

# MINUTE

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**Shetland Islands Council  
Council Chamber, Town Hall, Lerwick  
Wednesday 25 March 2009 at 10am**

**Present:**

|               |               |
|---------------|---------------|
| A J Cluness   | L Angus       |
| L F Baisley   | J Budge       |
| A T J Cooper  | A G L Duncan  |
| A T Doull     | B 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:**

No apologies

**In attendance (Officers):**

M Goodlad, Chief Executive  
W Shannon, Assistant Chief Executive  
N Grant, Head of Economic Development  
G Johnston, Head of Finance  
I McDiarmid, Head of Planning  
I Halcrow, Head of Roads  
H Budge, Head of Schools  
C Medley, Head of Housing  
J Riise, Head of Legal and Administration  
D Bell, Human Resources Manager  
M Finnie, Capital Programme Service Manager  
S Moncrieff, ICT Unit Manager  
A Cogle, Service Manager - Administration  
L Adamson, 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**

Dr J W G Wills – Items 5 and 6 – as a Trustee of Shetland Charitable Trust.

Except as undernoted, the Council approved the minute of the aforementioned meetings, on the motion of Mr A J Cluness:

01/09 – Capital Programme 2009/10

Mrs F B Grains advised that there was no representative from the Shetland West ward on the recently established Member/Officer Working Group to address the Capital Programme and Financial Monitoring, and proposed that Mr F A Robertson be included. The Council agreed.

Mr L Angus advised that the 2<sup>nd</sup> paragraph on page 5 should be changed to read "... Mr Angus said that discussions were being held with the Shetland Charitable Trust with regard to funding, and said that as Chairperson of Services Committee he reserved the right to come back ...".

Mr R C Nickerson referred to page 3, and advised that the text in italics should be removed, and the 3<sup>rd</sup> paragraph on page 4, should be changed to read "... this project was not a marina, but was an important tourism business, and would affect the whole Sandwick community".

05/09 - Development Committee – 22 January 2009

09/09 Shetland Abattoir Co-operative Ltd., and Shetland Livestock Marketing Group Ltd. – Abattoir and Meat Processing Facility, Scalloway

Mrs Hawkins asked that the 1<sup>st</sup> sentence on Page 5 should be changed to read: "Mrs I J Hawkins asked if this was a company that was in extreme financial difficulties whether the Council would be acting illegally and imprudent in putting money towards it, whether 50% or 100%".

[Mr W H Manson attended the meeting].

31/09

**Members Attendance at External Meetings**

Mr A J Cluness – Convention of Highlands and Islands, Arran

Mr L Angus – CPMR Aquamarina Group, Brussels

Mr C L Smith – 2<sup>nd</sup> Annual Licensing Board Conveners' Conference, Edinburgh

Mrs I J Hawkins - Northern SSTA (Secondaries Sustainable Transport Activities) Seminar, Inverness

Mr A G L Duncan – Fire Board Integrated Risk Management Planning Working Group, Inverness

Mr R C Nickerson – Asked that the Council record its congratulations to all who were involved in the Shetland Schools Music Gala concert. The event had been very successful with 260 entries, and over 1000 musicians taking part.

32/09

**Petitions**

There were no petitions.

33/09

**Development Committee – 26 February 2009 and 5 March 2009**

Except as undernoted, the minutes of the aforementioned meetings were confirmed on the motion of Mr J G Simpson, seconded by Mr A T J Cooper:

20/09 – Shetland Livestock Marketing Group

Mr R C Nickerson referred to the final paragraph on Page 2, and advised that the 1<sup>st</sup> sentence should be changed to read "... from a number of constituents following his attendance at a meeting ...".

On page 5, Ms L F Baisley clarified that it was not her personal opinion that Laxfirth slaughterhouse would be the preferred location, but it was the opinion of customers in the North isles.

22/09 – Renewable Energy Update Report – November 2008 to February 2009

Mrs I J Hawkins referred to the 4<sup>th</sup> sentence of the 3<sup>rd</sup> paragraph on page 4, and clarified that it was a SSMEI project.

