

19th July, 2011

TO ALL MEMBERS OF DONEGAL COUNTY COUNCIL
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The Adjourned June Meeting of Donegal County Council, will be held on Monday 25th July, 2011 at 10.00am, in the County House, Lifford.

Items 12, 13, 14, 15, 17, 18, 19, 20, 22

Please ensure that you bring the agenda previously distributed to the meeting.

Liam Ward
Meetings Administrator

MINUTES OF THE ADJOURNED MEETING OF DONEGAL COUNTY
COUNCIL, HELD IN THE COUNTY HOUSE, LIFFORD ON MONDAY
25TH JULY, 2011

C/281/11 MEMBERS PRESENT

Clrs. N. Mc Bride, Mayor, D. Alcorn, J. Boyle, C. Brogan, B. Byrne, P. Canning, G. Crawford, M. Doherty, R. Donaghey, M. Farren, M. Harley, C. Harvey, F. McBrearty, M. Mc Bride, S. Mc Eniff, P. McGowan, S. O' Domhnaill, B. O' Neill, M. Quinn, J. Ryan and T. Slowey.

C/282/11 OFFICIALS IN ATTENDANCE

Mr Seamus Neely, County Manager, Mr Liam Ward, Director of Corporate and Housing, A/Meetings Administrator, Mr James Boyle, A/ Director of Roads and Transportation, Mr Joe Peoples, A/Director of Water and Environment, Mr Michael Heaney, Director of Community, Culture and Planning, Mr. Garry Martin, Head of Finance and Director of Emergency Services, Mr. Denis Kelly, Senior Executive Planner, Ms Anne Marie Crawford, Staff Officer.

C/283/11 CALL FOR FUNDING TO BE MADE AVAILABLE TO THE
BALOR THEATRE

On the proposal of Clr. McBrearty, seconded, by Clr. Mc Gowan, the following motion was adopted:-

"Calling on Donegal County Council to ensure that the Balor Theatre receives the €30,000 funding which they would have received from the new strategic development fund this year if monies had not been redirected to other projects and that the Balor is given priority for funding each year similar to the funding received by other groups such An Grianan Theatre and the Culture Centre in Letterkenny."

Members were informed that:-

“Donegal County Council makes a substantial contribution to the Arts sector in the County both through the facilities over which it has ownership and direct responsibility (e.g. An Grianan, the Regional Cultural Centre) and also through a

network of mainly community based projects with which it works in partnership and close collaboration. One of these community based projects with which the Council works in such partnership is the Balor Theatre.

Donegal County Council has provided support for the Balor Theatre over the past number of years in recognition of the work being carried out in relation to the arts from its Ballybofey base. There has been a close working relationship between the Theatre and the Donegal County Council Arts Officer over the years in terms of advice and support given to the theatre. Over the past number of years, Donegal County Council has provided financial support to the theatre. This financial support has been provided from two main sources – the Donegal County Council Arts Strategic Partnership Fund and from an area based source, the Development Fund Initiative (previously the County Development Fund).

The support for the Balor is provided through those sources as per agreement between County Manager and Stranorlar Elected Members reached in 2008. In 2010 the Balor was in receipt of €50,600 in Council funding – €32,600 from the Arts Strategic Partnership Fund and €20,000 from the Development Fund Initiative. It is proposed to continue our partnership with the Balor in 2011 with an allocation of €32,600 from the Arts Partnership Fund. A request has been made by Members for further assistance from a central county fund for this year. It is proposed to continue with the strategic partnerships as developed with the Balor Theatre over the years.”

Clr. Mc Brearty advised that he was satisfied with the reply and acknowledged the efforts made by the Director of Service at Budget time when a strong and viable case for funding for the Balor had been put forward. He noted also that considerable progress had been made also in relation to the Ballybofey/Stranorlar Swimming Pool. He thanked Mr. Michael Heaney, Director of Community, Culture and Planning together with the Council Executive, and former County Manager, Mr. Michael Mc Loone for their efforts in progressing the projects in question over the years.

Clr Mc Gowan expressed concern in relation to the Swimming Pool, noting that the Minister had only confirmed funding, that had been previously allocated to this project.

