

In reply, Mr. Gilmore confirmed that the Minutes of the meeting of the 18th October 2012, at which Cllr. Cuniffe outlined his disagreement with the draft Minutes of the meeting of the 10th September 2012 would record same and that it was not appropriate to include same in the Minutes and/or Report of the Meeting of the 10th September, 2012.

The Report of the Tuam Area Committee Meeting held on 10th September 2012 as proposed and seconded was agreed on the basis that Cllr. Cuniffe's position would be noted.

The Report of the Corporate & Cultural Affairs SPC held on 23rd January 2012 was approved by the Council on the proposal of Cllr. McDonagh, seconded by Cllr. Hoade.

**TO CONSIDER REPORT UNDER SECTION 183 OF THE LOCAL GOVERNMENT ACT 2001 ON
THE DISPOSAL OF 0.2213 HECTARES AT BISHOP STREET, TUAM, CO. GALWAY 1235**

Statutory Notice dated 10th October 2012 pursuant to Section 183 of the Local Government Act 2001 and Report dated 11th October, 2012 was previously circulated to each Member.

The County Manager stated that while the relevant Directors of Service shall outline the background to both items 3 & 4 on the Clár, as previously outlined at Council, the Tuam Area Committee level and in reports as circulated prior to the Meeting, she believed that in the context of some of the public commentary associated with these issues that it is important for her to avail of the opportunity to state clearly on the record that the purpose and intent of the items before the Members for decision was to support implementation of the roads and transportation objectives for the Hub Town of Tuam together with facilitating the cost effective delivery of the Tuam Town Water and Main Drainage Contract. The County Manager stated that this formed the background to the decision of Council in May 2011 to dispose of the relevant lands to Joseph & Helen O'Toole and provided the statutory basis for the subsequent agreement entered into by Galway County Council and Joe O'Toole to give effect to the decision of Council. The County Manager confirmed that a copy of this agreement had been made available to the Elected Members.

The County Manager outlined that it was important for her to state clearly that at no time was any action taken by the Executive that would in any way undermine the important role played by the Elected Members in exercising their reserved functions. She further stated that any suggestion to the contrary was both erroneous and misleading.

The County Manager advised that she had been contacted by a number of elected members arising from correspondence they received from Catherine J. Hughes & Company, Solicitor, Bishop Street, Tuam in relation to the proposal to transfer the Palace Road Tuam to Joseph & Helen O'Toole and to extinguish the Public Right of Way.

She outlined that the correspondence purports to state that the proposed transfer was unlawful and ultra vires the powers of Galway County Council and included reference to an

intention to initiate proceedings without further notice in the event that the items remained on the agenda for the meeting and voting proceeded on the 22nd October 2012 or at any subsequent meeting of the elected members.

She confirmed that as County Manager, she also received a similar letter from Catherine J. Hughes & Company, Solicitor to which a response had issued on the basis of legal advice that the letter received was misleading and erroneous in relation to assertions and interpretation of the legal position and that there was nothing unlawful or ultra vires about the proposed exercise by the elected members of their powers at the meeting.

The County Manager outlined that the power to dispose of land is specifically granted to a local authority under Section 11(7) of the Local Government Act 2001. That the exercise of that power is set out in Section 183 of the Local Government Act and that the power to extinguish a public right of way is specifically granted to a local authority under Section 73 of the Roads Act 1993. She stated that the exercise of these powers were a reserved function and the powers to be exercised were explicitly authorised by legislation and the exercise by the Councillors of the powers in accordance with the legislation was not ultra vires. The County Manager confirmed that in the event that the threatened legal proceedings were initiated the local authority as a corporate body is the entity that is sued and that there is no legal liability attaching personally or individually to councillors where the local authority as a collective body exercises its powers in accordance with the relevant legislation.

The County Manager advised that she had received further correspondence and that she understood similar correspondence had been received by a number of the elected members from Catherine J. Hughes & Company Solicitors in relation to lands relevant to the construction of the Inner Relief Road. She confirmed that these lands did not form part of the lands the subject of the Section 183 Notice or the proposed extinguishment and accordingly were not relevant to the items under consideration at the meeting.

The County Manager stated that as the Members may be aware an enforcement notice had been issued in respect of the lands the subject of the items under consideration and in this regard, she had obtained advice that the consideration of the items would not impact on the capacity of the Council to pursue enforcement action which was ongoing.

The County Manager concluded by inviting Mr. Cullen to present Report dated the 11th October 2012, as previously circulated to the Members and presented to the Tuam Electoral Area Committee.

Mr. Cullen advised that the report had been prepared to assist members in their considerations with regard to the disposal of lands in Tuam to Joseph and Helen O'Toole

and related matters including the extinguishment of the public right of way over the Palace Road and the construction of the Tuam Inner Relief Road from Bishop Street to Shop Street.

He outlined that in 2008 planning approval was granted for the Tuam Inner Relief Roads the provision of which was an objective of the Tuam Local Area Plan. In 2010 An Bord Pleanála granted permission for a significant mixed use development in the centre of Tuam and attached conditions, one of which required a contribution by the developer towards the construction of the proposed inner relief road. He confirmed that a significant proportion of the relief road, from Bishop Street to Shop Street, traversed the developer's site.

He advised that in 2010 the Council commenced the Tuam Town Water and Main Drainage Contract involving significant pipelaying throughout Tuam Town and that the re-routing of water services infrastructure through the proposed relief road presented opportunities to minimise risks in the water services contract and reduce disturbance and inconvenience to the public due to road closures. Mr. Cullen outlined that discussions took place between the site owner and the Council and proposals were put forward that would enable the re-routing of the water services and allow for the construction of the inner relief road, both at the same time.

He stated that on 22nd September 2008 the Council considered an Application under Part 8 of the Planning and Development Regulations 2002 for the Tuam Inner Relief Roads which included a link from Bishop Street to Shop Street, whilst confirming that the provision of relief roads in Tuam was a transportation objective of the Tuam Local Area Plan 2005 – 2011, and they were recognised as important in facilitating the development of Tuam as a hub town. He confirmed that the Part 8 decision was deferred from the meeting of 22nd September, 2008 to allow for further consideration by the members, and was later approved at the Council Meeting on 20th October, 2008.

Mr. Cullen continued by advising that on the 1st April, 2010 An Bord Pleanála granted planning permission to Joseph and Helen O'Toole for a mixed use development comprising new supermarket, department store, residential and commercial units, nursing home and hotel. That the site of the proposed development measured 35,765 m² and included within it council-owned lands, specifically the Bishop Street Carpark and the Palace Road. He advised that consent to the inclusion of the lands in the planning application was given without prejudice or commitment to their disposal. Mr. Cullen also advised that the Tuam Local Area Plan indicated that the site was suitable for commercial/town centre activities, recreation and amenity uses and community facilities and that the proposed link road between Bishop Street and Shop Street which formed part of the Tuam Inner Relief Roads was provided for in the planning application. He stated that in granting permission for the development An Bord Pleanála conditioned that the developer would pay a contribution in respect of the proposed road from Bishop Street to Shop Street.

He referred to the drawing attached to his report marked A, which he advised showed the extent of the planning application site, the route of the proposed inner relief road from Bishop Street to Shop Street and the council lands within the site, namely the Carpark and Palace Road.

Mr. Cullen outlined that the Tuam Town Main Drainage and Water Distribution contract commenced construction on 15th March, 2010 and provided for upgraded water mains, foul sewers and surface water sewers within the town of Tuam, along with a dedicated storage capacity of 5,250m³ for Tuam Town, which is fed via a new trunk main from Cloonmore. He advised that a stormwater retention tank of 1,200m³ capacity has been provided at Killaloonty and service ducting for other services such as broadband, Telecom, ESB and Gas had been completed. He confirmed that the tender cost of the scheme was €26.1M and that the contract was nearing completion with only works involving snags, restoration and reinstatement works remaining to be done. He also detailed the interface between Water Services Contract & the proposed Inner Relief Road:

Mr. Cullen stated that following consideration of the interface between the main drainage contract and the proposed inner relief road, it was determined that the most cost effective method for the re-routing of the water services and construction of the inner relief road was for the Council to procure the construction of the roadway under the Water Services Main Drainage Contract. He outlined that a portion of the route of the road was through lands in the ownership of the Presentation Sisters which were used as basketball courts and that O.T. Investments Limited and Joseph O' Toole and Helen O'Toole undertook to acquire these lands, relocate the basketball courts elsewhere at their expense and make the lands available for the road. He confirmed that a delay occurred at this stage as there was local disagreement with an initial proposal to relocate the basketball courts within the Palace grounds although this was later resolved when it was decided to locate the courts within the grounds of the Presentation Sisters.

He advised that this delay, however, placed the Water Services contract under particular strain and severely narrowed the window of opportunity for inclusion of the relief road within the Water Services contract. However, with access to the entire site which formed the route of the roadway from Bishop Street to Shop Street finally secured, the construction of the road together with the provision of the water services infrastructure could be advanced.

Mr. Cullen advised that in bringing forward the scheme, the following terms and conditions were proposed:

O.T. Investments Limited and Joseph O' Toole and Helen O'Toole would provide the Council with access to the lands within the site which formed the route of the inner relief road and also access to the lands to be acquired by them from the Presentation Sisters;

O.T. Investments Limited and Joseph O' Toole and Helen O'Toole would pay €1.1m towards the cost of the new inner relief road;

O.T. Investments Limited and Joseph O' Toole and Helen O'Toole would dedicate as a public right of way the lands on which the road was to be constructed;

And on completion of the road O.T. Investments Limited and Joseph O' Toole and Helen O'Toole would transfer it into public ownership.

In return the Council would transfer to O.T. Investments Limited and Joseph O' Toole and Helen O'Toole the Bishop Street Carpark and Palace Road and extinguish the public right of way.

Mr. Cullen outlined that as the disposal of lands and the extinguishment of public right-of-way were reserved functions no agreement or commitment of any kind was entered into with O.T. Investments Limited and Joseph O' Toole and Helen O'Toole prior to the matter coming before the Council at its Meeting on 23rd May, 2011.

Mr. Cullen confirmed that the Statutory Notice under Section 183 of the Local Government Act 2001 for the disposal of the lands at Tuam was issued on 12th May, 2011 and the item was placed on the agenda for consideration by the Council at its monthly meeting on 23rd May, 2011. He noted that the Statutory Notice described the lands to be disposed of as being located at Bishop Street, Tuam and measuring 0.1538 hectares and that at the meeting a drawing No. 01 dated 19th May, 2011 was circulated to the members identifying all the parcels of land involved in the construction of the link road and identifying the Bishop Street Carpark and the Palace Road. He further outlined that it was explained at the meeting that it was being proposed to dispose of the Bishop Street Carpark (marked 4 on the drawing) and the Palace Road (marked C-D) on the drawing and it was also explained that an extinguishment of public right-of-way for the Palace Road (C-D on the drawing) would be needed at a later date, following completion of the link road from Bishop Street to Shop Street and its transfer to public ownership. He advised that at the meeting a resolution was passed disposing of 0.1538 hectares at Bishop Street to Joe and Helen O'Toole.

He outlined that following the Council Meeting held on 23rd May, 2011 the Council entered into a formal legal agreement with O.T. Investments Limited and Joseph O' Toole and Helen O'Toole to give effect to the Council decision and to provide for the construction of the road. He stated that the agreement provided for a dedication of lands to allow the road to

be constructed in the first instance and also for the transfer of lands between the parties, the extinguishment of the public right-of-way and the amounts and timing of financial payments by O.T. Investments Limited and Joseph O' Toole and Helen O'Toole to the Council. A drawing delineating the parcels of lands to be transferred was appended to the agreement in similar format as that circulated at the Council Meeting on the 23rd May and which formed the basis for the Council decision and confirmed that the drawing was again circulated at the Meeting.

Mr. Cullen stated that recognising that the extinguishment of the public right-of-way, in particular, could only occur following completion of the road, the agreement was framed such that the disposals of land and the extinguishment of the public right-of-way were subject to obtaining the necessary approvals and consents. He noted that the agreement went on to provide that the Council would use its best endeavours to obtain the necessary consents and extinguishment.

Mr. Cullen stated that for the information of Councillors a copy of the Legal Agreement was attached to his report and that although the Legal Agreement contained a confidentiality clause, Mr. O'Toole had consented to making the agreement available to the Council Members. He advised that it was made available in the interests of openness but requested that it not be reproduced or circulated.

Mr. Cullen proceeded to advise that construction of the road commenced in July, 2011 and that the Council received a certificate of substantial completion on 13th December 2011 and the road was officially opened to traffic the following day.

He stated that with the completion and opening of the inner relief road the Council initiated the procedure for the extinguishment of the public right-of-way over the Palace Road in July, 2012. He confirmed that this process was in train at the moment and was being done under Section 73 of the Roads Act and involved the publication of notices, giving a period of time for people to make observations and submissions before a decision of the Council is made as a reserved function. He noted that a report on the extinguishment of the public right-of-way was circulated as a separate item for consideration.

Mr. Cullen advised that some time after the new road had been completed and opened complaints were made to the Council that Mr. O'Toole had extended his carpark area, removing the Palace Road in the process, with the effect that it now had become a less safe route – particularly for schools who wished to access the Swimming Pool. He confirmed that the complaints were investigated by the Council's Planning Department and it was found that unauthorised development had, in fact, taken place. He advised that the Council issued a Warning letter under the Planning Acts and is following standard enforcement procedures to address the unauthorised development in this case as it would in any other.

He confirmed that the action being taken or to be taken by the Council under planning legislation does not in any way prevent or preclude the Council from fulfilling the requirements of the legal agreement between the Council and O.T. Investments Limited and Joseph O' Toole and Helen O'Toole including the consideration of extinguishment of public right-of-way and the transfer of lands.

Mr. Cullen outlined that belatedly, particular attention had focussed on the statutory process undertaken in May, 2011 with regard to the disposal of lands at Bishop Street to Mr. O'Toole and in particular it had been contended that there was a discrepancy between the description and area of the lands mentioned in the Section 183 Notice circulated to the Council and the detail outlined in drawing No. 01 dated 19th May, 2011 considered by the Council at its Meeting and which formed the basis for the decision. He outlined that specifically, it was being argued that as it was not specifically mentioned in the notice under Section 183, there was no approval for the disposal of the Palace Road, this being despite the fact that the Palace Road was clearly marked (C-D) on the drawing considered at the meeting and the minutes of the meeting clearly record that it was being proposed to dispose of the lands marked C-D on the drawing to O.T. Investments Limited and Joseph O' Toole and Helen O'Toole. He advised that the argument put forward introduced a technical doubt about the Council resolution and so the safest approach to be taken – for the avoidance of any doubt – was for the Council to consider again the specific disposal of land comprising the Palace Road within the O.T. Investments Limited and Joseph O' Toole and Helen O'Toole site.

Accordingly, he confirmed that a Statutory Notice under Section 183 of the Local Government Act 2001 had been issued in accordance with the relevant legislation. This notice included Drawing No. 01 dated 19th May 2011 which was considered by the Council at its Meeting on 23rd May, 2011, and the lands referred to in the Statutory Notice were clearly marked C-D on the drawing. He concluded by advising that it was recommended that the Council approve the disposal of these lands.

