

**Minutes of Special Meeting of Leitrim County Council held in the Council Chamber,
Áras an Chontae, Carrick on Shannon, Monday 19th April 2010 at 5.30 pm**

Members Present:

Bohan, Mary	McCartin, John
Colreavy, Michael	McGloin, Enda
Dolan, Gerry	McGloin, Siobhán
Dolan, Frank	McGowan, Sean
Ellis, Caillian	McTernan, John
Ferguson, Tony	O'Rourke, Paddy
Gilmartin, Francis	Reynolds, Gerard
Guckian, Sinead	Stenson, Enda
Hughes, Gordon	Ward, John

And Councillor Thomas Mulligan, Cathaoirleach presiding

Apologies:

Kenny, Martin
Kilrane, Gerry
McDermott, Sean

Officials Present:

Ms. Jackie Maguire, County Manager
Mr. Martin Dolan, Director of Services, Planning, Environment & Emergency Services
Mr. Joseph Gilhooly, Director of Services, Community, Cultural & Enterprise Development
Mr. John McGuinness, Director of Services, Infrastructure
Ms. Mary Quinn, Director of Services Housing & Corporate Services
Mr. Vincent Dwyer, Senior Executive Officer, Planning, Environment & Emergency Services
Mr. Brian Kenny, Senior Engineer, Planning, Environment & Emergency Services
Ms. Aideen McGovern, Meetings Administrator

**10/240
19/4/2010**

Death of Staff Member – John Glancy, R.I.P.

At the outset the Cathaoirleach, Councillor Thomas Mulligan proposed a Vote of Sympathy to the family of John Glancy, a staff member of Leitrim County Council, who had died tragically at the weekend.

Ms. Jackie Maguire, County Manager paid tribute to John who had worked in the Housing Section as an Executive Engineer for the past 3 years, and in Road Design prior to that, having joined the staff of Leitrim County Council in July 2000. She outlined that during his time with Leitrim County Council John was a hard and very competent worker, a loyal colleague, a good friend and he had endeared himself to all. She stated that John will be sadly missed and very fondly remembered by staff and all those who knew him.

She outlined that Members were welcome to attend a short prayer service to remember John in the Council offices at 10.30am on Tuesday 20th April. She advised that the Council Offices at Áras an Chontae and Park Lane House will be closed from 11.00 a.m. until 2.00p.m. on Wednesday 21st April, to coincide with John's Funeral, as a mark of respect.

The Members unanimously joined with the Cathaoirleach and the County Manager in expressing their condolences to John's family and friends.

10/241

19/4/2010

Vote of Sympathy.

The members also extended a vote of sympathy to the following on their recent tragic losses;

- Phil, Michael & John McGuinness, Shannagh, Mohill, Co. Leitrim on the death of Philip (Philly) McGuinness
- Patrick & Myra McGovern, Castlefore, Fenagh, Co. Leitrim on the death of Fionn McGovern
- O'Donnell & Waters Family, Drumkeerin, Co. Leitrim on the death of David O'Donnell

10/242

19/4/2010

River Basin District Management Plans

The Cathaoirleach, Councillor Thomas Mulligan, welcomed Paddy Kavanagh, ESBI and Máire NiChionna, Co-Ordinator, Western River Basin District to the meeting. Prior to inviting them to address the meeting he invited Martin Dolan, Director of Services, Planning, Environment & Emergency Services to give an overview of the position and requirements in relation to the River Basin Management Plans.

Mr. Martin Dolan gave an overview of his report dated 7th April 2010 as circulated to the Members. A copy of the report as circulated appears as **Appendix 1** to the Minutes of this Meeting in the Minute Book.

Ms. Máire NiChionna then gave an overview of the legislative background in relation to the River Basin Management Plans. She outlined that the Foreword to the Plans includes a clear reference to the resources issues arising. She outlined that the operational date for the Plans is intended to be 9th July 2010.

Mr. Paddy Kavanagh then took Members through the detail of the actual Plans. He outlined that all of the Plans are similar in format and gave an overview of the content. He outlined that the various submissions received at Draft Stage had been taken into account and had resulted in very significant changes between the Draft Plans and the Final Plans as now presented for adoption. He gave an overview of the key aspects of the Plans including Water Status, Key Pressures, Objectives and Time Scales for Achievement, Programme of Measures, Integrating the Plans and Implications.

A copy of the Presentation as delivered to the Members appears as **Appendix 2** to the Minutes of this Meeting in the Minute Book.

