

MINUTE

B - Public

**Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 24 February 2016 at 10.00 am**

Present:

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

Apologies

A Westlake

In Attendance (Officers):

M Boden, Chief Executive
C Ferguson, Director of Corporate 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
R Sinclair, Executive Manager – Capital Programme
J Smith, Executive Manager – Change Programme
C Anderson, Senior Communications Officer
L Geddes, Committee Officer

Chair:

Mr Bell, Convener of the Council, presided.

Circular:

The circular calling the meeting was held as read.

Declarations of Interest

The Convener advised that he would take declarations in respect of the exempt agenda items during that part of the meeting.

Agenda Item 8 – Joint Chairs’ Report – Special Education and Families Committee – 11 February 2016, College Lecturers’ JCC – 11 February 2016, Employees’ JCC – 12 February 2016 and Policy and Resources Committee – 15 February 2016: Review of Tertiary Education in Shetland – Integration Proposals Report

Mr Burgess declared an interest as a Council appointed board member of the Shetland Fisheries Training Centre Trust (SFTCT) and a financial interest as supplier of services to Shetland College.

Mr Sandison declared an interest as a Trustee of SFTCT, and advised that he would leave the room during the discussion.

Agenda Item 2 – Review of Membership of External Organisations

Mr Cleaver declared an interest as a member of several external organisations, but advised that it would not affect his taking part in any discussions.

Minutes

Except as undernoted, the Council approved the minutes of the meeting held on (i) 22 September 2015 on the motion of Mr C Smith, seconded by Mr Robinson.

57/15 – Shetland Islands Council – Final Audited Accounts 2014/15

Dr Wills advised that it was only his dissent at the grouping of accounts with Shetland Charitable Trust that he requested be noted.

The Council approved the following minutes of meetings:

- (ii) 22 October 2015 – on the motion of Mr C Smith, seconded by Mr Robinson.
- (iii) 4 November 2015 – on the motion of Mr C Smith, seconded by Mr Henderson.
- (iv) 18 November 2015 – on the motion of Mr C Smith, seconded by Mr Fox.
- (v) 16 December 2015 - on the motion of Mr C Smith, seconded by Mr Robinson.

04/16 Town Hall Sub-Committee

The Council considered a report by the Director of Corporate Services (CRP-05-16-F) which proposed the establishment of a Sub-Committee to oversee progress on the conservation project relating to the Town Hall.

The Executive Manager – Governance and Law summarised the main terms of the report, highlighting the background to the proposals in the report and advising that it was proposed to establish a steering group to monitor the project going forward.

In response to a query, he advised that no specific dates/times had been scheduled for meetings of the Sub-Committee, but that it was expected that they would just take place at the usual Council meeting times rather than in the evenings. However this would be a matter for the Sub-Committee to consider.

Mr Robertson commented that he had been involved in the original Sub-Committee, and that it had played an important role in the conservation work that had taken place at that time. The work of that Sub-Committee had focused on the project work, and had not taken promotion of the building into account. There was now an ideal opportunity to consider promotion of the building and, given that the building was listed as Category A by Historic Scotland, to seek external funding for some of the works.

Mr Robinson moved that the Council approve the recommendations in the report and Ms Manson seconded.

Nominations were then sought for Council appointments to the Town Hall Sub-Committee, as follows:

Lerwick South:

C Smith – on the motion of Mr Campbell, seconded by Mr Wishart
P Campbell – on the motion of Mr C Smith, seconded by Mr Robinson

Lerwick North:

M Bell – on the motion of Mr Wishart, seconded by Mr C Smith
M Stout – on the motion of Mr Wishart, seconded by Mr C Smith

North Isles:

R Henderson – on the motion of Mr Coutts, seconded by Mr Fox

Shetland North:

A Manson – on the motion of Mr Cooper, seconded by Mr Ratter

Shetland West:

F Robertson – on the motion of Mr Robinson, seconded by Mr T Smith

Shetland Central:

D Sandison – on the motion of Mr Burgess, seconded by Ms Wishart

Shetland South:

A Duncan – on the motion of Mr G Smith, seconded by Mr Fox

The above Members were duly appointed to the Town Hall Sub-Committee.

