

MINUTE

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Development Committee
Council Chamber, Town Hall, Lerwick
Wednesday 21 August 2008 at 10am

Present:

J G Simpson	L F Baisley
J Budge	A J Cluness
A T J Cooper	A T Doull
A G L Duncan	B L Fullerton
F B Grains	I J Hawkins
R S Henderson	J H Henry
A J Hughson	C H J Miller
R C Nickerson	F A Robertson
G Robinson	C L Smith
J W G Wills	A S Wishart

Apologies

L Angus	W H Manson
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In Attendance (Officers):

N Grant, Interim Head of Economic Development
D Irvine, Head of Business Development
M Henderson, Services and Technologies Officer
M Smith, Development Officer
S Spence, European Officer
T Coutts, Research Officer
G Johnston, Head of Finance
B Robb, Management Accountant
J Riise, Head of Legal and Administration
A Cogle, Service Manager - Administration
B Hill, Acting Divisional Manager - Legal
L Adamson, Committee Officer

Also:

R Murray, Brodies Solicitors
N McDougall, Financial Controller - SDT
W Goudie, Project Manager - SDT

Chairperson:

Mr J G Simpson, Chairperson of the Committee, presided.

Circular:

The circular calling the meeting was held as read.

Declarations of Interests

Mrs C H J Miller advised although she would routinely declare an interest in matters relating to the Shetland Development Trust, she had sought advice from the Council's Monitoring Officer and would remain in the Chamber during the debate on Agenda Item 9.

Mr G Robinson advised of a non-pecuniary interest in Agenda Item 7, as a family member owned a rural shop, and he would take no part in the debate or vote.

Dr J W G Wills declared an interest in Agenda Item 2 as a family member worked for an energy company, and in Agenda Item 6 as he had a business loan from the Shetland Development Trust. Regarding Agenda Item 9, Dr Wills reported that the advice from a Council Officer was that his loan from the SDT had no connection with the arts, and there would be no conflict of interest, therefore he would like to remain in the Chamber and take part in the debate.

Minutes

The minute of the meeting held on 5 June 2008, having been circulated, was confirmed.

Members' Attendance at External Meetings

Mr A J Cluness Tall Ships Races Joint Port Committee, Bergen – 10-12 August. (Mr Cluness advised that a report would be presented to a future meeting of the Committee).

25/08 European Funding Streams

The Committee noted a report by the European Officer (Appendix 1).

Mr A S Wishart commented that considering the complexities of European funding, the report was understandable and straightforward.

Mr A T J Cooper stated that the Shetland College and NAFC Marine Centre should be encouraged to submit applications for ESF money.

In response to a question from Mrs F B Grains regarding a decision on the Marco Polo II Programme, the Financial Controller, SDT, advised that no official response had been received, however Members would be advised when the decision was announced.

26/08 Overview of Shetland Renewable Energy Projects

The Committee noted a report by the Head of Business Development (Appendix 2).

Dr J W G Wills said that this was an excellent, comprehensive and subjective report, and was very encouraging. In response to a question from Dr Wills, the Services and Technologies Officer explained that the technical issues associated with the wind to heat projects at community halls was the requirement for a certain piece of equipment to link with the grid.

Mr F A Robertson stated that this was a significant report as energy was important to the future survival of Shetland, and would determine how, where and when people live and where to develop employment in Shetland. He said that there is significant potential for both wind and tidal energy projects in Shetland, and possibly in the future there could be potential to develop a major marine power development (tidal or wave) at Sullom Voe. As the costs of fuel and oil increases and resources diminish it will be important to encourage developments in renewable energy and for Shetland to be self-sufficient as quickly as possible. Mr A T J Cooper said that he concurred with Mr Robertson's comments, and added that the energy potential in Yell Sound should be harnessed for the good of the community. Mr Cooper moved that the Committee note the contents of the report, and requested that an update report be presented to alternate meetings of the Committee to inform on progress. Mr F A Robertson seconded.

In response to a question from Mrs B L Fullerton regarding the “unplugged houses” in Eshaness, the Services and Technologies Officer advised that the proposal during the next five years would be for the production levels to go up, and the cost of building these type of houses to decrease.

