

MINUTE

B - PUBLIC

**Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 27 May 2015 at 2pm**

Present:

M Bell	M Burgess
P Campbell	G Cleaver
A Cooper	S Coutts
B Fox	R Henderson
A Manson	F Robertson
G Robinson	D Sandison
C Smith	G Smith
T Smith	M Stout
A Westlake	J Wills
A Wishart	V Wishart

Apologies

A Duncan	D Ratter
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In Attendance (Officers):

M Boden, Chief Executive
H Budge, Director of Children's Services
N Grant, Director of Development Services
M Sandison, Director of Infrastructure Services
J Belford, Executive Manager - Finance
J Riise, Executive Manager – Governance and Law
J Smith, Change Programme Manager
C Symons, Executive Manager – Estate Operations
S Brunton, Team Leader - Legal
A Cogle, Team Leader – Administration
S Keith, Project Manager – Economic Development Unit
C Anderson, Senior Communications Officer
L Gair, Committee Officer

Also:

M Heubeck, SOTEAG

Chair:

Mr M Bell, Convener of the Council, presided.

Circular:

The circular calling the meeting was held as read.

Declarations of Interest

Dr Wills declared an interest in item 1 “SOTEAG Presentation” as a subcontractor to SOTEAG but advised that he would remain in the Chamber for the presentation.

Mr Burgess declared an interest in items 5 “Chair's Report - Review of Tertiary Education in Shetland - Aggregated Business Model” and 6 “Chair's Report - Review of Tertiary Education in Shetland - Option Appraisal and Implementation Plan”, as a Trustee of the Shetland Fisheries Training Centre Trust and he would leave the Chamber.

Mr Sandison declared an interest in items 5 “Chair's Report - Review of Tertiary Education in Shetland - Aggregated Business Model” and 6 “Chair's Report - Review of Tertiary Education in Shetland - Option Appraisal and Implementation Plan”, as an Industry Trustee of the Shetland Fisheries Training Centre Trust for which he receives an employment honorarium, therefore he has a direct interest and will leave the Chamber.

Dr Wills declared an interest in item 10 “Shetland Development Trust Surplus Distribution” advising that he received a Shetland Development Loan before he was a Councillor and he would seek guidance before deciding whether to stay in the Chamber.

Minutes

The Council approved the minutes of the Council meetings held on:

- i) 18 February 2015, on the motion of Mr C Smith seconded by Mr Henderson;
- ii) 25 February 2015, on the motion of Mr C Smith seconded by Mr Campbell; and
- iii) 15 April 2015 on the motion of Ms Wishart seconded by Mr Robinson, with a correction to the last page where “descent” should read “dissent”.

26/15 SOTEAG Presentation

The Council considered a report by the Director of Infrastructure Services (ISD-15-15-F), which introduced a presentation from SOTEAG on their activities at Sullom Voe.

The Director of Infrastructure Services Introduced the report. Following a presentation by Mr Cooper and Mr Heubeck, they responded to Member's questions, and the following points were noted:

- Data is collected by SEPA, SOTEAG, SNH and RSPB and these organisations are all interlinked providing a Shetland wide data set.
- Tystie and Shag numbers since 1992 had halved in Sumburgh.
- A survey was carried out and there were 4 invasive species found in Sullom Voe Harbour area but none of them are detrimental to the Shell Fish industry. These species were likely to have appeared during the construction phase of Sullom Voe in the 1970's. The biggest fear is for Zebra mussels as they would have a devastating effect on the mussel farms.

During the discussion, a Member questioned how unique the records were having 40 years of continuous monitoring of the area. Mr Heubeck referred to the Braer and said that, had there been only 5 years worth of data on the Shag population, the rapid decline would have been blamed on the Braer. He said that the data is hugely important in the UK context and the seabird work is unique. In Faroe Mr Heubeck advised that there was multi institute work going on. Members also acknowledged the importance of this data set worldwide.

In response to a question regarding the SSPCA provision in Shetland, Mr Heubeck said that the WRCC (Wildlife Response Co-ordinating Committee) and the SSPCA have plans for contingencies if an incident plan goes into action. He said that the SSPCA would not be involved in training volunteers but were likely to bring in their own staff to handle the birds. He said that if there are one or two oiled birds then this would be handed locally and the WRCC would decide what to do.

During discussion on bird mortality, Mr Heubeck said that there is information on entanglements in fishing gear and other reasons that needs to be teased out of the data set. Members also noted that a Dutch study had been undertaken on plastics

in bird's stomachs and samples sent to Holland indicated that Shetland was cleaner than most areas however that did not mean that Shetland was clean as there was evidence of plastics along tide lines. He said that no work had been done to look at the physiological impact and commented on the amount of chemicals in plastic containers that will be carried by the birds.