Nominations were then sought from those appointed for the position of Chair and Vice Chair of the Town Hall Sub-Committee, as follows:

C Smith - on the motion of Mr Campbell, seconded by Mr Cooper.

F Robertson – on the motion of Mr T Smith, seconded by Mr Robinson.

Both candidates advised that they accepted the nomination, and then went on to speak in support of their nomination.

Voting took place by secret ballot, and the results were as follows:

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|-------------|----|
| C Smith | 15 |
| F Robertson | 6 |

Mr C Smith was duly appointed as Chair of the Town Hall Sub-Committee.

Nominations were then sought from those appointed for the position of Vice Chair of the Town Hall Sub-Committee.

Mr Robinson moved that Mr Robertson be appointed, and Mr T Smith seconded.

Mr Robertson advised that he accepted the nomination.

There being no further nominations, Mr Robertson was appointed as Vice Chair of the Town Hall Sub-Committee.

Decision:

The Council **RESOLVED** to:

- Establish a short life Sub-Committee to undertake the remit set out in Appendix 2 to the report
- Appoint the following Councillors as described in paragraph 4.2 of the report:
 - Lerwick South: C Smith and P Campbell
 - Lerwick North: M Bell and M Stout
 - North Isles: R Henderson
 - Shetland North: A Manson
 - Shetland West: F Robertson
 - Shetland Central: D Sandison
 - Shetland South: A Duncan
- Appoint C Smith as Chair and F Robertson as Vice Chair of the Town Hall Sub-Committee
- Seek Community Council representation as described in paragraph 4.2 of the report and held as appointed those representatives as members of the Sub-Committee.

05/16

Review of Membership of External Organisations

The Council considered a report by the Executive Manager – Governance and Law (GL-13-16-F) which responded to a requirement for a review of appointments or nominations made by the Council to external organisations.

The Executive Manager – Governance and Law summarised the main terms of the report, advising that the report also addressed issues relating to limiting the exposure of Members to potential liability arising from their position on external organisations. He outlined the process that had been followed in undertaking the review, and advised that Shetland Charitable Trust (SCT), Lerwick Port Authority (LPA) and Community Councils had been excluded from the organisations listed in Appendix 1. In the case of SCT, this was because the organisation was currently conducting its own governance review and a report would be presented to the Council once this had been completed. LPA would be seeking nominations from the Council in May, and a report would be presented at that point. With regard to Community Councils, the Council was currently objecting to proposals from the Boundary Commission in respect of proposed Council ward boundary amendments and this process had yet to be resolved. The proposed changes would cause significant dislocations between existing Council wards and Community Council wards, and this was likely to merit a review of the scheme of Community Councils.

(At this point, Mr Duncan declared an interest as a Trustee of SCT)

He went on to say that the review had considered a number of areas requiring attention, as outlined in paragraph 4.2 of the report. It had come to the conclusion that, in most cases, it would be worthwhile disengaging in future with a number of organisations to which appointments were made. The report also sought approval of a number of principles which could be adopted by the Council in respect of future appointments. There were a number of issues in respect of good practice relating to appointments which should be explored, and these were outlined in paragraph 5.2 of the report. The next stage of the review would require further engagement with Members regarding the specific organisations listed.

In response to queries, the Executive Manager – Governance and Law confirmed the following:

- In one or two circumstances, appointments to external organisations created a financial interest. Whilst this may lead to a conflict of interest and affect participation in debates, it did not lead to a principle that these appointments should not be made.
- The anomaly in respect of COSLA's Community Well-being and Safety Executive Group whereby the substitute member was the Vice-Chair of the Social Services Committee – a Committee that was no longer in existence - had already been noted. COSLA had taken cognisance of the fact that although the functions now sat with the Integration Joint Board, the Council was still the principal body in respect of delivery.
- The matter of mitigating risks and limiting the liability of individual Councillors was addressed in sections 4.7 and 4.8 of the report. The question of how well external organisations mitigated risks gave an indication as to how attuned they were to the question of risk. There was currently no mechanism for voluntary organisations to seek to limit their liability. The Council expected all organisations to carry out some measure of public assurance liability, but some did not. The key point was that the risks described were not risks which were defined as being owned by the Council, and it was the individual responsibility of Councillors to ensure that the organisations to which they were appointed had robust processes in place. Therefore careful consideration would have to be given as to how many organisations Councillors should take up appointments on in future.