C/284/11 REQUEST THAT DONEGAL COUNTY COUNCIL
OUTLINE PLANS ON HOW TO DEAL WITH THE
UNFINISHED ESTATES IN THE COUNTY

On the proposal of Clr. McGowan, seconded, by Clr. Mc Brearty, the following motion was adopted:-

"That the Council give a outline on plans to deal with unfinished estates across the County such as "Ard Tomaire" at the rear of Townsparks, Convoy, unfinished footpaths, sewerage treatment plants/pumps, and buildings left in a dangerous condition, there is a case for a scheme utilizing unemployed architects, engineers, skilled tradespersons and labourers to be coordinated by this Local Authority under the Dept. of Environment, Community and Local Government."

Members were informed that:-

“The Department of Environment Heritage and Local Government established a multi-disciplinary Unfinished Housing Development Team at a central level to address the significant problem with unfinished housing developments nationally and to achieve a nationally consistent and co-ordinated approach across the country. It had a National Housing Development Survey conducted in mid-2010 that was published in October last year, which identified 133 housing developments in County Donegal. “Ard Tomaire” is one of the unfinished housing developments identified in the National Survey.

The DEHLG required that the developments identified in the National Survey be categorised having regard to specified characteristics, including health and safety, occupancy and whether the developer still existed. It also required a person to be nominated as contact person with responsibility for the co-ordination and management of work associated with those unfinished housing developments identified in the national

survey and Mr Denis Kelly A/Senior Planner has been confirmed to the DEHLG as that person. Two Graduate Planners have since been provided with a 9 month work placement, through the FAS Work Placement Programme, and their duties include providing support in respect of this body of work.

The information required by the DEHLG necessitated the scrutiny of information held across a number of Directorates and a survey of each individual development had to be undertaken by Roads, Planning, Water Services and Town Council Engineers. The information that was collated was then assessed and the information required by the Department was furnished in April this year.

An Advisory Group was set up by the Ministers for Housing and Local Services; and Planning, Sustainable Transport and Horticulture. It was chaired by Mr. John O'Connor of the Housing and Sustainable Communities Agency including representatives of key stakeholders in central and local government, the banking and construction sectors and NAMA, residents and the professional architectural, planning and engineering institutes. Their purpose was to examine and advise on options for the resolution of unfinished housing developments and Mr. Willie Penrose, T.D., Minister for Housing and Planning published the final report from them on 9th June, entitled "Resolving Ireland's Unfinished Housing Developments". He also issued his Department's own Action Response to the report, which accepts that it will take time to progressively deal with developments with significant completion issues.

A central pillar of the Governments proposals is the putting in place of Site Resolution Plans by developers/receivers that will charter an appropriate way of dealing with individual unfinished developments. A Code of Practice and a best practice Guidance Manual on Managing and Resolving Unfinished Housing Developments is to be developed by the Department and consideration is being given to whether it is necessary to make legislative changes to provide the necessary tools to leverage

appropriate solutions where a collaborative approach with stakeholders is not effective.

The actions proposed to be delivered by the Department will help inform the Council's plans to deal with unfinished housing developments and they will be resource intensive (both human and financial). It will require considerable dialogue and collaboration between stakeholders, including residents. The residents of individual developments are most impacted by unfinished housing developments and are encouraged to participate in this collaborative process and actively participate in the development and management of appropriate solutions and deliver local governance, which will lead to an empowered and sustainable local community. In addition the residents are often the owner of individual houses that forms part of an overall development that was granted planning permission subject to conditions. It is expected that the conveyance of each property would have included routine checks being carried out on behalf of each purchaser to ensure that the property concerned was compliant with all the necessary requirements, including the grant of planning permission. In those circumstances it would be reasonable to expect that the conveyance would have incorporated rights and obligations between the buyer and seller in respect of the provision and maintenance of those common services. In such circumstances individual owners may have an additional avenue open to them to leverage a solution

Finally, it is confirmed that the Council has ongoing cases in respect of many of the unfinished housing developments where issues have arisen in respect of non-compliance with planning permission. In those circumstances the Council will continue to pursue enforcement action in appropriate circumstances, as is the case with the "Ard Tomaire" development.