In response to a further question, the Interim Head of Economic Development reported that a Strategy Group had been tasked to prepare an Action Plan which will include information on housing provision, energy saving proposals and advise on support and grant funding. Mr R C Nickerson suggested that the Strategy Group should also consider a loan scheme for individuals to invest in alternative energy, and in particular micro-energy. Mrs C H J Miller said that she was aware that the Council’s Environmental Health Manager was developing a similar grant/loan scheme and suggested that the officers work together to prevent duplication of work.

In response to query from Mr A G L Duncan the Services and Technologies Officer said that he would look to identify a community within the Shetland South ward to develop a wind to heat scheme with district heating, similar to that proposed for Mid Yell, and other areas in Shetland.

27/08

Broadband and Telecommunications

The Committee noted a report by the Development Officer (Appendix 3).

In response to a question from Dr J W G Wills, the Development Officer explained that Shetland was still not connected to the fibre optic cable as the link from Faroe to Shetland belongs to Faroese Telecom, and the link from Shetland to the Mainland belongs to British Telecom, and there is still a requirement for a physical link, as well as a link from Lerwick to Sandwick. The Development Officer advised that a meeting to address this matter was arranged for October, where he would be in attendance along with the Chairperson or Vice-Chairperson of Development Committee to get the best deal for Shetland.

Mr A T J Cooper moved that the Committee note the report, and requested that a report is presented to alternate Committee meetings to advise on progress. Mr J G Simpson seconded.

28/08

Depopulation of Fetlar

The Committee considered a report by the Head of Business Development (Appendix 4).

Ms L F Baisley moved that the Committee approve the recommendations in the report, and requested assurance that the proposed 2-year timescale for the Working Group could be extended by a further year, if necessary. Mr R C Nickerson seconded.

The Head of Business Development introduced the report and stated that with the population of Fetlar down to 50 residents, the time has come for co-ordinated action and the recommendations in the report offered a short window of opportunity to attempt to turn the situation around.

In referring to Section 2.1, “Links to Corporate Priorities”, Mrs I J Hawkins highlighted the target at the first bullet point, “We will place more effort on

stimulating demand for living in the remoter areas of Shetland by ensuring that the ratio of jobs to people and housing is the same as is in more central areas”, and said that she considered that the other remoter islands of Foula, Papa Stour and Fair Isle were in a similar situation to Fetlar. However, Mr A J Cluness said that although there were concerns in all the remote islands, he believed that Fetlar was a special case and deserves this type of approach.

Mr R S Henderson said that Fetlar was the only inhabited island in the British Isles that does not have a harbour. Mr R S Henderson moved that the Council seriously consider the provision of a breakwater for Fetlar, to provide berthing for the ferry, and to attract fishing boats to the good fishing ground around Fetlar. Mrs L F Baisley seconded. Mr A G L Duncan agreed that Fetlar deserves to be a priority case, and that the breakwater was urgently required. He then referred to Section 3.3.1, to the report that the grazing management agreement with Scottish Natural Heritage will end in 2009, and proposed that Fetlar should be regarded as an exceptional case for the funding to continue.

Mr A S Wishart said that a Working Group for Fetlar was a good idea, and he proposed that in time the remit could be spread out to the other islands. He then referred to Appendix 2 and suggested that in addition to the inclusion of Housing and Transport Services, all relevant services should be encompassed within the Group.

Mrs F B Grains considered that the Working Group should include all the remote islands, and also the more rural and remote areas of Shetland, for example, Skeld. The Chairperson advised that the EDU had recently met with the Skeld community to discuss employment opportunities, and a further away day was planned during September.

Dr J W G Wills reported that the Council had approved a breakwater for Fetlar during 1994, however the ferry terminal project went over budget, resulting in the breakwater being dropped. Dr Wills added that Fetlar had by far the best land in Shetland, and it would be unfortunate to see it set aside. He agreed that the other islands should be included in the Working Group, which could be enlarged to a “Fragile Islands Working Group” to share ideas and knowledge.