The Mayor thanked Mr. Cullen and then invited the Members to outline their views. Cllr. Cunniffe acknowledged that the Section 183 presented to the May 2011 meeting was the subject of discussion at the Tuam Electoral Area Committee but that discussion together with the report which accompanied the Section 183 Notice only referenced the transfer of the car park and there was no reference in the Section 183 Notice, the covering report or the discussion at the Tuam Electoral Area Committee of the transfer of the Palace Road. Cllr. Cunniffe stated that the reference to the transfer of the Palace Road in the minutes of the May 2011 meeting was insufficient to provide a basis for the transfer of the Palace Road to Mr. Joe O'Toole in the absence of a Section 183 Notice for same. He outlined that the area of land referenced in the Section 183 Notice on the agenda for the May 2011 meeting equated to the car park only and did not include the area of the Palace Road, in addition the report accompanying the Section 183 Notice made no reference to the Palace and that the

only reference was in the course of the meeting. He stated that this could not be regarded as a technical error, the requirements of Section 183 including the required 10 days notice had not been provided in respect of the transfer of the Palace Road and it was not sufficient to introduce the disposal of the Palace Road at the Council Meeting as reflected in the Minutes without the appropriate prior notice.

He outlined that in his view, the people of Tuam would not have supported the transfer of the Palace Road to facilitate the Tuam Town Water and Main Drainage Scheme and that the support for the transfer of the Palace Road was on the understanding that it was required to facilitate the proposed mixed use development. He indicated that he was supportive of the planning application for the mixed use development and would support the transfer of the Palace Road in the context of same but that he would not support the transfer of the Palace Road merely to facilitate the Tuam Town Water and Main Drainage Scheme.

He stated that the grant of planning permission for the mixed use development required a development contribution towards the inner relief roads and described the section of the inner relief roads built to date as a service road for the development. He questioned why, if a contribution of €1.1 million was required towards the development of the inner relief road, the Council was proposing to transfer the car park and Palace Road to Mr. O'Toole. He referenced a valuation of the car park that placed a value of €1 million to €1.5 million on the car park, on the basis of the income stream generated by the car park and not just the value of the land. He stated that he believed that the deal was a terrible deal and questioned how he could make a decision in the public interest when there is a confidential agreement in the background. He stated that he had difficulty in obtaining access to the confidential agreement and that on viewing same it was clear that it had nothing to do with the grant of planning permission for the mixed use development.

He referred to the unauthorized development that had taken place and the destruction of the Palace Road, he acknowledged that while that the Planning section were addressing the unauthorized development that unauthorized development was still being undertaken as late as the previous week. He outlined that the people of Tuam don't want to talk about issues, they want their rights addressed and that the needs of students, the elderly be adequately addressed.

Cllr. Maher outlined that he opened the road during his term as Mayor and at that time no issues were being raised in respect of the road. He confirmed that recently he had received numerous emails in relation to the issue, including solicitor's letters and that he had recently visited the site. He stated that he had observed safety issues that he believed needed to be addressed and that if there were doubts or questions that needed to be answered it was important that they were addressed and in this context he welcomed the detailed report that was made available to the Members prior to the meeting. He stated that it was important to recognize that it was not possible to put back what was there, as it was not possible to replace 200 year old trees, but that what was important was to identify a safe solution that addressed the issues of concern and suggested that a map be prepared

detailing a clear and safe proposal. He stated that there was a need for compromise in order to resolve the matter and address the outstanding issues of concern.

Cllr. Roche referred to the huge concerns being expressed by members of the public on how the matter was handled to date. He acknowledged that the Inner Relief Road was a massive piece of infrastructure that was widely welcomed and that the contribution from Mr. O'Toole towards the development of same was also acknowledged. He stated that the concerns being expressed and the questions being raised did not represent a vendetta against Mr. O'Toole, who was a successful business man and a significant employer in Tuam. He stated that the original Section 183 Notice dealt with at the May 2011 meeting was presented in the context of facilitating the mixed use development and on that basis was welcome as one could not argue with the benefits of same as it was just what the town of Tuam needed. However, he stated that rather than it facilitating the delivery of a significant mixed use development, it facilitated an unauthorized development consisting of an extended car park. He outlined that this unauthorised development represents what the developer believes is appropriate and instead of a mixed use development the outcome was a car park and a glorified footpath. He stated that consideration of Items 3 & 4 on the clár was premature and proposed that the items be deferred until a solution is clearly outlined. He stated that he was confident that Mr. O'Toole wants to do what is right for the people of Tuam and that time should be allowed for a proposal for a new route to be developed.

Cllr. Cuddy stated that it was important to put the discussion in the context of the decision of Council at the meeting of May 2011, when the original Section 183 Notice came before Council and where it was outlined very clearly what was concerned. Cllr. Cuddy proceeded to read from the agreed Minutes of Meeting of May 2011 as follows:

Mr. Cullen referred to the Statutory Notice above. He advised the Members that the proposed inner relief road for Tuam was the subject of a Part 8 Planning approval by the Council previously. He also said that part of the road was also included in a planning permission granted by An Bord Pleanála under Reference No. PL07.229471 to Joseph and Helen O'Toole for a significant mixed use development in the centre of Tuam. He referred to Drawing No 01 dated 19th May, 2011 which had been circulated to the Members and said that as part of the proposal for the construction of the inner relief road and the re-routing of water services infrastructure within the road corridor as part of the contract for the Tuam Town Water and Main Drainage Scheme, it was being proposed to dispose of the lands marked 4 and C – D on Drawing No. 01 dated 19th May, 2011, to Joseph and Helen O'Toole. He advised that an extinguishment of public right of way would be needed for the area C – D following completion of the inner relief road marked A – B and its transfer to public ownership.

On the proposal of Cllr. McHugh, seconded by Cllr. Canney, it was agreed that the disposal of 0.1538 hectares of land at Bishop Street, Tuam, Co. Galway to Joseph and Helen O'Toole Bishop Street, Tuam, be approved.

He stated that this decision was a reserved function of the Councillors and that they complied with their statutory obligations and did everything in accordance with the law. He outlined that while he accepted that in the interim genuine concerns were expressed by the

people of Tuam, he would not accept attempts by a solicitor to intimidate members of the Council. He outlined that the role of the elected members was to represent the citizens of the county and he stated that he felt it appropriate for the Council to demand that the solicitor in question apologise to the Councillors for the correspondence issued both by email and post and that the correspondence be withdrawn.

Cllr. McHugh referred to the meeting of May 2011 where the Council sanctioned the proposal to provide land to facilitate the construction of the inner relief road linking Bishop Street and Shop Street, Tuam. He outlined that this decision allowed for the construction of the inner relief road to begin in Autumn 2011 and be opened on the 13th December 2011, he stated that the construction of the road and the opening proceeded without any issues being raised. He stated that it was important to acknowledge that the road was a public road although it was being referred to by some as a service road for Mr. O'Toole. He referred to the statutory process for the proposed extinguishment of the public right of way and noted that all objections were received which included a request for an oral hearing but that when these requests were granted and an oral hearing was scheduled, none of the objectors who requested same turned up. He stated that despite their failure to attend the oral hearing, a report was prepared by Mr. Joe Gavin and that this was an important report that outlined in detail the issues that needed to be addressed including health and safety issues.

He stated that the campaign in relation to this issue only began in late June and that in order to resolve the matter there was a need for compromise, he outlined that he believed that Mr. O'Toole would compromise but that it will take the two parties to compromise in order to resolve the issue. He questioned the willingness of the group to compromise while stating he was for compromise and sitting around the table to find a resolution that will address the various concerns and in particular the health and safety issues. He described the level of intimidation on the issue conducted via facebook, email and text as outrageous. He expressed regret that despite his strong belief in the important role that the electoral area committees should play in resolving issues of this nature, and the fact that numerous meetings had been held on this matter, it was not possible to bring a proposal before Council to resolve the issue.

The Mayor stated that while items 3 & 4 on the clár were related to the same issues, they were two separate and distinct items and that only item 3 was currently before the members for discussion.

Cllr. Carroll acknowledged the distinction and confirmed that during the course of his recent visit to the site, he witnessed 300 to 400 students using the area and outlined his view that serious dangers were present for those students, including students with disabilities that needed to be addressed. He outlined his belief that the issues could only be resolved through compromise and that a vote on the issue was premature in that more time was needed for discussion on the various issues. He stated that he was heartened by the report of Mr. Liam Gavin referencing the various recommendations made by Mr. Joe Gavin and was confident they formed the basis for further discussion. He concluded by stating that

while he was only in receipt of email and correspondence on the matter he was not going to be intimidated.

The Mayor clarified with the previous speakers that the compromise being spoken of in their various contributions related to the proposal for the extinguishment of the public right of way and the need to reach agreement on an alternative that adequately addressed the various concerns raised in respect of the current form of access through the car park.

In reply to Comh. O'Cuaig, Mr. Cullen confirmed that the approval of the disposal of lands as detailed in the Section 183 Notice under consideration as item 3 on the clár would not impact on Item 4 in relation to the proposed extinguishment as they are related but separate items. He confirmed that it was not unusual to have a public right of way over privately held lands that the majority of the road network was development on privately owned lands.

Comh. O'Curraoin stated that he was in agreement with the views expressed by Cllr. Maher and also agreed with Cllr. Roche and Cllr. McHugh in recognizing the need for compromise. He stated that he could not vote for anything that he felt raised concerns in relation to the safety of pedestrians and that the various parties needed to meet and apply common sense to reach agreement on the matter without the need for solicitors.

Cllr. Hoade confirmed that she had read all 197 submissions received in response to the proposal to extinguish the public right of way and that they had common themes of safety for pedestrians, access to schools and the swimming pool. She referred to the solicitor's letter and welcomed the clarification provided by the County Manager in response to same. She stated that it was important to clarify that the Elected Members had no role in relation to enforcement for unauthorized development but welcomed the clarification that the issue was being addressed. She outlined her disappointment that those who had sought an oral hearing did not attend the hearing when they were afforded the opportunity to present their case.

Cllr. T. Mannion stated that he visited the site on a number of occasions, the last being that morning and confirmed that he didn't feel intimidated by the solicitor's letters he received in relation to the issue. He outlined that it was not possible to make decisions on the basis that 100% of the community would be happy, there was always varying views and referred to previous experience in relation to identifying a site for a landfill in the east of the county. He referred to the lands transferred by Mr. O'Toole to the Council to facilitate the development. He stated that Mr. O'Toole started out to make a positive contribution. He stated that it was not possible to go back to before a spade was put in the ground, the trees can't be replanted and that it was necessary to work a way out of the current position. He highlighted the importance of providing pedestrian access to a required standard that was not in place at present, but outlined that he would welcome a proposal to provide safe pedestrian access to the required standard and on that basis the issue could be resolved. He noted that the former Mayor, Cllr. Maher confirmed that no issues were raised when the road was being opened and that when afforded the opportunity to state their case at an

oral hearing, no one turned up. He concluded by stating while he did not know and had never met Mr. O'Toole he considered that Tuam was fortunate to have a man of his caliber and he was confident that when the recession was over he would proceed with his plans.

Mr. Cullen in reply to queries raised by Cllr. D. Connolly confirmed that at the time the planning application was being lodged for the development the Council provided Mr. O'Toole with a letter that allowed Mr. O'Toole include the Council lands in the application. Mr. Cullen confirmed that the letter made it clear that it provided no assurance in relation to the subsequent transfer of the lands. Mr. Cullen further confirmed in reply to Cllr. D. Connolly that the issuing of the letter conferred no rights on Mr. O'Toole and no obligations on the Council. Cllr. D. Connolly welcomed the clarification that no agreement was entered into for the transfer of the lands prior to the decision of Council at the meeting of May 2011. He stated that it was important to recognize that we can't turn back the clock and can only seek to remedy the situation from where we were.

Comh. O'Laai expressed disappointment at the lack of clarity from the group on what they wanted to do and their apparent lack of willingness to reach a compromise to resolve the issue. He highlighted the importance of allowing for further discussion on the matter and the need for compromise.

Cllr. Ryan stated that while he recognized that items 3 and 4 on the clár were interlinked it was important to note that the Council could approve the transfer of lands the subject of item 3 and continue to retain the existing public right of way the subject of the proposal under item 4 on the agenda.

Cllr. T. Walsh outlined that he was the first to identify the need for compromise in order to resolve the issue, he stated that he visited the site and it was clear to him that it was not possible to reinstate exactly what was there and what was needed was compromise in order to agree the provision of a suitable alternative. He outlined that based on the first meeting he attended at the invitation of Cllr. Cuniffe he believed there was a willingness to compromise and reach agreement on an alternative, however at a subsequent meeting involving the Town Council it was made clear by a representative of the group that there could be no compromise. He stated that while he didn't know at the time if the person was speaking on behalf of the whole group, he noted that no one contradicted the views expressed or expressed an alternative view. He stated that it was suggested by some that as he lived 20 miles from Tuam he should not have a say in the matter but that he found this hard to understand when he learnt that Councillors who did not represent the Tuam Electoral Area and who lived considerably further from Tuam than he did were receiving representations on the matter from the same people. He referenced text messages he had received in relation to the issues and in particular outlined his displeasure with an email that if lives were lost in the area, it would be because of him and it would be on his head. He stated that he would not be influenced by communications of this nature and that they only thing that would influence his decision on the matter were the contributions on the matter at the meeting and the report on the matter as presented and previously circulated. He outlined that he would do the right thing but that he would not be bullied into doing the

right thing. He requested that further discussion take place with Mr. Toole and that while he did not know Mr. O'Toole he was sure common sense could prevail.

Cllr. M. Finnerty stated that while the decision at the May 2011 meeting was made prior to him joining the Council he had full confidence in the decision taken and that it was made with the best will in the world. He confirmed that he also visited the site prior to the meeting and complimented his colleagues on doing likewise to inform themselves prior to making a decision on the matter. He appealed to the group to use good judgment and common sense to agree an alternative route and proposed that further consideration of item 3 and item 4 be deferred to the November Meeting in order to allow sufficient time for an alternative route to be agreed.

Mr. Cullen in reply to Cllr. Broderick confirmed that it was not unusual for an agreement to be entered into by the executive to bring into effect a decision of Council. He emphasised that no agreement was entered into prior to the May 2011 meeting and that the agreement thereafter was to give effect to the Council decision of the 23rd May 2012. He outlined that the agreement relating to a reserved function was only entered into after the reserved function had been exercised by Council.

In reply to a further query from Cllr. Broderick as to whether the Council faced a potential liability if they decide not to approve the proposed transfer of lands to Mr. O'Toole, Mr. Cullen advised that the issues raised in respect of the decision of Council at the May 2011 meeting and whether in particular the decision included the disposal of the Palace Road could ultimately only be determined by the Courts and that it would be open to Mr. O'Toole to take an action against the Council to seek to enforce the decision of the 23rd May 2011. Mr. Cullen stated that it would then be a matter for the Court to determine if the decision of Council included the Palace Road. He accepted that this issue was in dispute, but the mere fact that it was in dispute did not determine the matter as it could only be resolved in a court of law. He confirmed that the purpose of bringing the matter back before Council was for the purpose of clarity.