It was suggested that the fact that the Council sought nominations to these external organisations may imply that the Council endorsed Councillors taking up membership of these organisations.

The Executive Manager – Governance and Law advised that a number of the appointments to organisations on the list appended went back many years, when the Council had tended to respond positively to requests from organisations without sufficient regard to the process or the potential impact on Councillors. However it was the individual responsibility of Councillors to look after their own affairs, irrespective of the Council's intentions.

The Chief Executive added that the fact that nominations were sought for external organisations did not imply approval by the Council. Once a Councillor accepted an appointment to an organisation, it was their own responsibility for any liability that they may incur as a result of such an appointment. Even if a Councillor decided they no longer wanted to be involved with the organisation, they could not escape responsibility by resigning from the organisation. His advice would be that unless there was a statutory or political responsibility to take up an appointment, Councillors should not accept appointments to external organisations. Even accepting a position in an advisory capacity would not protect Councillors from liability.

It was commented that this was something that should be explained and highlighted, especially to new Councillors, and that there was work to be done in communicating with organisations as to what their relationship with their Council appointed representative was.

The Executive Manager – Governance and Law said that the review would give organisations the opportunity to consider this issue and any requirements for change. For example, it had been stated by one organisation that the role of the Councillor was simply an advisory one. However the Memorandum of Articles had shown that the Councillor was actually a fully liable director and should have been participating fully in the organisation. Other organisations had been failing to register Councillors as directors, and this also had serious implications. So the review would give organisations the opportunity to look at things that required to be changed.

Mr Stout referred to the list of organisations appended to the report, and advised that he was no longer a member of Community Alcohol and Drugs Services Shetland (CADSS).

It was requested that should the Council decide to no longer make appointments to some external organisations, adequate warning was given to the organisations concerned in order to allow them sufficient time to make alternative arrangements.

The Executive Manager – Governance and Law advised that this would be taken into account. It was considered that notice of around one year from now would be sufficient, as organisations should be able to resolve any issues and make changes to their Articles of Association in that timescale. Progress on the review would be reported back to the Council.

The Chief Executive added that he would envisage that the current Council would wish to consider which external bodies it would be appropriate to appoint Councillors to before the Council elections next year, and therefore the end of the financial year would be an appropriate deadline for completion of the review.

On the motion of Mr Fox, seconded by Mr C Smith, the Council approved the recommendations in the report.

Decision:

The Council **RESOLVED** to:

- Note completion of the first stage of the review of appointments to external organisations
- Accept the observations, presumptions and stated principles summarised in Section 7 of the report to progress stage two of the review
- Confirm that the review itself should be completed by 31 March 2017 and that those appointments due to be terminated are brought to an end at any date convenient to the relevant organisation and no later than the date of the next ordinary election of Councillors (4 May 2017).

06/16

Asset Investment Plan, Gateway Process – Service Need Case Report

The Council considered a report by the Executive Manager – Capital Programme (CPS-04-16-F) which presented a Service Need Case (SNC) report relating to proposed road safety proposals at Mill Brae, Scalloway.

The Executive Manager – Capital Programme summarised the main terms of the report, advising that the report was being presented because the opportunity for 50% external funding from Sustrans Scotland had now become available, and some of the Council's contribution could be funded from a specific grant from the Scottish Government.

On the motion of Ms Wishart, seconded by Mr Stout, the Council approved the recommendations in the report.

Decision:

The Council **RESOLVED** to:

- Approve the project as described in Appendix A to the report for immediate implementation
- Agree that the Council's contribution to the cost of the project be funded from the Scottish Government's "Cycling, Walking and Safer Streets" specific grant and the projected capital underspend on equipment purchase at the Energy Recovery Plan during 2015/16.

