

**Minutes of Youghal Town Council held on 8th September 2008 in the Mall House, Youghal at 7.30 p.m.**

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**Present:**

Mayor Oliver Casey presided.

Cllrs. Linehan Foley, Savage, Revins, Hennessy, Burke, Beecher, McLellan and Murray.

**Officials Present:** Mrs. Patricia Power, Town Manager. Mr. Liam Ryan, Town Clerk. Mr. Ger Lupton, Town Foreman. Mr. Paul Murray, Executive Engineer. Mrs. Martha Hennessy, Temporary Clerical Officer.

**Opening Prayers:**

The members and officials recited the opening prayers.

**Minutes of the Monthly Meeting held on 14th 2008**

The minutes of the monthly meeting held on 14th July were adopted on the proposal of Cllr. McLellan July 2008: seconded by Cllr. Linehan and unanimously adopted by the members.

**Minutes of Special Meeting Held on 14th July 2008:**

The minutes of the Special Meeting held on 14th July 2008 were adopted by Cllr. Beecher seconded by Cllr. McLellan and unanimously agreed by the members.

**Town Clerk's Report On Matters arising from Minutes of the Meeting Held on 14th July 2008**

The Town Clerk gave a report to the Members on the matters arising since the meeting held on 14th July 2008.

**HOUSING MATTERS:**

1. The Planned maintenance contract for the remaining houses at Dermot Hurley Estate is due to be signed within the next two weeks. The contract has been offered to Glounthaune Property Developments Ltd at a value of €158,340. It is anticipated that the appointed contractor will commence works in early October.
2. All the planned maintenance tender information for the second phase of Blackwater Heights has been forwarded to the Architects Department of Cork County Council for the preparation of tender documents with a view to going to tender within the next two months.
3. The 23 bungalows currently under construction at Killeagh Road are due to be completed and allocated by the end of the year.

**ROADS:**

1. Approximately 40% of the regeneration works are completed on Church Street. The Archaeological finds on the street were significant and of great interest. Evidence of the finds will be displayed on the street when the project is completed.
2. The De Valera Street Car Park is well advanced and should be completed and operational by the

end of October. This Car Park (37 Spaces) should be greatly alleviate parking congestion in the area.

**WATER AND SEWERS:**

1. The reservoirs are currently at full storage capacity with an average daily demand of in excess of 600,000 gallons per day. I am unaware of any problems with the Waste Water Drainage System currently and all Pump Stations seem to be working satisfactorily.

**MISCELLANEOUS:**

1. The Enterprise Centre is due to be completed by 20th September next and Formal Handover should take approximately three to four weeks. Open days will be advertised in respect of the Centre shortly

2. The Budget 2009 meetings will commence from October onwards. Next years Budget will represent a challenge for all concerned. The Department of the Environment have already issued formal letters requesting the Local Authority to cut expenditure and payroll costs by at least 3%. (A copy of the letter has been forwarded to each member of the Council)

**Votes of Sympathy:**

The members passed a vote of sympathy to the following:

1. Mrs. Kearns on the death of her husband Mr. Kevin Kearns.
2. Mrs. Moynihan on the death of her husband Mr. Liam Moynihan.

**Votes of Congratulations:**

The Members passed a vote of congratulations to the following:

1. Reverened Michael Thompson on his institution on the 8th September and send their apologies for not being available to attend the ceremony.
2. Ms Nikita Savage and Mr Michael Healy on their recent individual sporting successes and their Olympic capabilities.
3. Youghal Town Council, the outdoor staff and everyone involved in the Anti-Litter Challenge 2008 in which Youghal won 1st Prize in its category. The Town Manager also adds her congratulations saying it is a wonderful achievement for the people of Youghal, and everyone involved.
4. Pobal Scoil Na Trionoide on their wonderful exam results.
5. The Heritage Committee on the fabulous open day they held in which over 4000 people arrived and thanked Catherine Desmond and all her team for their hard work.

**Town Foreman's Report:**

The Town Foreman's Report on works carried out from July 9th to September 3rd 2008 were brought to the attention of the members and noted. Arising from the report the following items were raised:

1. St Mary's Church Sign.
2. Private Site at Sweetfield Estate.
3. Cul De Sal fence at Sweetfield Estate.
4. Wiser Bins- Main Street Pick Ups.
5. Cleaning of Steps at the Diving Rocks.