34/09 **Infrastructure Committee – 10 March 2009**

Except as undernoted, the Council approved the minute of the aforementioned meeting, on the motion of Mr A Wishart:

21/09 – Smoking Prevention and Reduction Work with Young People

Mr L Angus reported that this initiative had also been discussed at the Community Planning Delivery Group. There appeared to be some confusion regarding responsibility for addressing this issue from a public health point of view, and he suggested that the Council should discuss this with NHS Shetland.

35/09 **Audit and Scrutiny Committee – 11 March 2009**

The Council approved the minute of the aforementioned meeting, on the motion of Mrs F B Grains

36/09 **Services Committee – 12 March 2009**

The Council approved the minute of the aforementioned meeting, on the motion of Mr L Angus.

37/09 **Planning Board – 25 February 2009**

The Council approved the minute of the aforementioned meeting, on the motion of Mr G Robinson.

06/09 – 2008/179/PCO – To erect two dwellinghouses (in outline), Sites 1 and 2, Brakes, Whiteness by Mr and Mrs E Bishop

Members noted that the application had been deferred for the Roads Service to deal with a number of issues. Mr C L Smith reported that an e-mail had been received from the Roads Service advising that the issues had been addressed, and proposed that the application could be approved today. Mr G Robinson moved that the application be approved, and the Council agreed.

09/09 – 2008/354/PCO – To erect dwellinghouse (in outline) adjacent to East Neuk, Casho, Quarff by Mrs Caroline Wiseman

Mr G Robinson reported that the application was presented for Council approval, as it had been approved against adopted Policy. Mr C L Smith explained that the application should have been approved at the December meeting of the Planning Board, however the application was withdrawn as last minute objections had been received from the Community Council. He clarified that he supported the application as he considered that the decision that the land should be outwith the Local Protection Area should stand, even though two Community Council members had not been in attendance at the Community Council meeting in March 2007 when that decision had been made.

Mr R C Nickerson reported that as the Shetland South Member had not been present at the meeting, he had requested to address the Board as a substitute member for the area, and to advocate for the applicant following comments received from a statutory consultee. However he had been advised that he would not be permitted to address the Board as the application had been presented for a decision only. Mr Nickerson proposed that, in similar circumstances, consideration should be given to permitting substitute Members to address the Board. The Head of Planning advised that there were specific rules relating to statutory consultees, which would be addressed as secondary legislation under the new Planning Act. He added that a report was being prepared to provide guidance on all the roles involved in the planning process.

[Mr F A Robertson attended the meeting].

38/09 **Harbour Board – 4 March 2009**

Except as undernoted the Council confirmed the minute of the aforementioned meeting, on the motion of Mr A T J Cooper, seconded by Mr J H Henry:

Mr Cooper advised that the 5<sup>th</sup> paragraph on page 4 should be changed to read, “The Chairperson said that the Unst community should be allowed to remove, at no cost to the Council, the unsuitable material and consider any other no cost solutions for the disposing of these materials”.

39/09 **Review of Members’ Remuneration, Travel and Subsistence Allowances**

The Council considered a report by the Head of Finance (Appendix 1), and approved the recommendations contained therein on the motion of Mr L Angus, seconded by Mr A T J Cooper.

In response to a comment from Mr Cooper, the Head of Finance advised that he would provide clarity to Members on their remuneration during sick leave.

40/09 **Irrecoverable Debt 2008/09**

The Council considered a report by the Head of Finance (Appendix 2), and approved the recommendations contained therein on the motion of Mr A J Cluness, seconded by Mr A T J Cooper.

In response to a comment from Mr Cooper, the Head of Finance advised that 10-15% of the current provision for bad debt being written off was a good result and compared favourably to past years.

41/09 **Progress Report – Capital Programme**

The Council considered a report by the Capital Programme Service Manager (Appendix 3)

Mr L Angus suggested that some of the slippage should be allocated to the preparation of feasibility studies, for projects to be ready to proceed should funds become available.

