



# Shetland Islands Council

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# MINUTE

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**Shetland Islands Council**  
**Council Chamber, Town Hall, Lerwick**  
**Wednesday 10 September 2008 at 10.00am**

**Present:**

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

**Apologies:**

L F Baisley                      A G L Duncan  
E L Fullerton (from 11am)

**In attendance (Officers):**

M Goodlad, Chief Executive  
W E Shannon, Assistant Chief Executive  
G Johnston, Head of Finance  
C Medley, Head of Housing and Capital Programmes  
S Cooper, Head of Environment & Building Services  
I McDiarmid, Head of Planning  
M Craigie, Head of Transport  
J Smith, Head of Organisational Development  
N Grant, Interim Head of Economic Development  
N McDougal, Financial Controller, Shetland Development Trust  
W Goudie, Project Manager, Shetland Development Trust  
J Grant, Waste Services Manager  
L MacLeod, Graduate Placement - Procurement  
M Holmes, Coastal Zone Manager  
S Moncrieff, ICT Unit Manager  
I Halcrow, Head of Roads  
J R Riise, Head of Legal and Administration  
B C Hill, Acting Divisional Manager/Legal  
A Cogle, Service Manager - Administration  
L Gair, Committee Officer

## **Chairperson**

Mr A J Cluness, Convener of the Council, presided.

## Circular

The circular calling the meeting was held as read.

## Declarations of Interest

Mrs I J Hawkins, declared an interest in item 5.

Mrs F B Grains, declared a non-pecuniary interest in Planning Board Minute dated 13 August.

### 110/08 Shetland Islands Council – 25 June 2008

The Council approved the minutes of the aforementioned meetings, on the motion of Mr A J Cluness.

### 111/08 Members Attendance at External Meetings

C L Smith & A J Hughson	Meeting with K MacAskill, Justice Minister, Edinburgh – 25 June 2008
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F B Grains, J Budge, A T J Cooper & F A Robertson	Valuation Joint Board, Orkney – 3 September 2008
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L Angus	CoSLA Health & Well-being Executive Group Meeting – Edinburgh - 7 August
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### 112/08 Petitions

There were no petitions.

### 113/08 Development Committee – 21 August 2008

The Council confirmed the minute of the aforementioned meeting, on the motion of Mr J G Simpson.

### 114/08 Infrastructure Committee – 26 August 2008

The Council confirmed the minute of the aforementioned meeting, on the motion of Mr A S Wishart.

### 115/08 Services Committee – 28 August 2008

Except as undernoted, the Council confirmed the minute of the aforementioned meeting, on the motion of Mrs E L Fullerton.

Item 67/08 - Dr J W G Wills queried whether the Scottish Government expert consultants had been contacted and asked when they would be coming to advise Members on the best practice across Scotland on school design. Mr L Angus advised that they had not yet been contacted.

Dr J W G Wills said that as this item required a decision of the Council he proposed that the recommendations of the report be added to. Dr Wills provided the Convener with a copy of his suggested amendment, who confirmed that as it was a change to the recommendations, there needed to be a motion made. The Convener said that, in his opinion, this project was the responsibility of the Services Committee and that any matters of detail should be discussed there.

Dr Wills moved, as an amendment, that the Council approve that the recommendations be added to and said that in view of the fact that a £49m school at the Knab could consume a third of the SIC Capital Programme for more than a decade, and mindful of the requirement to ensure best value for the public pound, the Council further instruct the Chief Executive to a) procure an independent estimate of the cost of building, on a flat, green field site already owned by the Council, an “exemplar” school for 1,000 pupils; and b) to ask the Scottish Government’s school building experts to check this estimate and give their impartial advice on the best way to proceed. Mr G Robinson seconded.

Mrs E L Fullerton said that there had not been a lot of difference between the motion and amendment at the Services Committee and said that the Chairperson of Services Committee was willing to call a special meeting at anytime in order to discuss any further matters of detail.

In response to a query, Dr Wills explained that an “exemplar school” was a standard approved design, which would be changed to suit the needs of a particular school, taking account of weather conditions and space available.

Members expressed some concern that Dr Wills’ amendment would divert and dilute resources and that the commencement on the Knab site would be delayed and would therefore incur more costs.

