

**Shetland Islands Council
10 February 2005 Public Minutes**

MINUTE

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Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Thursday 10 February 2005 at 10.30 a.m.

Present:

A J Cluness	F B Grains
B Cheyne	C B Eunson
R G Feather	B P Gregson
L G Groat	I J Hawkins
J H Henry	J A Inkster
E J Knight	W H Manson
J P Nicolson	W A Ratter
F A Robertson	J G Simpson
W N Stove	T W Stove
W Tait	

Apologies

L Angus	J C Irvine
G G Mitchell	

In attendance (Officers):

M Goodlad, Chief Executive
G Spall, Executive Director Infrastructure Services
J Watt, Executive Director Community Services
J Dickson, General Manager – Ports and Harbours
I Halcrow, Head of Roads
A Jamieson, Head of Education
G Johnston, Head of Finance
C Medley, Head of Housing
J R Riise, Head of Legal and Administration
W E Shannon, Economic Development Manager
M Craigie, Capital Projects Unit Manager
A Hamilton, Head of Planning
M Holmes, Coastal Zone Manager
I Millar, Projects Manager
S Moncrieff, ICT Unit Manager
A Rolfe, Property Manager
A Scollay, Property Technician
A Cogle, Service Manager – Administration

Also:

N Grant, General Manager – Shetland Development Trust

Chairperson

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

Circular

The circular calling the meeting was held as read.

1/05

Obituary – Mr W Cumming

All those present in the Chamber stood, whilst the Convener paid the following tribute.

“We stand today in tribute to our former colleague, Willie Cumming, a man of many talents, who made a massive contribution to this community.

Willie was elected to the first SIC in 1974, and from 1982 to 1990. It would take some time to list details of his involvement in the work of the Council and in his last years he served on 31 Committees including 6 as Chair, and of course he represented this Council on a variety of external bodies.

I consider myself fortunate like others here today to have been able to call Willie a friend. We were directors on Shetland Aggregates, promoters of Shetland Seafood quality control, and along with Willie Tait, early directors of local fish processing companies – whatever the circumstances Willie’s commitment to the local economy was total. We also spent many a long night together in the early Brussels talks. Willie was influential in the creation of the fisheries college and took a keen interest in harbour activities especially through the Blacksness Pier Trust. As Chairman he was hugely influential in the development of the Amenity Trust.

The turnout at Willie’s funeral demonstrated just how well he was regarded by the whole community as the Reverend Ogston said “In every sense of the word Willie was a character. Undergirding his whole life was his strong faith. He was a man who lived out his beliefs to the full he had great strength of character and hated prejudice.

Mr Cumming is survived by Willa, sons John and Jim, daughter Rosemary, eight grandchildren and his sisters Irene and Rachel. I move that an extract from the minute be sent to his family.”

The Council unanimously concurred.

2/05 **Shetland Islands Council – 15 December 2004**

The minute of meeting was confirmed, on the motion of Mr A J Cluness.

3/05 **Members Attendance at External Meetings**

The Convener advised that himself, the Chief Executive and the Lord Lieutenant had been invited as a guests of BP to the opening of the Clair Field and the first oil coming ashore in Aberdeen on 21 February.

The following Members provided details of attendance at external meetings relating to Council business, further details of which can be obtained from the Members concerned:

I J Hawkins - COWAM - Madrid

B P Gregson - NFLA - Manchester

J Simpson - CPMR

F A Robertson - Economic Development and Planning
Committee / CoSLA Executive
Working Group

4/05 **Infrastructure Committee – 12 January and 27 January 2005**

The minutes of the aforementioned meetings were confirmed, on the motion of Mr A Inkster.

5/05 **Services Committee - 28 January 2005**

Except as undernoted, the minute of the aforementioned meeting was confirmed, on the motion of Mrs F B Grains.

Min. Ref. 03/05 – Direct Payments Support Service

Mr L G Groat asked if a Direct Payment Service was set up and something went wrong, for example if all money disappeared, who would be responsible for ensuring ongoing care for the individual. The Executive Director Community Services confirmed that there were safeguards in place, but in the event of those circumstances, or of the care breaking down, the Direct Payments would stop, and the Council would ensure that the care was continued. Mr L G Groat said this was an important issue, and asked that it be minuted. The Council agreed.