Mrs B L Fullerton agreed that Fetlar could learn from the other islands, and moved as an amendment, that the Development Committee establish the Fetlar Working Group as the prototype, with the addition of one representative selected by each island community of Papa Stour, Foula, Fair Isle, and Skerries. Mrs Fullerton added that she also supported the breakwater for Fetlar, and hoped that the residents of Fetlar would be willing to invest in fishing vessels. Mrs I J Hawkins seconded.

Ms L Baisley advised that she understood the need to look at the other island communities, however she would proceed with her motion as it stands. Mr R Nickerson said that he had seconded the motion, as he considers Fetlar needs to be a priority. The Head of Business Development advised that it was important, in the first instance, to concentrate on Fetlar, which could act as a model for the other island areas.

After summing up, voting took place by a show of hands, and the result was as follows:

Amendment (B L Fullerton)	5
Motion (L F Baisley)	15

29/08 **State Aid Manual**

The Committee considered a report by the Head of Business Development (Appendix 5).

The Chairperson said that the Manual was welcomed and would be a good guidance for officers dealing with State Aid matters. The Head of Business Development reported that the Council had been advised to have a Manual in place, and that the Scottish Government's State Aid Unit had assessed the draft Manual and their changes had been included.

Mr J G Simpson moved that the Committee approve the recommendations in the report. Mr A T J Cooper seconded.

30/08 **Proposed Interest Rate Policy**

The Committee considered a report from the Project Manager (Appendix 6).

(Dr J W G Wills and Mr G Robinson left the Chamber).

(Mrs C H J Miller advised of a non-pecuniary interest in this item, as her husband has a loan with Shetland Development Trust, and she would take no part in the discussion).

The Committee approved the recommendation in the report on the motion of Mr A T J Cooper, seconded by Ms L Baisley.

31/08 **Rural Shops Improvement Scheme – Scalloway Meat Company**

The Committee considered a report by the Research Assistant (Appendix 7) and approved the recommendation contained therein, on the motion of Mrs I J Hawkins, seconded by Mrs B L Fullerton.

(Dr J W G Wills and Mr G Robinson returned to the meeting).

In order to avoid the disclosure of exempt information, Mr J G Simpson moved, and Mr A T J Cooper seconded, to exclude the public in terms of the relevant legislation during consideration of Appendix B of Item 8, the Appendices of Item 9, and Items 10 and 11.

Shetland Islands Council as Trustee of Shetland Development Trust

(Mrs C H J Miller declared an interest in the remaining agenda items and left the table, but remained in the Chamber and took no part in the discussion).

32/08 **Request for Funding to Complete Restoration of Belmont House**

The Committee considered a report by the Interim Head of Economic Development (Appendix 8).

The Interim Head of Economic Development advised that the EDU regard the restoration of Belmont House as a fairly solid project, which would significantly add to the heritage portfolio of Shetland. 70% of the funding for the project has been from outside sources, and the Belmont Trust has previously approached the

Council and SDT for funding. He reported that having thoroughly exhausted other funding sources, the Belmont Trust have approached the EDU to grant £150,000, however the recommendation is to approve a lesser sum of £100,000, and for the Belmont Trust to trim back on the project and manage their budgets accordingly.

Mr R S Henderson moved that the Committee approve the recommendation in the report. Ms L F Baisley seconded.

Mr J G Simpson moved that the Council award no further financial assistance to this project. Mr C L Smith seconded, and the Committee agreed to this additional motion.

33/08

Mareel Cinema and Music Hall

The Committee considered a report by the Interim Head of Economic Development (Appendix 9).

The Chairperson advised that he had received a list of 35 questions relating to this item, and as the answers to the questions had been provided to Members, no further discussion on the questions and answers would take place.