07/16

Chair's Report – Policy and Resources Committee – 15 February 2016: Asset Investment Plan, Gateway Process – Service Needs Case Report

The Council considered a report by the Chair of the Policy and Resources Committee (SIC-0224-CPS-01-16) which presented two projects that have been considered by the Council's Corporate Management Team (CMT) based on the submission of Service Need Case (SNC) reports - Toft Pier and the A970 Levenwick Capital Improvements.

Discussion firstly took place in respect of the recommendation relating to Toft Pier. It was questioned if the fishing community had requested a new structure and if it would not instead be possible, in the short term and given the availability of finance, to repair the pier and make it serviceable by putting in new piling, backfilling the current structure, and adding a small pontoon.

Mr Cooper explained that the outer face of the pier was in a very bad state and beyond repair, although the inner face may be repairable to some extent. Boats currently could not use the outer face as a result of this and were having to lie elsewhere. A pontoon would be appropriate for lying alongside, but would not be suitable for landing. There was only a very small area of land available at Collafirth Pier for landing, and the high demand for its use meant that it was a potentially dangerous situation. There was a cost to the industry in having to travel elsewhere to berth, and Toft Pier was very important to the industries that used it. He went on to say that he was suggesting that further work took place with the industries and contractors to see if there was some way of meeting needs within a financial envelope, which may not be as much as the £1.5-2million indicative costs. As Toft was within the Sullom Voe Harbour Area, the costs would be met from the Harbour Account from harbour dues. There were also ways in which the income could be increased, such as the sale of fuel and use of video footage to ensure that harbour users were paying their dues. If the project was not approved today, it would effectively be finished and the Pier would be left lying in a semi-derelict state.

It was noted that technical reports, including a full pier survey, had earlier been presented to the Harbour Board. These had indicated that there would be technical

difficulties in backfilling due to the lack of structure and piling left on the pier. This would only be a temporary solution, and only some of the holes could be filled with concrete before more opened up. The thin gauge steel that had been used on the extension had also deteriorated, and the existing sheet piling was not strong enough to act as shuttering.

Mr Cooper moved that the recommendation from the Policy and Resources Committee in respect of Toft Pier be approved by the Council, and Mr Robertson seconded.

Mr Robinson said that he was of the view that the project – in common with other Council projects - required to be considered alongside others in terms of priority, and not just on its own. The Council had set up a system to consider the prioritisation of capital projects in a fair way, taking into account the wider needs of the Council and the community. Officers had advised that a business case could not be made in respect of this project and it was important that the Council was seen to prioritise projects fairly, taking into account the priorities of all Council services. Projects should therefore wait to come to the top of the list, rather than being pushed to the top.

He went on to move, as an amendment, that the Council note the report and consider Toft Pier alongside the priorities of all service areas.

Mr Stout seconded.

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

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| Amendment (Mr Robinson) | 3 |
| Motion (Mr Cooper) | 17 |

Discussion then took place in relation to the recommendation in respect of the A970 Levenwick Capital Improvements.

Again, it was commented that the Council had put a lot of work into preparing a procedure and process for the approval of capital projects, and that the project should therefore go through the proper process and be considered alongside the priorities of all service areas or when external funding became available. It was important that roads were not prioritised on the basis that there had been a recent serious accident, as there were other roads in Shetland requiring work that also had a poor accident record.

Some discussion took place relating to the cause of accidents that had taken place on this stretch of road, and whether or not they were related to the blind summit. It was suggested that while 13 accidents had been reported, there had also been a number of near misses where there had been no police involvement. Whilst junction to junction improvements would be preferable, it was important that action was taken in relation to the blind summit as it was a very dangerous piece of road.

In moving that the Council approve the recommendation from the Policy and Resources Committee in respect of the A970 Levenwick Capital Improvements, Mr G Smith pointed out that the proposals had come before Members as a result of a serious accident that could have had serious consequences, and that the Council had a statutory duty under Section 39 of the Road Traffic Act to prevent accidents.

He expressed concern regarding the process that had been used during the STAG appraisal, suggesting that the figures had been misrepresented and the process relating to consultation had not been carried out. He also pointed out that different standards were being applied by the Council, as there had been no mention of payback for the Millbrae project which had just been approved without debate. He went on to say that if the work was done properly in the prioritisation scheme, the project should be able to get through the gateway process. However if the Council did not approve the project today, it would effectively mean that the project had been killed off. It was a bad piece of road where there had been two fatalities, so it was important that the project was kept live so that it could happen when funding became available.