Cllr. Broderick referred to the concentration in the discussion to the compromise required in relation to the proposed extinguishment of the public right of way, the subject of item 4 on the clár and requested clarification that the proposed disposal of lands included the Palace Road and that it was always intended to include the Palace Road, including the disposal as considered at the May 2011 meeting. Mr. Cullen in reply confirmed that the disposal of land before the Members was the Palace Road and that the disposals of lands to Mr. O'Toole always included the Palace Road.

Cllr. McClearn requested clarification on whether the approval of the transfer of the lands the subject of item 3 on the clár might in any way compromise the safety features that may be needed to address the concerns raised in respect of the right of way. He also enquired as to who would pay for the necessary safety measures. He confirmed that he also received solicitor's letters on the matter but that they did not influence him in any way.

Comh. O'Tuairisg confirmed that he received significant correspondence on the matter and that in particular he took note of correspondence he received from teachers expressing concern for the safety of students. He stated that they could not ignore the decision taken by Council in May 2011 but that if they were in a position to identify a safe alternative right of way it would be helpful in terms of providing clarity.

Cllr. M. Connolly stated that the issue had been the most emotive and difficult issue to be addressed in the last year and that genuine efforts were made to respond to the issues raised. He confirmed that he visited the location several times and on occasion a number of times on the same day. He outlined that extensive talks had taken place at area level that failed to resolve the issue and were followed by a meeting of the Members of the Tuam Electoral Area and the County Manager and a further meeting of the area committee that facilitated a deputation from the Restore Our Place Road Committee who were afforded over an hour. He stated that their only solution was through compromise and not by availing of the legal route. He outlined that it was important that there was no attempt to distance themselves from the decision taken in good faith in May 2011 which was an unanimous decision of the members with no dissenting voice at the meeting and no subsequent disagreement with the minutes of the meeting. He expressed his disappointment that what transpired at the meeting of the electoral area committee was subsequently misrepresented on facebook and the position of four members was misrepresented and taken out of context, he stated that this was unwelcome, not necessary and was unhelpful.

He questioned whether the Section 183 process was legal or not, highlighted the importance of safety and that he was most concerned if children are at risk and requested that Mr. Gilmore outline what work can be done to improve safety, suggesting that a safety consultant be engaged if necessary in order to provide the required assurance in respect of the necessary safety measures. He referred to the unauthorized development and the contention from the group that not all elements of the unauthorized development were included in the enforcement notice served by the Council and invited Mr. Kelly to comment on same. He stated that he welcomed positive development for the town of Tuam but that he was concerned about safety and also the security of the jobs of the employees of Mr. O'Toole but that the paramount concern for everyone must be the safety of children.

Comh. O'Cuaig stated that he agreed with the proposal from Cllr. M. Finnerty that further consideration of the issues be deferred to the November meeting of Council in order to allow an opportunity for further consultations. He confirmed receipt of correspondence on the matter including solicitor's letters but stated that they together with the various contributions via facebook did not faze him.

Cllr. E. Mannion referred to the need for compromise to resolve the issue and for the safety concerns expressed to be addressed. She stated however that from reading the various correspondence including contributions on facebook it was difficult to see how compromise could be reached. She outlined her disappointment that those with concerns on the matter

did not avail of the opportunity provided by the oral hearing to express those concerns and further suggested that progress may be achieved through the appointment of a mediator.

Cllr. Cuniffe stated that the reason those who requested the oral hearing did not attend same was that it was scheduled for Galway during a working day and that they did not consider the person appointed to conduct to the oral hearing, Mr. Joe Gavin a former County Manager to be independent. He further stated that the oral hearing should have been held in Tuam and not during a working day.

In reply to Cllr. M. Connolly, Mr. Cullen confirmed that the executive entered into the agreement based on the decision of Council on the Section 183 notice at the May 2011 meeting and the only reason it was being brought back before Council was that it was contended that the Section 183 process was defective.

Mr. Kelly in reply to Cllr. M. Connolly confirmed that a warning letter and enforcement notice had been issued in relation to the unauthorised development and that the normal process shall be followed as outlined in the Planning Acts. He further confirmed that correspondence had been received from the group the previous Friday in relation to the enforcement notice and that the correspondence was being considered.

Mr. Gilmore referred to the safety issues raised in the submissions received in respect of the proposed extinguishment of the public right of way and the discussion on same at a recent meeting of the Tuam Electoral Area Committee which considered the submissions and report on the proposed extinguishment of the public right of way. Mr. Gilmore outlined that at that time it was proposed that a full safety audit be undertaken of the alternative right of way. He confirmed that in the interim a full independent assessment had been undertaken based on the stage 3 process, which is an assessment undertaken post construction. Mr. Gilmore proceeded to outline in detail the various issues identified in the assessment including:

1. Inadequate sight lines at the relief road junction
2. Location of the pedestrian crossing on the relief road
3. Steep gradients at the pedestrian footpath ramps at the relief road
4. Internal footpath widths are too narrow
5. No tactile paving has been provided on the internal footpath ramps
6. Drainage channels and gullies located at one of the pedestrian crossings
7. A narrow flush painted footway must be segregated from moving vehicles
8. Provide drop kerbs and tactile paving at the pedestrian crossing at the Gaelscoile
9. Wheelchair car parking spaces at the Gaelscoile
10. Provide a clear pedestrian route with defined crossing points
11. Provide a pedestrian crossing facility at the Mental Health Clinic

He confirmed that all of the issues raised could be addressed in the context of the proposal to be presented to the members under item 4 on the clár and that they could all be satisfactorily resolved.

In reply to Cllr. M. Connolly, Mr. Gilmore confirmed that the necessary works were such that they could be carried out without delay, he also confirmed in reply to the Mayor that the assessment was totally independent and was conducted by external auditors RPS Consulting Engineers. Mr. Gilmore in reply to Cllr. Cuniffe further confirmed that the assessment was to Road Safety Authority standards.

In reply to a comment from Cllr. Cuniffe that the Council was auditing a road that was an unauthorized development, Mr. Gilmore confirmed that the audit undertaken related to safety and did not relate to planning.

In reply to an earlier query from Cllr. McClearn in relation to whether any decision under item 3 on the clár in relation to the proposed disposal of lands to Mr. O'Toole would compromise any of the safety measures required to be undertaken to address safety concerns identified in respect of the alternative right of way related to the proposed extinguishment of an existing public right of way the subject of item 4 on the clár, Mr. Cullen confirmed that no compromise would arise.

Cllr. Broderick commented that the Section 183 presented in May 2011 related to 0.15 hectares and that the current Section 183 related to .2213 hectares and requested clarification on the increase in the lands the subject of the proposed disposal.

Mr. Cullen stated that this matter was addressed in his report to Council and arose due to a discrepancy in the area of land noted in the Section 183 presented in May 2011; he confirmed that the Section 183 now before Council was in respect of the area of land the subject of contention, namely the Palace Road.

Cllr. T. Walsh welcomed the fact that the contributions reflected the first suggestion of compromise towards resolving the relevant issues and outlined that if the intent to engage was serious it would require a three way conversation involving the Council, Mr. O'Toole and the people of Tuam.

The Mayor invited Mr. Gilmore to outline the alternative right of way to the public right of way referenced in his earlier reply, the questions raised by the Members and the subject of the safety audit also referenced in his earlier replies.

Mr. Gilmore referred to his report dated the 10th October 2012 relating to item 4 on the clár, as previously circulated to the members and confirmed that he agreed with the conclusions and recommendations in the report of Mr. Liam Gavin, Senior Engineer dated the 9th October 2012, also as previously circulated, drawing on the recommendations of Mr. Joe Gavin as outlined in his report dated the 5th October, also as previously circulated.

Mr. Gilmore confirmed that the provision of the safe alternative pedestrian access through the O'Toole's property between Bishop Street and the Inner Relief Road would address the concerns raised regarding pedestrian safety. He also confirmed that the Council would provide a full pedestrian crossing on the Inner Relief Road adjacent to the route of the former and the existing Palace Road. He further confirmed that O'Toole developments had contacted the Council to confirm that it was their intention to retain pedestrian access and a vehicular right of way through the property.

In reply to a request from Cllr. Maher, Mr. Gilmore invited Mr. Liam Gavin to present the map outlining the proposed alternative right of way that would satisfactorily address the various safety issues as raised in the submissions received and the safety audit.

Mr. Gavin proceeded, by reference to a map displayed on screens in the Council Chamber, to outline in detail the proposed alternative right of way. He outlined by reference to points marked G, F, E & C the alternative right of way as currently provided and the subject of the safety audit. He confirmed that it was always the intention of the Council to provide the pedestrian crossing on the Inner Relief Road, as recommended in the safety audit, to replace the existing crossing and confirmed accordingly that the recommended pedestrian crossing would be provided by the Council.

He outlined that the current width of the footpaths was insufficient and that a minimum width of 2 meters was required. He also acknowledged that the existing sight distance was inadequate and that it would be necessary to adjust the fence line. He advised that it was necessary to divide the parking due to the upper and lower levels in the car park and that the existing conflict between pedestrians and cars needed to be addressed, he also outlined the need to alter the entrance, provide proper marking together with tactile paving to assist those with a visual impairment and disability. He identified a need to remove parallel disabled parking and provide for same elsewhere in the car park.

Mr. Gavin confirmed that all issues raised in the safety audit could be addressed to provide a safe route for pedestrians and traffic. He stated that he had witnessed groups of students passing through the existing car park and that he was satisfied that the various measures as proposed would combine to provide a safe route through Bishop Street to the Palace Grounds.

Cllr. Cuniffe welcomed the presentation as a positive contribution. Cllr. McClearn queried that if the items were deferred what impact it would have on putting the various measures in place, expressing concern that by agreeing to defer further consideration of the items may lead to a delay in putting the necessary safety measures in place.

Cllr. T. Walsh stated that he viewed the presentation as representing common sense and did not view the proposals as representing a compromise. He stated that the presentation should address the various concerns and fears expressed in relation to safety.

Cllr. T. Mannion also questioned if a deferral of the items would mean that the necessary safety measures could not be implemented and that the risks identified would remain.

Mr. Gilmore confirmed that the extinguishment would not come into effect until a safe and secure alternative public right of way for pedestrians was provided. That the new alternative public right of way would be provided to the satisfaction of Galway County Council and would be subject to an independent safety audit. He also confirmed that a safe pedestrian crossing would be constructed across the inner relief road to ensure continuity of movement from the Palace Grounds across the inner relief road and through to Bishop Street.

Mr. Gilmore outlined that a public right of way is an enduring right of way which would require to be extinguished at a future date when the development of the site was to be carried out. He explained that in order that the site could be developed without the necessity for another extinguishment it was proposed, following legal advice, to have the right of way provided by way of licence.

He explained that that the right of way granted by licence differs from a public right of way in that it can be amended or withdrawn when the site was developed as permitted under the development approved under ref: 07/3767 or such other development of similar nature as may be permitted by the planning authority was commenced that would require the removal of the alternative right-of-way.

He confirmed that the safety audit had been undertaken as previously advised and outlined by Mr. Gavin and that the issues identified by the safety audit would be addressed prior to the signing of the agreement to provide by licence the right of way. He stated that the timeframe for the works would be influenced by the decision in relation to Item 4 on the clár relating to the proposed extinguishment of the public right of way, as it would be necessary to provide Mr. O'Toole with certainty in relation to the proposed extinguishment of the public right of way prior to proceed with works on the proposed alternative right of way the subject of the safety audit.

In reply to Cllr. D. Connolly, Mr. Gilmore confirmed that it was proposed that the extinguishment of the public right of way would be conditional on the works identified in the safety audit on the existing alternative right of way being undertaken.

Mr. Gilmore further confirmed to Cllr. D. Connolly that his understanding of the proposal as outlined was correct in that rather than providing a public right of way as outlined in the reports circulated prior to the meeting, it was now proposed to provide a right of way by licence. He advised that on commencement of the development of the site the alternative right of way provided by licence would no longer be required as the development provided for pedestrian access. Mr. Gilmore further advised that any alternative development proposed for the site would include consideration of pedestrian access. Mr. Gilmore advised the members that the providing an alternative right of way by licence as opposed to

a public right of way, was sufficient to address the concerns raised in relation to maintaining appropriate pedestrian access and to ensure delivery of the required safety measures as identified in the safety audit prior to the extinguishment of the public right of way.

Cllr. Roche welcomed the proposal as presented and stated that it was a move in the right direction. In reply to Cllr. Roche Mr. Gilmore confirmed that the width of the proposed alternative right of way to be provided by licence was 10 meters to include the carriageway and footpaths and was equivalent in width to National Primary & Secondary roads in the County. Mr. Gilmore further confirmed to Cllr. Roche that appropriate landscaping could be incorporated into the proposal.

In reply to concerns expressed by Cllr. McClearn in relation to a delay in undertaking the necessary safety works if the items were deferred, Mr. Gilmore confirmed that the sooner a decision was made the sooner the licence could be drafted and the necessary safety improvement works undertaken.

In reply to Cllr. Cuniffe, Mr. Gilmore confirmed that the proposed safety improvements works included works to be undertaken at the bend, identified as point 5 on the map as presented at the meeting by Mr. Gavin, in order to address existing issues with traffic travelling over the centre white line at this location. Cllr. Cuniffe also requested that the route of the alternative right of way be examined in the context of the natural route through the car park, as he observed that students tended to avail of a direct straight route through the carpark at present.

It was proposed by Cllr. T. Walsh, seconded by Cllr. Maher and agreed to adjourn the meeting for 15 minutes.

SUSPENSION OF STANDING ORDERS

1236

On the resumption of the meeting, it was proposed by Cllr. Cuddy, seconded by Cllr. M. Connolly and agreed that the Standing Orders be suspended in order to allow the Meeting continue after 6.00 pm.

Cllr. T. Mannion stated that he understood the purpose of the adjournment was to facilitate the Tuam Electoral Area Members to consider the alternative right of way as presented by Mr. Gilmore and Mr. Gavin and that he was disappointed that this format was not observed. Cllr. McClearn outlined that he also misunderstood the purpose of the adjournment of the Meeting. The County Manager in reply to a query from Cllr. T. Mannion outlining her understanding of a reserved function.

It was proposed by Cllr. M. Finnerty, seconded by Cllr. McDonagh to defer Items 3 and 4 on today's agenda and placed on the December Agenda to allow Tuam Area Committee to meet.

Following discussion, it was proposed by Cllr. M. Connolly, seconded by Cllr. McClearn and agreed to defer items 3 & 4 of today's agenda to the November Monthly Meeting.

TO CONSIDER A PROPOSAL UNDER SECTION 73 OF THE ROADS ACT 1993 TO EXTINGUISH A PUBLIC RIGHT OF WAY – TUAM TOWN ON A SECTION OF THE SWIMMING POOL ROAD IN THE TOWNLAND OF DEMESNE FROM ITS JUNCTION WITH BISHOP STREET (R923) TO ITS JUNCTION WITH THE NEW INNER RELIEF ROAD, A LENGTH OF ONE HUNDRED AND SIXTY TWO METERS

1237

Report dated the 10th October, 2012 was already circulated to Members.

In accordance with the resolution of Council this item was deferred to the November Monthly Meeting.

TO CONSIDER THE MANAGER'S REPORT ON THE SUBMISSIONS RECEIVED ON THE PROPOSED AMENDMENT TO THE BEARNA LOCAL AREA PLAN 2007-2013 AS PER SECTION 20 (3) (C) AND (D) OF THE PLANNING & DEVELOPMENT ACT 2000 (AS AMENDED) 1238

The Mayor invited the presentation of the Manager's Report on the submissions received on the Proposed Amendment to the Bearna Draft Local Area Plan 2007-2013.