Mr R Murray, Brodies Solicitors, provided the Committee with an explanation on progress following the two complaints lodged with the Commission in connection with the proposed funding by the SIC to the Mareel project, and by the Lottery Fund. He reported that following extensive discussions with the Scottish Government's State Aid Unit a response has been prepared which is currently being reviewed by the London and UK representatives in Brussels and will be forwarded to the Commission next week. The basis of the submission by the UK rep to the Commission is that the project as currently structured would not constitute state aid, as the infrastructure project would not have any effect on trade on Member States, it contains a cultural/heritage element, and it would be a Council initiative delivered with other funding not constituting State Aid. Mr Murray said that Mareel was clearly a priority project for the Council, who have a statutory obligation and duty to provide such a facility, and would be of benefit primarily and predominantly for Shetland residents and would have no affect on trade or competition in the community, and in these circumstances State Aid issues do not arise. He went on to explain that the question of the Mareel project having an effect on local trade business was not a State Aid issue, and the Commission would only be concerned should the project affect trade by Member States. Mr Murray concluded by saying that he considered this would be the basis on which the UK Government would respond on both complaints, and the formal response from the Commission was anticipated by the end of next week.

Mr A J Cluness said that this project had divided the Council, with issues on the Capital Programme and the impact on local trade. However, the work undertaken by staff at the EDU and HIE had come down firmly in favour of the project, there being a clear indication from staff that the project should go ahead, and the economic advantages to the community were true. Mr Cluness moved that the Committee approve the recommendation in the report, and he noted that the State Aid areas were contained therein. Mr G Robinson asked whether the Convener would consider an inclusion to the recommendation, that an external audit of the business plan and an external economic assessment be undertaken, as no external scrutiny, separate from the HIE or Shetland Arts, had been carried out. Mr Robinson said that he did not think that the project could work, and this further

scrutiny could provide information at the outset of the project, rather than having to scratch around for additional funding in the future. Mr Cluness said that he was satisfied with the motion as it stands, and he considered that all the necessary assessments had been carried out, which would have covered the economic impact. Mr R Nickerson seconded.

The Interim Head of Economic Development advised that the project had been subject to significant external and internal scrutiny, and perhaps had been scrutinised more than other higher priced projects. He considered that the Economic Impact report commissioned by HIE was appropriate, and he struggled to think what other work could be carried out.

Dr J W G Wills referred to the Chairperson's decision to rule out any further discussion on the questions, but he said that he made no apology for asking the questions, and considered that a number of the questions should have been answered some time ago. He added that only 18 of the responses received had been satisfactory responses. Dr J W G Wills moved as an amendment that the Committee refuse the request for funding from Shetland Arts. Mr A G L Duncan seconded.

(Mr C L Smith, Mrs B L Fullerton and Mr G Robinson gave notices of further amendments).

Mrs F B Grains said that it was rather arrogant to think that neither the HIE, the Lottery Fund or Council staff were capable of looking through a business plan. She said that the Council had taken a decision, which should be honoured, and her main worry was the public perception should the Council alter its decision to support the project.

Mr Duncan said that in his opinion the Mareel project would be a total disaster for Shetland, and the cost of the project had already increased. He went on to say that had a private entrepreneur made money from operating a cinema the facility would still be provided in Shetland, and suggested that the upgraded community halls could be used, and therefore there would be no requirement for Mareel. The Interim Head of Economic Development said that there had been a misunderstanding, and he would dispute the fact that the price had risen, and that Shetland Arts were balancing the situation, with the project currently out to tender.

Mr A Wishart said that in his opinion the Council had made its decision to support the Mareel project at the Council meeting on 25 June, and Members were meeting today as a Sub-Committee of the Council.

Mr F A Robertson said that music profiles very highly in Shetland, with Shetland bands travelling all over the world, however there was currently no proper recording studio in Shetland. The proposal would be that the UHI and Shetland College could embrace all music subjects, and Mareel would provide an opportunity to develop a music school in Lerwick to promote the musical talent and develop a traditional and classical music facility for students and performers. Mr G Robinson said that for the music courses to be successful there would be a requirement to establish and maintain a certain number of people for the courses to be sustainable, and he questioned whether it would be possible to maintain a critical mass of people to stay in Shetland to study music when other options were available. Mr Robinson then referred to the £1m invested by the HIE, and said that although the project ticks all the boxes for the Government, they had not invested in

the project. Mr Robinson then advised of a further concern that the Lemon Tree in Aberdeen had failed, having received similar funding, and highlighted that the Scottish Arts Council had pulled the plug on the facility, and had refused to come back with funding.

