

Limerick City and County Council

Council Meeting to be held on Tuesday 21st July 2015

Question submitted by Councillor J. Scanlan

I will ask at the next Meeting (a) what Dividend was paid to Limerick City and County Council from the IPB Insurance Fund in the last two financial years; where relevant, I would like these figures broken down between City and County, and (b) how much is expected in terms of Dividend from the said Body in the current year.

REPLY:

The following dividend was paid by IPB in the last two financial years:

2013 Limerick City Council	€ 69,244.30
2013 Limerick County Council	€234,921.01
2014 Limerick City and County Council	€481,772.42

The following dividend is expected to be paid by IPB in the current year:

2015 Limerick City and County Council (Budget)	€350,000.00
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**Tom Gilligan,
Head of Finance.**

7th July, 2015.

LIMERICK CITY AND COUNTY COUNCIL
HOME AND SOCIAL DEVELOPMENT
FULL COUNCIL MEETING TO BE HELD ON 21ST JULY, 2015

Question submitted by Councillor Tom Neville

"I will ask at the next full Council meeting of Limerick City and County Council for the number of Council houses currently vacant with specific numbers given on each electoral area."

REPLY:

AS AT 1ST JULY 2015

THERE ARE CURRENTLY 32 VACANCIES (10 OF WHICH ARE VOIDS)

METROPOLITAN DISTRICT

15 TOTAL
2 VOIDS
13 CASUAL VACANCIES

ADARE/RATHKEALE

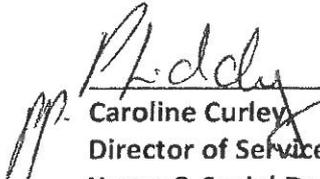
5 TOTAL
2 VOIDS
3 CASUAL VACANCIES

CAPPAMORE/KILMALLOCK

10 TOTAL
6 VOIDS
4 CASUAL VACANCIES

NEWCASTLE WEST

2 TOTAL – BOTH CASUAL VACANCIES



Caroline Curley
Director of Service,
Home & Social Development.

15th July, 2015.

LIMERICK CITY AND COUNTY COUNCIL

MEETING TO BE HELD ON TUESDAY, 21ST JULY 2015

Question submitted by Councillor J. Collins

I will ask at the next meeting if the contract for Mungret Neighbourhood Park has gone out to tender, what is the tender period, construction programme and estimated opening date.

REPLY:

Contract Documents for Mungret Neighbourhood Park are currently being finalised and should be available on e-tenders at the end of week ending 24th July, 2015. The tender period will be 4 weeks and the tender assessment period will also be 4 weeks.

The detail of the construction programme will be agreed with the successful tenderer. The construction period for the Park is estimated to be 5-6 months.

The Members will be advised in due course of the anticipated opening date as the development of the Park progresses.

**Ger Dillon,
A/Director,
Environment and Water.**

17th July, 2015.

LIMERICK CITY AND COUNTY COUNCIL

MEETING TO BE HELD ON TUESDAY, 21ST JULY 2015

Question submitted by Councillor J. Collins

I will ask at the next meeting if planning permission has been applied for two new primary schools at Mungret and if any request has come from the Department of Education to reserve a site for a new secondary school.

Reply:

The planning application for two primary schools was lodged on the 10th July. The Department of Education has not formally requested the reservation of land for a secondary school, however, the proposed amendment to the Southern Environs Local Area Plan 2011, which will be placed on public display at the end of September 2015, will propose re-zoning of land from residential to educational use to facilitate the provision of a possible secondary school in the future.

Pat Daly
Director of Service
Economic Development & Planning

LIMERICK CITY AND COUNTY COUNCIL

MEETING TO BE HELD ON TUESDAY, 21ST JULY 2015

Question submitted by Councillor J. Sheahan

I will ask at the next meeting if a Section 183 decision can be revoked and, if so, what the procedure is.

REPLY:

Legal advice was sought in relation to this Question and I set out details of the advice received hereunder for your attention:

“To deal with this Question, one has to consider Section 183 of the Local Government Act 2001, and also paragraph 56 of the Standing Orders of Limerick City & County Council which, collectively, provide as follows:-

- 1) Section 183 deals with the requirements for the proposed disposal of land held by a Local Authority and notes that a disposal for a term of years not exceeding one year does not come under the provisions of this section.*
- 2) Section 183 further sets out certain procedural matters connected with the disposal of property, including the giving notice to the Members. The purpose of this notice is to provide the Members with certain information including, inter alia:-*
 - (I) The property being disposed*
 - (II) The person from whom the property was acquired*
 - (III) The person to whom the property is to be disposed*
 - (IV) Any covenants or conditions that are to attach to the disposal.*
 - (V) The purchase price.*
- 3) The Members, having been supplied with the above information, have the opportunity of considering the matter and making a decision as to whether they agree or disagree with the disposal. Naturally, it is open to the Members to raise any issues in respect of which they may need clarification at that meeting and before a decision is reached. The Members then decide whether to pass the resolution to dispose of the property, or to decide that the disposal shall not be carried out.*

