequent occupiers of commercial properties, for a vacant period following the departure of a previous tenant, after the date of making the rate for the year”.

**Votes of
Sympathy**

- The Meaney Family on the death of Richard Meaney
- The Healy Family on the death of Mrs Marilyn Healy
- The Quinlan Family, Kilmanahan on the death of Mrs Frances Quinlan
- The Quirke family on the death of Anthony Quirke M.P.S.I., Clonmel

The meeting then concluded.

Signed/_____. **Dated/_____.**
Cathaoirleach.

Signed/_____. **Dated/_____.**
Meetings Administrator.