Dr Wills advised that from daily samples he had taken there are at least 12 plastics amongst the azure plankton eaten by fish and commented that some work was needed in this area.

The Convener thanked Mr Cooper and Mr Heubeck for their presentation.

Decision:

The Council **RESOLVED** to note the presentation.

27/15

Chair's Report - Local Nature Conservation Sites

The Council considered a report by the Chair of Development Committee (SIC-0527-DV23), which presented the Supplementary Guidance (SG) on Local Nature Conservation Sites (LNCS) and the table of responses from the recent consultation.

The Chair of Development Committee introduced the report and moved that the Council approve the recommendation contained in the report. Mr Fox seconded.

A Member questioned the legal status of the supplementary guidance and was advised that the guidance will be approved by the Scottish Government. The Chair of Development Committee advised that this was a living document and would be revised as required. The Member expressed concern that the guidelines would confuse planning law and that this was, in his opinion, a regressive step. The Leader explained that he had received assurances from the Scottish Government that there was no intention to designate any sites that had not already been designated. The EU Commission are currently reviewing the Board's directive and the EU and Scottish Government are concerned about the different designations both looking at simplifying and streamlining the system.

Decision:

The Council **RESOLVED** to adopt the SG Local Nature Conservation Sites.

28/15

Chair's Report - Review of Transport for Children and Additional Support Needs and Social Care Service Users

The Council considered a report by the Chair of Policy and Resources Committee (SIC-0527-TP07), which presented the key findings from a detailed review of transport for children with additional support needs (ASN) and Social Care Service users.

The Chair of Policy and Resources Committee introduced the report and moved that the Council approve the recommendations contained in the report. Mr Stout seconded.

At the request of a Member the Director of Development Services reassured Members that there would be no reduction in services as a result of this change. He explained that the report sets out the assessment criteria and how the

requirements will be met and this policy would assist as the services move to self directed support when individuals find their own solutions to transport.

The Chair of Environment and Transport Committee added that this report had been discussed extensively and it was noted that there had been no policy previously and that the service approach had been ad hoc. He added that the rationale was to provide consistency for those receiving the services.

Decision:

The Council **RESOLVED** to adopt the recommendations from the Policy and Resources Committee, namely to:

- Note that no service withdrawal is planned for current service users as a result of this report;
- Note that the key recommendations are not designed to deny services to potential service users but to ensure that a disciplined, equitable and consistent approach is taken to offering travel assistance and to avoid duplication of publically funded travel assistance;
- Note that a key underpinning recommendation is that the Council and health partners is to actively promote independence rather than dependence;
- Note that there are no operational cost implications arising from the proposals within the Consultancy Report, which seeks to achieve modest savings over time, by reducing the Council's reliance on the private sector and increasing the use of the Community Transport sector;
- Approve the new Assisted Travel Policy (contained in Appendix 5 of the consultant's report attached as Appendix One to the report) under which service professionals assess eligibility to travel assistance and Transport Planning puts into place a cost effective transport solution.

29/15

Chair's Report - Shetland Islands Council Carbon Management Plan 2015-2020

The Council considered a report by the Chair of Policy and Resources Committee (SIC-0527-EO02), which presented detail on how Estate Operations and the Carbon Management Project Team will progress the implementation of a Carbon Management Plan for the period 2015-2020.

The Chair of Policy and Resources Committee introduced the report and moved that the Council approve the recommendations contained in the report. Mr Stout seconded.

The Executive Manager – Estate Operations introduced the report and both he and the Director of Infrastructure Services responded to questions. Members were advised that the long term asset investment plan for ferry services would include the development of an infrastructure improvement and vessel replacement programme. This would identify the eldest and least efficient services first and Members noted that the Fair Isle service was likely to be the first to be considered. In response to a question, the Director of Infrastructure Services explained that Fair Isle would be considered first due to the age and condition of the vessel as well as

it's suitability for an ageing population in the isle. She confirmed that the wider carbon consequences would be considered when looking at a replacement.

During the discussion, it was also confirmed that in addition to LNG fuel, Officers were keen to consider other environmentally friendly fuels and were exploring hydrogen. Reassurance was given that carbon emissions would be included in the Department's procurement. The Director of Infrastructure Services also confirmed that once Fair Isle link had been considered focus would turn to the next link and all options of least carbon production, including fixed links, would be part of the considerations. The Chief Executive added that Members should be mindful of the carbon cost of building fixed links.

A Member commented on the current power station and its proposed replacement, and the question were raised as to whether the Council would be lobbying for it to be a gas fuelled power station. Members were advised that in general terms natural gas is better with the removal of transport miles but at the same time other options can be investigated such as hydrogen. Other alternatives would include community based generation of heat and combined power plant thermal wind. Developing a mix of power sources would mean less dependence upon one fuel source. A Member advised that once SSE's consultation is completed it is expected the project will go to tender next June.

