

Minutes of Meeting of SPC1

- Economic Development, Enterprise Support and Tourism held in County Hall on 25th May, 2016 at 2.30pm

Present: Cllr. Pat Millea (Chair), Cllr. Patrick McKee, Cllr. Peter Cleere, Cllr. Patrick O' Neill, Mr. Phil Funchion, Mr. Charles Wani, Mr. John Bambrick, Ms. Deirdre Shine

Apologies: Cllr. Pat Fitzpatrick, Ms. Theresa Delahunty

In Attendance: Martin Prendiville, Brian Tyrrell, Fiona Deegan, Stephen O' Connor, Aisling Hayes

1. Minutes of Meeting held on 23rd March, 2016

The Minutes of the meeting held on 23rd March 2016 were proposed by Cllr. Peter Cleere, seconded by Mr. Phil Funchion and agreed.

2. Matters Arising from Minutes

Compliance with Labour Law

Following a recommendation at the last meeting to obtain legal opinion on the current Local Enterprise Office (LEO) letter of offer in relation to compliance with Labour Law as a requirement for payment of a grant by the LEO, Ms. Deegan stated that she had sought advice from both the Council solicitor, James Harte & Son and also Enterprise Ireland's Central Co-ordination Unit (CCU) solicitor.

Ms. Deegan stated that the preliminary advice provided by the Council Solicitor was that:

"there is no specific term or condition in the Letter of Grant Offer which specifically obliges the client to observe employment law. However there is a general statement with regard to compliance as follows:

2.2.4 to comply with relevant legislation and obtain any relevant permits, approvals permissions or consents necessary for the operation of its business including without prejudice to the generality of the foregoing all permits, approvals, permissions, or consents relating to planning, building, environment, employment, taxation, health and safety and the Companies Acts 2014 (as may be amended from time to time);

This is predominantly about documentation. Only the first five words have a relevance to the query. On this basis does the obligation imposed by words "to comply with relevant legislation" amount to a potential trigger for the repayment of the grant. The term "relevant legislation" is not defined. Does it mean all legislation? If an employee of the client company was caught speeding in a company van in breach of the Road Traffic Acts would that trigger a repayment of the grant? I would be of the view that it could not. Similar I would be of the view that the provision is likely to be too vague to trigger a repayment of a grant in an employment law situation also. Does compliance mean avoiding a criminal conviction or does it mean avoiding a negative finding by the WRC or a

civil court? I feel that an action to recover a grant on these grounds would be vulnerable to being dismissed.

Ultimately if it is intended to incorporate an obligation to comply with certain obligation with regard to employment law, this should be specifically set out , as a stand-alone condition for repayment and should state exactly what a client can and can't do to remain compliant with their grant offer”

Ms. Deegan stated that the advice of the Enterprise Ireland solicitor was that:

“the current wording of the grant agreement is as strong as it could be on the subject of labour law.

It is a condition of the grant agreement that the grantee must comply with all employment legislation (which is clearly included in the phrase “relevant legislation”) and must obtain all relevant permits, including in respect of “employment” and “health and safety”. If a grantee is in breach of this condition the grant can be revoked and repayment demanded. In addition the standard grant agreement gives the personnel of the Local Authority/EI, the Irish Government and EU Auditors, and/or consultants engaged by same, to have access to the premises, personnel and records of the Company during the normal business hours of the Company.

It’s also worth noting that, although EI would take action to recover a grant if informed of a breach of a condition in our grant agreement, the policing and enforcement of labour law is not EI’s role. That’s for NERA inspectors and the courts.

Ms. Deegan stated that correspondence dated 23rd May had been received from Mr. Phil Funchion, Kilkenny Council of Trade Unions in relation to this matter and following a lengthy discussion, it was agreed that Mr Funchion would pursue this matter directly at Department level.

LECP Advisory Group

Ms. Deegan stated that the LCDC had been advised of the SPC1’s nominees to the LECP Monitoring Group as being Cllr. Patrick Mc Kee (as nominee for the Chair of SPC1), Cllr. Pat Fitzpatrick and Cllr. Tomas Breathnach and and stated that the other nominees to the Advisory Group from the LCDC were Fergus Keane, Chairperson of the LCDC (PPN representative), Colette Byrne, Vice Chairperson of LCDC (Local Authority) and Loretto O’ Driscoll, Statutory Representative, Teagasc.

Ms. Deegan stated that a meeting schedule was not drawn up as yet but would be drawn up at the first meeting, to be arranged for the coming weeks and that it was most likely be quarterly meetings. Ms. Deegan stated that the role of the advisory committee is overseeing and monitoring of the implementation of the LECP and it is proposed that the terms of reference for this group would be agreed at the first meeting of the Advisory Group.

3. Local Enterprise Office Update

Ms. Deegan stated that the LEO Local Enterprise Development Plan was submitted to Enterprise Ireland on 15th March and awaited approval of same prior to circulation to the SPC for approval but that meanwhile staff were working on the 34 actions as

outlined in in the plan. Ms. Deegan reviewed a number of the actions and provided an update on same and also circulated a listing of LEO Approvals to date, stating that €182,004 had been approved to 9 projects which provided support for 22.5 jobs.

4. Update on Economic Actions of Local Economic & Community Plan

Stephen O' Connor provided a detailed update on the 49 actions which had been identified for implementation in the LECP Economic Annual Action Plan 2016 – 2017.

5. Abbey Creative Quarter Update

Martin Prendiville provided a PowerPoint presentation on the Abbey Creative Quarter. The presentation provided details of the proposed partnership between Kilkenny County Council and the NTMA. The Partnership will be responsible for developing, owning and leasing properties on the site to facilitate business, enterprise, education and research along with ancillary and subsidiary uses including residential and retail.

The Partnership will be a separate legal entity from Kilkenny County Council and NTMA with each owing a 50% share.

The Partnership will provide access to a longer term source of funding and limits the risk for Kilkenny County Council.

6. Tourism Development Update

Brian Tyrrell provided a PowerPoint presentation on Tourism Development in the County and provided an update on same The presentation concentrated on the economic importance of Tourism to Kilkenny's economy accounting for:

- 350 food and accommodation businesses in County Kilkenny
- Accounting for 16.7% of the total numbers employed in Kilkenny

The ambition of the tourism plans are set to transform the visitor experience, grow the industry, revitalise the County tourism offer and maximise Tourism Capital investment. The presentation also referred to the next phase of projects which will form the basis for an application for capital funding to Failte Ireland's large tourism grant scheme:

- River Walk, complementing the Medieval Mile
- Complete the Public Realm from Parliament Street to St Canice's
- Butler Gallery relocation
- Tholsel redevelopment
- Lighting up the Mile at Night

7. Any Other Business

None

8. Date of Next Meeting

It was agreed that the next meeting of the SPC would take place on Tuesday 6th September at 10a.m.

There being no further business, the Chairman concluded the meeting at 5.00p.m.

Signed: _____

Pat Millea
CHAIRMAN

Date: _____