It is recognised that this will be a priority area for Donegal County Council over the coming years. Pilot work has been carried out in Letterkenny and workshops to focus on this issue are to be organised in the Inishowen and Stranorlar Electoral Areas at the request of the Council."

Clr. Mc Gowan asked if there was an update in relation to the reply and whether or not the Senior Planner would be in attendance to deal with Members concerns.

The County Manager in response advised that if the Members wished to have the member of staff in question in attendance then this could be arranged. He noted however the necessity of maintaining a balance on day to day operational activities.

A number of issues were raised namely:-

- What effort if any was being made by the Department to alleviate the problem.
- Whether or not additional monies would be provided for unfinished estates.
- That information be provided in relation to the number and value of bonds held by this planning authority.

In the event that national funding was not forthcoming, it was suggested that a petition be forwarded to the Petition Committee in the European Parliament highlighting the urgency of the situation.

Mr. Michael Heaney, Director Community, Culture and Planning noted that both Donegal County Council and the Department of the Environment, Community and Local Government were doing their best to work with the developers concerned. At this stage he indicated however that there was no funding available to Donegal County Council. He agreed to liaise further with Minister Penrose in relation to the matter. On the issue of bonds he advised that these were being looked at on a case by case basis and that in many instances the Council was in consultation with the liquidators involved.

He referred to the pilot project on unfinished estates which had been undertaken in Letterkenny and confirmed that it was intended to hold workshops in the Inishowen and Stranorlar Electoral Areas to bring additional focus to the matter.

Members asked that they be provided with an update in relation to the pilot work in Letterkenny.

Clr. Mc Gowan in conclusion acknowledged that there were many developers who continued to have a good working relationship with the Council. He cited the importance of maintaining such links. Essentially what was needed at this juncture, he advocated, was adequate funding and clear direction as to the way forward.

C/285/11 DISPOSAL OF LAND AT MAGHERY, DUNGLOE BY WAY OF LEASE TO AN MHACHAIRE LE CHEILE TEO, QUAY ROAD, DUNGLOE.

Members considered the report, circulated with the agenda, in relation to the above.

On the proposal of Clr. Slowey, seconded by Clr. O' Domhnaill, it was resolved to dispose of land at Maghery, Dungloe by way of lease to An Mhacháire Le Cheile Teo, Quay Road, Dungloe, in accordance with Section 211 of the Planning & Development Act, 2000 and Section 183 of the Local Government Act, 2001.

C/286/11 TAKING OF DECISION WITH REGARD TO THE CONSTRUCTION OF A WASTEWATER TREATMENT WORKS AND EFFLUENT OUTFALL PIPELINE IN THE TOWN LAND OF BALLYNESS, FALCARRAGH, CO DONEGAL

Members considered the report, circulated with the agenda, in relation to the above.

On the proposal of Clr. O' Domhnaill, seconded by Clr. Slowey, the carrying out of works under Part XI of the Planning & Development Act, 2000 and Part 8 of the Planning & Development Regulations 2001, with regard to the construction of a Wastewater Treatment Works and Effluent Outfall Pipeline in the townland of Ballyness, Falcarragh was approved.

Clr. O' Domhnaill thanked Mr. John Mc Elwaine, Executive Engineer, and Mr Martin O' Donnell, Executive Engineer for their efforts in progressing this project.

C/287/11 CONSIDERATION OF REPORT IN RELATION TO THE OPERATION OF THE DONEGAL COUNTY JOINT POLICING COMMITTEE

Members considered the report circulated with the agenda in relation to the above.

Comments were made regarding the remit of the committee, and it was acknowledged that this required particular consideration and an overall review. It was noted that it had been agreed at a recent JPC Meeting to write to the Minister identifying problems encountered by the committee to date and outlining specific criteria in relation to the possible widening of the remit of Joint Policing Committees in general.

On the proposal of Clr. M. Doherty, seconded by Clr. Canning the report in relation to the operation of the Donegal Joint Policing Committee was adopted.