6. Condition of Steps at Greenhole.
7. Promenade at Lighthouse Hill.
8. Damaged Footpath at 29 Sweetfield.
9. Windmill Hill Footpath outside Kelleher's.
10. Playground at Millennium Gardens.
11. Signal Cabin on CIE Lands.
12. Pruning of trees at Kenny's Lane/North Abbey Cemetery.
13. Cleaning of Jail Steps.
14. Parking close to the junction of Raheen Road/ Cork Hill.
15. Ponding on Footpaths at Ardrath.
16. Grass cutting at Copperalley Roadway.
17. New Lawnmower for Raheen Park.
18. Disabled Car Space- Centre of Raheen Park.
19. Painting of Cemetery Lodge.
20. Sightlines at Dermot Hurley Estate/ Magners Hill.
21. Bend at St Raphael's.
22. Handrail and Steps at Knockaverry.
23. Pathway at Dr Kenneady Place.
24. Loose bedding stone mulch at Blackwater Heights.
25. Children at Play signs at Blackwater Heights.

#### **Cork County Council**

#### **The Town Engineer submitted the following report:**

##### Items

1. Ponding at Nagle House & Gallagher's Terrace have been referred to outdoor staff to be dealt with.
2. Parking on the Double Yellow Lines at Quarryvale is an enforcement issue.
3. Odours at the landfill are being dealt with by Cork County Council Environment Department.
4. The design of the outfall and progressing of same to tender is being dealt with by our Consulting Engineers.
5. Blue Flag at Redbarn is being dealt with by the Environment Department.
6. Roadliners are in town at present carrying out roadlining and parking bays.
7. The work at the footpath at Claycastle is continuing.

#### **The Members raised the following issues:**

1. Ponding at Nagle House.
2. Entrance to Quarryvale.
3. Kilcoran Road junction with Main Road.
4. Landfill Site at Foxhole - Odours.
5. Outfall at Front Strand Beach.
6. Down Shoot missing off Clack Gate/ Heritage Weeds.
7. Blue Flag Redbarn.
8. Ponding at Gallagher's Terrace.

9. Double yellow lines South Abbey.
10. Footpaths at Tallow Street/ North Abbey Terrace.
11. Lorry/ Containers going through town from Sludge Facility.
12. Nealons Quay Road liners
13. Extension of yellow lines to Woodland Grove.
14. Ponding outside Springfield Court.
15. Boy racers at Claycastle Front Strand.
16. Footpath at Aura.
17. Disabled persons car space at Raheen Road.
18. Gully Gate at Hillview.
19. Reinstating of Roadway at Pearse Square.
20. Ballyclamassy taking in charge.
21. S. Na Sailli, surfacing.
22. Lights at Cal Flavins & Kent Street.
23. Landfill Odours. Managers Orders: Managers Orders nos. 139/08 to 183/08 were brought to the attention of the Council and noted. Planning Applications: Planning application reference nos. P58036/08 to P58042/08 were brought to the attention of the Council and noted. Further Information The members were informed that further information Received: was received in relation to planning application nos. P58007/08, P58017/08, P58012/08, P58024/08, P58028/08, P58027/08, P58029/08, P58031/08. Trolley Park at Catherine` Pursuant to Section 183 of the Local Government Act Street Car Park: 2001 and on the proposal of Cllr. McLellan, seconded by Cllr. Linehan Foley it was agreed by the members to dispose of land under license at Catherine Street to Blackwater Retailing Ltd., as per the following terms:
  1. The licence is granted for a 5-year period with an annual licence fee of €1200 to Youghal Town Council.
  2. Blackwater Retailing shall indemnify Youghal Town Council against any claims arising from the use of trolleys within the car park.

#### **Mayors Business:**

1. The Mayor compliments East Cork Area Development and their ability to gather funds for various of programmes and individuals.
2. A civic reception for Paddy Neville after 21 years Ambulance service which will be a combined reception for all those who retired lately was proposed by the Mayor and seconded by Cllr. Hennessy. It was agreed that other service personnel who retired recently would be included.

