

## **Minutes of Special Meeting of Kilkenny County Council Meeting held on Monday, 1<sup>st</sup> September, 2014 at 3.00 p.m.**

**Chair:** Cllr. Pat. Millea

**Cllrs:** M.H. Cavanagh, M. Shortall, J. Brennan, P. Fitzpatrick, P. Cleere, M. Doyle, P. O'Neill, D. Fitzgerald, J. Malone, B. Gardner, D. Kennedy, A. McGuinness, M. Doran, K. Funchion, P. McKee, M. Noonan, T. Breathnach, E. Aylward, G. Frisby, F. Doherty, P. Dunphy, M. O'Neill.

**Officials:** J. Mulholland, P. O'Neill, J. McCormack, S. Walton, M. Prendiville, F. Stafford, K. Fitzgerald, Denis Malone, Catriona O'Sullivan, B. Tyrrell, K. Hanley, M. Mullally, Colm Flynn and A.M Walsh.

**Apologies:** Cllr. M. McCarthy.

Cllr. P. Millea advised the meeting that he had met Dr. S. Brady and received the Review Report which will be circulated to all Members in hard copy.

He stated that it was agreed by the Executive that a detailed breakdown of the overruns of €419,000 would be given at today's meeting. He asked Mr. S. Walton to outline the details of the €419,000.

Mr. S. Walton advised the Members that the sum of €419,000 associated with disruptive protests from 30/6/2014 to 25/8/2014 is made up of ten specific items and outlined in detail as follows:

<b>KCAS Additional Costs of €419,000 associated with Disruptive Protests Monday 30<sup>th</sup> June 2014 to Monday 25<sup>th</sup> August 2014</b>		
<b>1.</b>	Standing time costs associated with prevention of construction materials delivers to the site (e.g. stone deliveries, concrete deliveries etc.).	<b>Contractor €40,000 Third Party €17,000</b>
<b>2.</b>	Standing time costs associated with temporary piling rig, main piling rig and crane (prevention of access to site, convoy delivery of rigs, prevention of commencement of temporary piling).	<b>€38,000</b>
<b>3.</b>	Redesign of temporary sheet pile cofferdam on west bank to overcome in-river prevention of temporary sheet piling operations.	<b>€33,000</b>
<b>4.</b>	Requirement to purchase temporary sheet piles for eastern bank in lieu of short term hire as a result of programme delays associated with disruptive protests.	<b>€142,000</b>
<b>5.</b>	Flood Risk Assessment for in river platform on Eastern Bank during winter of 2014/2015	<b>€5,000</b>
<b>6.</b>	Bridge Scale Model	<b>€5,000</b>
<b>7.</b>	Site boundary extension to mitigate public safety risks and to facilitate on site works (boundary fencing, pedestrian guardrails, river booms) (as agreed with An Garda Síochána (AGS))	<b>€52,000</b>

<b>8.</b>	Provision of site security and additional contractor personnel to assist in the accessing of delivery vehicles to the site and to address the level of risk posed to the contract arising from disruptive protests (as agreed with AGS).	<b>€42,000</b>
<b>9.</b>	Technical Reports (prepare new technical reports to address programme delays and ensure ongoing compliance with EIS. Additional site meetings, consultations with KCC, undertaking of site audits, revised construction methodologies etc.).	<b>€25,000</b>
<b>10.</b>	Ancillary Costs (Legal etc.)	<b>€20,000</b>

Mr. S. Walton stated that this figure is up to 23<sup>rd</sup> August, 2014. He concluded by advising Members that if the protest continues and the Contractor is prevented from getting deliveries to the site, we could be facing an adjustment sum to the contract of €1.928m.

Cllr. P. Millea thanked Mr. Walton and hoped that we would not have to spend any more on this Project. He referred to his Chairman's Address on 6<sup>th</sup> June, 2014, in which he had hoped that the property tax would be reduced but the outlook is not good.

Cllr. M.H. Cavanagh asked for the cost of the Gardaí presence at the site.

Cllr. K. Funchion asked that a copy of the breakdown be circulated.

Cllr. D. Kennedy requested further details on the cost of €42,000 for security.

Cllr. D. Fitzgerald inquired if the Gardaí would be seeking to recover their costs and also to supply cost of the archaeology on Vicar Street.

Cllr. M. Noonan inquired if the Council had made any contingency plans for protests costs and has Inland Fisheries being consulted regarding the extension to the licence.