Mr Duncan seconded.

Mr Stout suggested that the project should be presented to the Environment and Transport Committee for further consideration and a detailed exploration of the issues that had been raised, particularly in respect of conflicts that may exist between the prioritisation scheme and the gateway process that had produced this result. He advised that the Environment and Transport Committee had not had the opportunity to get a detailed explanation of the business case and if it was explored properly, the project could remain a high priority. He went on to move, as an amendment, that a decision on the A970 Levenwick Capital Improvements be deferred until the project had been presented to the Environment and Transport Committee for consideration.

Mr Wishart seconded.

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

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| Amendment (Mr Stout) | 7 |
| Motion (Mr G Smith) | 13 |

Decision:

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

- A new build Toft Pier be approved and scheduled in any future Asset Investment Plan (AIP) subject to the availability of funding
- The A970 Levenwick Capital Improvements project be approved and scheduled in any future Asset Investment Plan (AIP) subject to the availability of funding.

(The meeting adjourned at 12.10pm and reconvened at 12.20pm)

08/16

Joint Chairs' Report – Environment and Transport Committee – 20 January 2016 and Policy and Resources Committee – 15 February 2016: Policy for the Construction of Roads Suitable for Adding to the List of Public Roads Adoption of the National Roads Development Guide and Local Variations

The Council considered a report by the Chairs of the Environment and Transport Committee and the Policy and Resources Committee (SIC-0224-RD-02) which presented proposals for the Council to change the current design guidance

document from the “Strathclyde Design Guide” to the “National Roads Development Guide” with “Local Variations for the Shetland Islands Council Area”.

On the motion of Mr Robinson, seconded by Mr Stout, the Council approved the recommendations in the report.

Decision:

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

- adopt the National Roads Development Guide as policy
- approve the National Roads Development Guide: Local Variations for the Shetland Islands Area document as policy amendments to the National Roads Development Guide
- NOTE that the National Roads Development Guide is an evolving document that will be updated
- INSTRUCT the Roads Service to update the National Roads Development Guide: Local Variations for the Shetland Islands Area document as amendments to the National Roads Development Guide as appropriate
- NOTE that the Roads Service will consult, where appropriate, with the Executive Manager – Planning Service and representatives of the local construction industry over any future amendments to the local variations to the National Roads Development Guide.

09/16

Joint Chairs’ Report – Education and Families Committee – 19 January 2016, Environment and Transport Committee – 20 January 2016 and Policy and Resources Committee – 15 February 2016: Review of School Transport Policy 2016

The Council considered a report by the Chairs of the Education and Families Committee, the Environment and Transport Committee and the Policy and Resources Committee (SIC-0224-CS-02) which presented a reviewed and updated School Transport Policy.

On the motion of Mr Robinson, seconded by Ms Wishart, the Council approved the recommendation in the report.

Decision:

The Council **RESOLVED** to adopt the recommendations from the Education and Families Committee, Environment and Transport Committee and Policy and Resources Committee, namely to approve the proposed updated School Transport Policy.

10/16

Chair’s Report – Policy and Resources Committee – 15 February 2016: Annual Investment and Treasury Strategy for 2016/17

The Council considered a report by the Executive Manager – Governance and Law (SIC-0224-F-004) which presented an Annual Investment and Treasury Strategy for the Council for the financial year 2016/17.

On the motion of Mr Robinson, seconded by Mr Fox, the Council approved the recommendations in the report.

Decision:

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

- Approve the Annual Investment Strategy Statement to be followed for the financial year 2016/17
- Approve the Treasury Management Strategy to be followed for the financial year 2016/17
- Approve the Treasury Management Prudential Indicators for 2015/16 to 2018/19
- Review the four clauses within the CIPFA Code of Practice
- Review the Treasury Management Policy Statement
- Review the Statement of Treasury Management Practices

(Mr Sandison and Mr Burgess left the meeting)

11/16

Joint Chairs' Report – Special Education and Families Committee – 11 February 2016, College Lecturers' JCC – 11 February 2016, Employees' JCC – 12 February 2016 and Policy and Resources Committee – 15 February 2016: Review of Tertiary Education in Shetland – Integration Proposals Report

The Council considered a report by the Chairs of the Education and Families Committee, College Lecturers' JCC, Employees JCC and Policy and Resources Committee (SIC-0224-DV-11) which presented the Shetland Tertiary Education, Research and Training (STERT) Draft Integration Proposals Report.