Mr L Angus said that he had been disappointed at the delay in appointing a Project Manager, adding that in his view the matter should wait until the new Project Manager was in place.

During summing up, Dr Wills added that there was no extra cost by exploring this as the information would be needed sooner or later, and at least it would have been carried out by the time it was required. Voting took place by a show of hands and the result is as follows:

Amendment (Dr J W G Wills)	3
Motion (Mrs E L Fullerton)	9

Mr L Angus requested that it be minuted that he abstained from voting.

116/08 **Audit and Scrutiny Committee – 27 August 2008**

The Council confirmed the minute of the aforementioned meeting on the motion of Mrs F B Grains.

117/08 **Planning Board – 24 June 2008**

The Council confirmed the minutes of the aforementioned meeting on the motion of Mr G Robinson.

**Item 50/08 A Reassessment of the Housing Zone Review (Interim Policy)**

Mrs E L Fullerton sought reassurance that advice given to any individual concerning the zoning policy would be honoured. The Head of Legal & Administration advised that to anyone aggrieved, the Council's position was that the Shetland Local Plan 2004 would prevail, and the decision made in June did not affect that. He said that he was unable to give any detailed advice on any particular case. The Acting Divisional Manager – Legal added that the Shetland Local Plan, agreed in 2004 had always been the determinative document, and the meeting in June was only to clarify that that was the case, and that the Interim Housing Zone Review had not been concluded through full consultation and did not supersede the Shetland Local Plan 2004, though it could be a material consideration. He said that the details of particular cases would have to be looked at individually. The Head of Planning advised that the Shetland Local Plan 2004 had been and remained the predominant document on which advice was given.

*(The Chief Executive declared an interest in the Planning Board minutes and left the Chamber)*

118/08 **Planning Board – 13 August 2008**

Mr F A Robertson moved the accuracy of the minute, with the exclusion of item 52/08.

**Item 52/08 – Application 2008/040/VS and 2008/041/VS**

Mr G Robinson advised that more information had become available since the Planning Board meeting, and that in light of the information, Mr Robinson moved that the Council approve the minutes, with the exception of item 52/08, and that these applications be referred back to the Planning Board for further consideration. Mr L Angus seconded, and the Council concurred.

119/08 **Harbour Board – 14 August 2008**

The Council confirmed the minute of the aforementioned meeting on the motion of Mr A T J Cooper.

**Item 23/08** – Mr J G Simpson expressed his concern with regard to the Symbister Dock, stating Ports and Harbours had suggested closing the dock. He said that it was a big scheme to restore the dock, however it was important to protect and stabilise what was there.

*(The Chief Executive returned to the Chamber)*

The Chairperson for the Board confirmed that he would be attending the next meeting of the Whalsay Community Council to discuss this matter, and that the issue would be reported to the next Harbour Board meeting.

120/08     **Licensing Sub-Committee – 1 July 2008**

The Council confirmed the minute of the aforementioned meeting on the motion of Mr C L Smith.

121/08     **Long Term Financial Planning – Council Reserves and Budget Strategy 2009/10 and Beyond**

The Council considered a report by the Head of Finance (Appendix 1).

The Head of Finance introduced the report and advised that the Council was on course to meet its financial targets in 2008/08 and also in 2009/2010. He said that the report instructed Budget Responsible Officers to prepare budgets based on actual spend whilst keeping the targets, in mind.

The Head of Finance said that it was a consequence of policy that there would be a reduction from £20m to £15m in funding from the Reserves for the General Fund Capital Programme in 2010/11. With regard to the Single Status settlement issue, he recommended that Members await the outcome of negotiations and tackle the issue when the information was available. He said that by that time, they would know the impact and how it would go against the budgets for next year.

Mr R C Nickerson said that the report was helpful but contradictory. Mr Nickerson moved that the Council approve the recommendations contained in the report with the addition of a new paragraph 9.1.5, recommending that the Council set up efficiency teams over the next 18 months to look at the savings across all departments, to achieve at least £3m savings from the revenue and general funds. Mr A S Wishart seconded.

Mr L Angus spoke in support of the report, however in referring to paragraph 2.8 he was concerned that the lack of 3 year funding had created uncertainty for the NAFC in terms of financial planning and hoped that the new Director would address this. Mr L Angus moved as an amendment that Members approve the recommendations contained in the report, seconded by Mr A J Cluness.