Mr Angus said that previously there had been around 90 technical staff backing up the capital programme service, however there are now less than 12 staff supporting the service and this has resulted in consultants having to be relied on to progress

projects which was a huge cost to the local authority. He referred to the earlier decision not to increase staff Council wide, however he was of the opinion that the staffing of this service should be reviewed. The Chief Executive advised that the Assistant Chief Executive had been tasked to prepare a report on the audit of resources, which would be presented to the next Financial Working Group and to Council.

Mr J G Simpson referred to the allocation of slippage for the Peerie Dock project at Symbister, and said it was important that the repair work should progress as soon as possible.

Mr A J Cluness moved that the Council approve the recommendations in the report. Mr L Angus seconded.

#### 42/09 **Housing Strategy Groups**

The Council considered a report by the Executive Director of Education and Social Care (Appendix 4).

Mr L Angus explained that the proposal to amend the terms of reference for the Housing Allocations Policy Monitoring Group had been presented to Council as Services Committee considered that the funding options for potential investment in new affordable housing should be addressed as quickly as possible. Mr L Angus moved that the Council approve the recommendations in the report.

Some discussion took place regarding the additional appointments to the Group, and it was suggested that each ward areas could nominate and advise on their representative. In seconding, Mr A G L Duncan reported that three Members had volunteered to be appointed to the Group, namely Ms L F Baisley, Mrs C H J Miller and Mr A T J Cooper.

Mr A J Cluness offered to attend meetings of the Group, as an observer. Mr Duncan said that Mr Cluness' knowledge and interest in housing would be a valuable input.

Mr C L Smith advised that as there were two Members from the Lerwick South ward currently on the Group, being himself and Mr J H Henry as the Hjaltland Housing Association member, and Mr Smith suggested that he could possibly stand down. The Council agreed that Mr Smith should remain as a member of the Group.

#### 43/09 **Shetland Charitable Trust Funded Bodies Review Group – Terms of Reference**

The Council considered a report by the Executive Director of Education and Social Care (Appendix 5), and approved the recommendations contained therein on the motion of Mr L Angus, seconded by Mrs I J Hawkins.

#### 44/09 **Options Review Council's Relationship with Shetland Charitable Trust**

The Council considered a report by the Chief Executive (Appendix 6).

[Mr W H Manson declared an interest as Chairperson of Shetland Charitable Trust, and advised that he would take part in the debate].

Mr Manson referred to Section 1.4 in the report, to the recent examples where the community had benefited from interaction between the Council and the Trust, and said that the correct language should be used with the word 'transfer' being replaced with 'sale'.

Mr Manson stated that he had no objection to the Council seeking legal advice. He reported on Dundas and Wilson's earlier involvement in the formation of the Trust, and said in undertaking the review it would be necessary for Dundas and Wilson to have some dialogue with Turcan Connell, the Trust's current legal advisers.

Mr Manson referred to the uncertainty regarding conflicts of interests relating to the Viking Energy project and said that when Members/Trustees had satisfied themselves that they were acting appropriately, the matter had been conducted satisfactorily. Mr R C Nickerson commented that he considered there was no conflict of interest, and he would continue to take that view.

Mr Nickerson referred to the two options set out in Section 2 of the report, and proposed that there should be an additional option, whereby the current arrangement should continue. Mr A J Cluness advised that the option for status quo would be included in the review.

During the discussion, Dr J W G Wills stated that it has to be demonstrated that the Trust was a separate entity to the Council, and therefore the Trust has to change to include elected independent Trustees. Mr Cluness said he was totally opposed to any change as the Trust has worked well for over 30 years, and that the community are aware that Members of the Council would stand as Trustees of the Trust. He went on to say that it was only because of perceived changes in the Charities Law that there could be a need to increase or change membership of the Trust, however he acknowledged that the review would determine whether any changes had to be made. Mr A J Cluness moved that the Council approve the recommendation in the report. Mr L Angus seconded

Dr J W G Wills referred to the estimate of £50,000 for Dundas and Wilson to undertake the review, and moved as an amendment that the work should be put out to tender.