The Director of Development Services outlined the work that had taken place to arrive at the recommendations. He advised that several significant issues had arisen during the due diligence process, the most significant of these relating to pensions - the bond that would be required and the large contribution rates for external organisations. Over the last four years, the organisations had worked hard to reduce their cost bases. The Council's contribution was currently £2.2million, but there were indications that actual spend would be £2.5million, rising again in 2017/18. This could currently be funded from overspends, but it was doubtful if this could be the case in future. He did not believe that the status quo was an option, and he recommended the four proposals to Members. He understood these four proposals were supported by the Partnership Board, who had issued a briefing note prior to consideration of the proposals by the various committees. The views of the various Council committees who had met to consider the proposals were contained in the report, and there was broad support for the proposals, although in some instances this was qualified.

He went on to highlight the benefits of the proposals, which included a joined up approach to engage business, industry and potential learners, as he was of the view that being internally competitive was not helpful. They should also help produce a better student experience, as Her Majesty's Inspectors of Education

(HMIE) had highlighted that the current high rating was in danger of being lowered if strategic and management issues at Shetland College were not addressed. He felt that it was very important to have a single, clear voice when dealing with partners such as the University of the Highlands and Islands (UHI) and Scottish Funding Council (SFC), and there was a need for a joined up curriculum, business plan and research curriculum to maximise benefits and satisfy the needs of learners and industry. An integrated governance and management team could properly assess the resources required to deliver this and could give proper consideration to the estate, as the current property costs were not sustainable.

He concluded by referring to a letter issued by the Chair of the Shetland Fisheries Training Centre Trust (SFTCT) Board dated 19 February 2016, which had been circulated to Members and tabled at the meeting. He understood the letter to be broadly supportive of the proposals, but there were two key points to highlight. Firstly the letter described the joint principal post as being an interim appointment rather than a permanent one. Secondly the letter requested that the project team be supported by an individual with “recognised proven competence at a senior level”. In this regard, he could confirm that the Partnership Board membership currently included the Project Manager – Shetland Learning Partnership, the Vice-Principal FE – UHI, and the Director of the Scottish Funding Council, so that capacity was there. With regard to the Interim Principal position, he understood this to be a reference to the desire for the post – at this moment in time - to focus on change management and restructuring.

Some discussion took place regarding the ambiguity of the letter that had been received from the SFTCT Chair. Whilst the body of the letter indicated that there was broad agreement with the proposals and concluded positively by stating that there was a will to work together with the Council to deliver a positive outcome, it was suggested that there was no getting away from the fact that the points addressed in the letter commenced by stating that the Board did not accept the four recommendations in the report. Some Members were of the view that the letter clearly indicated that the SFTCT were rejecting all the Council’s recommendations, whilst others felt that it clearly outlined the common ground between the two organisations. It was suggested that there was a need to get further clarity from the SFTCT regarding the letter.

The Director of Development Services advised that his understanding – from both the letter and conversations he had had with the Director of the North Atlantic Fisheries College (NAFC) Marine Centre – was that a number of concerns raised had not been answered by the process to date. However he was clear that the steps forward proposed would give clarity to these points. The only two main points of difference identified in the letter were in relation to the status of the Joint Principal post and the capacity of the project team. Other than that, the letter appeared to be supportive of the proposals. In response to a comment, he agreed that the progress to date had not been satisfactory and that the project had got off to a bad start. Once that had been overcome, the organisations involved in the project team had tried to protect their own interests which had hampered moving forward in a collective way. There was a clear need to move beyond this.