Ms. McConnell advised the Meeting of Section 177 of the Local Government Act 2011 which states that if a Member has a pecuniary or other beneficial interest in any aspect before the meeting, he or she shall take no part in the discussion or consideration of the matter and shall refrain from voting and it would be normal for them to leave the meeting for that item.

Ms. McConnell further advised that under Section 20 of the Planning & Development Act 2000, the Members consider the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

She stated that as required under the Planning and Development (Amendment) Act 2010, the issues raised by Statutory Bodies, Ministerial bodies and any other National Authority have been dealt with first in the Manager's Report and the remaining submissions are then dealt with in order in which they were received.

Submission No. 12 - Department of the Environment Community and Local Government

Ms. McConnell outlined the main issues of Submission No. 12 raised by the Department of the Environment Community and Local Government under the following headings and the Manager's response and recommendation:

1. SEA and AA Screening

Ms. McConnell said that Galway County Council is satisfied that the requirements of the Habitats Directives have been fully complied with in preparing the AA Screening of the

Proposed Amendment as well as that of the SEA Directive in preparing the SEA Screening of the Proposed Amendment.

2. Phasing of Development

With regard to phasing of development, Ms. McConnell said that the proposed amendment to the Bearna LAP includes a clear commitment to complying with the Core Strategy, including under Objective VG1, Policy 2.3.2E and associated objectives. She said that additional text will be added to Objective VG1 to clarify the intent and effect of the existing objective and this alteration would not be considered a material alteration of the LAP.

3. Waste Water Infrastructure

The submission refers to the water services issues arising from the existing plan provisions – these are not the matters that are the subject of the Proposed Amendment. The existing Bearna LAP 2007 includes a number of policies and objectives to ensure that developments are serviced appropriately with waste water and drainage services, in compliance with the relevant legislation, and that environmental and amenity considerations are fully addressed. Ms. McConnell advised that it has been confirmed with the Water Services Section of Galway County Council that while the overall wastewater capacity assigned to Bearna is 2,000PE, at present only 1,000PE is being availed of and although an additional 800PE is assigned for existing development, this is unlikely to be fully taken up in the medium term. This should enable flexibility in the assignment of capacity between existing and proposed developments.

4. Flood Risk Assessment

Ms. McConnell said that Galway County Council is undertaking a Strategic Flood Risk Assessment (SFRA) for the County and, as part of this SFRA, the flood risk issues relevant to the Bearna plan area have been identified (as per Stage 1 of the Flood Risk Guidelines) and an initial flood risk assessment has been undertaken (as per Stage 2 of the Guidelines). The SFRA Conclusions for Bearna have been fully considered in the preparation of the proposed amendment to the Local Area Plan. The Plan has taken the approach of zoning undeveloped areas which are identified as Indicative Flood Zones A and B as part of the Environmental Management zone. In addition, Flood Zone B was used as a surrogate for climate change for Flood Zone A.

It is accordingly considered that the zoning approach will direct new development away from areas identified as being at risk of flooding in accordance with the Guidelines and a Development Plan Justification Test and more detailed flood risk assessment is accordingly not considered necessary.

In relation to the lands at risk of coastal flooding which have been zoned for development to the west of Bearna Pier, the Planning Authority is satisfied that the Justification Test as set out in the Flood Risk Management Guidelines has been applied appropriately and that the extent of land zoned for development is justified and also that there are no other suitable alternative lands for the particular use or development type at lower risk of flooding and which satisfies some of the key objectives of the Bearna LAP. The proposed amendment to the LAP also includes specific requirements under Objective IS19 to ensure that flood risk is adequately dealt with in relation to these lands in accordance with the *Flood Risk Management Guidelines 2009*. Any development that may be subject to inappropriate risk of flooding or that would exacerbate such a risk at other locations shall not normally be permitted.

Ms. McConnell recommended no change to the Draft Plan on foot of the Department's submission.

Cllr. O'Tuairisg said that there has been very little flooding in Connemara and expressed his concern with regard to the issue of insurance cover for houses on a flood plain in areas identified as a flood risk by the OPW. Ms. McConnell explained that some areas have been identified as at a risk of flooding, but these are not flood plains, based on (a) the likelihood of flooding in the future and (b) the consequences of flooding if an area floods. On the basis of the Department's submission, no additional change is required to the Amended Plan.

Comh. O'Curraoin said there never in his lifetime was there flooding in Connemara, not even in 2009. He rejected the views of the OPW and said that the only reason that that flooding may be occurring in areas is where the water is not let flow due to lack of drainage. He requested that the flood risk areas be removed from the Plan.

Cllr. Cuddy said that lands are being identified as flood risk without any evidence.

In reply, Mr. Kelly said that Galway County Council has a statutory requirement to adhere to the Flood Risk Management Guidelines 2009. He clarified that the areas had been the subject of a number of assessments including by the OPW, the OPW's consultants and the Council's own consultants who completed a site walkover. He advised that statutorily Galway County Council is required to identify the flood risk areas in the Plan. He advised that any amendment made to zoning in flood risk areas may lead to the Minister issuing a direction to Council. He referred to an issue raised by the Department in the case of the Oranmore Local Area Plan with regard to the rezoning of a site which had a small risk of flooding and he read a letter dated 9th October 2012 from the Department of Environment to the Meeting.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 1 – National Roads Authority

Ms. McConnell advised that the National Roads Authority had no comment in regard to the proposed amendment.

Submission No. 3 – Environmental Protection Agency

Ms. McConnell outlined submission Number 3 from the EPA and the Manager's response and recommendation.

Ms. McConnell said that the EPA's comments were noted but no change recommended in relation to the SEA Determination, Future Amendments to the Plan, Galway County Council's obligations with respect to National Plans and Policies and EU Environment Legislation, Notice to the Environmental Authorities and Notice of Decision.

In relation to Infrastructure, the Local Area Plan includes Objective LU12 and a number of policies and objectives in Section 2.8.2 to ensure that developments are sustainably serviced, that relevant standards are met and the environment adequately protected. She advised that the amended Local Area Plan and the Strategic Environmental Assessment (SEA) have considered and taken into account the new SEA Regulations and the Circular referred to in the submission and have also taken into account the requirements of the European Communities (Birds and Natural Habitats) Regulations 2011 (SI No. 477 of 2011).

Ms. McConnell recommends no change to the Amended Plan on foot of the above submission.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 13 - Department of Arts, Heritage and the Gaeltacht.

Ms. McConnell outlined Submission No. 13 from the Department of Arts, Heritage and the Gaeltacht and the Manager's response and recommendation.

With regard to the Department's concerns that while the nature conservation sites are included within an 'Environmental Management Zone', that development within this zone may include uses that, alone or in combination with other plans or projects, could have significant effects on the SAC and SPA in view of their conservation objectives, Ms. McConnell clarified that the provisions in the Proposed Amendment related to the Environmental Management Area are included in Policy 2.3.2C, Objective LU9, Policy 2.6.3E, Objective NH14 – NH18. She recommended that Section 3.7.1 be altered to exclude

European sites which would clarify the intent and effect of the existing provisions in the amended LAP and this alteration would accordingly not be considered a Material Alteration of the LAP.

With regard to the SEA Screening, Ms. Mc Connell advised that the Proposed Amendment would not necessitate the undertaking of a Stage 2 Appropriate Assessment or result in significant impacts on the European sites that form part of the Natura 2000 network. She said that the incorporation of flood risk assessment information and additional measures to further protect designated environmental sites and the updating of legislative, policy and data changes since the adoption of the Plan in December 2007 will further contribute towards the protection and management of the environment (including European ecology) that is already contributed towards by the provisions of the existing plan.

The proposed amendment incorporates a new zone, the Environmental Management zone, which includes all designated sites including Natural Heritage Areas (NHAs), and additional objectives strengthening the protection of NHAs and habitats and species of high ecological value.

The approach set out in the proposed amendments to the LAP has been considered to be acceptable under both the SEA and AA screening, which have concluded that the proposed amendments will not give rise to significant adverse environmental effects. The issues raised in the submission have also been further considered by Galway County Council and by the consultants preparing the SEA and AA and the approach set out in the LAP and the conclusions of the SEA and AA screenings are considered to be in accordance with the SEA Directive and associated legislation.

She recommended that the suggested amendments to Section 1.5, Policy 2.6.3D and Objective NH15 to the text content of the LAP be incorporated as proposed.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 15 – OPW

Ms. McConnell outlined Submission No. 15 from the OPW and the Manager's response and recommendation. Ms. McConnell advised that this submission raises the flood risk management issue and use of the precautionary approach and referred to the response given to the Departments Submission No. 12 and recommends no change to the Amended Plan.

In reply to Cllr. Cuddy, Mr. Kelly advised that existing planning permissions on land in a flood risk area can be developed. In terms of future development proposals, including any applications for extension of duration, the flood risk areas will have to be taken into account and will have to comply with the *Flood Risk Management Guidelines 2009*. In reply to Cllr.

Walsh, Mr. Kelly advised that a landowner who has already obtained planning permission on land that is now in a flood risk area, could apply to extend the planning permission under the previous provisions in the legislation if substantial works were undertaken but would have a problem using the new provision which allow extensions without commencement of development.

In reply to Cllrs. Noone, McClearn, Broderick and Ryan, Ms. McConnell advised that the OPW has compiled the *Preliminary Flood Risk Assessment* (PFRA) based on a study over a number of years taking existing evidence from old OSI maps, technical levels/contours, and factoring in risks going forward from climate change etc. This map is a national map which is in the public domain. The second stage of this study is the *Catchment Flood Risk Assessment Management Plans* (CFRAMs), which is a more detailed study and redefines the PFRA. She advised that JBA Consultants identified which areas from the PFRA would be examined in the CFRAM.

She advised that while Galway County Council has to take account of the OPW's reports, it undertook its own assessment of historic flood zones in its Strategic Flood Risk Assessment (SFRA) and a ground truthing exercise was undertaken which included consultation with Area Engineering staff and a comprehensive flood risk map was compiled. This process allowed for Galway County Council to add to the OPW report and not just a wholesome acceptance of the OPW report. She advised that flood risk has been examined on three levels: Nationally (PFRA)/verification of the National Report (CFRAM)/locally (SFRA).

In reply to Cllr. Mannion, Ms. McConnell advised that CAAS, the Planning Authority's Consultants, walked all the streams and central key areas and identified the flood risk areas. This was an independent evaluation of the OPW's report.

Ms. McConnell said that a very small area in the overall Plan area has been identified in the PFRA as having an element of flood risk and this low flood risk level is confined to a very small area. In reply to Cllr. Hussey & Cllr. Feeney, she said that landowners can make their case to the OPW if they wish to dispute their land being identified as a flood risk area.

Mr. Kelly advised that the Members must have regard to the proper planning of an area and Government policies and objectives. He said that if the Members change the zoning, the Department may seek engineering evidence to support this change. Mr. Kelly advised that over a period of time, more accurate information may come available on receipt of the OPW's CFRAMS, but given what has happened in the past with regard to flooding, a cautious approach must now be taken. He pointed out that following events in 2009 the Council was heavily criticised for allowing development in areas that flooded despite the fact that there was no known risk of flooding.

In reply to Cllrs. O'Tuairisg and Ryan, Ms. McConnell said that she cannot comment on specific insurance cases but advised that the OPW's PFRA map is publically available.

The Members agreed to accept the recommendation in the Manager's Report. Comh. O'Curraoin requested that it be noted that he was not in agreement with the recommendation.

Ms. McConnell then dealt with the remaining submissions from the general public and other persons/bodies.

Submission No. 2 – Department of Education & Skills

Ms. McConnell advised that the Department of Education & Skills had no comment in regard to the proposed amendment.

Submission No. 4 – Margaret Walsh

Ms. McConnell outlined Submission No. 4 from Margaret Walsh and the Manager's response and recommendation.

Ms. McConnell recommended no change to the Amended Plan as it is accordingly considered that the proposed amendment to the Bearna LAP will ensure consistency with the Core Strategy and provide sufficient scope and flexibility for considering any proposals that may be put forward for suitable developments in appropriate locations within the village and in a manner that is consistent with and can deliver on the objectives of the LAP.

In reply to Comh. O'Tuairisg, Ms. McConnell advised the meeting that Plan allows for some flexibility in that if Phase 1 lands are not coming forward for development, within a reasonable timeframe, then Phase 2 Residential Development can be considered on its merits within the lifetime of the Plan.

In reply to Comh. O'Curraoin's query if Phase 1 and Phase 2 zonings can run concurrently, Mr. Kelly advised that the Planning Authority cannot exceed the population target but said that all Plans were written to provide as much flexibility as possible and a pragmatic approach would be taken in due course in line with national policy.

Ms. McConnell recommends no change to the Amended Plan on foot of the above submission.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 5 – Pobal Bhearna

Ms. McConnell outlined Submission No. 5 from Pobal Bhearna and the Manager's response and recommendation.

Ms. McConnell recommends no change to the Amended Plan on foot of the above submission.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 6 – Michael Walsh

Ms. McConnell outlined Submission No. 6 from Michael Walsh and the Manager's response and recommendation.

Submission raises the identical issues to those raised in Submission No. 9, 10 and 11 and also identifies the same parcel of land proposed to be changed from Village Consolidation Zone/Outer Village Phase 2 to Phase 1 as these submissions. Issues raised in submission are also similar to the concerns expressed in Submission No. 4, 7, 8 and 14.

In reply to Comh. O'Tuairisg, Ms. McConnell confirmed that a single family house is considered appropriate development in this case.

Ms. McConnell recommends no change to the Amended Plan on foot of the above submission.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 7 – Jimmy Gannon

Ms. McConnell outlined Submission No. 7 from Jimmy Gannon and the Manager's response and recommendation. This Submission raises the identical issues to those raised in Submission No. 8 and 14. Issues raised in submission are also similar to the concerns expressed in Submission No. 4, 6, 9, 10 and 11.

Ms. McConnell advised that this submission strongly opposes Policy 2.3.2E Development Phasing as being unfair and biased on landowners who have sites that are not included in the Village Consolidation Zone / Outer Village Phase 1 and questions how the three sites in Phase 1 were chosen. She referred to the response given to Submission No. 4 and recommends no change to the Amended Plan. The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 8 – Carol Gannon

Ms. McConnell outlined Submission No. 8 from Carol Gannon and the Manager's response and recommendation. This Submission raises the identical issues to those raised in Submission No. 7 and 14. Issues raised in submission are also similar to the concerns expressed in Submission No. 4, 6, 9, 10 and 11.

Ms. McConnell referred to the response given to Submission No. 7 and recommends no change to the Amended Plan. The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 9 – Larry Walsh

Ms. McConnell outlined Submission No. 9 from Larry Walsh and the Manager's response and recommendation. This Submission raises the identical issues to those raised in Submission No. 6, 10 and 11 and also identifies the same parcel of land proposed to be changed from Village Consolidation Zone/Outer Village Phase 2 to Phase 1 as these submissions. Issues raised in submission are also similar to the concerns expressed in Submission No. 4, 7, 8 and 14.