Min. Ref. 01/05 – Scottish Social Services Council Registration Requirements

Mr W Tait said that this matter had been voted on at the Services Committee and it was recommended that the issue be looked at by the Task Force. Mr Tait said that the Task Force was not due to report back for another 6 months, and he was of the view that such a delay would be detrimental to the service. In this regard, Mr Tait moved as an amendment that the recommendation be overturned. He added that the matter had also be discussed by the Shetland Welfare Trust JCC, and it had also expressed concern that this delay would have a detrimental affect on the Care at Home Service.

The Executive Director Community Services advised that the implications of reversing the recommendation of the Committee would be an increase of £188,000 on the Social Work budget for 2005/06. She added that in the event that the Task Force did not report for another 6 months, the training would not go ahead until

2006/07. Whilst this could be reversed, it would have an impact on the budget for 2005/06.

Mrs F B Grains said she did not believe it would take the Task Force 6 months to come up with recommendations on this particular matter, and was satisfied with the recommendation of the Committee.

Mr W H Manson said that due to the sheer number of staff that had to be trained up to the SVQ3, there should be no delay, and it would be desirable to make a start at the earliest possible opportunity. Mr Tait agreed, adding that Church of Scotland Care Home staff had been trained already, and if Council staff were not trained up, there would be a shortage of trained staff in care centres and for the Care at Home Service.

Mr L G Groat said that he supported what Mr Tait was trying to achieve. Mr B P Gregson agreed, saying that as this was a statutory requirement, the Council should get on with it. Mr W A Ratter agreed that it was unlikely that the Task Force would take as long as 6 months to come up with the answers, as the fundamentals were well understood.

Mr W N Stove seconded the amendment by Mr Tait.

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

Amendment (W Tait) 13
Motion (F B Grains) 5

6.1/05 **Executive Committee - 1 February 2005**

The minute of aforementioned meeting was confirmed, on the motion of Mr A J Cluness.

Min. Ref. 01/05 - Shetland Flag

Members congratulated the Convener for securing official recognition for the Shetland flag. Members unanimously resolved that the Shetland flag would now be flown from the Town Hall when the Council was in session, rather than the flag bearing the Council Crest.

6.2/05 **Executive Committee – Economic Development - 1 February 2005**

The Minute of the aforementioned meeting was confirmed, on the motion of Mr W A Ratter.

7/05 **Executive Committee – 7 February 2005**

The Minute of the aforementioned meeting was confirmed on the motion of Mr A J Cluness, subject to consideration of Min. Refs.

09/05 (General Fund Revenue Estimates and Council Tax Setting) and 10/05 (Housing Revenue Estimates) under separate agenda items later in the meeting.

Min. Ref. 09/05 – General Fund Revenue Estimates and Council Tax Setting 2005/06

Mr W N Stove said he was not happy with the recommendation from the Executive Committee, and should have moved an amendment at the meeting. However, he said that the matter was to be considered by the Council, although in considering the £5.7m potential overspend, Members had noted a number of growth items, and he did not think it was a good example for any Member to move additional growth items at the Executive Committee. Mr Stove moved that the recommendation for an additional £13k be not approved, but reconsidered between now and the end of the financial year. Mrs B Cheyne seconded.

Mr B P Gregson said that he believed the report had no business being considered by the Executive Committee. He said the report did not ask for the Executive Committee to make a recommendation, and he asked if it was in order for the Committee to consider it, and make a recommendation. Mr Gregson added that further consideration of the role and function of the Executive Committee was required.

Mr A J Cluness said that the role and function of the Executive Committee had already been agreed by the Council, but there was no reason why it could not be revisited.

In response to Mr Gregson, the Head of Legal and Administration said that his understanding of the role and remit of the Executive Committee was that it was able to conclude a view on reports regarding the financial overview of the Council's funds, but that any recommendations would not be approved through the Minute, and that was the reason that these reports were considered separately on the Council agenda.

Mr W A Ratter said it was not a legal matter as to whether or not the Executive Committee could consider these reports, but it was permitted through the role and remit of the Committee. Mr Ratter went on to agree with Mr Stove, adding that the motion should have been taken up at that time, and agreed that it should be removed from the estimates and looked at again at a later stage.