Following the presentation the Cathaoirleach, Councillor Mulligan thanked Paddy & Máire for their presentation and he opened the meeting to questions from the floor.

The Members in turn thanked Mr. Kavanagh and Ms. NiChionna for their clear and detailed presentation.

Councillor Mary Bohan requested clarification in relation to the EPA Code of Practice on Wastewater Treatment and Disposal Systems for Single Houses. She outlined that this is an issue of very grave concern to Leitrim County Council and that the Code of Practice is going to cause serious hardship in Leitrim. While acknowledging that research is being carried out in relation to reed bed systems etc, she outlined that it is understood that this will take some 1-2 years before results are available. She stated that Members obviously want to maintain and improve water quality but that a blanket-ban on rural development cannot be permitted. She stated that it appears that the EPA has not considered the devastation which the Code of Practice causes for Leitrim. She outlined that a number of steps are being taken in relation to the issue – meetings lobbying etc – but that if the Members adopt the River Basin Plans today, without amending Section 5.2.2 of the Plans, they will effectively be copper-fastening what is being imposed on us by the Code of Practice and this represents a huge concern for members.

Councillor Tony Ferguson outlined that the members are fully in favour of better quality water and stated that the Reports are a step in the right direction, representing a baseline to work from. He stated that top quality water is a critical selling point for Ireland and must be supported in whatever way possible, notwithstanding constraints, particularly in relation to rural planning issues. He also stated that the cross-border, whole-Island aspect of the Plans and approach is very welcome. He supported the Council moving forward in relation to the Plans while also expressing our particular concerns.

Councillor John McCartin reiterated the concerns in relation to the EPA Code of Practice and in particular the fact that the Code does not take into account that there are technical solutions to the problems arising. He outlined the frustration that, even with technical solutions, there is no opportunity to grant Planning Permission for sites where the T test is in excess of 90 within the current guidelines. He stated that he would have grave concerns about adopting anything 'carte blanche'. He also sought clarification in relation to the statutory timeframes in relation to the adoption of the Plans.

Ms. Jackie Maguire, County Manager outlined that the Councillors must adopt the Plans by 30th April 2010. In the event that the Plans are not adopted by the Members by that date the County Manager must adopt the Plans by 14th May. She outlined however that there would be no change in the content of the Plans as presented.

Máire NiChionna outlined that the River Basin Management Plans are simply a framework within which all public bodies will seek to make progress on water quality – she outlined that the Plans simply pull together and reflect the requirements and provisions as set out under the various existing legislation. The Plan reflects the current Code of Practice and any change in the Code of Practice will automatically become part of the framework of the Plans.

Councillor John McTernan reiterated the serious implications of the EPA Code of Practice in County Leitrim – he queried why this issue, and the implications of a change in the Code of Practice, never arose at the River Basin Management Plan Committee meetings. He stated that the maps demonstrate the cleanliness of our water and rural Leitrim is clearly not suffering because of over-development.

Councillor Gerard Reynolds agreed with what Councillor Bohan had said. He stated that the Code of Practice presents a huge issue in relation to rural planning which will have a major disadvantage in terms of the development of the county. He outlined that Leitrim

County Council wants to see a population increase – this Code of Practice together with the proposed policy in relation to development on flood plains militates against this. He outlined that while all members want to see water quality improved the Plans will have a profound effect on what we will have to do into the future. He outlined however that the Members only have the power to delay the adoption of the Plans and not to prevent their adoption.

Councillor Enda McGloin acknowledged that the Code of Practice issues are outside of the control of the River Basin District Plans. He outlined however that the message must be taken back that it is difficult for members to accept that engineering solutions cannot be considered. In relation to Section 5.2.2. of the Plans regarding existing septic tanks, he queried whether people will be required to install new systems and stated that some form of financial aid must be provided in this regard.

Councillor Francis Gilmartin stated that he couldn't accept the River Basin Plans as presented. He stated that this would simply be another 'nail in the coffin' for young people who want to build in rural Leitrim. He queried whether the Manager is required to adopt the Plans in the event that the members do not do so. He stated that if the Manager is required to adopt the Plans then the Members effectively have no power in this regard.

Councillor Enda Stenson outlined that the water quality in Leitrim, as demonstrated by the research, is generally pretty good and shows that we are doing most things right. He suggested that if some change could be reflected in the EPA Code of Practice prior to 30th April the Members could consider the adoption of the Plans. He stated that some movement is required in this regard before the Members could sign off on these Plans and to do so without this would be irresponsible.