In response to queries from Dr J W G Wills, the Head of Finance advised that with regard to the 10 year projection on harbour surpluses, there was evidence that the Harbour was doing better, but it was right to say it would be a challenge. However there was also a question of what fees could be levied without discouraging harbour users. The

Head of Finance also advised that the estimated 2% inflation was based on the slow down in the world economy and drops in oil prices, and it was expected that inflation would fall next year. The Head of Finance confirmed that 7% gross investment return was a good long-term rate. He explained that there had been ups and downs but said that he would not recommend changing the rate. With regard to a query about the graph in Appendix B the Head of Finance explained that the Council's position was down to excellent financial planning and strategy by the Council. He confirmed that the figures did not include the cost of the Anderson High School, which would have to be found from within existing resources. Dr J W G Wills was concerned that if capital funding were agreed for the school, the sum available in 2010/11 and thereafter would leave a remainder of £10 million for other capital projects. The Head of Finance confirmed that would be the case but that £10 million was still a substantial capital programme and higher than other comparable areas. He said that in order to stabilise resources the Council needed to curtail its capital spending.

In response to queries from Mr A T J Cooper, the Head of Finance advised that beyond 2010, he could only assume there would be a profit from Sullom Voe, and he confirmed that the £2m one-off reduction in Economic Development's budgets had been reinstated for next year's budgets and what had been spent had to be scrutinised. With regard to single status, the Head of Finance said that more data was required and that it would be a challenge, but one that could only be dealt with when it happened. The Head of Finance confirmed that if the report was approved, the advice given to staff would be that budgets be set based on actual spend and 2% per annum efficiency savings where they can be found. He said the course that the Council was on was satisfactory but he welcomed any guidance Members wished to give.

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

Amendment (Mr L Angus)	9
Motion (Mr R C Nickerson)	9

The Convener used his casting vote in favour of the amendment and therefore the recommendations of the report were approved as reported.

*(Mrs E L Fullerton left the meeting)*  
*(Mr W H Manson left the Chamber)*

122/08      **Prioritisation of Capital Programme – Revised Process**

The Council considered a report by the Head of Capital Programme and Housing Services (Appendix 2).

Mr L Angus moved that the Council approve the recommendations contained in the report, seconded by Mr A T J Cooper.

*(Mr W H Manson returned to the Chamber)*

Some Members expressed their concern that there would be no points system for prioritising the programme, but noted that each Committee would present their recommended prioritisation list to the Council. The Council would then decide what would be progressed.

In response to a query for clarification to paragraph 4.8.7, Members were advised that this applied to all projects, unless already underway.

123/08     **Progress Report – Capital Programme**

The Council considered a report by the Head of Capital Programme and Housing Services (Appendix 3).

Mr J G Simpson moved that the Council approve the recommendations contained in the report, seconded by Mr A T J Cooper.

124/08     **Capital Programme Outturn 2007/08**

The Council noted a report by the Head of Capital Programme and Housing Services (Appendix 4).

*(Mrs I J Hawkins declared an interest in the following item)*

*(Mrs C H J Miller declared an interest in the following item as a retailer in Shetland)*

*(Mr C L Smith left the Chamber)*

125/08     **Corporate Procurement – Interim Report**

The Council considered a report by the Waste Services Manager (Appendix 5).

The Waste Services Manager briefly introduced the report and stated that Corporate Procurement ticked a lot of boxes including the Corporate Plan and the need for efficiency savings. He said that the downside was that there would be a change in local spending,. He added that it was important to engage with local producers and suppliers, to encourage their participation in Scotland Excel and Council contracts.

*(Mr C L Smith returned to the Chamber)*

Mr L Angus said that he was delighted to see the report and that the prize for the Council would be savings in the region of £1m/year. Mr L Angus moved that the Council approve the recommendations



contained in the report. In seconding, Mr R C Nickerson said that he was reassured to hear that there would be dialogue with the local industry to ensure that they can compete.

Mr A S Wishart sought clarification to paragraph 8.1.6 and the Waste Services Manager advised that it would not be feasible to report back on every Scotland Excel contract. He said there was a requirement for Officers to seek best value, and the exemption from Standing Orders was to allow Scotland Excel to carry out the tendering process.