Mr J P Nicolson agreed that the role and remit of the Executive Committee was to oversee and monitoring the Council's funds, and therefore it was entirely appropriate that it should consider these particular reports. Regarding the recommendation for £13k for SCSS, Mr Nicolson said that he had spoken with the Head of Community Development, who was of the view that other sources

of funding may be available which would ensure that the requirement for a receptionist could be met.

Mr Nicolson went on to refer to the transfer of £2m of Economic Development funding to the Reserve Fund. He said that his concern related to the relationship between that transfer and the investment required in infrastructure. For example, Mr Nicolson said, the £90m secured for such investment was now reduced by overspends, and £82m was left. He said this demonstrated the clear relationship between the Council's failure to reduce overspends, and the ability of the community to invest in itself. Mr Nicolson moved that this be included within the Council's approach to the matter.

The Head of Finance said that the point made by Mr Nicolson was well made, and as revenue deficits were reducing to amounts available to invest in the future. He said that, as advised at the Executive Committee, he would be bringing forward a report in the Summer regarding the outturn on the Council's funds, which would address those points made and put them into context.

The Chief Executive said the £90m added to the Reserve Fund to provide for infrastructure had a proviso that whatever resources were taken to augment revenue spending, would be taken from that £90m. Regarding the role and remit of the Executive Committee, the Chief Executive said that the Council had specifically agreed that this would include financial and policy monitoring. He said it was right that the Committee consider these reports in terms of its current terms of reference, but that this could be revisited by the Committee Structure Review Member/Officer Working Group.

Mr J P Nicolson said he was satisfied that his points regarding the use of reserves were noted and would be addressed.

Mr W N Stove agreed to make his motion when the Council considered the report separately on the agenda and, accordingly, with the consent of his seconder, withdrew his amendment.

8/05 **Civic Government Licensing Sub-Committee -12 January 2005 and 14 January 2005**

The Minutes of the aforementioned meetings were confirmed on the motion of Mr J P Nicolson, including the recommendation to approve the delay of the 02/05.

9/05 **Planning Sub-Committee - 12 January 2005**

Subject to the following, the Minute of the aforementioned meeting was confirmed on the motion of Mr F A Robertson.

Min. Ref. 01/05 – 2004/271/PCO – To erect three dwellinghouses (in outline), adjacent to Brig House, Weisdale, by Mr M Thomson
Mr F A Robertson advised that this application was outwith Council policy, and would require Council agreement before being sent back to the Sub-Committee for a decision following a hearing. The Council concurred with the recommendation.

Min. Ref. 01/05 – 2004/415/PCD – To erect dwellinghouse, Uradale, East Voe, Scalloway
Mr F A Robertson advised that this application was outwith policy and would require to be advertised. Mrs I J Hawkins moved that this application should be approved, subject to any objections that may be lodged following advertisement. Mr Robertson agreed, and the Council concurred.

10/05 **Harbour Board - 13 January 2005 and 1 February 2005**
With the exception of Min. Ref. 5/05 which had been withdrawn from consideration by Minute of the Executive Committee – Economic Development (Min. Ref. 4/05), the minutes of the aforementioned meetings were confirmed on the motion of Mr J A Simpson.

11/05 **Marine Development Sub-Committee - 14 December 2004**
The Council confirmed the minute of the aforementioned meeting, on the motion of Mr W H Manson.

12/05 **Notice of Motion**
The Council considered a Notice of Motion submitted by Councillor I J Hawkins, and signed by eleven Councillors (Appendix 1).

Mr A J Cluness said that it was sometimes very difficult in Shetland when it came to declaring interests, but advised that if Members were in any doubt, they should leave the meeting. He went on to say that whilst himself and Mr Tait may declare an interest in this matter due to their own directorships, he did not believe that it was inappropriate to fulfil a representative role to ensure commitment towards maintaining the fishing industry. He said that he did not consider the fact that he was appointed to a Board by a company of SLAP would prevent him from taking part in this particular debate.