Councillor Michael Colreavy outlined concerns in relation to reducing resources and how compliance with the Plans is to be monitored. He queried the consequences for local authorities of non-compliance. He also queried why so little consideration had been given to technical solutions to the issues which have created the problems. He also queried whether any research had been undertaken in relation to the impact of cleaning agents on water contamination. He queried what survey had been carried out by local authorities to show that 31% of farms were not compliant with Nitrates and what the specific figures for Leitrim are in this regard. Finally he queried what regulatory/national bodies would be put in place to manage the Plan and whether this process would involve elected members.

Councillor Siobhán McGloin outlined that she agreed with a lot of what had been said. She queried when samples were taken on river waters and suggested that the positive impacts of the very significant investment over recent years in treatment plants in towns and villages and by the farming community would not be reflected in the results recorded. She also queried the position in relation to forestry companies who have been responsible for significant pollution with planting having taken place too close to rivers and streams.

Councillor Gerry Dolan outlined that he couldn't support the adoption of the Plans without some guarantee of change from the EPA in relation to the Code of Practice. He stated that forestry is causing huge problems and has never been addressed. He stated that farmers and young people trying to build in rural areas are easy targets.

Councillor Caillian Ellis also supported what had been said. He outlined that he had been a former member of the North Western River Basin District Committee and the question of the impact on rural one-off houses had been raised. He stated that the forestry issue was

also raised, particularly issues arising from existing forests, and they have not been made to cut back trees that are too close to water bodies. He stated that he would have reservations in relation to the adoption of the Plans.

Councillor Sinead Guckian outlined that she supported her colleagues in relation to the issues on rural planning and stated that we must protect and improve our rural culture as well as water quality. In relation to the Plans she stated that the actions in relation to addressing water problems going forward are extremely important. She stated that it is not obvious in the Plans what actions are aimed at achieving a balance between improving water quality and the use of our water bodies as a very important amenity/tourist attraction.

Councillor John Ward outlined that it is very hard to see how the Council can adopt the Plans given the issues in relation to the EPA Code of Practice. He reiterated that the issues in relation to forestry are much more critical in terms of water quality and these are not being addressed.

The Cathaoirleach, Councillor Mulligan outlined that there is a huge amount of common ground in the report. He stated that the Council wants to maintain and improve water quality. He stated that the big issue is the EPA Code of Practice which was implemented without any opportunity for consultation or input. He stated that the Members feel that they are expected to adopt Plans based on something which they have a fundamental problem with.

In response to the queries raised, Máire NiChionna outlined that the statistics in the Plans are based on the latest available information. She outlined that information will become available on an annual basis from the EPA etc and the maps will be updated annually as this information becomes available. She outlined that the 31% figure in relation to agriculture is based on an average figure arrived at by Cork County Council, based on information from local authorities, and is accepted by the Department of Agriculture. She confirmed that the positive effects of good agricultural practices will be reflected in the figures and maps as this data becomes available.

Paddy Kavanagh confirmed that the water status is as assessed by the EPA and the Plans reflect the available statistics up to 2009. He outlined that some of the assessments are done on a 3-yearly basis and what is being looked at is the long-term water quality impacts. He outlined that there are many areas where no statistics are available and projections were used, as indicated in the Plans. In relation to Forestry companies he outlined that forestry was one of the pressures identified in 2007. He outlined that major studies were done in this regard, involving the various stakeholders, and all this detail is available in the background reports which are available on the River Basin District website. He outlined that this is predominantly a management issue and advised that the Code of Practice for Forestry is currently being amended. He outlined that most of the problems relate to older state-owned plantations, pre 1995, which were planted right down to river edges causing major problems. He outlined that Coillte are trying to restructure these forests but stated that there is no simple solution. He stated that the key issue to overcome is the requirement, arising from the 1946 Act, to replant, and the legislation needs to be changed to address this issue. He outlined that newer forestry, complying with the various Guidance documents, generally doesn't present the same problems.

Mr. Kavanagh outlined that the issue in relation to treatment systems arises mainly from the European Court of Justice prosecution of Ireland and the Government were required to respond. He outlined that in the interim the EPA were updating the Code of Practice in this

regard. He stated that the issues arising have to be addressed through the Code of Practice and not the River Basin Management Plans. He outlined that the Code of Practice stands, and must be complied with, irrespective of the River Basin Plans. He stated that the EPA were responsible for producing the Code of practice and they went through the full consultation process in this regard. Members pointed out that the Council was not consulted in this regard.