#### **Unresolved Motions:**

The unresolved motion report was circulated to the members. No changes were made.

#### **Draft County Development Plan-New Annaghmore- Public Consultation Period**

Town The Town Clerk informed members of his opposition to at the amendment and stated the County's Manager objection to a development that "runs contrary to the Cork Area Strategic Plan". The Town Clerk warned that a new town would adversely affect the projected population increase of Youghal and would in turn dilute funds that would have been forthcoming to the town. He

advised that the Council strongly object to the amendment. The Members unanimously agreed to object to the amendment to the Draft County Development Plan on the proposal of Cllr. Linehan Foley seconded by Cllr. Revins

The Town Clerk was to make the submission. Report of the Heritage Church Street Regeneration Plan had a major find, the Municipal Policy remains of a cobbled sandstone walkway was Committee by Cllr uncovered and is to be from the 12th or 13th Century and Burke. excavations are to continue as far as the gates of St Mary's College and further finds are expected.

Medieval Fun Weekend unfortunately started with the abandonment of Saturday evening concert at St Mary's College Gardens; however weather improved for Sunday and attracted an attendance of 5,000 people.

Failte Ireland Signage Approval in principle has been given by Failte Ireland for signage in the historic core of the town. This will enable Youghal Town Council to effectively highlight three walking trails. The principle trail is the Youghal Historic Tourist Trail incorporating all the great heritage features of Youghal, i.e. the Clock Gate, Benedictine Priory, The Red House, Tyntes Castle, Boyle's Alms Houses, Sir Walter Raleigh's House, St Mary's College and Medieval Gardens, The town walls, St Mary's Parish church, The Quaker Meeting House, The Water Gate and Mall House. Two other subsidiary trails will also be signposted namely the Medieval Garden Trail and the Graveyard Trail of St Mary's Collegiate Church. The enhancement of these trails with heritage signage will greatly add to the visitor experience of Youghal.

#### **Conclusion:**

Cllr Burke thanks most sincerely the Heritage Council for its funding and all those who gave many hours of voluntary work organising and preparing for Medieval Weekend, in particular Catherine Desmond and Lucy Heaphy, The Council Staff, Gavin Tivy, Youghal Pipe Band, ISIS and Bombshell, UCC Medieval & Renaissance Society, RTE Nationwide, Kieran Groeger, Teresa Cudlip, all the sponsors, performers and stallholders, The Mayor of Youghal Cllr. Oliver Casey, Cllrs. Mary Linehan Foley and Sammy Revins for their active participation, everyone who helped in any way whatsoever and all who attended on the day

Report on Harbour Municipal Policy Committee by Cllr. Casey:

No report to give only it is wonderful to see so much activity going on in the harbour.

#### **Report on Rapid matters By Cllr. Revins:**

Cllr Revins said he was optimistic of having information within the next month on funding for the Millennium Playground.

#### **Report on Claycastle Leisure Co Ltd by Cllr. Casey:**

Cllr Casey thanks all the directors of Claycastle Leisure Co Ltd for their hard work. There was no issues arising at this time.

#### **Report on Hatherton Ltd., T/A EnterpriseYoughal by Cllr McLellan:**

**Cllr McLellan gave the following report: .**

1 Cllr McLellan informed the members that Cllr. Ministerial Consent has been granted by the McLellan: Minister for the Environment, Heritage and Local Government.

2. Underpinning of the Tower at St Mary's College is complete. 80% of the snag list is complete as is the work in the Courtyard.
3. Sample application forms, License Agreements and Handbook were shown to the Directors. In the process are web design and a brochure.
4. The project co-ordinator is attending a conference in Mullingar where they will review three case studies on how Community Enterprise Centres are run.
5. The handover date is due for the 20th September.

