

# MINUTES

# A & B

**Shetland Islands Council**  
**Council Chamber, Town Hall, Lerwick**  
**Wednesday 8 February 2012 at 10 a.m.**

## **Present:**

|               |               |
|---------------|---------------|
| A J Cluness   | L Angus       |
| J Budge       | A T J Cooper  |
| A G L Duncan  | E L Fullerton |
| F B Grains    | R S Henderson |
| J H Henry     | A J Hughson   |
| W H Manson    | C H J Miller  |
| R C Nickerson | F A Robertson |
| G Robinson    | D A Sandison  |
| J G Simpson   | C L Smith     |
| J W G Wills   | A S Wishart   |

## **Apologies:**

|             |           |
|-------------|-----------|
| L F Baisley | A T Doull |
|-------------|-----------|

## **In attendance (Officers):**

A Buchan, Chief Executive  
P Crossland, Director - Infrastructure Services  
C Ferguson, Director - Children's Services  
B Lawrie, Director - Corporate Services  
H Sutherland, Head of Finance  
J Riise, Executive Manager - Governance and Law  
R Sinclair, Executive Manager - Capital Programmes  
B Hill, Acting Divisional Manager - Legal  
J Molloy, Asset Strategy Manager  
L Adamson, Committee Officer

## **Chair**

Mr A Cluness, Convener of the Council, presided.

## **Circular**

The circular calling the meeting was held as read.

## **Declarations of Interest**

The following Members declared a non-pecuniary interest in item 7 "Notice of Motion": Mr Nickerson, Mr Cooper, Mr Smith, Mrs Miller, Mr Hughson, Mrs Fullerton, Mr Robinson, Mr Budge, Mr Sandison, Mr Angus, Mr Duncan, Mr Henderson, Mr Robertson, Mrs Grains, and Mr Simpson.

Mr Manson declared a pecuniary interest in item 7, "Notice of Motion" as Chair of Shetland Charitable Trust. Mr Henry declared a pecuniary interest, as Vice Chair of Shetland Charitable Trust. Mr Manson and Mr Henry confirmed that they would leave the Chamber during the discussion.

Mr Sandison declared an interest in Item 2 "Appointment of a Member to Shetland Fisheries Training Centre Trust".

02/12

**Minutes – 7 December 2011 and 12 January 2012**

**7 December 2011**

The Council approved the minutes of the above meeting on the motion of Mr Cluness, seconded by Mr Cooper.

**100/11 – Appointments to Education and Families Committee – Religious Representatives**

In response to a request for an update, and following advice from the Executive Manager, Governance and Law, the Convener undertook to write to the Chair of the CoSLA's Education, Children and Young People's Executive Group, and to report progress to the next Council meeting.

**98/11 – Anderson High School: Feasibility Report**

In response to a question, Mrs Fullerton commented on the initial requirement for Government backing for the project, and advised that the announcement on the bidding process for Scottish Futures Trust funding was expected soon.

**12 January 2012**

The Council approved the minutes of the above meeting, on the motion of Mr Simpson.

03/12

**Appointment of Independent Person to the Harbour Board**

The Council considered a report by the Executive Manager – Governance and Law (Report No: GL-09-12-F), which advised of a vacancy on the Harbour Board following the resignation of Mr L Boswell as Sullom Voe Terminal Manager.

In response to a question, the Executive Manager – Governance and Law confirmed that all non-elected member appointments had to take place following each ordinary Council election.

Mr Henderson moved that the Council approve the recommendation in the report, and Mr Cooper seconded.

The Council **RESOLVED** to note the recommendations of the Chair and Vice-Chair of Harbour Board and appointed Mr Arthur Spence, Sullom Voe Terminal Manager, to the Council's Harbour Board, with his period of appointment terminating on the date of the next Ordinary Election of Councillors.

04/12

**Appointment of a Member to Shetland Fisheries Training Centre Trust**

The Council considered a report by the Executive Manager – Governance and Law (Report No: GL-06-12-F), which advised of the requirement to appoint a Councillor Member to the Shetland Fisheries Training Centre Trust.

Mr Robinson nominated Dr Wills as a Trustee of Shetland Fisheries Training Centre Trust, and Mr Henderson seconded. There were no further nominations. Dr Wills accepted.

The Council **RESOLVED** to appoint Dr Wills as the Trustee of Shetland Fisheries Training Centre Trust.

05/12

**Pension Fund – Final Audited Accounts**

The Council considered a report by the Chair of Executive Committee, which presented the final signed and audited Pension Fund accounts for approval.

Mr Simpson moved that the Council adopt the recommendations in the report, seconded by Mr Cluness.

*(Dr Wills declared an interest as a member of the Pension Fund).*

In response to questions, the Head of Finance summarised the 3 risk areas that had been identified during the audit, and gave assurance that actions were in place to resolve the risks within the short to medium-term.

*(Mr Duncan declared an interest in this item).*

The Council **RESOLVED** to:-

- approve the final signed and audited Pension Fund accounts for 2010/11; and
- note Audit Scotland's Annual Report on the 2010/11 Audit and approve the Action Plan.

06/12     **Reserves Policy Update**

The Council considered a report by the Chair of the Executive Committee, which sought a decision on outstanding matters regarding the preliminary position on the Reserves Policy.

During the brief discussion, the Head of Finance provided further explanation on how the recommendations had been developed.

Mrs Fullerton moved that the Council approve the recommendations in the report. Mr Cooper seconded.