In relation to the proposed regulations in relation to the licensing and inspection of on-site treatment systems Mr. Kavanagh outlined that he would expect that the onus would be placed on householders to manage these systems and this may mean annual desludging, upgrading in some instances etc. He outlined that the issue of grant aid would have to be addressed through the regulations.

In relation to the resource and compliance issues Mr. Kavanagh outlined that the EPA would be responsible for transmitting information back to the European Commission. He stated that in 2015 they will review and initiate proceedings in the ECJ in relation to non-compliance. He outlined that very significant fines could be imposed, grants withheld etc in the event of non-compliance. He stated that the ECJ will be looking exclusively at compliance with the legislation.

With regard to the balance between water quality and water uses, particularly re amenity uses, Mr. Kavanagh outlined that the Commission view would be that the Directive is intended to protect water and the uses of water – effectively the sustainable management of our areas. In terms of the actions to address issues arising he advised that much of this information was considered by the Working Groups and is documented in the background documentation.

In relation to the monitoring and implementation of the Plans Martin Dolan advised that Monitoring Committees are being set up in the different regions. He outlined that local authorities are required to develop Implementation Plans. He reiterated that the resource requirements have been clearly flagged in the Plans. Máire NiChionna outlined that each River Basin District has an Advisory Council with elected members involved. She advised that the implementation of the Plan is a matter for the relevant public bodies. She advised that a National Advisory group will pull together people from the Government Departments, EPA etc. She advised that it is not clear what the brief of this group will be going forward and it doesn't have a statutory basis.

Ms. Jackie Maguire, County Manager outlined that the Regulations provide that where the Members don't adopt the Plans it falls to the Manager, as an Executive function, to adopt the Plans and this is a duty which he/she must perform

Councillor Sean McGowan queried how many local authorities have adopted the Plans to date. Máire NiChionna advised that 12 or more local authorities have adopted the Plans to date with further meetings scheduled over the coming 2 weeks. She advised that some local authorities have passed resolutions in relation to different forms of wording within the Plans etc. Councillor McGowan also queried how well attended the public consultation workshops hosted on the Plans had been. Mr. Dolan advised that very small numbers had attended but that representatives of the various sectoral interests had attended.

Councillor Mary Bohan queried the status of amendments to the Plans. Máire NiChionna outlined that the Regulations provide for the adoption of the Plans by local authorities but

makes no reference to amendments to the Plans as presented. She outlined that, because some authorities have concerns, these have been highlighted in their Resolutions. She advised that a report will be written up for consideration by the Minister, following review by the EPA. She outlined that this is the first iteration of these Plans so the position is not clear but presumably the Minister can take on board the concerns expressed.

The Cathaoirleach, Councillor Mulligan, thanked the Members for their input and Ms. NiChionna, Mr. Kavanagh, the County Manager and the Director of Services for their responses. He proposed a short ten minute adjournment to allow Members to consider the matter further. This was agreed by the Members.

On the resumption of the meeting, following the brief adjournment, Councillor John McCartin outlined that, in view of the fact that the EPA Guidelines referred to in the report stand as an impediment to the adoption of the Plans, he proposed that the Members refuse to adopt the Plans at this time and continue to do so until such time as the Minister changes or relaxes the Guidelines. Furthermore he outlined that if the Manager has to adopt the Plans she will be doing so under protest from the Members.

Proposed by Councillor John McCartin, seconded by Councillor John McTernan AND UNANIMOUSLY RESOLVED;

“That the Members of Leitrim County Council refuse to adopt the River Basin Management Plans for the Western River Basin District, the North Western International River Basin District and the Shannon International River Basin District at this time, in view of the fact that the EPA Code of Practice for Wastewater Treatment Systems for Single Houses referred to in the Plans stand as an impediment to the adoption of the Plans, and until such time as the Minister for the Environment, Heritage & Local Government changes or relaxes the Code of practice. Furthermore, if the County Manager has to adopt the Plans that she does so under protest from the Members of Leitrim County Council.”

This concluded the business of the meeting at 8.15pm.

**SIGNED: Cllr Thomas Mulligan
Cathaoirleach**

**SIGNED: Aideen McGovern
Meetings Administrator**

DATE: 10th May 2010