A Member sought clarification on whether Marine Vessels can be converted to gas power. The Executive Manager – Estate Operations advised that this was a matter that he would have to look into and come back to Members.

In response to a question the Executive Manager – Estate Operations advised that 4.53% annual carbon reduction for the next 6 years would be achievable only if everyone is on board. He also confirmed that car sharing already takes place but it had not been included as it was seen as double counting, however it would go towards the target.

Decision:

The Council **RESOLVED** to:

- adopt and implement the Plan; and
- Instruct Officers to progress the projects set out in the Plan to help achieve our carbon reduction targets as a matter of priority.

(Mr Burgess and Mr Sandison left the Chamber)

30/15 **Chair's Report - Review of Tertiary Education in Shetland - Aggregated Business Model**

Chair's Report - Review of Tertiary Education in Shetland - Option Appraisal and Implementation Plan

The Council considered two reports by the Chair of Policy and Resources Committee (SIC-0527-DV25), which described the Aggregated Business Model and (SIC-0527-DV26) that set out the implementation plan for an integrate model, and the decisions required to take that forward to the next stage.

Mr Robertson moved that the Council approve the recommendations contained in both reports, seconded by Mr Campbell

The Change Programme Manager advised Members that Appendix 1, to the Business Model committee report, had been amended to take account of comments from the Employees JCC, College JCC and clarified engagement with Shetland Charitable Trust. He also advised that the Option and Appraisal and Implementation Plan report had been updated to show the work between Policy and Resources Committee and Council to adapt the partnership agreement to local circumstances.

Decision:

The Council **RESOLVED**, having taken account of the views of Committees, to confirm the intention to move towards a single governance delivery model for Tertiary Education in Shetland; and to

Establish a Partnership Board, with a membership, role and remit as set out in the Partnership Agreement [which is Appendix C to the report] as amended to reflect local circumstances under authority delegated to the Director of Development Services; and

Instruct the Partnership Board to present a Merger Proposals Report to a future meeting of the Council for approval.

(Mr Burgess and Mr Sandison returned to the meeting)

31/15 **Strategy for Secondary Education**

The Council considered a report by the Director of Children's Services (CS-14-15-F), which provided an update on the current position in relation to the Strategy for Secondary Education.

The Director of Children's Services introduced the report.

A Member expressed his concern that recommendations went against the original motion to abandon any suggestion that the Mid Yell and Symbister schools would close. He said that there was a need to trying to end the endless uncertainty for staff in Yell and Whalsay.

Ms Wishart introduced the report and moved that the Council approve recommendation 2.1, Mr G Smith seconded.

Dr Wills moved, as an amendment, that the Council approve the recommendations contained in the report with the exception of 2.1(c) and (d) and abandon attempts to continue on the closure of Mid Yell and Whalsay.

The Director of Children's Services explained that continuing with the conclusion of the consultation process was important and to write back to the responses received which she advised would allow the statutory process to be concluded following conclusion of that process. Members would then be able to decide whether to support or go against the recommendations. The Executive Manager – Governance and Law advised that legislation states that you have to complete the process before a moratorium can take effect.

The Director of Children's Services confirmed that it was likely that the consultation would be concluded by the end of October/November, when the findings will be presented to Members.

The amendment received no seconder.

Decision:

The Council **RESOLVES** that:

- The decision taken on 18 February 2015, by Shetland Islands Council, to cease the current statutory consultation on the options of the proposed closure of Mid Yell Junior High School Secondary Department, or the discontinuation of Secondary 4 education only, and not to proceed to publish a consultation report be revoked;
- The decision taken on 18 February 2015, by Shetland Islands Council, to cease the current statutory consultation on the options of the proposed closure of Whalsay School Secondary Department, or the discontinuation of Secondary 4 education only, and not to proceed to publish a consultation report be revoked;
- That Children's Services proceeds to publish a consultation report in accordance with the Schools (Consultation) (Scotland) Act 2010, and completes the statutory consultation process on the closure proposals affecting Mid Yell Junior High School Secondary Department detailed in the Proposal Paper published on 19 September 2014;
- That Children's Services proceeds to publish a consultation report in accordance with the Schools (Consultation) (Scotland) Act 2010, and completes the statutory consultation process on the closure proposals affecting Whalsay School Secondary Department detailed in the Proposal Paper published on 19 September 2014.

32/15

Establishment of Pension Fund Committee and Pension Board

The Council considered a joint report by the Executive Manager – Governance and Law and the Executive Manager - Finance (GL-12-15-F), which sought to establish a Pension Fund Committee and Pension Board.