Ms. McConnell referred to the response given to Submission No. 6 and recommends no change to the Amended Plan. The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 10 – Maureen Walsh

Ms. McConnell outlined Submission No. 10 from Maureen Walsh and the Manager's response and recommendation. This Submission raises the identical issues to those raised in Submission No. 6, 9 and 11 and also identifies the same parcel of land proposed to be changed from Village Consolidation Zone/Outer Village Phase 2 to Phase 1 as these submissions. Issues raised in submission are also similar to the concerns expressed in Submission No. 4, 7, 8 and 14.

Ms. McConnell referred to the response given to Submission No. 6 and recommends no change to the Amended Plan. The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 11 – Caroline O'Farrell

Ms. McConnell outlined Submission No. 11 from Caroline O'Farrell and the Manager's response and recommendation. This Submission raises the identical issues to those raised in Submission No. 6, 9 and 10 and also identifies the same parcel of land proposed to be changed from Village Consolidation Zone/Outer Village Phase 2 to Phase 1 as these submissions. Issues raised in submission are also similar to the concerns expressed in Submission No. 4, 7, 8 and 14.

Ms. McConnell referred to the response given to Submission No. 6 and recommends no change to the Amended Plan. The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 14 – Brian Imbusch

Ms. McConnell outlined Submission No. 14 from Brian Imbusch and the Manager's response and recommendation. This Submission raises the identical issues to those raised in Submission No. 7 and 8. Issues raised in submission are also similar to the concerns expressed in Submission No. 4, 6, 9, 10 and 11.

Ms. McConnell referred to the response given to Submission No. 7 and recommends no change to the Amended Plan. The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 16 – McCarthy, Keville O'Sullivan for Peter O'Fegan

Ms. McConnell outlined submission Number 16 from McCarthy, Keville O'Sullivan for Peter O'Fegan and the Manager's response and recommendation.

Ms. McConnell advised that the submission refers to Peter O'Fegan's lands located within the Village Core area between the Pier and Mag's Boreen.

She said with regard to the phasing of development, in order to comply with the Core Strategy, the phasing of residential lands has been applied to the Outer Village area as this is the zone that most closely corresponds to a residential zone in the Bearna LAP, which has adopted a more mixed use approach to land use zoning than the conventional zoning approach. It would not be appropriate to include reference to the Village Core and Inner Village areas under Objective LU13 as this objective relates to the phasing of residential zoned lands and these zones are neither residential zones nor have they been proposed to be phased. The Village Core and Inner Village areas are mixed use areas and the zoning objectives for these areas remains unchanged in the proposed amendment to the LAP and continue to be available for appropriate development within the lifetime of the LAP.

With regard to the Environmental Management zone area, the lands to the east of Pier Road and along Trusky Stream are currently zoned Village Consolidation Zone/Village Core in the Bearna LAP 2007 and are proposed to be zoned Environmental Management in the Proposed Amendment 2012. The subject lands have been proposed to be zoned Environmental Management due to their location within Flood Zone A, to manage the high risk of flooding in this zone and to ensure that appropriate uses are permitted within this zone in accordance with the Flood Risk Management Guidelines 2009 published by the Department of the Environment.

She said that it should also be noted that, unlike the area to the west of Pier Road, there are multiple potential sources of flooding and flood risk indicators in the area to the east of Pier Road, as indicated on the Flood Risk Indicators Map in the SFRA for Bearnna, including PFRA Fluvial 100, PFRA Coastal Indicative, OSI historic Flood Plains Data and the JBA Extreme Flood Outline. In addition, the consultants preparing the SFRA undertook site walkovers of this particular area and confirmed the flood extents and flood zones identified in the SFRA and the proposed amendment LAP.

Ms. McConnell advised that the requirement for a 10m buffer either side of Trusky Stream is an existing requirement under Objective IS14 of the Bearnna LAP 2007 to protect the watercourse and associated habitats and to provide for the new main green spine, amenity linkage and north/south connection across the Plan Area.

Ms. McConnell recommended no change to the Amended Plan on foot of the above submission.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 17 – Coiste Pobal Bhearna

Ms. McConnell outlined submission Number 17 from Coiste Pobal Bhearna and the Manager's response and recommendation.

Ms. McConnell recommended no change to the Amended Plan based on the above submission.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 18 – Peter & Michelle Connolly

Ms. McConnell outlined submission Number 18 from Peter & Michelle Connolly and the Manager's response and recommendation.

Ms. McConnell advised that the subject lands are currently zoned Village Enhancement Zone/Green Wedges and Rural Fringe in the Bearnna LAP 2007 and a portion of the lands are proposed to be zoned Environmental Management in the Proposed Amendment 2012. The subject lands have been proposed to be zoned Environmental Management due to their location within Flood Zone A, to manage the high risk of flooding in this zone and to ensure that appropriate uses are permitted within this zone in accordance with the Flood Risk Management Guidelines 2009. It should also be noted that part of these lands along Liberty Stream are subject to the existing requirement under Objective IS14 of the Bearnna LAP 2007 for a 10m buffer either side of Liberty Stream, which overlaps with the EM zoning.

In relation to the issue of development contributions, under the LAP the delivery of lands for community facilities may be considered in lieu of a financial contribution where appropriate but this would be determined on a case by case basis as part of any planning application. In relation to the GCOB, this is a separate matter from the LAP and there are separate statutory provisions with regard to purchasing lands and compensation.

In relation to one-off house developments and larger estates, the LAP provides for a range of housing types to be developed suitable to their site location and context. This is considered to be appropriate and in accordance with proper planning and sustainable development, including the guidance contained in the Sustainable Residential Development in Urban Areas Guidelines 2009.

Ms. McConnell recommended no change to the Amended Plan on foot of the above submission.

In reply to Cllr. D. Connolly, Ms. McConnell advised that in the current Plan, this land is zoned green belt and planning for a single rural house for a family member is allowed. In the Amended Plan, less than 1/3 of the site falls within a flood zone, however, there is plenty of scope for 1 or 2 houses to be accommodated on the land that is not part of the Environmental Management Zone.

In reply to Comh. O'Curraoin, Mr. Kelly advised that the identification of the land as a flood risk area cannot be removed, the zoning can only revert back to its current zoning of greenbelt. He advised that the Department and the OPW may have an issue with any modification of flood risk areas without sufficient evidence and a Ministerial direction may issue.

On the proposal of Comh. O'Curraoin and seconded by Cllr. O'Cuaig, it was proposed not to accept the recommendations in the Manager's Report and to zone the lands the subject of MA18 as Greenwedge.

A vote was taken and the result was as follows;

AR SON: Cllrs. Broderick, Carroll, D. Connolly, Comh. Ó'Cuaig, Cllr. Cuddy, Comh. Ó'Curraoin, Cllrs. Feeney, Hoade, Hynes, Comh. O'Laoi, Cllrs. Maher, E. Mannion, McHugh, Noone, Roche, Ryan, Comh. O'Tuairisg, Cllrs. T. Walsh, & Welby. [19]

AGHAIDH: [0]

GAN VOTÁIL: Cllr. T. Mannion [1]

The Mayor declared the proposal carried.

Submission No. 19 - Planning Consultancy Services for Martin Kearney

Ms. McConnell outlined submission Number 19 from Planning Consultancy Services for Martin Kearney and the Manager's response and recommendation.

Ms. McConnell advised that the submission refers to all lands zoned village core along the southern edge of the R336 (Regional road) that are also located within a protected view and prospect and considers that the latter designations are incompatible and need to be amended as part of this plan making process and requests an additional sentence be added to Objective VD14 – Views and Prospects. In reply, she said that Objective VD14 is an existing objective within the Bearna LAP 2007 and it is not proposed to alter the intent of this objective as part of the proposed amendment. This objective would need to be read in conjunction with all of the other objectives in the LAP, including those that promote the development of the Village Core, and it is considered that these objectives are complementary and that appropriately sited, designed and laid out development can be developed along the R336 while still protecting sea views, as supported in the LAP and associated design documents, which provide examples illustrating how this can be achieved.

Ms. McConnell recommends no change to the Amended Plan on foot of the above submission.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 20 - Planning Consultancy Services for Patricia D'Arcy

Ms. McConnell outlined submission Number 20 from Planning Consultancy Services for Patricia D'Arcy and the Manager's response and recommendation.

Ms. McConnell advised that the subject lands east of Pier Road and along Trusky Stream are currently zoned Village Consolidation Zone/Village Core in the Bearna LAP 2007 and are proposed to be zoned Environmental Management in the Proposed Amendment 2012. The subject lands have been proposed to be zoned Environmental Management due to their location within Flood Zone A, to manage the high risk of flooding in this zone and to ensure that only appropriate uses are permitted within this zone in accordance with the Flood Risk Management Guidelines 2009.

She said it should also be noted that there are multiple potential sources of flooding and flooding indicators in the area to the east of Pier Road, as indicated on the Flood Risk Indicators Map in the SFRA for Bearna, including PFRA Fluvial 100, PFRA Coastal Indicative, OSI historic Flood Plains Data and the JBA Extreme Flood Outline. In addition, the consultants preparing the SFRA undertook site walkovers of this particular area and

confirmed the flood extents and flood zones identified in the SFRA and the proposed amendment LAP.

Ms. McConnell recommends no change to the Amended Plan on foot of the above submission.

In reply to Cllrs. Walsh and Cuddy, Mr. Kelly advised that there is clear evidence that this site has a flood risk and this has been determined by a number of different consultants for different entities. He said that the Members were making a decision on the future development of the land and they should consider all the advice given when making their decision.

On the proposal of Comh. O'Curraoin and seconded by Cllr. T. Walsh, it was proposed not to accept the recommendations in the Manager's Report and to zone the lands the subject of MA20 as Village Consolidation Zone/Village Core.

A vote was taken and the result was as follows;

AR SON: Cllrs. Broderick, D. Connolly, Comh. O'Cuaig, Cllr. Cuddy, Comh. Ó'Curraoin, Cllr. Hynes, Comh. Ó'Laoi, Cllrs. E. Mannion, McHugh, Noone & Ryan, Comh. Ó'Tuairisg, Cllr. T. Walsh & Welby. [14]

AGHAIDH: Cllrs. Carroll, Feeney, Hoade & Maher [4]

GAN VOTÁIL: Cllr. P. Roche [1]

The Mayor declared the proposal carried.

Submission No. 21 - Planning Consultancy Services for Emer Hickey

Ms. McConnell outlined submission Number 21 from Planning Consultancy Services for Emer Hickey and the Manager's response and recommendation.

Ms. McConnell advised that the subject lands are currently zoned Village Consolidation Zone/Inner Village in the Bearna LAP 2007 and portion of the lands are proposed to be zoned Environmental Management in the Proposed Amendment 2012. The subject lands have been proposed to be zoned Environmental Management due to their location within Flood Zone A, to manage the high risk of flooding in this zone and to ensure that appropriate uses are permitted within this zone in accordance with the Flood Risk Management Guidelines 2009.

Flood Zone A is the zone with the highest probability of flooding and includes areas with a greater than 1:100 probability for river flooding, a greater than 1:200 probability for coastal

flooding and other high risk areas identified as part of the Strategic Flood Risk Assessment (SFRA) for County Galway. The identification of Flood Zone A is based on the OPW Preliminary Flood Risk Assessment (PFRA), research carried out as part of the SFRA for County Galway and tested against knowledge of flood events in the area and site walkovers by the consultants preparing the SFRA.

She said that the approach to the identification of flood risk areas and the application of the Environmental Management zone has followed a consistent methodology applied in accordance with the Flood Risk Management Guidelines 2009 and it is not considered appropriate to modify the flood risk zone or land use zoning on foot of a submission that contradicts the PFRA and SFRA for Bearna, including site walkovers that confirmed the flood zones and extents in the SFRA and LAP.

Ms. McConnell recommends no change to the Amended Plan on foot of the above submission.

Comh. O'Curraoin said that there was houses built around this site and it was not a flood risk area. In reply, Mr. Kelly advised that this site was assessed and it could accommodate a 2500sqfoot house outside of the flood risk area without a change of zoning and the site is connected to services.

The Mayor advised that meeting that it would be prudent of landowners to get scientific evidence to justify the local knowledge that there land is not a flood risk.

On the proposal of Comh. O'Curraoin and seconded by Cllr. O'Laoi, it was proposed not to accept the recommendations in the Manager's Report and to zone the lands the subject of MA21 as Village Consolidation Zone/Inner Village.

A vote was taken and the result was as follows;

AR SON: Cllrs. Broderick, D. Connolly, Comh. O'Cuaig, Cllr. Cuddy, Comh. Ó'Curraoin, Cllr. Hynes, Comh. Ó'Laoi, Cllrs. E. Mannion, McHugh, Noone & Ryan, Comh. Ó'Tuairisg, Cllr. T. Walsh & Welby. **[14]**

AGHAIDH: Cllrs. Carroll, Feeney, Maher **[3]**

GAN VOTÁIL: Cllrs. Roche & Hoade **[2]**

The Mayor declared the proposal carried.

On the proposal of Comh. O'Tuairisg and seconded by Cllr. McHugh, it was agreed to put the Amended Bearna Local Area Plan 2007-2013 on display with the agreed amendments and Material Alterations.

On the proposal of Comh. O'Tuairisg and seconded by Cllr. Mannion, it was agreed that pursuant to Section 19 of the Planning and Development Act 2000 (as amended), the Council resolves to defer the sending of a notice under Section 20 (3) (a) (i) in respect of the Bearna Local Area Plan and publishes a Notice under Section 20 (3) (a) (ii) for a period of 5 years having regard to the current economic climate, the objectives of the Plan that remain to be fulfilled and the current proposed amendment of the Bearna Plan, which will ensure its compliance with the Core Strategy and adherence to current requirements and that the Manager prepare a report under Section 19 (i) (e) and that the item be listed for consideration by the full Council thereafter.

FINANCIAL ADJUSTMENT – CIRCULAR FIN 11/12

1239

Report dated the 15th October, 2012 was already circulated to Members

Mr. Mullarkey outlined the contents of the Report to the Members and confirmed that the reductions implemented whilst difficult and unpalatable, have allowed the Council to reverse its earlier decision of suspending grants to older people and people with disabilities, of withholding grants for various community initiatives including burial ground maintenance, amenity grants and community and enterprise grants and that the Council will be proceeding to fulfill its budget commitments under these headings.

Cllr. Maher complimented Mr. Mullarkey on re-instating community grants. He also enquired as to the amount of €450,000 owing to Galway County Council by Galway City Council for Shared Services and asked if this situation could be clarified.

Cllr. Hoade also welcomed the return of community grants and said she had a query in relation to Page 2 of the Report in relation to a reduction of €15,000 in the allocation of funding for winter maintenance on local roads and asked if there was sufficient funding to respond to severe weather if same was experienced as per previous years.

Cllr. E. Mannion also welcomed the reinstatement of community grants and funding and questioned the impact of the reduction in funding towards tourism initiatives on the various tourism projects funded under this heading.

An Comh O'Cuaig said it was good to see people doing their best under difficult circumstances, stating that he could see no justification for the reduction in funding imposed by the Department of Environment, Community & Local Government.

Cllr. Cuddy complimented Mr. Mullarkey on the proposal as presented that allowed for the reinstatement of community grant funding and outlined the impact of the reductions on frontline services including the maintenance of graveyards, citing an example in his local graveyard.