**Motion in the name of Cllr Casey seconded By Cllr Burke**

“That this Council provide designated parking for the Residents of DeValera Street, in the new Car Park on that street”. The Town Clerk outlined on behalf of the Manager and himself the following advice to the members and asked that the motion be withdrawn. “ This motion raises serious issues for Youghal Town council and its members. Consequently, I am outlining for you the implications for the Council should the motion be proceeded with, and the recommendations of the Executive for inclusion in the minutes of the monthly meeting. Background to the Development of the DeValera Street Car Park: Youghal Town Council purchased 0.23 acres from Bank Of Ireland in 2001 with a view to developing same into public car park. Planning permission was granted by the Council in 2002 for a 37 space car park after a public consultation process. During this process submissions were received from the residents of DeValera Street. It was unanimously decided at the time that the residential parking on DeValera Street (Permit Holders) would be transferred to the new Car Park in the interest of road safety and emergency access through De Valera Street. It was specified at the time that there would be no designation of car spaces and this was never raised by the Residents at the time. Current situation: On street public spaces throughout the town and in this case DeValera Street are for all members of the public. Private car spaces are provided on private land at private expense for private use.

The following residences exist currently on DeValera:

- Twomey's 2 units
- Kelly 1 unit
- O Regan 1 unit
- Shanahan 1 unit
- Cronin 1 unit
- Moloney 1 unit
- Keogh 1 unit
- O Laocha 1 unit
- Roche (1) 1 unit
- Roche (2) 1 unit
- Cunningham 1 unit
- Healy 1 unit
- Scuffins 1 unit
- Dillon 1 unit O
- Brien 1 unit
- Calnan 1 unit
- O Sullivan 1 unit

Kenneally 1 unit  
O Donoghue 1 unit  
Total 27 units

The private residences of John Kelly, David Keane and the Forrest Family have vehicular access onto the laneway adjoining the new car park and could also be in a position to apply for a parking space under the terms of this motion. Each of these residences may have more than one car, which under the terms of this motion would effectively make this car park, a private car park regardless of either the daily usage or evening usage of the car park. This exclusivity would be unfair to the residents of surrounding areas of North Main Street, Emmet Place and the various other contributors of development contributions which effectively paid for the car park, a car park for all the public.

**Financial Implications:**

To designate specific car spaces in the new car park in De Valera Street or in any other future car park would represent benefit in kind to the Residents and a loss to the public of approx. €15,000 per designated space. Accordingly, the loss to the Council in designating 10 spaces would be €150,000 approx on 20 spaces would be approx €300,000 and so on. I have discussed and sought advice from the Local Government Auditor on the subject. He has confirmed that where a loss to the Council is attributed to a specific Council decision, the Local Government Auditor may charge the individual members of the Council who were party to the decision.

**Legal Implications:**

a) It should be noted that once rights have been given or earned by individuals on Council property, it is very difficult to retract same. This reduces the value of property and also impinges on future Councils ability to utilise that property to the full.

b) The motion is contrary to the Youghal Town Council, Road Traffic and Car Parking Bye-Laws 2007.

**Recommendations:**

As a direct result of all above, I strongly recommend that the motion is withdrawn. Should the motion stand I will be formally listing this advice as part of the minutes of the meeting of the 8th September, 2008.

**Cllr Caseys Letter to the Members:**

Dear Manager and Town Clerk, I refer to your letter dated 5th September 2008 re mentioned motion. As proposer I wish to reply to the points raised in your letter. Background to the development of DeValera Car Park

“It was unanimously decided at that time that the residential parking on De Valera Street (Permit Holders) would be transferred to the new Car Park in the interest of Road Safety and emergency access through De Valera Street”

**Cllrs Casey response:**

“It is my opinion that this can only be achieved by the designation of 17 spaces (one per house,

permit holders only) “It was specified at the time that there would be no designation of car spaces...”

“No record of this is contained in the Minutes of the June 2002 Council Meeting at which it was decided to proceed with the development of the DeValera Street Car Park subject to 2 conditions:-

1. Archaeological investigation of the site.
2. Treatment of boundary wall i.e. one metre high wall with a railing on top.

**Current Situation:**

“On street public spaces throughout the town and in this case De Valera St. are for all members of the public. Spaces are developed through public monies for all members of the public.”