C/288/11 AGREEMENT OF A WORKSHOP SCHEDULE IN RESPECT OF THE DRAFT COUNTY DEVELOPMENT PLAN

Members considered the report circulated with the agenda in relation to the above.

On the proposal of Clr. Mc Gowan, seconded by Clr. O' Domhnaill, the following Workshop Schedule was agreed to facilitate consideration of the Draft Plan and Manager's Report, prior to the November Meeting:-

- Thursday, 3rd November, 2011 at 10.00am.
- Thursday, 10th November, 2011 at 10.00am.
- Thursday, 16th November, 2011 at 10.00am

It was suggested that legal advice be made available to members over the duration of the workshops in view of the complexity of the issues under consideration. The County Manager advised that he could arrange for this to be done in a general way but that there was a necessity also to rely on the Council's own expertise. It would be indicated be prudent to assess at the initial workshop stage, the type of advice that was

required and arrange for the provision of same at a later stage in the process.

Members asked that any changes to the Draft Development Plan be highlighted/bolded for easy reference, and that special meetings be arranged with agents/architects to update them on the status and content of the plan to date

C/289/11 AUTHORISATION OF REPRESENTATION AT A SEMINAR, MEETING OR EVENT

It was noted that the timeframe for approval in relation to the following conferences had elapsed:-

- Celtic Conferences – Time Management, Media and IT Skills Conference to be held Friday 8th to Sunday 10th July, 2011 at the Celtic Ross Hotel, Rosscarbery, West Cork.
- The Institute of Professional Training – Local Governance Training Seminar “Effective Representations through Radio, TV, Press, Facebook, Twitter” to be held Friday 8th to Sunday 10th July, 2011 at the Silver Tassie Hotel, Letterkenny.
- Professional Development for Councillors – Leadership Skills Development How the Best Leaders Lead to be held Friday 15th to Sunday 17th July, 2011 at the Bunratty Castle Hotel and Luxury Spa, Bunratty, Co. Clare.
- Elected Member’s Training Seminar – “A briefing for Local Authority Members Current Issues in Education to be held Monday 25th to Wednesday 27th July, 2011 at the The Kingsvalley Hotel, Merlin Park, Dublin Road, Galway City.

C/290/11 TO NOTE CONFERENCE REPORTS

On the proposal of Clr. Mc Gowan, seconded by Clr. O’ Domhnaill, the following Conference Reports were noted: -

Clr. John Boyle

AMAI Spring Seminar from 10th to 12th February, 2011 in Bantry, County Cork.

Clr. David Alcorn

AMAI Spring Seminar from 11th to 12th February, 2011 in Bantry, County Cork.

Clr. David Alcorn

L.A.M.A. Spring Seminar from 29th to 30th April, 2011 in the Fairways Hotel, Dundalk, Co. Louth

Clr. Dessie Larkin

Launch of Errigal Arts Festival and Meetings with EU Funders from Tuesday 24th to Thursday 26th May, 2011 in Brussels.

Clr. Brendan Byrne

CPMR Political Bureau Meeting from 1st to 4th June, 2011 in Terceira Island, Portugal.

C/291/11 MANAGER'S REPORT

Section 153 of the Local Government Act, 2001

The Manger updated Members in relation to the action taken by Mr. Dessie Shields, Solicitor, and Grogan & Co Solicitors acting on his behalf, in relation to the co-option of Clr. Michael Mc Bride to Donegal County Council. It was noted that Mr. Shields had applied ex parte to the High Court for leave to seek Judicial Relief Review.

He proceeded to inform Members that in accordance with Section 153 of the Local Government Act, 2001, that it was his intention to instruct the Council's Solicitors to defend such action should it proceed including any action regarding the reserved decision of the Council, and the express authorisation of the Council was required to do so.

Clr. Mc Brearty expressed disappointment that Donegal County Council now had to defend its actions in such a manner.

Members unanimously approved the County Manager's request, and agreed that the Council Solicitor be instructed to defend any action arising from the co-option of Clr. Michael Mc Bride to Donegal County Council.

This concluded the business of the meeting.