Cllr. Hynes also welcomed the fact that funding was reinstated and requested that works the subject of NOM Roads funding be advanced without delay.

Cllr. Feeney said he noted the reduction in the Arterial Drainage Grants of €30,000 and highlighted the value of the work undertaken under the programme in requesting that consideration be given to avoiding the proposed reduction in funding for this area.

In response, Mr. Mullarkey stated that discussions are taking place with the Galway City Council in relation to accounts in respect of shared services and it is anticipated that same will be resolved in the near future. He confirmed in reply to Cllr. Cuddy that the funding for graveyard maintenance and the grant funding towards same was being reinstated. He confirmed that the reduction in funding for the tourism initiatives would result in an increased timeframe over which the Council will provide for same through the capital account.

He confirmed that the reduction in funding for Arterial Drainage was necessary in order to achieve a balanced budget whilst providing for the reinstatement of community funding and grants.

In reply to Cllr. Roche, Mr. Mullarkey confirmed that the various community groups would be notified of the reinstatement of the grant funding.

**TO CONSIDER AND IF DEEMED APPROPRIATE COMMENCE A PUBLIC CONSULTATION
PROCESS FOR A SMOKE FREE INITIATIVE FOR COUNCIL PLAYGROUNDS** **1240**

Report dated the 19th October, 2012 was already circulated to Members.

Cllr. Hynes, at the invitation of the Mayor and as Chairperson of the Corporate & Cultural Affairs Strategic Policy Committee outlined the background to the report dated the 19th October 2012 as circulated.

Mr. Owens advised in reply to a suggestion from Cllr. Carroll that in order to limit expenditure and the allocation of resources to support a public consultation process on the initiative that it was open to the Members, if they so wished and believed it appropriate, to proceed to adopt a policy to support the Play Smoke Free Initiative without a public consultation process.

It was proposed by Cllr. Carroll, seconded by Cllr. D. Connolly and agreed, to adopt a Smoke Free Playgrounds Initiative without further delay.

TO RECEIVE AN UPDATE ON 2012 NATIONAL TIDY TOWNS **1241**

Report dated 16th October, 2012 was already circulated to Members.

Mr. O'hEithir presented the Report as circulated to the Members. The Members paid tribute to Mr. O'hEithir and the team in Community & Enterprise for the hard work that was

put into co-ordinating this event, and also the Community Associations who put so much work into this and on improving their marks each year. They said that these communities should be fostered and given as much help as can be given as they are so enthusiastic and interested in their local areas.

It was proposed by Cllr. Feeney, seconded by Cllr. Maher and agreed that Galway County Council invites representatives of Local Tidy Towns Committees to a Civic Reception to mark the excellent performance of Galway Towns and Villages in 2012 Competition.

The Manager joined with the Members in complimenting the Communities on their participation and success in the competition and the great voluntary effort involved. She also acknowledged the role of Mr. O'hEithir in working with and supporting the efforts of the Communities and for providing and coordinating advice and assistance across the various departments within the Council.

TO CONSIDER AND IF DEEMED APPROPRIATE TO AUTHORISE THE ATTENDANCE AT CONFERENCES **1242**

Celtic Conferences – Local Government Reform – 7th – 9th September – Celtic Ross Hotel, Rosscarbery, Co. Cork – Fee: €100

Cllr. M Maher

Esperanza Enterprises – Revenue Collection & dealing with difficult debt – 21st – 22nd Sept – Manor West Hotel, Tralee, Co. Kerry – Fee €150

Cllr. M Maher

Waterford Co. Council – The Value of Wetlands – 27th September – Dunhill Multi-Education Centre, Co. Waterford – Fee €35

Cllr. J McClearn

Donegal Co. Council – LAMA Autumn Seminar 2012 – The Challenge for Local Authorities – Can we do more with less? – 28th – 29th September – Mount Errigal Hotel, Letterkenny, Co. Donegal – Fee: €150

Cllr. P Feeney, M Maher, J McDonagh, B Willers, E Mannion, T Walsh, T McHugh, M Connolly

Ace Training – Michael Collins & the creation of Irish Democracy – 12th – 14th October – Celtic Ross Hotel, Rosscarbery, Co. Cork – Fee €100

Cllr. J McClearn, T Walsh

Irish Human Rights Commission / Law Society of Ireland – Promoting & Protecting Human Rights in Ireland – 13th October – President's Hall, Law Society of Ireland, Dublin – Fee €0

Minutes of Monthly Meeting held on 22nd October 2012

Comh. S Ó Tuairisg

National Rural Network / Teagasc – Maximising the Use of Rural Resources – 16th October

– Johnstown House Hotel, Enfield, Co. Meath – Fee €0

Comh. S Ó Tuairisg, J McDonagh, P Feeney

TGR Seminars – Reform of Local Government II – 19th – 21st October – Bunratty Castle

Hotel, Bunratty, Co. Clare – Fee €145

Cllr. P Roche

Respond Housing Association – Better Being: Promoting Well-being among Communities –

25th October – Rochestown Park Hotel, Cork – Fee €45

Cllr. J McClearn, T Walsh

On the proposal of Cllr. Maher, seconded by Cllr. Roche, it was agreed that the attendance of the Members at the Conferences as listed be authorized.

TO NOTE THE SUMMARY OF PROCEEDINGS OF CONFERENCES ATTENDED 1243

Esperanza Enterprises – Draft performance standards for Domestic Wastewater Treatment

Systems – 1st – 2nd June – Westport Plaza Hotel, Westport, Co. Mayo

Cllr. P Roche

TGR Seminars – How to Influence People – 15th – 17th June – Westport Plaza Hotel,

Westport, Co. Mayo

Cllr. P Roche

Esperanza Enterprises – Building Control (Amendment) Regulations 2012 Draft – 29th –

30th June – Westport Plaza Hotel, Westport, Co. Mayo

Cllr. P Roche

Galway Co. Council – The Irish American Link – 12th – 16th July – Ard Ri Hotel, Tuam, Co.

Galway

Cllr. P Roche

2012 MacGill Summer School & Arts Week – Reforming & Rebuilding our State – 22nd –

27th July – Glenties, Co. Donegal

Cllr. T Mannion

Esperanza Enterprises – Improving the Social Housing Stock – 27th – 28th July – Westport Plaza Hotel, Westport, Co. Mayo

Cllr. P Roche

Parnell Summer School 2012 – Sovereignty & Society – 12th – 17th August – Avondale House, Rathdrum, Co. Wicklow

Cllr. T Mannion

A.M.A.I. – Centenary Annual Conference – Local Government Reform – 13th – 15th September – Shearwater Hotel, Ballinasloe, Co. Galway

Cllr. M Hoade

Rattoo Heritage Society – Kerry Autumn Environmental, Cultural & Heritage Conference – 19th – 22nd September – Meadowlands Hotel, Tralee, Co. Kerry

Cllr. M Fahy

Waterford Co. Council – The Value of Wetlands – 27th September – Dunhill Multi-Education Centre, Co. Waterford

Cllr. J McClearn

Donegal Co. Council – LAMA Autumn Seminar 2012 – The Challenge for Local Authorities –

Can we do more with less? – 28th – 29th September – Mount Errigal Hotel, Letterkenny, Co. Donegal – Fee: €150

Cllr. J McDonagh

On the proposal of Cllr. Maher, seconded by Cllr. Roche, it was agreed that the summary of proceedings of Conferences attended was noted by the Members.

PUTTING PEOPLE FIRST – LOCAL GOVERNMENT REFORM PROGRAMME 1244

Cllr. D. Connolly expressed his disappointment with the reform proposals as published by the Minister for the Environment, Community & Local Government, citing the continued loss of functions and services including water services, student grants and that it was a sad reflection on local government. In particular, he expressed his disappointment at the loss of the Town Council status for Ballinasloe stating that all of the good work undertaken down through the years would be lost by the proposal.

On the proposal of Cllr. Hoade, seconded by Cllr. Feeney, it was agreed to defer further consideration of this item until the next Monthly Meeting of the Council and that it be placed high on the Agenda.

MANAGERS BUSINESS & CORRESPONDENCE

1245

The Manager informed the Members that the report of the Advocate General in relation to the recent hearing before the European Court in relation to the Galway City Outer Bypass was due to be available on the 22nd November 2012.

Mr. Kelly referred to correspondence dated the 3rd September 2012 from Damien & Yvonne Cronin addressed to the Mayor, Elected Members, County Manager and Director of Services, Planning & Human Resources in relation to the construction of Wind Farm Development at Lettergunnette & Doirecrih (Planning Reference 10/1214) contending that the relevant planning permission be revoked under Section 44 of the Planning & Development Act 2000. He circulated a further copy of the correspondence dated the 3rd September 2012 together with a reply to same dated the 22nd October 2012 indicating that it was not considered that the development contravenes the provisions of the County Development Plan and/or that the works will, consequent on the making of a variation in the development plan, contravene the plan before these works are completed.

Mr. Owens advised the Members that under the provisions of Part 5 of the Official Languages Act 2003, An Coimisiún Logainmneacha (the Placenames Commission) intended to advise the Minister of State in the Department of Arts, Heritage and the Gaeltacht, Dinny McGinley, TD, to declare by order the Irish language version of the placenames of County Galway.

He advised that before giving its advice, the Commission was inviting recommendations from the public regarding the draft order, including the Irish versions and in this regard that the Commission was publishing a draft of the proposed orders so that the public has an opportunity to study them.

He confirmed that the Irish versions in the draft orders are based on the work of the Placenames Branch in the Department of Arts, Heritage and the Gaeltacht and that the recommendations would be considered in advance of advice being provided to the Minister of State with regard to the placenames orders. He stated that recommendations should be sent in submission form to the Placenames Branch, 43-49 Mespil Road, Dublin 4 before 7 December 2012 or to logainmneacha@ahg.gov.ie.

In reply to Comh. O'Curraoin, Mr. Owens agreed to circulate a copy of the draft order.

MAYORS BUSINESS

1246

It was proposed by Cllr. T. Mannion, seconded by Cllr. Noone and agreed that Galway County Council meet to discuss and agree proper protocol when dealing with issues that involve the public.

On the suggestion of the Mayor it was agreed that the matter be considered by the Corporate Policy Group in the first instance and include consultation with the whips as necessary to agree an appropriate protocol.

Cllr. D. Connolly and Cllr. Ryan expressed concern in relation the operation of the Greenstar Landfill in Kilconnell and whether same was operating within the terms of the relevant planning permission. Cllr. Cuddy stated that the appropriate means of addressing such concerns was to raise the relevant matters directly with the planning section rather than seeking to address same in the Council Chamber. Mr. Kelly confirmed that it was appropriate to raise such matters directly with the planning section.

It was proposed by Cllr. D. Connolly, seconded by Cllr. Ryan and agreed that Galway County Council enforcement section investigate if Greenstar Kilconnell are complying to planning conditions.

It was proposed by Cllr. Feeney, seconded by Cllr. Maher and agreed that Galway County Council write a letter of Congratulations to Gerry Cronnolly and the K.O. Cancer Team in Athenry on his great achievement in breaking the World Record of continuous rounds of boxing (120) New record 122 and in the process raising €40,000 plus for Athenry Cancer Care last weekend.

It was proposed by Cllr. O'Tuairsg, seconded by Cllr. D. Connolly and agreed that Galway County Council write to the Minister for Foreign Affairs and the British Ambassador "calling for the immediate release of Marian Price. Everyone is entitled to due process. Her continued detention without trial is an infringement of human rights. Despite being granted bail she still remains in prison.

It also calls for the release of Gerry McGeough. His arrest and sentencing have violated an agreement between the British and Irish Governments. Both agreed not to persue conviction against anyone who if convicted, would benefit from early release. This is in accordance with the Weston Park Accord.

Both Marian and Gerry are seriously ill and their continue imprisonment is putting their lives at risk."

It was agreed that a reply would issue to Cllr. Cuddy in respect of queries raised by him requesting an update in relation to the review of speed limits including a timeframe for the implementation of revised speed limits in view of the fact that the review of the speed commenced in March 2011. He also requested an update on flooding mitigation works to be undertaken at Renville West and also at Cloonacauneen.

Comh. O'Curraoin referred to correspondence received from the members of the retained fire service expressing serious concerns in relation to proposed changes to the operation of the fire service and in particular the impact of boundaries changes. He advised that the

correspondence was not signed but provided mobile telephone numbers with a request to meet with the Elected Members.

In reply, Mr. Kelly advised that the proposed extension of the city boundary to represent the area that the full-time brigade will operate within was the subject of long and detailed negotiations with the Fire Service and SIPTU over two and a half years and the extension was agreed on as one of a package of measures. He advised that from an operational perspective the Chief Fire Officer determines the adequacy of operational arrangements within the Fire Service. He reiterated that the proposed extension was the subject of detailed discussion and examination and that the Council was fully satisfied with the revised arrangements.

NOTICE OF MOTIONS

NOTICE OF MOTION NO 13 – CLLR. E. MANNION

1247

The following reply was given:-

“Roundstone Sewerage Scheme is not listed on the current Water Services Investment Programme and therefore cannot be advanced through the Council’s Capital Programme.”

NOTICE OF MOTION NO 14 – CLLR. J. MCDONAGH

1248

The following reply was given:-

- i. **“Carraig Mór** – No Taking in Charge application has been received in respect of this estate.
- ii. **Woodlands** – An application was received in respect of Woodlands on 5th September 2011. A letter was issued to the Developer; Sawgrass Properties Ltd. on 7th September, 2012 outlining a number of issues that need to be addressed before the estate can be considered for taking in charge. No reply has been received to date.”

NOTICE OF MOTION NO 15 – CLLR. J. MCDONAGH

1249

The following reply was given:-

“There are no funds available from the Department of the Environment for the upgrade of private Sewerage Treatment Systems. The costs of maintenance/upgrade of such facilities lies with the owners and users of these systems.”

NOTICE OF MOTION NO 16 – CLLR. J. MCDONAGH

1250

The following reply was given:-

"It appears from the Planning Office records that these houses have been developed individually and thus there is no Bond in place which could possibly be drawn down to complete the road.

The issues arising in relation to the taking in charge of the cul-de-sac are currently the subject of further consideration and in this context the outstanding issues that require attention are being costed."

NOTICE OF MOTION NO 17 – CLLR. M. FAHY

1251

The following reply was given:-

"Galway County Council has made a request to the Department of Transport, Tourism and Sport for funding for the provision of funding to place a bus shelter in Ardahan. The Department has indicated that no funding is available in the current year. The Council will seek funding for this bus shelter in 2013 and examine alternative ways of sourcing funding for this project."

NOTICE OF MOTION NO 18 – CLLR. M. FAHY

1252

The following reply was given:-

"The installation of CCTV and lighting at the school is a matter for the Board of Management of the school. The NRA are currently undertaking a review of speed limits at schools on all National roads."

NOTICE OF MOTION NO 19 – CLLR. M. FAHY

1253

The following reply was given:-

"A proposal to reduce the speed limit and carry out traffic calming at this location has been forwarded to the NRA and their reply is awaited."

Criochnaigh an Cruinniú Ansin.

Minutes of Monthly Meeting held on 22nd October 2012

Minutes of Monthly Meeting held on 24th September 2012

Criochnaigh an Cruinniú Ansin.