Mrs I J Hawkins said that it was important to have this Motion before the Council today. She said that Scalloway had been hit hard recently in terms of unemployment and some action was needed. She advised that the building belonged to the Council, and it was important to keep the complex together for fish processing, and for this reason Mrs Hawkins said she was willing to leave it to Council officials to negotiate. In this regard, Mrs Hawkins moved the terms of her Notice of Motion.

Mr A J Cluness said there was no reason why the Council should not invest in infrastructure for lease to the industry.

Mr W A Ratter seconded, suggesting that Council officials be given leave to negotiate. The Head of Legal and Administration said that it would be desirable to provide some parameters for the negotiations, and suggested that a sounding board of Members be appointed for this particular matter. He added that he had authorised "a noting of interest" in the assets, pending the decision of the Council.

With the consent of her seconder, Mrs Hawkins agreed to accept in the motion that the Economic Development Manager, in consultation with Legal Services, be given delegated authority to negotiate, and that Mrs I J Hawkins, Mr W A Ratter and Mr T W Stove be appointed as a sounding board regarding the terms of the negotiations. In addition, any decision would be presented to the Council for decision. The Council agreed to accept the motion, as amended.

13/05 **Harbour Board Terms of Reference**

The Council considered a report by the Head of Legal and Administration (Appendix 2) and adopted the recommendation contained therein, on the motion of Mr J Simpson, seconded by Mr W Tait.

14/05 **General Fund Revenue Estimates and Council Tax Setting**

The Council considered a report by the Head of Finance (Appendix 3).

Mr J P Nicolson said that following the last meeting of the Executive Committee, the suggestion had been that the Council was unlikely to get a grip of the overspend. Mr Nicolson said that whilst the appointment of groups of Councillors for Task Groups for Social Work and Ferries, the matter also needed a strong management line to dig into the detail. He added that just because the BVS Education had failed, no-one was suggesting that there would be no significant savings. Mr Nicolson went on to say that this time last year, the Chief Executive had appealed for clear instruction to progress towards a balanced budget, but that had failed because the belief by Members was that it could be achieved by other means. Mr Nicolson said that the Council was now facing the same circumstances and had a difficult task in hand. He added that, in his view, there were times when he felt that the management of finances were becoming over-politicised, and it was clear to him that the Administrative Regulations did not allow for that. Mr Nicolson said that these problems were being made

worse by the number of policy and strategy groups that were meeting, which involved large numbers of staff. He added that whilst some groups dearly did a good job, he believed that much more energy should be placed on implementation. Regarding consultation, Mr Nicolson said that consideration had to be given to the level of consultation being carried out simultaneously on a number of issues, which results in the community being overloaded.

Mr J P Nicolson concluded by saying that in acknowledging the budgetary situation, the Council had no option, and accordingly he moved that the Council adopt the recommendations in the report. In addition, Mr J P Nicolson moved that the Council give a clear instruction and authority to the Chief Executive, supported and assisted by the Executive Management Team and Service Heads, to take the necessary action to achieve early progress towards a balanced budget; and (b) that in the interests of economy, efficiency and as part of a streamlining process, all strategy and policy groups across all sectors of the Council be reviewed, with remits and membership listed, together with a summary of outcomes, and that in order to avoid the creation of yet another study group, this be done by the Executive Management Team as a table top exercise. Mrs B Cheyne seconded.

Mr W H Manson said it was important to recognise that significant progress was being made on the education budget in order to get close to or below the target. He went on to say that he did not agree that there was over-politicisation of the process, and as an independent Council, a certain amount of political involvement was necessary.

Mrs F B Grains said that she agreed with the points put forward by Mr Nicolson added that Members had to stand by their own agreement not to introduce growth items. However, Mrs Grains said there was not a meeting that went by without that agreement being amended, and for this reason, Mrs Grains said she was very concerned about the ability of the Council to make any savings over the next few years, until the reserves run out.

Mr W A Ratter referred to the number of policy and strategy groups, and said that whilst he agreed they should be reviewed, it had to be noted that a lot of strategies were set by the Scottish Executive to deal with large problems. Mr Ratter went on to refer to the earlier amendment by Mr Stove regarding the removal of £13k for SCSS, and suggested that that be addressed now.