Mr A S Wishart proposed that the issues raised by Mr Manson and Mr Nickerson could be accommodated within the brief. There was a lot of confusion on the current arrangements between the Trust and the Council and he said that it was essential to get accurate advice. Mr Angus said he would resist any attempt to remove a majority of elected Members from the Trust, and suggested that a delegation could meet with representatives from the Office of the Scottish Charities Regulator (OSCR) to discuss perceptions on how the Trust works. Mr A T J Cooper advised that Trusts set up by Glasgow and Edinburgh City Councils had been scrutinised by OSCR and had been allowed to continue with a majority of elected Members, and he suggested that there could be merit in the Council joining with and taking the same direction as these Councils. The Council concurred.

Dr Wills' amendment received no seconder, and the motion by Mr Cluness was declared the finding of the meeting.

The Human Resources Manager introduced the report and advised of the approach proposed by the recently appointed selection panel, for an Appointment Sub-Committee to be formally constituted to progress with the recruitment of a new Chief Executive.

Mr R C Nickerson moved that all elected Members should be involved in the appointment of the Chief Executive. Mr C L Smith seconded.

Mr L Angus explained that the smaller Appointment Sub-Committee had been proposed as some Members had expressed their dissatisfaction regarding the recruitment processes for the recently appointed Executive Director - Infrastructure Services.

In response to a request from Mrs C H J Miller, the Human Resources Manager clarified that recruitment training for Members would be arranged prior to the selection process.

Mr A J Hughson said he welcomed the decision that consultants would not be used in the recruitment process, but he had severe reservations with the proposal for the smaller group to undertake the recruitment with the Chief Executive's post being the most important in the Council. Dr J W G Wills stated that the Council should be consistent in their approach to recruiting Senior Officials and agreed that the Full Council should be involved. He commented that it would be unlikely that all Members would be available, however all Members should have the right to attend. Dr Wills said that in his opinion there was no requirement to utilise an advertising agency, and that the recruitment advert should be developed in-house. He added that it was important that the role-play scenario was a realistic and effective exercise to test candidate's knowledge and skills.

Mr A S Wishart said that Members not involved in the short-listing process could be disadvantaged at the final interview stage. Ms L F Baisley said that in her opinion, the proposal for all elected Members to undertake the interview process would be appalling, and proposed that the smaller group which had previously been approved to carry out the recruitment of the Chief Executive should continue with the task. Ms Baisley moved as an amendment to approve the recommendation in the report. Mr F A Robertson seconded.

Mrs B L Fullerton considered that all Members should have the right to take part in the interview process, and following the short-listing process carried out by the smaller group, detailed and thorough reporting on the individual candidates would be required to the Full Council. Mrs F B Grains said that Policy changes should not be made on the hoof, and agreed that the smaller group could undertake the short-listing but that Full Council should make the final decision.

In response to questions from Members, the Human Resources Manager clarified that the smaller group could undertake the short-listing process, with a summary on the criteria met by each applicant reported to Full Council. The Head of Legal and Administration added that there would be a requirement for the short-listing panel to be formally constituted as an Appointment Sub-Committee of the Council. Mr R C Nickerson agreed to include this in his motion.

Mr F A Robertson withdrew his seconding of Ms Baisley's amendment. There being no further amendment, the motion by Mr Nickerson, as amended, was declared the finding of the meeting.

The Human Resources Manager clarified that the dates had been arranged for the recruitment training, and that the interview stage would take 2 days, and therefore Members would have to commit to both dates.

**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 Agenda Item 8.**

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

46/09

**Disposal of Redundant ICT Equipment**

The Council considered a report by the ICT Unit Manager.

Following the discussion in which a number of Members expressed concern regarding data security, the ICT Unit Manager proposed that he could conclude the contract on the understanding that the hard disc drives would be physically destroyed before the computer equipment was transferred for disposal. Alternatively, if he were unable to conclude a contract with the preferred contractor, he would proceed to a tender on the same basis. Having been given this assurance, Mr R C Nickerson moved that the ICT Unit Manager conclude the agreement. Mr A J Cluness seconded, and the Council concurred.

The meeting concluded at 11.20am.

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A J Cluness  
Convener