Submitted, Approved + Signed

W. Welby

CATHAOIRLEACH:

LATHAIR FREISIN:

26th November 2012

DATE

Ball:

Offigh:

Thosnaigh an cruinniú leis an

RESOLUTIONS OF SYMPTOM

Mr. John Healy & Family, Kilcrist, Loughrea, Co. Galway

Ms. Una De Cleir & Family, An Cathair, Indreabhán, Co. Galway

Mr. John Doolan, Lydican, Carnmore, Granmore, Co. Galway

Mr. Graham Hughes, Caherlistrane, Co. Galway

Mrs. John High Street, Tuam, Co. Galway

Mr. & Mrs. Margaret Costello, Caherlea, Beilbarr, Tuam, Co. Galway

Mr. & Mrs. Mulroe, Doorás, Cornamona, Co. Galway

Mr. Val Hanley, 67 Westbrook, Knocknacarra, Galway

Mrs. Mary Coughlan, Frosses, Co. Donegal

Mr. Graham Hughes, Caherlistrane, Co. Galway

Ms. Edel Sylver & Family, C/o Meadow Court Hotel, Loughrea, Co. Galway

Mrs. Mary, Sean & Christy Bradley, Rabane, Ardahan, Co. Galway

VOIE OF CONGRATULATIONS

1201

COMHAIRLE CHONTAE NA GAILLIMHE

**MINUTES OF MONTHLY MEETING OF THE COUNCIL HELD AT ÁRAS AN CHONTAE,
PROSPECT HILL, ON MONDAY, 24TH SEPTEMBER, 2012 AT 2.00PM.**

CATHAOIRLEACH:

Cllr. T. Welby, Mayor of the County of Galway

I LÁTHAIR FREISIN:

Baill:

Cllrs. T. Broderick, S. Canney, L. Carroll, D. Connolly, M. Connolly, Comh. T. Ó Curraoin, Cllrs. J. Cuddy, S. Cuniffe, M. Fahy, P. Feeney, G. Finnerty, M. Finnerty, M. Hoade, P. Hynes, Comh. S. Ó Laoi, Cllrs. M. Maher, E. Mannion, T. Mannion, J. McDonagh, J. Mc Clearn, T. McHugh, M. Noone, P. Roche, K. Ryan, Comh S. Ó Tuairisg, Cllrs. S. Walsh, T. Walsh, B. Willers.

Oifigigh:

Ms. M. Moloney, County Manager, Messrs. J. Cullen, K. Kelly, F. Gilmore, E. Cummins, Directors of Services; Mr. G. Mullarkey, Head of Finance; Mr. L. Gavin, Senior Engineer; Mr. M. Owens, County Secretary & Meetings Administrator; Mr. A. Farrell, Senior Executive Officer; Ms. C. McConnell, Senior Planner; Mr. A. Martens, Ms. Emer O'Doherty, Executive Planners; Ms. M. Donohue, Senior Staff Officer; Mr. P. O' Neachtain, Oifigeach Gaelige; Ms. G. Healy, Staff Officer.

Thosnaigh an cruinniú leis an paidir.

RESOLUTIONS OF SYMPATHY

1200

Mr. John Healy & Family, Kilcreest, Loughrea, Co. Galway

Ms. Una De Cléir Nic Eoin, An Cathair, Indreabhán, Co. na Gaillimhe

Mr. John Doolin, Lydican, Carnmore, Oranmore, Co. Galway

Mr. Graham Hughes, Caherlistrane, Co. Galway

Mrs. Halion, High Street, Tuam, Co. Galway

Mr. Vincent & Margaret Costello, Caherlea, Belclare, Tuam, Co. Galway

Mrs. Bridie Mulroe, Dooras, Cornamona, Co. Galway.

Mr. Val Hanley, 67 Westbrook, Knocknacarra, Galway.

Mrs. Mary Coughlan, Frosses, Co. Donegal.

Mr. Graham Hughes, Caherlistrane, Co. Galway.

Ms. Edel Sylver & Family, C/o Meadow Court Hotel, Loughrea, Co. Galway.

Mary, Sean & Christy Bradley, Rabane, Ardahan, Co. Galway.

VOTE OF CONGRATULATIONS

1201

Cllr. McDonagh proposed a vote of congratulations to the Galway Senior Hurling Team and Management on the great display of hurling against Kilkenny at the All-Ireland on 9th September and he extended his good wishes to them in the replay on 30th September, 2012.

This proposal was seconded by Comh. Ó Curraoin, and agreed.

He also extended a vote of commiserations to the Mayo Senior Football Team on their defeat to Donegal in the All-Ireland Senior Football final the previous day.

This proposal was seconded by Comh. Ó Curraoin, and agreed.

CONFIRMATION OF MINUTES OF THE FOLLOWING MEETINGS

1202

The Minutes of the Monthly Meeting held on 20th July 2012 were approved by the Council and signed by the Mayor on the proposal of Cllr. McClearn, seconded by Cllr. Maher.

Arising from the Minutes, Cllr. D. Connolly asked for an update regarding the Lowpark Road and Mr. Gilmore replied that the Council has determined that this is a public road and will proceed to update the Register of Public Roads to reflect this fact.

REPORT OF COMMITTEE MEETINGS FOR CONSIDERATION AND ADOPTION

1203

The Report of the Planning, Economic Development & Community Strategic Policy Committee meeting held on 20th March 2012 was approved by the Council on the proposal of Cllr. McDonagh, seconded by Cllr. Cuddy.

Arising from the Report, Cllr. McDonagh referred to the need to identify sites for a number of new Schools which have been approved for construction and he asked what progress has been made in locating these sites. He said that if it is proving difficult to locate these sites, he would appeal to landowners to make sites available.

Mr. Kelly replied that the Council is working with the Department of Education with a view to locating sites for five post primary schools at present and he stated that it would be appropriate that any confirmation in this regard, including details of the location of the necessary sites, would issue from the Department of Education.

The Report of the Oranmore Area Committee meeting held on 8th February, 2012 was approved by the Council on the proposal of Cllr. McDonagh, seconded by Cllr. Cuddy.

The Report of the Corporate Policy Group meeting held on 23rd February, 2012 was approved by the Council on the proposal of Cllr. T. Walsh, seconded by Cllr. McClearn.

DECLARATION OF ROADS TO BE PUBLIC ROADS – SECTION 11 OF ROADS ACT 1993

1204

Details as follows:-

On the proposal of Cllr. McHugh, seconded by Cllr. Maher, the Council approved the declaration of the following roads to be public roads, the statutory procedure having been complied with:

**Railway View Housing Estate Athenry
Houses No 3 to 5 & 9 to 12 (Inclusive)**

1. Road commencing at its junction with the L3107 in the townland of Caherroyn & extending in a South Easterly direction for a distance of approximately 195 meters in the townland of Caherroyn & ending outside house No 9 in the townland of Caherroyn

Houses No 1 & 2

2. Road commencing at its junction with the above-mentioned road in the townland of Caherroyn & extending in a South Westerly direction for a distance of approximately 15 meters & ending outside house No 2 in the townland of Caherroyn

Houses No 6 to 8 (Inclusive)

3. Road commencing at its junction with the above-mentioned road in the townland of Caherroyn & extending in a North Easterly direction for a distance of approximately 24 meters & ending outside house No 8 in the townland of Caherroyn.

Electoral Area: Loughrea

DECLARATION OF ROADS TO BE PUBLIC ROADS – SECTION 11 OF ROADS ACT 1993

1205

Details as follows:-

On the proposal of Cllr. McDonagh, seconded by Cllr. Cuddy, the Council approved the declaration of the following road to be a public road, the statutory procedure having been complied with:

Road commencing at junction with County Road L-7120 in the townland of Mira and extending south west for a distance of 150 metres in the townland of Mira and finishing at end of Alan Coyle's Recessment Area in the townland of Mira.

Electoral Area: Oranmore

SUSPENSION OF STANDING ORDERS

1206

Cllr. McDonagh proposed the suspension of the Standing Orders in order that Item 12 regarding the nomination of a Member or person for appointment to the Board of Údarás na Gaeltachta by the Minister for Arts, Heritage and the Gaeltacht be taken next. This proposal was seconded by Cllr. S. Walsh, and agreed

TO NOMINATE A MEMBER OR PERSON FOR APPOINTMENT TO THE BOARD OF ÚDARÁS NA GAELTACHTA BY THE MINISTER FOR ARTS, HERITAGE AND THE GAELTACHT 1207

Report dated 20 Meán Fómhair 2012 was circulated to each Member.

Mr. Owens referred to the Report stating that the Council is invited to provide a nominee for appointment to the Board of Údarás na Gaeltachta by the Minister for Arts, Heritage and the Gaeltacht in accordance with the method as outlined in Section 16 of Acht na Gaeltachta 2012. He said that it is important to note that the Member/person nominated for appointment must have experience of the affairs relevant to the functions of the Údaras or have displayed an ability in that respect.

Mhol an Comh. McDonagh go n-ainmneofaí an Comh. S. Ó Laoi and this proposal was seconded by Cllr. E Mannion.

Mhol an Comh. S. Walsh go n-ainmneofaí an Comh. S. Ó Tuairisg and this proposal was seconded by Cllr. Hoade.

Dheimhnigh an Comh. Ó Laoi agus an Comh. Ó Tuairisg beirt gur ghlac siad leis na h-ainmniúcháin.

Dúirt an Comh. Ó Tuairisg gur mhaith leis a mhíshástacht maidir leis an bpróiseas nua ainmniúcháin do Bhord Údarás na Gaeltachta a chuir ar an taifead. Dúirt sé nach raibh an próiseas daonlathach mar go gciallaíonn sé nach ndéanann muintir na Gaeltachta an cinneadh níos mó ar cé a ainmnítear chuig an tÚdaras. Dúirt sé gur cheart an próiseas ina ndéantar iomatheoirí a thoghadh chuig Bord Údarás na Gaeltachta trí Thoghcháin an Údaráis a thabhairt ar ais.

Cllr. D. Connolly said he felt it was important before a vote was taken to make the Members aware that this process whereby the Council nominates a Member or person for appointment to the Board of Údarás na Gaeltachta by the Minister for Arts, Heritage & the Gaeltacht is a new process. He said this process came about by a decision of the Dáil without proper consultation or debate and democracy is poorly served by this new process.

Minutes of Monthly Meeting held on 24th September 2012

Dúirt an Comh. Ó Curraoin go raibh díomá air nár labhair Conradh na Gaeilge amach in aghaidh an phróiséas nua seo.

Dúirt an Comh. Cuddy go gcreideann sé go bhfuil an próiséas nua seo lochtach agus neamhdhaonlathach agus nach n-aontaíonn sé leis an prionsabal go ndéanann Baill lasmuigh den Ghaeltacht vótáil ar cé a ainmnítear lena dtoghadh chuig Bord an Údaráis.

The Mayor then called for a vote and the following was the result of the vote:

For Comh. Ó Laoi: Cllrs. Broderick, Carroll, Cuniffe, Feeney & M. Finnerty, Comh. Ó'Laoi, Cllrs. Maher, E. Mannion, McClearn, McDonagh, McHugh, Roche, Ryan, T. Walsh, Welby & Willers [16]

For Comh. Ó Tuairisg: Cllrs. Canney, D. Connolly & M. Connolly, Comh. Ó Curraoin, Cllrs. Fahy, G. Finnerty & Hoade, Comh. O'Tuairisg & Cllr. S. Walsh [9]

Gan Vótáil: Cllrs. Cuddy & Hynes [2]

The Mayor then declared Comh. Ó Laoi nominated for appointment to the Board of Údarás.

Ghlac an Comh. Ó Laoi buíochas lena mholtóir agus cuiditheoir agus do na Baill as ucht vóta a thabhairt dó. Dúirt sé gur mór an onóir dó é seasamh do mhuintir na Gaeltachta ar Bhord an Údaráis agus go n-oibreoidh sé i gcomhair feabhais na Gaeltachta. Thug sé cuntas ar a chuid taithí i ngnóthaí cuí d'fheidhmeanna an Údaráis sna réimsí do chur chun cinn na Gaeilge agus don phleanáil teanga; forbairt tionsclaíoch agus cruthú fostaíochta; forbairt pobail agus cur chun cinn na healaíona. Dúirt sé gur mhothaigh sé go mbeadh sé feiliúnach ar an ócáid seo a ghrá don teanga agus d'oidhreacht na Gaeltachta a léiriú trí amhrán Sean Nóis a chasadh, *Bean Pháidín*, rud a bhain sult agus bualadh bos ó na Baill.

Rinne an Comh. Ó Tuairisg comhghairdeas ó chroí leis an gComh. Ó Laoi agus dúirt sé go bhfuil sé tábhachtach go leanfadh an tÚdarás ar aghaidh lena dtionchar ar eacnamaíocht na Gaeltachta agus ar chur chun cinn an chultúir Gaelach.

TO CONSIDER REPORT UNDER SECTION 183 OF THE LOCAL GOVERNMENT ACT 2001 ON THE DISPOSAL OF 0.194 HECTARES OF LAND AT BAILE NUA, MAIGH CUILLINN, CO. GALWAY

1208

Report dated 10th September, 2012 was already circulated to each Member.

The Mayor referred to the Report dated 10th September, 2012 and stated that there were two disposals of land comprising a total area of 0.194 hectares, to consider in this item.

On the proposal of Comh. Ó Tuairisg, seconded by Cllr. E. Mannion, it was agreed that having complied with the relevant statutory requirements, to dispose of 0.075 hectares of land at Baile Nua, Maigh Cuillin, Co. Galway, marked "B" on the attached map, in accordance with report dated 10th September, 2012.

On the proposal of Cllr. E. Mannion, seconded by Comh. Ó Tuairisg, it was agreed that having complied with the relevant statutory requirements, to dispose of 0.119 hectares of land at Baile Nua, Maigh Cuillin, Co. Galway, marked "C" on the attached map, in accordance with report dated 10th September, 2012.

5. Draft Local Area Plan (LAP) Guidelines

TO CONSIDER THE MANAGER'S REPORT IN RELATION TO SUBMISSIONS RECEIVED ON PROPOSED AMENDMENTS AND MATERIAL ALTERATIONS TO THE LOUGHREA DRAFT LOCAL AREA PLAN AS PER SECTION 13 (K) (L) OF THE PLANNING & DEVELOPMENT (AMENDMENT) ACT 2010

1209

Report already circulated.

The Mayor invited Ms. McConnell to present the Manager's Report in relation to the submissions received on the Material Alterations to the Loughrea Draft Local Area Plan.

Ms. McConnell advised the Meeting of Section 177 of the Local Government Act 2011 which states that if a Member has a pecuniary or other beneficial interest in any aspect before the meeting, he or she shall take no part in the discussion or consideration of the matter and shall refrain from voting and it would be normal for them to leave the meeting for that item.

Ms. McConnell further advised that under Section 20 of the Planning & Development Act 2000, the Members consider the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

Ms. McConnell stated that the Draft Local Area Plan for Loughrea was considered by the Members at the County Council meeting of the 13th July 2012 and a number of Material Alterations was made to the Draft. These Alterations, together with addendum reports on the SEA and HDA were put on public display for a further period of 4 weeks and the public were invited to make submissions on the Material Amendments only. A total of 6 submissions were received.