Some Members expressed their concern regarding the impact on local traders. The Waste Services Manager said it was difficult to determine the local impact, and the best way to see that would be with local economic multipliers which show that spending in agriculture, fish processing and food and drink have the greatest benefit on the local economy. He added however that part of this exercise would be to help local industries to participate in the tendering process. He also advised that the Member nominated to serve on the Joint Committee of Scotland Excel would monitor the performance of Excel.

Mr A T J Cooper queried whether it would be possible to benchmark against local providers. The Waste Services Manager advised that there would be no problem with going outside the contract with Scotland Excel, but only if a good business case could be presented. He confirmed that this would not be possible on a week by week basis, but that if a product was cheaper locally, it would be possible to be up front and advise Scotland Excel that we would not be participating on that particular occasion.

The Waste Services Manager confirmed that some discussion had taken place with local industry for carrying the goods into Shetland. He said some companies had been interested but more work was required to identify volumes, sizes etc.

The Council approved the nomination of Mr C L Smith as the Member to serve on the Joint Committee of Scotland Excel.

*(Mr R C Nickerson left the Chamber)*

126/08     **Highlands and Islands Pathfinder Project**

The Council noted a report by the ICT Unit Manager (Appendix 6).

Mr A T J Cooper said that the Council should note the report with regret regarding the poor performance by Thus PLC, seconded by Mr L Angus.

The ICT Unit Manager reported that Thus PLC were getting their act together and were now at the half way point. He said that good

progress was being made and was confident that delivery would be early next year.

In response to a query, the ICT Unit Manager said it would not realistically be possible to recover the extra cost for the additional ICT Staff involvement in the project. The ICT Unit Manager also confirmed that there were one or two planning issues to be resolved, but that he was looking at alternative options.

Mr W H Manson said that Nesting School was missing from the list, but noted that this had been addressed separately to Pathfinder. He also noted that although Pathfinder would solve broadband for the public sector, he was concerned that it would do nothing in rural Shetland to allow local businesses to compete on a level playing field with their South competitors. He said it was important to urge the Government to intervene, as it was not economic for telecom companies to provide the services required.

*(Mr R C Nickerson returned to the Chamber)*  
*(Chief Executive and Mr L Angus left the Chamber)*

127/08     **Fairer Scotland Funding**

The Council noted a report by the Head of Organisational Development (Appendix 7).

*(Dr J W G Wills declared an interest in the following item)*  
*(Chief Executive returned to the Chamber)*

128/08     **Consultation on Scotland's First Marine Bill**

The Council considered a report by the Coastal Zone Manager (Appendix 8).

*(Dr J W G Wills left the Chamber)*

Mr J G Simpson said that it was important for Shetland to hold on to local control in the aquaculture, fish and shell fishing industry. He said that whatever happens the Marine Bill had to fit in with current EU Legislation. Mr Simpson said there needed to be a better partnership between Industry and science, he said that the ICES (International Council for the Exploration of the Sea) report was frightening in how it affected quotas and fisheries management, when the science used was at least 2 years out of date. He said that it was a good response, but there was a bigger picture than just the Scottish Marine Bill.

*(Dr J W G Wills returned to the Chamber)*

Mr F A Robertson said that from a Shetland point of view it was important to make sure we secure the ZCC Act 1974 and the Shellfish Management Order.

*(Mr L Angus returned to the Chamber)*  
*(Mr G Robinson left the Chamber)*

Mr Robertson added that Shetland were ahead with the Scottish Sustainable Marine Environment Initiative. He said that the terrestrial land planning now extended 12 miles out for aquaculture and when the next local plan was addressed, work with officers should be done on Coastal Zone Management.

Members agreed with the comments of Mr Simpson and Mr Robertson, and Mr R C Nickerson said that it was not enough just to respond to the consultation and suggested the matter be taken to Edinburgh and negotiations be entered into. He proposed that the Convener and Chief Executive be delegated to meet with the Minister on behalf of the Council.

During further discussion, Members discussed the fact that Shetland was a leader in Marine Management and Mr A T J Cooper said the Council should advise the Government that Shetland had a proven track record and that it could deliver it for them. Members agreed that it should seek to have Marine Scotland headquartered in Shetland.