**Cllr Casey’s Response:**

“This is clearly not the case. I would ask you to refer to my response to paragraph entitled LEGAL IMPLICATIONS below. For clarification of the motion, all that is required is 17 spaces and not one space per residential unit”

“The private residences of John Kelly, David Keane and the Forrest Family” Cllrs Casey’s Response: “Which have been referred to, are not situated in De Valera Street, but in Emmet Place (see Register of Electors) and as such are not included in the terms of the motion

**Financial Implications:**

**Cllr Casey Response:**

This motion does not in any way state that any particular space would be allocated to any specific property, thus conferring no rights to any individual property or individual person. It is the intention of the Motion to allocate 17 non-numbered spaces as residential parking only and any resident may park in any one of the allocated spaces at any particular time. The idea that on completion this motion would incur a future financial loss for the Council equating to 17 x €15,000 = €235,000 for a car park already fully funded by the Council is clearly unsustainable. (Compare to monies actually expended on Catherine St Car Park which was intended to be a pay car park but is now free.)

It was never intended by Youghal Town Council that car parking charges would be used as a source for generating Revenue for the Council but rather as a regulatory instrument only. I was very disappointed to read the implied threat of the Auditor to recover funds from supporting members. There is no basis for this threat.

**Legal Implications:**

“A) It should be noted that once rights have been given or earned by individuals on Council property, it is very difficult to retract same. This reduces the value of the property and also impinges on future use of that property to the full”

**Cllr Casey’s Response:**

“In relation to the point made above about public spaces being for all members of the public, it is clear that the practice of allocating public spaces to business and others has been used in several areas of the Town. I.e.



Loading bays: - Friar St, North Main St.

Disabled Parking: - Most areas within the town

Motorcycle Spaces: - Market Quay.

Hackney Spaces: - South Main St.

Tour Buses Only: - Nealons Quay

Car Park Bus Stop: - Areas within the town.

Trolley Parks: - Catherine St Car Park.

Casual Trading: - Designated areas within car parks At Dolphin Square and Front strand.

All these spaces developed at public expense are to the exclusion of the public. Another example of effectively allocating spaces, to the exclusion of the public and not specified in any Bye-Law, is the exclusive parking by Officials, Staff Members and others on both side of the Mall House. With regard to the “future utilisation” of the property I would submit that the Council may at any future time change the use of this property to any use the Council may see fit, such as, for example a multi storey car park.

SUCH POWERS ARE THE RESERVED FUNCION OF THE TOWN COUNCIL”

B) “The Motion is contrary to Youghal Town Council Road Traffic and Car Parking Bye-Laws 2007.

Cllr Casey’s Response: “No specific Bye-law has been quoted. However it is also the reserved function of the elected members to at any time amend the Bye-Laws, if necessary”. End of Letter.

This matter was debated at much length by the members. The Manager and the Town Clerk advised the Members that they considered their proposals not to be legally safe and recommended deferral subject to legal advice on the matter. Cllr Savage tabled an amendment for deferral based on the Executives recommendations. This was seconded by Cllr Revins and put to a vote.

<b>For the Amendment</b>	<b>Against The Amendment</b>
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Cllr Savage	Cllr Casey
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Cllr Revins	Cllr McLellan
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	Cllr Burke
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	Cllr Murray
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	Cllr Linehan F
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	Cllr Hennessy
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	Cllr Beecher
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The Amendment was defeated by 7-2

The Mayors Motion was then voted upon.

<b>For the Motion</b>	<b>Against Abstained</b>
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Cllr Casey	Cllr Revins
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Cllr Burke	Cllr Murray
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Cllr McLellan	Cllr Savage
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Cllr Hennessy	
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Cllr Linehan Foley

Cllr Beecher

This Motion was carried by 6 votes to nil.

Motion in the name of Cllr. Murray seconded By Cllr. Beecher.

“That Youghal Town Council liaise with Bus Eireann to improve the existing bus stop at Bertie Dempsey’s to examine feasibility of relocating the existing shelter about the width of the footpath back to the car park. There may be a loss of one car parking space. This Ensuring that traffic continues to flow in both directions when bus is parked” Cllr Beecher seconded the motion. Cllr Linehan Foley reminded the members that they had unanimously agreed to shift the bus stop to Catherine Street.

A vote was taken as follows:

<b>For the Motion</b>	<b>Against the Motion</b>
Cllr Murray	Cllr McLellan
Cllr Beecher	Cllr Casey
	Cllr Burke
	Cllr Savage
	Cllr Linehan Foley
	Cllr Hennessy
	Cllr Revins

This Motion was defeated by 7 votes to 2.