Cllr. P. Dunphy expressed concerns that the additional costs will have on the Revenue Budget.

Cllr. B. Gardner spoke of the concerns of the residents in Wolfe Tone Street and stated that they had not been advised or given any information in relation to the project and the impact it would have on them.

Cllr. A. McGuinness stated that a number of years ago residents in Wolfe Tone Street protested against this Project and the route was changed following their protests.

Mr. S. Walton responded to a number of issues and advised that the figure of €419,000 did not include any costs incurred by An Garda Síochána. The Contractor makes a claim to the Employers Representative who evaluates the claim and makes a recommendation to the Council to pay it. To date, €140,000 has been paid and a further payment is due next week. Mr. Walton gave details, as requested, on the cost of additional technical reports and the conditions that must be complied with from An Bord Pleanála's decision. He advised that Kilkenny County Council is legally obliged to comply with the EIS. It is hoped to retain the

temporary access platform over the winter months. If approval is not received from Inland Fisheries, the works and the further additional costs will be incurred by the Contractor for demobilisation and remobilisation.

In responding to a number of questions from members Mr. J. Mulholland replied that the cost of the Gardaí would have to be borne from their own budget, that the additional cost for archaeology is estimated at approximately €70,000 to €80,000 and that this cost could not have been predicted at an early stage. The Council would not have envisaged that there would have to be a contingency plan put in place for protest costs and this would be an unreasonable provision in any case. There was a high level of consultation over the past number of years including the preparation of EIS, planning decisions by ABP and C.P.O. There were ample opportunities for people to object but these opportunities were not availed of. Mr Mulholland noted the campaign against the Scheme escalated through social media early in 2013 and this was some time after ABP decision and after CPO notices had been served early in 2012. The Scheme has full statutory authorisation and as such there was no requirement to provide for costs of obstructive protests. He contended the Local Authority went over and beyond its statutory public consultation remit.

Mr. Mulholland was not in a position to clarify how the €419,000 will be funded but this will have to be addressed and the Council will make every effort to lessen the impacts on the forthcoming Revenue Budget.

In relation to Wolfe Tone Street Residents, a number of years ago, the Council undertook a leaflet drop to each house and their concerns were listened to. It is the Council's position to continue to listen to people's concerns and try to improve communication with the public.

Cllr. P. Millea thanked Mr. Mulholland and Mr. Walton for their comprehensive replies on the increased costs and he concluded the discussions on this item.

Cllr. M.H. Cavanagh proposed an adjournment of 15 minutes to allow Members to read the hard copy of the Report. This was seconded by Cllr. M. Doran and agreed.

Meeting resumed at 4.30 p.m.

Cllr. P. Millea re-opened the meeting and stated that Dr. S. Brady, with the assistance of staff, carried out the Review as agreed by the Members. He further stated that the Review has no legal outcome or implications. He invited contributions from the Members.

Cllr. M. Noonan thanked Dr. Brady for the Review Report, however, he had sought an independent review with specific expertise from the Department of Transport. The report falls short and raises as many questions. The Report has failed to look at alternatives and valid concerns were not taken on board.

He referred to valid concerns raised at the Oral Hearing, EU Policy around emissions, H.G.V. Policy, connectivity within the City and also the campaign for the completion of the Northern Ring Road ahead of the Central Access Scheme. Reference was made to Scheme going to Judicial Review and that CAS will cause its own problems.

Cllr. P. Millea stated that Dr. Brady has referred to the cost benefit analysis of both schemes and he has every confidence in the Report and the Staff.

Cllr. B. Gardner welcomed the Review and regretted that Dr. Brady did not make references to:

- Importance of early engagement by the campaigners.
- Need to have financial resources in place.
- Improved communications.
- Improved pro-active communication with the Councillors.
- Greater transparency from Executive to the Councillors.

She referred to specific items in the Report, Pages 20, 31 and 32.

In reply J. Mulholland stated that the city continues to grow and that under tourism, for example, the reputation of the city and county will reflect future growth in this area. A plan led shift is required to cater for the growth in commercial, creative arts, etc. for the City. Significant investment has been made since 2008 in Smarter Travel Projects. The City has narrow footpaths which do not provide for cycle lanes. There is a need to get to schools and the hospital using alternative transport and this choice is not currently available because of the restrictive nature of Green's Bridge. The An Bord Pleanála decision offers this choice and assists in Smarter Travel options – 60% of the CAS Bridge is allocated to pedestrians and cyclists. If the Ossory Bridge was to be built now, it would be at least 3 to 4 meters wider.