- 4) *Turning now specifically to paragraph 56 of the Standing Orders, it is important to note that this is worded in such a manner as to afford an opportunity to the Members in certain circumstances to rescind a resolution. If the rescission is to take place within six months of the resolution being passed, the Councillors have to carry out the procedures that are set out in paragraph 56. Notice has to be given of the intention of the Members to rescind a resolution passed within the previous six months and that notice has to have the name of the Member who proposes the Motion, together with the names of five other Members who are supporting the Motion to rescind.*

It is important to bear in mind that Standing Orders cannot overrule the existing common law or statutory law. Standing Orders are brought in for the purpose of regulating meetings. There is no doubt that the Council, in the Standing Orders which it has adopted, has given itself a general power to revoke a resolution. However, I must reiterate that such a revocation must not result in any breach of statutory law or common law.

Further, where the Council is exercising a quasi-judicial power, such as revoking a Section 183 Resolution, this cannot, in my view, be done where there is a binding contract in place. The Members will be acquainted with the number of resolutions that come before it for the disposal of dwellinghouses and other properties. The contracts in respect of those properties typically contain a provision that the contract is subject to the passing of a resolution under Section 183 of the 2001 Act.

When that resolution is passed, the sale of the property is then completed. There is no question of waiting to see if the resolution is going to be rescinded under the provisions of the Standing Orders. If a binding contract exists, as it would where there is a disposal of houses or other property, then once the resolution is passed, that binding contract becomes enforceable. In those circumstances, it would be very wrong for the Members to rescind a resolution when the purchaser of the property has been advised of the passing of the resolution and a contract exists.

One must also be very much aware of the fact that the Councillors have an opportunity, when considering a Section 183 resolution, of either approving of the disposal or rejecting the disposal. That is very significant, because it could be very strongly argued that the Councillors had an opportunity of rejecting the resolution at that particular time. Once that resolution was passed, then the likelihood is that a binding legal contract comes into existence. If that is so, in my view, the resolution under Section 183 of the Local Government Act, 2001, could not be revoked or rescinded on foot of the Standing Orders.

Of course, the question may be asked as to why the Members seem to have a revocation power at paragraph 56 of the Standing Orders but are now being advised by me that this cannot apply to decisions made with regards the transfer of property where there is a binding contract. The answer to this is quite simply that, in my view, the power the Councillors have given themselves

to revoke is not absolute and must be conditional on the decision not affecting a third party who has acquired a contractual interest.

This would differ, for example, where the Members wish to revoke a resolution passed with regards to an item fully within the control of the Local Authority – traffic control, signage etc. In such an instance, it is of course open to the Council to revisit the decision. However, where a third party has, on foot of the passing of a resolution, acquired a contractual interest, I believe that the Councillors do not have the same leeway to revoke.”

I trust the above clarifies the position.



Christy O'Connor,
SEO – Corporate Services.

17th July, 2015.

Limerick City and County Council

Council Meeting to be held on Tuesday, 21st July, 2015.

Question submitted by Councillor J. Sheahan

I will ask at the next meeting, following the signing of the lease with Cadence Enviropower Limited for a gasification plant at Gortadroma, will the planning process be a direct application to Limerick City and County Council, a direct application to An Bord Pleanála or a Part V111 application by the Council.

REPLY:

This application will be considered in accordance with the relevant legislation in relation to Strategic Infrastructure Development.

It is a mandatory requirement for a prospective applicant for planning permission for development listed in the 7th Schedule (see below) to enter into pre-application consultations with the Board and obtain notice from the Board stating whether or not the proposed development is regarded as strategic infrastructure development.

For the purposes of these consultations, the prospective applicant must supply sufficient information to the Board to enable it to assess the proposed development in the light of the criteria set out for strategic infrastructure development.

Definition of Strategic Infrastructure Development

The 7th Schedule to the 2000 Act lists the classes of infrastructure development which, if considered by the Board to be strategic infrastructure development, require direct application for permission to the Board instead of the local planning authority.

To qualify as strategic infrastructure development a proposed development must first come within the scope of one or more of the classes and comply with the thresholds contained in the 7th Schedule.

In addition, the Board must come to the opinion that the proposed development, if carried out, would fall within one or more of the following:-

- is of strategic economic or social importance to the State or the region in which it would be situate,
- would contribute substantially to the fulfilment of any of the objectives of the National Spatial Strategy or any regional planning guidelines in respect of the area or areas in which the development would be situate,
- would have a significant effect on the area of more than one planning authority.

The opinion is formed by the Board at the conclusion of the pre-application stage.

**Pat Daly,
Director of Services,
Economic Development & Planning.**

16th July, 2015.