With the consent of his seconder, Mr Nicolson indicated that his motion included the amendment by Mr W N Stove, that the £13k identified for SCSS for funding a receptionist's post should be removed from the Estimates. The Council concurred, noting that it

was possible that funding could be forthcoming from another source.

Regarding political input, Members agreed that there was no direct political input for finance in terms of a designated Spokesperson for Finance, and it was suggested that this could be looked at in the future.

After further discussion, the motion, as amended, was declared the finding of the meeting.

15/05 **Housing Revenue Estimates (HRA) and Charge Setting – 2005/06**

The Council considered a report by the Head of Finance (Appendix 4) and adopted the recommendations contained therein, on the motion of Mr W A Ratter, seconded by Mr A J Cluness.

16/05 **The Capital Programme – CPMT Report February 2005**

The Council considered a report by the Head of Finance (Appendix 5) and adopted the recommendations contained therein, on the motion of Mr F B Grains, seconded by Mr A J Cluness.

17/05 **Capital Programme Capacity Review**

The Council considered a report by the Chief Executive (Appendix 6) and adopted the recommendations contained therein, on the motion of Mr W H Manson, seconded by Mrs F B Grains, on the basis that, in conjunction with the Chief Executive the newly appointed Head of Service come forward with proposals for the structure. The Chief Executive confirmed that this was the understanding, as recommended by the Executive Committee.

18/05 **Council Tax on Second Homes and Empty Dwellings**

The Council considered a report by the Head of Finance (Appendix 7) and adopted the recommendations contained therein, on the motion of Mr L G Groat, seconded by Mr E Knight., on the basis of a 10% discount.

19/05 **Integration of Care Homes – Implementation Plan**

The Council noted a report by the Executive Director Community Services (Appendix 8) and unanimously agreed to appoint Mr L G Groat and Mr J P Nicolson to the Working Group.

20/05 **Scottish Executive Environment Group Review of the Scottish Climate Change Programme**

The Council considered a report by the Head of Planning (Appendix 9).

Mrs I J Hawkins referred to the response to question 48, and the reference to the use of compact fluorescent bulbs. Mrs Hawkins said it was important that people had freedom of choice. The Head of Planning said that this sentence could be removed. Mrs Hawkins went on to refer to the response to question 51, and said that the last two sentences of the first paragraph were inconsistent with the rest of the paragraph should be removed or reconsideration given to providing clarification on the requirement for inclusion within national research. The Head of Planning agreed to clarify this part of the response further, adding that the lack of national research that was relevant to Shetland was a recurring theme throughout the response.

Subject to the foregoing, the Council approved the response, on the motion of Mrs I J Hawkins, seconded by Mr A J Cluness.

21/05 **Tsunami Earthquake Appeal**

The Council considered a report by the Head of Legal and Administration (Appendix 10) and adopted the recommendation contained therein, on the motion of Mr A J Cluness, seconded by Mr B P Gregson.

Members discussed other practical measures that were being considered locally to assist the region. The Convener advised that a possible cash donation as an initial demonstration of the community's support could be made but a further report would be presented to Council in due course regarding other practical measures that the Council could assist with.

22/05 **Regulation of Investigatory Powers (Scotland) Act 2000 - Appointment of a Single Point of Contact**

The Council considered a report by the Head of Legal and Administration (Appendix 11) and adopted the recommendation contained therein, on the motion of Mr W A Ratter, seconded by Mr H Manson. The Head of Legal and Administration agreed to discuss the possibility of a possible source of an external local provider with Mr A Inkster, after the meeting.

23/05 **Nomination of a Replacement Member to the Shetland College Board of Management**

The Council considered a report by the Economic Development Manager (Appendix 12) and adopted the recommendation contained therein, on the motion of Mr L G Groat, seconded by Mrs F B Grains.