Mr. Colm O'Flynn, Site Director, (Valerie Kealy Archaeology) outlined to the Members the current position on the archaeology for the houses in Vicar Street.

Documentation was sent to the Department in April, 2014, seeking approval to proceed to the next stage. Their response is still awaited. They will continue to test trench at the site assuming that the Department will give approval.

Mr. M. Prendiville advised that the €30 million investment referred to in Page 20 referred to the Diageo Site – three buildings and Riverside Garden, which was included in the Report given to the Members.

Mr. J. Mulholland advised that it is difficult to carry out detailed analysis as to the relationship between the Diageo Site and CAS as the framework plan for the site has yet to be finalized. There will be further consultation on the plans for Diageo. In responding to further questions he stated that he did not agree that there was no consultation on the Northern Ring Road as this had taken place in the Dunmore Community Hall, twice in 2013. This does not nonetheless prevent any person taking a challenge. The Council will take on board any improved ways/methodology for public consultation but it does not guarantee that people will engage and will not have issues or concerns. All projects are undertaken for the public good.

Cllr. M. Shortall sought clarification on the design option for the bridge.

Mr. S. Walton advised that a scale model was being made of the bridge which will include limestone cladding. The construction of the bridge must be in accordance with An Bord Pleanála decision and we may have to go back to them for minor modifications.

Mr. K. Fitzgerald advised that the H.G.V. Management Plan will be advertised in the Kilkenny People this month. All interim works, with the exception of the ramps, will be completed in three weeks time.

Cllr. P. Millea raised concerns about the speed of the traffic on Kennyswell Road.

Mr. K. Fitzgerald replied that regular speed checks are undertaken on all roads. The speed on Kennyswell Road is not a concern it is the number of H.G.V. using the road. He advised that he will take the matter up with the Gardaí. There is a 30kph speed limit on this road and bye laws need to be amended.

Cllr. K. Funchion thanked Dr. S. Brady for his Report and raised her concerns about the consultation process. She referred to the recent consultation on the Property Tax. There is a need for the Council to tap into social media. She also raised concerns that nobody from the campaign group were interviewed by Dr. Brady.

Cllr. F. O'Doherty asked about the restoration of Greens Bridge.

Mr. J. Mulholland advised that there is a preliminary design for Greens Bridge which was presented to the June meeting.

Cllr. P. Millea advised that Dr. S. Brady had met some of the interested campaigners in City Hall and that he visited the site on three occasions.

Cllr. M. Doran thanked Dr. S. Brady for his report which has been delivered on time.

Cllr. M.H. Cavanagh also thanked Dr. Brady.

Cllr. P. Millea also paid thanks to Dr. S. Brady for the comprehensive report and for investigating all the issues in such a short time. He sought approval to the report. It was:

Proposed by: Cllr. M.H. Cavanagh

Seconded by: Cllr. M. Doran

“that the Report be adopted.”

Cllrs. M. Noonan, B. Gardner, K. Funchion, D. Kennedy and M. O'Neill stated that they did not support Recommendation No. 1 in the Report but do support Recommendation Nos. 2, 3 and 4.

Before the meeting concluded, Mr. Mulholland advised the Members that the Contract to purchase the Diageo Site was signed last week. The site will be available to Kilkenny County Council in March 2015. Diageo will now commence demolition work on site. The public

consultation and Part 8 proposals for the Mayfair/Brewhouse will be presented to Members for consideration shortly. It is hoped that the Council will use the front of Meubles to display information and a scaled model of bridge and 3D views of the Mayfair etc. for the information of the public.

Mr. J. McCormack and Mr. D. Malone are reviewing the principles of the Framework Plan for the Diageo Site and this will come before the Members in the short term.

J Mulholland stated that the signing of the contract was an historic moment for Kilkenny. There are very strong opportunities for sustainable development in the City. This has been shown recently at the official launch of the Smithwick's Experience. It is the intention to create a liveable/vibrant City and it is hoped that there will be engagement from the public in these very exciting projects.

That concluded the business of the meeting.

Signed: \_\_\_\_\_  
**Cathaoirleach**

Date: \_\_\_\_\_