Mr R Nickerson commented that the Lemon Tree did not have a cinema, but had purely been a music centre, and regarding attracting students to study in Shetland, Mr Nickerson said that the Marine Cadet scheme at the NAFC Marine Centre was a huge success attracting young seamen to Scalloway, and with the UHI having gained University status to issue degrees, in time Shetland could develop music degrees to the envy of others. Mr Nickerson concluded by saying that his concern was that should the Mareel project not go ahead, Shetland would be left behind.

Mrs B L Fullerton said that she agreed that the decision on this project should be made through the democratic system, and the Council have the right to debate the further grant of £1m to the project. Mrs Fullerton noted that the figures in the appendices were confidential, but said she had some concerns how the additional £1m would be spent, and proposed that some strings should be attached to the grant, and also proposed scope for the reduction of costs. Mr C L Smith said that he had no problem accepting the democratic decision made in June, and commented that the decision may have been no different had all Members been present, with the final decision possibly still down to a casting vote. Mr Smith said that he appreciated the work done by the officers, and he was of the opinion that there was a need for such a facility, however he questioned whether the facility had to be as grand as proposed.

Dr Wills said that the request for an additional £1m funding was a separate application to the SDT as a separate legal entity, however he was unsure why Shetland Arts had decided to submit two separate applications. He said that there was nothing to stop the Council and the Trust helping to pay for the construction of the Arts Centre, however the most important objective to solve was how the promoters propose to fund the building once it is built, and if as suggested purely on the sale of alcohol, he advised that the venue had not applied yet for a Licence. Dr Wills referred to the report to Council in June, and said that at that time the Business Plan had not been robust, and the fact that there have been fewer visitors to Shetland this year, and this slump would continue for some years, should be assumed in the business plan. Dr Wills considered that the business plan should be scrutinised externally, as an independent audit may find that the project would make a larger loss than predicted, with Mareel having to make up the losses, for example, through redundancies, or selling properties. He also stated that both the projected figures for employment at Mareel, and the economic activity generated are arguable. He then said that the suggestion that young people were leaving Shetland as there was no music or cinema venue was preposterous, but said that the reasons were more related to the lack of housing and childcare.

Dr Wills went on to say that the Council and the Trust have a duty that any project should follow the public pound. Dr Wills said that he would still oppose the project, even if the Business Plan was watertight, due to the current state of the Council and Trust's portfolios, as unessential projects will soon have to be cut. Dr Wills said that this project had been run by enthusiasts; but this was the time for realism, and the reality was that the Trust could not afford to waste public money on a totemic folly.

Mr Cluness stated that this was a meeting of the Development Committee of the Council, and he had heard the same debates at previous meetings regarding housing and childcare. He commented that there had been similar concerns raised with the Clickimin Leisure Centre and the new Museum, however the venues had been worth every penny and Shetland was healthier, safer and had a better quality of life as a result of these facilities. Mr Cluness said that Mareel would make Shetland different from the rest of the UK, and visitors come to Shetland because it is special, and the Council should go ahead with the project now.

Voting took place by a show of hands, and the result was as follows:

Amendment (J W G Wills)	4
Motion (A J Cluness)	11

Mr C L Smith moved as an amendment, that the Committee defer making a decision on the £1m until such time as confirmation is received on the ERDF Funding. Dr J W G Wills seconded.

The Interim Head of Economic Development explained that a decision on the ERDF funding was expected by the end of August, however any decision today could affect the ERDF funding. Mr Smith commented that should the maximum ERDF grant not be awarded, he had concerns that Shetland Arts would approach the Council to make up the shortfall.

Voting took place by a show of hands, and the result was as follows:

Amendment (C L Smith)	7
Motion (A J Cluness)	11

Mrs B L Fullerton moved as amendment that the Committee support the Mareel project by making available funding of up to £965,000 to SADA for the completion of Mareel as part of the contingency funding. Further that any application be made for consideration to the Development Committee prior to commissioning the spend with details of why the contingency is required, and to drive down costs where possible. In seconding, Mr A T J Cooper said that such a request would not be unreasonably withheld, and that this be added to the amendment. Mrs Fullerton agreed.