*(Mr G Robinson returned to the Chamber)*

Mr L Angus agreed adding that he was concerned that the 3 tier approach would place the Marine Bill third in the pecking order and that Shetland had to pursue the matter and bring something to the table, with the New Director at the NAFC as the focal point for it.

The Coastal Zone Manager advised that he would add the points raised and in response to a query, confirmed that the LPA had been included in the consultation list.

Members thanked the Coastal Zone Manager for the work he had done.

129/08     **Appointment to the Shetland College/Train Shetland Board of Management**

The Council considered a report by the Head of Legal and Administration (Appendix 9).

Mr A S Wishart moved that the Council approve the recommendations contained in the report, seconded by Mr W H Manson.

Mr J Irvine was duly appointed as the NHS Nominee, to the Shetland College/Train Shetland Board of Management.

- 130/08     **Appointment of Member to Audit and Scrutiny Committee**  
The Council considered a report by the Head of Legal and Administration (Appendix 10).
- Mr G Robinson was nominated, on the motion of Dr J W G Wills, seconded by Mr A J Cluness
- Mr J H Henry was nominated, but declined the position. Therefore, Mr G Robinson accepted the nomination, and was duly appointed Member to the Audit and Scrutiny Committee.
- 131/08     **Appointment to External Organisations – SYIS**  
The Council considered a report by the Head of Legal and Administration (Appendix 11).
- Mr W H Manson, Mr J H Henry and Mrs C H J Miller were nominated and approved by Council to be appointed to the Board of Directors/Management Committee of the Shetland Youth Information Service.
- 132/08     **Shetland Islands Council – Equalities Update**  
The Council considered a report by the Head of Organisational Development (Appendix 12).
- Mr L Angus moved that Council approve the recommendations contained in the report, seconded by Mr C L Smith.
- 133/08     **The Crown Estate in Scotland**  
The Council considered a report by the Assistant Chief Executive (Appendix 13).
- Mr A T J Cooper moved that the Council approve the recommendations contained in the report. Mr Cooper advised that the Council had a long history of discussions with the Crown Estate but little had been done. He said that Mike Russell MSP indicated that he would be more empowered if there was complete buy-in for the review of the management of the Crown Estate. Mr Cooper asked that members consider signing the declaration. The declaration was passed around for the Members present to sign. Mr R C Nickerson declined from signing.
- The Convener moved that the Council approve that following item be held in public, seconded by Mr A T J Cooper.**

134/08     **West of Shetland Investment Process**

The Council considered a report by the Assistant Chief Executive (Appendix 14).

Mr L Angus moved that the Council approve the recommendations contained in the report, seconded by Mr A S Wishart.

Mr W H Manson declared an interest, but asked that the Shetland Charitable Trust be entered into the confidentiality agreement as owner of the Sullom Voe Terminal. The Council agreed.

*(Mr W H Manson left the Chamber).*

**In order to prevent the disclosure of exempt information, Mr A J Cluness moved, Mr C L Smith seconded, and the Council resolved, in terms of the relevant legislation, to exclude the public during consideration of the following item of business.**

*(Mr A J Cluness declared an interest in the following item as a Member of NHS Shetland)*

135/08     **Funding Arrangements for Temporary Care Home for Lerwick at Montfield**

The Council considered a report by the Executive Director of Education and Social Care.

Mr L Angus moved that the Council approve the recommendations contained in the report, seconded by Mr C L Smith.

136/08     **Staffing Appeals Committee – Update**

The Council considered a report by the Head of Legal & Administration.

Mr A J Cluness moved that the Council approve the recommendations contained in the report, seconded by Mr J G Simpson.

**The following Report relates to the performance of duties of the Shetland Islands Council as Trustee of Shetland Development Trust**

*(Mrs C H J Miller declared an interest in all matters relating to the business of the Shetland Development Trust and took no part in the discussions).*

**The following item contains exempt information.**

137/08     **North Isles Marine Ltd - Application for Financial Assistance**

The Council considered a report by the Project Manager – Shetland Development Trust.

Mr Simpson said that he was pleased to see the initiative happen and moved that the Council approve the recommendations contained in the report, seconded by Mr A T Doull.

*(Mr W H Manson returned to the Chamber)*

The meeting concluded at 11.55am.

A J Cluness  
Convener