The Executive Manager – Governance and Law introduced the report.

During consideration of nominations, legal advice was sought and given on any potential conflicts of interest for Members who are in receipt of a Council Pension. Some Members declined acceptance of a nomination.

The following nominations for the substantive Members of the Pension Board were then received:

Mr Bell
Mr Ratter (in absentia)
Mr Henderson

The following nominations for the substitute Members of the Pension Board were received:

Dr Wills
Ms Manson
Mr Sandison

On the motion of Mr Henderson seconded by Mr Cleaver the Council approved recommendation 2.1.1 to 2.1.7 contained in the report.

Decision:

The Council **RESOLVED** to:

- Establish the **Pension Fund Committee** as Scheme Manager for the Shetland Islands Council Pension Fund, with the terms of reference and membership as contained in Appendix 1;
- Establish the **Pension Board** to assist the Scheme Manager [Pension Fund Committee], with the terms of reference and membership as contained in Appendix 2.
- Appoint three Councillors as Substantive members of the Pension Board, who are not members of the Pension Fund Committee, namely: Mr Bell, Mr Henderson and Mr Ratter;
- Appoint three Councillors as Substitute members of the Pension Board, who are not members of the Pension Fund Committee, namely: Ms Manson, Mr Sandison and Dr Wills;
- Appoint Mr James Johnston, SRT General Manager, as the Admitted Bodies Employer Representative for the remaining term of this Council;
- Seek the appointment of four Trade Union Representatives and up to four named substitutes, and a Union Joint Secretary from the next meeting of the Employees JCC; and
- Appoint the Executive Manager – Governance and Law, or his nominee, as the Joint Secretary to the Pension Board.

33/15

Local Government Boundary Commission for Scotland - 5th Review of Electoral Arrangements - Council Consultation

The Council considered a report by the Executive Manager – Governance and Law (GL-23-15-F), which brought to the Council's attention the proposals for wards in the Shetland Islands Council area, as presented by the local Government Boundary Commission for Scotland (LGBS).

The Executive Manager – Governance and Law introduced the report.

Members expressed their concern that the proposals were not taking account of the Community Council Boundaries and the social connections within the wards. The Chief Executive advised that the only way to achieve an alternative outcome would be to provide a complete solution for the entire area that also achieved the parity in electoral numbers.

Following some discussions and at the request of a Member, the Executive Manager – Governance and Law confirmed that it would be appropriate to register concerns at this stage, and he would consult with the Convener on the terms of a letter before it is sent.

In response to a question on what the possibility is of redrawing Community Council boundaries after consultation, the Executive Manager – Governance and Law advised that if new electoral boundaries for Local Council Wards are approved, the Council can revisit its Scheme of Establishment of Community Councils. He said that any new Council boundaries would take effect from the Council elections in 2017, and therefore any review of Community Council Boundaries could be done either before the end of this Council's term or at any time thereafter. Members noted that the Boundary Commission conduct a statutory review every 8-10 years, which also takes account of electorate figures and population projections.

Mr Robinson moved that the Council approve the recommendations taking account of comments to write back to the Boundary Commission with a general expression of concern prior to the next stage of the process. Dr Wills seconded.

Decision:

The Council **RESOLVED** to:

- Note the conclusion of the Commission that Shetland retains the current number of Councillors – 22; and
- Make no representations at this time as to the proposals for electoral wards, but write to the Boundary Commission with a general expression of concern to the proposals with consideration being given to the matter further during the formal public consultation at Stage 3.b of the process.

(Dr Wills left the Chamber)

In order to avoid the disclosure of exempt information, Mr Bell moved, Mr Fox seconded, and the Council RESOLVED to exclude the public in terms of the relevant legislation during consideration of the following items of business.

34/15 **Shetland Development Trust Surplus Distribution**

The Council considered a report by the Project Manager – Economic Development, which advised of a decision taken by the Director of Development Services under his delegated authority to maximise the use of surpluses funding prior to the wind up of the Shetland Development Trust (SDT).

Decision:

The Council **RESOVLED** to note the decision made by the Director of Development Services.

35/15 **Registration Service: Contractual Matters**

The Council considered a report by the Executive Manager – Governance and Law which advised on the current position with regard to the Registration Service in

Shetland, and sought a decision as to the future provision of the service in Yell and Whalsay.

The Executive Manager – Governance and Law introduced the report and responded to Members questions.

Decision:

The Council **RESOLVED** to:

- Note the workload and office move to the Town Hall of the Chief Registrar and Depute Registrar; and
- Revoke the former decision to continue provision of the service in Yell and Whalsay.

The meeting concluded at 4.40pm

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Convener