**Correspondence List:**

**Correspondence September 2008.**

1. Notice from Third Sector Forum in relation to a Seminar on Local Authority Financing.
2. Notice from TJK Conferences Ltd in relation to a Seminar on Freedom of Information.
3. Brochure from Cork County Council in relation to Water Conservation.
4. An agenda from Irish Ports Association in relation to their forthcoming Annual General Meeting.
5. A thank you notice from the Irish Blood Transfusion Service on the recent attendance at their clinic.
6. The following motion was received from Balbriggan Town Council: “Balbriggan Town Council call on all major retailers operating in the Republic of Ireland to ensure that all goods sold in their outlets are manufactured from sources that do not abuse children”.
7. The following motion was received from Balbriggan Town Council: “Balbriggan Town Council call on the Minister for Environment, Heritage and Local Government to introduce tougher penalties for anyone caught graffitng public property”.
8. A letter from East Cork Early Music Festival 2008.
9. A Notice from Greystones Town Council in relation to their 2008 Autumn Seminar.
10. A Notice from Aoife in relation to their forthcoming conference.
11. Brochure from Clare Tourist Council in relation to A National Tourism Conference.
12. Notice from The No Name Club regarding magazines.
13. Notice from Kerry Life Education Ltd. in relation to a Conference on Getting a Grip 2008.
14. Brochure from Kerry Life Education in relation to a Conference on Getting a Grip 2008.
15. The following motion was received from Fermoy Town Council: “That this Council calls on the government to enact legislation whereby any individual who pays rates or service charges to a Local

Authority be entitled to vote in that Local Authority's elections and that we circulate details of the motion to councils countrywide to seek their support".

16. A letter from the Department of Environment, Heritage and Local Government in relation to minor revisions made to the Statement of Strategy 2008 - 2010.

17. A letter from Tony Flavin, Cal Flavin Ltd., regarding the traffic situation and Wiser Bins.

18. A letter from CASA seeking donations for their Golf Classic.

19. A letter from the Walled Towns Friendship Circle on their publication of Investing in Heritage.

20. The following motion was received from Mullingar Town Council: "That this Council urges parents to ensure that their children are vaccinated against measles and other serious illnesses".

21. A Notice and brochure from ILAM regarding their Annual Conference and Exhibition to be held on 15th & 16th October 2008.

22. The following motion was received from Killarney Town Council: "That Killarney Town Council call on the Minister of Social and Family Affairs to change the rules governing the Back to Education Allowance".

23. The following motion was received from Skibbereen Town Council: "Comhairle Bhaile an Sciobairin supports our fishermen in their efforts to save their livelihoods and the fishing industry which is so important to coastal areas by increasing the Irish share of the quota, a more common sense enforcement of the fishing regulations by the authorities and an immediate financial package for fishermen to alleviate the rising cost of fuel".

24. The following motion was received from Kerry County Council: "That the Members of Kerry County Council call on the Government to improve funding for Local Authorities by allowing a percentage of the VAT collected in each county to be refunded to that county (without an increase on the VAT rate nationally) to ensure proper funding of Local Authorities who are under pressure at present".

25. A letter from Brian Murray, Town Clerk, Balbriggan Town Council to Michael Martin T.D. in relation to their motion stated in item 6.

26. A letter from Brian Murray, Town Clerk, Balbriggan Town Council to Mr. John Gormley T.D. in relation to their motion stated in item 7.

27. The following motion was received from Mullingar Town Council: "That this Council urges the Government and Social Partners to take action to combat ageism in the workplace".

28. A notice regarding a seminar on Local Government & Rural Development and Anti Social Behaviour.

29. An e-mail from Brendan Ahern in relation to the Kathleen & May.

#### **Correspondence:**

1. COPE Annual Report 2007.

2. Walled Towns Friendship Circle Newsletter.

3. Investing in Heritage.

4. Archway Magazine & CD.

5. No Name Magazine May 2008.

6. English Historic Towns Forum September 2008.

#### **Any Other Business:**

1. Cllr. Revins announced that there was a planned meeting in October in relation to the Daycare Centre in the hospital. This concluded the business of the meeting.