Mr Cluness said that he understood Mrs Fullerton's proposal, however he would not seek to bind future Councils to such an extent, and added that it may not be this Council that makes decisions on Mareel, and each Council would have its own priorities.

Mr R Murray, Brodies Solicitors, explained that a relevant point in the context of State Aids and following the Public Pound was to ensure that the amount of assistance was necessary, and only the necessary amount was provided. There would be a very strong and robust contractual agreement from each funder to ensure that the money was properly spent, and the budget would be controlled through value for money, and all organisations would have a claw back provision that any unspent money would be repaid.

Mrs Fullerton referred to the appendices to the report, and said that the contingency figure was extremely high. The Head of Legal and Administration said that the appendices of the report had been marked as exempt, to allow as much

debate in public as possible, however there was an option to exclude the public to allow detail in the appendices to be discussed.

(The Chairperson proposed that the public leave the Chamber during this part of the debate).

(Representatives of the media and public left the meeting).

During the discussion some concerns were raised by Members with regard to the contingency figure, how it would be spent and monitored. The Interim Head of Economic Development advised that the project would follow the public pound, and this would form part of the grant conditions.

Mr Cooper proposed that Mr Cluness include in his motion that a condition of grant be that Members are made aware of how the contingency is spent, through regular updates to Development Committee. Mr Cluness agreed to add this proposal to his motion, and the Committee concurred.

It was suggested that there was a need for a mechanism to be put in place to report progress on this project and costs to Committee, with any concerns to be raised with the Chairperson and Vice-Chairperson of Development Committee. During the discussion, it was proposed that prior to the next Committee meeting, a scheme of delegation should be drawn up to stipulate the extent of authority for the Chairperson and Vice-Chairperson, and also that Mr F A Robertson should be included in monitoring group.

(The public and representatives of the media returned to the meeting).

Mr A Cluness explained that Members had agreed there was a need for the project to be monitored as closely as possible, and although assurance had been given that details of the expenditure would be addressed through the grant conditions, the Committee propose that the Chairperson and Vice-Chairperson of Development Committee, Mr F A Robertson and relevant Monitoring Officer meet on a regular basis to discuss any additional expenditure, and if necessary any concerns should be reported to Committee, and in addition, that the whole process should be reviewed on a regular basis. Mr Cluness said that he agreed to accept this within his motion. Mrs Fullerton advised that she had outlined her concerns regarding the contingency, and was content with the arrangement proposed, and would therefore withdraw her amendment.

Mr G Robinson moved as an amendment that the Committee agree to defer the decision pending an independent audit of the business plan. Dr J W G Wills seconded.

Voting took place by a show of hands, and the result was as follows:-

Amendment (G Robinson) 3
Motion (A J Cluness) 13

(The public and representatives of the media left the meeting).

(Dr J W G Wills left the meeting).

In response to questions from Members, the Project Manager provided an update on a number of the investments.

Mr J G Simpson advised that in order to keep to the timescale and secure a funding package for North Isles Marine, he moved that the Committee agree for a report to be presented to Council. Mr G Robinson seconded.

In response to a request from Mr R C Nickerson, the Interim Head of Economic Development agreed that a separate report on the Hamefarin would be presented at the next Development Committee.

In response to a question from Mr A T J Cooper, the Head of Business Development advised that research work was being undertaken into pre-school provision and private sector working in Shetland, and a report would be presented to the next Committee.

In response to a question from Mr A G L Duncan regarding progress with the State Aid agriculture and fisheries complaints, Mr A J Cluness advised that Jonathan Shaw, the UK Fisheries Minister, would be visiting Shetland next month, and it was hoped that some agreement could be reached for the fishermen.

Mrs B Fullerton stated that the Shetland Food Festival was an excellent idea, and she asked that local chefs be utilised. Mr Cooper added that Shetland Lamb should also feature at the event.

35/08 **Note of the Fisheries Panel –17 June 2008**

The Committee noted the minute of the above meeting.

36/08 **Note of the Agriculture Panel – 7 July 2008**

The Committee noted the minute of the above meeting.

The meeting concluded at 12.35pm

CHAIRPERSON