It was commented that the UHI and the SFC were exasperated by the lack of progress, but that they had indicated they were supportive of the proposals to move forward. There was a limited window of opportunity within which to move forward and a need to conclude within the timescales laid out, as there would be real problems in future - particularly in relation to the drawdown of external funding - if

the structures involved could not be brought together. The first step should be to look at management and governance, as this was a key issue that required to be addressed.

The Director of Development Services advised that there were at least two key decisions that required to be made quickly by the Council and the SFTCT. The first related to governance and the second to recruitment, and there would be the opportunity for these detailed decisions to be considered by both organisations, and special meetings would be arranged if required.

In response to a query regarding the timetable for joining up governance, the Executive Manager – Change Programme advised that a draft document describing the next stages would be prepared for the College Board meeting the following week, following the decision of the Council today. This would set out which Committees were responsible for the decision-making to support each of the steps. The first step was likely to be to agree the setting up of a steering group to support the project team, with a target of the September cycle of meetings for agreeing the overall joined up governance. He went on to say that a decision regarding the recruitment process for a Joint Principal would require to happen immediately if recruitment was to be completed by May.

It was pointed out that the report referred to indicative savings of £200,000 as a result of integrating management structures, and questioned if this saving would be available to the project for the transition process, which could last a couple of years.

The Chief Executive advised that project funding for the transition process would have to come from a different budget, and that officers would require to bring forward a case for releasing project funding to sustain the project.

In commenting that he was satisfied that the body of the text in the letter from the SFTCT Chair clarified the statement in the first bullet point, and that to proceed down any other route at this late stage would create considerable risk for both colleges, Mr Robinson moved that the Council approve the recommendations in the report.

Mr C Smith seconded.

Mr Ratter outlined his long involvement with Shetland College, which had been during a period of growth, ambition and improvement that appeared to have come to an end a year or two ago. The Council had spent the last three and a half years pursuing a merger with the NAFC Marine Centre which had gone around in circles. He was of the view that the proposals in the report were untenable, and that staff at both organisations appeared to share this view - as could be seen in the briefing note issued by the Partnership Board and the letter from the SFTCT Chair. He advised that he had discussed the proposals with the Chair of the FE Board of UHI who had stressed his impatience at the length of time it had taken to reach this point and had reiterated his view that a conclusion must be reached soon, otherwise there was a danger that funding for FE in Shetland could be removed from Shetland's control.

He went on to say that the College was an important part of the Council, and it had been agreed that it was a vital mechanism for delivering secondary education in Shetland. However it did not have a clear method of governance and the College Board had no decision-making powers. In comparison, the NAFC Marine Centre

was governed by an independent trust which had complete control of its governance. There was a need for Shetland College to become an independent college with a proper mechanism of governance, which was not unusual in Scotland. This would also address the pension issue, as no crystallisation of pensions would be required and the risk relating to bonds and guarantees would be small as long as the body did not cease to exist. An independent college would be in a much better position to recruit a principal responsible for its development and running under a board recruited for its expertise, and with a full understanding of its powers and responsibilities. There was a need to move on as over three years had been spent at considerable cost to the Council in getting nowhere, and there was strong evidence to suggest that an independent college would be best for Shetland. There was also evidence to suggest that it would be the right thing for the NAFC Marine Centre, as all that it would get out of the proposals would be a decline in funding over the next few years. If it was independent, it was possible that the seafood industry could come in to support it. There had never been any evidence to suggest that this could happen whilst Council support was available.

He therefore went on to move that the Council:

- Declares its intention to make Shetland College an independent college
- Immediately commences the process of recruiting a principal for the new independent college, whose task will be to implement that intention
- Commits to support for the new college, in the understanding that it is a critical element in the new model for secondary education

Dr Wills seconded.

Ms Wishart gave notice of further amendment.

During the discussion that followed, it was commented that there was an obligation for the Council to ensure the future of tertiary education in Shetland. It was suggested that the tertiary education sector was more likely to be sustainable in future if resources were pooled together, and this would give Shetland a stronger 'voice'. The need for governance issues to be sorted out in the first instance before any other steps were taken was referred to, and the point was made that it may be better to recruit an interim joint principal in the first instance who could take the tertiary education sector through this change process.