- 24/05 **Civic Government Licensing Sub-Committee Membership**
The Council considered a report by the Head of Legal and Administration (Appendix 13) and agreed unanimously to appoint Mrs B Cheyne to the Sub-Committee.
- 25/05 **Disposal of Surplus Property Policy**
The Council considered a report by the Head of Legal and Administration (Appendix 14) and adopted the recommendation contained therein, on the motion of Mr L G Groat, seconded by Mr B P Gregson.
- 26/05 **Lease of Ground for a Special Additional Needs Play Park, Whalsay School**
The Council considered a report by the Head of Legal and Administration (Appendix 15) and adopted the recommendations contained therein, on the motion of Mr J Simpson, seconded by Mr W H Manson.
- 27/05 **Town Hall – Replacement Furniture and Acoustics Improvement**
The Council considered a report by the Head of Legal and Administration (Appendix 16). On the motion of Mr L G Groat, seconded by Mr J Henry, the Council agreed to proceed with the purchase of those items recommended by the Consultative Committee, and to make the necessary provision within the Capital Programme. In addition, the Council agreed that consideration should be given to purchasing a number of chairs with arms.
- 28/05 **Flooding at Cunningsburgh 2004**
The Council considered a report by the Safety and Risk Manager (Appendix 17), and on the motion of Mr T W Stove, seconded by Mr W Tait, the Council agreed to treat this application in the same manner as those affected by the flooding at Sandwick. The Council noted that this, however, could set a precedent and raise expectations for similar applications in the future, and agreed to receive a report detailing the parameters for any similar funding in the future and, if appropriate, setting criteria.
- 29/05 **New Telephone System**
The Council considered a report by the ICT Unit Manager (Appendix 18) and adopted the recommendations contained therein, on the motion of Mr W A Ratter, seconded by Mr B P Gregson.
- 30/05 **Smyril Line Negotiations – Verbal Update**
The Chief Executive advised that negotiations had taken longer than anticipated. He said that as a result of this delay, there had

been a substantial payment due on the Norrona at the end of December. The Chief Executive said that, as advised at the last Council meeting, that had been met by selling additional assets of the company, and from this, the bank payment of £3m was paid. He said that Heads of Agreement had now been drawn up for agreement and the detail was being worked on. The Chief Executive said that the Fjord Line director and staff would be visiting next week to discuss matters, and it may be about a month before the matter reached conclusion.

Mr W A Ratter said it was important anyone who had queries about the impact of the investment in the Smyril Line should approach the General Manager Shetland Development Trust, who would be able to provide detail that the impact was much more positive and bigger than expected. He added that whilst he understood that the Chief Executive had to concentrate on his job, this merger was particularly important and the outcome remained important for Shetland, and Mr Ratter accordingly congratulated the Chief Executive for his work.

In response to a question from Mr E Knight regarding the employment of Shetland seafarers, the Chief Executive confirmed that there was no barrier to any such employment.

Mr W H Manson said there was no doubt that the Norrona visits to Shetland were directly benefiting the local economy and visitors were spending and in sufficient numbers. Mr L G Groat agreed, adding that there were a lot of benefits. However, he suggested that the new schedules were published as soon as possible.

The General Manager Shetland Development Trust added that the Norrona visits had had a £ 5.9m impact on the Shetland economy; £2.3m was cash coming in, and 7400 passengers had arrived last year. The General Manager confirmed that this was three times the numbers quoted for three years ago. He said these numbers were significant, and the report supporting this would be distributed to Councillors.

The Council otherwise noted the update.

32/05 **Employees Joint Consultative Committee – (a) 14 December 2004; and (b) 18 January 2005**

The Council noted the minutes of the aforementioned meetings.

31/05 **Smyril Line Negotiations – Verbal Update**

On the motion of Mr A J Cluness, seconded by Mr B P Gregson, the Council approved the proposal submitted by the Chief Executive.

33/05 **Inter Island Air Service Contract**

The Council considered a report by the Service Manager – Transport Operations.

On the motion of Mr W H Manson, seconded by Mr B P Gregson, the Council agreed to adopt the recommendation contained in the report, but that the matter be brought back to the Council if further consideration was necessary.

[Mr T W Stove and Mrs I J Hawkins both declared an interest in the following item, and took no part in the debate.]

34/05 **Disposal of Old South Nesting School**

The Council considered a report by the Head of Legal and Administration and adopted the recommendations contained therein, on the motion of Mr F A Robertson, seconded by Mr J P Nicolson.

[Mr L G Groat declared an interest in the following item, and left the meeting].

35/05 **Court Action – Proposed Settlement**

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

The Council adopted the recommendations in the report, on the motion of Mr J Simpson, seconded by Mr W H Manson.

CONVENER