Ms. McConnell advised that the Manager's Report on the Material Alterations to the Loughrea Draft Local Area Plan was circulated to the Members on the 17th September 2012, which she took as having been read and considered by the Members. She said Mr. Anton Martens, Planner, would go through each of the 6 submissions received and the Manager's response and recommendation.

She stated that as required under the Planning and Development (Amendment) Act 2010, the issues raised by Statutory Bodies, Ministerial bodies and any other National Authority have been dealt with first in the Manager's Report and the remaining submissions are then dealt with in order in which they were received.

Mr. Martens then presented the Manager's Report on the Submissions received on the Material Alterations to the Loughrea Draft Local Area Plan.

Submission No. 6 - Department of the Environment Community and Local Government

Mr. Martens outlined the main issues of Submission No. 6 raised by the Department of the Environment Community and Local Government under the following headings:

1. Flooding
2. Telecommunications
3. Schedule of Areas
4. Material Alterations List
5. Draft Local Area Plan (LAP) Guidelines

1. Flooding

In relation to the Department's submission stating that a Stage 2 Flood Risk Assessment be carried out in consultation with the OPW for historically zoned areas and for future development, Mr. Martens advised that Galway County Council is undertaking a Strategic Flood Risk Assessment (SFRA) for the County and, as part of this SFRA, the flood risk issues relevant to the Loughrea Plan area have been identified in accordance with Stage 1 of the Flood Risk Guidelines and an initial Flood Risk Assessment has been undertaken in accordance with Stage 2 of the Guidelines. This Assessment has included the consideration of available flood risk information including the Preliminary Flood Risk Assessment (PFRA) information from the OPW, the confirmation of sources of flooding, and the Council has taken on board the local knowledge of area staff in Loughrea and site walkovers have been carried out by the consultants preparing the SFRA. He said that this generally confirmed the flood extents identified in the OPW's PFRA. He said that the SFRA has produced flood risk and flood zone maps for Loughrea which include historically zoned areas and areas under consideration for future development and this will be a support document to the Local Area Plan.

He said that, in general, the approach taken has been to zone undeveloped areas which are identified as Indicative Flood Zones A & B for open space, Recreation & Amenity. He said that the zoning approach will direct new development away from areas identified as being at risk of flooding and into the appropriate Flood Zone in accordance with the Department's Flood Risk Guidelines and, therefore, a Development Plan Justification Test and more detailed flood risk assessment is accordingly not considered necessary.

Mr. Martens advised that Galway County Council will also take account of the *Catchment Flood Risk Management Plans* (CFRAMs), *Preliminary Flood Risk Assessment* (PFRA) and *County Galway Strategic Flood Risk Assessment 2012* and any recommendations and latest studies arising from same that relate to or impact on the Plan Area as per Policy UI2 in the Plan.

Mr. Martens stated that in relation to consultation with the OPW, a detailed submission has been received from the OPW on the material alterations to the Plan and this has been fully considered and addressed in the OPW's submission.

2. Telecommunications

Mr. Martens advised that Policy UI5 and Objective UI16, as set out in Section 3.6.2 in the Plan, are considered sufficient to address the Department's concerns in relation to telecommunications infrastructure.

3. Schedule of Areas

Mr. Martens advised that a schedule of zonings including the relevant quantum of land in each zoning will be included in Section 3.1.3 just before the Land Use Zoning Matrix in the final adopted Local Area Plan.

4. Material Alteration List

In reply to the Department's submission that a comprehensive list comprising the material alterations with a logical identification number to cross reference the amendment to both written statement and relevant mapping should form part of the LAP documentation, Mr. Martens said that the entire Local Area Plan with the changes including deletions and additions were highlighted and placed on public display and this is considered sufficiently clear for that purpose.

5. Draft Local Area Plan (LAP) Guidelines

Mr. Martens advised the Local Authority is required to have regard to any Guidelines issued under Section 28, of the Planning & Development Act 2000, as amended, which includes the Department's Local Area Plan Guidelines and the Local Area Plan Manual, and while the Departments comments are noted, they do not relate to any of the Material Alterations to the Draft Local Area Plan.

Mr. Martens recommended no change to the Draft Plan on foot of the Department's submission.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 1 - National Roads Authority

Mr. Martens outlined the main issues of submission Number 1 from the National Roads Authority, and the Manager's response and recommendation.

Mr. Martens advised that in respect of Traffic and Transport Assessments, Objective T113 requires proposals for large scale developments, where appropriate, to submit Traffic and Transport Assessments to assess the impact of the proposed development and associated traffic movements and this is considered adequate to deal with the requirement for Traffic and Transport Assessment in relation to industrial and other large scale developments, including the Industrial zoning of lands under MA4. All of the policies and objectives in the Plan need to be read in conjunction with one another and it is not considered appropriate to make specific reference under Objective LU16(c) to other objectives in the Plan.

He advised in relation to further consultation with the NRA at the preparation stage of the Action Area Plan is note but this would need to be dealt with at development proposal/planning application/action area plan preparation stage.

Mr. Martens recommended no change to the Draft Plan on foot of the above submission.

The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 2 – Department of Agriculture, Food & the Marine

Mr. Martens outlined the observations from the Department of Agriculture, Food & the Marine and the Manager's response and recommendation.

Mr. Martens said that the Department of Agriculture, Food and the Marine (DoAFM) has no submissions or observations to make, at this time, in regard to the Material Alterations to the Draft Loughrea Local Area Plan but would suggest that local area habitat maps which are

not designated e.g. tree and hedgerow/stonewall clusters for retention be available in GIS format. In reply, Mr. Martens said that local area habitat maps have not been prepared as part of the Local Area Plan or the Strategic Environmental Assessment (SEA) process, however, the Local Area Plan includes objectives to protect local habitats and biodiversity, including Objective CF9, NH2, NH4, NH5, NH8 and NH10.

Mr. Martens recommended no change to the Draft Plan on foot of the above submission. The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 3 – Environmental Protection Agency (EPA)

Mr. Martens outlined submission Number 3 from the EPA under the following headings and the Manager's response and recommendation:

1. SEA Determination
2. Obligations with respect to National Plans and Policies and EU Environmental Legislation
3. SEA Statement

1. SEA Determination

Mr. Martens notes the EPA's position on some of the aspects raised in their submission on the Draft Plan and Strategic Environmental Assessment (SEA) and advises that no change is necessary.

2. Obligations with respect to National Plans and Policies and EU Environmental Legislation

Mr. Martens notes the EPA's advice that Galway County Council be compliant with the requirements of national and EU environmental legislation and advises that no change is necessary.

3. SEA Statement

With regard to the requirement to prepare an SEA Statement outlining "Information on the Decision" as required by Article 14I of Planning and Development Regulations as amended by Article 8 of the SEA Regulations, Mr. Martens advised that no change is necessary to the Local Area Plan as this will be dealt with at the appropriate stage in the plan making/adoption process.

Mr. Martens recommended no change to the Draft Plan on foot of the above submission. The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 4 – Department of Arts, Heritage and the Gaeltacht

Mr. Martens outlined submission Number 4 from the Department of Arts, Heritage and the Gaeltacht and the Manager's response.

Mr. Martens advised that this submission raised a number of issues with regard to the Appropriate Assessment (AA) screening of the Local Area Plan and a number of deficiencies in the Natura Impact Report (NIR). In reply he advised that the issues raised will be addressed in the revised Natura Impact Report, as appropriate. The Members agreed to accept the recommendation in the Manager's Report.

Submission No. 5 – Office of Public Works (OPW)

Mr. Martens outlined submission Number 5 from the Department Office of Public Works, under the following headings, and the Manager's response.

1. Environmental Legislation
2. Flood Risk Management

1. Environmental Legislation

Mr. Martens advised that in relation to their submission with regard to turloughs, Galway County Council operates in compliance with relevant environmental legislation. With regard to unauthorized infilling: in particular, in environmentally sensitive areas, such as turloughs, he advised that this is outside the scope of a Local Area Plan and these comments do not appear to relate to any of the specific material alterations to the Draft Local Area Plan, therefore no changes are warranted.

2. Flood Risk Management

Mr. Martens advised that this submission sets out the requirements under the Flood Risk Management Guidelines for Planning Authorities and refers to the precautionary approach, which suggests that planning decisions should be carried out with due care for all development in outlined, known, or suspected flood risk areas. He said that the response to Submission No. 6 is considered to adequately address the issues raised in this submission.

Mr. Martens recommended no change to the Draft Plan on foot of the above submission.

The Members agreed to accept the recommendation in the Manager's Report.

On the proposal of Cllr. Willers and seconded by Cllr. Hynes, it was agreed to accept the recommendations in the Manager's Report.

A vote was taken to adopt the Loughrea Local Area Plan 2012, in accordance with the Manager's Report, in accordance with Section 13 (b) (iv) of the Planning and Development (Amendment) Act 2010 and the result was as follows;

AR SON: Cllrs. Carroll, D. Connolly, M. Connolly, Cllr. Cuddy Cllr. Fahy, Cllrs. Hoade & Hynes, Cllrs. Maher, E. Mannion, T. Mannion, Cllrs. McDonagh, McHugh, & Cllr. Ryan, Cllrs. Walsh, Welby & Willers [16]

GAN VOTÁIL: [0]

The Mayor declared the Loughrea Local Area Plan adopted.

TO CONSIDER THE MANAGER'S REPORT IN RELATION TO SUBMISSIONS RECEIVED ON PROPOSED AMENDMENTS AND MATERIAL ALTERATIONS TO THE ORANMORE DRAFT LOCAL AREA PLAN AS PER SECTION 13 (K) (L) OF THE PLANNING & DEVELOPMENT (AMENDMENT) ACT 2010

1210

Report already circulated.

The Mayor invited Ms. McConnell to present the Manager's Report in relation to the submissions received on the Material Alterations to the Oranmore Draft Local Area Plan.

Ms. McConnell advised the Meeting of Section 177 of the Local Government Act 2011 which states that if a Member has a pecuniary or other beneficial interest in any aspect before the meeting, he or she shall take no part in the discussion or consideration of the matter and shall refrain from voting and it would be normal for them to leave the meeting for that item.

Ms. McConnell further advised that under Section 20 of the Planning & Development Act 2000, the Members consider the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area and any relevant policies or objectives for the time being of the Government or of any Minister of the Government.

Ms. McConnell stated that the Draft Local Area Plan for Oranmore was considered by the Members at the County Council meeting of the 13th July 2012 and a number of Material Alterations was made to the Draft. These Alterations, together with addendum reports on the SEA and HDA were put on public display for a further period of 4 weeks and the public were invited to make submissions on the Material Amendments only. A total of 6 submissions were received.

Ms. McConnell advised that the Manager's Report on the Material Alterations to the Oranmore Draft Local Area Plan was circulated to the Members on the 17th September 2012, which she understood that it had been read and considered by the Members. She said Ms. E. O'Doherty, Planner, would go through each of the 6 submissions received and the Manager's response and recommendation.

Ms. O'Doherty then presented the Manager's Report on the Submissions received on the Material Alterations to the Oranmore Draft Local Area Plan.

Submission No. 6 - Department of the Environment Community and Local Government

Ms. O'Doherty outlined the main issues of Submission No. 6 raised by the Department of the Environment Community and Local Government under the following headings and the Manager's response and recommendation:

6. Flooding
7. Material Alteration No. 24
8. Material Alteration No. 30
9. Telecommunications
10. Schedule of Areas
11. Material Alterations List
12. Draft Local Area Plan (LAP) Guidelines

1. Flooding

In relation to the Department's submission stating that a Stage 2 Flood Risk Assessment be carried out in consultation with the OPW for historically zoned areas and for future development, Ms. O'Doherty advised that Galway County Council is undertaking a Strategic Flood Risk Assessment (SFRA) for the County and, as part of this SFRA, the flood risk issues relevant to the Oranmore Plan area have been identified in accordance with Stage 1 of the Flood Risk Guidelines and an initial Flood Risk Assessment has been undertaken in accordance with Stage 2 of the Guidelines. This Assessment has included the consideration of available flood risk information including the Preliminary Flood Risk Assessment (PFRA) information from the OPW, the confirmation of sources of flooding, and the Council has taken on board the local knowledge of area staff in Oranmore and site walkovers have been carried out by the consultants preparing the SFRA. She said that this generally confirmed the flood extents identified in the OPW's PFRA. She said that the SFRA has produced flood risk and flood zone maps for Oranmore which include historically zoned areas and areas under consideration for future development and this will be a support document to the Local Area Plan.

She said that, in general, the approach taken has been to zone undeveloped areas which are identified as Indicative Flood Zones A & B for open space, Recreation & Amenity. She said it is considered that the zoning approach will direct new development away from areas identified as being at risk of flooding and into the appropriate Flood Zone in accordance with the Department's Flood Risk Guidelines and, for this reason, a Development Plan Justification Test and more detailed flood risk assessment is accordingly not considered necessary.

Ms. O'Doherty advised that Galway County Council will also take account of the Catchment Flood Risk Management Plans (CFRAMs), Preliminary Flood Risk Assessment (PFRA) and County Galway Strategic Flood Risk Assessment 2012 and any recommendations and latest studies arising from same that relate to or impact on the Plan Area as per Policy UI2 in the Plan.

Ms. O'Doherty stated that in relation to consultation with the OPW, a detailed submission has been received from the OPW on the material alterations to the Plan and this has been fully considered and addressed in the OPW's submission.

Ms. O'Doherty recommended no change to the Draft Plan.

The Members agreed to accept the recommendation in the Manager's Report.

2. Material Alteration No. 24

In reply to the Departments' submission that the annex to the SEA Screening Report indicating that the lands subject of Material Alteration 24 failed the Justification test in the Flood Risk Management Guidelines and, therefore, inappropriate development which fails the justification test should not be considered at the Plan making stage and that these lands should revert back to water compatible use, Ms. O'Doherty advised that the Department's comments are noted and said that parts of the subject site fall within Indicative Flood Zone A and B as identified within the PFRA carried out by the OPW and confirmed by the SFRA, carried out by Galway County Council, and these areas are accordingly zoned for Open Space/Recreation & Amenity within the Draft Plan.

She said that this zoning ensures that uses that are less vulnerable to flooding can be considered in this flood risk area. Zoning the lands town centre/commercial would allow for uses that are not considered appropriate to Flood Zones A and B and would fail the Justification Test as set out under the Flood Risk Guidelines. It is therefore considered that this proposal would not be in accordance with 'The Planning System and Flood Risk Management' Guidelines for Planning Authorities November 2009 and should remain zoned Community Facilities and Open Space/Recreation & Amenity as proposed under the Draft Local Area Plan, in accordance with the proper planning and sustainable development of the area.

Ms. O'Doherty recommended that in order to ensure a consistent approach to dealing with the issue of flood risk on all lands within the Plan area that the proposed Material Alteration No. 24 which proposes to alter the zoning from CF and OS to C1, should be reviewed and the zoning should revert to Open Space and CF as originally proposed.

In reply to Cllr. Cuddy's request that the site be zoned town centre/commercial as there is no flood risk to this site which is higher than other land in the Town Centre, Mr. Kelly advised that the Department has raised the issue as the site was identified as a flood risk, albeit a small risk, as per the Flood Risk Management Guidelines and the Planning