It was further commented that the Council was required to look after the needs of Shetland College, and should be making a decision in the best interests of the College. It would then be up to the SFTCT as to whether or not they wished to join the process and, if not, consideration could then be given to an independent college.

Some Members said that they shared the frustration that it had taken so long to get to this point, and had become increasingly concerned at the failure to come to a conclusion. The fact that the SFTCT could continue to delay a decision was referred to, and the impact that this would have on staff at Shetland College by adding to the uncertainty. It was suggested that there was a need to move towards an independent college in order to come to a conclusion, and get the best result for the Council. The motion would not address the pertinent issues of pensions and property, and the SFTCT had clearly stated in its recent letter that it did not accept

the recommendations in the report. Whilst the NAFC Marine Centre was a valued institution, the Council could not afford to fund it any longer, and there was scope for it to receive funding from the seafood sector. It was felt that there was a need for the Council to do what was best for the Council and the students, and that there was no point in repeating a failed experiment in joining up with the NAFC Marine Centre. If there was an independent college, collaboration could still happen, but it would be better if it was between equals.

Other Members commented that they were of the view that there was willingness from the SFTCT to co-operate and move forward, and that the contents of the letter did not reflect conversations that had taken place in recent months. The Council had a responsibility to support the tertiary education sector in Shetland, progress had been made and a solution was much closer. Both organisations had concerns for the future, but these could be worked through jointly, and the letter from the SFTCT clearly stated that there was a willingness to do so.

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

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|-----------------------|----|
| Amendment (Mr Ratter) | 4 |
| Motion (Mr Robinson) | 13 |

Ms Wishart withdrew her notice of further amendment.

Decision:

The Council **RESOLVED**, having taking account of the views of the Committees, to confirm the proposed next steps towards a single governance and delivery model for Tertiary Education in Shetland, as set out in section 3.4 in the original report, namely by:

- Implementing an **Integrated Management Structure** across all local institutions
- **Joining up Governance Arrangements** better between the Shetland College Board and the NAFC Board
- **Promoting Collaborative Working** on the ground across and between all our staff and students
- Establishing as much confidence as possible about **Medium Term Funding** from all of the key public funding bodies for Tertiary Education in Shetland

The Council **RESOLVED** to delegate authority to the Director of Development Services to progress their implementation.

(Mr T Smith, Ms Wishart, Ms Manson, Mr Ratter and Mr Campbell left the meeting)

(Mr Sandison returned to the meeting)

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

Declarations of Interest

Agenda Item 9 – Chair’s Report – Policy and Resources Committee – 15 February 2016: Update on Request for Support

Mr Burgess, Mr Stout and Mr Wishart declared an interest.

Agenda Item 11 – Chair’s Report – Policy and Resources Committee – 15 February 2016: Property Acquisition

Mr Bell declared an interest and advised that he would demit the Chair during consideration of this item and not take part in the discussion.

Dr Wills, Mr Duncan and Mr Henderson declared an interest and advised that they would leave the meeting during the discussion.

(Mr Wishart and Mr Stout left the meeting)

12/16 Chair’s Report – Policy and Resources Committee – 15 February 2016: Update on Request for Support

The Council considered a report by the Chair of the Policy and Resources Committee.

The Director of Corporate Services provided an update on the current situation.

On the motion of Mr Robinson, seconded by Mr Cleaver, the Council approved the recommendations in the report.

Decision:

The Council approved the recommendations in the report.

(Mr Wishart and Mr Stout returned to the meeting)

13/16 Joint Chairs’ Report – Development Committee – 20 January 2016 and Policy and Resources Committee – 15 February 2016: Equity Investment

The Council considered a joint report by the Chairs of the Development Committee and the Policy and Resources Committee.

Mr Robinson moved that the recommendation in the report be approved, and Mr C Smith seconded.

Mr Cooper moved an amendment to the recommendation in the report, and Mr Henderson seconded.

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

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|-----------------------|----|
| Amendment (Mr Cooper) | 3 |
| Motion (Mr Robinson) | 13 |

Decision:

The Council **RESOLVED** to adopt the recommendations from the Policy and Resources Committee.

The meeting concluded at 2.05pm.

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Convener