The Council **RESOLVED** that:-

- the baseline for estimating the long term rate of return for external investments be based on current market value, from 2013/14 onwards; and
- the long-term financial planning estimated rate of return be set at 4.5% (after inflation has been deducted) from 2013/14 onwards.

07/12     **Financial Regulations**

The Council considered a report by the Chair of the Executive Committee, which detailed updates to the Financial Regulations.

Mr Simpson moved that the Council adopt the recommendation in the report, seconded by Mr Smith.

The Council **RESOLVED** to adopt the Financial Regulations.

08/12     **Asset Strategy and Draft Implementation Plan**

The Council considered a report by the Chair of the Executive Committee, which set out the Council's Asset Strategy and suggested implementation framework to be adopted.

Mr Simpson moved that the Council adopt the recommendation in the report, and Mr Smith seconded.

In response to questions, the Executive Manager – Capital Programmes advised that the Implementation Plan was work in progress, and the final document would be presented to the next Council.

The Council **RESOLVED** to adopt the Asset Strategy.

09/12

**Notice of Motion**

*(Mr Manson and Mr Henry left the meeting).*

In referring to the number of declarations of interest previously advised in regards to this item and to ensure a quorum, the Executive Manager – Governance and Law asked Members to consider the objective test in relation to their individual declaration, as to whether they were taking part in the discussion and vote.

The Council proceeded to consider a Notice of Motion in the following terms:

“This Council welcomes all but one of the proposed changes to the constitution of the Shetland Charitable Trust (SCT) and requests the Trust to reconsider the proposal for a majority of eight appointed Trustees. This Council believes the voters of Shetland should directly elect these independent Trustees.

This Council resolves to instruct the Chief Executive to write to the Shetland Charitable Trust and the Office of the Scottish Charities Regulator (OSCR), to notify them of this resolution and to ask them to bear in mind the following points when considering the proposed change in the method of appointing Trustees” (*Points 2.1 – 2.17 are attached as an Appendix*).

Mr Robinson introduced his Notice of Motion and asked Members for their support. Mr Duncan seconded.

Mrs Miller said that with the Trust being independent of the Council, the motion can have no direct impact on Trust business, and a decision of the Trust to be overturned or reconsidered within 6 months requires a motion to be signed by twelve Trustees. She advised of the opportunity to put concerns direct to OSCR when representatives are in Shetland on 28 February.

After hearing Mr Cooper provide some observations relating to Points 2.1, 2.2 and 2.4, Mr Robinson, with the consent of his seconder, amended his Notice of Motion, as follows:

“This Council welcomes all but one of the proposed changes to the constitution of the Shetland Charitable Trust (SCT) and requests the Trust to reconsider the proposal for a majority of eight appointed Trustees. This Council believes the voters of Shetland should directly elect these independent Trustees.

This Council resolves to instruct the Chief Executive to write to the Shetland Charitable Trust and the Office of the Scottish Charities Regulator (OSCR), to notify them of this resolution”.

During the discussion, a number of Members spoke in support of the motion, and considered it would be in order for the Council, as a consultee, to make a submission to OSCR.

Mr Simpson reported that the governance issues of the SCT had been well debated through the SCT Governance Review Group, and Trustees had come to a decision regarding the majority of eight being appointed Trustees. Mr Simpson moved as an amendment that no further action should be taken. Mrs Miller seconded.

Some Members spoke in support of the amendment that the decision previously taken by Trustees should stand, and acknowledged the further opportunity to make comments to representatives of OSCR at the meeting later in February.

During the discussion, a Member paid tribute to the work of the SCT Governance Review Group and highlighted that all the changes had been supported apart from one, where it could not be accepted that democratic control should rest with the Trust. He added that there was also no requirement by OSCR to appoint independent Trustees.

Mr Duncan moved that the Council hold a roll call vote, and Mr Nickerson seconded.

Mr Cooper questioned whether the Council's submission to OSCR should be more comprehensive than the Notice of Motion, and gave notice of a further amendment. However the Executive Manager – Governance and Law explained that a further amendment could not be accepted.

A show of hands concluded that the majority of Members were in support of a roll call vote.

Following summing up, voting took place by roll call vote, as follows:

| <b>Motion</b><br>(Mr Robinson)  | <b>Amendment</b><br>(Mr Simpson)   |
|---|--|
| Mr Robinson<br>Mr Sandison<br>Dr Wills<br>Mr Angus<br>Mr Cluness<br>Mr Duncan<br>Mrs Grains<br>Mr Henderson<br>Mr Hughson<br>Mr Nickerson | Mr Simpson<br>Mr Smith<br>Mr Wishart<br>Mr Budge<br>Mr Cooper<br>Mrs Fullerton<br>Mrs Miller<br>Mr Robertson |
| 10  | 8  |

*(Mrs Fullerton and Mr Angus left the meeting).*

10/12

### **Cycle to Work Scheme**

The Council considered a report by the Chair of Environment and Transport Committee, to establish a Cycle to Work Scheme for SIC employees.

Mr Wishart moved that the Council adopt the recommendation in the report. Mr Henderson seconded.

Dr Wills said he considered this to be an excellent scheme, however when cuts are having to be made to SIC services he considered this an inappropriate time to take this scheme forward. Dr Wills moved to defer a decision on the funding for this scheme. Mr Duncan seconded.

*(Mr Manson and Mr Henry returned to the meeting).*

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

|                      |    |
|----------------------|----|
| Amendment (Dr Wills) | 11 |
| Motion (Mr Wishart)  | 7  |

The meeting concluded at 11.10a.m.

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Chair